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Floor Debate
April 02, 2007

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LB523 LB565 LB570 LB578 LB622 LB627 LR6CA]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the fifty-sixth day of the One Hundredth Legislature, First Session. Our chaplain for today is Pastor Peggy Michael-Rush, from the First United Church of Gibbon, in Gibbon, Nebraska, guest of Senator Kruse. Would you all please rise.

PASTOR MICHAEL-RUSH: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Pastor Michael-Rush. I call to order the fifty-sixth day of the One Hundredth Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements on your desk?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB232, LB502, LB343, LB343A to Select File, some of those with Enrollment and Review amendments attached. Your Committee on Agriculture, chaired by Senator Erdman, reports LB435 to General File with committee amendments attached. That's all that I have at this time, Mr. President. (Legislative Journal pages 1025-1035.) [LB232 LB502 LB343 LB343A LB435]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We move to the first item under legislative confirmation reports.

CLERK: Mr. President, the Revenue Committee, chaired by Senator Janssen, reports on the appointment of Ruth A. Sorensen to the Tax Equalization and Review Commission. (Legislative Journal page 927.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Janssen, you're recognized to open on the confirmation report from the Revenue Committee.

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SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. The Revenue Committee held a confirmation hearing for Ruth Sorensen to become a member of the Tax Equalization and Review Commission on March 21. Ms. Sorensen received her undergraduate degree from Franklin Pierce College, with a major in accounting. She later received her law degree from the University of Nebraska. In addition, she has taken numerous specialized classes in banking operations and Federal Reserve regulations and procedures. She has been a practicing attorney for over ten years, include working as an attorney for the Department of Property Tax Assessment and Taxation, since 2003. With that, I would ask for your support for Ms. Sorensen's appointment. The committee did advance that 8-0, unanimously. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Janssen. You've heard the opening on the Revenue Committee confirmation report. The floor is now open for discussion. Anyone wishing to speak on this item? No requests to speak. Senator Janssen, you're recognized to close. Senator Janssen waives closing. The question before the body is, shall the legislative confirmation report from the Revenue Committee be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1035-1036.) 31 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

PRESIDENT SHEEHY: The confirmation report is adopted. (Visitor introduced.) Mr. Clerk, we'll move to the first item under Select File.

CLERK: Mr. President, LB328A, by Senator Synowiecki. I have no Enrollment and Review amendments. Senator Synowiecki would move to amend with AM894. (Legislative Journal page 1024.) [LB328A]

PRESIDENT SHEEHY: Senator Synowiecki, you're recognized to open on AM894. [LB328A]

SENATOR SYNOWIECKI: Good morning, members. Thank you, Mr. Lieutenant Governor. LB328A is the appropriations bill for LB328, a Retirement Committee bill that seeks to change provisions relating to county and state retirement plans. AM894 to LB328A changes the reference of the State Employees Retirement System Expense Fund and the County Employees Retirement System Expense Fund, to the State Employees Defined Contribution Retirement Expense Fund and the County Employees Defined Contribution Retirement Expense Fund. These funds are renamed in the underlying bill, and therefore, this amendment will change the A bill to simply reference the new names of these expense funds. I want to thank you for your consideration and support of the amendment to the A bill. Thank you. [LB328A]

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PRESIDENT SHEEHY: Thank you, Senator Synowiecki. You've heard the opening to AM894. The floor is open for discussion. Anyone wishing to speak on this item? Seeing none, Senator Synowiecki. Senator Synowiecki waives closing. The question before the body is, shall AM894 be adopted to LB328A? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB328A]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Synowiecki's amendment. [LB328A]

PRESIDENT SHEEHY: AM894 is adopted. Senator Synowiecki. [LB328A]

SENATOR SYNOWIECKI: Mr. Lieutenant Governor, I move the advancement of LB328A to E&R engrossing. [LB328A]

PRESIDENT SHEEHY: You've heard the motion to advance LB328A to E&R for engrossing. All those in favor say aye. Opposed, nay. Motion passes. First item under General File. [LB328A]

CLERK: Mr. President, LB218, offered by Senator Burling. (Read title.) The bill was introduced on January 9 of this year. At that time, it was referred to the Judiciary Committee. The bill was advanced to General File, Mr. President. [LB218]

PRESIDENT SHEEHY: Senator Burling, you're recognized to open on LB218. [LB218]

SENATOR BURLING: Thank you, Mr. President and members of the body. LB218 was introduced after consultation with the Governor and the Attorney General's Office. It was advanced out of committee on a vote of 8 to 0. And it harmonizes the Nebraska law with the federal law. In '05, this legislative body passed LB117. That imposed restrictions on purchases of pseudoephedrine-type products, which is necessary for the manufacture of meth. We had a lot of meth labs in the state, and this was intended to reduce meth labs. So LB117, according to our law enforcement officials, has greatly reduced the number of meth labs in the state of Nebraska. Subsequently, the Congress, in 2006, passed a federal pseudoephedrine law, which was different than the state law. And so some confusion arose between retailers and purchasers of this product on just exactly which law is effective. And in general, federal law supersedes state law. But it was decided that some clarification probably was in order. The three main components of the restriction to buy PSE products are the 30-day limit, the ID/logbook requirement, and the 24-hour maximum purchase limit. In the law that we passed in the Legislature, the 24-hour purchase limit was 1.44 grams per 24 hours. You had to show ID to the retailer. The product had to be put behind the counter or in a locked case or somewhere where it wasn't accessible to the public. And there was no 30-day limit in our state law. The federal law imposed a 9-gram 30-day limit, and it added a requirement to sign a logbook. Under state law, as I stated, we only required showing of an ID, but no

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signature on a logbook. And there was no 30-day limit in our state law. If you took the daily limit of 1.44 grams and multiply that by 30, you'd have about 43 grams limit, which is very, very liberal. So this bill is designed to put in place the 30-day limit, recognize the logbook requirement, which retailers are using now, and to raise the 24-hour purchase limit from our 1.4 grams, up to the federal 3.6 grams, so it harmonizes, so that retailers and consumers are aware of just exactly what the law is when it comes to purchasing those products. So that pretty much explains what LB218 does. Like I said, it has the support of the Attorney General and the Governor, and I've heard no opposition from law enforcement agencies around the state. And with that, I'll close. And I suppose the next thing would be the proposed amendment, Mr. President. [LB218]

PRESIDENT SHEEHY: Thank you, Senator Burling. You've heard the opening to LB218. Mr. Clerk, is there an amendment to this LB218? [LB218]

CLERK: Senator Burling would move to amend, Mr. President, with AM73. (Legislative Journal page 934.) [LB218]

PRESIDENT SHEEHY: Senator Burling, you're recognized to open on AM73. [LB218]

SENATOR BURLING: Thank you, Mr. President. The amendment I'm proposing here was presented to the committee. And as some things sometimes happen around here, it just didn't get addressed by the committee, and so I'm introducing it now as an amendment to this bill, LB218. On the copy I have, and what the amendment says, that on line 5 on page 3, scratch three words: to be allowed...or, be allowed to, I mean. Scratch "be allowed to." And instead of reading, no customer shall be allowed to purchase, receive, or acquire nine grams in a 30-day period, it shall read, no customer shall purchase. Scratch "be allowed to," and then it would read, no consumer shall purchase within...more than 9 grams within a 30-day period. The reason for this amendment is...it was brought to us by the state retailers, that the retailer cannot be required to track and be responsible for not allowing a person to purchase more than the limit. So rather than place the burden on the retailer, it places the burden on the consumer to not purchase more than the required amount. So that's what this amendment would do. I ask for your adoption and would be willing to try to answer any questions. [LB218]

PRESIDENT SHEEHY: Thank you, Senator Burling. You've heard the opening to AM73. The floor is now open for discussion. Anyone wishing to speak on this item? Seeing none, Senator Burling, you're recognized to close on AM73. He waives closing. The question before the body is, shall AM73 be adopted to LB218? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB218]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Burling's amendment. [LB218]

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PRESIDENT SHEEHY: AM73 is adopted. [LB218]

CLERK: I have nothing further on the bill, Mr. President. [LB218]

PRESIDENT SHEEHY: Further discussion on LB218? Seeing none, Senator Burling, you're recognized to close on LB218. [LB218]

SENATOR BURLING: Thank you, Mr. President, members of the body. Appreciate your consideration of this. Like I say, it harmonizes our state law with the federal law, and so people would understand this exactly, without any confusion, what the law says when it comes to purchasing this product. And I just thank you and ask you for your help in advancing it. [LB218]

PRESIDENT SHEEHY: Thank you, Senator Burling. You've heard the closing. The question before the body is, shall LB218 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB218]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB218. [LB218]

PRESIDENT SHEEHY: LB218 does advance. Next item under General File. [LB218]

CLERK: LB236, Mr. President, is a bill by Senator Johnson. (Read title.) The bill was introduced on January 10 of this year, at that time referred to Health and Human Services for public hearing. The bill was advanced to General File. There are committee amendments, Mr. President. (AM670, Legislative Journal page 858.) [LB236]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Johnson, you're recognized to open on LB236. [LB236]

SENATOR JOHNSON: Lieutenant Governor and members of the Legislature, First of all, let me thank Senator Nelson for designating LB236 as his senator's priority bill. This bill was first...it was first heard and advanced by the Health and Human Services Committee with 6 positive votes and 1 person not voting. There were four proponents to this bill, and, interestingly enough, four opponents, with the Department of Health and Human Services testifying in a neutral capacity. Here's something that is very important to remember. The opposition expressed concerns about the applicability--it's Monday morning--of LB236 to designated care aides and other types of organizations that match workers with persons who need in-home services. There was an amendment actually presented at the time of the hearing, and it was expressed by, I believe, all four of the opponents that this took care of their concerns. A draft amendment to address these oppositions was presented at this public hearing. The draft amendment has been revised to address additional concerns of opponents, and is part of the committee

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amendments. Here's what we're trying to do. In my opinion, this legislation has the potential to result in savings of a very significant amount in the budget of the state of Nebraska. In 2006, Medicaid spent \$296 million for nursing facility care. If we save just 1 percent, it would be more than \$2.5 million. This is a complicated area of healthcare and healthcare services. Here's what we're trying to do. We're trying to allow in-home personal services agencies to provide these in-home services that do not entail medical or nursing judgment. Such an agency will not be required to be licensed as a home health agency if it follows the requirements of this bill. Such an agency will be exempt from the Medication Aide Act if its workers only provide reminders to take their medication, such as to tell the person, remember to take your pills now with your noon meals; or other assist clients in the delivery of nontherapeutic topical applications. Such an agency is accountable to comply with standards established by this act and is legally liable for the acts of these in-home service workers. No harm to the public has been shown that would justify the formal licensing of things such as maid services, homemaker services, or designated care aide services. Over the past decade, services for seniors in the in-home care have proliferated. There are companies, such as Home Instead, Comfort Keepers, Guardian Angels, and these agencies have grown to provide services for the elderly in their homes. These services are not medical, but they do include such things as companionship, perhaps even playing cards or reading books, preparing meals, transportation to their church or doctor, light housekeeping, personal services such as bathing, dressing, and grooming. The goal of these services is to allow a senior who needs a minimal level of assistance or companionship to remain independent, or to give a family member a needed break. It came to my attention that the Department of Health and Human Services had taken the position that if certain services are given in the home, even if those services do not require the use of medical or nursing judgment, the home health statutes and regulations apply. Even touching the person was the essential...was thought to come under the statutes of nursing care. These home health regulations require extensive nursing and medical supervision that cost a very significant amount to these seniors. What we are trying to do here with LB236 is to make it clear that the statutory requirements of home health, set forth in Section 71-6601 through 71-6612, relating to home health services, do not apply to specific in-home services if the in-home services do not require the use of medical or nursing judgment. LB236 relates only to in-home personal service workers and in-home personal care service agencies. The bill permits in-home personal care agencies to employ only persons who are qualified to render these in-home personal services. In-home personal service agency is required to perform or cause to be performed criminal history record information checks, driver's record checks of each of these in-home personal service workers, and to maintain documentation of these records. The bill amends the Medication Aide Act to provide that the act does not apply to in-home personal service workers directing or providing reminders to clients to administer...to self-administer medications, or assisting clients in their application of the nontherapeutic topical ointments. With that, sir, I would conclude my opening on LB236. [LB236]

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PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the opening to LB236. (Visitors introduced.) We will now move to the committee amendment, AM670. Senator Johnson, you're recognized to open. [LB236]

SENATOR JOHNSON: Thank you, Mr. Lieutenant Governor. This amendment is...addresses the concerns of the four opposition people that testified at the committee. And...so let me go through what this talks about. Basically, this committee amendment, AM670, replaces the bill in order to address these concerns. The amendment makes technical changes to the bill, but it does retain the original substantive content. The amendment removes the word "care" so that there is no question about nursing care. The amendment removes the word "care" from the bill to avoid this confusion with the definition of the word in other related statutes, and makes it clear that these services are not, are not medical in nature. It removes the word "exercise" from the definition to "attendant services," and removes the duplicative reference to medication reminders. The amendment clarifies that the home health agency may be an in-home personal service agency for the purposes of the bill, and that the bill does not include programs supported by the federal Corporation for National and Community Services, the so-called AmeriCorps. The amendment revises the section relating to qualifications for in-home personal service workers. It adds the Medication Aide Registry, the Nurse Aide Registry, and the Nebraska State Patrol Sex Offender Registry to the list of registries that must be checked to ensure that the in-home workers are trustworthy. The amendment also requires that an in-home personal services worker have training sufficient to provide the services requisite to the level of the personal services offered. A check of the driving record for this in-home personal service worker would be required only if they provide transportation. Now, here's kind of the main concerns expressed by the opposition. The amendment clarifies that the provisions relating to in-home personal service workers do not apply to the performance of health maintenance activities by designated care aides under 71-1,132.30, and does not apply to persons who provide personal assistance services, respite care, or habitation services, or aged and disabled services. Section 71-1 (sic) allows mentally competent adults to self-direct in-home personal care services that otherwise would be regulated under the Nurse Practice Act. Let me explain. There is a grand gentleman who comes to testify with some regularity on issues before the Health and Human Services Committee. His name is Tim Kolb. Whereas he has many disabilities, he is a very bright fellow. A number of years ago, this gentleman, who is confined to a wheelchair, lobbied the Legislature for the ability to be treated, in his home, by a care aide of his choosing. The Legislature said yes, and the Tim Kolb exception to the Nurse Practice Act was enacted. The exemption allows any individual to provide any level of care to disabled persons in their homes without HHSS licensure or regulation. The committee amendment makes it clear that the bill does not prohibit or does not apply to the performance of these so-called Tim Kolb services. This provision of the law allows disabled persons to remain in their homes and avoid being placed in 24-hour facilities. By clarifying this in LB236, that it does not apply to such self-directed services, the fiscal note, which you will note is substantial, disappears. So

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there is essentially no fiscal note that remains. Mr. Lieutenant Governor, this completes the amendments, AM670. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the opening to AM670. We do have amendments filed. Mr. Clerk. [LB236]

CLERK: Mr. President. Senator Johnson, the first amendment I had from you is AM807 as an amendment to the committee amendments, but I had a note, Senator, you wish to withdraw AM807? [LB236]

SENATOR JOHNSON: That is correct. [LB236]

PRESIDENT SHEEHY: AM807 is withdrawn. [LB236]

CLERK: Senator Johnson would move to amend the committee amendments with AM848, Mr. President. (Legislative Journal page 1014.) [LB236]

PRESIDENT SHEEHY: Senator Johnson, you're recognized to open on AM848. This is an amendment to the committee amendment. [LB236]

SENATOR JOHNSON: Yes. And Mr. Lieutenant Governor and members of the body, this is a short amendment, you'll be happy to hear. AM848 is basically a technical amendment. It does the following things. It changes the section of law being used to exempt in-home personal service agencies from having to be licensed as a home health agency. The committee amendment and the green copy of the bill used a section of law in the statutes relating to home health aides. AM848 instead uses a section in the Health Care Facilities Licensure Act to provide for that exemption. This change has been reviewed and approved by the Health and Human Services System. The amendment uses more appropriate language to describe what the bill originally described as nurse aide registries. These are more accurately described as an unlicensed home care registry or similar entity that screens and schedules independent contractors as caregivers. Healthcare registries would be exempt from the provisions of this bill. What we have attempted to do here...and I'm sorry to go through this in such a circuitous route. I was reminded a little bit of an old song, "There's a Long, Long Trail A-Winding." But hopefully now we can get down to what we're trying to do, and what that is, is this, is that there are many people that want to stay in their home and require a low level of care that they themselves will pay for, and, in so doing, will...by making these services available and not having them be expensive nursing services, they will be able to stay in their own homes longer, and out of 24-hour-a-day nursing homes and this level of care. It is our hope that this will be the best of two worlds, where the people will be able to take care of themselves at home, stay where they want to, and at the same time stay out of these expensive facilities where the bill then is passed on to the taxpayers of Nebraska, last year, to the tune of \$296 million. With that, thank you.

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[LB236]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the opening to AM848, amendment to the committee amendment. Senator Aguilar, followed by Senator Pirsch. Senator Aguilar. [LB236]

SENATOR AGUILAR: Thank you, Mr. President, members. I rise in support of the amendment, as well as the underlying legislation. But I'd be remiss if I didn't take this opportunity to provide additional information in this arena. Census Bureau tells us Nebraska population numbers, 13 percent is age 65 and over. Three percent of our population of disabled persons need in-home care. Sixty-six percent of Medicaid spending goes to aged, blind, and disabled. Health and Human Service 2004 average cost per day of a nursing facility is \$78; assisted living, \$44; in-home care, \$31. National average rate of nursing facility case for...per 100 people, 65; for Nebraska, is 5.8 percent. In 2004, our ranking was sixth highest nursing facility usage of all 50 states, according to the AARP Policy Institute. In 2006, the ranking was fourth highest. We went in the wrong direction. Other states are doing better than we are at diverting people from nursing homes and keeping them home, where they want to be and where they are able to maintain their social ties and their health. If the Nebraska nursing home population were equal to the national average, we'd be saving \$89,000 a day in state Medicaid. That's \$30 million a year. HHS has taken some steps. They've increased the number of facilities for assisted living. Health and Human Services has plans to increase home- and community-based waiver slots. So why are we still number four in the United States for nursing home usage? It's largely a workforce issue. Workers are considered independent contractors who pay their own taxes and expenses. When paid \$6 to \$8 an hour, they aren't even making a living wage, often less than minimum wage. Just recently, because of an IRS ruling, Health and Human Services has begun to take social security taxes out of their wages. Could this be part of the reason why we haven't been able to divert more residents from nursing facilities? Then when independent contractors aren't available, Health and Human Services contracts with agencies that charge in the range of \$12 to \$20 an hour to cover agency fees and the worker's wage. I have been working with home care providers and aged and disabled consumers. They tell me that many people who want to do this work simply can't afford to. They can make more money in a fast-food restaurant. Consumers and workers alike are asking for rudimentary training and assistance on issues they face daily. The Alzheimer's Association has information that tells us that in the beginning stages of Alzheimer's, staying in their home is very important to the health of this patient. In-home care is a key to the health maintenance. In LB523, that our Health Committee killed, I suggested that for a very small investment in a quality home care council or a similar entity, we can save the state a great deal of money. Today and in the near future, while increasing the availability and quality of home care workers, these quality home care councils have proven their effectiveness in other states. In the hearing of LB523, many consumers, workers, and advocacy organizations supported this concept, and the legitimate

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concerns voiced were fairly easily dealt with. From the experience of other states' quality home care councils, we know that the investment needed would be somewhere near \$500,000 to start up such an entity, and \$300,000 a year to maintain this entity. Yet, at the hearing, the Department of Health and Human Service added unimaginable costs to this fiscal estimate, to the tune of \$44 million. The fiscal note from the Fiscal Office reduced that amount to \$8 million, with \$7.5 million of it being a wage increase of 19 percent that the bill didn't even ask for. Do these workers need a wage increase? Yes, they do. But this bill did not directly increase wages. [LB236 LB523]

PRESIDENT SHEEHY: One minute. [LB236]

SENATOR AGUILAR: On the other end of this fiscal wrangling, the department made no effort to estimate the cost savings that are clearly possible. In my opinion, this was, at best, uncooperative and unprofessional. Why did they expect an increase in wages? Two words included in the bill: collective bargaining. But did they also read past that to see that the bill and the amendment drafted also prohibited these workers from work slowdowns, stoppages, and, heaven forbid, strikes? That would be totally counter to the goal of providing consistent quality care. People who do home care are usually very good at taking care of others. They are not great at taking care of themselves. These workers need a way to interact, to connect, and to act as a group. For instance, in other states, they have been able to access group health insurance, training, and counseling through the group process. If anyone can create a way to make this happen in another form, I ask them to show it to me. This form of operation has been very beneficial to the bottom line of other states. Michigan is estimating a savings of \$267 million over the next six years. Senator Johnson's bill... [LB236]

PRESIDENT SHEEHY: Time, Senator. [LB236]

