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Floor Debate  
March 29, 2007

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[LB30 LB33 LB204 LB234 LB245A LB272 LB304 LB328A LB338 LB357 LB395 LB395A  
LB400A LB405 LB417A LB425 LB425A LB426A LB457 LB475A LB562 LB564 LB565  
LB588 LB636 LB658 LB677 LB701 LR67]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George Norris Legislative Chamber for this, the fifty-fourth day of the One Hundredth Legislature, First Session. Our chaplain for the day is Reverend Kevin Burkhardt from First United Methodist Church, Curtis, Nebraska, and Garden Prairie United Methodist Church, here as guest of Senator Kruse. Please rise. []

PASTOR BURKHARDT: (Prayer offered.) []

SENATOR LANGEMEIER: Thank you. I call to order the fifty-fourth day of the One Hundredth Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

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

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

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements? []

CLERK: There are, Mr. President. Your Committee on Enrollment and Review reports LB304 as correctly engrossed; LB425, LB425A, LB636, LB677, all reported correctly engrossed. Revenue Committee, chaired by Senator Janssen, reports LB272 as indefinitely postponed. And that's all that I have at this time, Mr. President. (Legislative Journal page 967.) [LB304 LB425 LB425A LB636 LB677 LB272]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk, we will now proceed to the first item on the agenda, LB658. [LB658]

CLERK: Mr. President, LB658 is a bill by Senator Raikes. (Read title.) The bill was introduced on January 17 of this year, Mr. President. At that time, it was referred to the Education Committee for public hearing. The bill was advanced to General File. I do have Education Committee amendments pending. (AM514, Legislative Journal page 718.) [LB658]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Raikes, you are recognized to open on LB658. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. LB658 deals with the future of Class I school districts and allows for the creation of those districts through a reorganization process. I hope I can make it very clear to you that this is a genuine and sincere effort to respond to the referendum of statutory provisions passed in LB126 in 2005. It is not a cynical effort to neglect the voters' wishes. LB658 looks forward rather than backward to address school district organization issues. I believe it does so in a constructive manner that helps us move state policy forward while respecting the process and statewide discussion on the future of Class I districts. Some guidelines for this legislation: Several elements became guidelines for considering moving forward after the referendum and these guidelines continue to be important elements in the consideration of LB658. First, legislating to a closed class is constitutionally prohibited. Former Class I districts or districts as they previously existed, I believe, are a closed class. Second, the K-12 school board and all K-12 residents must be involved in the decision as they are potentially affected by the decision to create a Class I district. Third, the opportunity to split off part of the district as a Class I should be available to all K-12 districts that formally had Class I affiliates in the past. That would be Class II, III, and IV districts. Next, if the decision is made to form a Class I district, the following, I think, should be observed. There should be affiliation with a single district, that is a single K-12 district. Voters in the Class I participate in both the Class I district and the K-12 so that you don't have a situation where voters in a Class I can vote for elementary board members and issues but are excluded from the process of...or the governance process, I should say, in the K-12 where kids from that Class I would go into high school. All residents pay on all bond issues and all levy override issues. A Class I would have a minimum budget authority established in statute with K-12 approval of the budget. No budget would be an option when appropriate without having to dissolve the Class I district. I'll try to explain that more a little later. Reporting and budgeting are done at the K-12 level to minimize reporting by Class I boards. Class I boards would have authority over staff, salaries, and local budgeting. The committee also decided that it was important to provide a provision to encourage K-12 districts to continue to operate former Class I buildings and the remote elementary allowance was included in the committee amendment. It is paramount that affected K-12 districts be part of the decision to create a Class I district. Ultimately, the process in LB658 would demonstrate local support and a long-term commitment to the new Class I district. In the way of an overview, there are many of you who have firsthand memory of the time line and recent background on the issue. But for those of you who don't, I think--and maybe for even some of you who do, who, like me, need a reminder--I'm going to run through events in a time line to sort of brief you or provide you some background. In the summer and fall of 2003, there was interim study LR180 by the Education Committee to look at the organization of school districts. In 2004, LB1048 was introduced, which called for the reorganization of Class I districts. In 2005, LB126 was introduced. It was passed on

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Final Reading by a vote of 35 to 12 to 2. That was June 1, 2005. It was vetoed by Governor Heineman on June 2, 2005. It was overridden then by the Legislature on a vote of 32 to 16 to 1. In the summer and early fall of 2005, a referendum petition was circulated and sufficient signatures were gathered to put the issue on the 2006 General Election ballot. However, there were not sufficient signatures to suspend the implementation of the law. A reorganization process started in the fall of 2005. In November of 2005, the district court filed a temporary injunction, later made permanent, to be reviewed by the state Supreme Court. In December 2005, the State Committee for Reorganization of Schools issued reorganization orders according to the law. In March of 2006, the Supreme Court ruled that the state committee acted appropriately to issue orders to reorganize. In the spring and summer of 2006, Class I districts organized a petition drive to get the reinstatement of Class I districts on the November ballot. The so-called Green petition was not submitted to the Secretary of State for lack of sufficient signatures. June of 2006, Class I district organization was finalized. The 2006-07 school year commenced with the reorganization process completed. No Class I districts exist this year. In November 2006, voters repealed the provisions of LB126. February 20, 2007, the Education Committee heard four bills on the subject of Class I districts. They were LB234, LB30, LB357, and LB658. And on February 28, the Education Committee advanced LB658 on a vote of 8 to 0 and indefinitely postponed LB234, LB30, and LB357. A little more review: LB126 was the culmination of hours of debate and a variety of compromises. The compromises in LB126 addressed many of the concerns raised by former Class I supporters. These compromises included the protection of elementary attendance centers and local operating councils. Among the protections was a provision that if the closure of a former Class I or any elementary would force even a single student to travel more than 20 miles, the facility cannot be closed. The concern about local control was mitigated by the ability of elementary school patrons to create operating councils with a formalized input structure. Admittedly, certainly not everyone was satisfied with the compromise elements, including former Class I patrons and even K-12 districts. However, where sincere efforts were made to address local concerns and work together, and this was far and away most places in Nebraska, the result has been very positive. This has been reflected by the comments of many former Class I supporters, teachers, and parents. A little bit about the campaign message, because that's probably the thing that's in most recent memory. I know that those who supported the repeal of LB126 feel that the message from the referendum campaign was to allow for the creation of former Class I school districts. This opinion has been expressed in many e-mails, letters, and phone calls. I've gotten them, I'm sure you have too. Among the e-mails on the subject was one that called into question the referendum process and expressed concerns about the process and frustration... [LB658 LB234 LB30 LB357]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR RAIKES: ...that Class I districts would not be immediately reinstated. The quote from this e-mail: By voting down LB126 we were assured our Class I school

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would be reinstated as it was originally. Was this just because it was what we wanted to hear, a campaign promise, or just a lie? Unfortunately, I believe that the campaign to repeal LB126 was touted as a way to recreate Class I districts. However, it is obvious that even the leaders of the repeal effort did not truly believe the campaign promise. Class I's United and Nebraskans for Local Schools were waging a campaign that promised the recreation of school districts, while at the same time arguing in federal court that Class I districts would not be recreated by the referendum alone. Instead, they knew they would need a favorable decision by the U.S. District Court. This did not happen and we are left now to determine the best way to address this issue. [LB658]

SENATOR LANGEMEIER: Time. [LB658]

SENATOR RAIKES: I commend to you LB658 as a way to do that. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. As the Clerk has stated, there are committee amendments from the Education Committee. Senator Raikes, as Chair of the Education Committee, you are recognized to open on the committee amendments. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I've already touched on some of the elements of the committee amendments, but let me review them for you in a little bit more detail. They add three elements to LB658. One, they would include a requirement for plans and petitions creating new Class I school districts to include a statement of the reason for creating the new Class I. This was the result of a committee decision to clarify the planning process and to establish a commonly understood rationale for creating a Class I district. Two, require local systems to have a single collective bargaining agreement for teachers. Third, allow for remote elementary attendance centers in the standard cost group...excuse me, provide an allowance for remote elementary attendance centers in the standard cost group that are at least seven miles from another elementary attendance center in the same district. This would allow K-12 districts to claim an allowance for such elementary attendance centers. The committee discussed the merits of including building protections, but settled on the allowance as a means to provide an incentive for K-12 districts to maintain elementary facilities. This allowance applies only to standard cost group schools. Sparse and very sparse school districts already have increased cost group costs that reflect multiple facilities and basically deal with this same issue. Again, I want to commend the committee for their work on this. I think everyone on the committee was genuinely interested in providing a result that addressed the issues raised by voters, as well as the need for a sound school district organization policy as we move forward. I would be happy to address any questions you have about this. I would urge your support. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. Mr. Clerk, for a motion. [LB658]

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CLERK: Mr. President, I have a series of amendments to the committee amendments. First, Senator Hudkins, AM865, Senator. (Legislative Journal page 963.) [LB658]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Hudkins, you are recognized to open on AM865. [LB658]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. We're going to have a series of amendments, as you've all noticed. But I want to begin my discussions this morning by saying that Senator Raikes and I have known each other for a long time. When I was in junior high school, I detasseled corn for his father. We only lived about, what, 8, 9, 10 miles apart. And he knows what's coming, I've said this before. His sister, Susan, and I were the same age and there were always a group of girls out there detasseling corn. Now Susan didn't necessarily think so but the rest of us thought that Ron was one cool dude. So there will be nothing in my comments today that will be disparaging towards Senator Raikes. Now the bill, I can't say that much. But I have a series of amendments. We have...Senator Raikes' office and my office have met several times to see if we could come to some kind of a compromise. We almost reached agreement on a couple of things and then it kind of fell apart. So I will attempt to make a few changes to the committee amendments and then also later to LB658. The first amendment that we're talking about this morning is AM865 and it refers to the committee amendments on page 8, line 4. What I'm asking to have done is that...I don't have any problem with the local system having a single collective bargaining agreement. What I would like to do is add representatives from the Class I's because those Class I's, which are no longer there...so how do you have a representative from something that is no longer there? I understand that argument. But we all know that the Class I's had their own governance and their own school board or however they cared to call their particular group. But I would like to see there be, because those teachers in that Class I have been, in most cases, absorbed into the K-12. I would like to see there be representatives from those Class I's along with representatives of the K-12 board on that negotiating unit. It's only fair that if your teachers were affected, your students were affected, your school was affected, that you should have at least some say in how the new teacher, the new group of teachers, including your own former Class I teachers, how they will be affected. I think that pretty much gives the introductory statement that I care to give at this time. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. (Visitors and doctor of the day introduced.) You have heard the opening on AM865 to the committee amendment. The floor is now open for discussion on that amendment. We have a number of lights on. Senator Flood, Stuthman, Carlson, Harms, and others. Senator Flood, you're recognized. [LB658]

SPEAKER FLOOD: Thank you, Mr. President, members. This issue is emotional. This

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issue is difficult. We dealt with it in 2005 and I guess I want to start from the beginning of my service in the Legislature and walk to where we are today. And it's complicated and it's complex. You all remember LB126 came up in the second week of the 2005 Session. Senator Fischer, Senator Hudkins, Senator Langemeier, Senator Heidemann, most of us new to the Legislature, Senator McDonald, many others, we fought very hard to stop this bill. I had 350 kids in Madison County attending eight different Class I schools, forming the one cooperative in the state that operated at less than the state average per pupil cost. I feel I had the state's best cooperative. And we worked that bill and labored and tried to get everything we could. And in fact, we did. We got protections. We got the Education Committee and its Chairman to say that we will protect these buildings until 2014 or until it's the highest grade that a school has, whether it's K-6 or K-8, and nobody can close it down and those kids that are going there get to continue to go there. And that was important to me because it meant that kids had stability. You didn't say to a 3rd grader, oh, you're going to a new school next year because of a state law that was passed. That 3rd grader could finish his or her time out there and the parents had some stability and some continuity. But what was the result of LB126? Not only did we lose at General File, we lost on Select File, we lost on Final Reading, and we failed to sustain the Governor's veto override. We fought tooth and nail at every corner. After that bill passed, emotions were high. I got back to my district after my first session in the Legislature. And the schools up there had two choices. The Class I students and their parents and the K-12s, they could fight or they could sit down and make the best of the situation. Well, I'm pleased to report the schools in my district sat down and made the best of a bad situation. And it's a credit to the K-12s--like Norfolk, Battle Creek, and Madison--that they treated these Class I parents with respect. They recognized this was an emotional defeat on several levels to close these schools down as districts but keep the buildings open under the law that was passed. They listened to the operating councils and the operating councils in my district did their job. The parents were happy, for the most part. There's always exceptions. The teachers were pleased that they were treated well. Quite honestly, before November of 2006, I didn't receive too many calls from parents of former Class I students saying to me they were upset. After November 2006, things changed. Well, what happened across Nebraska? Well, some areas handled it like we did; other areas didn't. Some school districts in the K-12 area decided to close Class I buildings, arguing that they'd found a loophole. Well, shame on them. Somebody should have brought a lawsuit to sit that school district down and say you don't get it, you're not acting like a Nebraskan. You need to figure out how to make this work. This "I've got you" kind of approach to education policy is taking us nowhere. And that bothers me, but it didn't happen in my hometown or my area. Some school districts changed teachers. Some school districts and some Class I parents failed to communicate and it fostered bad situations. But not where I live. The petition process: I remember being at the Madison County Fair in the hot summer of July 2005 and the petitions were going around. There were a couple of them, as you'll recall. One petition that needed about 113,000 signatures would have stopped this bill in its tracks and nothing more would have

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happened. The other one puts it on the ballot to repeal LB126. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SPEAKER FLOOD: What happened? They didn't get enough votes to stop it in its tracks. They did get enough votes to put it on the ballot. So it goes to the ballot and it passes. In fact, it passes by a pretty good margin, I think we can all agree; 290,000 for the repeal, 224,000 votes against the repeal. What happened when that bill was repealed? LB126 was dissolved or was put back into our statutes and the protections were eliminated, which means these buildings now can be closed by any K-12 school district at any time for no reason. It's just another district building. So why aren't the schools back to the way they were? Well, the problem is, in June 2006, by operation of law those school districts were dissolved and we had K-12 school districts. [LB658]

SENATOR LANGEMEIER: Time. [LB658]

SPEAKER FLOOD: Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Speaker Flood. Senator Stuthman, you are recognized. [LB658]

SENATOR STUTHMAN: Thank you, Mr. President. I yield my time to Speaker Flood. [LB658]

SENATOR LANGEMEIER: Speaker Flood, 5 minutes. [LB658]

SPEAKER FLOOD: Thank you, Senator Stuthman. They were dissolved by operation of law. We couldn't go back and undo that. The repeal can't go back and recreate a district because it's been merged. The assets have been merged. And I guess one of my concerns, and I want to say out front that I respect Senator Dierks and Senator Hudkins. They are putting forward an amendment that I know in their heart they know is right. And in my heart, I wish we could go back and wave a wand and go exactly the way things were in 2004, 2005, before these districts dissolved. We don't need it. But it happened, it happened as a result of law. And the Class I's, some supporters across the state, they said the day after that vote, guess what, we repealed LB126, you get your schools back, you get your schools back, you can go back and ask for the keys, get the checkbook, open a bank account, hold a meeting. This is it, you voted, the people spoke, we get our schools back. In fact, a letter was sent out in my district upon the advice of legal counsel for Class I's that said go back, open, you know, put a sign on the school door, get a bank account, talk to everybody, and we're back in business. That's false. There was no back in business. The district was dissolved by operation of law. And the law doesn't have very easy ways to get Class I's back as it sits right now. And what troubles me is when they went to federal district court before the vote in November

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of 2006, in their own briefs they said, arguing on behalf of Class I's United, that the repeal of LB126 does not bring the schools back and they recognized the protections were gone. Now I don't know if the protections part was in there, but they knew the protections were gone. And this is not what they told their supporters. How do I know? I got call after call after call from people in my county that said, hey, we're supposed to go start having meetings and get our school back and get the keys and open a bank account and put signs on the door. That's a lie, that's false, there's no truth to that. This is reality therapy. This is an opportunity for us to sit down and look what the facts are. So at this December meeting, I sat down with constituents from my district and I said what do we have now. We have no protections, so your building can get closed tomorrow. We have no re-creation mandated by this bill. And Class I's are not back. They are technically back in the statute but that Sunny Meadow School District 3 across from 37th Street in Norfolk, it's still a Norfolk Public Schools facility. It's part of the K-12 system. But what next, where to go? Three options were offered this session on Class I schools; Senator Dierks' LB234, Senator Hudkins' LB30, and I had LB357. Senator Dierks has a plan that actually puts back the districts as they were and basically secedes them from the K-12, puts them back in place and they start operating. Senator Hudkins puts them back in place only for a vote to decide if they want to go back. And mine said, put the protections back. Let's get back to the business of protecting these kids, providing some stability while we figure this out. Neither one of them made it out of committee. Now we do have a bill that has some ideas, but I'll get to that in a second. But Senator Dierks' bill, and I want to say at the outset, he's doing what he knows is right in his heart and he is working very hard for his constituents. I will not take that away from him. The problem I have with it is that it basically takes a map of the state of Nebraska and starts drawing circles around different areas of the state where Class I districts used to exist and says you're back. The problem is that's a closed class, I think, legally. You can't just get the red pen out and start drawing circles and saying okay. It's like Benson saying to Omaha, we're going to have a meeting of just Benson residents, even though we're part... [LB658 LB234 LB30 LB357]

SENATOR LANGEMEIER: One minute. [LB658]

SPEAKER FLOOD: ...of the city of Omaha, and we're going to vote to secede. The assets have been mixed. It's like a marriage. It's a marriage that requires a divorce and both parties get to participate in the divorce. So the entire K-12 system should get to vote because taxpayers' resources have been intermingled. And so I will say this. If you can get me an Attorney General's Opinion that says that we can do what Senator Dierks proposes, I say let's vote green on General File, get this to Select, and let's deal with it there, give us a chance to go through and make sure what we're doing is right. Senator Hudkins has a different proposal, a little more moderate than what Senator Dierks has. I have the same constitutional concerns. Obviously, I like my bill. It died a quick death on the floor of the Education Committee chamber. But provisions of it were brought into the committee amendment and I respect them for recognizing that. But my bill said you get

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to keep the protections. Let's focus on the kids. Let's make sure that we maintain stability, respect the vote. [LB658]

SENATOR LANGEMEIER: Time. Thank you, Speaker Flood. Wishing to speak, Senator Carlson, Harms, Raikes, Fischer, White, and others. Senator Carlson. [LB658]

SENATOR CARLSON: Mr. President, members of the Legislature, I yield my time to Senator Flood. [LB658]

SENATOR LANGEMEIER: Speaker Flood, 4, 56. [LB658]

SPEAKER FLOOD: Thank you very much, Senator Carlson. Sorry this is going on so long but...when I sat down with those parents at those meetings, I said what do you want most. And when you look into the parents' eyes, they don't want their 4th grader to switch schools in the middle of the school year or next year. They like the teacher, they're learning, they're doing a good job. And Class I's have a history of providing excellent education. And those teachers continued to teach the same way they had for years before. Now I've got to admit, I'm in a good situation because my K-12s and my Class I's and my parents on both sides got along and they worked together. Senator Hudkins doesn't have that experience. Other senators don't have that experience. It's much more complicated in other areas of the state. But those protections allowed the kids to finish at those elementary attendance centers. Let's get to Senator Raikes' bill. First of all, I want to say thank you to him for putting together a bill that attempts to resolve in good faith, I think, the vote of the people by making an opportunity available to recreate a Class I school. He's got to be respected for that. I prioritized the bill because nobody else would touch it and I thought we need to have this discussion on the floor. We've got to figure this out. Thousands of Nebraskans voted. Is Senator Raikes' bill perfect? No. Can we work it out? Yes. Here are the problems with his bill and here are the good things with his bill and here's what he has to have, if I can speak for him. Senator Raikes has to have a compromise today that allows the entire K-12 district to vote. If you don't have that, it's his bill, I wouldn't be surprised if he pulled it or found some way to take it off the floor for consideration. That's his bottom dollar. He needs that entire district voting. What I want is an easier process without as many hoops, a faster process to get these folks back in shape, but most importantly a process that allows Class I parents to get on the campaign trail and make their case to the entire K-12 district. Sometimes I wonder, what are they afraid of? They won the repeal so well. They won every county but three. And in my county, they did very well. I'm not afraid of a K-12 vote. Just look at the repeal; 290 to 224, and that's in the thousands. Mr. President, I'd like to ask Senator Raikes one question. [LB658]

SENATOR LANGEMEIER: Senator Raikes, would you yield to a question? [LB658]

SENATOR RAIKES: Yes. [LB658]

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SPEAKER FLOOD: Senator Raikes, we're going to hopefully work out a compromise today and I think we'll prevail or we will later this session, in an optimistic fashion. But you have to have the K-12s voting. But would you consider an amendment to freeze the sale or place protections on these schools immediately with the emergency clause upon the signing of a bill that we could pass in the Legislature until a vote could be taken or the residents of that area fail to file a petition so that we could put an immediate stop to these schools shutting down, these Class I attendance centers? [LB658]

SENATOR RAIKES: Again, as I understand it, the issue you're addressing, Senator, is foreclosing the opportunity for a Class I district to be formed by a K-12 disposing of the building before the process could be either initiated or completed. [LB658]

SPEAKER FLOOD: Yes. [LB658]

SENATOR RAIKES: Yeah, I think that's a reasonable point. [LB658]

SPEAKER FLOOD: Okay. And that's a rhetorical question. I knew that that's where he was, but I think it's important to hear that. That is an admission against his own interest, if you listened to him in 2005. He's trying to, in my opinion, work in a way that doesn't foreclose a citizen's right to act under this law. Let's talk reality therapy for a second. We have to want what's possible. This is Senator Raikes' bill and it's gone faster than you can shake a stick at it if he doesn't get what he wants. I think that's just bare bones. And what he wants is a K-12 district voting. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SPEAKER FLOOD: We have to have support in the Legislature. But most of all, I have to be convinced it's constitutional. And I think each one of us has to be convinced of that. Let's talk legal reality. If the answer is Senator Dierks' or Senator Hudkins' bill and we can find the legal authority to do it, let's move it today to Select File and have a good discussion in the interim. I've tried to negotiate this in my office before this came to the floor. I've been unsuccessful, not because people didn't care about it but because they see it from different perspectives. And I respect that. But I prioritized this bill to find a solution. If we walk out of this session without a solution, we fail the citizens. And if that failure is because we couldn't agree on the K-12 or the Class I system voting, that's us not doing our job. We have to get something to take back home. I just want to say thank you for your undivided attention. The citizens want action. But more than anything, that parent of that 4th grader in your district wants an answer about where... [LB658]

SENATOR LANGEMEIER: Time. [LB658]

SPEAKER FLOOD: ...her son or daughter is going to go to school next year. Thank you,

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Mr. President. That's all I have. [LB658]

SENATOR LANGEMEIER: Thank you, Speaker Flood and Senator Carlson. Wishing to speak, we have Harms, Raikes, Fischer, Wightman, Erdman, Loudon, and others. Senator Harms, you are recognized. He waives his time at this time. Senator Raikes, you are recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President and members. Thank you, all those of you who have spoken, including Senator Flood. To the amendment that Senator Hudkins has introduced, and I would tell you I think she has accurately portrayed what has come up to now, except maybe for the cool dude part. But I do appreciate even that. What I would suggest on this amendment is the following. I think she raises a good point on this amendment. I do think that if you're going to have a salary schedule that covers the combined K-12 district, the Class I and the K-12, that you ought to have representation in the negotiations from both parts of the district. So I think that's a good point. I actually don't think this particular amendment works. I think this puts a former Class I board member on the negotiating team and that may not be relevant to the negotiations taking place. But whether that's true or not, I do think it's a good point. And I would suggest to her that the way I'd like to address this is to come up with a combined amendment negotiated between General and Select that deals with the issue brought here, as well as at least one of the other issues she has and issues that are brought by Senators Harms and Loudon. I will try to be very clear on the amendments that she and others bring that I cannot support, so that you'll have that information as we go forward. I want to talk just a little bit about the referendum vote and what it means and what it means particularly in the way of implications for us as a Legislature. I know several of you are concerned about this. The repeal removed the statutory changes implemented in LB126. And that included four different things: protections for elementary attendance centers, Senator Flood spoke about those; protections for community schools and operating councils, he also mentioned those. He didn't mention rural education transition funds. These were monies that were appropriated to certain school districts to transition past REAP monies. And also elementary improvement grants, another state funding source directed at school districts that were having a difficult time getting elementary buildings constructed. Second, all of the previous language was restored as a result of the repeal, which means the Class I and Class VI language is restored and is now in place. It also reinstated some transportation requirements for high school students, which were done sort of as a cleanup or equity-type issue in LB126. The repeal did not reinstate former Class I school districts. In fact, that question was not on the ballot. There was an effort to put that question on the ballot through the circulation of a petition, the so-called Green petition, but there were not enough signatures gathered to get that on the ballot. So when you hear that the vote meant all Class I districts would be recreated, my response is that was not even an issue on the ballot. What were the voters telling us? Well, the voters have spoken on this issue four times. You count first, I think, the legislative enactment of

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LB126. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR RAIKES: The voters spoke in putting the people here who made that decision. Second, there was a petition drive to place the issue on ballot but not to delay its implementation. There is clear constitutional provision for stopping implementation with enough signatures on a petition ballot. They did not get that many signatures. Third, there was a failed petition drive, which I just mentioned, to recreate school districts. And finally, there was the repeal of LB126 this last November. The message or messages offered by these votes were what? Well, I would submit to you that one of them was we want the possibility of Class I districts as we move forward. The second one was we don't want the compromise elements of LB126. And one of those, for example, was building protections. [LB658]

SENATOR LANGEMEIER: Time. [LB658]

SENATOR RAIKES: Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. Senator Fischer, followed by Senator Wightman. Senator Fischer, you're recognized. [LB658]

SENATOR FISCHER: Thank you, Mr. President and members. Two years ago in my first session, LB126 came up and it came up early. And I was one of the first freshman that had to stand up on this floor and fight a bill. And I know some of you that are here with us today, you've had that same experience. LB126 is a tough issue, it's an emotional issue. Many of the colleagues that fought this at that time are still here. We have Senator Hudkins, we have Senator Langemeier, Senator Flood, Senator McDonald, Senator Erdman, Senator Loudon, Senator Heidemann, and myself. We were not successful in that fight. Senator Flood went through the chronological order of our defeats. But then the people took action and there was a small number, a relatively small number of volunteers who went out there and they got the signatures to put a referendum on the ballot. And they gave a lot of time in a short period of time, in six weeks, I believe it was, to get those signatures all across the state and to put this on the ballot. They were successful. I signed a petition also on a hot day, but it was in June. It was early. I'm sorry, it wasn't. It was in July. July 4 is when it was. My nephew brought a petition and I signed it. But they also failed in that they were not successful in getting that Green petition on the ballot. But the people voted last fall, and the way this was framed, the people voted to repeal LB126. That's where we are today. In 90 of the 93 counties of this state, the majority of people voted to repeal LB126. We must address this issue and we must address it soon, now. This is personal for me. We have a country school that's 5.5 miles from our ranch and our two older sons went to that school. It's still there. In my area, because we are so sparsely populated in Cherry