SENATOR AGUILAR: Thank you. [LB236]

PRESIDENT SHEEHY: Senator Pirsch, followed by Senator Gay, Senator Stuthman, Senator Fulton, and others. Senator Pirsch. [LB236]

SENATOR PIRSCH: Mr. President, members of the body, I would ask if Senator Johnson would yield to a question or two. [LB236]

PRESIDENT SHEEHY: Senator Johnson, would you yield? [LB236]

SENATOR JOHNSON: Yes. [LB236]

SENATOR PIRSCH: Thank you, Senator Johnson. First question, I just wanted to ask you, having chaired the committee, in your opinion, does this bill safeguard, make sure that the individuals being served are, at the time that they're being serviced, are kept

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safe? [LB236]

SENATOR JOHNSON: Well, I think this...and you're absolutely right, this is a very important concern. Right now, even if a person invites their neighbor to come in and give them this care and compensates it for them, they really know nothing...or at least perhaps don't know anything about that neighbor that might do it. What this does is, there are companies out there who would take this upon themselves, in a sense, guarantee the quality of the person who is providing the care, and they would be the responsible person if there was fraud or some sort of abuse or something like that, that then the person being served, or his family, would have some recourse. [LB236]

SENATOR PIRSCH: Thank you for that answer. The second question I had, and perhaps you had alluded to it, the initial individuals or companies that come forward and testified in opposition to the bill, with these amendments, now they are placated? Is that correct? [LB236]

SENATOR JOHNSON: Yes, that is true. And most of the concern was about the Tim Kolb amendment, and I think every one of them, if you looked in their testimony, would say that the amendment satisfied their concerns. So I think that part is...and here's one other thing, is that the...we have a shortage of nurses in Nebraska. So if we call this nursing care and require a lot of nursing oversight and so on, then it will accentuate our nursing shortage. Nurses opt to be nurses, not be in this home care business that does not require their level of care. [LB236]

SENATOR PIRSCH: And the bill makes clear that these workers would not engage in those type of activities that have traditionally been healthcare? [LB236]

SENATOR JOHNSON: Yes. [LB236]

SENATOR PIRSCH: Okay. Great. Well, I just wanted to thank you, Senator Johnson, for your great leadership on an issue I don't know that we fully appreciate the magnitude of. Obviously, our spending in Medicaid is over \$1.4 billion every year. This is an extremely large deal for the state of Nebraska. We are at a point with double-digit growth in spending in Medicaid, to the extent that just two spending items, TEEOSA, state aid to education, as well as Medicaid, are set to, if projects are somewhat close to past levels of performance, they're going to be consuming every dollar of the general budget in short...in the not too distant future. And so this is a very important measure to take, the two largest spending... [LB236]

PRESIDENT SHEEHY: One minute. [LB236]

SENATOR PIRSCH: ...the largest drivers of cost to Medicaid being long-term healthcare and prescription drugs. And so any substantive action we can take to make

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sure that our long-term healthcare costs are being addressed, as this one does, I think is very warranted. And so I would commend Senator Johnson for his leadership, and the members of his committee, as well. Thank you. I'll yield back my time. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Senator Gay. [LB236]

SENATOR GAY: Thank you, Mr. President. I would like to thank Senator Nelson for prioritizing this bill. It's very important to the state of Nebraska. Senator Johnson did a fine job explaining the amendments, which I think clarified and cleaned up a lot of the language to satisfy the parties. So I think this is very good legislation. One thing, when we talk about long-term care, maybe we should talk about long-term living, because long-term care does not always necessarily need to equal nursing home care. Older adults would prefer to age in their place of their home, where they're more comfortable and familiar. Senator Pirsch and Senator Aguilar mentioned the cost involved, so I won't dwell too much on that. But it is still something we need to pay attention to. Sixty-two percent of long-term care spending is provided under Medicaid; 42 percent of our total dollars; and 20 percent of the...62 percent of long-term care spending comes from Medicaid; 42 percent of that total is Medicare, and 20 percent is Medicaid. So it's very important we get a handle on this. Under the current system, the care being given to our elderly has been directed to this Medicaid model, which means, you know, you go...it's the first place they look, and it shouldn't be. I think we need to move toward a more individualized method, and provide a more consultive and person-centered approach to long-term care services. This does that by creating an in service...in-home services model that takes care of many little things, to us, but big things to somebody that's getting older and have to stay at home. So I believe this is also a win-win situation. For those of you who are interested in the total dollars being spent in Health and Human Services, if we don't get a handle on this spending, on long-term care, as Senator Pirsch alluded to, it will drive all our dollars. So we need to get a handle of this. If we can do this and get the savings that Senator Aguilar mentioned, this will create a lot of different options, I think, for us to redirect some of that money to youth and children and disabled. So there's a great need in other areas of Health and Human Services. This, of course, is probably a looming problem that we need to deal with. We're taking measures to provide for long-term care with some of the bills we're passing this year, I think, to get people to start thinking about what is their role that they're going to play in taking care of themselves as they age. And this would be very beneficial, because you could use your long-term care account to pay for these at-home-based services. And by doing that and allowing that person or individual to stay home longer, we're freeing up these beds, not having to pay for those costs. So I would urge your support on the amendments, and to the final bill. Thank you, Mr. President. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Stuthman. [LB236]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I

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truly support this bill, and I think it's the direction that we need to be taking. As we all know, that, you know, as we grow older, we become more creatures of habit, want to be in our own environment, want to stay around our own atmosphere, the places that we've been, probably, for many, many years. Just the thought of moving into a nursing home, you know, is very drastic to some individuals. And we're getting to the point now where a lot of individuals will be getting to that age when all they need is someone to check on them, someone to stop by, someone to help...somebody to help them with a little bit assistance, and sometimes just for company, and also just to know that, you know, at a certain time of a day, or time of a week, that an individual is going to be stopping by. That means a lot to these people. And I think we're going in the right direction. I think this is something that we need to do, and I truly support it. Thank you. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Fulton, followed by Senator Wallman, Senator Aguilar, Senator Harms, and others. Senator Fulton. [LB236]

SENATOR FULTON: Thank you, Mr. President. At the request of my esteemed deskmate, I would like to yield my time to Senator Aguilar. [LB236]

PRESIDENT SHEEHY: Senator Aguilar. [LB236]

SENATOR AGUILAR: Thank you, Mr. President and members. Senator Johnson's bill clarifies that certain agencies and their workers do not come under the home healthcare regulations because they provide personal services and don't require medical training. I support Senator Johnson's bill, and I definitely want the body to understand that it does not address the workforce issues, the sheer numbers of people needed to provide in-home services, the huge increase in demand for these services that will happen as the baby boomer generations reach 65 and over, the necessary stabilization of the workforce through training, recruitment, retention, and a decent wage, a statewide registry to connect consumers and care coordinators with home care providers. I ask you, what do you not understand about a daily savings of nearly \$90,000, while increasing the ability of our citizens to remain at home where they want to be? While the nursing facilities...will the nursing facilities be hurt by this? No, because when we address this issue, it will not happen overnight. The nursing facilities will still have residents. We've squeezed the nursing homes enough over the last decade. Even though Nebraska's Department of Health and Human Services have taken some small steps to address this issue, we have a huge problem coming if we don't do a much better job than we have in the last two years. We've gone the wrong direction. When the 65-and-over population grows by the estimated 75 percent in the next 20 years, we'd better be addressing this issue to the best of our ability, or the largest cost of the Medicaid budget will grow even larger. I intend to continue to press for better action on this issue. Thank you, Senator Johnson, for presenting me with this opportunity to share this information with the body. I support LB236 and encourage the body to do the same. I think LB236 is a great first step, but it is only, at best, a first step. We need to go much

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further. And I intend to take the lead on that next year, and I hope the body will do a little research and be prepared for this and help me advance the ideas that I have in my legislation. Thank you. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Aguilar. Senator Wallman. [LB236]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, think...wanted to thank Senator Johnson for this legislation. I have a daughter in Iowa who's involved in this business, and it's just snowballing. She's doing tremendously, and saving the government money, and also letting people stay in their own homes. And I think, as we get older and we see your parents die, or your aunts, they want to stay...I have aunts in my upper eighties, one is in her nineties, she still wants to stay at home. And you know, my wife and I check up on these people sometimes. We don't get paid. But if they were out of the area, it would sure be nice if they could have somebody just check in on them once in a while. And this legislation, like Senator Aguilar says, it's a start, and we have to start somewhere. We...nursing homes are almost like warehouses, and some of them are good, some of them are not. And I've been in both. And so when you find a nursing home that's not taking care of your loved one the way you would like, it hurts. They would be much better in their own home. So thank you, Senator Johnson, and I urge the body to support this legislation. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Harms. [LB236]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise to support this legislation. I wish we would have had LB236 when my mother and father went through the aging process. You know, it's very difficult to put them in an environment that you want them to be in. As they get older, they...as you've heard before, they want to stay home. And this is a good piece of legislation. I wonder if Senator Johnson would yield for a question. [LB236]

PRESIDENT SHEEHY: Senator Johnson, would you yield? [LB236]

SENATOR JOHNSON: Yes, sir. [LB236]

SENATOR HARMS: Senator Johnson, do you have any data or any research that shows how many people in Nebraska would qualify for LB236? [LB236]

SENATOR JOHNSON: No, sir, I do not. I really...the only thing that I think that I can say is this, is that the Medicaid is the most rapidly growing part of our government expense. It's almost double what everything else is, and you don't have to look more than 20 years down the line before you see it eating up everything else--K-12, higher education funding, etcetera. So this is a sincere attempt to make sure that our older people do get quality care at the lowest possible expense. [LB236]

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SENATOR HARMS: Thank you very much, Senator Johnson. I appreciate what you're doing here, and I think this will be a wonderful opportunity for our seniors as we all get a little bit older. So thank you very much for doing this. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Nelson, followed by Senator Wightman, Senator Erdman, and Senator Mines. Senator Nelson. [LB236]

SENATOR NELSON: Thank you, Mr. President, members of the body. This was my priority bill, but I just want to inform you that all the heavy workload was carried by Senator Johnson and the Health and Human Services Committee, and I thank them for that. In my private practice as an attorney, I have dealt with a lot of elderly persons, and I know how difficult it is sometimes to keep them in their home, and they very much want to stay in their home. And I think that LB236 will go a long ways to help, because it sets parameters and clarifies when in-home personal service providers...what they can do that do not require medical or nursing decisions. I don't want to be repetitive, but I do have a constituent who wrote to me. I'd like to just give you a couple of lines of what she said. Actually, this is Rosalie Yeaworth, who's a registered nurse and dean emeritus of the UNMC College of Nursing. And she spent 25 years caring for her husband, who had Alzheimer's. And she says, it's very important to older persons in need of support and services to be able to have some choice of where they can receive those services, and most people choose to remain in their own homes as long as possible. LB236 defines in-home personal care services which can be provided by persons with no nursing or medical education. There is a need for such services. And she goes on to tell how difficult it was for her to find people, and hope that they were proficient. She did interviews, got reference and driver's license checks. LB236 provides for an agency to do those background and driver's license checks, and to keep documentation. So I certainly rise in support of this bill. Thank you, Mr. President. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Wightman. [LB236]

SENATOR WIGHTMAN: Thank you, Mr. Lieutenant Governor, colleagues. I, too, rise in support of LB236. I also want to applaud and express my appreciation to Senator Johnson for bringing the bill, Senator Nelson for adopting it as his priority bill. Certainly, one of the big expenses, as many of the speakers have said, is the growing cost of Medicaid. It seems to me that through this bill, we have the vehicle to keep a lot of people in their home for some period of time, particularly those who have no family living in the area where they reside. Many times the family can provide this, as has been suggested previously. But so often, all of the children have moved away to some other state, or at least some other city far enough away that they certainly aren't going to see their parents on a daily basis. I know that it's been mentioned that Medicaid is one of the fastest growing...it's probably the fastest growing cost to American society, and anything we can do to slow down that growth I think has got to be applauded. I thought it might

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be a proper time, because I've been very strong on seeing what we can do about public employee health insurance, and it would be one of the few things that would rival Medicaid as far as the rapidity of the growth. My experience is, out in outstate Nebraska, that it costs about \$30,000 to keep a person a year in assisted living, probably \$50,000 to \$60,000 to keep them in a nursing home. We probably aren't going to keep a lot of them out of the nursing home, but we certainly can keep a lot of them out of assisted living. And some of my friends back home who own the assisted living establishments might not be particularly anxious, but...to see this pass, but I think it's something we have to look at. We have to be ever watchful of any legislation that we can consider that would slow the growth of Medicaid. And again, I think the people want to live in their homes. They will do anything they can and work with these people. And to have it regulated to the extent that Health and Human Services have perhaps regulated it in the past only adds to the cost. So again, I thank everyone concerned, and ask for your support of LB236. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Erdman. [LB236]

SENATOR ERDMAN: Question. [LB236]

PRESIDENT SHEEHY: I have a call for the question. Do I see five hands for demand of cease...the debate will cease? I do see five hands. The question before the body is, shall debate now cease on AM848? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB236]

CLERK: 32 ayes, 0 nays, Mr. President, on the motion to cease debate. [LB236]

PRESIDENT SHEEHY: Motion does pass. Senator Johnson, you're recognized to close on AM848, amendment to the committee amendment. [LB236]

SENATOR JOHNSON: Mr. President, members, let me just comment in a couple of places. First of all, I want to mention that Senator Fulton, who has some connection with these type of agencies, etcetera, we have not consulted with him at any time to compromise his integrity with this legislative body. Secondly, Senator Aguilar has raised some concerns, and there actually are two other bills, one that is Senator Aguilar's, and I forget who the other one is, but the Health and Human Services Committee is presently studying these other bills and other type of legislation, and we may well consider this to be an interim study topic. With that, I would ask that you vote in a positive way to keep our people at home, save money, and provide good and trustworthy care. Would you please advance the first amendment. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the closing. The question before the body is, shall AM848, the amendment to committee amendment, be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please

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record, Mr. Clerk. [LB236]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB236]

PRESIDENT SHEEHY: AM848 is adopted. (Visitors introduced.) We'll return to floor discussion on AM670. Senator Mines. Senator Mines waives. Anyone else wishing to speak on AM670? Seeing none, Senator Johnson, you're recognized to close on AM670. Senator Johnson waives closing. The question before the body is, shall AM670 be adopted to LB236? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB236]

CLERK: 38 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB236]

PRESIDENT SHEEHY: Committee amendment AM670 is adopted. The floor is now open for discussion on LB236. Senator Johnson, no one wishing to speak, you're recognized to close. [LB236]

SENATOR JOHNSON: Thank you, Mr. President. Again, I see no further reason, other than to thank all of the people who have contributed to the discussion this morning, and particularly Senator Nelson for making this his priority bill. With that, I would ask that you advance LB236. Thank you very much. [LB236]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the closing. The question before the body is, shall LB236 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB236]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB236. [LB236]

PRESIDENT SHEEHY: LB236 does advance. Next item under General File, Mr. Clerk. [LB236]

CLERK: LB461 by Senator Dubas. (Read title.) The bill was introduced on January 16 of this year, Mr. President, and referred to Health and Human Services Committee for public hearing. The bill was advanced to General File. There are committee amendments pending by the Health and Human Services Committee. (AM651, Legislative Journal page 872.) [LB461]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Dubas, you're recognized to open on LB461. [LB461]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor, members of the body. LB461

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creates a foster parents bill of rights. As you read in the green copy of the bill, this legislation was offered as a first step to lay a foundation that adequately opens communications between HHS and foster providers. Foster homes are meant to be a safe place for children whose lives are in the midst of confusion and chaos. Foster parents are meant to care for children, not to spend their time battling the system. I have heard from way too many foster parents who are defeated, and they will no longer battle this system to serve the children. And we've lost some very, very competent foster families. The complaints always come back to the lack of communication or lack of information. And the meat of this bill is intended to open those lines of communications. As you know, with the leadership of the Governor, we are making major organizational changes within HHS. And I have previously stated on the record that I appreciate the time and energy that has been invested into this new plan. My vision for the state of Nebraska is a reorganization plan that will address the issues at the heart of this matter--the children who are the individuals most vulnerable in our society. I do not want to just rename the government. I want accountability. I want an answer. And I want to know why I hear from foster parents on a regular basis who are continually battling the system. I want to know why a foster mother was not told that the new baby in her care should be given special medical treatment because the baby was removed from a meth house and the rash on that baby's behind were open sores due to meth exposure. I'm going to state for the record, and I will state this repeatedly until there is a systemic change in the state of Nebraska. In the case Carter v. Heineman, that was a wake-up call. And I repeat, that was a wake-up call. Carter v. Heineman was a 2005 class-action lawsuit which was filed against the current administration and the state of Nebraska on behalf of 6,000 foster children. It could have cost the state a lot of money and that potential is still there. I will touch on this lawsuit and the allegations filed against the state of Nebraska later during this debate. But I want to remind you that this lawsuit was dismissed on jurisdictional technicalities and because the state of Nebraska is in the midst of a serious reform. It was not, I repeat, it was not dismissed on its merits. It was strictly technical dismissal. This bill includes basic common-sense communication between the department and foster parents. There is nothing wrong with good communication. Eleven other states have passed similar legislation which also uses the word "right." Several of those states have also been in the midst of their own class-action lawsuits and serious reform. I do not want to cloud this debate. I do not believe that legally creating a right will give these foster parents anything more than they already have. You see, it was during the hearing that HHS told me everything in this bill is already in HHS rules and regulations. It's in their handbook and I have a copy of that handbook and it is true. I was absolutely appalled. I have shown the handbook to foster parents, counselors, and other members of the team who have all told me this isn't happening. These rules and regulations are not being followed. They were even surprised that these were rules. I am more than a little concerned. There's been some discussion about whether this is good policy, about whether this needs to be put in statute. And I'm very open to that discussion. This weekend I held a community meeting back in my district, and I talked about my foster parents bill of rights. And I had a

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constituent say, why are you, as a legislative body, having to take time, energy, and resources to talk about something that shouldn't even be an issue? Why are you having to force an agency to pull those rule books off the shelves, dust them off, and actually use the rules that are meant for them to do their job and to do their job well? And I really had a hard time answering her. Why is it that we have to compel an agency to follow their own rules and regulations? Why is it that we as a legislative body have to take the time to raise these questions and use the threat of statute to make them do their job? I'm hoping that this discussion is definitely going to raise the level of awareness on this agency's part and we are going to be able, through the reorganization plan, to get some remedy to this situation. This is a difficult matter to get at but I think this bill is a start. I encourage the Legislature to adopt the committee amendment and to advance this bill. And I thank the Health Committee and Senator Johnson for their work on this bill. We've done some research on the grievance process, which I would like to tell you was not an easy thing to find, even if you go to the Health and Human Services web site and try to find grievance procedures, grievance process for foster parents. It's simply not there. And if I as a senator have a hard time tracking down what the grievance process is, how would we expect foster parents to do the same? I was not happy with what I saw in the grievance process. It limits what foster parents can even file a grievance on. If...they have to go to their caseworker with their grievance and if that caseworker doesn't believe it has merit, you know, it doesn't move forward. They still have the right to take it to the director, but I don't think it's a very user-friendly process to help foster parents address some of their concerns and problems that they're dealing with. The case that was brought against the state of Nebraska encompasses a lot of different areas. I believe maybe I misspoke earlier on the name of the case and it's Carson, not Carter. But the things that they addressed through this lawsuit were the frequent moves among multiple and inappropriate placements. These children are moved just a ridiculous amount of time. You know, they might be in four, five, six different placements over the course of a year. Excessive stays in emergency shelters and other temporary facilities, the placement of infants and other very young foster children in emergency shelters and other temporary facilities, overcrowded foster homes. These foster families are oftentimes taking four, five, six children. You know, that's just not realistic for them to be able to do a good job or for the children. Maltreatment of foster children while they're in state custody. Too often these children brought into Nebraska foster care custody because of abuse or neglect at the hands of their own biological parents are continued to be abused under this system. And while I would never support or defend any adult, either biological or not, in abusing children, foster parents are often put in very precarious situations. They're not getting the tools and the information that they need to do a good job. [LB461]

PRESIDENT SHEEHY: One minute. [LB461]

SENATOR DUBAS: And I would say that could definitely lead towards the abuse of these children. Another point in the case was the overuse of institutional placements for

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children, excessive lengths of stay in state custody, a severe shortage of foster homes, high caseloads and turnover, poor monitoring of child safety, lack of basic health services for foster children, poor planning and services to quickly move children out of foster care and into permanent homes, grossly inadequate payments to foster care providers, and fiscal waste within the agency. I really hope that we can have a very healthy debate on this issue this morning, that we can raise the concerns that we have with the foster care system and with the way HHS is dealing with this. I think, while I said earlier this is a wake-up call for the Legislature, I think this is a wake-up call for the state of Nebraska and I really want this to be a wake-up call for HHS. [LB461]

PRESIDENT SHEEHY: Time, Senator. [LB461]

SENATOR DUBAS: Thank you very much. [LB461]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Mr. Clerk, first amendment. Senator Johnson, you're recognized to open on the committee amendment, AM651. [LB461]

SENATOR JOHNSON: Mr. President and members of the Legislature, first of all, Senator Dubas, thank you very much for bringing this bill to the Legislature. We need a very focused concern directed at foster care. The state of Nebraska has not done a good job in this regard and we must do better. With that, let me tell you what the committee amendment, AM651, does. It replaces the bill as introduced but retains many of the provisions of the original bill. The amendment requires the department to establish and implement policies and procedures for foster parents and permits the department to adopt and promulgate rules and regulations consistent with the Legislature's intent in this bill. The department is required to provide a copy of policies and procedures to each foster care licensee. The amendment clarifies that the provisions of the bill do not create a private right of action. Lawsuits may be initiated against the department now and they often are. The amendment replaces the word "rights" with "legislative intent." The committee was concerned about the use of the word "rights" in the original bill. The word "rights" has created some confusion, and there are misunderstandings and differences of opinion about the legal significance of using the word "rights." In this context, using the word "rights" may not be preferred and may create inaccurate expectations by members of the public. With that being said, however, I intend to discuss further with Senator Dubas and other members of this Chamber between General and Select File so that we may come to a common understanding. I believe that Senator Dubas supports advancing the bill with the committee amendment at this time. Again, let me say this is important legislation. I'm not so sure it isn't one of the most important things that the state of Nebraska must consider. Last week, I had the wonderful opportunity of hearing some graduates from our foster care situation. They were marvelous and inspiring. They succeeded, often in spite of their foster care regulations, not the parents that took care of them but because of the regulations. We must, we must do better. Thank you very much. [LB461]

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PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the opening to AM651, the committee amendment to LB461. The floor is now open for discussion. Senator Chambers, followed by Senator Carlson and Senator Pirsch. Senator Chambers. [LB461]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I will support adding the amendment, but then I will not support the bill. I think the discussion can be very helpful and wholesome as far as letting HHS know that there have been complaints made by foster parents, that they're treated dismissively without due respect. There perhaps have been threats of retaliation if a foster parent attempts to have certain things done that ought to be done, and the discussion can focus on that. But as Senator Dubas pointed out, this material is already in rules and regulations. And if all you're going to do is suggest that HHS do certain things, it's good advice. But good advice ought not be put in the statutes. This language is not enforceable. The last sentence in the committee amendment says that this bill does not create a private right of action. The only way a person can enforce a complaint against a state agency is through legal action. But if the only means by which you might enforce the provisions of this law are taken away within the law itself, there is no purpose in putting this kind of language into the statute. Even if it were to create a private right of action, there is so much vagueness, so much overbreadth in the language that it would be difficult for a court to do anything in terms of unraveling what the Legislature would be putting into the court's arena through language such as this. What does it mean, for example, to be treated with value? Not treated as though a person has value but to be treated with value. And I could go through the bill doing that, but it's not my intent, because I don't believe the bill ought to become law. It is not unusual, however, for issues to be raised on the Legislature for the purpose of calling attention to flaws and action committed by an agency or even a state official of the type which ought not to be. And the discussion is for the purpose of creating a record, letting that official or the agency know that it is being scrutinized. And wisdom would dictate that changes be made. There was a time when a new person was being considered to be made the superintendent of the State Patrol. While that matter was pending before the Legislature, a large group of black people came down to the Capitol to support something or other that I was doing. There were young children and elderly people on walkers, and they were followed throughout the Capitol building by state troopers. I stood on the floor, I condemned it, and we were doing it on the motion to confirm the new superintendent of the State Patrol. And I said until I get satisfaction on this matter and these troopers be advised not to commit acts of such overt racism and insult, I would tie up that effort to confirm this person as superintendent. [LB461]

PRESIDENT SHEEHY: One minute. [LB461]

SENATOR CHAMBERS: Senator Warner, who at that time was the dean of the

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Legislature, having been here longer than anybody else, agreed and said what I'm saying, that these occasions can be used to point out complaints or grievances against an entity, and that entity should be required to respond. Well, the person who was the superintendent, the person who was going to be the superintendent, gave assurances and I allowed that confirmation to go forward. So Senator Dubas is not doing anything inappropriate by bringing this recommendation. But I think it would not be wise legislative policy to put it into law. However, I will support the committee amendment to give her what I can. And beyond that, I cannot go. Thank you, Mr. President. [LB461]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Carlson. [LB461]

SENATOR CARLSON: Mr. President, members of the Legislature, in listening to Senator Dubas, I also am alarmed, and listening to Senator Chambers as well, that the provisions of this bill are already in procedure for HHS in rules and regulations. And that is alarming. I would like to address a question to Senator Dubas, if she would yield. [LB461]

PRESIDENT SHEEHY: Senator Dubas, would you yield? [LB461]

SENATOR DUBAS: Yes, I will. [LB461]

SENATOR CARLSON: Senator Dubas, with AM651, are you generally satisfied and in agreement with what's in that amendment? [LB461]

SENATOR DUBAS: Yes, I am. [LB461]

SENATOR CARLSON: Okay, thank you. I would like to address a question to Senator Johnson if I could. [LB461]

PRESIDENT SHEEHY: Senator Johnson, would you yield? [LB461]

SENATOR JOHNSON: Yes, sir. [LB461]

SENATOR CARLSON: Senator Johnson, in Section 1, under (b) it says "regularly seek and consider input from foster parents relating to resources and services necessary to meet the needs of foster children and foster parent families, without threat of reprisal." Now the whole idea that there's threat of reprisal--and I don't know how familiar you might be with this--but could you give us an explanation as to what that means and why that's necessary in here? [LB461]

SENATOR JOHNSON: Well, you know, I think...I don't know exactly how to answer you except that certainly there are times when the discussion would be such that I can see where there would be reprisal on the foster parents in such situation. I really don't know

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how to answer your question beyond that. So this would just reinforce what Senator Chambers was talking about, I think. [LB461]

SENATOR CARLSON: Okay, thank you. And I do have another question if you would accept that, because Senator Chambers talks about that he would be against this in that it's not enforceable, and that may well be the case. Are you in agreement with that? How would you respond to that statement? [LB461]

SENATOR JOHNSON: Well, there certainly would be parts of it that are not enforceable. They're already there. I think Senator Chambers and actually Senator Dubas as well are exactly right, in that this is a good forum to put pressure on Health and Human Services, particularly in this area. We have to do better. When we hear of 12 or 14 placements, can you imagine taking a four-year-old grandchild of yours and having that child moved every few months? I think that's just totally unacceptable. So these are the kind of things that we have to voice on this floor, and they have to stop. They cannot be done just for regulation's sake. We must put the children first. [LB461]

SENATOR CARLSON: Thank you, Senator Johnson. I appreciate Senator Dubas bringing this to our attention. It's obviously something that needs to be dealt with, and I will listen to the remainder of the testimony. Thank you. [LB461]

PRESIDENT SHEEHY: Thank you, Senator Carlson. (Visitors introduced.) Senator Harms, followed by Senator Chambers and Senator Howard. Senator Harms. [LB461]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Johnson, would you yield for a question, please? [LB461]

PRESIDENT SHEEHY: Senator Johnson, would you yield? [LB461]

SENATOR JOHNSON: Yes, sir. [LB461]

SENATOR HARMS: On page 2 of your amendment, do you have that handy, on line 4, F? [LB461]

SENATOR JOHNSON: Yes, sir. [LB461]

SENATOR HARMS: And then also on line 11 and H, we talk about "provide timely." Could you tell me what that means? [LB461]

SENATOR JOHNSON: Well, again, sir, don't know how best to answer that question. I guess what I would think of it as being is that when there are questions that are particularly asked by this body of this agency, that we do get adequate and prompt answers. [LB461]

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SENATOR HARMS: Well, my point here is that that's one of the issues that I see with Health and Human Services. And that's, the fact is that in every phase of Health and Human Services, as I can see it, they don't provide anything that's timely. And my thoughts are, if we're going to begin to address this issue with them, then we ought to give them specific directions about what we mean by "timely." And I know this is difficult. But if we're going to straighten Health and Human Services up, we've got to give them the directions and we're going to have to tell them exactly what we expect, because quite frankly, it doesn't get done. Quite frankly, it isn't there. And I don't know how you feel, but I'm getting tired of listening to people complain to me about foster care. And I think it's time that this body addresses that issue and we get behind what Senator Dubas is asking. And let's really go after the issue. Let's put the times in there. Let's put it in law. And I can understand where Senator Chambers is coming from. But you know what? They are not doing it now. And so if it's already in there and they're ignoring it, then let's put it in law and let's force it and make it happen, because there is nothing more important than our children. And I get really uptight when I start seeing the things that happen with our kids. We've got to address this issue and this is the only place it's going to get done. And it's time that we address the issue and, quite frankly, it's time we address Health and Human Services. So thank you, Mr. President and colleagues.
[LB461]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Chambers. [LB461]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I must return us to reality. We are enacting legislation. This entire bill is nothing other than the intent of the Legislature. The Legislature is not directing the department to do anything. This is the day I should have brought my tape recorder, but I'm going to keep repeating it and repeating it. This is a legislative body. We should function in a way that shows responsibility and an understanding of what our function is. This is the kind of material that could go into a resolution that gives some sensing to HHS of how the Legislature feels. But to put into law something that expresses only an intent of the Legislature is a waste of time and inappropriate. For those people who are new, it is not uncommon when you're enacting legislation to lay out what is called intent language or findings by the Legislature. All such language is preliminary to the active ingredients, if you will, of the law which is to follow. If this were to be a piece of meaningful legislation, you could put all of these things--although some of them haven't been established factually, so it shouldn't be done anyway. But presume they had been. You list all of these things, then after that you say the Department of HHS shall--and that's what Senator Harms is talking about--shall respond in a timely manner; timely manner means. Then you say failure of the department to do such and such constitutes whatever kind of violation you want to make it. And you either make it a misdemeanor, which criminalizes it--and I don't know that that would be the thing to do in a situation like this--or you create a cause of action so that it can be enforced. You could say that if the department fails to

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do this, any person may petition the Attorney General who shall bring an action, and then you'd talk about how you're going to enforce it. This...I could add to this language, it is the intent of the Legislature that Ernie Chambers not talk on every issue, and I would join you in putting that in there. It is the intent of the Legislature that Senator Lathrop participate more in the discussion on more issues, and I would agree with that. And since all it is, is words that mean nothing, put anything you want to in it. I think we ought to go to those curlicue fluorescent bulbs in all of the light fixtures where they can be accommodated in the Capitol building, so I would put that in as one of the intents. I'm not in any way discounting or trivializing the issues that Senator Dubas is bringing, and I'm saying it is appropriate and helpful for us to discuss these issues. But if we put into the statute something about reprisals from the department and we don't know that to be factual, we're behaving irresponsibly as a Legislature. Give me the example of when reprisal was taken, what official or employee imposed that reprisal... [LB461]

PRESIDENT SHEEHY: One minute. [LB461]

SENATOR CHAMBERS: ...and what was done about it, if anything, to show that it was adopted by the department as a policy. We should not just put allegations and accusations in the statute without a factual basis. If this were a petition being filed in a lawsuit, you can make allegations. You know what an allegation is? It is a charge made without proof. And you simply inform the court of what the issues are going to be. But before anything is granted by way of relief, you must prove every one of those items in your petition. If you cannot offer proof, that item is dismissed. If you can offer proof for none of them, the whole case is dismissed. This could be like a petition. But it is not the equivalent of a lawsuit. We don't have a factual basis for some of the things in here. And as time goes on in the discussion, I'm going to lean on that aspect while agreeing... [LB461]

PRESIDENT SHEEHY: Time, Senator. [LB461]

SENATOR CHAMBERS: ...that attention needs to be focused. Thank you, Mr. President. [LB461]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Howard, followed by Senator Loudon, Senator Dubas, and others. Senator Howard. [LB461]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I appreciate Senator Chambers' concerns regarding statute and what we enact as bills. However, I have to ask, what will it take to get change within the Department of Health and Human Services? If it's not a law, if it's not a regulation, if it's not a requirement that they even follow their own rules, I'm stumped. I don't know what this body is willing to do. I brought a number of bills into Health and Human Services Committee this year regarding caseload size, regarding training issues, regarding foster care. And the department

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inevitably comes in to testify in the negative on these issues because it would mean change. It would mean admitting there is an issue that needs to be corrected. Consequently, these bills don't pass out of Health and Human Services Committee. And I applaud Senator Dubas for her concern for the welfare, not only of foster children, but also of the families that care for them. I'm going to stress again--I've said it in the past, I'll probably say it in the future--when caseloads are too high, children are shortchanged. And when providers, foster parents, support service individuals cannot reach a case manager, they too are shortchanged. Foster parents are asked to take a harmed child into their family and make that child whole again. Foster parents must be able to reach the child's case manager in order to work hand in hand with that case manager and with the professional staff for the welfare of the child. Foster parents can be put in a position of being offered a placement in their home of a child, told oftentimes a heart-wrenching story about how that child came into care. And yet those foster parents, in order to accept that child, would have to exceed their licensing capability for that foster home. It's a common practice and it's called overfill. That puts both the child and the foster parent at risk. When all information regarding the needs and behaviors of the foster child is not known and cannot be given to the foster family, the child and, at times, the children of the foster family suffers. I believe it was Senator Harms that asked regarding repercussions. Repercussions to foster parents are subtle but very definite. I talked to a number of the foster parents that came in to testify, and they were very, very anxious. They're concerned that they will remain licensed as foster parents and yet not be called to have children placed with them. That's an uncomfortable feeling for a member of the team to have, and the foster parents certainly should be considered members of the child team. Again, I thank Senator Dubas for bringing us this discussion. I look forward to working with her in the future on the larger issues that are out there regarding this foster care system. It's a tough nut to crack. I'm not going to tell any of you that it's going to be easy. It's going to require determination. [LB461]

PRESIDENT SHEEHY: One minute. [LB461]

SENATOR HOWARD: Thank you. It's going to require commitment and it's going to require money. So when we reach that time, we'll be able to make a difference. Thank you. [LB461]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Louden. [LB461]

SENATOR LOUDEN: Thank you, Mr. President, members of the body. As I look this bill over, the amendment which became the bill, as I look to Section 1 and the subsections, the A and the C, the D, the E, and the F and so forth on down there, the H, the J, I have no problems with them. This is all nice language in there and it's probably things that need to be considered. Where I have the problem with is when you get like in Section B when they asked something about the family to do something, the foster parents, and then you end up without the threat of reprisal. Well, what's going on out there that

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they're threatened with reprisal? And in subsection I that they decide to have a foster child removed from the home? And then you talk about without the threat of reprisal. I'm wondering if this is going on in this system, which I am like anyone else, we get calls on the problems with foster care. But when we have a problem going on that has, we have to have something in there without the threat of reprisal, I think we're going at this thing all wrong. We should be looking at why are they threatening reprisal. This is someplace where you don't threaten foster care people with reprisal. I don't think this is something that should be tolerated. So I question those that drew up the bill. I'm sure they must have some reasons for putting that in there and I would question that if that's the case out there, then that's what we should be addressing. I think probably the foster care services probably working as they should in certain areas. But if there are places that we have to have them resorting to reprisals, and I know this can happen in some of the other instances, because I've had parents call up and tell me on instances where they were told not be contacting their state senator again and stuff. And of course I come apart on that because I know some of the people involved with that, and I think nobody in the state of Nebraska should be told they can't contact a state senator. But here's a problem I have. In subsection B with the part with reprisal and the subsection I, and I'm wondering if we were going at this all wrong. Now I understand Senator Dubas is well-intentioned here and the bill did go from "rights" to "intent," and I understand what's happened to her bill. But I really think that we have more of an underlying problem here, and I don't know if this is the correct way to solve it. Thank you, Mr. President. [LB461]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Dubas. [LB461]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. I guess I'd just like to hit briefly again on the retaliation and reprisal part. Foster parents, the people that they have to go to are, right above them, those reprisals are very, very real and are happening. The workers, the supervisors take those questions, they take them very personally, and they have the ability to come back on the foster parents and either not place children in their homes or a variety of other things. So this is isn't just something that was thought up. These are real instances and real issues. And I appreciate Senator Howard's explanation. I believe there was a question raised, too, about what "timely" means. And "timely" is defined again in HHS regulations, so there are some parameters there. I have a question for Senator Chambers if he would yield, please. [LB461]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB461]

SENATOR CHAMBERS: Yes, I will. [LB461]

SENATOR DUBAS: Thank you, Senator Chambers. You've made the point that the language in this bill is rather vague and unenforceable. And I think you've also made some very good suggestions on how we could make this bill have some teeth in it and inflict--maybe inflict isn't the right word I want to use--but compel HHS to do some

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things. If we made this bill have stronger language, have more enforceable language, do you think you could support something like that? [LB461]

SENATOR CHAMBERS: Senator Dubas, it would require a lot more in the way of study and formulation of language based on actual cases before I would say I'll support a bill. But if there are specific problems that are going to be addressed by the Legislature, those problems should be identified very clearly, and then there should be consequences contained in the law if HHS does certain things it shouldn't do or fails to do certain things that it should do. But on the floor of the Legislature, with the nature of this particular bill, I don't think that can responsibly be done. But legislation of that kind, I would take far more seriously and work for amending it if I thought amendments would help improve it. [LB461]

SENATOR DUBAS: Well, I really appreciate those suggestions that you've made, and I think we could make some very compelling changes to this bill to make those things happen. I think the state of Nebraska missed the boat when we were involved in the lawsuit in taking the opportunity to enter with a consent decree. And I've found consent decrees in other states across the country. Over the past ten years, there's been child welfare class-action litigation in 32 states with consent decrees or settlement agreement in 30 of those. The consent decree acts as a contract binding the child welfare agency and the attorneys acting on behalf of the plaintiff class members to its terms, and it is fully enforceable by the court. I think if the state of Nebraska is as serious as they say they are about making changes to the foster care system, this was an opportunity that we really missed to make some of these changes move forward. These decrees detail the various requirements and standards with which the state, under the jurisdiction of the court, must comply. There's no wiggle room here. They must comply. The duration of these decrees depend on how many service areas the state must address and its success in implementing the requirements. It's monitored--there's a measure here on how things are moving forward. Most of the decrees that have been enacted within the last ten years have addressed the state's failure to properly license foster parents and train them, placing children in adequate and safe foster and... [LB461]

PRESIDENT SHEEHY: One minute. [LB461]

SENATOR DUBAS: ...group homes, properly reporting and investigating, providing children and families with adequate case planning and review. And there's been very successful results from these consent decrees. New Mexico, the number of children successfully moved out of foster care to permanent homes dramatically increased. In New Hampshire, foster children in need of special education have their IEPs being implemented. In Kansas, children now receive services within four hours of referral. Out-of-home placements average 13 months compared to the national average of 24 months. Aftercare is available to children for 12 months. Crisis support is available to family 24 hours a day, seven days a week. And 86 percent of children are placed either

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with a relative or a family foster home. A consent decree option, I was very sad to see that this was something that the state of Nebraska could have taken advantage of and, for whatever reasons, we didn't. So there are ways to compel changes, to compel agencies to do their work. It usually has to go through the court system. [LB461]

PRESIDENT SHEEHY: Time, Senator. [LB461]

SENATOR DUBAS: Thank you very much. [LB461]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Mr. Clerk, do you have messages, reports, or announcements at your desk? [LB461]

CLERK: Mr. President, the Committee on Appropriations reports LB420 to General File with amendments. That's signed by Senator Heidemann. Senator Kruse has an amendment to LB578 to be printed. Senator Friend would offer LB316A. (Read LB316A by title for the first time.) An announcement, Mr. President. Education Committee will meet in Room 1023 upon recess; Education in Room 1023 upon recess. Mr. President, priority motion. Senator Pankonin would move to recess until 1:30 p.m. (Legislative Journal pages 1037-1046.) [LB420 LB578 LB316A]

PRESIDENT SHEEHY: The motion before the body is, shall they recess until 1:30 p.m.? All those in favor say aye. Opposed, nay. We're in recess. []

RECESS

SENATOR LANGEMEIER PRESIDING

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

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

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

ASSISTANT CLERK: I have one item, Mr. President. Senator Hansen has an amendment to LB457 to be printed. That's all I have. (Legislative Journal pages 1047-1048.) [LB457]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to General File where we left off before lunch with LB461, and the discussion was on the committee amendments. We're now returning to discussion on AM651, the committee