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County, we are hopeful that our rural schools will be there because you can't have families in those areas without a school. Our school is 5.5 miles from our ranch. This is also personal for my district. And while in many cases the reorganization of these schools has happened rather smoothly and it has happened that way in parts of my legislative district, there are other areas where it has not happened smoothly. And in my legislative district, decisions have been made by the K-12 board to close some of those Class I schools. I support Senator Flood in his work to try to get those protections back in for those folks. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR FISCHER: We need to address this issue and we need to do it today. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Senator Wightman, followed by Senator Erdman. Senator Wightman, you are recognized. [LB658]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. We have an unusual situation in Dawson County that involves the Class I schools. And that is that the city of Cozad or the Cozad K-12 district allowed those schools to operate during the current school year. They've just recently taken action to close those for next year. And I know there was a discussion between Senator Flood and Senator Raikes. Senator Flood is not at his desk. Senator Raikes, if Senator Raikes would yield for a question, I have a question with regard to his understanding of that conversation. [LB658]

SENATOR LANGEMEIER: Senator Raikes, would you yield to a question? [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR WIGHTMAN: You and Senator Flood discussed the possibility of some sort of a moratorium on the sale of school assets. And my understanding was that you also discussed the closing, pending a vote of the K-12 district, of the additional Class I's that haven't already been closed. Is that correct? [LB658]

SENATOR RAIKES: Senator, repeat the second part of your question there. I didn't quite hear that. [LB658]

SENATOR WIGHTMAN: I understood that Senator Flood asked, with regard to that moratorium, as to whether it could include a moratorium on closing the schools, assuming that LB658 passed in some form, whether or not there could be a moratorium on closing schools from the date of the passage until the K-12 district was allowed to have an election. [LB658]

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SENATOR RAIKES: Well, certainly, Senator, I would agree that--in the Cozad case, if we could use that as an example--that if they had made the decision now not to operate the school the next year, that they not be allowed to dispose of the building. They'd be required to keep the building open and also maintained, or keep the building in their possession, I should say, and also maintained so that if there were a group, however large, that came to them...well, yeah. If a group came to them and said, look, we want to go through the process to create the district, that the K-12 would be required to keep that building in their possession until that process had been completed. Now is that responsive to your question or only partly? [LB658]

SENATOR WIGHTMAN: Well, only partly because the Cozad district, as I understand it, have already taken the action to close it for the forthcoming year. And I'm wondering whether the moratorium would apply if the school district has already taken action to close. [LB658]

SENATOR RAIKES: So certainly, in my view, the moratorium would be effective in that they would need to keep possession of that building. Now whether or not, and I think this is what you're asking, whether or not they would need to reverse their decision and continue to operate the school is, I guess, another question. I don't know. I didn't understand Speaker Flood's conversation (inaudible) to include that one, but it is a fair point for consideration. [LB658]

SENATOR WIGHTMAN: Okay. Well, that answers my question as best you can probably at the present time. I will listen to rest of the debate, and thank you. [LB658]

SENATOR RAIKES: Thank you. [LB658]

SENATOR WIGHTMAN: Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Erdman, you are recognized, followed by Senator Loudon. [LB658]

SENATOR ERDMAN: Mr. President and members of the Legislature, I've been accused by some of wasting time and it didn't seem to bother us at other days. So I suppose we'll have plenty of time today. I appreciate the dialogue that's been ongoing between Senator Flood and others. And I think the scenario that we find ourselves in is probably the scenario that some of you find yourself in standing on the tee box and that is after you duck hook one out of bounds, you want a mulligan. And unfortunately, I don't think we're going to get a mulligan. But what we do have the opportunity to do is to analyze where we stand and try to make the best of the scenario. Would it have been better had the folks of Nebraska gotten 10 percent of the vote, or 10 percent of the voters to sign that petition and to stay the application of the law? It would have been and it would have

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been avoiding a lot of the problems that we have been, whether it's in Senator Hudkins' district, Senator Fischer's district, or my own. But that's not the reality therapy, I guess, that the Speaker has been giving us this morning. The other side (laugh) of this reality that I think the Speaker has eloquently pointed out is this is your only option to fix the bill, to fix the law. With that is going to have to come some accommodations from both sides to make this happen. And if Senator Raikes is willing to do that, I would imagine we can pass something. But if it's the one way, the Class I way or the highway, you're probably going to get nothing. And so I hope that in this discussion, those of us that were a part of those scenarios that led to the ultimate passage of LB126, whether it was emotional, whether it was factually based, whether there were reasons that things were done that most of us didn't understand because the real goals were generally left out. And some of my colleagues that sat near me at that time from Lincoln and Omaha couldn't understand why some of these decisions were being made without looking at some of the obvious factors of efficiencies and costs and things like that. But the reality as we stand today, there are no mulligans. We have an opportunity to try to fix the law under LB658. I think the folks on the side of the Class I's that have worked tirelessly with legislation this session should be commended. I'm willing to help them in whatever way that I can. But I will also have to recognize that in this process, that those of us that feel strongly against the passage of LB126, whether we felt that for a number of reasons and ultimately thought it was the poor public policy of the state, realize that we have an opportunity to fix this. I've also been asked by some of my colleagues from urban Nebraska, my friends from Lincoln and Omaha, now that say, well, I don't know what to do on this bill. Well, you're going to have an opportunity, I would imagine, for the rest of the day to hear all kinds of different options of what you can do on this bill. I would tell you that just because, as it's been pointed out this floor, it doesn't directly affect you, it doesn't mean you don't have a vote or a say. And I recall the discussion that we had on LB1024 last session. And I stood on the floor of this Legislature and said, after having gone through what I believe happened to those of us in rural Nebraska under LB126 and the way that that was ultimately accomplished, I would not wish that on my political enemy. And I voted against LB1024. My hope is, is that when the end of the day comes, whether it's on General File or Final Reading, whatever that analogy applies to, that metaphor, that at the end of the day we'll find common ground in a lot of areas. And ultimately there may be a disagreement here and there. But it is my hope, as a senator that represents an area that's affected by this, to work to try to find that common ground. Will there be disagreements? There will be. But my hope is, is that unlike the previous battles that we've had on the floor in education in the past, that we can be willing on both sides to work together. And for those of you that are trying to figure out how this affects the rest of us and maybe not you, we can give you some clear indications of why it is good public policy to proceed with the policy that's before us. Is LB658 in the form that I think it needs to be in? No. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

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SENATOR ERDMAN: Is it logical to expect that the Class I's are going to get what they want and Senator Raikes is going to volunteer to allow his bill to be that vehicle? No. But I do think it's healthy for us to have this debate and for the body to say where we stand at this point to try to solve the problem that's before us. And again, I hope at the end of the day that we're able to stand together and recognize those who are affected need to have representation and those who are on this floor representing them need to work at their best interest to try to accomplish that goal. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Erdman. (Visitors introduced.) Thank you. Continuing on in the discussion on AM865 we have, wishing to speak, we have Louden, McDonald, Dierks, and Avery. Senator Louden, you are recognized. [LB658]

SENATOR LOUDEN: Thank you, Mr. Speaker and members. As I've looked over this amendment in this bill that Senator Raikes has brought forward, I'm hoping that there can be some compromise done on this thing. Most of you remember, and for no uncertain reasons, the Legislature really stuck it on a whole bunch of people with LB126, when that was passed. We totally wrecked our Class VI school system in Nebraska and that was a system that worked quite well in the rural areas and in our sparsely populated areas. And when that went through with LB126, it all went down the tube right along with the rest of it. Whether we can bring all those back or not, I don't know. Myself, I think it's all history. I don't see how we can bring everything back to ground zero as it was back in those days or not. But I do think that as we go forward now, we have a chance with this LB658 and some of the amendments that have been put on it to probably bring it back to where these smaller school district areas, whether you want to call them pre-Class I's or whatever you want to call them, which as I've seen in this amendment and in this bill, there isn't any place where you're going to name this type of school system you have. So I don't know if it's going to be a learning community or what we're going to call it from now on. But nonetheless, if these school systems are organized, simplify it so that people can do it, so that the average person can go ahead and work through the process and form a Class I district, as you would call it at the present time, for some of these rural areas and some of the far-off sparsely populated areas. We have school districts out in western Nebraska now that from one end to the other is way over 100 miles. Now I ask you, do you want to start operating a school district from here to Grand Island and have the school board here in Lincoln and decide what happens for Grand Island? How far would that go if you wanted to put that out from the Legislature? There would be a bunch of you probably that would have a lot of questions to answer next year. So I think I can support this LB658 with some amendments to the thing, because I don't think we can ever go back. And I know Senator Hudkins and Senator Dierks would like to go back to it, and I would, too, but I don't know how we can possibly make that work that way. We've already set it up so some of these districts have dissolved. Some of them have used some of their assets to buy buses. There's a huge amount of vans and buses been bought after LB126 went in.

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Where I live now, we have a bus sitting in Ellsworth, Nebraska, at 6:30 in the morning to pick up kids. And those kids, some of them come in from 15 miles or so. And so they have to leave way before, around 5:00 in the morning, get them up at 5:00 in the morning, get them on that school bus so they can get down to school and spend their time in school and then do the same thing riding home. This isn't good. This isn't education. This is all about, what would you say, administration. This is about school busing, had to hire school bus drivers for that. Let me tell you, go out in the Sandhills and see how many qualified school bus drivers there are. You don't find them every place. You've got to find somebody and send them to school to set it up so they can do that. I've introduced a couple of amendments on Senator Raikes' bill. I think that it mostly would help streamline the way that a school district can be formed. This is what we have to... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR LOUDEN: ...look at, make it something simple so that people can do it. And since we were the ones that wrecked some of the systems out there, I think it's up to us to do it and do it right this time. I don't think this is anything where we need to be playing games. I think the job has to be done right. There's districts that want to form up and have their own local control. Whether you want to call it a learning community like Omaha is going to call theirs, fine. I think it's probably the coming thing. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator McDonald, you're recognized. [LB658]

SENATOR McDONALD: Mr. President and members of the body, for those of you that weren't here last year, it was a very heated debate, but more heated on the opposing side of LB126. The rural senators that this affected left a lot to be desired because we were not able to convince the body that LB126 was a good idea. And I think the most discouraging thing after all is, even when we got all the protections, everything we wanted to put in the bill--and I commend Senator Raikes, we worked very, very hard together to get protections for our Class I's--when it went to the Governor and the Governor vetoed LB126, the body overrode that. And there were other bills that I felt were much more important to override than this particular one. But it didn't happen. And so we were faced with LB126 as it passed. I've heard very little from my district. I think it's went smooth, as well as Senator Flood said in his district. The people, and regardless of why they voted to repeal LB126--we probably will never know--but we're faced to change that in the Legislature and to make it right. But we can't make it whole again. All we can do is go back and do what we can to look at our Class I's and go forward. It would be wonderful to go back and recreate those, but it's not going to happen. I think in your heart you would love it to happen but your mind says it can't. So the best we can do is to make the best of the situation, compromise as we've done

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before, and get something that's constitutional that we can live with and move forward. I support LB658, probably not as it is, but as it will be compromised because I know those that are for and against it will work hard. And I hope Senator Raikes, which I know he will, will work with us and will come with a good plan. And I hope you can support it. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Senator Dierks, you are recognized, followed by Senator Avery. [LB658]

SENATOR DIERKS: Thank you, Mr. President. Members of the Legislature, I first want to make a statement that I'm not playing games like might have been insinuated because that's not what I'm about. I'm about trying to represent what my constituents have asked me to represent. They voted with a clear conscience that they were going to get their Class I's returned to them. That was done in November. I don't have a choice but to try to bring legislation that will do that. I had that legislation here, it was killed in committee. I still think it's the right legislation. I've got it pretty well drafted as an amendment for the bill. We've changed some things in it, but that will come up later because I got it filed a little bit too late. I've heard several statements, like we can't make it right or we can do right but we can't make it whole. You know, that...we have in our hands the power to do anything we want to if we do it correctly. And I think we can make it whole again and do it correctly. We just have to work at it and make sure that we do it the right way. So I have grave concerns about LB658. I think that it does not address what my constituents think they want addressed. It addresses what Senator Raikes wants to address and what he thinks that the legislative body should address. And I appreciate the knowledge that he brings to the issue. But I also appreciate the fact that when I come to the issue with it, I'm doing what I think is in the best interest of the constituency across Nebraska that voted for this issue in November. And I will fight for that forever. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator Avery, followed by Senator Loudon. Senator Avery, you are recognized. [LB658]

SENATOR AVERY: Thank you, Mr. President. I'm a member of the Education Committee and we really worked hard, I think, to come up with this bill. And I can remind you that the vote was unanimous, not one single negative vote on the committee, to advance this to General File. I recognize the heat that surrounds this issue. I've received a number of e-mails and letters and other communications, some of them quite supportive of what we have done, what we're trying to do; many of them very emotionally opposed. Although I was not a part of this body when LB126 was passed last year, I did watch carefully from the outside as a candidate, and I remembered at the time being proud of this body for taking on a very difficult issue. I remember years ago, in the late 1980s, a courageous former member of this body and Chair of the Education Committee took on this issue and lost his seat as a result. He was described in the

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Lincoln Journal Star as the epitome of what George Norris had in mind when he set up the citizen legislature. He was doing the right thing then and this body did the right thing last year. Obviously, not everybody agrees with my assessment of this. What we're trying to do with LB658 is to honor the vote of the people in last year's referendum. I believe and the committee believed that we are obliged to do that. But we are also obliged to do this within the law. And the law is that Nebraska is now a K-12 state. This means that we must allow the voters in the entire K-12 district to participate in the election to reestablish any Class I school. The people voted to repeal LB126, but they did not vote to stop the law from going into effect, as has been mentioned in here already. This is a key point. LB126 is the law and the result is that we are now a K-12 state from Omaha to Kimball and from Valentine to Falls City and all places in between. So any effort to reestablish a Class I district must take place within the law as it now exists. This reality may not make everybody comfortable. In fact, I suspect a lot of people have already developed heartburn over this and I understand that. But we have to do the right thing and we have to do it the right way. And the right way to do it is within existing law. LB658 is a reasonable compromise that lays out a legal way for proponents of Class I's to seek to recreate their schools. I want to read a portion of an e-mail I received from a voter way back in January. This person is an employee of the North Platte Public Schools at Lake Maloney. Lake Maloney was a Class I school. And she writes, in our situation there was no reason to have two Class I schools within five miles of our city limits. It was a waste of money. And she went on to say that since the Class I's had merged with the North Platte Public School District, that wonderful things had already occurred. And she believes that if the opportunity had been there for people... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR AVERY: ...to know what would be the outcome of merging these schools, she believes the vote on the referendum would have gone the other way. I think she's probably right. And what I have heard on this floor already this morning from people who have heard from their constituents about the reaction to the merging, I think it has gone well. So I urge you to support LB658. It represents a lot of hard work by the committee and I think it's good policy. We should never allow politics to trump policy. Good policy should always win out. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Louden, followed by Senator Erdman. Senator Louden, you are recognized. [LB658]

SENATOR LOUDEN: Thank you, Mr. President. I think quite a little has been said on the procedure on this. As I stated before, I think there are some things that we can work with. I think we have to look and work forwards with these bills. I don't think we can go completely back on them but I would like to see work done and streamline the bills. And before, I have to mention that on LB126, we had done some negotiating and we were

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told that we would get it all straightened out when it got onto Select File. So on this situation here, I would like to see a finished product come out on General File because I would be very uneasy to let something go to Select File and then try to amend something on again. We got, what is it, if you get taken once, why, shame on you, or something like that, but get taken twice it's shame on me. And that would be the case on this. So I would certainly like to see that something come out of the session today or tomorrow, whenever, on General File before we move it onto Select File. With that, thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Erdman, you are recognized. [LB658]

SENATOR ERDMAN: Mr. President, members of the Legislature, I didn't intend to speak again on this motion, on this amendment. Here's what I think got us into trouble on LB126 and LB1024. I think people got up on the floor of the Legislature and made great speeches that didn't understand the application. Do you know what the law is right now in the state of Nebraska on regards to Class I's? Exactly as it was prior to the passage of LB126. Exactly as it was. The voters repealed it. To stand on the floor and say that the law is different than it was is not understanding the law. And so from the standpoint of the great speeches, make whatever speech you want to. Would it have been the right thing to do had we broken up Lincoln Public Schools and had the political will to do that? Senator Louden has referenced that. But I hope in this discussion what we do is we don't get into the political statements that I've already heard that preceded me and caused me to respond, but that we do talk about the policy. And that the policy of the state is Class I's are in law. The problem is they don't have the ability to get back to that status because of the way LB126 was and has now been repealed. That's what we're trying to fix. So I hope as we move through this discussion that the members will say, oh, you mean the law that was in place before LB126 passed is actually the law we're operating under now? The difference is, is that they can't access that opportunity? Oh, that's different than saying, no, no, we have to operate under some law that was repealed by the voters. We have to put it all back together, that's what we're doing. And to the comment of Senator Louden, I think another popular phrase that some people have been using recently, I think trust but verify is probably the method that needs to be employed on this bill. We need to trust the folks who have agreed that things need to be changed, but as we have done on other bills on the floor, even yesterday, we need to verify that the language reflects that. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Harms, you are recognized. [LB658]

SENATOR HARMS: Well, I tell you what, Mr. President. This is going to be a good day for me. I got on the wrong speaker. Sorry about that, Mr. President, colleagues. I'd like to withdraw my amendment and have that placed on the bottom, if I may. Is that the

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correct procedure? [LB658]

SENATOR LANGEMEIER: We would typically do that when we get to it... [LB658]

SENATOR HARMS: Okay. [LB658]

SENATOR LANGEMEIER: ...but we will so note it so when we do get to it... [LB658]

SENATOR HARMS: All right, thank you. [LB658]

SENATOR LANGEMEIER: ...we'll note that. [LB658]

SENATOR HARMS: What I really want to address today a little bit is that there isn't any question that there are a lot of mixed emotions about this piece of legislation. Particularly where I come from in rural America, that I've talked to a lot of teachers and what I have found is that there are some that want to return and there are others that do not want to return. There are others that will say to you, that since I've moved into the public school system, the K through 12 system, my husband or my wife now has an illness that creates a preexisting condition that if we move back out could cost me a lot of money, and in fact I may not be covered in insurance, may not be able to find anyone to cover me in insurances. I mean, the list goes on and on with the kinds of issues that we're going to be confronted with. And the only thing that I have found in rural America that's consistent in people's discussion is they want to have the right to choose whether they go back or whether they stay. And they want to have it in the appropriate environment and they want to make sure that they have a chance to at least be successful and not to have so many restrictions placed upon them that they cannot be successful with it. They don't want to go through the hoops if there's no hope because so many provisions have been put into the directions and the guidance that is being given to them. So as we look at this particular legislation, I'm hoping that we can find a middle road. I'm hoping that we can give them the right options and let them choose because that's what they want. I believe in my own heart that if we would have done this at the beginning and would have said to the Class I schools, you have three years to make these decisions; if not, this is the legislation that's going to come forward, a lot of those schools were in the process of merging anyway, I think that would have been much smoother. We would not be here debating this today. But that is not what has happened and I'm not being critical of anyone here. I'm just telling you, that's the way that I think it would have...we would have been much better doing it. But I would ask that we look at this very carefully, we find the middle road to this, and we give the people the opportunity with not a lot of restrictions, to be very frank with you, so they can decide whether they want to go back or they don't want to go back into this system. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Hansen, you are

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recognized. [LB658]

SENATOR HANSEN: Thank you, Mr. President. Just a few comments about Senator Raikes' bill in general. I think that during the campaign last year, I was misquoted twice. And people said, well, I understand you're for consolidation of schools. And I said, well, I sure am; voluntary consolidation, which has happened over the years. We've had consolidation. We had it started with over 500, almost 600 school districts in this state at one time. And last year when LB126 was talked about and then put on the ballot for discussion, I guess, we had 320 school districts. So consolidation is the way that small schools were going. I'm all in favor of that. Why do we consolidate? Why do we consolidate any businesses? Schools are a business. I don't think we've heard yet very much this morning the quality education of our children. That's what we're talking about--the quality education of our children. We consolidate schools to better the quality of education to our children. We get schools together out in the country, form one school, combine the teachers. If we have too many teachers, somebody is going to lose their job. But the quality of the education of those kids is the main concern. I was misquoted and it took me longer to recover from that misquote than my other misquotes, I guess, Mr. President, but I am for consolidation of schools, but it needs to be voluntary. This forced consolidation is just what people don't want. We have two schools in my district already since the vote last November that have been told they're going to close, two Class I schools. Those kids are going to have to drive another nine miles, I think, now to elementary school in one case and maybe a little further in another case. But hardship on the family, maybe so. If they get on...there's no buses out there in that particular, I don't think in either one of those districts. So is it a hardship on the students? Well, it is if the kid is not an early riser. They're going to have to get up another hour earlier, half hour earlier, it doesn't matter. But it's the quality of the education of our children that I think we need to keep in mind. Are we doing the best thing for those kids? And I don't think that this forced consolidation really is. Senator Avery mentioned the January e-mail from a constituent of mine. I would remind Senator Avery that that was a teacher. The teachers did come out of this forced consolidation in a better shape and I'm all for them. It was told, the way it was explained when LB126 first came out, that there was going to be a lot of teachers losing their jobs. Well, with the protections that were put in, thanks to the senators here, none of those teachers lost their jobs. After the vote last November, there are teachers that are going to be starting to lose their jobs. And finally we're going to get some of that voluntary...the benefit from the voluntary consolidation, even though it's, you know, it's going to hurt some teachers, may hurt the quality of education of our students. We need to look at that. We have two Class I schools in my immediate area of North Platte. One of them is south of North Platte, one of them is north of North Platte. The one south of North Platte is in a growing area. North Platte Public Schools system will probably take that school, keep it a school and keep it a K-5 school if nothing else. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

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SENATOR HANSEN: It's in a growing area. The other one is an old building. It's probably in line to be closed. Senator Raikes' and Senator Flood's agreement not to sell that school may be fine, but will that school be closed? It's closed but not sold, is that a question? I think that's a question we need to be answered, too. I have two granddaughters in that school but I have one granddaughter that's in the 1st grade with 27 kids; 17 of them are opt-in students from North Platte. I think with voluntary consolidation, that school might have been closed anyway. I think we need to keep in mind the quality of education of our children. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Carlson, you are recognized. [LB658]

SENATOR CARLSON: Mr. President, members of the Legislature, I would like to address a question to Senator Harms. [LB658]

SENATOR LANGEMEIER: Senator Harms, would you yield to a question? I don't see Senator Harms. [LB658]

SENATOR CARLSON: Okay, he's not available. I'd address the question to Senator Raikes, if he would. [LB658]

SENATOR LANGEMEIER: Senator Raikes, would you yield to a question? [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR CARLSON: I was going to ask Senator Harms because it related to his amendment, but I'll go back to the original bill. Senator Raikes, in there for Class I's to be reinstated, they needed 15 percent of the registered voters on a petition from the K-12 district, and 55 percent of the registered voters in the proposed Class I district. This is correct, right? [LB658]

SENATOR RAIKES: Right. [LB658]

SENATOR CARLSON: Does the...and the registered voters in the proposed Class I district are a part of the overall K-12 district. So are those 55 percent a part of the 15 percent overall? [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR CARLSON: Okay. [LB658]

SENATOR RAIKES: Yes. [LB658]

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SENATOR CARLSON: So it wouldn't be two separate petitions. [LB658]

SENATOR RAIKES: That's correct. [LB658]

SENATOR CARLSON: Okay. Thank you. Thank you. Earlier Senator Flood mentioned that he believed that the Class I people were lied to by their counsel on what the repeal of LB126 really meant. I believe that he's correct. I think that this has caused unnecessary hard feelings and made it very difficult in some cases for the relationships between Class I people and the K-12 district that they are a part of. I'm learning, after being here for a couple of months. It's certainly a part of the political process, is making your senator aware of your concerns, and I certainly try and listen to what these concerns are. It's been interesting in the last day that my office has had a number of calls and I may be looking at some e-mails in the same way, but particularly phone calls of people calling in and I think it's because they're told by somebody to make a call and the response is that they don't know the bill number, they don't know the amendment number, and that's okay. We've had several calls, they don't know what the bill is about, but they may say that somebody told me to call and ask you to support such and such an amendment. And so I know that this is all part of the process and we live in America and we can do a lot of things, but we do need to be somewhat familiar with what we're asking about, and certainly that makes a bigger impression on someone you're talking to, to ask them to support something or to oppose something. This is a very, very key issue. It's a very, very important issue and I continue to listen to the debate and look forward to the rest of the morning. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Carlson. (Visitors introduced.)  
Returning back to discussion on AM865, Senator Fulton, you're recognized. [LB658]

SENATOR FULTON: Thank you, Mr. President. I guess I should...I'd like to start by saying that LB658, I just...I need to understand it a little bit better. At first blush it seems to me that it doesn't...it seems too arduous to recognize and honor the vote of the people that was taken, but I've talked with Senator Raikes and he assures me that's not the case. Not convinced yet, so hopefully between now and the end of today we can do something, because this bill needs to move forward. There was a vote taken and there needs to be some direction provided by this Legislature. To that end, AM865, would Senator Hudkins yield to a question? [LB658]

SENATOR LANGEMEIER: Senator Hudkins, would you yield to a question? [LB658]

SENATOR HUDKINS: Yes. [LB658]

SENATOR FULTON: Senator Hudkins, I've read through the amendment. I have an idea this has to do with the collective bargaining arrangement. Could you explain this a

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little bit more? You're asking in this amendment for two members? Could you give some explanation to that effect? [LB658]

SENATOR HUDKINS: Yes, Senator Fulton. The part that is changed is on the committee amendments, AM514, on page 8, beginning on line 4. And what the current...well, the...hopefully the new language would be, "The local system shall also have a single collective-bargaining agreement negotiated by," and then that's where my amendment starts. We are asking for additional representatives to be on that collective bargaining team, if you will, from the former Class I's. Their teachers are the ones that are being absorbed, hopefully, into the K-12, and so we are saying that we would like them to have representation from their former boards. [LB658]

SENATOR FULTON: If this amendment is not adopted would it be fair to state that the Class I's don't have adequate representation at this collective-bargaining arrangement? [LB658]

SENATOR HUDKINS: Well, that's my... [LB658]

SENATOR FULTON: Do we...yeah. [LB658]