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amendments to LB461. Wishing to speak we have Chambers, Howard, Gay, and Pedersen. Senator Chambers, you are recognized. [LB461]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I was speaking, but I don't think I was being heard. I am not opposed to achieving what Senator Dubas is aiming at; namely, to have HHS deal with foster parents in a manner that is professional, suitable, and competent. I have to be concerned about the integrity of the Legislature as an institution and our procedures and processes. This purports to be a bill which is to be enacted into law. It starts out by saying, on page 1 in line 7, it is the intent of the Legislature that the department, and it goes on. It does not even say in the statement of intent the department shall, just that it is the intent of the Legislature that the department treat foster parents with dignity, respect, and so forth. Well, they may or they may not, and nothing happens. It's like that with all of these specifications. Then when you get down to line 26 on page 2, there is a subsection 2 which can be called the operative part of the law. And it says, the department shall establish and implement policies and procedures and may adopt and promulgate rules and regulations consistent with subsection 1 of this section, meaning all of those statements of intent. The department shall provide a copy of such policies and procedures to each foster care licensee. Those policies and procedures would be available now. And here's something that is peculiar about the construction of this very brief provision. It says in line 26 on page 2, the department shall establish and implement policies and procedures. How do you implement them? Through the promulgation of rules and regulations. But there is a disjunctive between those two, if you want to call it that, even though they use a conjunction. The department shall establish and implement policies and procedures and may adopt and promulgate rules and regulations. Well, if they shall implement but they may adopt rules and regulations, then they don't have to do anything because you implement these things, these policies through rules and regulations. But you don't have to adopt any rules and regulations. So the language will not be effective, even if you were going to enact this into law. The committee was careful not to say that the department shall do these things, because if they had used the word "shall," that very last sentence in the bill would make no sense and would be a contradiction. If on the one hand you say the department shall do these things, then it makes no sense to say, subsection 1 or the intent provision of this bill shall not be construed to create a private right of action. Well, if there's no right of action and there's nothing that the department is required to do, what are you presenting this for enactment into law for? There are...let me not say there are those of us on the floor, let me speak only for myself. There is at least one person on this floor who says that we should do things as a legislature should do them. [LB461]

SENATOR LANGEMEIER: One minute. [LB461]

SENATOR CHAMBERS: We should not merely put good advice or our wishes, hopes, and prayers into the statute. Offer a resolution. But this, if it merely replicates what the

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department has already done through rules and regulation, why put in this bill that they shall implement these policies and they may adopt rules and regulations? Well, if they've already got rules and regulations, how are they going to implement these policies, because they're not required to? But I'll leave that for you all to think. I will not support this bill. But I will support adoption of the amendments because they narrow, to some extent, what we will have before us. Thank you, Mr. President. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Howard, you are recognized. [LB461]

SENATOR HOWARD: Thank you, Mr. President and members of the body. What a good discussion on foster care and foster care issues and Health and Human Services in general. Again, to me the question comes back as, how do we hold the department to its own standard? If in fact the department is fostering a positive relationship with these individuals that step forth to provide care for the neediest of the needy children, how is the department working with these individuals and forming a relationship and establishing a credibility in terms of working together as professionals? This is where I have such a degree of difficulty because often the message comes across that the department is in control. And foster parents, while appreciated by the department and offered training by the department and offered a case manager (laugh) by the department, really aren't at the table in the same way that other more, "professional" individuals would be concerning this child's life. Again, the department has a responsibility to carry out its own practices, to follow its own standards, and when it puts regulations into place, to be the first agency that follows those regulations. It goes back again to the issue of caseload sizes; 1992, Nebraska did a study of caseload sizes. Its recommendation at that time was that ongoing case managers should have no more than 15 families, which is many families and crisis situations for one individual to deal with and do a good job. The truth is the department's own standards of practice far exceed that. That contributes to foster parents feeling as if they're not listened to, they're not heard, they're not given the social services that they would expect to have in order to do a good job addressing the needs of the child. The breakdown occurs when the department does not follow best practices and is not held accountable. You've heard me say it on the floor before. Accountability starts at the top. What do we as a body expect of the department? Are we content to have the situation go on and on and on? We wait for reports, we hope they're going to supply information. We want to believe that they're going to look at improvements, and we get up and we say we know their problems. But what are we going to do? Senator Dubas has conscientiously brought in a bill to address the needs of foster parents, and by doing so, the needs of foster children. And I hope we take her seriously and I hope we continue to work on this issue. And I don't want to leave it at that. I want to say that we have the commitment and the responsibility to work on this issue, and this really is only the beginning. Thank you. [LB461]

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SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Gay, you are recognized. [LB461]

SENATOR GAY: Thank you, Mr. President. I rise in support of Senator Dubas and her efforts on this bill. Listening to Senator Chambers, he did point out some very valid arguments, of course, as he always does. But just a few things here that come to my head when we look at this Health and Human Services organization. I'm hearing a lot of frustration, frustration on the foster care. But you know, Health and Human Services is much bigger, broader than that. I know we're discussing this. But just, you know, earlier we passed the reorganization bill, and the whole intent of that was to make sure that we do have a vehicle to fix some of these things going on. And I do believe they have made strides in the last year and a half, two years on our foster care. There's a lot of work to do, and I think this is very crucial to make sure we empower those foster care parents with some rights because during the committee hearings, we've heard some amazing stories, and there are amazing people that decide to step forward and become foster parents. So I do believe this is very needed. Now I guess one thing that I'd like to say is when we do some of these recommendations or follow-ups, a lot of these are recommendations. But we owe it upon ourselves, and I know there's a lot of interest in this body on foster care right now, as there should be. But I think as a member of the Legislature, we can ourselves go and seek out, how can I help, how can I be of benefit to fixing this system, instead of, you know, criticizing the system. I know that's not what Senator Dubas had the intention to do here, and I know that's what we're doing. We're all frustrated a little bit. But the idea that we can go in and change it and follow up on some of these recommendations and see how they are treating families and if some of these things are being done, follow through on these intentions that we're asking. But I do believe in the operative part of this, shall establish and implement those policies and procedures. Senator Dubas, I think, mentioned they are in place but now we need to make sure they're enforced. So over the summer and the coming years, we need to make sure that's done quicker than that, I assume, if possible. So I would argue it's our duty to make sure they are accountable. Senator Howard just mentioned that. What's the accountability? You know, where is some accountability? Well, we should look at ourselves a little bit on that, too, and I think we did make a positive step in the right direction. I know a lot of people are working on this; Senator Hansen, Senator Pankonin, and many others. Senator Howard is a huge advocate of these and Senator Dubas. So we all have a vested interested is all I'd like to say in this. Whatever we decide to do, I think we need to do a little bit of follow-up after this, instead of just passing a bill and saying, well, that should take care of it. I'm sure...I think we all know government sometimes passes bills and then they never follow their own laws that they pass. So if anything comes of this today, as Senator Dubas said, she wants to have a good discussion. I think we're having that. But if anything comes from this discussion today, hopefully one of those will be some follow-up and some action on behalf of any member in this body that's interested in this system, step up, go meet with HHS, find out what's going on in your area. And I think that would be very beneficial as well to solving

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some of these problems. So I commend Senator Dubas for introducing this bill, and I'd look forward to further discussion. Thank you, Mr. President. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Pedersen, you are recognized. [LB461]

SENATOR PEDERSEN: Thank you, Mr. President, members of the Legislature. I take this opportunity to stand in support of the idea of this bill. I'm glad that with our big class of new senators, that you are interested in taking a look at this glob that we created some years ago in this Chamber, by combining all the agencies that we have into the Health and Human Services. I agree with Senator Dubas that this should be a wake-up call. And I hope you will keep a wake-up call for the department, because I do not believe that our foster children have been taken care of and accounted for, or have we been accountable to them, to our current administration in Health and Human Services, and that not just the most current but in the last four to five, six years. Kids are important and we need to make sure that we do what is necessary to take care of them. I do agree with Senator Chambers that just doing some legislation that says this is a wake-up call is not going to be good enough. You're going to have to take some time and draft some legislation and have some proof of those areas that you want to do this in and move forward. If that can be done in the next year, the short time that I have left here, I'll be more than glad to support it. This is important. Please keep right on them until they are accountable to the people of the state of Nebraska. Thank you. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Pedersen. (Doctor of the day and visitors introduced.) We return now to discussion on AM651, offered by Health and Human Services. Senator Hansen, you are recognized. [LB461]

SENATOR HANSEN: Thank you, Mr. President, members of the body. I want to thank Senator Dubas for bringing this forward, and I hope I didn't overly encourage her to have this be her priority bill. I think there was a good intention. I favor the green copy myself, but as we know we all can't get the rights that sometimes we think we need. This isn't about foster parents. This is about the people who take care of foster kids. This is about guardians. This is about aunts, uncles, grandparents that take care of these kids. All of these bills that we talk about in foster care is not about the adults--it's about the kids. In order to have the rights for these foster parents, even though we named this the foster parent bill of rights, this isn't giving the foster parents the rights. It's giving the foster parents the needed information that they need to take care of these children that are wards of the state. And it affects more than just those kids, too. It affects their parents, their siblings, and everyone else. I'm thankful that we have a citizen Legislature. Twenty-two new senators, we have a few of them are lawyers but most of us aren't. Senator Dubas, I think I know what your problem is. Where did she go? She's out of here. I know what Senator Dubas' problem is. She's a farmer from rural Nebraska. I know what her problem is. She's a mom from rural Nebraska. She cares;

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she's not a lawyer. And I thank her for that. I think we need a citizen Legislature. Senator Lathrop is up here. He's a good resource, but he's not from rural Nebraska. The point is, Senator Dubas' mind is right, we just didn't write the bill right, it didn't come through committee right. But we do have accountability. Hopefully the HHS Committee...I mean, we're going to work at it and hopefully we can do something there. Keep in mind though, if you would, this is for foster kids, not for foster parents. Thank you. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Mines, you're recognized. [LB461]

SENATOR MINES: Question. [LB461]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB461]

ASSISTANT CLERK: 26 ayes, 4 nays to cease debate, Mr. President. [LB461]

SENATOR LANGEMEIER: Debate does cease. Senator Johnson, you are recognized to close on AM651. [LB461]

SENATOR JOHNSON: Mr. President, members of the body, we've had an excellent discussion. I trust that we have at least caught the ear of those in charge at HHS. We certainly need to be more diligent in this body, however, to develop the ways in which we can develop the policy, so that we do serve these children better in the future. With that, I would ask that you advance AM651. Thank you. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Johnson. You have heard the closing on the committee amendment. The question is, shall the committee amendment to LB461 be adopted? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wishes to? Record, Mr. Clerk. [LB461]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments. [LB461]

SENATOR LANGEMEIER: The committee amendments are adopted. We return now to the discussion on the bill itself, LB461. Senator Dierks, you are recognized. [LB461]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. I have a very special interest in this legislation. You see, my son is a foster father. And it's been interesting for me to watch how he progresses with these young men that come to stay with him. And I know that there's difficulties because I followed that in the press over the

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years. I know that there's difficulties with the agency, and I only hope for their success because I know that what they do is very valuable. I want to comment on a couple of things. One is what Senator Harms talked about this morning. I thought he did an outstanding job of addressing the needs of our citizens. And also about the remark that Senator Pedersen made a minute ago when he's talking about the young class. I had the privilege of attending all of the orientation with the entire new class last November and December, and I can't tell you how impressed I was with that group of people. They are bright, and they are capable, and they're not afraid to get up and express their views. I just am always impressed with their abilities. And Senator Dubas, I think, has done a great job in presenting us the problem today. I will support the legislation and I hope you will, too. Thank you. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator Lathrop, you're recognized. [LB461]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I rise in support of LB461. And I would like to comment first on Senator Dubas'...and express my appreciation for the fact that she has brought this bill, more as a statement of her commitment and the commitment of a number of senators on this floor to the foster care children and to the foster care process. This debate really started last week with Senator Hansen's bill, and I think it's important for us as we consider, perhaps Senator Chambers is right. I think I'd have to agree with him that what we have is a lot of nice language that is more like legislative intent than pure legislation that should provide direction, that might at some point provide the basis for some litigation by the Attorney General's Office, if we're not getting the things we should get from foster care or from Health and Human Services. But what we see today and last week with Senator Hansen's bill is a commitment to foster care. And I think it's important that we recognize that that is a very difficult job. Most of the people that go into...most of the children that go into foster care have had a very difficult time. They come in with a lot of baggage. They can be very difficult children to have in your home. And it's important that we recognize the work that they do, and I think it's important that we recognize them in many different ways. I happen to support Senator Hansen's effort. But it's important that we not view them as just someone who's baby-sitting a child who's on his way to getting out of foster care. These people are more than just a ride to the courthouse. They are there providing care. They need the support of Health and Human Services, and the fact that we're having this discussion when these are already in the regulations would suggest to us that something isn't working. We shouldn't even have to have this conversation if these provisions are already found in regulation, but we do. And it reflects the fact that the system is broken. And I appreciate the efforts of Senator Hansen and Dubas to address some of those issues. And notwithstanding the fact that I'm an attorney, I will provide any benefit or any help that I can to anybody interested in that subject. Thank you. [LB461]

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SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Chambers, you are recognized. [LB461]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I started by saying it's a good discussion. I started by saying it will let HHS know they're being scrutinized. I'm conceding all of it. You all don't hear a word that I say. I must...there is some other language that I must be speaking. I think, from what I hear with my ears, that what's coming out of my mouth is English. But obviously it's not. Let me try to give you an analogy. You have a watchdog, and this watchdog is designed to protect your property. So the dog has a huge bark--woof, woof, woof. And he has eyes that flash fire, and out of his nose comes smoke. Then when he opens his mouth, all you see is a red cavern and not a tooth anywhere. Now who's going to be afraid of a toothless dog with a big bark? This legislation barks but it does not bite. And you all are jumping up here talking about how much you support it. You can't beat me in supporting what you're trying to do, but you're not doing it with this legislation. The Speaker ought to be up here telling you about how we ought to legislate. This is not my job. I don't have a position of leadership in this Legislature. This is not my responsibility. I should let you pass this worthless legislation, then mock you and taunt you and ridicule you and satirize you, and say this is what the 48 of them do. And that's why when you tell me they outnumber me 48 to 1 and it's an unfair fight, I say, yeah, they need more help. What can I tell you? Look, we should love one another. How you going to enforce it? Schools should educate children. Teachers should teach students. Books should contain pages. What have you...that's not what a Legislature puts into the statute books. Hear me if you will. What is the only thing that may be required in this bill? Drafting some rules and regulations if they want to. They may do that. But they already have done it. (Laugh) Laughter may be not only the best medicine, the only medicine in some cases. I look around this chamber at my fractious children. But a parent loves all of his or her children, whether they're hardheaded, inattentive, or any of the other things that fractious children may be. When you came here, did you tell the people you're going to put into the statute good advice and good intentions? Maybe so. I'll tell you what it boils down to. We just have a different view of what our responsibility as legislators is. You all are carrying out what you consider your responsibility to be, to send messages and express wishes, hopes, and prayers in legislation. And I view my responsibility differently. [LB461]

SENATOR LANGEMEIER: One minute. [LB461]

SENATOR CHAMBERS: So what I need to do is start leaving you all alone and stop trying to persuade or convince you to do anything, just put my views into the statute...I mean, into the record. When I bring a bill, what I do...I wanted to make some changes in the law enforcement methodology of collecting DNA samples because they were making sweeps through the black community, stopping people at random, no probable cause. So you know what I did when I wanted the Legislature to do something about it?

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Not only did I bring specific cases with specific named individuals, I brought a court order that I had helped obtain to make the city open the records to show what was the basis for going around taking these DNA samples. I presented the evidence. They didn't have to take my word for it. [LB461]

SENATOR LANGEMEIER: Time. [LB461]

SENATOR CHAMBERS: Thank you, Mr. President. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Harms, you're recognized. [LB461]

SENATOR HARMS: Thank you, Mr. President, colleagues. I'm going to go back to this discussion that I've had before on this floor. It deals with Health and Human Services, and it deals with foster care. The issue is not going to change, I don't care what we do here, unless we really decide that we want to make some changes occur. And that's going to have to be bringing in, and I've said this before, a consultant or bringing in several consultants, because the culture of that organization is not going to change. If what Senator Dubas has shown us is already in the policies and the rules and they aren't following it, we're going to have the same issue here. And my thoughts have always been if you're going to change the culture of that organization, if you're going to force it to happen, you've got to bring people in that have the knowledge that are not tied to the internal politics. Senator Chambers talks about giving it some teeth. Folks, that starts the process. It will give you the teeth you want. We can hold them accountable. Right now, we cannot get our hands around this issue. I don't care what we do. We'll be discussing this four years from now, maybe five years from now. When are we going to finally decide that we're going to set some dollars aside, bring some consultants in, choose what portion we want to review and evaluate, and then deal with the issue, then hold them accountable? Because we can't do it the way we're doing it now. And Senator Chambers is not wrong when he says we've got to put teeth into these. Well, this starts to put the teeth in the bite. And unless we do that, we're going to have difficulties, we're going to have this discussion. Our foster care program will continue to go as it is probably today, and all the other issues we've had in Health and Human Services continue to walk this path. And so I would urge you as you start to think about this, please start thinking about how we can resolve it long term, not the short-term issues, to see if we can get our hands around this. Bring a consultant in here or consultants to help us get it organized, because if we don't do that, the same issues will occur, the same problems will occur. Thank you, Mr. President. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Fulton, you are recognized. [LB461]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. I would

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like the record to show that the senator from District 29, Southeast Lincoln, has some deep concerns with the foster care program in Health and Human Services. I've had a number of foster parents who visited my office and the stories I've heard are just, it's incredible--nauseating stories. I couldn't even...I wanted to tell my wife about some of these things and I couldn't because it was so grotesque, some of the things that have been going on under our watch. You know, that's on the record. Would Senator Dubas yield to a question? [LB461]

SENATOR LANGEMEIER: Senator Dubas, would you yield to a question? [LB461]

SENATOR DUBAS: Yes, I will. [LB461]

SENATOR FULTON: Senator Dubas, I guess my concern just lies in redundancy. I'm completely behind your intention here, and I don't think anyone who's paid any attention to Health and Human Services and the foster care program probably isn't of the same mind as you are. I have some concern with redundancy. Could you explain, does the language...does the statutory language you're proposing already exist within Health and Human Services? [LB461]

SENATOR DUBAS: All of the things that are in this bill are basically outlined in HHS rules and regulations, yes. [LB461]

SENATOR FULTON: Okay. Have you ever received a response from anyone in Health and Human Services or anyone with that, who could speak on that agency's behalf as to why...the language just, see, it says if the language is meaningless. I mean, do you have some explanation or have you heard any explanation? [LB461]

SENATOR DUBAS: HHS testified at the hearing. The fact that most of the foster parents that I have talked to didn't even realize that these were in rules and regulations indicated to me that HHS is not on top of their rules and regulations and that they aren't even using them, they aren't making any attempt to explain them to their foster parents. It was very frustrating on my part when I asked them, you know, why are you not doing this and not getting any clear indication as to why they aren't, and why they aren't even letting their foster parents know that this is what's available to them. That was one of the things that, you know, I wanted to make sure that I got into the amendment, that they were at least giving the rules and regulations to foster parents so that foster parents could even know what questions to ask and maybe create a certain degree of accountability in that manner. [LB461]

SENATOR FULTON: There was...I saw on the committee statement that there was testimony in a neutral capacity from Health and Human Services. Could you...I don't recall if you've done this. If you have already, I apologize for my redundancy. But could you relate some of what occurred in that testimony, the tenor of the agency's testimony

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during this hearing? [LB461]

SENATOR DUBAS: They basically were concerned about the fact of creating a right. And if you create a right, then you open up the agency to a lawsuit. That's where their concern came from. But if that's the only way you can compel them to follow their rules and regulations, then maybe that's what we ought to be doing. [LB461]

SENATOR FULTON: Were there any questions from the committee to Health and Human Services as to why this...what seems to me for a foster parent...I have friends that are foster parents right now, and they expressed the difficulty in navigating the bureaucracy. And I mean, this would be...it would be news to them that this type of language exists. Was the question put to Health and Human Services why aren't you...why do we need to bring this legislation? Why do we need to compel you to do that which you're supposed to be doing anyway? Was that put to them in any way? [LB461]

SENATOR DUBAS: To my knowledge, I'm not remembering that question being asked of the agency. The term "common sense" I remember being used. You know, these are pretty common-sense type things. But I do not remember a specific question... [LB461]

SENATOR LANGEMEIER: One minute. [LB461]

SENATOR DUBAS: ...addressing that. [LB461]

SENATOR FULTON: Okay. Thank you, Senator Dubas. With the remainder of my time, I'd like to yield that to Senator Gay. I think he's going to be able to address a final question. [LB461]

SENATOR LANGEMEIER: Senator Gay, 40 seconds. [LB461]

SENATOR GAY: Thank you, Senator Fulton. Quickly, we did do a follow-up on...there was a foster parents stakeholders group. A letter was written out from Department of Health and Human Services to form a group like that. Our office called and it took a while to get a response, I'll admit. They never really followed up on it. These are the kind of things, though, as I mentioned earlier, that if we're going to make any changes, let's start following up on some of these. So you know, their follow-up to me could have been better, that's for sure, and I'd expect better. But those are the kinds of things we would like to follow up. One of the employees had several things due. She had been transferred back and forth and it never really, from what I saw... [LB461]