SENATOR HUDKINS: I'm sorry. That's my opinion. They have had their schools taken away from them through no fault of their own and now they're also losing what representation that they had. Now granted, these people will be now part of the K-12 system, and in the course of events there will be elections of school board members, and so there is an opportunity for these former Class I people to be on the K-12 board. That takes too long. We're just saying if you're going to have a collective bargaining group, let us have some representation on it. [LB658]

SENATOR FULTON: Okay. Thank you, Senator Hudkins. I had the...that was my suspicion. I thought that this was to address an inequity that exists in the committee amendment, AM514. It seems to me that this is a fair representation; that this is a way to allow the Class I's to have some representation, so it sounds to me to be reasonable. I'll appreciate the debate on this amendment because I think we're going to be voting on it here pretty soon. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Kopplin, you're recognized. [LB658]

SENATOR KOPPLIN: Thank you, Mr. President, members of the Legislature. I rise to speak simply to this amendment. The proposed amendment to add two Class I representatives to a negotiation team simply doesn't make sense to me. Negotiations is a long, long procedure in public school systems. It begins early October, November. It's a negotiated agreement between a board of education and a group of teachers. That

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group of teachers is made up of every teacher in this school system. That K-12 board will set up a negotiating team. If there are other people that would wish to make their views known, they have that opportunity to visit with that board of education at any time. Adding more members to a team clogs the system. Most of our negotiations in this state go very well. A few differences of opinion arise and they go to the Court of Industrial Relations to improve that. But it is a working agreement. I believe this amendment would be unnecessary. I wasn't going to speak on it, but then I did hear Senator Raikes say, well, yeah, they probably should have some, and if we're going to work in compromises later I wouldn't want to see this happen. We have a negotiations team working between a board and teachers, and it affects all teachers, and it should be left as it is. Adding more members doesn't do anything to it. Adding...and when you talk about adding two from a Class I, having equal representation with that K-12, that number doesn't even make sense. The amendment simply...I don't know whether it is intended to come to a vote or not, but it did concern me if it's going to be part of a compromise. It's unnecessary, unneeded, and should not be done. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Kopplin. There are no other lights on. Is there anyone else wishing to speak to the amendment? Seeing no lights on, Senator Hudkins, you are recognized to close on AM865 to the committee amendments. [LB658]

SENATOR HUDKINS: Thank you, Mr. President and members. I would like to address some of the comments made by former speakers. Senator Avery, who is very well respected in the Educational (sic) Committee, said that this is a quite controversial issue. Well, that's kind of an understatement, Senator Avery, because we fought both for and against this very hard. The merger was proposed to save money for the taxpayers. Well, we have found out that that wasn't necessarily the case. It was said that LB658 is a reasonable compromise. Reasonable depends upon your definition of is your school getting hurt, are you able to have a Class I, are you able to do it with the least amount of interference, intrusion, confusion, and cost. When Senator Raikes and I started our discussions on this bill he was and remains very adamant that the entire K-12 vote on whether or not there can be a Class I formed. I was quite opposed to that. I'm still not happy with it, but if that is his bottom line I guess we'll agree with it. He said that the repeal of LB126 carried quite handily, so we shouldn't have to worry. I disagree because I see it as a case of when there comes the time when there is the vote, there will be a concentrated effort by the schools involved. Now, as Senator Flood said, in some cases this merger has gone very smoothly. That is wonderful. In my particular district, not so smoothly, and that's what we're trying to address, are the cases where it did not go well, where the people in the Class I did not want to be merged, they want to continue their own school. Before LB126 was on the agenda, there were about 10 to 12 to 15 schools closing a year anyway, but they were voluntary consolidations. They were doing it because they had a lack of students, the building was old and needed more work than they could really afford. But this was a case of they were doing it, the patrons of that district--talk about local control--they were doing it on their own. It has also been

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mentioned that, well, why should the urban senators care? Well, it doesn't affect them. They have their school systems in their communities, whether that's Lincoln, Omaha, North Platte, whatever. But to say that it is unreasonable for there to be a Class I school within five miles of the city limits of a community, I don't think that is reasonable. Lincoln is constantly expanding their territory. Their planning area is within three and....oh, I think it's about two miles of land that we have in Lancaster County. Does that mean that the next time that Lincoln makes an annexation and they're within five miles of Malcolm Public School that that K-12 should then be gobbled up by the city of Lincoln? I don't think that's what he had in mind, and I certainly hope that's not what any of you would want. This... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR HUDKINS: This particular amendment adds people on the negotiations team to represent the schools that were forcibly closed. Senator Kopplin doesn't like that. That's his opinion. That's fine, he can not like it. My opinion is that it is a good idea. Senator Raikes said that I had a point and that this could be tweaked. I'm willing to tweak it, but let's accept it as it is at this point. We can go on from here and tweak it later. And the good part about this is that if this amendment, AM8...need my glasses changed...AM865 is passed then the following amendment won't be necessary and then it goes away. So if you want to get rid of a little bit of debate, accept this amendment and then we don't worry about the one that's next that I have proposed. So I appreciate your attention. This... [LB658]

SENATOR LANGEMEIER: Time. [LB658]

SENATOR HUDKINS: Thank you. [LB658]

SENATOR LANGEMEIER: You have heard the close...thank you, Senator Hudkins. You have heard the closing on AM865, amendment to the committee amendments. The question before the body is, shall AM865 be adopted? All those in favor vote yea; all those opposed vote nay. Senator Hudkins, for what purpose do you rise? [LB658]

SENATOR HUDKINS: I would like to ask for a call of the house, please, and we'll do a board vote at that...can we do a board vote at that time? No, we'll have to do a roll call. Thank you. [LB658]

SENATOR LANGEMEIER: There's been a request to put the house under call. The question is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB658]

CLERK: 35 ayes, 0 nays, Mr. President, to place the house under call. [LB658]

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SENATOR LANGEMEIER: The house is under call. Senators, please record your presence. Those senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. (Visitors introduced.) Senators Ashford and Preister, please return to the Chamber. The house is under call. All senators are present or accounted for. The question is, before the body, should AM865 be adopted? There's been a request for a roll call vote in regular order. Mr. Clerk. [LB658]

CLERK: (Roll call vote taken, Legislative Journal page 968.) 11 ayes, 30 nays, Mr. President, on the amendment. [LB658]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. The amendment is not adopted. Mr. Clerk, items for the record. With that, I raise the call. [LB658]

CLERK: Mr. President, amendments to be printed: Senator Synowiecki, an amendment to LB204; Senator Johnson to LB395A. New A bills. (Read LB400A, LB245A, and LB417A by title for the first time.) Enrollment and Review reports they've examined and reviewed LB338 and placed it on Select File, likewise with LB405, LB328A, and LB395A. (Legislative Journal pages 968-972.) [LB204 LB395A LB400A LB245A LB328A LB417A LB338 LB405]

Mr. President, the next amendment I have to the Education Committee amendments is by Senator Hudkins, AM866. (Legislative Journal page 964.) [LB658]

SENATOR LANGEMEIER: Senator Hudkins, you are recognized to open on AM866. [LB658]

SENATOR HUDKINS: Thank you, Mr. President and members. Since you don't want additional members on the negotiation team, why don't we just take that language out altogether? And that's what this amendment does. On the committee amendments, beginning on page 8, strike with "the," beginning in line 3, through the period in line 8, and so that would take out the language that the local system shall have a single collective-bargaining agreement. The teachers that were in the former Class I's, I think somewhere along the way I heard that they had to be compensated at least equally to the ones that were in the K-12 system. They had to make at least that much. Well, unfortunately, in one particular case, one of the teachers in a Class I school who was absorbed into the K-12, she took a \$2,000 to \$3,000 cut in pay. Now she said she was going to remain there because the particular Class I building that she was in, which is no longer allowed to be a Class I, she had been in that building for a long time. She knew those kids, she knew the families, and so she was going to stay there. She said, yes, money is good, but it isn't the only thing. So what my amendment would do would be simply to take out the language referring to the collective bargaining unit. Schools, as Senator Kopplin said, already have a collective bargaining unit, so why do we need this

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language? Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. You have heard the opening on AM866 to the committee amendments. The floor is now open for discussion. Is there anyone wishing to speak to AM866? I see no lights on. Senator Hudkins, you are recognized to close on AM866. [LB658]

SENATOR HUDKINS: Thank you, Mr. President. That was very easy so I know what the outcome is going to be. I would hope that you would look at your conscience, look at this bill and realize that LB658, though well-intentioned, is very difficult for a school to form a Class I under these conditions. If we could get some of these conditions changed and worked out and compromised, I think Senator Raikes would find that there would be more support for his bill. For example, there is a part in the committee amendments that say that you cannot have elementary schools within five miles...within five miles of the K-12. What...or seven miles, I'm sorry. What is magic about seven miles? Why can't it be five miles? Also, somewhere in the bill it says that each Class I, if they are reformed, must have an area of at least 20 square miles. That in itself takes away the ability for some schools to reform. What difference does it make if it's 20 square miles or 9 square miles? If you've got 10 or 15 kids there, the distance shouldn't matter. I can say more. I think I'll wait. (Voting bell chimes.) And it sounds like the bells are working just fine, so thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: It meant nothing. I was trying to page, so thank you, Senator Hudkins. You have heard the closing on AM866. The question before the body is, shall AM866 be adopted to the committee amendments, AM514? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

CLERK: 7 ayes, 17 nays, Mr. President, on the amendment. [LB658]

SENATOR LANGEMEIER: The amendment is not adopted. Mr. Clerk. [LB658]

CLERK: Mr. President, the next amendment to the committee amendments, Senator Hudkins, AM867. (Legislative Journal page 964.) [LB658]

SENATOR LANGEMEIER: Senator Hudkins, you are recognized to open on AM867. [LB658]

SENATOR HUDKINS: Thank you, Mr. President. We have had discussion this morning concerning the sale of buildings and we...this amendment would say that if this LB658 passes with the amendments that we are going to compromise on, that if the building of the former Class I had been sold and if a notice of intent to organize a Class I school is filed before a certain date, and if there has been a special meeting of the registered

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voters and if all this is done and that building is sold and that money is mingled into the cash of the K-12, then there shall be a contribution of \$100,000 from that K-12 district to the Class I school district because their building had been sold. The Class I districts' buildings, their patrons pay taxes, they mow the yard, they put in new light bulbs, they do all of this and then, because of 33 votes, their school is gone. The K-12 gets the windfall. They get the students...oh, and by the way, one of my own superintendents asked me one time why are you so opposed to LB126, and I said, well, I'll tell you. We already have a Class I system in place. There are approximately 200-plus Class I schools. They are closing at the rate of 10 to 15 a year on their own volition. They are closing because of lack of students. They are closing because of a bad building. Whatever the reason is, they are closing. But now with the passage of LB126, those Class I's were forced to close. That is what upset so many of us in the rural community, that it was a forced closing. So that building and all of its assets and all of the liabilities were turned over to the K-12 system. That K-12 system realized the windfall. Not only did they get the additional students, which means, because of your numbers, possibility of more state aid; they got the additional valuation of the land within that Class I district. More valuation you have the better your tax structure looks. And so they really did gain a windfall, unless there was a lot of liability. We are saying that because those K-12s did get a windfall, now if this Class I chooses to reform, there is the appropriate vote, there are the appropriate papers filed for the intent, and that building has been sold, then the K-12 is liable for at least \$100,000 of that sale for their Class I building. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. You have heard the opening on AM867. The floor is now open for discussion. Senator Raikes, you are recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. Senator Hudkins, even though I don't agree with this amendment, I think has brought an issue. I think there's a...and this was something that had to do with the discussion between Senator Flood and myself, and also between Senator Wightman and myself. I think the issue of protecting ownership of the building, if you will, until the process has a chance to begin is a valid issue. I think there's a better way to do it than this from two...I mean, it may well be that \$100,000 isn't near enough to replace the building if it's already been sold. On the other hand, it might be something more than is what are required, depending upon where you are. So I think the appropriate way to deal with it is through the notion--and we don't have an amendment drafted that we can look at specifically--but through the notion that the building would be protected from sale until there was an opportunity for the people who are interested to begin the process of creating a Class I district. That's the way I would prefer to go and so I will offer that as a point for a negotiation and potential amendment. I don't think this amendment, though, is workable so I would oppose that. Thank you. [LB658]

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SENATOR LANGEMEIER: Thank you, Senator Raikes. We continue discussion on AM867. Is there anyone wishing to speak to AM867? There are no lights on. Senator Hudkins, there are no lights on. You would be recognized to close. Senator Hudkins waives closing. The question before the body is, shall AM867 be adopted to the committee amendments, AM514? All those in favor vote yea; all those opposed vote nay. Senator Hudkins, for what purpose do you rise? Have all those voted that wish to? Record, Mr. Clerk. [LB658]

CLERK: 4 ayes, 14 nays, Mr. President, on the amendment to the committee amendments. [LB658]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. The amendment is not adopted. Next amendment. [LB658]

CLERK: At this time, Mr. President, I have nothing further pending to the committee amendments. [LB658]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Now we return to discussion on AM514, the committee amendment itself. Is there anyone wishing to speak to the committee amendments? Seeing no lights on, Senator Raikes, you are recognized to close on the committee amendments, AM514. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I appreciated the discussion on the bill and the committee amendment. I would remind you that the committee amendment includes a provision to require a statement by those petitioning for the Class I as to the reason for creating it. It requires a local system K-12 Class I to have the same salary schedule, and it also includes an allowance for elementary attendance centers that are at least seven miles from another elementary attendance center, in an effort to financially encourage K-12s to keep operating former Class I school buildings. So with that, I hope you'll support the amendment. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. You have heard the closing on the committee amendments, AM514, offered by the Education Committee. The question before the body is, shall AM514 be adopted? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wishes? Record, Mr. Clerk. [LB658]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB658]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. The amendment is adopted. Mr. Clerk. [LB658]

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CLERK: Mr. President, I now have a series of amendments to the bill. Senator Harms, based on your earlier assertion, Senator, you want to withdraw and refile at the bottom? No? (AM860, Legislative Journal page 961.) [LB658]

SENATOR LANGEMEIER: Senator Harms, you're recognized. [LB658]

SENATOR HARMS: Mr. President, I changed my mind, I'm sorry about that,... [LB658]

CLERK: Okay. [LB658]

SENATOR HARMS: ...after visiting with my colleges. I apologize for that. I'll eventually get my act together here. [LB658]

SENATOR LANGEMEIER: Senator Harms, you are recognized to open on AM860. [LB658]

SENATOR HARMS: Mr. President, colleagues, thank you very much. Maybe I'm going to get it right this trip. At least I'm at the right speaker. On page 5, lines 13 through 18--want to take a moment to go through this with you--it says: In order for the plan to be placed on the ballot, such petition shall contain the signatures of not less than 15 percent--want to substitute 10 percent--of the school districts which totally...which the registered voters residing in affected Classes II, III, and IV school districts, which total shall include not less than 55 percent--want to move that to 30 percent--of the registered voters residing in the proposed Class I districts. And the reason that I want to do this, that the way it is now it's just almost impossible for us to get anything through and this at least gives the people in those rural districts a fair opportunity to being successful. The way that it is here now the standards are too high. We're just not going to be able to make it. And I'm hoping as this unfolds and takes place and we see how it comes out, this may be our only hope to be able to give our schools and the Class I's that opportunity. So I would urge you to support this. [LB658]

SENATOR ERDMAN PRESIDING [LB658]

SENATOR ERDMAN: Members, you've heard the opening on the Harms amendment. Those wishing...excuse me. Senator Louden, you're recognized to speak, followed by Senator Raikes. [LB658]

SENATOR LOUDEN: Thank you, Mr. President. I, too, support Senator Harms' amendment and I think we got to...if we're going to set something into law to make it so these people can form up a district if they so desire, then it has to be so that it's feasible and humanly possible to get this done by lowering the percentages to where you have 10 percent of the registered voters that have to sign the signatures to get the petition started. So I think the 15 percent was rather high, and when you have...you have to

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have 55 percent of the registered voters in a district to vote on these matters like this, I think that's probably rather high in the percentagewise. Whenever we do something like this, it has to be so that it can be done. When you have your petitions for...to put something on a general election ballot, the percentage isn't nearly that high. I think, what does it run, 7 or 10 percent, something like that to get a petition on the ballot with the...of the people that voted in the last general election. This isn't the registered voters. It's a percentage of the people that voted in the last general election. So I think when you would do something like that, that would probably change it. But when you put just the percentage of the registered voters in a district, I think it's quite too high like that and I would like to see some adjustment in that. And like Dr. Harms come up with his figures of 10 and 30 percent, so I would certainly support that much. I think this is...this is a way that we can probably go and I think I certainly support this amendment. Thank you, Mr. President. [LB658]

SENATOR ERDMAN: Thank you, Senator Louden. Senator Raikes, you're recognized to speak on the Harms amendment. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members. Again, I think Senator Harms raises an issue that's worthy of consideration. I'll tell you a little bit about our thought process in coming up with what is there now. Keep in mind...and what is there now, by the way, is 15 percent of the voters in the K-12 district, 15 percent of the registered voters in the K-12 district, to include 55 percent of those in the proposed Class I district. So think along these lines. In order for this to happen you're going to need to get 50 percent of the people in the K-12 district to vote. Getting 15 percent of those folks to sign a petition offers a good way to communicate with them, talk to them about what the proposal is, get their interest or determine if they don't have interest, whatever the case may be. So it looks to me like 15 percent of the registered voters in the K-12 is possibly a help or a tool in having a successful election vote. And keep in mind now in many of these districts, as it's been pointed out, K-12 districts, the vote on the repeal was well over 50 percent. So, you know, there shouldn't be, automatically, fear that if, oh gosh, we ask the K-12 folks to vote for the formation of a Class I, they're going to vote no. The most recent evidence is they didn't do that. As to the 55 percent in the Class I district itself, now keep in mind you're forming a new school district and you're asking the question, shouldn't we have at least half of the people in that new school district favorable to the formation of that district? If you don't, it seems to me, then you run great risk of having a district that has no local support. So I'm not suggesting to you that this is something that can't be changed. I am suggesting to you that there are reasons to consider leaving, or at least we thought there were, leaving the percentages where they are. Doing something that would lower them some is a possibility. I think probably, though, what Senator Harms proposes here would run the risk of having the ballot...or the issue go to a vote without adequate local support for the idea, and I think if you want to have a successful school district, local support is going to be critical. So with that, I would oppose Senator Harms' amendment. Thank you. [LB658]

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SENATOR ERDMAN: Thank you, Senator Raikes. Senator Fischer, you're recognized to speak on the Harms amendment, followed by Senator Carlson, Dierks, Louden, Nelson, Wallman, and Harms. Senator Fischer. [LB658]

SENATOR FISCHER: Thank you, Mr. President, members of the body. I support Senator Harms' amendment. I think it's a good amendment. I think it's reasonable and I think it's appropriate. We need a bill that is going to help provide an option for Class I districts to form in this state. Senator Raikes agrees with that. We may not agree on how to accomplish it. The people voted to repeal LB126 and have that option for those who choose to form. I would urge you to vote in favor of this amendment. It is needed and it is appropriate. Thank you, Mr. President. [LB658]

SENATOR ERDMAN: Thank you, Senator Fischer. Senator Carlson, you're recognized to speak on the Harms amendment. [LB658]

SENATOR CARLSON: Mr. President, members of the Legislature, I, too, would stand in support of Senator Harms' amendment. I think there is something to be said, and it's very, very important, that Class I districts be able to reorganize/reinstitute their school. And the...I believe that the percentages indicated by the Harms amendment are appropriate. I think that Senator Raikes has a good point in that if there aren't 55 percent of the registered voters in the proposed Class I district, that may question whether or not there's enough support there. And I think the higher the percentage that's requested from the overall K-12 district is an opportunity to generate support and there could be a risk, having this lowered, that the support isn't there. But it does make it perhaps more palatable to put this issue on the ballot, to let the voters decide. And with that, I am in support of AM860. Thank you. [LB658]

SENATOR ERDMAN: Thank you, Senator Carlson. Senator Dierks, you're recognized to speak on AM860. Senator Dierks. [LB658]

SENATOR DIERKS: Thank you, Mr. President. Sorry about that. I get engrossed in my conversations sometimes. Should just tell you that I'm standing in support of Senator Harms' amendment. I think that whatever we can do to ease the pain for some of these people, this is one of the things we can do and I'm very supportive of this, so I would urge your support as well. Thank you. [LB658]

SENATOR ERDMAN: Thank you, Senator Dierks. Senator Louden. [LB658]

SENATOR LOUDEN: Thank you, Mr. President and members. As we've discussed this, this here, around the floor this morning on this procedure, I think there is probably room for some negotiation on the percentagewise. I think we...if this percentage is brought in line to where people can make it feasible to go out and go ahead and be able to form

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their Class I districts, or get the petitions, anyway, to do it, and this is mostly what we're talking about, is the signatures on the petitions in order to place it on the ballot. So I think that's real important that we work at something like that. This has to be a bill that can be workable by the people of Nebraska. This can't be something that it's impossible to do. If the numbers are too high and it's impossible to get anything done, then we haven't accomplished nothing. We're right back where we were. So whatever we can do to alleviate some of that process I'm certainly for. I still like to see in our rural areas, we need to have a different school system set up than what they have in your metropolitan areas, and I think there are ways that we can probably come about that. And like I've mentioned before, what are we going to call these things when we do have them put together? Are you going to call them learning communities, or whatever? I think there's probably something to be said for learning communities and I think somewhere along the line this is what we're going to have to work for. You still have your community schools controlled by your people in your own community. The ones that oversee the hiring of the teachers and that sort of thing, this is what you have to have--local control in your local community. I have no problem with the Class VI system that we had before because the budgeting authority fell with one...one major school district had the budget authority over the different ones, and the way this bill is set up there is a mechanism for them to have a budget of their own to a cap of whatever the amount is. So I think we have to make progress on this thing and hopefully we will...can come forwards and have some numbers that's going to work for the process into the future. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER PRESIDING [LB658]

SENATOR LANGEMEIER: Thank you, Senator Loudon. Wishing to speak, we have Wallman, Harms, Wightman, Dubas, and others. Senator Wallman, you're recognized. [LB658]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I am a graduate of a Class I district, so I do have some concerns about Class I schools. I support this Raikes amendment, LB658, and hopefully we can tweak the numbers a little bit. I think if we're really passionate about keeping our one-room schools, 70 percent wouldn't be too high, you know, you get farmers and ranchers out there and if they want to keep their school. My last name used to be on a school. The Wallmans started a one-room school and it consolidated, and more consolidations, and our children went to a consolidated school which I'm proud to say they had opportunities. And...but if we're going to...and we can't pick eastern Nebraska with western Nebraska. The miles are too far apart. I agree what Senator Loudon said. And...but I support LB658 and I'll see where the numbers go on the Harms amendment. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Mr. Clerk, for a motion.

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[LB658]

ASSISTANT CLERK: Mr. President, Senator Raikes would move to amend AM860. (FA55, Legislative Journal page 972.) [LB658]

SENATOR LANGEMEIER: Senator Raikes, you are recognized to open on your amendment to AM860. [LB658]

SENATOR RAIKES: Thank you, Mr. President. Members of the Legislature, this is an amendment to the Harms amendment, and what it does is drop the percentage 5 percent for each of the two. That is, for the K-12 district as a whole, the percentage would drop from 15 percent to 10 percent of the registered voters. The other part is to include 55 percent in the proposed Class I district and the amendment would make that 50 percent. So instead of 15 and 55, the percentages would be 10 and 50. I hope this is acceptable as an address of the issue raised, and I urge your support. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. You've heard the opening on FA55 to AM860. The floor is now open for discussion. Senator Harms, you are recognized. [LB658]

SENATOR HARMS: Mr. President and colleagues, Senator Raikes and I have spoken, along with some of my other colleagues from rural America, and we think this is a good compromise. It does give us that opportunity. We're both giving on both sides, and as Senator Flood said earlier, our Speaker said, we're going to have to give in on both sides to make this thing possible. It's not what I want, but quite frankly I think it's where we can move forward and move this debate into the heart of this bill where we want to be. So I do support this. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Dubas, you're recognized. [LB658]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I stand in support of Senator Harms' original amendment. I appreciate the cooperation that he and Senator Raikes have gone to, to make this move forward, but I think the original amendment is not out of line, is not unrealistic at all. Those numbers are not unrealistic. Senator Dierks spoke a little bit earlier and stated that this body has the capacity to do whatever we want within the law. The question is, do we have the political will? And that political will was dictated to me last fall in the election. And I think this is a good amendment in its original form. I continue to support the amendment in the original form. And I think it just takes a very small step in the right direction to honoring that vote. Thank you. [LB658]

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SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Hudkins, you are recognized to speak to FA55. [LB658]

SENATOR HUDKINS: Thank you, Mr. President. All along I have said that we need to make it more reasonable and easier to make Class I's go back to being Class I's if they choose to. I agree with the floor amendment because if you don't have at least 50 percent of the people in the Class I supporting going back to a Class I, you really don't have what you need. And the 10 percent of the entire K-12 I think is reasonable. It's not unsurmountable number and yet it still lets the people know what is going to be coming along on their ballot. So I will be supporting this floor amendment and if we can continue to make changes like this. It's always the little things that cause trouble and this is one of the little things. We'll be talking about others later and perhaps some big ones, but at least this one I can support with no problem. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. Senator Wightman, you're recognized. [LB658]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I perhaps represent about as many Class I's or have as many Class I's in my district as anyone. I would truly like to see them have the opportunity to at least carry a petition, bring it to a vote, and I understand under LB658 that that would be a vote of the K-12 district. But I think we ought to make that as accessible as possible and I think Class I's would certainly be more satisfied if we don't set that threshold too high. Quite frankly, I would support the Harms amendment in its original form, AM860, as opposed to FA55 to that amendment. I may well support AM860 even if it is amended, but I would prefer to see the threshold set at the 10 percent and 30 percent that Senator Harms originally proposed in AM860. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Hansen, you are recognized. [LB658]

SENATOR HANSEN: Thank you, Mr. President, members of the body. I was just talking to Senator Harms and what other petition process requires a 50 percent sign-up? I mean, we talked about the petitions for constitutional amendments and they wanted to raise those. This is about as high as you could possibly get. If there's a 50 percent signage needed for this petition, you might as well consider that the vote. I think this is...this threshold is way too high. I would rather see it like 10 and 10, 10 percent, 10 percent, but I would, you know, we'll go ahead and if Senator Harms thinks, in his closing, if this is a good idea, I'll go along with him. But this is bordering on being ludicrous numbers. A 50 percent petition for anything else would be shouted down pretty loudly, I think. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hansen. There are no other lights on.

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Senator Raikes, you are recognized to close on FA55. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I've appreciated the conversation, but some questions were asked during it which I'd like to address. Where else is there a 50 percent petition requirements? Right now in the current statute, in order to move forward on a conversion from a Class II or III district to a Class I/Class VI, the requirement is 55 percent. And keep in mind now this is really intended to be a way that people are interested...people whom are interested in forming a Class I district can get an opportunity to talk to people who will be voting and also make sure that they have the support. It seems to me that to form a Class I district, a new Class I district, when you have less than 50 percent, in particular 30 percent in that new district and no more than that that actually want the district, that's an ominous sign. That probably is an indication you're doing something that is not going to last, not going to work. This I think is not only a compromise, as Senator Harms has mentioned; this is probably as low as you reasonably ought to go for the purpose being sought here. With that, I would urge your adoption of this floor amendment. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. You have heard the closing on FA55 to Senator Harms' AM860. The question before the body is, shall FA55 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

ASSISTANT CLERK: 26 ayes, 4 nays on the adoption of the Raikes amendment to the Harms amendment, Mr. President. [LB658]

SENATOR LANGEMEIER: The amendment is adopted. We return now to discussion on AM860, the Harms amendment. The floor is now open for discussion. Senator Harms, you are recognized. [LB658]

SENATOR HARMS: Mr. President and colleagues, I would...I think this is a fair compromise. I think it's important for us to move this bill forward. If we get hung up on just this aspect, we'll be here for several days. This is an important issue. It's extremely important for rural America. I think this gives us a fair opportunity. As I said, it's a fair compromise and I support this and I'd ask you to support this amendment. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Harms. Is there anyone else wishing to speak? Seeing no lights on, Senator Harms, you are recognized to close. Senator Harms waives closing. The question before the body is, shall AM860 be adopted to LB658? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of Senator Harms' amendment,

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as amended, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. The amendment is adopted. Mr. Clerk. [LB658]

ASSISTANT CLERK: Next amendment, offered by Senator Louden, AM857, Mr. President. [LB658]

SENATOR LANGEMEIER: Senator Louden, you are recognized to open on AM857. [LB658]

SENATOR LOUDEN: Thank you, Mr. President and members. Since it pretty much discuss the same work that we did with Senator Harms' amendment previously, at this time I would wish to withdraw that amendment. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Louden. It is withdrawn. Mr. Clerk. Senator Louden, my understanding is your withdrawal, you'd like to substitute it with the amendment we're processing, correct? [LB658]

SENATOR LOUDEN: Yeah, or else I'll...I can substitute with the next amendment what...I think AM859 is the next one coming up now. I can either substitute...I would rather substitute with AM859 and withdraw this one here, what is it, AM857? [LB658]

SENATOR LANGEMEIER: Okay. Either way it will take us just a minute to process that, so please hold on a second. [LB658]

ASSISTANT CLERK: Senator Louden, I have before me AM859. I understand you want to withdraw that one and go to the floor amendment just filed? Is that correct? [LB658]

SENATOR LOUDEN: Yeah, floor amendment...well, I guess it doesn't have a number on it, Mr. Clerk, but that's...I wish to add that floor amendment to AM859. [LB658]

SENATOR LANGEMEIER: Senator Louden, AM859 is withdrawn, and the floor amendment, Louden floor amendment, you are recognized to open on that. It will be on your gadgets in a minute. (FA56, Legislative Journal page 972.) [LB658]

SENATOR LOUDEN: Okay, thank you. Section 8 allows affiliated districts to call for special elections to retain the Class I districts, and what the floor amendment does is it requires more than 50 percent of the registered voters, or what had...in the bill, to approve the retention of a Class I school district, and we wanted to strike that and have it just say that the registered voters of a Class I school district, and insert "those voting in the special election." That's what the floor amendment does, whether it's come out on your machine just yet or not. But when you read the original bill in there, when you say

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that you have to have 50 percent of the registered voters, if less than 50 percent of the registered voters vote to...for this...to retain the Class I school district, it's dissolved. So actually if not enough people showed up to the election, whether there was a majority that voted for it or not, the way I would understand it and read it, you would still have it dissolved. So this is something here that I think we have to make it a little more clear, make it easier for people to understand so they can go ahead and form Class I districts if they so desire. I'm sure out there there's going to be places where there will be Class I districts formed up. Out in some places it will be distances from...in rural areas. Some places it will be near some larger towns. We have some Class I districts that aren't that far from larger towns now that do quite well with the grade school children they have. They usually have them up to about the 6th grade. Sometimes they're clear on up to the 8th grade in a few instances. But for the most part they're younger children. So people don't have to drive distances. They can get their kids to school in a timely manner and back again. So I would like...ask for support on the FA56 to the bill, to LB658. Thank you, Mr. Speaker. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Louden. You have heard the opening on FA56, which is now available on your machines. We return to discussion. Senator Chambers, you are recognized. [LB658]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Louden a few questions about his proposal. [LB658]

SENATOR LANGEMEIER: Senator Louden, would you yield to a question? [LB658]

SENATOR LOUDEN: Yes, I would. [LB658]

SENATOR CHAMBERS: Senator Louden, the purpose of my questioning will be to get the entire picture on the record. What decision is to be made by the vote that you're discussing in your amendment? What are the people going to be deciding when they vote one way or the other? [LB658]

SENATOR LOUDEN: Whether or not to retain their Class I school district that has been organized. I guess that's what this mostly deals with, is in the future there will be some Class I districts organized, and this would be a way that they can dissolve them, is what this is all about. [LB658]

SENATOR CHAMBERS: So your amendment is to allow them to dissolve a Class I district. Is that true? [LB658]

SENATOR LOUDEN: Well, it's already in the bill that they can dissolve, but what it does, it...the voting isn't quite so restrictive so that I guess there could be a better, what would I say, be more apt to be people that would...that are interested in it. When you get

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out in the rural areas, I don't know if you can always get 55 percent of the registered voters there, so... [LB658]

SENATOR CHAMBERS: Right. [LB658]

SENATOR LOUDEN: ...and if they don't... [LB658]

SENATOR CHAMBERS: I understand that. But I want it clear that the vote that would be taken is to determine whether this district would be dissolved. Is that accurate? [LB658]

SENATOR LOUDEN: I think that's accurate, yes. [LB658]

SENATOR CHAMBERS: Okay. So now what your amendment is doing is considering the percentage of voters necessary to accomplish this purpose. Is that correct? [LB658]

SENATOR LOUDEN: Right. [LB658]

SENATOR CHAMBERS: And your amendment would say 51 percent, well, a majority of those actually voting would be able to carry the day regardless of what percentage of the total number of registered voters there would be. Is that true? [LB658]

SENATOR LOUDEN: True. [LB658]

SENATOR CHAMBERS: Okay. So if there are 100 voters, to make it easy for me and to make clear where I'm trying to go, if 40 people vote and 21 vote yes and 19 vote no, the issue would be carried by those 21 out of the 100 registered voters, because the 21 is more than 50 percent of those who actually voted. [LB658]

SENATOR LOUDEN: True. [LB658]

SENATOR CHAMBERS: Is that...okay. So fewer voters than 50 percent would be able to make this decision. If the total number casting votes would be less than 50 percent of the total number eligible to vote, that number, which is less than 50 percent, would be allowed to make this decision, if more than 50 percent of that lesser number voted yes. In other words, more than 50 percent of the people may not even vote, but if more than 50 percent of those who actually vote say yes, then they carry the day, correct? [LB658]

SENATOR LOUDEN: Yes. [LB658]

SENATOR CHAMBERS: Okay. Thank you. Here's all that I'm looking at, and I feel that this is a matter which the people whose schools may be involved should decide. But I want the record to be clear what is being debated and decided here so that later on

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nobody can say that they did not understand what we were doing. Sometimes that happens on these complicated bills because your eyes glaze over afterwhile and some amendments don't get much consideration. I'm neither for nor against Senator Louden's amendment. If this is an important decision... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR CHAMBERS: ...that is being taken, under the amendment that Senator Louden is offering, 9 people out of 100 could make a binding decision if 8 vote no. If 9 out of 100...17 people are going to vote; 9 vote yes, 8 vote no, the decision is taken. The argument could be made, well, the people in the area knew what was being voted on, they had the opportunity, they did not care so, operating under the known rules of the game, it happened that nine people made a decision binding on everybody. If that's the way it should be, let it be. I just want it clear that that is what we're voting on today. And since Senator Louden is bringing the bill and I'm going to castigate him on... [LB658]

SENATOR LANGEMEIER: Time. [LB658]

SENATOR CHAMBERS: ...another bill, I'm going to go with him on this amendment. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Raikes, you're recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This amendment by Senator Louden is one that I can support. I think he and Senator Chambers have made it clear what situation this deals with. This is after a Class I district has been formed and the issue then comes should the district be continued or should it be dissolved. The K-12 under this provision can no more than once every two years ask for a vote in the Class I as to whether or not they wish to continue as a district. The bill calls for, as Senator Louden explained, that it would take at least 55 percent of the registered voters, in terms of a vote count, to prevent the district from being dissolved and going back into the K-12. His amendment suggests that if there are 50 percent of those voting then that would be sufficient to keep the district going, and I agree with that change so I will support this amendment. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. Senator Louden, you're recognized. [LB658]

SENATOR LOUDEN: Thank you, Mr. President. To use what Senator Chambers had when he talks about his 19 and 20 people out of 100, the way I read this bill it's...if less than 55 percent of the registered voters vote then the district is dissolved. It doesn't

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matter how they vote. So 19 can vote yes and 21 can vote no, or vice versa. That was the part in there that bothered me, was the fact that over 55 percent of the registered voters had to vote one way or the other. If you had less than that percentage voting, then your votes didn't count. So this was the part that I was trying to clarify and use with the floor amendment to change that and rather have it just of those voting instead of the registered voters. So I think whether it was intended to be in the bill when it was printed, but that's the way it came out from us at the present time, so I think that was something that had to be addressed. Personally, I would have liked to see the whole Section 8 gone, done away with. It was my original amendment, but Senator Raikes, and as we've had some discussion, didn't want to leave all of that out so we tried to just fix this one part here. I say we...if we...if the amendment proceeds then I think we will be able to address that part in there, that...the part that I'm concerned about. So I think it's got to be that you get to vote it up or down, no matter whether 10 people show up or 40 people show up or 100. But you shouldn't have to have at least 55 percent of the voters of the registered voters in a district voting for or against the measure. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Chambers, you're recognized. [LB658]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, perhaps I misunderstood and may have caused others to misunderstand, so I'm going to ask the "Wizard of Waverly" a question or two. I'd like to ask Senator Raikes a question or two. [LB658]

SENATOR LANGEMEIER: Senator Raikes, would you yield to a question? [LB658]

SENATOR RAIKES: I would. [LB658]

SENATOR CHAMBERS: Senator Raikes, first of all, do you live in Waverly? [LB658]

SENATOR RAIKES: No, I don't, Senator. [LB658]

SENATOR CHAMBERS: See, I got that wrong even. (Laugh) [LB658]

SENATOR RAIKES: They have an entrance exam to be a resident of Waverly and I've never been able to pass it. [LB658]

SENATOR CHAMBERS: So where...you don't live anywhere. Where do you live? [LB658]

SENATOR RAIKES: Actually live in the city of Lincoln. [LB658]

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SENATOR CHAMBERS: Oh, okay. I thought maybe you lived in a location where one of those roads that I've been railing against would happen. It starts nowhere and ends nowhere, and that would be the case wherever you live, since you live nowhere. But now that I know you live in Lincoln, I can proceed. Under Senator Louden's amendment, are we talking about creating one of these districts, or dissolving one of these districts? [LB658]

SENATOR RAIKES: The latter, Senator, dissolving. [LB658]

SENATOR CHAMBERS: Okay. So the district is in being and what will happen under Senator Louden's amendment is that at least 55 percent of the registered voters must turn out to vote for the vote to be valid, whichever way it goes. Is that correct? [LB658]

SENATOR RAIKES: Actually, I misspoke on that, Senator. It's 50 percent. Right now the language calls for 50 percent of the registered voters to vote to retain the district in order for it to be retained. Senator Louden's change would make it 50 percent of those voting need to vote in favor of retaining it in order for it to be retained. [LB658]

SENATOR CHAMBERS: But there is nothing that says that at least 55 percent of the registered voters have to show up in the election. [LB658]

SENATOR RAIKES: Right. [LB658]

SENATOR CHAMBERS: So what I gave as an example could be true. You could have fewer than 50 percent of the registered voters, but you'd have to have at least 50 percent of those who actually vote to carry the day. Is that correct? [LB658]

SENATOR RAIKES: Right. That's correct. [LB658]

SENATOR CHAMBERS: So you could have 30 percent of the registered voters who turn up,... [LB658]

SENATOR RAIKES: Right. [LB658]

SENATOR CHAMBERS: ...but then you'd have to have 50 percent of that 30 percent to carry the day. [LB658]

SENATOR RAIKES: Right. [LB658]

SENATOR CHAMBERS: So then I'm correct, you could have nine who vote yes and eight who vote no, and the nine would carry the day. [LB658]

SENATOR RAIKES: Yes. [LB658]

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SENATOR CHAMBERS: Thank you. Members of the Legislature, you see the kind of guy I am? The one time that I think that I'm wrong, I'm right, (laughter) even when I think that I'm wrong. That is a wonderful position to be in, except you really don't know whether you're wrong or right. Members of the Legislature, then I fall back on and reconfirm what I said earlier. A policy decision is being made here. You're not merely voting to put somebody in office or something of that nature. This kind of vote is considered a part of the political process because you cast votes. People can argue for or against it, so in a sense it's a political issue. But it's more...or let me say...let me phrase that differently. It is not the same as electing a person to office who will serve a certain amount of time and if you made a mistake you can throw the bum out, or as they say, "trow" the bum out. This is where you're making a decision about an entity which carries on certain activities and performs certain services. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR CHAMBERS: If you are satisfied that 9 percent of the eligible voters can carry the day on this matter, then accept Senator Louden's amendment. I say again, you all who are affected have a better understanding of the makeup and the dynamics of the rural or sparsely populated areas, so if, based on Senator Raikes' discussion and mine, this is what you want to do, you'll vote for the amendment. But I'm going to turn my light on because there's one other thing I want to say and my time is out here. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Chambers. And you are recognized. [LB658]

SENATOR CHAMBERS: Thank you. Mr. President, I want Senator Louden to know that I'm not trying to sabotage his amendment, but I don't want anybody to come back after, say, a vote is taken and nine people vote, for anybody on the floor of the Legislature to say, well, we didn't know that could happen. I'm not going to say it will happen. Maybe it will never happen, but when we formulate policy we have to consider what can be done legally under the law we put on the books. To say that the likelihood is small does not justify us in not proceeding with the caution that we should. What we do if we vote this into the law is to put binding language on all of the people where this law could be called into play. There was confusion, I think deliberately generated, as Senator Flood and others pointed out, when that balloting was involved. People didn't know for sure what they were voting for. They didn't know the impact of their vote. They were misled by people who are lawyers and making money by keeping the pot boiling. And because of the misunderstandings they feel bitterness, but it's directed toward the wrong people. Since I believe this is an important issue, I don't want anything I say to bring about confusion. I believe if anybody is interested in what is called the legislative history of Senator Louden's proposal, if they read what I have said I'm confident they will

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understand what it is that I've said, because I tried to give examples that would illuminate my meaning. Senator Raikes does not disagree with the conclusion that I've drawn, and if he does, he can correct what he disagrees with me on. He can correct what I've said that he feels may be inaccurate. But as Burger King says, have it your way. I had said I'd vote for Senator Louden's amendment. I think I'll just sit this one out. Here's why. I'm not sure that it's the best policy for the state. Even though it affects a certain segment of the state and people in those areas clearly have a much deeper, a profounder understanding of their circumstances than I do, but this is a policy that relates to how the outcome of elections will be determined. I don't know that there is any other place in the statute when we're actually voting on a local issue where a certain percentage of the voters, as a minimum, must turn out. Maybe on some state questions, maybe on some ballot questions if a lesser number or percentage than a certain given number or percentage would turn out, then however they vote, the vote is not valid because not enough people participated. Having just been presented with Senator Louden's amendment, wanting to continue to think on it a bit, I certainly am not going to vote against it, but I'm not comfortable enough to vote for it, and that's all I will have to say on this unless somebody wants to ask me a question. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Visitors introduced.) Senator Erdman, you are recognized. [LB658]

SENATOR ERDMAN: Thank you, Mr. President and members of the Legislature. I appreciate Senator Chambers' thorough review of the amendment, and I think that's appropriate. As any amendment is adopted into this bill I think it is appropriate to make sure we understand what it does, and I think that's what he has painstakingly done today. What's before you, though, in the amendment is the same provision that you would have in every other election regardless of what the case is. We don't have, as I understand, in law anywhere where a majority of the registered voters have to vote in an election for a bond issue to pass. Or in a scenario where some of you are members of the Legislature, that if 33 percent of the registered voters vote in a primary or in the general and you move on as a result of that, does that invalidate your election as well? It doesn't. It's a majority of those voting. I think what Senator Louden is trying to point out is the obvious and I think Senator Chambers' analysis is accurate to the extent that it applies in this area, but it also applies in every other election we have. If you go back and look at some of the voter turnout, and there are issues placed on the ballot in a primary election, you may have 33 percent of the people vote in a primary election on a ballot issue and if 50 percent of those who vote, vote on one side or another, that carries the day. So I appreciate Senator Chambers' analysis. It needs to go a little farther, though, in that it applies beyond just candidates, as a rationale. It also applies to other issues that affect people regarding public policy that they have the opportunity to vote on in an election. Thank you, Mr. President. [LB658]

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SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Carlson, you're recognized. [LB658]

SENATOR CARLSON: Mr. President, members of the Legislature, we're voting on and debating serious matters this morning, but it never hurts to be a little bit light once in awhile, and with that I'd like to address a question to Senator Chambers. [LB658]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question from Senator Carlson? [LB658]

SENATOR CHAMBERS: Yes, I will. [LB658]

SENATOR CARLSON: Senator Chambers, in the democratic process, would you agree that one of the real difficulties that we have is apathy? [LB658]

SENATOR CHAMBERS: I think in any process where you're looking for public participation, apathy can be a very serious problem. [LB658]

SENATOR CARLSON: Okay. I appreciate your agreement with me. If a person can vote, is able to vote, can get to where they need to go to vote and then doesn't vote, they don't have any room for criticism. Would you agree? [LB658]

SENATOR CHAMBERS: Actually, they would. They could say... [LB658]

SENATOR CARLSON: Would you expound on that? [LB658]

SENATOR CHAMBERS: Yeah, they could say look what those dumbbells did. I think they were stupid. They voted for a bond issue and it's going to be corrupting. So they still can criticize and their criticism might be valid. But if a person were to adopt the principle that if you don't vote you lose your right to join in the public discussion of the issue voted on, then what you're saying is correct. [LB658]

SENATOR CARLSON: Okay. Thank you. Thank you. And having said that, on this matter, I would invite you not to stand up and observe. I'd invite you to be involved. So with that, thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Seeing no lights on, Senator Louden, you are recognized to close on your amendment. [LB658]

SENATOR LOUDEN: Thank you, Mr. President, and thank you for the discussion we've had on this, on this matter. I think it's been discussed and well brought forwards, and as far as I know we have agreements between Senator Raikes and myself and other colleagues involved in that, so I'd appreciate a yes vote on this amendment. Thank you,

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Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Louden. You've heard the closing on FA56. The question before the body is, shall FA56 be adopted to LB658? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of Senator Louden's amendment, Mr. President. [LB658]

SENATOR LANGEMEIER: FA56 is adopted. Mr. Clerk, for a motion. Let's do...do you have items for the record first? [LB658]

ASSISTANT CLERK: Mr. President, Revenue will hold an Executive Session at noon in Room 1524. New resolution, LR67, by the Transportation Committee proposes an interim study relating to highways and rail crossings. New A bill. (Read LB475A by title for the first time.) And an amendment to be printed to LB658 from Senator Dierks. (Legislative Journal pages 973-979.) [LB658 LR67 LB475A]

Mr. President, I do have a priority motion. Senator Dierks would move to recess until 1:30 p.m. []

SENATOR LANGEMEIER: The motion before the body is to recess until 1:30 p.m. today. All those in favor say aye. All those opposed say nay. We are in recess until 1:30. []

RECESS []

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen, and welcome to the George Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record. []

ASSISTANT CLERK: There's a quorum present, Mr. President. []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Do you have any items for the record? []

ASSISTANT CLERK: Not at this time, Mr. President. []

SENATOR LANGEMEIER: Then we will proceed back to the discussion on LB658. Do you have a motion? [LB658]

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ASSISTANT CLERK: Mr. President, the next amendment I have to LB658 is offered by Senator Hudkins, AM724. (Legislative Journal page 961.) [LB658]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Hudkins, you are recognized to open on AM724. [LB658]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I would like to ask Senator Raikes a few questions, if I may. [LB658]

SENATOR LANGEMEIER: Senator Raikes, would you yield to a question? [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR HUDKINS: Senator Raikes, if LB658 passes and a Class I is formed within a Class III, and in that there is a building which used to be owned by the Class I, what happens to it? [LB658]

SENATOR RAIKES: The situation you describe, Senator, I think is one in which the K-12 would now own that building. Am I correct? [LB658]

SENATOR HUDKINS: Yeah, and that... [LB658]

SENATOR RAIKES: So it's a former Class I building that is now a part of the K-12 district. [LB658]

SENATOR HUDKINS: Uh-huh. [LB658]

SENATOR RAIKES: Okay. [LB658]

SENATOR HUDKINS: Okay. So that building then could not revert back to the Class I if it were newly formed. [LB658]

SENATOR RAIKES: No, it could. [LB658]

SENATOR HUDKINS: How? [LB658]

SENATOR RAIKES: Well, there is required that...it is required that a plan be developed by those interested in the formation of the Class I district and they could specify, as a part of that plan, that they intended to use that building for the school building. [LB658]

SENATOR HUDKINS: But the Class III would not necessarily have to allow them to. [LB658]

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SENATOR RAIKES: I don't think...I don't think...you know, as long as the building is owned and it's a part of the district and you've got the K-12 district voting, as they would, to form the district and use that as a school building, that happens. [LB658]

SENATOR HUDKINS: Okay. So you're saying then, let me make sure I get this right, you're saying that if a Class I...a former Class I chooses to vote and it passes for them to reform their Class I, there would be the legal ability to get that former Class I building back. [LB658]

SENATOR RAIKES: Right. And again, so I'm...so I make sure I understood this correctly, we've got a plan being formed by a group within the K-12 district as to the formation of a Class...yeah, a Class I district within that K-12. And as a part of the plan that group specifies that X building, which was once a Class I building, is to be used as a building in that new district, then once the steps are completed and the vote is taken and there's a majority vote in the K-12 that says go ahead, that building would be available and used by that new Class I district. [LB658]

SENATOR HUDKINS: All right. Thank you, Senator Raikes. That was a question that I wanted to get answered on the record. Now I'll begin my opening on AM724, and if any of you have seen this, it is quite lengthy. It's 121 pages, but if you look at the bill itself, LB658, I think it's 127. So in order to change something entirely, probably it takes about the same number of pages to change it. But what AM724 does, it's an attempt to deal with the November vote that repealed LB126. You can discuss all you want about why people voted the way they did on the repeal. You can say that they did it because they didn't want forced consolidation. You can say that they didn't like the hold harmless positions. Whatever motivation, the vote was the same. The people voted to repeal LB126. Some of them were under the impression that if they did this that things would go back exactly as they were before. We have been told over and over that that's not going to be possible. With that vote, however, it was clear that the voters told us, the Legislature, that they didn't like what we did, and the repeal of LB126 requires us to take another look at the issue of forced consolidation. It's a fundamental principle that when someone is injured that you try and put the wronged person back in the condition they would have been if they had not been injured. In the case of LB126, the injured parties are those people displaced from their schools by forced consolidation. AM724 has as its core principles, core principles, to place the Class I's and Class VIs back. To do that, it tries to do that in the most economical, the least burdensome, and the most timely fashion possible, taking into consideration, of course, the passage of time and the circumstances that have changed between implementation of LB126 and the repeal of LB126. This amendment provides for the reestablishment of boundaries as they existed prior to LB126. It provides that the districts shall be affiliated in the same manner as they were prior to LB126, and it provides for a mechanism in which the voters of the Class I districts can vote not to reorganize and remain as they are now. This

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amendment retains the funding formulas as set forth in LB658 on pages 107 and 108. It's my belief that this funding mechanism is reasonable in light of the passage of time and the lack of data that would be available for the district to qualify for aid under the formula as it exists. The timeliness set forth in AM724 should provide for adequate time to allow the voters of the school districts to inform themselves of the costs, resources, and needs of the reorganized district so that they can cast an informed vote as to whether or not to dissolve the district. I would appreciate your support on AM724, and I would like to ask Senator Raikes an additional question or two, if I may. [LB658]

SENATOR LANGEMEIER: Senator Raikes, would you yield to a question? [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR HUDKINS: Senator Raikes, we have had discussions about some of the finer points in LB658 and I had said to you that I was not really enamored by the fact that a Class I school district would then have to have 20 square miles. If you think about it, that's only four miles by five miles, but if that school district is up against another school district, that's going to be rather difficult. So how would the Class I then get to your 20 square miles? You told me that they can just redraw the lines. That would take part of the amount of their new district out of the new Class III district, or whatever else class it is. How is that going to work? I don't understand. You can just redraw the lines wherever you want them and nobody is going to object to that? [LB658]

SENATOR RAIKES: Actually, you can draw the lines. You may use what was once the boundary of a Class I district as a starting point, or you may not, but the idea is that you've got a group of folks in a Class III district that want to form a Class I, and that would be allowed under LB658 as long as that district includes at least 20 square miles. [LB658]

SENATOR HUDKINS: So if, for example, Oak Valley and Malcolm, with which I'm most familiar, they have...I think it's...I'm going to guess 11 square miles now, and under LB658 they would have to have 20 square miles, yes or no? [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR HUDKINS: And they can take that additional two or three miles that they need out of what was formerly the Malcolm school district. [LB658]

SENATOR RAIKES: Right. [LB658]

SENATOR HUDKINS: And Malcolm can't do anything about it? [LB658]

SENATOR RAIKES: Well, certainly, certainly at that stage, Malcolm, or whichever the

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K-12 district is, couldn't do anything about it. Because keep in mind that the part of the process you're in now is that you've had a group of folks that have made it clear that they want to go about the process of creating a Class I district within that K-12, so one of the first steps is to come up with that plan, and as a part of that plan, as we talked earlier, they specify what building they're going to use and they also specify the boundaries of that district. Now once that part and the other parts of the plan are in place, then they would go about the process of collecting the signatures, and those signatures under the amended requirements would mean that you would have to get 10 percent of the registered voters in the entire K-12 to include 50 percent in that section that you...or that area that you have delineated as the new Class I district. [LB658]

SENATOR HUDKINS: Okay. Thank you. Thank you, Senator Raikes. We've...I think that part is clear to us. I hope so anyway. Now let's talk about the funding. If the former Class I has given all of its assets, given all of its liabilities to the K-12, and now they want to form their own school again--we've talked about the building--how else are they going to get funding for their new Class I? [LB658]