SENATOR LANGEMEIER: Time. [LB461]

SENATOR GAY: ...got off the ground. Thank you. [LB461]

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SENATOR LANGEMEIER: Thank you, Senators Gay and Fulton. Senator Chambers, you are recognized. [LB461]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I support addressing the problems that people have raised. We all are concerned about what happens in the area of foster care. I'm concerned about what happens in the area of adoptions because I got a letter from a woman just a couple of days ago when she thought she was giving up her child and it would be an open adoption and there would be information passing back and forth. But there were other things not told to her and she's very bitter because she feels like she was misled. So there are problems everywhere. But I don't bring a bill every time somebody brings me a problem. There should not be a proliferation of laws that are not well thought out. Senator Harms was getting to something when he...well, I'm not going to try to even paraphrase what he said. But you need some people who are competent, knowledgeable, professional, who are not connected to the system that is going to be evaluated and modified. As much as many of you all were eager to jump on board with the Governor to reformulate HHS, you're not even giving that plan that you all supported so strongly a chance to do anything. You feel that because all of you are new you have to support anything a new senator brings. I've been here a long time. Do you see me jumping up here, supporting stuff just because somebody who has been here a long time brought it? It should stand on its merits. It should make sense. And this does not make sense. What do you know about any of these allegations? Who in here can stand on the floor and give a concrete example of retaliation imposed against a family? And what does the term "retaliation" mean? Does that mean if the social worker, case worker, HHS official disagrees with what a foster parent wants, that failure to agree constitutes retaliation? What do you mean? And you're willing to put this in the law and have the Legislature pass a bill that says, in effect, HHS is retaliating against these parents. And you don't know whether they are or not. But you're going to pass it on as a favor. Well, you can do it. You have enough votes. But because the majority says something ought to be done does not mean that the majority is right. It usually means that they have listened to one person and decided to tag along. You should analyze each one of these provisos and see if factual evidence has been presented to substantiate every one of them, because you're going to put this in the law as the statement of the Legislature regarding what it deems to be true, what it deems to have been established by facts. So what if the bill is based on a bill in another state? Maybe somebody in that other state did their research. But it hasn't been done here. All that has been done here is to vent and to gripe and to... [LB461]

SENATOR LANGEMEIER: One minute. [LB461]

SENATOR CHAMBERS: ...whine and to moan. And that can be done during debate. But then to compress it into a determination to enact into law something that is not

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thought out, something that has no factual underpinnings, is not wise, in my opinion. I'm not going to offer any amendments. I'm not going to do the things I'd usually do to stop what I consider bad legislation. Somebody said the best way to show that legislation is bad is to enact what the people want, give them what they want. So I have one more...is this my second time speaking on the bill, Mr. President? [LB461]

SENATOR LANGEMEIER: Yes. [LB461]

SENATOR CHAMBERS: I'll have one more opportunity to speak, then you can do whatever you want to with it, as I know you will. Thank you, Mr. President. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Carlson, you are next. Senator Carlson, you are recognized. [LB461]

SENATOR CARLSON: Mr. President and members of the Legislature, I too have had someone from my district talk to me about the problems in the foster care system, concerned about foster parents' rights, concerned about foster children's rights. And there's no question that I believe that Senator Dubas has brought up an issue that's very difficult to deal with but somehow should be dealt with. And not having been on the Health and Human Services Committee, I view HHS as a massive department that has many problems, and these problems then become massive, and it's very difficult to get a handle on them. I listened to Senator Chambers talk about passing an overhaul and a restructuring of HHS and not giving it an opportunity to see whether that has an effect or not. I listened to Senator Harms bring out what I think is an excellent point about outside consulting and evaluation to try and really identify problems and make good suggestions on how to deal with them. With that, I would like to address a question to Senator Chambers. [LB461]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB461]

SENATOR CHAMBERS: Yes, I will. [LB461]

SENATOR CARLSON: I believe, Senator Chambers, in listening to your testimony, you are in support of the concerns and ideas that Senator Dubas has, listening to the testimony that has occurred. But a question to you--you simply feel that LB461 in its form cannot be made into a meaningful, workable piece of legislation; is that true? [LB461]

SENATOR CHAMBERS: In general, yes, that's correct. [LB461]

SENATOR CARLSON: Okay, thank you. I still find this a difficult area to deal with, and I will yield the balance of my time at this point. Thank you. [LB461]

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SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Chambers, you are recognized. [LB461]

SENATOR CHAMBERS: Mr. President, members of the Legislature, if I were to be hanged like Saddam Hussein was, I would say what Saddam Hussein said. Don't put a hood over my face. Let those who are doing this look at my face and look in my eyes and let me look in their face and look in their eyes. I'm going to let you do what you propose to do. And you might ask, what do I mean, let you? How could I stop you? Oh, I have ways of stopping what I consider to be bad legislation. But I'm going to give it to you. Then people will see what's going to happen when I'm no longer here. People on the floor of the Legislature will get emotionally wrought up because a bill is brought that deals with an emotional subject. They will not look at the language of the bill and their emotions will carry them away. And they'll say, by God, we have to do something about that. And if this is the only thing we've got to do it with, we're going to do it this way. And you're going to make a bad situation worse because you're going to make the Legislature a mockery, a byword. We are passing laws. We are making laws. We're not just expressing our opinion. That's the way it should be. But in fact, all that's being expressed here is an opinion, a wish, and a hope. That's all. Pass this into law and what do you have? Nothing. Suppose HHS ignores all of this. So what? There is nothing that requires them to do any of this. You say, well, they've got to formulate rules and regulations. They've already got them. You all are the ones who followed the Governor into reorganizing HHS, and you lack confidence in him and the work you did, and you feel it's not going to do anything. So before the session in which you passed that reorganization bill is completed, you're coming back, saying that HHS is not going to do its job. Therefore, despite all of the highfalutin language of how good that monumental bill of the Governor's was, you don't believe it. And your actions speak louder than words, and your emotions carry a lot more conviction to you than anything I can say on this floor. I don't know anything else I can say that will get you to see what it is that you're doing with this piece of legislation, this piece of proposed legislation. You can go tell your constituents, we really did something about HHS, and everybody will say, I'm sure glad because nobody else can. What did you do? Well, we passed a bill that told what we intend for them to do. You did what? Well, we passed a bill that told them what we intend for them to do. Well, suppose they don't do what you said you intend for them to do? I think I hear my wife calling or my significant other calling and I have to end this discussion. The Supreme Court just the other day threw out an attempt to convict a man for being a felon in possession of a deadly weapon because in the statute... [LB461]

SENATOR LANGEMEIER: One minute. [LB461]

SENATOR CHAMBERS: ...that defines the crime, knife is not mentioned. And what he was caught with was a knife. The Supreme Court said, in effect, words have meaning. The word that you want to use to convict this man on is not in the statute. We can only go by what's in the statute. So you all are writing the statute now. Words mean

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something. And you have meaningless words in this item. So I'll say like Burger King: have it your way, have it your way; hold the pickles, hold the lettuce; special orders don't upset us. (Laughter) How much time do I have, Mr. President? [LB461]

SENATOR LANGEMEIER: Two seconds. [LB461]

SENATOR CHAMBERS: Thank you. (Laughter) [LB461]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Carlson, you're next. [LB461]

SENATOR CARLSON: Mr. President, I call the question. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Carlson. You are the last light so that won't be necessary. I recognize Senator Dubas to close on LB461. [LB461]

SENATOR DUBAS: Thank you, Mr. President, members of the body. Thank you, Senator Chambers. You laid out very valid and strong arguments for what we are here for. We are policymakers. We don't create wish lists, we create policy. And I appreciate the instruction that you gave us today. And your arguments are very strong and they are very valid. And this bill does need to be a dog with big teeth. And I couldn't agree with you more. When we create statute, when we create policy, it's our responsibility to make sure that it's clear and that it's enforceable and that it creates accountability, and that's what I want my bill to look like. Without a doubt, we've raised legitimate concerns. We've called HHS on the carpet. But we need to put policy in place that's going to have muscle; it's going to have teeth in it. So I would respectfully ask the body to pass this bill on to Select File. And I promise you, my office and I will be working diligently and in the most efficient manner we can to address the issues that Senator Chambers brought up. We'll be working on amendments. We'll be making this bill a bill that will create accountability on HHS and will give foster parents the tools that they need to do the best job that they can to serve the children of our state. So I'd appreciate your support and your passage of this bill on to Select File. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Dubas. You have heard the closing on LB461. The question is, shall...Senator Chambers, for what purpose do you rise? [LB461]

SENATOR CHAMBERS: I'd ask for a call of the house and a roll call vote. [LB461]

SENATOR LANGEMEIER: Thank you, Senator Chambers. There has 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. [LB461]

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ASSISTANT CLERK: 32 ayes, 2 nays to go under call, Mr. President. [LB461]

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. Senator McDonald, please return to the Chamber. The house is under call. All senators are present or accounted for. There has been a request for a roll call vote, Senator Chambers, in regular order. Is that acceptable? There's been a request for a roll call vote in regular order. The question is, shall LB461 advance to E&R Initial? Mr. Clerk, call the roll. [LB461]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1048.) The vote is 25 ayes, 3 nays on the motion to advance the bill, Mr. President. [LB461]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. LB461 does advance. And with that, I raise the call. Pursuant to the agenda, it is 2:30. We will proceed on to General File, 2007 committee first priority bills, LB334. [LB461 LB334]

ASSISTANT CLERK: Mr. President, LB334, introduced by Senator Dierks at the request of the Governor. (Read title.) The bill was read for the first time on January 11, referred to the Revenue Committee. That committee reports the bill to General File with committee amendments attached. (AM775, Legislative Journal page 922.) [LB334]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Dierks, you are recognized to open on LB334. [LB334]

SENATOR DIERKS: Thank you, Mr. President. Members of the Legislature, LB334 is a bill that I introduced on behalf of Governor Heineman, the Department of Revenue, and the Property Assessment and Taxation Office. The bill, as written, would merge the Property Assessment and Taxation Office into the Department of Revenue as a way to reorganize state government. The purpose of the bill is to eliminate the duplication of services by housing both of these divisions of government under one roof. The hearing for LB334 was held on February 1. Cathy Lang, the current Property Tax Administrator, and I were the only proponents. No one spoke in opposition. Former State Senator Bob Wickersham and Greg Lemon spoke in the neutral position. There are some committee amendments to the bill, and I would ask your support of LB334. Thank you. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Mr. Clerk, for an announcement. [LB334]

ASSISTANT CLERK: Mr. President, the Health and Human Services Committee will have an Executive Session now in Room 2022; that's Health and Human Services. [LB334]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. (Visitors introduced.) As the Clerk has stated, there are amendments from the Revenue Committee. Senator Janssen, as Chair of the Revenue Committee, you are recognized to open on the amendments. [LB334]

SENATOR JANSSEN: Thank you, Senator Langemeier, members of the Legislature. As introduced, LB334 would have amended more than 150 sections of the statute referenced to the Department of the Property Tax Administration and Taxation, and the Property Administrator, and replace them with the Department of Revenue or the Tax Commissioner, respectively. This bill proposed to merger two departments and establishes the Property Assessment Division within the Department of Revenue. This will be operative July 1 of '07. The committee has committee amendments that retains the position of the Property Tax Administrator, which would continue to be separately appointed, although not to define a six-year term. The Property Tax Administrator would retain authority to develop the sales files, measures the level of value for equalization purposes, determine the value of the centrally assessed entities, issues reports and opinions of the level of value to the Tax Equalization Revision Commission (sic). It would produce assessment manuals and conduct courses for county assessors, sets the adjusted value for the purpose of school aid, and serves as the assessor for now nine state assessed counties. The Property Tax Administrator would be the administrative head of the Property Assessment Division of the Department of Revenue. The Tax Commissioner would promulgate all rules and regulations, develop all forms, and hear all administrative appeals of the decision of the Property Tax Administrator regarding value setting. The committee amendments also insert the provisions of LB627 to amend Section 77-103 and 77-105 specifically, including trade fixtures from the definition of real property under Section 77-103, and includes trade fixtures within the division definition of personal property under Section 77-105. Trade fixtures would be defined as machinery and equipment used directly in commercial, manufacturing, or processing activities. The degree of attachment to the real property would be irrelevant under LB627 and the committee amendments to LB334. Explanation of AM886 to the committee amendments would be to insert the provisions of two bills heard by the Revenue Committee and advanced from General File without dissenting vote. The first one, LB484 by Senator McDonald, would require county treasurers collecting taxes on benefit. Okay, fine, I got ahead of myself a little bit, but the...we will end at when I started on AM886. With that, Senator Langemeier, I got ahead of myself a little bit, but that does include the committee amendments. Thank you. [LB334 LB627 LB484]

SENATOR LANGEMEIER: Thank you, Chairman Janssen. Mr. Clerk, for an amendment. [LB334]

ASSISTANT CLERK: Mr. President, Senator Janssen would offer AM886. (Legislative Journal page 1020.) [LB334]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Janssen, you're recognized to open on AM886. [LB334]

SENATOR JANSSEN: All right. Thank you, Senator Langemeier. I'm sorry I got ahead of myself. This amendment, AM886, would insert the provisions of two bills heard by the Revenue Committee and advanced to General File without dissenting vote. The first was LB484, Senator McDonald's bill to require the county treasurer collecting tax funds on behalf of fire districts and agricultural societies to remit the tax proceeds to those local governments in the same manner as they now provide tax proceeds from other types of local governments. Currently, fire districts must apply to the county treasurer to acquire such funds through a process which requires two officers of the fire department or that district to sign the request for tax funds. The second is LB519, Senator Howard's bill to require county assessors to conduct a systematic inspection and review of the portion, taxable property in the county...let's see...in the county, and that the annual review would focus on a class or subclass, a geographic portion of the county, or any other way of dividing property in the county so as to review them all within a four-year period. Questions have arisen about what a systematic inspection and review really means. It does not mean that every house or building must be entered by the assessor on every acre measured and classified. As many of you know, assessors to the interior of...access to the interior of any building may be denied by the owner of that property. It does not mean that the...an assessor cannot conduct the review without leaving the office. He or she is to make an effort to view the property, to look for improvements or other changes that are not on the record for the property. In other words, the assessor must take some steps to assure that the classification and description of the property matches the property and the properties that are kept by the county. AM886 also cleans up a portion of the bill itself by clarifying that Property Tax Administrators may still issue directives, guidelines, policies and procedures after the merger, but the Tax Commissioner would be responsible for rules, regulation, and forms. The Tax Equalization Review Commission would have the power to review final decisions on the Property Tax Administrator that are made prior to the merger, and would have the power to review decisions of the Tax Commissioner made with regard to the property valuation, exemption of taxations that are made after the date, and see the Property Tax Administrator will still be appointed by the Governor, subject to the usual appointment requirements, even though he or she would head the division of the Department of Revenue. Finally, the amendment would provide that TERC receive four copies of the statutes of revisors, one for each commissioner. And that concludes the committee amendments. Thank you. [LB334 LB484 LB519]

SENATOR LANGEMEIER: Thank you, Senator Janssen. You have now heard the opening on the committee amendments, as well as AM886. The floor is now open for discussion on AM886. Senator Dierks, you are recognized to address AM886. [LB334]

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SENATOR DIERKS: Thank you, Mr. President and members of the body. I just wanted to stand in support of the committee amendments. They were, as Senator Janssen indicated, they were without opposition in the committee and they just serve to bolster our statutes. Thank you. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator McDonald, you're recognized. [LB334]

SENATOR McDONALD: Yes, Mr. President and members of the body. I rise in support of this amendment. It includes my bill, LB482, which I brought to the Revenue Committee, which eliminates the statute provision that requires rural and urban fire departments and county agricultural societies to request payment of their tax proceeds through a warrant on the county treasurer. Cities, villages, school districts, and ESUs receive an automatic payment of the provisions...of the previous months' tax proceeds by the 15th of the following month. Cities of the metropolitan class, which is Omaha, and Class V school districts, which is OPS, are paid their proceeds once a week. This amendment would add rural and urban fire departments and county agricultural societies to the list of political subdivisions that receive their tax proceeds automatically on the 15th of each month. Eliminating the obsolete warrant requirement would streamline the process for county treasurers and makes the process uniform for all political subdivisions. This portion of the amendment is a simple change that is supported by the affected groups and costs nothing to implement. Thank you. [LB334 LB482]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Those wishing to speak, we have: Schimek, Adams, Chambers, Harms. Senator Schimek, you are recognized. [LB334]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I have a couple of questions to ask. First of all, regarding AM886, I want to make sure that I understand Senator McDonald's bill. So first of all, Senator McDonald, may I ask you a few questions? [LB334]

SENATOR LANGEMEIER: Senator McDonald, would you yield to a question? [LB334]

SENATOR McDONALD: Yes, I will. [LB334]

SENATOR SCHIMEK: Senator McDonald, the two subdivisions that this would change the procedure for are fire departments and...or was it just fire departments? [LB334]

SENATOR McDONALD: It was fire departments and agricultural societies, and these are rural ag...fire departments and urban fire departments. [LB334]

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SENATOR SCHIMEK: Okay. And these two subdivisions don't have elected officials running them like other subdivisions do, do they? [LB334]

SENATOR McDONALD: Well, what...that I don't know if they do or not, but what happens when they...they have to have...they get a warrant rather than the money, and so then they have to go...and it's obsolete in all other issues of this form of government. They just had not put that in there. And so now they get paid with actual cash. [LB334]

SENATOR SCHIMEK: I understand that, I guess, but there must have been some reason that this was put into statute originally, and I'm not sure that I know...I mean, I don't know what it is, and I just wondered if it was because they don't have elected boards so that it was maybe a safeguard of some kind? [LB334]

SENATOR McDONALD: You know, I can't answer that. I just know that it came out of committee with all supporting votes and, in fact, I think that, as I look at the committee statement, there wasn't anyone that opposed it. [LB334]

SENATOR SCHIMEK: And it's probably...I mean it's probably a good bill. I just...I'm just kind of curious as to why it was that way in the first place. And it does seem as if it isn't a very efficient method, as you've pointed out, but I was just curious about that. So thank you for answering that. [LB334]

SENATOR McDONALD: Well, I don't know if I really answered it to your...to, you know, to the way you wanted. This bill came to me by someone in Boone County and felt that it would...could run their government a little more efficiently if it was done through...without the warrant. And there was no opposition in committee. [LB334]

SENATOR SCHIMEK: And I may be just totally missing the point here. Thank you, Senator McDonald. And if I could ask Senator Janssen, perhaps, a follow-up question. [LB334]

SENATOR LANGEMEIER: Senator Janssen, would you yield to a question? [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR SCHIMEK: Yes, Senator Janssen, on this amendment, AM886, I understand the one part of it, LB519, which is incorporated in here which basically says you have to update property every four years, right? I mean,... [LB334 LB519]

SENATOR JANSSEN: Uh-huh. [LB334]

SENATOR SCHIMEK: ...so that everything will be more uniform and so forth. The part I really had the question about was the McDonald bill, LB482, and that was the one

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about... [LB334]

SENATOR JANSSEN: LB484? [LB334 LB484]

SENATOR SCHIMEK: ...or LB484, was it? [LB334 LB484]

SENATOR JANSSEN: Uh-huh. [LB334]

SENATOR SCHIMEK: That was the one about the fire departments and I just wonder, why did they have a different method in the very beginning of getting their monies? Do you have any idea? [LB334]

SENATOR JANSSEN: You know, I really don't know, Senator Schimek. I know that they had to go to the county and withdraw those funds from that account. And I think that this will make them...they will do the same process as any of the other subcommittees or districts get their...get their... [LB334]

SENATOR SCHIMEK: There are other districts, then, that you can think of? [LB334]

SENATOR JANSSEN: Well, there's school districts. [LB334]

SENATOR SCHIMEK: Well, but that's got an elected school board. [LB334]

SENATOR JANSSEN: Yeah. Well, the fire... [LB334]

SENATOR SCHIMEK: And the rural fire districts have... [LB334]

SENATOR JANSSEN: Elected boards, yes. [LB334]

SENATOR SCHIMEK: They're elected at public elections? [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR SCHIMEK: And the ag societies are, too? [LB334]

SENATOR JANSSEN: Within that district, uh-huh. Ag societies, I'm not sure about ags...I believe they do. They are elected also. [LB334]

SENATOR SCHIMEK: They're not just from their membership; they're from... [LB334]

SENATOR JANSSEN: No, I think they're... [LB334]

SENATOR LANGEMEIER: Thirty seconds. [LB334]

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SENATOR JANSSEN: ...elected. [LB334]

SENATOR SCHIMEK: Okay. [LB334]

SENATOR JANSSEN: The chairman and the treasurer and the secretary, I believe, is what those entities have. Fire districts, I know they are. [LB334]

SENATOR SCHIMEK: I was under the impression that people came to a meeting, and those people who were at the meeting voted, and I'm probably way behind the times, so never mind. [LB334]

SENATOR JANSSEN: Okay. [LB334]