SENATOR RAIKES: They would be a part of the budgeted... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR RAIKES: ...operation of the K-12 and, again, a part of that initial plan would specify what they intend to do regarding that funding requirement. But certainly, as you know, under this bill the...if the district is formed then the K-12 and the Class I, in effect, are a system in terms of budgeting, in terms of being recognized by the state for state aid purposes and so on. [LB658]

SENATOR HUDKINS: Let's say that all of this is done and we have a new Class I now. Will that be part of the K-12 system? They will... [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR HUDKINS: Okay. So what will the Class...the K-12, what authority will they have over the Class I? [LB658]

SENATOR RAIKES: It's very similar, Senator, to what was in the past in a Class I/Class VI system. So that the K-12 has... [LB658]

SENATOR LANGEMEIER: Time. Thank you, Senator Hudkins. (Visitors introduced.) You have heard the opening on AM724, Senator Hudkins' amendment to LB658. The floor is now open for discussion. Wishing to speak we have Flood, Hudkins, Erdman, and Raikes. Senator Flood, you are recognized. Senator Flood does not appear to be on the floor at the present moment. We will step down to Senator Hudkins, you are

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recognized. [LB658]

SENATOR HUDKINS: Thank you, Mr. President and members. I guess I see the issue right now. The amendment, AM724, is very simple. Do we put Class I's back as they existed pre-LB126 or not? If you think that these Class I's should be allowed to operate as they were with a few minor adjustments, then you need to vote for this amendment. If your public policy is only to allow for new Class I's, then vote against this amendment...I'm sorry, vote against the amendment if that's your position. The votes that you're making today are votes on public policy. This body passed LB126. It was repealed by the people. Do those votes mean anything to you? The votes that we're making today are not votes on people's personalities or grudges or past differences. Even though Senator Raikes and I agree most heartily on this particular issue, I still think he's a cool dude and we're going to remain friends. The public policy for this body is best framed by these words: When we as a body of legislators take an action and the people of the state say that the action is wrong, then how should we as a body repair the damage that we've created? We hold individuals to the standard that you must pay for the damages caused in a fashion to make the damaged party whole. The people should expect no less from us as state senators. We are trying with the various amendments this morning to streamline the process that Class I's have in reestablishing their schools. They shouldn't have to. We have all heard, and some of us have said, that LB126 is the law of the land. We have to agree with that. The law of this state is whatever 25 people say it is. There was an overwhelming majority of people in this state that said we do not agree with LB126; you did it for the wrong reasons. The people in the eastern part of the state, for example, the senators in Lincoln and Omaha, thought that they were doing the right thing, not understanding what it is to live 20 miles from school already and now you're forcing those kids to go an additional 20 miles. Think about your country cousins. Senator Chambers has said that we bend over backwards to support our city cousins. We would ask that you do no less. If this does not directly affect you, fine, but think how it does affect someone who is or was in a Class I facility. Those kids deserve the best education that they can get, and for the most part they're getting it. I asked the business administrator at the Malcolm Public Schools, and I gave her a ten-year period and I said would you please look up and tell me... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR HUDKINS: ...where the valedictorians came from in those ten years; was it from Oak Valley or was it from Malcolm. In a few minutes she called me back and she said in those ten years seven of those valedictorians came from the Class I school. Those kids have a built-in enrichment, they have a built-in remedial, they have more one-on-one interaction with the teachers, their parents are involved, and that's the way we want to see these schools. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. Senator Erdman, you are

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recognized, followed by Senator Raikes. [LB658]

SENATOR ERDMAN: Mr. President and members of the Legislature, I appreciate Senator Hudkins offering us this amendment. I have to wonder out loud, though, given the realities of where we stand with this bill, whether or not, if she's successful, what will happen. I would tend to agree with what she's trying to accomplish, as trying to keep with the will of the voters and what they believed that they were doing. And in spite of the number of times that I was asked what the repeal of LB126 would actually do, and it's what the law is now and how we stand in this somewhat of a quandary, I'm a little bit concerned that if her amendment gets adopted that we lose the entire opportunity to fix the problem we find ourself in. And so I'm going to listen and see a little more from Senator Hudkins and what her proposal does, but I don't know that hijacking Senator Raikes' bill is going to get it across the finish line and I just want to make sure that we think through this. But I do want to give credit to Senator Hudkins for her attempts here and want to be sympathetic and listen to her arguments. And with that, Mr. President, I would yield her any remaining time that I would have. [LB658]

SENATOR LANGEMEIER: Senator Hudkins, 3, 50. [LB658]

SENATOR HUDKINS: Thank you, Senator Erdman. I am not sure that I appreciated the hijacking comment, but I'll go on from there. Let's go on to...I would like to ask some attorneys some questions. Senator Wightman, you're looking at me and have a smile on your face, let's ask you a question. [LB658]

SENATOR LANGEMEIER: Senator Wightman, would you yield to a question? [LB658]

SENATOR WIGHTMAN: I will. [LB658]

SENATOR HUDKINS: Senator Wightman, Senator Erdman is a...was a Class I. Senator Raikes is the Class III school that Senator Erdman had to merge with. Now here I am, an upstart in the community. I want to form a new Class I. Under LB658, if I form a new Class...a new Class I, who has legal ownership of the old Class I assets? Would the new Class I have any right to these assets of the old Class I? [LB658]

SENATOR WIGHTMAN: I'm not certain of that right now without reviewing the bill. I think probably a Class I owns them right now. I don't know that... [LB658]

SENATOR HUDKINS: I'm sorry, I can't hear you very well. [LB658]

SENATOR WIGHTMAN: Or, excuse me, I assume that the K-12 district owns them right...as of the merger date. [LB658]

SENATOR HUDKINS: So you're saying that the Class I...that I as a new Class I would

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have no ability to get any of these old assets back that Senator Erdman had at one time? [LB658]

SENATOR WIGHTMAN: No, I'm questioning they do without some agreement between the two, between the K-12 district and the Class I district, but I admit that I've really not studied that issue. [LB658]

SENATOR HUDKINS: Senator Lathrop, you're an attorney and I've been before the Judiciary several times this year. If you heard the question, could you answer it as well? [LB658]

SENATOR LANGEMEIER: Senator Lathrop, would you yield to a question? [LB658]

SENATOR LATHROP: I'll sure try. And the question was if you form a Class I in the middle of a school district, pursuant to LB658, who would own the assets? I've read it and I'm not sure I have an answer for you. [LB658]

SENATOR HUDKINS: Okay, well, Senator... [LB658]

SENATOR LATHROP: If you want me to, I can read through it one more time to look specifically for that answer, but it seemed to me like there was a provision that once they set up the Class I that there was a group that had to get together and decide who was going to get which assets and how they were going to essentially distribute the assets and the liabilities. [LB658]

SENATOR HUDKINS: Spoken like a true attorney. Thank you very much. (Laugh) I didn't understand a word you said. (Laughter) I'm sorry, I... [LB658]

SENATOR LATHROP: Well, maybe you want to ask somebody that isn't a lawyer. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR HUDKINS: I'll ask it again, and any of the attorneys on the floor, please, feel free to answer. Under LB658, and Senator Raikes has been telling me that under the plan of the newly wannabe Class I, they can list under their plan that they are going to use this particular building that they used to be in or that used to be a Class I and now is belonging to the Class III. I don't understand how the courts or whoever are going to say that that new Class I has any jurisdiction, any legal interest in that property, in those assets. And I'm having a difficult time with that. Senator Raikes, do you know? [LB658]

SENATOR LANGEMEIER: Senator Raikes, will you yield to a question? [LB658]

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SENATOR RAIKES: Senator, it's my opinion, belief, and I'm not an attorney,... [LB658]

SENATOR LANGEMEIER: Time. [LB658]

SENATOR RAIKES: ...as you know, that... [LB658]

SENATOR LANGEMEIER: Time. [LB658]

SENATOR RAIKES: ...as I've told you, this is a part of the plan and the plan would be voted on by the entire K-12 district. A majority of those in the district then... [LB658]

SENATOR LANGEMEIER: Time. Time. Sorry. [LB658]

SENATOR RAIKES: Oh, sorry. [LB658]

SENATOR LANGEMEIER: Senator Hudkins, thank you. Senator Raikes, you are recognized, with the next light. [LB658]

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. I'll try to finish my comment on that, even though it is certainly not expert. We've got a situation where a plan is developed. It's put before the voters in two different ways: through the petition process, and also through a vote. And if that...if the district, through both of those processes, agrees to it, it is my opinion that that plan takes effect and that plan may well include the new district using a building that is a part, up to that point, of the property of the K-12. Let me mention a couple of other things. I have indicated earlier on that I would try to be very clear to you where I thought there were amendments offered that raised points that I could, in some sense, support, and also ones where I simply could not. This would be one that I simply cannot. This one moves straight backwards in terms of school district organization. This is, in effect, LB30, which was offered to the Education Committee, had a hearing. The committee voted, by a vote of 8 to 0, to IPP this bill. So there may be some slight differences but they are very slight. This is basically LB30. My request is that this would then be considered, if it is taken to a vote, this would need 30 votes in order to be adopted as an amendment, and I don't know if Senator Hudkins plans on pursuing it that far at any rate. This has the issue raised earlier in the day by Senator Flood, that we are trampling on what I think is the closed class provision of the constitution. You are picking one group of former school districts, a class which now cannot be joined, and legislating around them. I think that has constitutional violations in addition to serious, what I consider, good public policy violations. So I want to be very clear that this is an amendment that I cannot support. As you know, Senator Hudkins has raised some issues which I am willing to consider. This is not one of them, so I do not support this. Thank you. [LB658 LB30]

SENATOR LANGEMEIER: Thank you, Senator Raikes. Senator Fulton. [LB658]

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SENATOR FULTON: Thank you, Mr. President. Earlier I had expressed some concern about, firstly, that we need to accomplish something today and, secondly, that we need to accomplish something that is reflective of the vote of the people of Nebraska, and I understand there's some disagreement to that effect. I would like to yield some of my time or the remainder of my time to Senator Hudkins, if she's still here. [LB658]

SENATOR LANGEMEIER: Senator Hudkins, Senator Fulton would yield you 4, 30. [LB658]

SENATOR HUDKINS: Thank you, Senator Fulton. Thank you, Mr. President. I appreciate the interest that people are taking in this issue and I understand that Senator Raikes does not agree with this particular amendment. He's one person. I'm another person. There are 47 others out there. Now I'm sure that those of you that voted for LB126 two years ago probably will go ahead and support Senator Raikes, but again, think about it. Probably most of you are in the Lincoln-Omaha larger schools setting where you didn't have the occasion to deal with a Class I, and that's a shame. And what we're trying to do is say, Class I's, you were unfairly, I guess is the word, unfairly forced to merge. Now in the meantime, some of the schools that were merged have decided, well, you know, it isn't as bad as we thought; our building was old, our kids were fewer and fewer, so we're willing to have this go ahead. But there are other schools that are saying, we didn't want this; it was forced upon us. There was a petition to stop it in its tracks. Unfortunately, that didn't happen. There were the required amount of signatures to put it on the ballot and it was overridden. So I think it is our responsibility to do what those people wanted and that is to make it fairly innocuous to get back to what they were. Will it be exactly like it was under LB126? No, probably not, and maybe that's fine. But I think that it should be a...there should be a method to do this that recognizes that these Class I's had assets. True, they had liabilities and that should also be included, but that these Class I's have a right to exist and 33 people decided that they didn't. And that was overridden by, I've heard, 287,000, I've heard 290,000, whatever the number is. The people in this state should account for something. Now did they know what they were voting on? Well, according to something of what you've heard this morning, no, they didn't. They were told that their school would be put back exactly like it was, and we've heard that that wasn't true. But if any of those people bothered to read the petitions that they signed, it was very clearly spelled out what this particular repeal was going to do. I would like to ask, maybe as a rhetorical question, I don't know, we're saying that one school district has given its assets away to another one, and then a third one wants to reform. Well,... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR HUDKINS: ...think about this. If you think about the state of Nebraska, can the voters of Nebraska vote to give a piece of property that Nebraska owns, can they

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give that to Omaha? I don't see the difference here and I hope like crazy, Senator Raikes, that you're right that in the plan that this will be allowed to happen. And that's why I'm hammering on this, is because I want everybody to know that this is what the intent was. Now maybe that's not the law, but that's certainly the intent. And if it comes to a court challenge because later on some of these Class I's can't get this building back, they've got some legs to stand on. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. Senator Carlson, you're recognized. [LB658]

SENATOR CARLSON: Mr. President and members of the Legislature, in order to better maybe understand some of the features of Senator Hudkins' amendment, I would like to address a question to Senator Raikes. [LB658]

SENATOR LANGEMEIER: Senator Raikes, would you yield to a question? [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR CARLSON: Senator Raikes, under LB658, what's the earliest that a Class I district could be recreated and function? [LB658]

SENATOR RAIKES: Senator, the way the bill is drafted now, it would be the school could operate...the earliest year the school could actually operate would be the 2009-2010 school year. [LB658]

SENATOR CARLSON: And in your opinion that could not be brought back any closer? [LB658]

SENATOR RAIKES: Actually, that's not my opinion, Senator. We have proposed an amendment to bring it back one year sooner. [LB658]

SENATOR CARLSON: Okay. Okay. [LB658]

SENATOR RAIKES: And the issue there, just if I could take a moment of your time, was if you're going to have a special election, that's costly and somebody has got to pay for it, so that was the reason to try to stick with a general election, which was what was done in the original bill. Since then, we've, I guess, figured out that we could use the primary election and still avoid the extra expense of a special election, and that would bring it one year earlier. So that's what's been proposed. [LB658]

SENATOR CARLSON: Okay, thank you. And in your opinion then it's virtually impossible to have it be for the school year 2007-2008. [LB658]

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SENATOR RAIKES: It is. It is. [LB658]

SENATOR CARLSON: Okay. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Carlson. (Visitors introduced.) Senator Hudkins, your light is next. Senator Hudkins, you are recognized. There are no other lights on. You could use this as your close or one of your times. [LB658]

SENATOR HUDKINS: I'll start out as using it as one of my times and then if I decide to close at the end, may I do that? [LB658]

SENATOR LANGEMEIER: No. [LB658]

SENATOR HUDKINS: No. (Laugh) So I have two times. All right. [LB658]

SENATOR LANGEMEIER: Yes. [LB658]

SENATOR HUDKINS: Then I'll use this as my third time, or however many it is. This is a long amendment, yes. Is it perfect? No. Does it do everything that I wanted to do? No. Does it sometimes do something that I didn't want to do? Yes. But it's not perfect but it is better than what we have at the moment, regardless of what some members of the body say. Senator Raikes, we are working on a list of other issues that we would like to negotiate on and if we can come to some kind of an agreement that you would be willing...of course you'd be willing to negotiate, but if you would be willing to negotiate in good faith and that we can come to a compromise. A compromise is where nobody is happy but everybody can live with it. A compromise is where you don't get all of what you want, but neither do you get nothing. I won't say that the opposition to this has gotten nothing. We have gotten a few minor points, and those are much appreciated. And there's going to be an amendment that you gave me to introduce that will also help in that manner. So if we could get your assurance that you would look at these concerns, and this is at least the third time I've said it, that it's the little things that cause the problem. If we could sit down between now and Select File and work out those issues, and by working out that means you don't get all what you want, we don't get all what we want, if we could get that assurance from you, I would withdraw this amendment at this time. And, Senator Raikes, you may respond. [LB658]

SENATOR LANGEMEIER: Senator Raikes, would you yield to the question? [LB658]

SENATOR RAIKES: Yes. Senator Hudkins, I appreciate your comments and your discussion. I do, however, want to be very direct with you. I think...well, Senator Flood did characterize my position accurately when he said K-12 organization. Also, I am very much in the belief that simply going backwards and trying to recreate all districts that were or...yeah, that were at some point in the past is...runs us into constitutional

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difficulties. So those things are out in terms of a negotiation. I just want you to know now that that's the case so you wouldn't be misled by my comments that I would negotiate on those things. But you mention the amendment that you have that you will offer, and certainly I support that idea. There's another amendment dealing with moving the election date up, which I would support. We talked about an amendment that would deal with protecting the possession of the building in the event that...or, yes, in the event that there are people interested in beginning the process. I would be interested in that. I don't want to... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR RAIKES: ...I don't want to overly promise here, but those things certainly I would be interested in talking with you about. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes and Senator Hudkins. Senator Erdman, you're recognized. [LB658]

SENATOR ERDMAN: Mr. President, am I the only light on? [LB658]

SENATOR LANGEMEIER: Yes, you are. [LB658]

SENATOR ERDMAN: Members of the Legislature, here's where I believe we should go, and I believe that this is fair and I would hope that it would make sense to those of you following this. I think Senator Raikes has offered us an opportunity here and it was started off this morning by outlining what his position is. I'm afraid that if you keep trying to poke him in the eye you're not going to get anything. So from the standpoint of where I think we could go, I think it would be appropriate for us to try to move this on. I would be more comfortable if the things that Senator Raikes would agree to, the technical things, would be offered as an amendment to General File so that we had those in the bill before it advanced. The primary ballot issue, some of those other things that were discussed earlier this morning, I would be more comfortable to have those in the green copy of LB658, have that advanced as the other amendments have, and that we move on to fight for another day for the issues that have been raised by Senator Hudkins and Senator Dierks. At some point, you have to understand the realities of where we sit. Senator Raikes has a strong position here, but he's also being reasonable. And I think from the standpoint of whether or not we can find accommodation is going to be dependent upon how willing we are on both sides to operate in good faith. I was here for the discussion on LB126. There were things that happened in the heat of the moment that most people probably didn't appreciate. I would like to see us avoid that. And to the extent of what I learned on LB126, I would like to see some of those things put into this bill, before we advance it, as a point of discussion, and then have that discussion on Select File to tweak those things and to find other areas of agreement. But it sounds like there are areas of agreement and I would like to see those, again, offered as an

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amendment to this bill before we advance it. I have no reason to doubt, at this point, given the comments that I've heard from Senator Raikes and others, that there is a sincere attempt to try to work with one another, but we have to be realistic and try to accomplish that together and I'm afraid that if an attempt is made to go one way or another, neither side will be successful and we'll end up in court. And there's no guarantee where that ends up three or four years from now, and it keeps to put people in limbo that I don't think need to be there when we as the elected members representing the people of the state have an opportunity to do our best to fix this situation. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Seeing no other lights on, Senator Hudkins, you are recognized to close. [LB658]

SENATOR HUDKINS: Thank you, Mr. President and members. I am appreciative of the fact that most of you are paying attention and I guess the end result of AM724 is your policy beliefs. Should there be Class I's, more or less like they were before, or do you not want them? Senator Raikes, you talked about a K-12 organization. I had agreed to that a long time ago. I said that, you know, that's what we have had before LB126 was repealed. The K-12s were all affiliated with a K-12 system. I have been resigned to the...I have become resigned to the fact that on these formation votes that it will be an entire K-12 vote. With the decrease in required signatures, some say it was too much of a decrease, others say it was...we didn't need the decrease at all. That's your own personal opinion. But I promise to you that we will get you a handful of still technical changes that we would like to see done and then I would, at this point, withdraw AM724, reserving the right to reintroduce it on Select. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. AM724 is withdrawn. Mr. Clerk. [LB658]

ASSISTANT CLERK: Mr. President, the next amendment offered by Senator Hudkins is AM870. Senator, I have a note on this amendment that you wish to withdraw it. This is AM870. [LB658]

SENATOR LANGEMEIER: Senator Hudkins, you are recognized on AM870. Do you still wish to withdraw it? [LB658]

SENATOR HUDKINS: Yes, I do. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you. Mr. Clerk, next motion. [LB658]

ASSISTANT CLERK: Mr. President, Senator Hudkins would offer AM881. (Legislative Journal page 980.) [LB658]

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SENATOR LANGEMEIER: Senator Hudkins, Senator Hudkins, you're recognized to open on AM881. [LB658]

SENATOR HUDKINS: I don't know what that is. Oh, is that the primary election one? [LB658]

SENATOR LANGEMEIER: Yes. [LB658]

SENATOR HUDKINS: Okay. Thank you, Mr. President. This is the amendment that Senator Raikes talked about that currently we could only vote on forming a Class I in a...at a general election, and this would change that to also include the primary election. With that, I think that's all I need to say at this time. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you. You have heard the opening on AM881, offered by Senator Hudkins to LB658. Senator Raikes, you are recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This is an amendment that I do support. We talked about this. This would make it possible for a Class I district to be formed one year earlier than what would be possible under the language that's currently there. This makes use of the primary election to handle the voting of the K-12 district so that the Class I could be formed. I would urge your support. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. Is there anyone else wishing to speak to AM881? Senator Louden, you are recognized. [LB658]

SENATOR LOUDEN: I think this is a very good amendment. Thank you, Mr. President and members. I think this is a very good amendment, it...some of the cleanup work that needs to be done, and as we work through this thing I think we find these things like that and I'm glad that Senator Hudkins found that and certainly we appreciate Senator Raikes' support for it. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Louden. Seeing no other lights on, Senator Hudkins, you are recognized to close on AM881. Senator Hudkins waives closing. The question before the body is, shall AM881 be adopted to LB658? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of Senator Hudkins' amendment. [LB658]

SENATOR LANGEMEIER: AM881 is adopted. Mr. Clerk. [LB658]

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ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB658]

SENATOR LANGEMEIER: We're open for discussion on the bill itself, the advancement of LB658. Those wishing to speak, Senator Erdman. [LB658]

SENATOR ERDMAN: Mr. President and members of the Legislature, I would like to engage in conversation and ask Senator Raikes a few questions, if I may, to understand how we may proceed. [LB658]

SENATOR LANGEMEIER: Senator Raikes, would you yield to a question? [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR ERDMAN: Senator Raikes, we've talked quite a bit this morning about some of the issues that you thought would be appropriate but maybe not in the form that were offered. Can we briefly go through what some of those items are so that we have an understanding on the record of what you have essentially agreed to, or in concept agreed to, as we would move this bill to Select File, should we do that this afternoon? [LB658]

SENATOR RAIKES: Okay. [LB658]

SENATOR ERDMAN: We talked a little bit this morning about an amendment that Senator Hudkins had on the negotiation on salaries and some type of representation. Where do we stand with that proposal? Do you know? [LB658]

SENATOR RAIKES: That one I think Senator Kopplin made a good point about that I am certainly interested in fair representation in salary negotiations if, in fact, you're going to have a single salary schedule. I am at a loss as to exactly how you do that, but I'd certainly be interested in exploring ways to do that. [LB658]

SENATOR ERDMAN: Okay. One of the other things I heard this morning from Senator Flood was the issue of the assets of the districts and how those would be treated until such time in which a vote could be held to determine whether or not a district would be reorganized. Can you give me your opinion or thoughts on that, as we would proceed. [LB658]

SENATOR RAIKES: In particular, with regard to a building that was once...that is a former Class I building that may be a facility that could be used by a new district that was formed, the suggestion is that that building would be kept in the position...or the possession, I should say, of the K-12 district as long as, number one, there were people that indicated an interest in pursuing the formation of a Class I district and, number two, that they follow the plan or kept going with the plan. [LB658]

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SENATOR ERDMAN: And would it be your understanding that to accomplish that we would also have to offer the emergency clause to the bill to make that happen immediately, as opposed to September? [LB658]

SENATOR RAIKES: It would. Without it, without the emergency clause, it would open a fairly wide window for other things to happen. [LB658]

SENATOR ERDMAN: Okay. Are there things that I'm missing here? Those things stuck out in my mind, but are there other things that you have heard that you would be willing? I understand your ultimate position is the issue with the K-12 districts, and the organization under that seems to be a little flexible. But are there other issues that I've missed so that we're clear how we're going to proceed? [LB658]

SENATOR RAIKES: Well, there's one that we've talked about and that is, you know, again, sort of our model is the...what used to be the Class I/Class VI system, in terms of budget authority, and there was an amendment...or the way the bill is written the K-12 would have the authority to end the budget authority or zero-out the budget, if you will, for a Class I. What we're proposing is that as long as there are at least three students, that would not be possible, so that there would be some additional protection for that facility. If there were fewer than three students keep in mind, however, that zeroing the budget capacity would not end the district, and that's an important point, because under the old, at least affiliated, Class I's, if you went two years without any students the district was gone. With this proposal, as long as the K-12 and the Class I would decide they wanted to continue even if they had no students, they could do so. [LB658]

SENATOR ERDMAN: Okay. And thank you, Senator Raikes. I appreciate having that on the record so that we know where we're proceeding. It is my understanding that the desire of the body is to try to advance this bill to Select File. Again, if that happens and should that be successful, it would be my hope... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR ERDMAN: ...that we avoid the scenario that we ran into with LB126 and that we do accommodate one another. And I believe that there is an intent to do that at this point, and look forward to those opportunities should this bill advance. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Wishing to speak, we have Flood and Adams. Speaker Flood, you're recognized. [LB658]

SPEAKER FLOOD: Thank you, Mr. President, members. Here we find ourselves, just about 2:30 this afternoon, and I think we've had a very good conversation and

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discussion and debate as to what the future of Class I schools will be in the state of Nebraska. We're at a point in the discussion where a couple of things have to happen, and I think a lot of these things are better done off the floor, with thoughtful consideration, with senators involving as many people as possible, and for that reason I have been working with Senators Raikes, Hudkins, Dierks, and others to talk about where we go next. And I guess with the body's indulgence, I'd like to map out a road map for today and in the future as to how we deal with LB658. First things first, we advance LB658 to Select File with the understanding that Senator Raikes will work with those that have really brought amendments to the floor this morning, especially Senator Dierks and Hudkins, and certainly involve Senators Erdman and Louden and others, but that Senator Raikes will work with these other rural senators on a compromise, understanding that these are the points that he has to have when we come back--K-12 must vote; understanding that on the other side the primary interest is as fast as possible, as nononerous as possible, and in the best interests of the patrons of former Class I districts. At the same time that these discussions are happening an Attorney General's Opinion will be requested and will be received that outlines the questions that both sides have with regard to a closed class or the ability to recreate a Class I district for purposes of voting or reestablishment; that we will seek and obtain an Opinion from our state's legal counsel in the Attorney General's Office, and that that Opinion will be taken into serious consideration with regard to the constitutional issues surrounding this bill. And I guess for the benefit of the body, would...Senator Raikes and Hudkins are commingled in the back of the room, for our benefit today. Would the two of you care...I mean, have I accurately described the process that we're going to employ to make this happen as far as getting to the next round of debate? [LB658]

SENATOR LANGEMEIER: Would you both yield to a question, Hudkins first? [LB658]

SENATOR HUDKINS: Yes. And, Senator Flood, thank you. I think you have fairly portrayed what we would like to see done. [LB658]

SENATOR FLOOD: All right. Senator Raikes? [LB658]

SENATOR LANGEMEIER: Senator Raikes. [LB658]