SENATOR SCHIMEK: I'll take your word for it. [LB334]

SENATOR JANSSEN: All right. [LB334]

SENATOR SCHIMEK: Okay, then I guess I'll save my other question till when we get to AM775, the Revenue Committee amendment. [LB334]

SENATOR LANGEMEIER: Time. [LB334]

SENATOR SCHIMEK: So thank you. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Adams, you are recognized. [LB334]

SENATOR ADAMS: Thank you, Mr. President. Would Senator Janssen yield to a question, please? [LB334]

SENATOR LANGEMEIER: Senator Janssen, would you yield to a question? [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR ADAMS: Senator, just...I think you've already answered the question for me, but I just want to clarify it particularly for the record. In that portion of the amendment, the language "systematic inspection and review," that doesn't mean that the county assessor each time has got to walk into the house, does it? [LB334]

SENATOR JANSSEN: No. [LB334]

SENATOR ADAMS: A drive by, a picture taking, those kinds of things would qualify

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under this language? [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR ADAMS: Okay. One other question then. Is...the amendment talks about four years. Is that correct? [LB334]

SENATOR JANSSEN: I believe it is, yes. [LB334]

SENATOR ADAMS: Okay. [LB334]

SENATOR JANSSEN: Every four years, uh-huh. [LB334]

SENATOR ADAMS: And one of the concerns I know that the county assessors have in my district is shortage of staff, geography, getting around to do all of these in a four-year period, and was there any consideration of a time span other than four, lengthening it out? [LB334]

SENATOR JANSSEN: No, I don't believe so, no. [LB334]

SENATOR ADAMS: Okay. [LB334]

SENATOR JANSSEN: Four years is, you know, four years does go by pretty fast, and I believe that it should be reviewed if you want to keep up on what's happening to that property. [LB334]

SENATOR ADAMS: Okay. Thank you. That's all I have, Mr. President. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Adams. Senator Chambers, you're recognized. [LB334]

SENATOR CHAMBERS: Mr. President, I'd like to ask Senator Janssen a question. [LB334]

SENATOR LANGEMEIER: Senator Janssen,... [LB334]

SENATOR JANSSEN: Certainly. [LB334]

SENATOR LANGEMEIER: ...would you yield to a question? [LB334]

SENATOR JANSSEN: Yeah. [LB334]

SENATOR CHAMBERS: Senator Janssen, LB775...I mean the amendment, AM775, is

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the Revenue Committee's amendment. Is that true? [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR CHAMBERS: Does that have any other bills incorporated within it? [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR CHAMBERS: How many? [LB334]

SENATOR JANSSEN: Yes, it has AM886...no, wait a minute. Just a second here. It has Senator Dierks' bill, LB627. [LB334 LB627]

SENATOR CHAMBERS: So it's possible to divide. How many divisions can this amendment be divided into, do you think? [LB334]

SENATOR JANSSEN: Oh, I think it's probably unlimited, Senator. [LB334]

SENATOR CHAMBERS: Few dozen? [LB334]

SENATOR JANSSEN: If you would like to. I think that's a little high. [LB334]

SENATOR CHAMBERS: And that will give us a chance to really understand what it is that we're doing. [LB334]

SENATOR JANSSEN: Well, I think maybe of you'd...one, two, three probably, would probably encompass it. [LB334]

SENATOR CHAMBERS: Three divisions. [LB334]

SENATOR JANSSEN: Three. [LB334]

SENATOR CHAMBERS: And can you tell me what they would consist of, just in general? [LB334]

SENATOR JANSSEN: All right. Well, the committee amendments and then LB334. [LB334]

SENATOR CHAMBERS: But I meant what do the committee amendments...are there a number of... [LB334]

SENATOR JANSSEN: I say were this within the committee amendments, it would be LB334, you know, AM886 and LB519. Yeah, AM886 and LB519. Yeah. [LB334 LB519]

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SENATOR CHAMBERS: How long do you think it would take us to discuss this bill if we were to divide the question? [LB334]

SENATOR JANSSEN: Well, probably two or three times longer than it would otherwise. [LB334]

SENATOR CHAMBERS: And how long would it take otherwise if we didn't divide it? [LB334]

SENATOR JANSSEN: Otherwise, I would suggest a couple hours, uh-huh. [LB334]

SENATOR CHAMBERS: So I could get six hours at least out of this bill. [LB334]

SENATOR JANSSEN: Well, you know, I've watched you operate for the last 15 years, Senator, and I think you could get six hours out of just about anything. [LB334]

SENATOR CHAMBERS: Do you think I can get more than six hours out of this one, then? [LB334]

SENATOR JANSSEN: If you chose to, you quite possibly could. [LB334]

SENATOR CHAMBERS: Would you like to see that done so that you can show us what the Revenue Committee has done and is presenting to us? [LB334]

SENATOR JANSSEN: Well, you know, Senator Chambers, if we aren't working on this we'd be working on something else, so... [LB334]

SENATOR CHAMBERS: I agree. [LB334]

SENATOR JANSSEN: Uh-huh. [LB334]

SENATOR CHAMBERS: Do you think that the people on the floor understand what is in that 120-page amendment identified as AM775? [LB334]

SENATOR JANSSEN: Well, I would believe if we would spend six or eight hours here they would probably know. [LB334]

SENATOR CHAMBERS: I mean right now do you think they know? [LB334]

SENATOR JANSSEN: Um... [LB334]

SENATOR CHAMBERS: Probably not. [LB334]

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SENATOR JANSSEN: ...basically, no, not everything. [LB334]

SENATOR CHAMBERS: If they knew as much about this bill as they did the last one, which was just a few pages, they don't know too much about it, do they? [LB334]

SENATOR JANSSEN: Probably not. [LB334]

SENATOR CHAMBERS: I'll lay you a wager. I'll bet you could get this amendment adopted by 3:30 if I stay out of it, and I'm going to stay out of it. [LB334]

SENATOR JANSSEN: Well,... [LB334]

SENATOR CHAMBERS: And we're going to watch the little geniuses and the older geniuses work this very important bill over. But before I stop, is this the one that's going to combine some things together or what? The original bill, what was it designed to do? [LB334]

SENATOR JANSSEN: Well, it...to combine the Property Tax Administrator with the Department of Revenue. [LB334]

SENATOR CHAMBERS: Okay. [LB334]

SENATOR JANSSEN: Uh-huh. [LB334]

SENATOR CHAMBERS: And you think that's a good thing. [LB334]

SENATOR JANSSEN: Well, yeah, to be able to combine them together, but those...that position will still stay there, but you will be under the authority of the Tax Commissioner. [LB334]

SENATOR CHAMBERS: But I ask, if you don't mind giving your opinion, and if you don't want to give it I'll accept that, and... [LB334]

SENATOR JANSSEN: No, I think it's a good move--yes, I do. [LB334]

SENATOR CHAMBERS: Okay, who offered this bill? [LB334]

SENATOR JANSSEN: The...Senator Dierks offered the bill, yes. [LB334]

SENATOR CHAMBERS: And did he...who asked him to bring it, if you know? [LB334]

SENATOR JANSSEN: I believe the Department of Revenue. [LB334]

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SENATOR CHAMBERS: Are you sure? [LB334]

SENATOR JANSSEN: I will let him speak for himself. [LB334]

SENATOR CHAMBERS: I would like to ask Senator Dierks a question, if I have a few seconds. [LB334]

SENATOR LANGEMEIER: Senator Dierks, would you yield to a question? And one minute. [LB334]

SENATOR DIERKS: Absolutely. [LB334]

SENATOR CHAMBERS: Senator Dierks, who requested that you bring this bill, if anybody? [LB334]

SENATOR DIERKS: Governor Heineman. [LB334]

SENATOR CHAMBERS: And does it say...Governor who? [LB334]

SENATOR DIERKS: Governor Heineman. [LB334]

SENATOR CHAMBERS: Oh, I thought you said Heidemann. I was going to say that's quite a promotion. Does it say on the front of the bill "at the request of the Governor"? [LB334]

SENATOR DIERKS: I don't even know. [LB334]

SENATOR CHAMBERS: So the introducer of the bill doesn't know and the Chairman of the Revenue Committee doesn't know. And I'm asking if anybody knows what's in the bill, and they're not sure what's on the cover of the bill? Thank you, Mr. President. I may have to speak one more time, though. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Chambers. And you are recognized for your one more time. Senator Chambers, you are the next light. You're recognized. [LB334]

SENATOR CHAMBERS: Patience, Mr. President, patience. Thank you, Mr. President. Members of the Legislature, I'm a stranger to this bill. I have a tremendous flaw and defect. I read parts of bills. And you know the first thing I usually read about a bill? Page 1, line 1. When we get below Legislative Bill 334, introduced by Dierks, 40--I thought he was older than that, but we'll accept it as it says--at the request of the Governor. This is the Governor's bill. You mean to tell me the Revenue Committee did not know that they

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were dealing with the Governor's bill? Mr. President, members of the Legislature, maybe I do need to get involved in the discussion of this bill, but here's why I'm not going to. For awhile I'm going to let the Legislature do whatever it wants to in its own wise way and see what they come up with. But there are other bills I'm not going to just let go through like this. And I know that people are not going to take the time to read this amendment. It's too thick, there are too many pages. This is a society where short attention spans are encouraged, gullibility and naivete rule. Now when we get to a license plate bill, which in my opinion, speaking only for myself, is not worth the paper it was printed on, people will be able to grasp that and deal with it. But I'm going to do all I can to kill that bill. I'm not letting it go like I did the last one and like I'm going to let this one go. But when we get to LB570, just because the Transportation Committee rolled over on it, I'm not going to. I'm going to roll over that bill, and I'm going to find out whether there was serious thought given to it. Why in the world...well, I'll wait till we get to that bill--gives us something to look forward to. Some of my colleagues will be able to doze and go other places, but I'm going to compile a record and show just how careless, how slipshod, how slapdash the Legislature is. And I'm going to make a record which clearly declares my position, and my vote will follow it. I'm so tempted to address some things in this bill because it is an important policy decision that is being taken. I'd like to ask Senator Janssen a question or two. [LB334 LB570]

SENATOR LANGEMEIER: Senator Janssen, would you yield to a question? [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR CHAMBERS: Senator Janssen, as the Chair of the Revenue Committee, were you present when this bill was heard? [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR CHAMBERS: What is the benefit that will derive from doing what this bill purports to do? [LB334]

SENATOR JANSSEN: It merges the Tax Review and Equalization Commission into the Department of Revenue, which they work very closely with right now. It was a...this would make it in one whole department. [LB334]

SENATOR CHAMBERS: And how is that a good thing? Could it become unwieldy by making one out of two? [LB334]

SENATOR JANSSEN: Oh, I... [LB334]

SENATOR LANGEMEIER: One minute. [LB334]

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SENATOR JANSSEN: ...don't think so. I don't think it's going...it will be unhealthy. They work together so much right now anyway and being.. [LB334]

SENATOR CHAMBERS: Do they agree on everything right now? [LB334]

SENATOR JANSSEN: Well, if they don't agree, I have never heard of it. Right, uh-huh. [LB334]

SENATOR CHAMBERS: So why don't we just abolish one of them altogether, then? [LB334]

SENATOR JANSSEN: Well, that's kind of like what we're doing. We're putting the two together and the one person, that is all she works on within that department, is the equalization and revision. [LB334]

SENATOR CHAMBERS: And everything else from the other part will just go away, is that correct? [LB334]

SENATOR JANSSEN: Well, the other part would...I'm sorry, I'm... [LB334]

SENATOR CHAMBERS: If you're merging one thing into another, there have to be at least two parts. [LB334]

SENATOR JANSSEN: Yes, but she would...they would still be part of the Department of Revenue. [LB334]

SENATOR CHAMBERS: For what purpose? They don't have anything to do. [LB334]

SENATOR JANSSEN: Well, yes, they would. They would still be doing the same job they're doing only they wouldn't be stand alone. They'd be within... [LB334]

SENATOR LANGEMEIER: Time. [LB334]

SENATOR JANSSEN: ...the Department of Revenue. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Dierks, you're recognized. [LB334]

SENATOR DIERKS: Thank you, Mr. President and members of the body. Senator Chambers, I have a copy of the bill right in front of me and it does say "at the request of the Governor." And I have gone through the copy of the bill and the bill itself is 180-some pages, I believe, 188 pages. The amendment that you're talking about has 120-some. But as I go through the bill, the only thing I can see really changing was the

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terms "Tax Commissioner" and appraiser (sic), tax appraiser (sic), the property tax appraiser (sic). All through the entire 188 pages, these were the changes. And in the bill...in the amendment there's a few other things, but they just deal with the job of the tax assessor. And I want to tell you how I addressed the committee when I introduced the bill. After I told whom I was, I said LB334 was introduced on behalf of Governor Dave Heineman, so the committee knew that. This morning or this afternoon I introduced the bill. I did the same thing. I said this is a bill that I introduced on behalf of Governor Heineman. Just want you to be clear that we kind of have some idea of what we're doing, maybe not all the time. But appreciate your thoughts and your questions. Thank you, Mr. President. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator Wightman, you're recognized. [LB334]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. We have studied this issue quite a bit in the Appropriations Committee. I might be able to shed some light on it. Actually, the Department of Property Assessment and Taxation is a relatively new department. It was separated, I believe, at one point out of the Department of Revenue. The Department of Property Assessment and Taxation basically consists of two separate programs. One of these programs is to try to coordinate the equalization between counties, among counties, and the other agency and one that I'm going to address later in the form of a proposed amendment, which I may later withdraw but I at least want to have a discussion with that, is a program by which about 10 or 12 years ago the state Department of Revenue or Property Assessment and Taxation took over furnishing the services of the County Assessor's Office in a number of counties, and that has continued up until the present time. I think that happened--I don't know the exact date--about 1995. At that time they...this department requested counties to see if they would allow the department to take over providing the assessor's office duties, and they did take over. I don't know whether it was nine originally, but at the current time there are nine counties, and I'll give you those counties: Dakota, Dodge, Garfield, Greeley, Harlan, Hitchcock, Keith, Saunders, and Sherman. We questioned the...Cathy Lang at some length with regard to the duties of this particular agency and found that of, I think about 75 employees in the entire agency, 45 of them are on the program that provides the assessor's office duties in these nine counties. And since then I've checked and I think Saunders and Dodge have eight employees out. Now understand this is the state of Nebraska with all of their employees running the assessor's office in these nine counties. So two of the counties had 8, Saunders and Dodge; two other counties, Keith and Dakota, had 6 each; so 28 of the employees are in those four counties. This is something, I think, that this body needs to take a real look at. Number one, we provide the assessor's office duties; we provide the assessor and all of their employees in these nine counties. We get no reimbursement from the rest of the state. We have, in the meantime, had requests from other counties to provide this service and we had to tell them, this prior Legislatures, I think, that we didn't have the money to do it. We had a

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request from Douglas County to provide it. Would have been a tremendous cost to the state of Nebraska. And I don't think the time is proper, without a hearing on a separate bill, probably to take away these services in a single year, because I think the expense would be too high to these counties and they can't probably live within their lid limits if they were to take them over in a single year. But I think we've got to work toward that basis. So out of 75 employees... [LB334]

SENATOR LANGEMEIER: One minute. [LB334]

SENATOR WIGHTMAN: ...in this agency, 45 of them are providing assessor's office duties in only nine counties, for which the state is not being reimbursed. Out of the total budget of \$4.7 million, and I don't know the exact figure on this, almost \$3 million is being spent on those 9 counties, and the other 84 counties are providing...or the citizens of those other 84 counties are providing the expense money. So I hope this is of some value. If we were to combine the two agencies, only about 75 employees would be changing positions. And if we later eliminated those counties, only about 30 would be in the old agency and would be combined. Thank you, Mr. President. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Stuthman, followed by Schimek and Carlson. Senator Stuthman, you're recognized. [LB334]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask a couple questions to Senator Dierks, if he would respond. [LB334]

SENATOR LANGEMEIER: Senator Dierks, would you yield to a question? [LB334]

SENATOR DIERKS: Yes. [LB334]

SENATOR STUTHMAN: Senator Dierks, why do we revalue property so often? [LB334]

SENATOR DIERKS: I think it's required by law, isn't it? [LB334]

SENATOR STUTHMAN: That may be true. Does your property that you purchase, your ranch that you purchased for a certain dollar figure, just because the value goes up on it, or just because some other property went higher, does that mean that your property is worth that much? [LB334]

SENATOR DIERKS: I don't know about the worth, but the valuation goes up. [LB334]

SENATOR STUTHMAN: If a valuation continues to go up, shouldn't the mill levy go down? [LB334]

SENATOR DIERKS: Well, that's an interesting question. We'd like to think it does, but I

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don't think that's true. [LB334]

SENATOR STUTHMAN: That is a concern that I have with continually revaluation of property. You purchase property for \$1,000 an acre, and...at a certain year, and then they continually revalue that property. But being on a county board prior to this legislative body, the thing that I have always said, no matter where the valuation is, it's the dollars that it takes to run the operation. And by running the operation, I mean, how many dollars does it take to run the school, how many dollars does it take to run the county, how many dollars does it take to run just the townships, the fire department, the bookmobile, like that? And there's a lid limit on that. Is that correct, Senator Dierks? [LB334]

SENATOR DIERKS: That is correct. [LB334]

SENATOR STUTHMAN: So if they spent \$100,000 one year, they could only spend \$102,000 or \$104,000 the next year, immaterial of where the valuation is? [LB334]

SENATOR DIERKS: I'm not sure that's right. I think if the valuation goes up, they can still spend the \$1.02...or, the dollar...whatever the lid is, so the dollars you collect go up every year because the valuation goes up. [LB334]

SENATOR STUTHMAN: It seems that that's what's happening. But the mill levy lid limit is, in my opinion, of what you spent last year. You can only spend \$102 as...this coming year, as to what you spent \$100 last year. Would that be correct? [LB334]

SENATOR DIERKS: I don't think... [LB334]

SENATOR STUTHMAN: Maybe I need to address that to... [LB334]

SENATOR DIERKS: I think you need to address that, too. I'm not sure that's right. I think that the lid is on the amount of dollars you can assess, what you can...the dollars you can assess the property for. If the property assessment goes up, you get more dollars. And it's not based on what you spend; it's based on what your valuation is. [LB334]

SENATOR STUTHMAN: I don't think that is correct, in my estimation. I feel that a lid limit...and the reason they say it's a lid limit is, you can spend \$1.05 for assessing schools, school taxes can be \$1.05, and there's a bill somewhere coming up that it may get back down to \$1.00. So that means that they can only assess the \$100 or \$1,000 that they spent last year. That's what they've got to do. I have a real concern with continually... [LB334]

SENATOR LANGEMEIER: One minute. [LB334]

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SENATOR STUTHMAN: ...revaluing property. Every time the people get their change in valuation in their tax slip, they say, oh, my taxes are going to go up. I don't think they should really go up, because they can only spend X amount of dollars, according to the lid limits. Yes, there are some taxing authorities that spend it on your increase in value. I just have a real problem with it continually going up, and the only reason it goes up is because we have in statute a law that states that it must be assessed at value, current value. It seems that the county assessors in my county are continually working on revaluations. I think we're spending a lot of money on the revaluations. My property isn't worth any more than when I purchased it,... [LB334]

SENATOR LANGEMEIER: Time. [LB334]

SENATOR STUTHMAN: ...unless I want to sell it. Thank you. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Schimek, you're recognized. [LB334]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I would like to say, first of all, that I think Senator McDonald's bill that's amended in here on AM886 is fine. As she and I talked off-mike, and I talked with several others, I learned that the other local subdivisions used to have to do the same thing that the fire departments and ag societies are doing, and somehow they just never got changed in statute like the other local subdivisions are doing. So I'm fine; I just had to ask the questions. But now I have to ask a few more questions, and this goes more to the amendment and to the bill itself. And Senator Dierks, I'd like to ask you... [LB334]

SENATOR LANGEMEIER: Senator Dierks, would you yield to a question? [LB334]

SENATOR DIERKS: Yes. [LB334]

SENATOR SCHIMEK: Senator Dierks, I'm not sure I see exactly what this bill is trying to accomplish. Now, under your bill, there would have been a merger between the two positions, the Tax Administrator and the Property Tax and Assessment administrator, and that would become one person, right? [LB334]

SENATOR DIERKS: The Property Tax Administrator and the Department of Revenue. [LB334]

SENATOR SCHIMEK: Yes. Okay, but they wouldn't...would they have still been two...would the Tax Commissioner and the Property Tax Administrator been two separate positions still? They wouldn't have, would they? [LB334]

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SENATOR DIERKS: Yes, there will still be a department...a division for the Property Tax Assessor (inaudible)... [LB334]

SENATOR SCHIMEK: Under the committee amendment. But under your bill,... [LB334]

SENATOR DIERKS: Yeah. [LB334]

SENATOR SCHIMEK: ...was that...would you explain your bill one more time to me, as to what it did? [LB334]

SENATOR DIERKS: It's strictly a merger between the offices. [LB334]