SENATOR RAIKES: Senator, I agree. I think you've spelled out the...at least my minimum requirements, and I appreciate that, and also you've indicated my willingness to try to accommodate where we can. [LB658]

SPEAKER FLOOD: Well, as far as I'm concerned, my role as Speaker is to wait for these two groups to come back to the table and present a compromise. I don't want to have this experience again on Select File, to the extent we can avoid it. And I think the body has been indulgent so far to really look at the issues, but this is one of the priority issues we have to make progress on this year. So that being said, I would ask that, to

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the extent possible, we can vote on General File, move this to Select, and use the set of understandings that we've developed here. And I don't...I want to be very clear, what I'm doing here does not or is not intended to leave one senator out of the discussion. I think we know who the players are on both sides. Please invest, ask questions, be nosy, find out what's going on, do what you can to represent your district to the extent you're interested so that this solution isn't just a compromise among five; that it's a compromise to the extent possible... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SPEAKER FLOOD: ...among 49. That being said, thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Speaker Flood. There are no other lights on. Senator Raikes, you are recognized to close on LB658. [LB658]

SENATOR RAIKES: Mr. President, members of the Legislature, I thank you for the discussion. I think it was enlightening and I think we made progress. So I'm looking forward to continued discussions and bringing something back to you on Select File. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. You have heard the closing on LB658. The question before the body is, shall LB658 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

ASSISTANT CLERK: 29 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB658]

SENATOR LANGEMEIER: LB658 does advance. (Visitors introduced.) Mr. Clerk, next item on the agenda, LB562. [LB658 LB562]

ASSISTANT CLERK: Mr. President, LB562, introduced by Senator Adams and others. (Read title.) The bill was read for the first time on January 17 of this year, referred to the Urban Affairs Committee. That committee reports the bill to General File with committee amendments. (AM689, Legislative Journal page 863.) [LB562]

PRESIDENT SHEEHY PRESIDING [LB562]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Adams, you're recognized to open on LB562. [LB562]

SENATOR ADAMS: Thank you, Mr. Lieutenant Governor and members of the Legislature. For the next few minutes during this introduction, if you'll indulge me, I'm

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not only going to stand before you as a fellow state senator, but I'd like to put my former mayor hat on as well. You all know that there's not a town in the state of Nebraska, from one end to the other, that doesn't work every day to stay just as vital as they possibly can. They do everything they can to attract new people, to attract tax base just to stay alive in many cases. What LB562 intends to do is to give to communities, from one end of this state to the other, a second tool that they can use to further help them grow and to stay vital. Now the simplest way for me to explain LB562 to you is I just want to give you a quick scenario, and then I'm going to back up and give you an example of how it might work. What LB562 will do, if passed, is to amend the community development laws and give communities a second tool, in addition to the tax increment financing tools that are already available to them. What the bill would do is to allow cities to identify an area that they want to develop and to use the occupation tax authority that they already have under law; impose the occupation tax on the redevelopment area and the commercial and retail businesses within that redevelopment area, with their consent, and only in that area, nowhere else; capture the occupation tax from those newly developing businesses that have agreed with the city council to allow the occupation tax to be imposed on their business, to capture the occupation tax, use the revenues from those occupation taxes to pay down revenue bonds that the city would issue on behalf, in effect, of the developer. Now that may seem rather complicated, so let me make it...maybe make it a little bit simpler with an example. Most of you are aware that it wasn't that long ago that we lost nearly 25 percent of the square in downtown York. Now as a small rural community, what we struggle with at this point, first of all, was getting it cleaned up. That's been taken care of. Now we have a bigger issue--finding someone who's willing to come in to a small rural downtown and redevelop some commercial retail businesses there. If we wanted them by the interstate, we could find them. But if we want them downtown, that's a tough thing to sell. What LB562 would do would be to give to the city of York or any other town in the state of Nebraska an additional tool which might be just what it takes to get a developer or developers to come in to anybody's downtown and bring commercial business. The developer would come to the city council: This is the project that I want to do. The city council, acting as a city council and the city redevelopment authority, would say, all right, the project complies with our plan for the way we'd like to see the downtown go; what can we do to help you out? Well, the developer might very well say, well, what I'd really do is I'd like to go out to the interstate. The city council could say, well, if you go out to the interstate that's all fine and good, but we'd really like to have you downtown instead and in order to try to leverage that just a little bit, we would be willing to do this; we'd be willing, if you are, Mr. or Mrs. contractor, we would be willing to impose an occupation tax on the area that you own that you are developing; we will collect those occupation taxes for as long as there is a revenue bond that has been issued by the city on your behalf, and until that revenue bond is retired those occupation taxes will be collected. It's a revenue bond. It's not a general obligation bond. The agreement is between the city and the developer. It's the kind of thing that might just say to that developer, you know what, I can make this go with that. The advantage of the

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occupation tax, it's not sales tax, so we're not robbing tax from one place and putting it in another. We're not robbing sales tax away from the state of Nebraska. The other advantage to this is it's not property tax. I've got a little town up the road from York, Stromsburg, a nonequalized school district. Stromsburg is struggling in their downtown to stay alive. They think they've got a running shot at it and they want to be able to do something. They have been using tax increment financing in order to build new sidewalks, restore some of their store fronts. The problem is every time they use TIF the school district comes in and, though they're good citizens, they cringe because we're pulling tax base away from a nonequalized school district. This bill, if it were passed, would give every community, from Lincoln, who has complained about losing property tax base when they use TIF, to the little Stromsburgs, the opportunity to have another option. It might be in addition to TIF or it might be in lieu of TIF. That generally is what the bill is about. I'm confident that you may have questions so I'm going to stop at this point. There are some committee amendments that are pretty important to the bill and I'll be glad to field any questions. Thank you, Mr. Lieutenant Governor. [LB562]

PRESIDENT SHEEHY: Thank you, Senator Adams. We will now move to AM689, by the Urban Affairs Committee. Senator Friend. [LB562]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. This bill was advanced unanimously right after it was amended. The committee amendment is a white copy amendment, which means, more or less, that we're striking all of the original provisions of the bill, but generally reflects the changes proposed by Senator Adams, the sponsor of the legislation, at the public hearing on the bill and found in AM467, which was presented at that time by Senator Adams. To that amendment, the committee actually added two additional changes. It brought Section 10 into the community development law and added into that section a list of the authorized purposes for fund expenditures taken from Section 19-4019, instead of merely using a reference to that statute. In this amendment, the original bill...the original bill's definition of employer-provided health insurance is deleted and replaced with a definition of employer-provided health benefits, which means any item paid by the employer, in total or in part, that aids in the cost of healthcare services, including health insurance, health savings accounts and employer reimbursement of healthcare costs. The definition of qualifying wage is deleted with the amendment. The original bill's language defining the qualifying number of new employees that will result from the new investment is changed so that it is tied to the size of the county in which the enhanced employment area is located: (a), for example, (a) 2 new employees and \$125,000 of new investment in counties with a population of fewer than 15,000 inhabitants; (b) 5 new employees and new investment of \$250,000 in counties with a population of more than 15,000 but fewer than 25,000 inhabitants; (c) 10 new employees and new investment of \$500,000 in counties with a population of more than \$25,000 but fewer than \$50,000 inhabitants; (d) 15 new employees and new investment of \$1 million in counties of more than 50,000 but fewer than 100,000 inhabitants; (e) 20 new employees and new investment of

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\$1,500,000 in counties with more than 100,000 but fewer than 200,000 inhabitants; (f) 25 new employees and new investment of \$2 million in counties with more than 200,000 and less than 400,000 inhabitants; and finally (g) 30 new employees and new investment of \$3 million in counties with more than 400,000 inhabitants. Additionally, and this is important, members of the Legislature, any business that has 100,000...or, excuse me, 130,000 square feet or more of space and annual gross sales of \$10 million or more is required to offer an employer-provided health benefit of at least \$3,000 annually to all new employees who are working 30 hours a week or more on the average, and who have been employed for at least six months. Section 10 of the original bill is stricken and replaced with totally new language which is then added to the community development law, mainly because we didn't have a place to put this. There was no placeholder. This section deals with the designation of an enhanced employment area in an area which is not designated as substandard and blighted. New definitions are added here, most significantly, the definition of number of new employees for qualifying purposes. This, the term, means that the number of equivalent employees employed at a business in an enhanced employment area which exceeds the number of equivalent employees employed in the year immediately preceding the year in which the enhanced employment area was designated pursuant to this section. Revenue bonds are authorized to defray the cost of authorized work and to secure the payment of the bonds. The bonds can be issued in one or more series with different maturity dates, interest rates, and other terms and conditions deemed necessary. Senator Adams did a good job of explaining that. The bonds are limited obligations of the city--this is important, too--and shall not constitute nor give rise to a pecuniary liability of the city or a charge against its general credit or taxing powers. Finally, a new section, Section 11, is added which provides that if any section or part of the bill is found to be invalid or unconstitutional it does not affect the validity or constitutionality of the remaining portions of the bill. Members, really quickly, the five years I've been in office here on the Urban Affairs Committee, we've been looking for opportunities like this, we've been looking for tools like this, economic development tools. We all run on those type of ideas. With LB562, I think the committee found something. Wanted to thank Senator Adams, wanted to thank the committee for moving this through, and obviously committee staff. If anybody has any questions in regard to these committee amendments, I'd be happy to answer them. I would ask for the adoption of AM689 and the eventual advancement of the bill. Thank you, Mr. President. [LB562]

PRESIDENT SHEEHY: Thank you, Senator Friend. You've heard the opening to AM689, committee amendment to LB562. The floor is now open for discussion. Anyone wishing to speak to this item? Senator Fulton. [LB562]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. I just have a couple of questions, if Senator Friend would yield to a question. [LB562]

PRESIDENT SHEEHY: Senator Friend, would you yield? [LB562]

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SENATOR FRIEND: Yes. [LB562]

SENATOR FULTON: The enhanced employment area, how is it...can you explain how it's identified? I guess I'll preface that with the concern of eminent domain or a designation of blighting. I'm concerned whether that's part of this process. I didn't see that in the bill, but maybe you could explain that a little bit more succinctly. [LB562]

SENATOR FRIEND: Yeah, Senator Fulton, as simply as possible and hopefully succinctly, city council determines that. The governmental subdivision determines what those development areas will be. [LB562]

SENATOR FULTON: Okay. So it's not...is it fair to say it doesn't necessarily have to be a blighted area? There doesn't have to be a designation of blight or the use... [LB562]

SENATOR FRIEND: No. [LB562]

SENATOR FULTON: ...or there's not necessarily going to be the use of eminent domain before... [LB562]

SENATOR FRIEND: No. [LB562]

SENATOR FULTON: Okay. Okay. The other part I just want to be certain and on record that I understood correctly, we are providing an increase in taxing authority to cities and towns, municipalities. [LB562]

SENATOR FRIEND: That's a possibility. Sorry, Senator Fulton, this is your time. That's a possibility, but this taxing authority already exists... [LB562]

SENATOR FULTON: Okay. [LB562]

SENATOR FRIEND: ...for every class of city. [LB562]

SENATOR FULTON: Okay. And this authority which exists is for revenue bonds but not for general obligation bonds. Is that correct? [LB562]

SENATOR FRIEND: Yeah. Correct. [LB562]

SENATOR FULTON: Okay. Okay, I don't have any other questions. Thank you, Mr. President. [LB562]

PRESIDENT SHEEHY: Thank you, Senator Fulton. We have Senator Stuthman, followed by Senator Nelson, and Senator Howard. Senator Stuthman. [LB562]

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SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Adams a couple questions, if he'd respond. [LB562]

PRESIDENT SHEEHY: Senator Adams, would you yield? [LB562]

SENATOR ADAMS: Yes. [LB562]

SENATOR STUTHMAN: Senator Adams, I understand the designation of the area that you're trying to describe. It's defined by streets, blocks or whatever, but it is a defined area. I would like for you to explain to me, you know, what type of businesses are you going to go to try to get in there, and, you know, I need to have explained to me, you know, the occupation tax of it. It states that the city may levy a general business occupation tax. Could you explain the occupation tax portion of it? What is taxed; what isn't? Who collects it? Where does it...I know it goes to retire the revenue bonds, but explain that part of it to me, please. [LB562]

SENATOR ADAMS: Okay, let me back up for just a minute, Senator. The development area or the enhanced employment area is whatever the contractor, the developer, and the city agree to, and it would literally be defined and described in a contract. The occupation tax, cities already, by statute, have the ability to impose an occupation tax. They are not often used. And they're given the latitude to use the occupation tax in a very generalized way. For instance, let's say in...I mean you can go back to downtown York for a minute, as a hypothetical. Let's say in that burned out area we get an appliance store that decides to come back, and up above the appliance store they decide to use the second floor for apartments. The developer of the appliance store and the apartments may sit down with the city of York and say, all right, how are we going to set up this occupation tax. Well, it could be based on the gross sales of the appliance store. That may seem like a reasonable way to do it. And as far as the apartment or maybe office space up above, maybe it's imposed on a per square foot basis. Oftentimes in restaurants it might be on a per seat basis. Cities, under statute, have latitude as to how they want to use that. But it would be used only contractually with the agreement of the developer, and on no other businesses, only those new ones. [LB562]

SENATOR STUTHMAN: Thank you, Senator Adams. One other concern that I have and I may try to relate...ask Senator Adams that, if he'd respond again. [LB562]

SENATOR ADAMS: Yes. [LB562]

SENATOR STUTHMAN: On that occupation tax, what are the rates of it that is already legal or it's in the process? What are the rates and is it on top of other city taxes, or can you explain to that me? [LB562]

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SENATOR ADAMS: Well, it would be, as far as rates, it would be up to the developer and the city what they want to agree to, whatever is going to work to pay the amortization on those bonds. And would it be in addition to other taxes that already exist? If a city has a local option sales tax, it would be in addition to that, yes, it would, only with the agreement of the developer and only in that area being developed, no place else in town. [LB562]

SENATOR STUTHMAN: So there will be no tax assessed in any part other than that development area that you're trying... [LB562]

SENATOR ADAMS: That's correct. [LB562]

SENATOR STUTHMAN: ...that you're talking about. And... [LB562]

SENATOR ADAMS: That's absolutely right. [LB562]

SENATOR STUTHMAN: ...but the tax will be set between the developer, the city, and possibly the ones that are the lessors...the lessees of those, like you demonstrated, a retail store with apartments above. The owner of that building that's in there, or the developer, they would come upon an agreement as to what the amount of tax would be. [LB562]

SENATOR ADAMS: Correct. That's right. [LB562]

SENATOR STUTHMAN: And it has nothing to do with any other business that's in the community other than that designated area. [LB562]

PRESIDENT SHEEHY: One minute. [LB562]

SENATOR ADAMS: That's exactly right. [LB562]

SENATOR STUTHMAN: Thank you. [LB562]

PRESIDENT SHEEHY: Mr. Clerk, do you have an announcement at your desk? [LB562]

ASSISTANT CLERK: Mr. President, I do. Revenue Committee will hold an Executive Session at 3:00 in Room 2102. [LB562]

PRESIDENT SHEEHY: Thank you. Senator Howard. [LB562]

SENATOR HOWARD: Thank you, Mr. Lieutenant Governor, members of the body. If Senator Friend would yield to a question or two. [LB562]

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PRESIDENT SHEEHY: Senator Friend, would you yield? [LB562]

SENATOR FRIEND: Yes. Yes, I will. [LB562]

SENATOR HOWARD: Thank you. Keeping in mind the old saying that all politics is local, could you give me a picture of how this might work in Omaha, say the northeast section where it's often difficult to attract business? [LB562]

SENATOR FRIEND: Sure. Absolutely. I can give you a nice analogy or hypothetical. In my area, the northwest area, there was recently tax increment financing used to...over near the 72 Street, North 72 Street area up by the interstate to build a retail outlets. There is now all kinds of, you know, different retail opportunities up there. It was "TIFed." Wouldn't have had to...wouldn't have had to had been done that way if something like this was in place, because this would have been tiered. This...all of that stuff in there would have been analyzed and tiered, the Target that moved in and everything else. The city could have utilized this with just a vote of the city council. They could have circled that area and used occupational tax instead of pulling property tax out of the mix, which is what TIF does every time you use it. So I'm not trying to do a soft-sell job here, Senator Howard, but this is totally different than TIF in that it deals with different pockets of taxation. Every time somebody uses TIF, it is...the argument could be that somebody could walk into a hearing and say you're taking away from our schools, you're taking away from our schools. This is taxing authority that everybody has, that everybody is using, and we're circling it and providing some bonding authority, associating bonding authority around it. So that could have been done without "TIFing" it, the whole thing could have been done, and you grab a tier and you build all that stuff without "TIFing" it, and you probably could have. I don't know what the difference in financing would have been, but I'm saying it probably could have been done without using tax increment financing, or in...it could have been done using it in parallel with it. [LB562]

SENATOR HOWARD: Okay. Well, that's really interesting and it really helps me to better understand the plan. Do you think this would be alluring, let's use that word, alluring enough for businesses that otherwise wouldn't consider a particular area, to look at it? [LB562]

SENATOR FRIEND: I do because of the restrictions placed on TIF in regard to substandard and blighted. You...in a lot of our communities, the city councils and the subdivisions have...the representatives of those subdivisions have the ability to implement without twisting that substandard and blighted piece of the puzzle or placing that stuff in there. So there are...there are things that TIF is used for and things that TIF is out there for that it's just not going to be required from this angle. This is a totally different type of mind-set. [LB562]

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SENATOR HOWARD: Well, I find that very encouraging and hopeful for areas of the city that really don't have the employment base that they need, that would really help support their economy. Also, there was another piece you mentioned and that was regarding the health insurance coverage. If you could just give me a little more information on that. [LB562]

SENATOR FRIEND: Right. The original...the initial language was more general. It did...or, excuse me, it was more specific and I think it dealt with just health insurance. We changed it in the committee to health benefits, so that you're talking about the savings accounts and everything else. We wanted to be more encompassing for two reasons: one, because we felt like we should be;... [LB562]

PRESIDENT SHEEHY: One minute. [LB562]

SENATOR FRIEND: ...and the other reason is because we were afraid...or we knew that most companies are dealing with it from that standpoint in regard to the way they hand...the way they create these benefits. The language just fit better. Instead of getting...the bottom line is you would have only been able to use some of that, or implement, in relationship to health insurance, and we felt like it wasn't covering everything that needed to be covered. [LB562]

SENATOR HOWARD: I see. Thank you so much for the information. I appreciate it. [LB562]

SENATOR FRIEND: Sure. [LB562]

SENATOR HOWARD: Thank you. [LB562]

PRESIDENT SHEEHY: Anyone else wishing to speak on this item? Seeing none, Senator Friend, you're recognized to close on AM689. [LB562]

SENATOR FRIEND: Thank you, Mr. President. Just again to say thank you and once again respectfully ask for the adoption of the amendments and the advancement of the bill. Thank you. [LB562]

PRESIDENT SHEEHY: Thank you, Senator Friend. You've heard the closing to AM689. The question before the body is, shall AM689 be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB562]

ASSISTANT CLERK: 29 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB562]

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PRESIDENT SHEEHY: AM689 is adopted. Further discussion on LB562? Seeing none, Senator Adams, you're recognized to close on LB562. [LB562]

SENATOR ADAMS: Thank you, Mr. Lieutenant Governor. I'll make my closing very quick, but let me reiterate a couple of key points about this. This gives to cities another tool, an economic development tool, that they can use at their discretion. Any agreements to use the occupation tax must be arrived at between the developer and the city. The occupation tax, if it's agreed to be imposed, goes no further than this new development area. That's as far as it goes. It presents an additional opportunity for those cities who are terrifically concerned about losing property tax base. It gives them another tool that they can use rather than the property tax base. I'd urge your support. Thank you, Mr. Lieutenant Governor. [LB562]

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the closing to LB562. The question before the body is, shall LB562 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB562]

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB562]

PRESIDENT SHEEHY: LB562 does advance. Next item, Mr. Clerk. [LB562]

ASSISTANT CLERK: Mr. President, the next bill is LB457, which is legislation introduced by Senator Hansen and others. (Read title.) The bill was read for the first time on January 16, referred to the Judiciary Committee. That committee reports the bill to General File without committee amendments. [LB457]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Hansen, you're recognized to open on LB457. [LB457]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. LB457 is an attempt to strengthen the intent of Nebraska's foster care system. As of March 25, 2007, there were 5,038 Nebraska children in foster care. That number is the same as the entire population of the city of Ogallala, or nearly as many seats that were added to the new addition to the north stadium at Memorial Stadium this year. One thousand three hundred and thirty-eight have been in foster care for more than 24 months. One thousand two hundred and ninety-nine children are under the age of six. One thousand eight hundred and eighty-eight of those children have been removed from the home more than once. Two thousand four hundred and thirty-three, or 48 percent, have been moved four or more times. Sixty-five percent of the children that enter foster care due to neglect...they are entered into foster care due to neglect, which is defined as not providing for the child's physical, medical, or emotional needs. We must begin the process of changing those numbers. LB457 is my initiation of that process. Specifically,

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LB457 requires a judge who is reviewing matters in foster care placement to inquire of the well-being of the foster child by asking questions of the foster parent, preadoptive parent, or relative providing care for the child at the time of the review if they are present. Under the current law, a foster parent has the right to participate in hearings, but is restricted to being present in the courtroom. The reason I introduced LB457 is mainly because of a result of a foster care review hearing that took place in my legislative district after the law went into effect in July 2006. I'll give you a short synopsis of the history in the particular case I'm referring to. In October 2001, biological Mom Brandy (phonetic) was arrested in a methamphetamine sting conducted by the Nebraska State Patrol and the North Platte police. Her 18-month-old baby James was literally used as collateral in the meth transaction by her mother. James was placed in foster care where he remained for five years until October 2006. On May...in May of 2002, Mom was found guilty of a felony child abuse, distribution of meth, aiding and abetting a forger, and forging a name on a check. In July of 2002, Mom was sentenced to undergo a 90-day evaluation, followed by intensive supervision probation for 48 months. She was dismissed from this program prior to completion due to using an illegal substance. In October 2002, the biological dad, Joel, was arraigned for having a meth lab in his vehicle. January 2003, Mom violated a probation order and was sent to the Women's Reformatory in York. Visitation with her son James was not allowed. November 2004 the judge allowed the county attorney to begin termination of parental rights. Mom was paroled in December of 2005. Between November 2004 and May 2006, seven termination hearings were scheduled and continued. At the May '06 hearing a county attorney withdrew the motion to terminate. In October, October 1 last year, James was permanently placed with his bio mom, Brandy (phonetic). Foster parents were denied the right to say how well James was flourishing in their care. In fact, the judge pointed his finger at their attorney and said, foster families have no standing in my courtroom. This is not what was intended by the Legislature passed LB1115 last session. To me it would seem logical to get the most accurate picture of how a child is managing life is what you'd think to ask the people who live with that child on a day-to-day basis of how that child is doing. These caretakers are the ones that get up with the child in the middle of the night when they're sick or having a bad dream, take the child to the doctor or the dentist, takes them on shopping trips or the movies, knows what they like to eat for dinner, attends those parent-teacher conferences, and tucks them into bed each night. There are judges in this state that don't even ask foster parents for their input at all during these court reviews. Some foster parents don't even receive notices of the reviews when they do happen. That just doesn't make sense to me. I asked the Foster Care Review Board specialists across the state if, in their experiences, do judges routinely call on foster parents to speak if they've been a request of a legal party. The results are the handouts that I handed out. You can look down there, it's Douglas County, Sarpy County, Madison County, Lincoln County, Lancaster, Buffalo, Hall. It's pretty much across the state. Some judges do; some judges don't. It's not a matter of uniformity at all. It's all over the board. So you can take a look at that but the results were varied. Last year's bill was not enough. I think our juvenile

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court judges need this bill to allow foster parents and other guardians to provide the court with the information they need to give an accurate account of the welfare of the foster child. In September 2006, a new project was created, Through the Eyes of the Child Initiative. This initiative is guided by the Nebraska Supreme Court Chief Justice and local judges. Through the Eyes of the Child is a collaborative effort to improve the court process in Nebraska. The initiative believes that too many of our children are (inaudible) in foster care without permanent homes and families. Together with the initiative, Through the Eyes of the Child, and LB457, I think our foster care system will greatly benefit the lives of Nebraska's foster children and they will be protected in a better manner. I would ask for your support on LB457. Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Hansen. You've heard the opening to LB457. Mr. Clerk, do you have an announcement on your desk? [LB457]

ASSISTANT CLERK: Mr. President, Natural Resources Committee would meet in Executive Session now under the north balcony; that's Natural Resources meeting under the north balcony. []

PRESIDENT SHEEHY: Mr. Clerk, is there an amendment filed on your desk? [LB457]

ASSISTANT CLERK: Mr. President, Senator Flood would offer AM792. (Legislative Journal page 981.) [LB457]

PRESIDENT SHEEHY: Senator Flood, you're recognized to open on AM792. [LB457]

SPEAKER FLOOD: Thank you, Mr. President, members. First, I want to thank Senator Hansen of North Platte and Senator Dubas of Fullerton for recognizing the foster care issue in Nebraska as a priority issue. They understand and they are listening to their constituents, as I hear from my constituents, on issues regarding foster care and for that they should be commended, both of them, especially. The bill in front of us right now is Senator Hansen's efforts. I'll be quick. My amendment simply adds a guardian to the list of folks that can have standing in court to get into a juvenile proceeding. I have a situation in Madison County. We have two young boys that are in the court system. Mom's rights to have custody have been severed but not terminated. They go to court. The judge says, well, I'll tell you what, foster parents at the time, constituents of mine, you guys become guardians, you can have the two boys live with you, and I will not terminate mother's parental rights. Mom is in and out and in and out of trouble. We're to the point now where it continually is coming up as an issue in the household. They go to court and they have no standing. And this bill essentially allows a guardian to have the same standing as a foster parent would under Senator Hansen's bill. Thank you, Mr. President. That's an explanation of the amendment. [LB457]

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PRESIDENT SHEEHY: Thank you, Senator Flood. You've heard the opening to AM792. The floor is now open for discussion. Senator Howard, followed by Senator Chambers. Senator Howard. [LB457]

SENATOR HOWARD: Thank you, Mr. Lieutenant Governor and members of the body. And thank you, Senator Hansen, for bringing this bill to us. But I do have a question or two, if I may ask you. [LB457]

PRESIDENT SHEEHY: Senator Hansen, would you yield? [LB457]

SENATOR HANSEN: Yes. [LB457]

SENATOR HOWARD: Senator Hansen, I know you explained the motivation behind this bill. I just want some clarity for myself. I've read through it and it appears to me that foster parents are not required to be at a court hearing. It's if they are available, if they're present in court, then the judge will have a dialogue with them. [LB457]

SENATOR HANSEN: I think that's right. I mean, they're not required to be in court. If they're caring foster parents, more than likely they will be. Hopefully, through the initiative, through the Chief Justice's office, some of that is getting helped, too, where foster parents are asked to come to court with their foster children. [LB457]

SENATOR HOWARD: And I have no issue with that. I think if they're in court, that certainly shows a commitment and an interest in the well-being of the child. I point out that oftentimes parents work and are employed and are not able to leave that job to be in court and they count on the case manager to convey any information that they would want the court to have. An additional question I would have is, how do you see this working in situations where a child is in a facility where there isn't a foster parent available? Would you see the individual who is in charge of the group home being available and acting in the stead of a foster parent, having that role? [LB457]

SENATOR HANSEN: I would assume that that is normal, Senator Howard. If the child is in a group home, that someone that has responsibility for that child hopefully will get the word to the caseworker. The caseworker will at least be there at the time of the foster care hearing and represent that child. That child can't speak for themselves in most cases and someone needs to be there. [LB457]

SENATOR HOWARD: I absolutely agree with you. Possibly if I share some information from my experience in Omaha and Douglas County Court, that might be of some help. Ordinarily when there's a review hearing for a child who's a ward of the state, a notice is sent to the case manager who is considered legal guardian. That case manager is to prepare a report, have it submitted to the court, to the concerned parties, such as guardian ad litem, a prescribed number of days ahead of time, ahead of the court

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hearing, generally three days. If there is a weekend, if there is a period of time, it's going to be prior to that so that parties have a chance to review that information. There are occasions when the case manager will bring a child to court, be available to that child, have the dialogue with the court. There won't be a foster parent available. Other situations, the foster parent will come in and be there with the child. There are many different factors, as you can imagine. I've always appreciated the job that's been done, both by the case managers in Douglas County where I'm familiar, Sarpy County where I'm also familiar, and the judges themselves. In Douglas County, the judges are very open to information. They want to have that in the court record. They want to have full knowledge of the child's progress, anything that may be affecting the child, other conditions in the home. I think this bill certainly has merit. I think there are considerations we may want to look at. But I thank you for bringing this forward and being committed to the foster care issue. I am always grateful for that. Thank you. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Chambers, followed by Senator Gay. Senator Chambers. [LB457]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I don't like the idea of saying that a judge shall be required to do this for these foster parents. Some of them, not all of them, are the most hateful people you can find because I experienced it from several of them. It may have been last session when we got that word "may" be involved. And with the kind of language they use and the attitude, I wouldn't want them going into a courtroom and saying, the law says I can be here and I'm going to be here and I'm going to participate whether you like it or not. So this is one of those bills I will go to the wall on. I think the judges should have the discretion. But let me ask Senator Hansen a question, since he's the one who was put in the position of a patsy this time to bring the bill. [LB457]

PRESIDENT SHEEHY: Senator Hansen, would you yield? [LB457]

SENATOR HANSEN: Yes. [LB457]

SENATOR CHAMBERS: Senator Hansen, do you have a copy of the bill in front of you? [LB457]

SENATOR HANSEN: Yes, I do. [LB457]

SENATOR CHAMBERS: Starting in line 22 with "the court," the second word says "the court shall inquire into the well-being of the foster child by asking questions of" these people. You're ordering the court to ask questions whether there are any questions to be asked or not, aren't you? It's mandatory that the judge ask questions, even if there are no questions. Isn't that true? [LB457]

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SENATOR HANSEN: Yes. [LB457]

SENATOR CHAMBERS: What sense does that make? [LB457]

SENATOR HANSEN: That doesn't make sense. [LB457]

SENATOR CHAMBERS: Did you draft this language? [LB457]

SENATOR HANSEN: If these are foster parents that care for this child or children, in any matter of what number, it doesn't matter, but they...I still think that the judge should say, how are these kids doing. That question is not that hard to ask, Senator. [LB457]

SENATOR CHAMBERS: But if there's not an issue...who drafted this bill, if you know? [LB457]

SENATOR HANSEN: It was a bill that was drafted a year ago by... [LB457]

SENATOR CHAMBERS: Who gave it to you? [LB457]

SENATOR HANSEN: Well, we found it... [LB457]

SENATOR CHAMBERS: This shouldn't be a secret. [LB457]

SENATOR HANSEN: (Laugh) No, it's not a secret. I don't know who drafted it last year. [LB457]

SENATOR CHAMBERS: But who gave it to you to bring? [LB457]

SENATOR HANSEN: I researched it on the Internet last fall. [LB457]

SENATOR CHAMBERS: Who asked you to introduce it? [LB457]

SENATOR HANSEN: A foster parent in North Platte. [LB457]

SENATOR CHAMBERS: Okay. That's all I will ask of you, Senator Hansen. Members of the Legislature, they pick new people for this kind of stuff because they know better than to ask somebody who has been here. I'm going to ask my colleagues, you have a situation where it's in court for whatever reason. Let's say it's not...there are no questions to be asked. You are mandating that the judge ask questions of these people. So the judge says, okay, the law says I must ask questions. So like Senator Hansen says, so the judge is compelled to say, tell me about the well-being of these children. And they scratch their head, the foster parent, there's not any...well, they're doing okay.

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Well, since the word is "questions," plural, I got to ask you another question. Those dumbbells in the Legislature said I've got to ask you questions, and I'm a judge and I obey the law. They got dumbbells in there who don't read the laws and they make us do this crazy stuff. So they put in this law that I've got to ask you these questions. If I violate the law, I am violating the Nebraska Code of Judicial Conduct which says I must be informed in the law, I must obey the law, I must abide by the law. I'm required to do that. And if I don't do it, I've committed an ethical violation and it's an ethical violation as a matter of law because the Legislature imposed this duty on me. So now let us go through this charade. How are the kids doing? And they say, well, Judge, suppose I don't answer? [LB457]

PRESIDENT SHEEHY: One minute. [LB457]

SENATOR CHAMBERS: Well, I've still got to ask you. Well, can't you talk to those dumbbells in the Legislature and tell them to do better? You all don't like me talking like this, do you? Well, I'm a member of the Legislature and I would say, what would the dumbbells put that in there for? You're going to make the judge ask questions. That's what happens when you want to take the discretion away from the judiciary. And you're a member of the legislative branch and you don't even do your work well as a legislator. And now you're going to impose stupidity on a judge. Right at this time, I'm chafing under something the judges did. But I'm still not going to go for anything as nonsensical as this. Senator Hansen, I wanted to ask you those questions to make it clear you didn't draft this language. The bill was given to you. He was set up. If you give somebody some bad stuff in liquor, they call that slipping somebody a Mickey. They slipped him a legislative Mickey. Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Gay, followed by Senator Friend, Senator Nantkes, and Senator Lathrop. Senator Gay. [LB457]

SENATOR GAY: Thank you, Mr. President. I rise in support of this bill. I have been acquainted with some of the juvenile programs that are taking place, but only on a limited basis in Sarpy County. I know there we have a CASA program, which is a court-appointed special advocate, which kind of helps children along the way through the juvenile court program. We're lucky to have that program, but I assume many people do not. I guess, would Senator Hansen yield to a question? [LB457]

PRESIDENT SHEEHY: Senator Hansen, would you yield? [LB457]

SENATOR HANSEN: Yes. [LB457]

SENATOR GAY: Senator Hansen, when you brought this bill, do you know how many other counties have these CASA programs? And I'm not familiar with the rest of the state, but do other counties have this program? [LB457]

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SENATOR HANSEN: Other counties have the programs but you have to have willing judges to have them. Some do and some don't. [LB457]

SENATOR GAY: Okay, thank you. The reason I ask that, like I say, my experience has been that we're very proactive to do this and the success rate has been tremendous because the judges are getting involved and other people are getting involved for this child when they come. I know I've worked with Senator Hansen and others, Senator Howard. But people are very passionate about this cause obviously. That's not a question. I think what this bill does or what we're trying to do here, and Senator Chambers may have pointed out a very valid point that we're here to discuss today, but the point being is this is just, I would think, common sense. And maybe that's not used all the time in court. I think with Senator Hansen, I can't speak for him, but...well, I can, what I've heard, a lot of commonsense issues. This is just common sense. If you know something that could help the proceedings, you should speak up. So if we can get this bill crafted along the way here where it makes some sense, that if they have some input that they can do that. And I guess, Senator Hansen, would you yield to one more question, please? [LB457]

PRESIDENT SHEEHY: Senator Hansen, would you yield? [LB457]

SENATOR HANSEN: Yes. [LB457]

SENATOR GAY: Under the current system Senator Chambers alluded to, a judge may or may not ask this question. But I guess the point you're trying to get to is to make it, to use a little common sense. And if there's something to be added that these parents can add, right now, can they talk at all in the court? Could they, if they had something, can they talk in a proceeding? [LB457]

SENATOR HANSEN: Biological parents have, the parents that the foster child was taken away from, have legal standing. They have a lawyer. The foster parents may or may not be asked questions by the judge. In the case that I brought up--and I researched this on my own last summer after October 1--that during the summer, foster parents came to me and asked me questions, if anything could be done. In October, their final hearing when that little boy was taken away from their family that they had had for five years, they were there, they were preadoptive parents at one time, which was terminated by the county judge, but they wanted to tell the judge some of their story of how the child was acting in their home. And the judge said no. They even hired an attorney and the attorney couldn't be recognized to even speak for the foster parents. So I don't know how many times that happens across the state. That's why I inquired of the Foster Care Review Board and found several instances that that happens regularly. I don't think these questions that the judge has to ask are very hard. How's the child doing? Do you have any input? [LB457]

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SENATOR GAY: Thank you, Senator. [LB457]

PRESIDENT SHEEHY: One minute. [LB457]

SENATOR GAY: I guess what I'm looking at, the point I'm making is I do support you in this cause. I've had the opportunity to attend court and other things. And Senator Chambers, I saw he ran an amendment over there to help maybe improve this bill or maybe not. But I think if we can find a way that we can just put some common sense into this process and I think that's what you're looking for. And I'm looking to see to see if I can support you on that. Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Gay. Mr. Clerk, you have a priority motion at your desk? [LB457]

CLERK: I do, Mr. President. Senator Chambers would move to bracket LB457 until May 15, 2007. [LB457]

PRESIDENT SHEEHY: Senator Chambers, you are recognized to open on motion 40. [LB457]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the Judiciary Committee was having an Exec Session and we just finished it. That's why I'm just now getting here. But this is one of those bills that I had on my radar screen and I did let Senator Hansen know some days ago that I'm opposed to it. So it's not blind-siding him. And as for what Senator Gay was talking about, it has nothing to do with this bill. CASA has nothing to do with this bill. The problem is that people jump up here and they talk about things that might be nice but that's fine, but that's not what we're talking about. We're not talking about CASA at all. We're talking about a situation where biological parents may be in a fight to hold onto their children. And you have some foster parents, sometimes they're wealthy. In some cases they're parents of a different race from the child. And they can get a lot of legal assistance. And the biological parent is at a disadvantage anyway. The biological parent is a party because the child is the biological parent's blood child. These foster parents are people with an interest in taking that child from the biological parents. They should not automatically be in a position to participate in the proceedings. If the judge feels that what they have to offer is necessary, then the judge is free to invite them to participate. But to mandate by law that they should be there is not appropriate, in my opinion. I've fought against these types of things and specifically in this area. And the problem is that these new senators feel so sympathetic to each other that they stand without even knowing what the bill is about and bring up something that has nothing to do with it and say, that's why I'm supporting this bill. Some judges have not allowed these CASA people to be involved because they can become meddlesome and intrusive, and they think they have more

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standing in the court than they have. Courts are not run like this Legislature. Why do you think judges are given discretion? Because the term "judgment" means that there's going to be a weighing by the person who has to make the decision. And then when the decision is arrived at, that person enters the judgment. And to say that these foster parents are going to be in that courtroom and the judge shall ask them questions is nonsensical, in my view. And I'm going to fight this bill as long as is necessary. And just because some of the new people think that because they're new and they brought it that they should get a free ride is a mistaken notion as far as I'm concerned. Why do you think they didn't ask somebody who's been here some time? Why didn't they ask somebody on the Judiciary Committee to bring it? Because it's been before the Judiciary Committee. There are a number of bills that are going to come before us this session in the hands of new people who think, because they were given the bill, they've got to fight it all the way through. And had they known what they found out subsequent to accepting it, they wouldn't have brought it. But just because you brought it and the members of the Judiciary Committee were willing to put it out here does not mean that I support it. And in the same way that they can fight to help you get this bill, I'm going to fight against it in every way that I can for as long as is necessary. And I don't care what other bills are behind it. I think this is a crucial issue and great care ought to be taken before the discretion of a judge is removed as a matter of law. If one of these foster people happens to be sitting in the courtroom, the judge must ask them questions. And if you don't mean the judge must ask the question, why put it in the law? You can get as upset as you want to. I'm reading the language of the law that you all are being asked to support and that the Judiciary Committee sent out here. The judge shall ask them questions. There have been instances when courts, from the context of the wording of a statute, will say even though the term "may" is there, it's clear from the context that the Legislature is putting a mandate so we're going to construe the word "may" to mean "shall." But never have I seen a case where a judge took the word "shall" and changed it to "may." So what is being done here is just to say that the Legislature is going to require the judge to do some things that are foolish. We don't have any law on the books, we don't have any provision in the constitution, we don't even have a requirement in our rules that a senator speak on every bill. We don't even have that there. And here's something very important and we're going to say the judge has no discretion. I'd like to ask Senator Hansen a question. [LB457]

PRESIDENT SHEEHY: Senator Hansen, would you yield? [LB457]

SENATOR HANSEN: I shall answer, if I can. [LB457]

SENATOR CHAMBERS: Senator Hansen, suppose the foster parent does not want to answer. Then the foster parent can be held in contempt of court. Is that how you force the foster parent to participate if he or she doesn't want to? Is that what you think should happen? [LB457]

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SENATOR HANSEN: Well, I don't think it needs to get to that extreme. But if the foster parents have input, I think the judge should know it. They should... [LB457]

SENATOR CHAMBERS: No, that's not my question. [LB457]

SENATOR HANSEN: ...know that input before the judge... [LB457]

SENATOR CHAMBERS: If the foster parent... [LB457]

SENATOR HANSEN: ...makes a decision. [LB457]

SENATOR CHAMBERS: ...doesn't want to answer questions, should the judge be able to compel that person to answer questions since the law compels the judge to ask them? Should we say that the foster parent need not answer any questions if the foster parent chooses not to? Is that what we should say? [LB457]

SENATOR HANSEN: No, I think if the judge asks the foster parents questions on the well-being of the child, I think they should answer. [LB457]

SENATOR CHAMBERS: Suppose they don't want to, that's my question, not what should be or what might be nice. They should answer, you say, but I'm asking this question if they don't want to answer. You are creating a mandatory situation here where the judge must ask questions. If you don't want to mandate that the judge ask questions, the word should be "may" instead of "shall." But the purpose of this bill and those who gave it to you is to take away the judge's discretion so the judge must do this. Why be so...that's all I will ask you. Thank you. Why be so specific? Why didn't they just say that the foster parent shall be deemed a party to any action involving this activity, if that's what they're interested in? They don't read this stuff, even committees don't. This is what they want, give it to them. But I don't think necessarily they should be made a party. But if they are, you are specifying in a way that I've not seen before what the judge shall do, even if the one for whose benefit it supposedly exists doesn't want it like that. I am at a loss. My job is hard. I wish that deep down inside I could be as lacking in concern for this process and the statutes and what they contain as my colleagues are. Maybe nobody else sees this as an issue, but I do so I'm going to fight it. And I want to have somebody explain to me why we get so specific as to say that the judge shall... [LB457]

PRESIDENT SHEEHY: One minute. [LB457]

SENATOR CHAMBERS: ...ask questions of these people. You know what a person might say? Well, even though the law said the judge shall, it doesn't mean that. The judge doesn't have to. We're not trying to make the judge ask questions. That's not the purpose of the law. But that's what it says. And the court says in interpreting a statute

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the first thing they do is read the language and they give it its ordinary meaning. The ordinary meaning of "shall" and the term of art meaning of "shall" when we're in legislation is that a mandate is being given. It is something that must be done. I'd like to ask Senator Wightman a question. [LB457]

PRESIDENT SHEEHY: Senator White, would you yield? [LB457]

SENATOR CHAMBERS: Senator Wightman. [LB457]

SENATOR WIGHTMAN: Yes, I will. [LB457]

PRESIDENT SHEEHY: Oh, Senator Wightman. [LB457]

SENATOR CHAMBERS: Thank you. Senator Wightman, you have not been involved at this point so maybe you can step back from where I am and I will ask you this question. If the word "shall" appears in a statute, what does that word mean, in your experience as a lawyer,... [LB457]

PRESIDENT SHEEHY: Time, Senator. [LB457]

SENATOR CHAMBERS: ...when a court addresses it? Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Senator Friend, followed by Senator Nantkes, Senator Lathrop, Senator Flood, and others. Senator Friend. [LB457]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I've talked to Senator Hansen in regard to the subject matter a few times now, obviously all of it off the record. But it's strange because I've got mixed feelings about this. Let me give you some chronology or, you know, some background here. This language in LB457, and Senator Hansen knew this, the language of the existing statute, Section 43-1314, the fact that a judge can even ask foster parents for information in writing or in a courtroom, the fact that judge can even do that is because of LB770 last year, which was actually a Judiciary Committee priority bill, LB1115. So as you can see, that's where my mixed feelings come in. I like Senator Hansen's bill. Let me give you a little more background. That's what my bill looked like originally before we went into the Judiciary Committee last year to talk about it and it was changed, because I knew either (a) I couldn't get it out of committee or (b) it was going to get chopped out here on the floor because Senator Chambers told me it would be. Now you can see my quandary. Let me reiterate. I don't think...I share Senator Hansen's sentiments about this. I don't think there's anything wrong with this necessarily, with this language, but we're changing it. It is a significant change to public policy. We're mandating standing, court standing in placement hearings, for foster caregivers and the like. So I think, you know, I

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think we have some decisions to make out here and I don't know that I'm helping really that much with it. But there are really, and I've said this before and this is important. There are two things that need to be clear about this language. What Senator Hansen has right now and the way that statute resides at this moment. When I went after this issue 18 months ago, I went after it. Nobody put a stick in my back and made me do it. I went seeking the information. I went and found this type of language that Senator Hansen has. I created LB770 with the help of advocates after I told them what I wanted. So let's make it clear, this was and is my language. And I'm not saying that to pat myself on the back. I'm saying if Senator Chambers wants to chop somebody up out here, Senator Hansen didn't get this language from a bunch of advocates. It was mine and it was defeated. That's where we have to go with this. We can turn around and point the finger at Friend and we can say the stupid language that Senator Hansen is trying to put in here is Friend's fault. It's not the Foster Care Review Board's. It's not Health and Human Services'. It was mine. I went and sought it out. So look, maybe it's a bad idea. [LB457]

PRESIDENT SHEEHY: One minute. [LB457]

SENATOR FRIEND: I will say that because I allowed it to be amended in committee to "may." We remember that? I allowed that to happen and I don't even know what kind of effect it's had because I haven't studied the effect. I'd like to know that. So that's where my mixed feelings come in. I mean, I know we're not jeopardizing the language that I and others helped produce last year. And I understand what Senator Hansen is trying to do. But it does concern me a little bit. I don't know what the language that, this brand new language in 43-1314, I don't know what kind of effect it's had. I don't know that. And I think we ought to discuss that here and we ought to try to find some answers. I don't know how much value I can add here. But he is not a pawn and he's not a dupe. I was the pawn and I was the dupe and it was my own mind that did it. [LB457]

PRESIDENT SHEEHY: Time, Senator. [LB457]

SENATOR FRIEND: Thank you. [LB457]

PRESIDENT SHEEHY: Senator Nantkes. [LB457]

SENATOR NANTKES: Mr. President, members of the Legislature, I rise in support of the bracket motion and in opposition to AM792 and the underlying bill, LB457. I think the law as it stands is appropriate. Like most decisions within the context of family law, those decisions are based on the best interests of the child. The law as it stands allows the judge to solicit input from foster parents if the judge thinks that information is necessary to making a decision about that child's best interests. I believe that there's some serious underlying implications in regards to this issue. Number one, I think the mandated...the requirement that mandates foster parents must testify at these hearings

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is problematic. Nowhere else in the context of our civil or criminal law do we mandate who a judge must order to testify at a hearing. And there's good reasons for that. Those are strategic legal decisions that should be made by opposing advocates within the court of law. Secondly, I believe that, particularly if a foster parent is moving towards becoming an adoptive parent, this creates a serious conflict of interest between the foster parent and the biological parents. Finally, I know that, at least anecdotally, in my time practicing family law for the past few years, that cases have been brought to me where there's no question. If you made a decision and you looked just simply on paper about maybe if a foster family or a biological family could provide the best life for a child, the foster family, many times who has more resources, would win. But that doesn't oblivate the fact that parental rights are fundamental rights. The United States Supreme Court case law couldn't be more clear on this. Two important decisions, one stemming from a case right here in Nebraska, Meyer v. Nebraska, and then additionally in Pierce v. Society of Sisters, established a legacy which was followed by a series of decisions holding that parental rights are fundamental constitutional rights, the basic civil rights of men. And in Santosky v. Kramer, United States Supreme Court, 1982, we find out even if parents have not been model parents or have temporarily lost their right over the custody of their child, we still must proceed very, very cautiously in the proceedings that jeopardize those fundamental parental rights as protected by the U.S. and Nebraska Constitutions. As further evidence of some of these underlying socioeconomic and racial components, if you look to the National Conference of State Legislatures' State Legislatures magazine from this very month, April 2007, there's a very informative article starting on page 30 which lays out some of the difficult questions underlying race in the child welfare system. Legislatures in Michigan, Minnesota, and Texas, the article states, have put these issues into the forefront. We have not addressed these issues in a larger way here in Nebraska and I think this underlying bill and this amendment seeks to only complicate and worsen some of those underlying components. I'm happy to work with the introducers of this amendment and this bill because I believe their intentions are pure in trying to really help the child welfare system flourish and the children within. But I think, as written, there are some serious legal problems with it and I think that it frustrates some of the basic concepts underlying that system. With that, I'd yield the balance of my time to Senator Chambers. [LB457]

PRESIDENT SHEEHY: Senator Chambers, you have one minute. [LB457]

SENATOR CHAMBERS: Thank you, Senator Nantkes. Thank you, Mr. President. Members of the Legislature, if you mandate that the judge ask these questions, it could be somebody in the courtroom who has been disruptive but not to the point where he or she had to be removed from the courtroom, and then this person, whom the judge and everybody else feels has nothing of value to offer, shall take the stand and the judge has no discretion. Then, if it turns into a fiasco, somebody would say, well, why would the judge let that person up there when the judge could see that this person was not suitable to testify? Then the judge brings up the law: Go talk to your legislator; the

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Legislature told me that I have to do this, and Senator Chambers and Senator Nantkes tried to get them to see reason, but they chose not to. So I'm going to fight this to the bitter end, wherever that bitter end may be, however far down the line it may be. And if we... [LB457]

PRESIDENT SHEEHY: Time, Senator. [LB457]

SENATOR CHAMBERS: Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Senator Lathrop. [LB457]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm here and stand in support of this bill, LB457. And I think it's getting kicked around a little bit out here and kicked around, I think, with some inaccurate information. And I'll tell you a little bit by way of background, that I've done some work in juvenile court. It's something I did early on. I've been practicing law for 25 years. The first five years I did quite a bit of stuff in the county courts and in juvenile courts, so I've been to a few of these hearings before. And you need to understand that we're not talking about a trial. It's not a trial. It's a review hearing. And we're not talking about testimony. We're talking about an inquiry. So that you understand what this bill is about and what it's not about, it doesn't require that somebody testify. Okay? And it's not about a trial about guilt or innocence or the merits of the reason why the person was there. It's a review hearing. So in a review hearing, this is what happens. The judge sits up on the bench and about three or four lawyers walk in and maybe there's a CASA person. You know, the room gets filled with people that care about that child. And the people that this bill is simply asking the court to talk to are the people the child is living with. Now doesn't it make sense, doesn't it make sense, if you have lawyers in there talking and you might have counselors talking, you might have social workers talking, doesn't it make sense to turn to the people the child has been living with and say, how is the kid doing? See, this is a review hearing and the question at a review hearing is, how is the kid doing, what kind of services does the child need to get us from point A to point B? And don't you want to know what's going on at home? All Senator Hansen has done with this, I think he should be commended for his effort. I don't think we're being bone-headed by adopting this bill. I think it's a good idea, it's good policy. We ought to tell the juvenile court judges, you know what, those foster care parents, those preadoptive parents are more than just a ride to the courthouse. They are the people that see the child every day. They're people that see the child every day. But we say we shouldn't take away the judge's discretion. The judge ought to be able to decide for himself or herself whether this inquiry is made. We don't want the judge to hear something. There's nothing about what the foster care parents or the preadoptive parents or whoever the child is residing with that's covered by this statute or by this bill, there's nothing about it that makes what they say then more important than anything else the judge has heard. The judge is going to exercise some judgment and some discretion. We're just simply saying with this legislation that a piece

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of the information the judge needs to have is what the people who are raising the child at the time see. I think it makes good sense and it's good policy and I support it. Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Flood, followed by Senator Chambers, Senator Howard, Senator Hansen, and others. Senator Flood. [LB457]

SPEAKER FLOOD: Thank you, Mr. President, members. Before I discuss my specific amendment that is under consideration above the bracket motion, I'm going to talk just very generally about some of the observations that I've made in the short time we've had here, and you can take it or leave it for what it's worth. You know, I recognize, Senator Chambers, this is a hill to die on. This is that important to him, the changing of "may" to "shall"; Senator Hansen, equally as strong. But I think the underlying problem with foster care in Nebraska is that when the judge signs the order, and I'm not talking about any judge specifically, the judge essentially decrees that the court, being fully advised in the premises hereby orders, and then colon. And after that you've got basically a custody arrangement and permanent guardianship, permanent custody or a termination of parental rights. Big decisions are made after that colon. But before that colon, the court being fully advised in the premises, and I think there are foster parents, there are guardians, there are blood relatives on each side of this equation that don't feel that they have been able to fully advise the court in what's happened. I'm just going to throw this out for discussion and maybe somebody will like it, maybe somebody won't. But what if we looked at a system where a blood relative--mother, father obviously, who will already be part of this--a foster parent, a guardian, and go down the list, may file with the court a demand for notice, similar to what you see in probate proceedings where you essentially say...I think the first problem is the foster parents sometimes, they don't even know when the court hearing is. And if they do know, they don't get much notice. I think we give them the right to file a demand for notice and be placed in the list of people that shall be served notice by any litigant or party to this action, including the state. Second, when they get to the courtroom, that the court recognizes...not recognize, that's the wrong word...that the court is advised as to who is sitting in the juvenile court proceeding. So the court, the judge would come in, would sit down and would say, we are now going to make a record of those participating in this juvenile court proceeding. And I would say, my name is Mike Flood, I am the foster parent for the ward or for Johnny and I live at this address and this is my phone number, so that the court knows exactly who's in the courtroom, the people there that have had the right to receive notice, and then the judge, in his or her sole discretion, obviously, gets to ask those questions. We could go a step further and allow a written statement to be made available to the court for the court's review at its leisure, convenience, as the proceeding goes forward. I guess I'm just trying to think of ways that we can address the underlying problem and that is these foster parents, some of them, are swinging a bat in the wind, not feeling that they're even able to communicate what's happening at home