SENATOR SCHIMEK: Yeah, that's what I was getting at. [LB334]

SENATOR DIERKS: And the amendments, I think, clarified that by saying that the Property Tax Administrator would still have that position. And you should know that the Property Tax Administrator, as I understand it, is one that's by appointment. [LB334]

SENATOR SCHIMEK: Yes. How does the amendment really change anything? I mean, doesn't...isn't that the way it is now? What about the amendment changes current practice? [LB334]

SENATOR DIERKS: I think the amendment just clarified the bill as we introduced it, to make sure that people understood that the Property Tax Assessor...the Office of Property Tax Assessment would still be an individual position over in the Department of Revenue. [LB334]

SENATOR SCHIMEK: Okay. And right now that person is an appointee, correct? [LB334]

SENATOR DIERKS: Yes. [LB334]

SENATOR SCHIMEK: And that person would be an appointee under the committee amendment? [LB334]

SENATOR DIERKS: That's my understanding. [LB334]

SENATOR SCHIMEK: And now, right now, are they appointed for a specific term? [LB334]

SENATOR DIERKS: I think that's right. [LB334]

SENATOR SCHIMEK: But under this amendment, they wouldn't be? [LB334]

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SENATOR DIERKS: You know, I don't think that changes. I really don't know. Maybe... [LB334]

SENATOR SCHIMEK: Maybe I'll have to ask Senator Janssen about that, then. [LB334]

SENATOR DIERKS: I think you will, yeah. [LB334]

SENATOR SCHIMEK: Okay, thank you. [LB334]

SENATOR DIERKS: You bet. [LB334]

SENATOR LANGEMEIER: Senator Janssen, would you yield to a question? [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR SCHIMEK: Senator Janssen, I'm just...I don't understand exactly how the committee amendment changes what we do now. [LB334]

SENATOR JANSSEN: All right. What we have now, the...it would strike the references to the Department of Property Assessment and Taxation, the Property Tax Administrator, and replace them with the Department of Revenue or the Tax Commissioner. The bill proposes to merge into two departments and to establish a Property Assessment Division within the Department of Revenue. That's what it does. [LB334]

SENATOR SCHIMEK: That's the committee amendment? [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR LANGEMEIER: One minute. [LB334]

SENATOR SCHIMEK: You said the bill, so... [LB334]

SENATOR JANSSEN: Yes. [LB334]

SENATOR SCHIMEK: ...that's why I wanted to clarify that. [LB334]

SENATOR JANSSEN: Yeah. [LB334]

SENATOR SCHIMEK: Okay, then I guess I have... [LB334]

SENATOR JANSSEN: That was as...that is in...that's the way the bill was. That's the

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way it was...LB334 was written. [LB334]

SENATOR SCHIMEK: Okay, well, what about the committee amendment, then? [LB334]

SENATOR JANSSEN: And it keeps the...it would be the same in the committee amendment. That would be the definition of this person's position, a property...she would be the Property Tax Assessment Director, or...within the Property Assessment Division within the Department of Revenue. [LB334]

SENATOR SCHIMEK: Okay. [LB334]

SENATOR JANSSEN: All right? [LB334]

SENATOR SCHIMEK: Yeah, I'm not... [LB334]

SENATOR JANSSEN: Are you still confused? [LB334]

SENATOR SCHIMEK: Yes. (Laugh) [LB334]

SENATOR JANSSEN: Okay, maybe I can get off the mike. [LB334]

SENATOR SCHIMEK: I'll talk to you and George off the floor. [LB334]

SENATOR JANSSEN: Sure. [LB334]

SENATOR SCHIMEK: Thank you. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Carlson, you're recognized. [LB334]

SENATOR CARLSON: Mr. President, members of the Legislature, I would like to address some questions to Senator Wightman. [LB334]

SENATOR LANGEMEIER: Senator Wightman, would you yield to a question? [LB334]

SENATOR WIGHTMAN: I will. [LB334]

SENATOR CARLSON: Okay. Senator Wightman, I want to just clarify some things that you said that got my attention. You said the state has taken over the Assessor's duties in nine counties? Is this correct? [LB334]

SENATOR WIGHTMAN: That's correct. [LB334]

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SENATOR CARLSON: Did the number of employees go down at the county level?
[LB334]

SENATOR WIGHTMAN: I think it went up. I can only tell you this, Senator Carlson, that I checked with Dawson County, which would be about the size of Saunders, and not all that much smaller than Dodge, but it would be some, Saunders would be about the same size, and they have eight employees, and Dawson has 5.5 full-time equivalents, and they'd be similar-sized counties. So I don't think the employment went down when the state took it over. [LB334]

SENATOR CARLSON: Okay. Did the number of employees go up at the state level?
[LB334]

SENATOR WIGHTMAN: Well, that's what I'm saying. I think it did go up at the state level. Oh, you mean when they...are you talking about when the state took over the duties of the county assessors in these various counties? [LB334]

SENATOR CARLSON: Yes. [LB334]

SENATOR WIGHTMAN: I think it did. They have 45 employees for the nine counties, 5 of which are relatively small counties. [LB334]

SENATOR CARLSON: Okay. In your opinion, is this an example of inefficiency?
[LB334]

SENATOR WIGHTMAN: Well, I would hate to put it quite that way, but I wouldn't argue much with your statement. [LB334]

SENATOR CARLSON: Okay, thank you. LB334 is a merger of the Department of Property Assessment and Taxation with the Department of Revenue. And I'd like to address a couple of questions to Senator Dierks, if I might. [LB334]

SENATOR LANGEMEIER: Senator Dierks, would you yield to a question? [LB334]

SENATOR DIERKS: Yes. [LB334]

SENATOR CARLSON: Senator Dierks, you were asked to submit the bill, and I find no fault in that. Did the Governor's Office make it clear what the advantages were to the state to do this, or was it basically, we'd like to have this done? [LB334]

SENATOR DIERKS: No, I think there was a purpose for it. I think that...my conversation really was with Cathy Lang rather than the Governor, but the Governor was asking that

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this be done. But no, they feel like this is an efficiency move. There will be less people needed, eventually. [LB334]

SENATOR CARLSON: Okay, because the fiscal note shows no effect,... [LB334]

SENATOR DIERKS: That's right. [LB334]

SENATOR CARLSON: ...and therefore no cost savings or tax savings. [LB334]

SENATOR DIERKS: I think that the future will probably determine that there is some cost saving, but right now, they won't. [LB334]

SENATOR CARLSON: Okay, I'm sorry, we got blocked here. What did you...your last statement? [LB334]

SENATOR DIERKS: I think that in the future we'll find a cost saving there. I think that's the purpose of it. [LB334]

SENATOR CARLSON: Okay. Okay, thank you, Senator Dierks. [LB334]

SENATOR DIERKS: You bet. [LB334]

SENATOR CARLSON: And I guess as we hear testimony on this, I think it's a legitimate question for us in the Legislature to really hear what the actual and substantial advantages are to any bill that comes forward. Thank you. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Wallman, you're recognized. [LB334]

SENATOR WALLMAN: Thank you, Mr. President, fellow colleagues. I, too, have a...I wonder why this is done. Property taxes are everybody's issue, and if you try to merge this into something else, are we trying to hide something? And if we are, accountability...I'm one of the few people old enough in here to know Senator...who knew Senator Warner, and him and I went around on this lid limit thing, and I said, if we don't have a lid limit on valuations, we don't have a lid limit at all, and which I think we're discussing right now. And as school entities and other...and local governments, as our property value increases, we say, merry Christmas, how are we going to spend the money? And this is a tough issue, and if we keep our property tax thing separate, even though it may cost a little more, we can hold those people accountable. Our local governments...it's costing a lot, a lot of money to run these assessors. They come around to my farm, it seems like every year, look at my buildings, they measure them up, and I think everybody has the same problem. And so why can't we fix this nowadays with electronic things on computers, existing sales? They punch all these numbers in

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there, and most people aren't going to spend \$50,000-\$60,000 to remodel their house. And if they do, so, we miss out on that for four or five years. I don't think we should have to run these assessors around the country every other year, because it's costing us money, and lots of money in the counties, and that comes right out of our county budget. And I've got friends on the county board, and they don't like to spend that money either. So I think if we can save money,...I don't know if this bill will save money or not. Will it, Senator Dierks? [LB334]

SENATOR LANGEMEIER: Senator Dierks, do you want to yield to a question? [LB334]

SENATOR DIERKS: Sure. [LB334]

SENATOR WALLMAN: Will this save us some money, you think, really, honestly? [LB334]

SENATOR DIERKS: Well, the only thing I think I can tell you, Senator Wallman, is that the Fiscal Office didn't see a significant savings. So other than that, I just...I'm assuming that there will be some savings in time. [LB334]

SENATOR WALLMAN: Okay. I appreciate that. And thank you, Mr. President. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Wallman. We have...wishing to speak, we have Senators Gay and Wightman. Senator Gay, you're recognized. [LB334]

SENATOR GAY: Thank you, Mr. President. I did want to address...sorry, we did have a Health and Human Services Exec Session, so I missed out on the first part of this. But I did want to address what Senator Wightman and Senator Carlson were discussing, about how the...in '95, I think it was, when the counties...the counties chose to have the state take over those duties. The county boards went and asked for that to be done. I don't know about the efficiencies or where we're at with that, but there is no opt-out provision that they have now. So when they chose to do that, they thought at that time this would be more efficient. We were under a budget crisis somewhat, and they said, well, you guys take it over, go ahead. And they chose to do that. As far as efficiencies, I guess that's for another time, we should look into it. But I did want to clarify that. And as far as the spending lids and some of those things go, this is very complex things. I agree with Senator Wallman, one of the main portions of these...we got to look at these valuations at some point. Maybe on another day that's something definitely to address. But as far as this goes, I did want to clarify just really quick, that's exactly how that happened. There is no opt-out provision right now. I don't know if it's the most efficient way to do it or not, but I thought that I would just add that for the discussion. Thank you, Mr. President. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Wightman, you're

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recognized. [LB334]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I do want to address a little bit of what Senator Gay said. I think he's absolutely right, that that was passed, and I don't think it provided for an opt-out. My understanding is, though, rather than the counties going to the state and asking if they would do this, that the state originally...and whether it was the Department of Revenue or the Department of Property Assessment and Taxation that made the initial overture, I don't know. And with regard to the efficiencies, my opinion is, it's less efficient. As usual, you don't have proof on that sort of thing. But I think the question is, should 177...or, 1,770,000 residents be paying for the services that only go to the taxpayers of those nine counties? They're getting all the benefits from it. And I agree, we would have to have some sort of an opt-out provision. Probably we could start out with an assessment of part of the cost of that back to the nine counties. But I think they do have lid limits that they're going to have to live with. They probably have to elect a county assessor, because that county assessor's office is an elected position. So I think there are some real problems, and even if we were to repeal the sections, I think we would have to make the repeal effective probably not earlier than January 1, 2009, just to give those counties a chance to respond to the proposed legislation, or the legislation that would happen to be part of a bill. I really am not suggesting we can probably do that. I think there has to be a hearing, probably, on a bill that would accomplish that. But I think it is time to discuss that issue, as to whether or not the residents of the entire state should pay for services rendered to nine counties in the amount of approximately \$3 million annually. And believe me, there are a lot of services and a lot of aid that these other 84 counties would like to have that might be made possible if we eliminated that \$3 million budget item that they...nine counties are not repaying or covering any of those expenses. So that's my concern. If I have a little more time, I might address some of Senator Wallman's discussion with regard to why we need to have assessments or valuations of county property. And I've worked with the county board, I've worked with the city of Lexington, and I know that one of the issues here is that at times you'll have a big increase in farm values, or you'll have a big increase in rural residences, and if you don't look at those every so often, you have some segment of your population paying way too big a percentage of the taxes based upon what the current valuations are. And so, say over a period of five years you have a 30 percent increase in rural residences. Well, then probably that's going to be pointed out by the Property Assessment and Taxation, the equalization portion of the state, which, as I understand it, Senator Dierks is trying to combine into the Department of Revenue, and they're going to call the county and say, this doesn't appear to be in keeping with your sales. And all of the counties maintain a sales assessment ratio which they break down by types of different property--commercial, farm, residential, and rural residential. [LB334]

SENATOR LANGEMEIER: One minute. [LB334]

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SENATOR WIGHTMAN: As they do this and they see that one part is out of line, then they call the county assessor, and at that time they look at having a new appraisal for that county. I think it is necessary that we do this. We could simplify it, like Proposition 13 in California, and merely say that whatever you pay for the property continues to be your assessment, but you have the inequity that two people may be living in two \$1 million houses side by side in California, and one is paying taxes on \$100,000, and the other one is paying taxes on \$2 million. And I hardly consider that to be equitable. So with that, I'll conclude. Thank you, Mr. President. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Janssen, your light is next, and no other lights. You could either use your time, or close. [LB334]

SENATOR JANSSEN: Thank you. I think we'll use the time to close. Apparently, no one else wants to speak. There are several parts of the...in AM886, that is the amendment that we're working on right now, and that's Senator McDonald's bill that would allow the county treasurer to...that collects the taxes, the person being able to come in and get their money without the hassle, like all other entities do. So, with that, that's the closing on this. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Janssen. You have heard the closing on AM886 to the committee amendments. The question is, shall AM886 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Senator Janssen, for what purpose do you rise? [LB334]

SENATOR JANSSEN: Have to ask for a call of the house...there...never mind. [LB334]

SENATOR LANGEMEIER: Strike that, huh? Record, Mr. Clerk. [LB334]

ASSISTANT CLERK: 26 ayes, 3 nays on the adoption of Senator Janssen's amendment, Mr. President. [LB334]

SENATOR LANGEMEIER: The amendment is adopted. We return now...Mr. Clerk, for a motion. [LB334]

ASSISTANT CLERK: Next amendment to the committee amendments is offered by Senator Wightman, AM907. (Legislative Journal page 1049.) [LB334]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Wightman, you are recognized to open on your amendment, AM907. [LB334]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. AM907 is the one I've been discussing. I want to discuss it a little further. At this point, my intention would be to withdraw it and not...because I really support LB334. I think that

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instead of having two agencies out there, they probably should be combined. They do interplay between each other, in that it seems to me, even more so than ever, perhaps, that the Property of Assessment and Equalization...I'll call it equalization, even though that doesn't appear in their title, but if you took out the nine counties that I've referred to previously that they provide the assessor's office duties for, their primary duty is to provide equalization among the counties. And that is a real problem, but I think it also gets involved in the Department of Revenue, because we have so many aid packages that are going back to counties and to cities, and all of the equalization gets involved in that. And I think that's a good bill. I support Senator Dierks' bill, whoever requested that he bring it, the Governor or whoever it might be. But I do want to discuss at this point the necessity, I think--if not now, sometime in the not too distant future--to take...let the counties take back their assessors' duties. I know they're going to contend that they can't stay within their lid limits. That is more their problem than the state of Nebraska's, in my opinion. We've got 84 other counties out there that are worrying about staying in their lid limits, and they are providing not only the support for their own counties and cities, but are supporting also the nine counties for which they're providing the assessment duties in those nine counties. And to me that seems very unfair that we have all of the rest of the residents of the state paying for this \$3 million that benefits only the nine counties. So the purpose of AM907 is merely to repeal...we only show one of the sections, and that's why I think it would still need some more work. Only shows that we would be repealing a single section of the law, but there are about three other sections of the law that are involved in providing the assessments to these nine counties and...that are part of the overall assessment structure to do that. So I would like to, before I withdraw the amendment, at least have some further discussion with regard to the state continuing to pay all of the expenses of the office of assessor in these nine counties. It just seems to me that it's something we've got to look at, if not this year, at least next year. It probably should be a situation where any bill that would do this would be entitled to its own public hearing before the Revenue Committee. And I think these counties are going to need some notice before any withdrawal of that support would be totally implemented. But I don't think it would be too early to at least make it known that we're going to be looking at doing that, and these counties can see what they can do to get their own assessments in line, their own expenses in line, that they could live within a new limit that might be dictated by having to take over those duties. So again, I'll turn my light on. I'd certainly like to address it further, but I would be interested in hearing any comments from any of the other members of the Legislature. Thank you. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Wightman. You have heard the opening on AM907. The floor is now open for discussion. Senator Pirsch, you're recognized. [LB334]

SENATOR PIRSCH: Mr. President, I'll yield back my time. Thank you. [LB334]

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SENATOR LANGEMEIER: Thank you, Senator Pirsch. Others wishing to speak, we have Fulton, Raikes, and Wightman. Senator Fulton, you're recognized. [LB334]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. This was...what Senator Wightman's amendment addresses is something that we learned during the hearing process on Appropriations. And it's something I hope...I hope we're paying attention to it. I don't know whether the amendment is going to be able to pass muster. And he...Senator Wightman was talking about that. It probably needs a little bit more work. But the intention behind the amendment, I think, is a good intention. It seems that there are...I may ask Senator Wightman to yield, but it seems that there are a number of individuals--I think the number was 45--that are working on assessments that the counties typically are doing. And number one, it's an inequity for counties, because some counties would like to have this type of state aid, to have state employees working on assessments, but not all of them are able to get it. And number two, it's not something that's able to readily be addressed within the budget. It's...at least to me, anyway, it seems that this is...these are employees that are supposed to be doing X, but in fact they are doing Y, or something...some other letter. Well, would Senator Wightman yield to a question? [LB334]

SENATOR LANGEMEIER: Senator Wightman, would you yield to a question? [LB334]

SENATOR WIGHTMAN: Yes, I would. [LB334]

SENATOR FULTON: Could you repeat the numbers again? Within this department, how many people were in the department, and then how many are actually doing assessments for the counties? [LB334]

SENATOR WIGHTMAN: Now I'm going on what Cathy Lang testified to, as I remember, before our committee, and that was there are 70...approximately 75 employees in this particular agency, 45 of which are in the program that provides the assessors' office duties in the nine counties that I've discussed previously. And the total budget is about \$4.7 million for that agency, of which, just based on the number of employees, it would appear that about \$3 million of that \$4.7 million, maybe slightly above that, is representative of the expenditure for the nine counties. [LB334]

SENATOR FULTON: And there's no...the reimbursement rate, at what kind of reimbursement rate again? I think you mentioned this, but it's worth...to pay attention to this. What kind of reimbursement is the state getting for doing this work within the counties? [LB334]

SENATOR WIGHTMAN: Well, if we base it upon the testimony as I remember it in the Appropriations Committee, the reimbursement is zero. [LB334]

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SENATOR FULTON: Okay, that's...thank you, Senator Wightman. We should...this is something that...by intention, it's something that we ought to address, whether or not we're able to address it with amendatory language in this bill. I'm not necessarily suggesting that. But Senator Wightman has brought up something that we need to look at, so I thank Senator Wightman for that. With that, thank you, Mr. President. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Raikes, you're recognized, followed by Wightman, Synowiecki, Harms, and Dierks. [LB334]

SENATOR RAIKES: Thank you, Mr. President, members. I appreciate Senator Wightman offering this amendment, and I also appreciate his offer to withdraw it, because I don't support it. I will give you at least my understanding of the background of this. I think it dates back--and maybe some other folks here could correct me if I'm wrong--dates back to Senator Warner, when he was here. This was an effort to deal...or, began as a part of an effort to deal with the issue of statewide equalization, and probably also to some extent efficiency or consolidation, to the extent consolidation and efficiency went together, in county services, to provide a procedure whereby there could be some joint operations or consolidations in county services, particularly dealing with the general problem of statewide equalization. And I think at least theoretically, if you've got counties in the state that are dispersed about the state and can serve as benchmarks in assessment, that has got to be a positive in terms of statewide equalization. And I think that was a part of the vision that was there. Now, when this program was first offered, I think it was basically made available to every county, and I think maybe it was open to every county for more than one year, maybe two or three years. Many of the counties decided, for whatever reason, that they didn't want to do it, so they turned down the opportunity. And I think the deal was, basically, that the state will take over the assessment function for the county at no cost to the county. So it was a significant cost reduction--or at least in terms of the assessment at the county level--if in fact counties wanted to do that. At the time, as I say, all but nine said, no thank you, they didn't want to do it. At a later time--and I think this is getting into the early 2000s, there were more counties who were interested. But quite frankly, by that time, the state was in a position financially that they simply couldn't afford to take on more counties. So the program was closed simply from a cost standpoint and has remained closed ever since. So Senator Wightman is correct that, yes, there are only nine counties that the state is paying for the nine counties, but as per the agreement between the state and those nine counties whenever they came on board. The question would be...or, I think that he's raising, is what do we do now, going forward? Should the program offer...the offer of that sort of a program be extended so that other counties could take place either the same deal or some sort of a modified deal? Or should we turn around, do a 180, and go straight backwards; in other words, give up on any notion that there's any benefit to statewide equalization by state assessment in these various counties, or that there is any real sense in trying to centralize or consolidate at least some of the services that are provided, maybe particularly in smaller counties, but maybe in any county? My