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as they put these kids to bed each night. Now when you weigh parental rights, the judge has to, in his or her sole discretion, figure out how to weigh that evidence. I recognize that. And I think what Senator Chambers is saying, the judge is able to weigh that evidence when they receive it as they see fit. If they want to know, they ask the question. But is there a way to do what Senator Hansen wants to do by making notice and demand for notice available, by advising the judge of who's in the courtroom? If you don't go to your foster child's hearing, you probably shouldn't say much about what is happening at home, because... [LB457]

PRESIDENT SHEEHY: One minute. [LB457]

SPEAKER FLOOD: ...if it was that important you'd be there. I guess what I'm trying to say is, is there a way we can find a resolution on General File to Senator Hansen's underlying issue without this bill just dying on the hill? And the second thing I'll say, I think when I introduced the "guardian" into this discussion, guardians have much different types of responsibilities and legal rights than a foster parent. A court has already looked at all the circumstances and essentially taken a blood relative's custody, ability to be the parent, and said to the guardian, you are the person that makes those decisions as to the health and welfare of that child, not the state of Nebraska, not biological Mom or Dad. So the guardian, I think, is different. But can we find a way to get to where Senator Hansen is trying to go without crossing the road that we're on now? That's my question. And I think we can. Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Chambers. [LB457]

SENATOR CHAMBERS: Thank you. Mr. President, I will concede everything that the resident legal expert, Senator Lathrop, said. This is not a trial. Fine. What they say is not testimony. Fine. I'll give him that. It's a hearing, that's what the section says. So if we read it, we know what we're talking about. But it is a hearing, which means people are going to utter words, to help Senator Lathrop understand that I understand what we're talking about. Don't call it testimony. Call it utterances. But he didn't touch on the mandate that the judge ask the questions, did he? Call it a hearing, call it a tete-a-tete, call it a trial, anything you want to, but the judge is mandated to ask these questions. And he didn't deal with it. He said, what's wrong with the judge asking people do they want to say something? No, this mandates that the judge shall ask questions, plural. And if that's not what you mean, don't put it in the law. Don't get mad at me and say anybody with two cents' worth of brains would know that we don't mean that the judge has to ask questions if he doesn't have any or if she doesn't have any. But you put in the law that the judge shall ask questions, period. And Senator Flood is trying to get us to something, but under the existing law it tells us who shall receive notice. And it includes the parents or guardian, unless the parental rights have been terminated, the person charged with care of such child, the foster parent or parents of the foster child, the guardian ad litem of the foster child, the state board, the preadoptive parent, and the

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relative providing care for the child. Under the current law, all of these people shall be given notice. If the court is not giving the notice, that has nothing to do with what Senator Hansen is talking about. Just tell the judges, give the notice. And as for Senator Friend, he wants to fall on a sword when it's not his responsibility. Senator Friend's language that wound up being in the law uses the word "may." The word "may" is what I would accept. That's the current law. The part that I'm saying is bone-headed...and if Senator Lathrop wants to apply it to himself, fine. Look, if I lay out a description and a person applies it to himself, that's on him. He knows himself better than I do. But I do say this language is bone-headed. Senator Flood may have thought I was talking about the language that he got into the law last year which said the judge may. That's not what I'm attacking. I'm attacking the switching of the word "shall" for "may." They're changing the "may" to "shall." So all of Senator Hansen's friends--and he's a personable chap, I can understand that he's got friends--they're going to try to make this language other than what it is. I'm going to read you what the language in the law says. If the foster parent, preadoptive parent, or relative providing care for the child is present at the court review, the court shall inquire into the well-being of the foster child by asking questions of these people. The judge shall. Did I say that? No. Am I making it up? No. Who put it in the law? Senator Lathrop likes it. He voted it out here. He now feels responsibility so he has to say it's a good law. Why? Because he's been involved in some of these hearings. So what? [LB457]

PRESIDENT SHEEHY: One minute. [LB457]

SENATOR CHAMBERS: There are people who have gone to college for four years and then they flunked their oral exams. Simply being there doesn't mean you necessarily are competent in what is going on at the place where you find yourself. I want a lawyer to stand on this floor and tell me that when the Legislature puts "shall" into the law, the court takes that to mean "may," especially when it takes the place of the word "may." "May" is being stricken and replaced by "shall." Where are the other lawyers besides Senator Lathrop who put it out here, and he's got to defend it despite the fact that his knowledge as a lawyer lets him know that if you strike "may" and put "shall," it's mandatory. You shall ask these questions of these people. I see him. I want him to stand up, on his time, because mine is almost up, and tell me either that this does not mean shall or that the judge doesn't have to ask the questions. And if the judge doesn't have to ask the questions... [LB457]

PRESIDENT SHEEHY: Time, Senator. [LB457]

SENATOR CHAMBERS: ...what we mean is may, not shall. Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Senator Howard. [LB457]

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SENATOR HOWARD: Thank you, Mr. President and members of the body. When I spoke earlier, I thanked Senator Hansen for bringing in this bill and I thank him again. I'm always grateful, grateful when members of this body are concerned about foster care issues and children who are wards of the state and those children that I personally worked with for many, many years. I will say that Senator Chambers' point is well-taken. Words make a difference especially, especially in this situation. In Douglas County, the county that I worked, the county court I worked...or the juvenile court I worked with, oftentimes there were many people in the courtroom all concerned about the welfare of the child, the best interests of the child: case manager, who is required to write a report updating the judge on health and education and day-to-day conditions of the child, any matter related to that child, that case manager is required to see that child on a monthly basis and to document that information, that's an ongoing contact with the foster care parent; guardian ad litem, who's also required to submit a report and have current information and knowledge regarding that child; Foster Care Review Board, who is involved in that child's case and is required to submit a report and oftentimes also is there in the court. I have had many cases where there was a CASA that participated in the child's hearing and I, in fact, have requested CASA's involvement in cases. Douglas, Sarpy, and Lancaster courts have CASAs available. I wish it were available across the state, but this is a volunteer organization. We don't always have the individuals that can give the time to do that. Foster parents do a wonderful job; 99 percent of the foster parents that I worked with were superior, above and beyond the call. But I'll tell you, it's hard. It's hard to have a child in your home that you're asked to love and you know that child came from a very bad situation and you embrace that child and you want to make that child whole again. But there's so much uncertainty. And the department is not real good at keeping individuals informed about the latest on a case. For one thing, case managers have a caseload; in my case, 50 cases, 50 cases. That's not a manageable caseload. You can't do justice by the child, the foster parent, and you can't even really do justice to yourself. I think we have to look at this in realistic terms. The judges that I've worked with, in Douglas County especially, have always been interested in input from those individuals who work directly with the child. I have never had a situation where a judge did not take input or was not open to information from a foster parent. That's not to say the foster parent has standing in court or has the right to go into court and act as the parent. The child is in the care of the Department of Health and Human Services who, for legal purposes, is the guardian, signs off on any educational, medical, any issue that that child has. The case manager is designated to do that. That responsibility falls on the case manager. The case manager is the direct supplier of information on that child to the court. Now you can say, well, is it always accurate? Given a caseload of 50, it may not be up to the minute. But I commend the case managers for the job they've done. I say we need to look at the issue that Senator Chambers is bringing up concerning the word "shall" versus the word "may" and give that due consideration. I'd like to offer the balance of my time to Senator Chambers, if he would like to continue from his previous floor testimony. [LB457]

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PRESIDENT SHEEHY: Senator Chambers, you have about a minute, 15. [LB457]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Howard. And I want to make it clear, I am not angry at Senator Lathrop. Senator Lathrop is doing what he thinks he ought to do. But having been in the courtroom, what I'm doing with reference to him, this is mild. Don't feel... [LB457]

PRESIDENT SHEEHY: One minute. [LB457]

SENATOR CHAMBERS: ...sorry for him. Members of the Legislature, there could be a trial that relates to the life and death of an individual. The trial, the matter goes up on appeal. The Supreme Court and any other appellate court will say they are not going to make a decision as to the credibility of the witnesses because the trial judge observed the witness and is best able to make that decision and determination. That is giving the judge a tremendous amount of discretion. So if you have a hearing which is not dealing with life and death, why are you going to compel the judge to ask people questions when the judge is in a position to determine whether testimony or the offering of utterances will advance the process? And that's about all I'll say right now because my time is up, but I'm going to elaborate on that the next time I'm recognized. Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Hansen, followed by Senator Friend, Senator Nantkes, and others. Senator Hansen. [LB457]

SENATOR HANSEN: Thank you, Mr. President. Senator White, would you yield to a question? [LB457]

PRESIDENT SHEEHY: Senator White, would you yield? [LB457]

SENATOR WHITE: I would. [LB457]

SENATOR HANSEN: Senator White, in your opinion as a lawyer, what is the difference between "shall" and "may" and maybe in the context of what we're talking about this afternoon? [LB457]

SENATOR WHITE: Well, I think, in my situation, Senator, I would tell you that Senator Chambers is correct. This would require a court to make inquiry of the witnesses. I have no problem with it. I think it's a good idea. We regularly instruct courts that they shall do certain things. That is language that is a commanding language. It is not permissive. It's directive, you will do this. I think it's an excellent idea. Every time we write a law we are functionally telling a court what they must do--you will look at this, you will look at that. Now we may phrase it different ways. But I support this bill. I think it makes sense to make inquiry of the people with physical custody of the children and I've got no problem

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telling the court that they have to at least talk to them. My understanding is that often the courts don't. And I would think most thoughtful judges would and hopefully they will try. But this will at least make sure they do. [LB457]

SENATOR HANSEN: Thank you, Senator White. I just want to make it clear where this bill came from. Last year, a parent came to me and said we're scared to death for a child that we have in our custody. I went to my office and started researching. I've been down here off and on for 30 years but never in a judicial case, never in a foster parent case. But I knew how to work the Internet a little bit. I looked in there. I'd never met Senator Friend before I was sworn in. I was looking forward to seeing him because he was the one that introduced the bill last year as LB770. My wife works with preschool handicapped children from birth to three years of age. She knew this family. She knew that family was frightened for the welfare of that child. Senator Chambers keeps bringing up, the judge shall ask, the judge shall answer, the judge shall do a variety of things. I don't...to be very honest, Mr. President, I don't really give a rat's rear what the judge has to do to protect that child. That child is why those people are in court and the judge should be a part of that system. He runs that court. Those are the people in the court that he needs to ask the questions. And if we have to go to "shall," I think that it's a significant change but I think it's a part of the change that we're going to have to do. This would not have been my priority bill. But when I came down to the Legislature, I was pretty much assigned by the 3rd District caucus to the HHS Committee. Within a week, I knew that foster care was in trouble. The foster care program, the whole system needed help. I don't know if it's broken, but it's certainly cracked. It needs help. Pankonin, Gay, and I talked, you know, we want to look into HHS, just like several others of you vented a few weeks ago. We're going to do it, hopefully, from the inside out. That's why it's my foster bill. When I hired my staff, one of the first things after I got that committee assignment, I asked my LA, I said let's look up LB770 from last year and see if we can't change the word "may" to "shall." Barb looked at me and said that's a big change. I said, well, it needs to be a big change. Thank you. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Friend. [LB457]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature again. Senator Hansen did a good job, I think, of, I think, going through the origin and talking about from his standpoint. And I wanted to step back. Sometimes I get a little carried away and a lot of it is because I don't listen sometimes the way I should. I know. I know. Yeah, I know you don't believe that, but it's true. But let me step back and go through that chronology that I promised again real quick. I brought language in the form of a bill, LB770. And this is important for a reason and I'll get to it. I brought language in the form of LB770 that, more or less, had that "shall," or the mandated language, in there for a judge. We went through the public hearing, we did all the appropriate things. The Judiciary Committee, we got into an Executive Session. Senator Chambers and others raised concerns and said here is, more than likely, the way this language should look.

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And I said thank you, I think we can get across the finish line with this, I think it's a step, at least, in the right direction. So the "may" language, the "may" language...or I agreed to the language that incorporated "may" instead of "shall" in there. But I guess the thing that I'm a little troubled with, and this is part of the chronology, it's hard for me to stand here right now and say, boy, I sure, you know, I'm worried about LB457 (laugh) because LB457 is no different than what I tried to do. I'm going to vote for this bill. But I just wanted to let you know I had mixed feelings about it. And look, it's certainly not to poke a stick into anybody's eye that feels like there were decisions made last year and agreements made and that we're going back on any of those things. That's not the point. It would be difficult for me to step back and say which language that I believed in and cared about and then turn around and say, well, but it's Senator Hansen carrying it this time and he's, you know, doing something different than what I agreed to. Well, you know, all bets are off. I like the language and, you know, I guess I like what it would do. I think there's an important thing here that we aren't...or there's an important distinction between this language and what the changes are doing and what the real problem is, though, and the real problem is standing or no standing. That's the problem for a lot of foster caregivers or some guardians. They're stepping back and they're saying, we don't have any standing. Well, none of this, none of what we're doing--the "shall," the "may," anything--it's still not going to give them standing because here's what the language says, right before the new language that Senator Hansen is trying to put in: "Notice to the foster parent, preadoptive parent, or relative providing care shall not be construed to require that such foster parent, preadoptive parent, or relative is a necessary party to the review." They're not parties to the review and we're not changing that language here. We're not doing that. So it doesn't matter whether you say "shall" or "may"; these people do not have party to the review. That's a problem. Because the background that somebody described earlier, the background to all of this for all of us as state senators as we hear these problems, HHS... [LB457]

PRESIDENT SHEEHY: One minute. [LB457]

SENATOR FRIEND: ...is showing up...thank you, Mr. President...HHS is showing up once a month or twice a month--I don't know, but I've heard the stories; they vary--guardian ad litem: I've never seen the kid. It's happened. I've heard it, so have you. The foster caregiver or the guardian, where the child resides, is the only one that has any knowledge, real knowledge, about the status of this kid. When did the kid start walking? When was the kid potty trained? When did the child, you know, say his or her first word? Do you think HHS...you think the frontline personnel for HHS knows that? The foster caregiver does. Now we're not getting there with this bill because, I just read you the language, they're not party to the review. The judge is going to look at this language and say, I shall ask them a question, they'll walk out of that room and I'm free to do whatever I want or whatever HHS tells me to do... [LB457]

PRESIDENT SHEEHY: Time, Senator. [LB457]

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SENATOR FRIEND: Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Senator Nantkes. [LB457]

SENATOR NANTKES: Thank you, Mr. President, members of the Legislature. Again, I rise in support of the bracket motion and in opposition to the amendment and underlying bill. I couldn't agree more with Senator Howard in her previous comments, including some of the underlying issues that I have mentioned before that are related to caseload size that frontline workers in Health and Human Services have to contend with. I also agree with Senator Flood and Senator Hansen in many regards, that the vast majority of foster parents are truly good-intentioned, generous souls who are doing really God's work and putting their home and their hearts on the line to help vulnerable children within our state. However, I do believe that whether or not they're moving into an adoptive situation or just have the intent to remain as foster parents, there still is created a conflict of interest about the testimony that they may or may not provide at the review hearing. And Senator Lathrop brought up the point, I thought very admirably, about these are six-month review hearings, these aren't a court of law, these aren't a trial. And I couldn't agree more with him and I thank him for that clarification. However, issues that are brought up at these six-month review hearings are then used in...as information and evidence in later proceedings that may concern placement or termination or adoptive proceedings. And so I think that we have to be very careful about what type of information we allow in at various levels of the proceeding. Senator Friend spoke passionately about the good work that foster parents do and the information that they could potentially provide about when children may or may not have took their first steps, you know, how they're operating on a daily basis. And overall, I appreciate the descriptive terms he used there, but I find those aspects to be essentially irrelevant to the overall placement review issues to be discussed at these six-month hearings. For these reasons, I still have some problems with the underlying issues in the bill. I think the statute written as is does take into account foster parents' viewpoints if the judge finds within his discretion that those viewpoints are appropriate to making a decision about placement based on the best interests of the child. With that, I yield the balance of my time back to the Chair. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Senator Flood, followed by Senator Chambers, Senator Howard, and others. Senator Flood. [LB457]

SPEAKER FLOOD: Thank you, Mr. President, members. I've got to correct the record from an earlier statement I made regarding demand for notice. There isn't such a procedure where you can file a demand for notice where I think one would be helpful. But if you look at the actual green copy of the bill, it outlines who does receive notice under the current statute in Section 43-1314. I guess I'm interested in finding a way we can get at the problem. And the problem, as I see it, is how do we alert the judge to a

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foster parent that has something to say? How do we make sure the judge finds out that this foster parent has some issues that maybe need to be discussed if it's not already in the report or in the Foster Care Review Board's report or the HHS report or in somebody else's testimony? And one of the ideas that we just talked about was the court shall send a questionnaire, and a questionnaire that would be developed by each individual juvenile court judge, to the in-home care provider, whether it be the foster parent, regular parent, you know, whoever it is, relative. As soon as they essentially know a court hearing has been scheduled, the questionnaire goes out and then that questionnaire has to be returned to the court within a certain amount of time. And then it's up to the foster parent to show up and be present. If it's that important to the foster parent, they sit their backside in the seat in the courtroom and they wait for the judge to ask questions if the judge thinks that's appropriate. That's the judge receiving evidence that they want to understand and receive in a juvenile court proceeding without making someone a party or giving somebody standing in court. That's a different way around it. Basically you've got a questionnaire, the questionnaire is filled out by the foster parent, foster parent writes in there what the issues are. Then it's up to the judge: Do we need to explore this, do we need to ask questions? And I think a questionnaire wouldn't be part of the record. It wouldn't. You know, I can see problems on one end with it because you're receiving...the court is receiving information, but it's not evidence. It's kind of a heads-up as to what's going on at home. Maybe that's an idea. I would give the balance of my time to Senator Chambers. As Senator Hansen talks about this, maybe he can react to the idea of the questionnaire. [LB457]

PRESIDENT SHEEHY: Senator Chambers, you have about 2 minutes, 30 seconds. [LB457]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Speaker Flood. Whenever we're on the floor and we're dealing with an issue that becomes contentious, ideas will be suggested that may give us a way around what seems to be an impasse. So I would not look for Senator Flood or Senator Hansen at this moment to come up with an amendment that would incorporate what Senator Flood is suggesting. That very well may be a way around it. But the problem, if there is one, would develop when we try to formulate the precise language to express the idea. So I think it does have merit because you're making available to the judge information that these different individuals may feel that the judge ought to have but which are not at that point available. Here's what I'm going to say, and I don't think anybody can contradict it. When I see something that a judge has done or said that is inappropriate, I don't just grump about it. I file complaints. If people want to come to my office, I'll show them documentation where I got judges disciplined, from being removed from the bench, to being publicly reprimanded, to being suspended for up to six months. That's my record. But I have never characterized the judiciary as a branch on the basis of what some of these rogue judges had done. And whenever an attempt is made... [LB457]

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PRESIDENT SHEEHY: One minute. [LB457]

SENATOR CHAMBERS: ...that I perceive to be aimed at diminishing or crippling the ability of the judiciary to function as it should, meaning independently, then I will fight against that being done. That's why, because I believe discretion is an intrinsic part of being a judge, I do not want the Legislature to take away that discretion, especially when we're dealing with an issue such as this. Since my time is probably up, I'll say thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Chambers, you're recognized on your time. [LB457]

SENATOR CHAMBERS: Thank you, Mr. President. Now I'm going to give the judges in the abstract their due. Whenever you do this, somebody can immediately think of some judge whose conduct does not entitle him or her to be in the description that I will give. I'm going to presume that judges conducting these hearings recognize the gravity of the situation, will understand the complexity of the issues and how heartrending, for those people who have hearts, a decision either way can be for somebody. Because some biological parent may lose his or her child to a stranger; or where people who had been preadoptive parents, they thought they were going to adopt, or foster parents are going to be told, no, this child is going to be taken out of your custody and restored to this biological parent or family member because that's what's in the best interests of the child. Somebody is going to be elated; somebody is going to be depressed--the agony and the ecstasy. I'm going to presume that these judges understand all of those things, some to a greater extent than others. If a judge is aware of a person with information that is helpful in arriving at a just and proper decision, I presume that the judge would seek that information. The question I would pose is this: How does it benefit the judge to not accept information readily at hand? If we believe that judges should be the ones to conduct these hearings and the statute says that they are, we should not remove from the panoply of tools that the judge has the most important one, which is discretion. If you're going to take away discretion, you don't need a judge. Hard cases make bad law. That's the first thing they tell you in law school, or one of the first things, at least (laugh) in the law school I went to. And I've read that they say that in the first year to law students. A hard case is one of those which is out of the ordinary, which is unusual, which may be sui generis, or one of a kind; a rara avis, a rare bird. To change all of the law because of a bad case is a mistake. To say that because a judge behaved badly, and some do, is not to say that even that judge behaves badly all the time. But if that judge does, then the same way that a dentist feels that a tooth is beyond saving, the tooth is extracted so that the health of the body will not be compromised. You remove that bad judge. But to say because a judge in a specific case behaved not only badly but extremely badly, therefore, we're going to say that every judge in every court where any hearing of this kind is conducted shall do it this way. Why? Because judge Y--as a letter designating the judge--judge Y did not conduct this hearing... [LB457]

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PRESIDENT SHEEHY: One minute. [LB457]

SENATOR CHAMBERS: ...as he or she ought to have. When judges make errors at the trial court level, the Supreme Court does not say that judge will never handle another case, that we will never allow this judge to participate in this kind of case. If the judge did such a bad thing, the decision of the judge will be reversed and a matter is over. The court can remand it or send it back to the same judge who made the error and just remand it for further proceedings. Or the judge can remand it with directions, in which case the Supreme Court or the appellate court will say this is the way this particular matter should have been resolved so you take it back and you do it in accord with what we've told you to do. But that's not changing the whole system. You're dealing with a specific issue, the judge and that problem, and resolving it through the system as it exists. I don't want to change... [LB457]

PRESIDENT SHEEHY: Time, Senator. [LB457]

SENATOR CHAMBERS: ...the entire system. Thank you, Mr. President. [LB457]

PRESIDENT SHEEHY: Thank you. Senator Chambers, that was your third time. (Visitors introduced.) Senator Howard, followed by Senator Lathrop and others. Senator Howard. [LB457]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I, in fact, would like to change much of Health and Human Services, Senator Chambers. (Laugh) I would think that would be an interesting project for us all to engage in. There are a number of things about this bill that I think we certainly need to look at. Senator Chambers has brought the most pertinent to light. There is another confusing section in this that Senator Flood brought up. In the beginning of this bill, initially there is a requirement that the court will send notice by mail or other means to the foster parent of the court hearing. And yet, and yet toward the end of the bill there is an indication that the foster parent has no standing in the court proceeding, which I would interpret as being very contradictory and sending quite a mixed message to that individual. Another one of our senators, I forget who it was that brought up, possibly Senator Flood, brought up the incident of the day-to-day developmental achievements of the child, the infant he was referring to, first steps, toilet training, that sort of thing. I would suggest to you that many of these children who are in foster care are in day care, where they spend the majority of their days. The day-care attendant could be, possibly would be, the individual that would see those first steps, would know when that potty training was accomplished. Consider the day care's individuals' input in the court hearing. The reason I bring this up is because the case manager is the trained professional who has the responsibility, who has a responsibility for the Department of Health and Human Services to provide that information to the court, to gather all pertinent information from

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whatever source, be it the school, the teacher, the day-care provider, the doctor, the psychiatrist, the psychologist, the foster parent, whomever is involved in that child's care, whoever has pertinent, relevant information to contribute to the picture of how that child is doing and what that child's needs are. Foster parents are given a tough job. As I mentioned earlier, they really are given a big role to play. The department doesn't consider them employees. The department doesn't issue a W-2 at the end of the year to them. No, the department pays them according to a checkoff list sheet that's based on the needs of the child. That leaves them out there in kind of a quasi-role of affectionate nonrelative and yet someone that really does have the day-to-day responsibility of addressing school needs, medical needs, transporting that child, seeing that that child is taking his meds correctly, all of those things that any one of us would do for our children. And yet, and yet that foster parent forms the attachment to the child and is required to let that child go if that's the decision for permanency for that child. It's tough, it's tough, and I've talked to, counseled many foster parents who were placed in a very hard emotional role. And my heart goes out to them and I thank them for doing that job and I thank them for being able to love someone that they may quite possibly have to let go. What bothers me the most about this bill and about the information that was provided to us was that Health and Human Services was never present at this hearing, never provided testimony, never spoke either pro or against this bill. This is an issue they should have been attentive to, they should have been responsive to. They should have provided information to the Judiciary Committee to help them process this tough issue. It's much harder than it seems and Health and Human Services, in my opinion, dropped the ball on providing information. The matter of reports, could the court request a monthly or an... [LB457]

PRESIDENT SHEEHY: One minute. [LB457]

SENATOR HOWARD: ...updated...thank you, sir...a report from the foster parents? Yes, they could. As a matter of fact, right now there is a requirement of foster parents to provide the department a monthly report. That really isn't done that often, but that is a requirement and that report should be in the ongoing record for the child. So if the court would choose to do that, and I would certainly suggest that mechanism be in the court rather than placed with social services, the case manager has enough to do already. I think there are some answers to this. I think we need to continue working on the matter. And I thank you all for your attention to this. I am very grateful. Thank you. [LB457]

PRESIDENT SHEEHY: Thank you, Senator Howard. Mr. Clerk, do you have reports, announcements on your desk? [LB457]

ASSISTANT CLERK: Mr. President, I do. New A bill. (Read LB426A by title for the first time.) Your Committee on Enrollment and Review reports LB395 as correctly engrossed. Committee on Appropriations, whose Chairperson is Senator Heidemann, reports LB33 to General File with committee amendments. I have an amendment to

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LB701 from Senator Louden to be printed. Along with that, I have a notice of hearing on that amendment by the Natural Resources Committee on April 4. And your Committee on Business and Labor reports LB588 to General File with amendments. A series of name adds: Senator Dubas to LB564; Senator Cornett to LB565, as well as Senator Pankonin to LB565 and Senator Stuthman to LB565. (Legislative Journal pages 981-988.) [LB426A LB395 LB33 LB701 LB588 LB564 LB565]

Mr. President, I have a priority motion. Senator Flood would move to adjourn until Friday, March 30, 2007, 9:00 a.m. []

PRESIDENT SHEEHY: We do have a priority motion by Senator Flood to adjourn until Friday, March 30, 2007, at 9:00 a.m. All those in favor say aye. Opposed, nay. And we are adjourned. []