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reaction is that going straight backwards would not be a good idea. It may well be that we ought to consider expanding the program in some way or another. [LB334]

SENATOR LANGEMEIER: One minute. [LB334]

SENATOR RAIKES: And I would certainly be interested in ideas in doing that. We've had some bills introduced before the Revenue Committee dealing with this issue. The Revenue Committee has never found one that either was topical or properly supported by the committee such that it could be advanced. But I certainly would agree that it's an issue that needs attention. I don't think, though, that the proposal to go backwards is the right one. So again, I don't support the amendment, but I do appreciate it being brought forward. Thank you. [LB334]

SENATOR FRIEND PRESIDING

SENATOR FRIEND: Thank you, Senator Raikes. Senator Wightman, you're next, and you are recognized. [LB334]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I extend my thanks to Senator Raikes for the historical perspective. Some of that was furnished to us by Cathy Lang when she addressed our Appropriations Committee. My understanding is, when it was first started, that everybody could have come under it, and that the state wanted to take...suggested that they take over those duties, to provide for better equalization among counties. It seems to me that the state has in place a program for that agency that provides for equalization among counties, irrespective of whether we continue or go backwards with regard to the nine counties that we presently have assumed the duties of assessors for. I guess I would disagree with Senator Raikes that it would be a step in the wrong direction to go backwards. It seems to me if we can't perform that service...and I, quite frankly, don't think that we can perform that service efficiently on a statewide level. I think that the counties, from everything I hear, do a better job of providing that service, at least efficiently, than the state of Nebraska does, and I based that partly upon the number of employees that are employees of the state out in nine county courthouses. I think in the long run, I think we have to look at probably stepping backwards, because I do not think that the answer is to provide this service for 93 counties, or make it available. I think we who serve on the Appropriations Committee have looked at a lot of things, that consolidation at the state level sounds sensible, but when you start looking at the dollars and cents, it doesn't make sense. I think you will find that the employees are paid at a higher rate, they receive better benefits, and there are more employees out in those counties than there would be if the county was providing that service themselves. And I'll admit that I haven't made an exhaustive review of those figures, but again, I know that Dawson County is comparable in size with at least two of these counties. Actually, Keith County probably has a population of about 40 percent of what Dawson County has, and they

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have 6 employees out there, and Dawson County has 5.5. I'm sure that there are many, many more parcels of real estate in Dawson County than there are in Keith County. So it just seems to me that the efficiencies aren't there, that the wages are high in comparison to what counties are paying. And again, while I would intend to withdraw this, I do want to hear some conversation here in this body as to where we should go from here. And again, I thank Senator Raikes for his comments. Thank you, Mr. President. [LB334]

SENATOR FRIEND: Thank you, Senator Wightman. Those wishing to speak: Senators Synowiecki, Harms, Dierks, and Stuthman. Senator Synowiecki, you're next, and you are recognized. [LB334]

SENATOR SYNOWIECKI: Thank you, Senator Friend, members of the Legislature. Appreciate Senator Wightman bringing this amendment. This had a...we had a lot of conversation in the Appropriations Committee relative to this program and the nine assumed counties under the program. I don't know who to direct this to. I think Senator Janssen, in his capacity as Chair of the Revenue Committee, if he'd be available to answer a question. Senator Janssen. [LB334]

SENATOR FRIEND: Senator Janssen, will you yield to a question from Senator Synowiecki? [LB334]

SENATOR JANSSEN: Yes. Yes. Yes, yes. [LB334]

SENATOR SYNOWIECKI: Senator Janssen, I hope this question is appropriately placed to you. It may not. It may need to go to Senator Dierks. But as Senator Raikes indicated, and I agree with him, and it makes sense, that the purpose of the assumed counties relative to assessment would probably, philosophically, be a good idea relative to statewide equity and consistency. Have we received the outcomes...this has been place now for some time. Do we have outcomes and data to support that we are enhancing and increasing the consistency and the equity in the property tax assessments, both inside these counties and those counties that are contiguous to these counties? [LB334]

SENATOR JANSSEN: Senator, I can only relate to the county that I represent, which is Dodge County, and they have the state tax assessor in that county, and it has worked out, I would say, quite well. They are doing a very efficient job in that county. Some people don't like what the assessor is doing, but they never liked some of the outcomes that the assessors that were in the counties before. You know, as long as you leave my property alone, but raise the other guy's, that's just fine. But what I'm seeing is equalization throughout that county, and I think they're doing a fine job there. [LB334]

SENATOR SYNOWIECKI: So Dodge County is an assumed county under the program?

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[LB334]

SENATOR JANSSEN: Yes. Yes, it is. [LB334]

SENATOR SYNOWIECKI: And you're seeing outcomes and results in terms of equity and consistency of assessments? [LB334]

SENATOR JANSSEN: From what I have witnessed, yes, it's working quite well. [LB334]

SENATOR SYNOWIECKI: Okay. You kind of touched on another concern of mine that had some discussion in the Appropriations Committee, as well, Senator Janssen. That relates to appeals apparatus, and what I would...what I view as a disenfranchisement of the citizens in Dodge County--let's take your county for example--and their inability to have a say or to elect their county assessor. Now, we have 84 counties in which the county assessor, because it's an elected position, needs to be responsive to the electorate within that county. But in Dodge County, the voters of Dodge County have no such ability and are kind of disenfranchised as an electorate, relative to the county assessor duties within that county. Can you speak to that at any level? [LB334]

SENATOR JANSSEN: I'm sorry, did you ask me a question? [LB334]

SENATOR SYNOWIECKI: Do you share any of them concerns; that is, that the voters in Dodge County--just using them as an example of one of the assumed counties--do not have the ability to elect through the political process their individual county assessor, whereas in 84 other counties within the state, those citizens... [LB334]

SENATOR FRIEND: One minute. [LB334]

SENATOR SYNOWIECKI: ...have the ability to elect and reelect or to not elect the county assessor for that individual county? [LB334]

SENATOR JANSSEN: I have not... [LB334]

SENATOR SYNOWIECKI: Does that concern you on any level? [LB334]

SENATOR JANSSEN: No, it doesn't. I don't believe that there's anyone in that county that would like to see it go back the old way, where you...where a popularity contest elects the county assessor. I think this is more of an independent person that's in that position. You do...you also can appeal those cases if you think your valuation is too high. And there's nothing that's been taken away from the appeals procedure, and it does save the county a lot of money, quite a bit of money. [LB334]

SENATOR SYNOWIECKI: Thank you. [LB334]

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SENATOR FRIEND: Thank you, Senator Synowiecki and Senator Janssen. We continue on AM907, the amendment to the committee amendments. Senator Harms, you're next, and you are recognized. [LB334]

SENATOR HARMS: Thank you, Mr. President and colleagues. I do support the position that Senator Wightman has taken. I think it's time to maybe revisit this. I have some concerns about fairness in the future, and we're all concerned about taxation, we're all concerned about assessed valuation. And I really believe this is probably not the time and the place to do this, and I hope that Senator Wightman would introduce legislation so we can get this separately heard for a bill and debate it for its merit. But I do think it has merit. I do think we need to revisit this. So I thank you very much, Mr. President. [LB334]

SENATOR FRIEND: Thank you, Senator Harms. Senator Dierks, you are next, and you are recognized. [LB334]

SENATOR DIERKS: Thank you, Mr. President, members of the body. I would like to speak with Senator Wightman, please. [LB334]

SENATOR FRIEND: Senator Wightman, will you yield to a question from Senator Dierks? [LB334]

SENATOR WIGHTMAN: I will. [LB334]

SENATOR DIERKS: Senator Wightman, I, too, appreciate your concerns, and we'll probably not have too much problem with it someday. Has this bill...has this amendment had a public hearing? [LB334]

SENATOR WIGHTMAN: No, it has not, and I mentioned that, Senator, that probably...and that's part of my reason for suggesting that I will withdraw it, is that it probably is entitled to a public hearing. But I wanted to have the dialogue at this point with regard to where we are with regard to that agency. And as I've said before, I support the passage of LB334. I think that we will probably be more efficient by combining the two into a single agency. And I think probably not only will it be more efficient, but I think it will be more responsive to...considering the fact that revenue has to look at state aid and such things at this that's going to all of these political subdivisions, that I think they need to be able to look at it as the total package. [LB334]

SENATOR DIERKS: Okay, thank you. With that information, I'm going to stand in opposition to the amendment, and...but ask for support for the committee amendments and the bill. Thank you very much. [LB334]

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SENATOR FRIEND: Thank you, Senator Dierks. Senator Stuthman, you are next, and you are recognized to speak. [LB334]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask a question or two of Senator Wightman, if he'd respond. [LB334]

SENATOR FRIEND: Senator Wightman, will you yield to Senator Stuthman? [LB334]

SENATOR WIGHTMAN: I will. [LB334]

SENATOR STUTHMAN: Senator Wightman, you discussed the fact that there are nine counties that, you know, did turn their assessment job over to the state. Do these nine counties still have their county assessor and the people that are employed in that office? [LB334]

SENATOR WIGHTMAN: They do not. They still have the county assessor...or, the assessor's office out in that county, and all of that work is done out in their county courthouses, but they are state employees. [LB334]

SENATOR STUTHMAN: But all of the workers that are in the county assessor's office are employees of the state, then? [LB334]

SENATOR WIGHTMAN: They are at the present time. [LB334]

SENATOR STUTHMAN: Do you feel that having these state assessors out there are doing as good a job in that community because they're state people that are making the assessments, as compared to the...under the direction of the state, in compared to the local people of the community that know the community as far as valuation is concerned? [LB334]

SENATOR WIGHTMAN: I think sometimes the localized knowledge, the knowledge of the people that are close to that property and know of what has happened, I think, generally speaking, and having a county assessor that is appointed...or, is elected, probably is an advantage at the county level. But that's conjecture on my part. [LB334]

SENATOR STUTHMAN: Senator Wightman, do...when the state takes it over, is the appeal process the same as when it was a county assessment taking place? [LB334]

SENATOR WIGHTMAN: I frankly can't answer as to whether the county board...I think the county board probably still is the appeal board that would consider equalization within the county, but that may not be the case. [LB334]

SENATOR STUTHMAN: Those are some of the questions that I would have, and need

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to be answered to me, you know, because we have a situation of nine counties that already turn it over to the state, and the county that I was a supervisor of at that time, you know, had the opportunity to do the same thing, but we felt as a county board that we could do as good a job as the state as far as the valuations of our community, of our property, but there were directions given by the state. And I think the people that appealed the process...and we had a lot of appeals, I mean, to the amount of three days of appeals every five minutes. But I think the people in the community felt more...or, a sense of realism that when their appeal was heard, that it was people that are their neighbors listening to their concerns. We couldn't do very much for a lot of them, but we did help some individuals, because of some property that wasn't valued at the correct amount. I don't know if it will ever come back to where the state will take it all over again. But I just think that valuations need to be equal across the state. One of the main concerns that we had in our community was, a county line made a lot of difference. You know, there would be a lot of value on one side of the county as compared to the other side of the county. But that was taken care of through some legislation that feathered in valuations in certain areas, depending upon the value of property. I'm going to continue to listen to this debate. I'm not totally set as to what I plan to do. Thank you. [LB334]

SENATOR FRIEND: Thank you, Senator Stuthman. Senator Langemeier, you're next, and you're recognized. [LB334]

SENATOR LANGEMEIER: Mr. President, members of the body, in my real estate office, I have the opportunity to work in more than half the counties across the state. And I want to talk a little bit about...Senator Wightman had brought up the numbers of 8 here, versus 5.5 in another county. One thing you have to recognize, and I'm not speaking for this bill or against this bill, but one thing you have to recognize in this is, those counties that have state employees have an appraiser on staff. Every other county hires like my firm or some other firm to come in and do appraisals on a periodic basis, so many hours per week. So when you look at those numbers, that has something to do with it. A lot of them have line items, where they're paying another appraiser to come in and keep their records up to date and keep their valuation up to date, and those state particular programs have on-staff appraisers that they shift around. I know the Saunders County appraiser does get shifted to Dodge County and other counties as needed. So I just wanted to clarify that. It is news to me that they are not paid by the county. That, I don't like real well today. But anyway, I think that as you look at those numbers, that has some effect on them. And with that, thank you, Mr. President. [LB334]

SENATOR FRIEND: Thank you, Senator Langemeier. Senator Engel, you are next, and you're recognized. [LB334]

SENATOR ENGEL: Mr. President, members of the body, I just want to clarify something. I heard Senator Stuthman and different ones say...ask as far as the appeal process. That has not changed. Dakota County is also one of those nine counties, but

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they still have the board of equalization, and that is the board of commissioners. So they...the appeal process is the same as it was before. So if they don't like what the state has assessed their property, they can still appeal to the board of equalization, and if they're not happy there, they can go through the TERC, and if they're not happy there, they can go on to the district court, as it has always been in the past. I just wanted to clarify that. Thank you. [LB334]

SENATOR FRIEND: Thank you, Senator Engel. Senator Wightman, there are no other lights on. You are recognized to close on AM907. [LB334]

SENATOR WIGHTMAN: At this time, I would ask that AM907 be withdrawn. [LB334]

SENATOR FRIEND: It is withdrawn. Mr. Clerk, some announcements? [LB334]

ASSISTANT CLERK: Mr. President, thank you. We have communication from the Governor indicating that LB255 and LB389 were received in his office and were signed on April 2. Your Committee on Enrollment and Review reports LB328 as correctly engrossed. Amendment from Senator Wallman to LB488, to be printed in the Journal. New A bill. (Read LB235A by title for the first time.) Your Committee on Revenue reports LB367 to General File with committee amendments. (Legislative Journal pages 1049-1050.) [LB255 LB389 LB328 LB488 LB235A LB367]

Mr. President, with respect to LB334, Senator Adams would move to amend with AM908. (Legislative Journal pages 1050-1051.) [LB334]

SENATOR FRIEND: Senator Adams, you are recognized to open on your amendment to the committee amendments, AM908. [LB334]

SENATOR ADAMS: Thank you, Mr. President and members of the Legislature. This amendment is really very, very simple. What it does is to change the period of time for assessment from four years, as the last major amendment, AM886, had, and moves it to six years. Now, the one thing that happens here, it creates some certainty for county assessors as to when it has to get done. The other thing that it does, particularly maybe a bit more for our rural counties, it allows more time for our county assessors to get the review and assessment done. Now, I had received a note just a little while ago from the Seward County assessor, indicating that she has over 10,600 parcels in Seward County, and very little staff. To have to review those every four years she believes is going to create a real problem. And all this amendment does is establish a certain time, and it brings it out to six years rather than four, which should make it a bit easier on those county assessors. Thank you, Mr. President. [LB334]

SENATOR FRIEND: Thank you, Senator Adams. There are a number of lights on. Senator Gay, you are next, and you are recognized to speak. [LB334]

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SENATOR GAY: Thank you, Mr. President. I rise in support of this amendment. As Senator Adams has discussed, many of the smaller counties do have quite a time keeping up with these responsibilities. Prior discussion, we just discussed why some of these counties decided to take the state up on its offer prior and join up. But I know right now, still in 13 counties, the clerk is also the assessor. And in some counties, the assessor is also the zoning administrator. So we've discussed this time and time again that many times they wear several hats. So I think what this does is a little more preferable for some of the smaller counties. Larger counties can improve. It still gives them that time line of six years, which is probably adequate. But if the county board or county commissioners or supervisors wanted to speed that process up, they certainly could. This just creates a six-year time frame that they can work in. So it does allow some leniency for these smaller counties to operate in. So I would urge your support on this and look forward to any discussion we have. Thank you, Mr. President. [LB334]

SENATOR FRIEND: Thank you, Senator Gay. Those wishing to speak: Senator Howard, Senator Stuthman, Senator Langemeier. Senator Howard, you are recognized. [LB334]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I've worked with Senator Gay and Senator Adams on this amendment, and it certainly has some value. In Douglas County, one of the concerns was that property owners, homeowners were being hit with very high property tax increases, and the issue really boiled down to that of fairness. I can understand the concerns that are brought forth in the greater Western Nebraska area concerning manpower and the ability to operate within a four-year time frame. In talking with Cathy Lang, who's the deputy director of Revenue--and I might add, a wonderful state employee; I have been very appreciative of the information and expertise that she has offered me in working this through--that there's a requirement that every county submit a three-year plan. This time frame will support that and will give the opportunity for timely evaluations of property at the same time. So it is a good amendment, and I continue to support it. Thank you. [LB334]

SENATOR FRIEND: Thank you, Senator Howard. Senator Stuthman, you are next. You are recognized. [LB334]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I, too, also support this amendment. I think it should give the county assessors a little bit more time, because I know in the counties that I represent, you know, they are continually working on reevaluations. There's a lot of different areas that they reevaluate, and it is a real struggle in some of those smaller communities. The one question that I would have...and I don't see Senator Raikes here. [LB334]

SENATOR FRIEND: Senator Raikes is here. [LB334]

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SENATOR STUTHMAN: Senator Raikes, would you respond to a question? [LB334]

SENATOR FRIEND: Senator Raikes, will you respond to a question? [LB334]

SENATOR RAIKES: Yes. [LB334]

SENATOR STUTHMAN: Senator Raikes, as Senator Howard had stated, you know, the counties, you have your county plan, your three-year plan as to whether...which one you're going to revalue. Are all counties doing their revaluations in an orderly manner? [LB334]

SENATOR RAIKES: We had some testimony from the Property Tax Administrator. I think she was comfortable that--what would I say?--that appropriate procedures and updates and so on were being used. But she did support the amendment that it be done, however it came out. Was that four years, once every four years? Or have I got it wrong? [LB334]

SENATOR STUTHMAN: Yes, four years, but this amendment is changing it from four to six. [LB334]

SENATOR RAIKES: Right. Right. So your question to me, again, if I didn't answer it? [LB334]

SENATOR STUTHMAN: The question to you, are there counties where the county assessor, they drag their feet and they do not get the revaluations done, you know, within a year, or whatever their county plan is, and there may be many years go by before they do revaluation of residents in their community? Are you aware of anything like that? [LB334]

SENATOR RAIKES: I am not, Senator. I don't have a good thumbnail sketch, if you will, of the different practices being used in different counties. [LB334]

SENATOR STUTHMAN: Okay. Thank you. I think I've heard some rumors, you know, that there are some counties that have lagged in their valuation...revaluation process. And I think, you know, if we go...you know, originally, it was for four years; the amendment is for six years. I think we...our main intent is so that some of these smaller counties that have been doing a very good job initially and are doing a good job, that it just maybe will give them a little bit more time, and also, you know, hopefully, you know, the revaluation process, you won't get a statement in the mail every year. Maybe you'd only get it every couple of years. So, thank you, Mr. President. [LB334]

SENATOR FRIEND: Thank you, Senator Stuthman. Senator Langemeier, you are

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recognized, followed by Senator Wightman. [LB334]

SENATOR LANGEMEIER: Mr. President, members of the body, I want to talk to you a little bit of how we got to this one- and four-year portion in the committee amendment. The bill came in requiring 25 percent of the properties be assessed each year, and the argument was, is, if you were doing a big year, this year was going to be the commercial portion of your county, which may take up more than 25 percent of doing residential. Commercial is a big task. And so the committee made this change to allow this to happen over four years, to allow for a year where, per se, 11 percent of your county is big commercial, like in my county, where you have a large beef packing plant. And so that's the committee came from the green copy at 25 percent of the properties assessed each year, to allowing the total properties to be assessed over four years. And being in that...kind of that assessment value, I think four years is adequate. Some of the discussion in the committee was, we don't want to get those jolts in our residential evaluations every six years; we want to get them on a little more timely fashion, so we don't have these big jumps as our assessments come to us. And that's why four years was kept, in my opinion. I can only speak for myself. However, two members of the Revenue Committee happen to be out of town at other functions that they had to attend, but I think the key in the discussion with keeping it at four years was, is, I don't want to get every six years of my house doubled in its value and assessment. I would like to have those taxes go up on a little more graduated rate than have big jumps. And so with that, thank you, Mr. President. [LB334]

SENATOR FRIEND: Thank you, Senator Langemeier. Senator Wightman, you are next, and you are recognized. [LB334]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I would like to at least ask a question or two of Mr. Langemeier, if he would yield for a question. [LB334]

SENATOR FRIEND: Senator Langemeier, will you yield to a question? [LB334]

SENATOR LANGEMEIER: No. Just kidding. Just kidding. Yes, I would. [LB334]

SENATOR WIGHTMAN: (Laugh) I'll make it easy. I'm asking you because you were on the committee that set the four years. Is that correct? [LB334]

SENATOR LANGEMEIER: Yes. [LB334]

SENATOR WIGHTMAN: And the four years was based upon the fact that counties will value different types of property, and they'll spend one year doing that, trying to bring it into line, and then maybe look at residential one year, farm, and then commercial. Are there other breakdowns that they have that they consider separate types of property?

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[LB334]

SENATOR LANGEMEIER: My understanding is, that is how they would like to do it.
[LB334]

SENATOR WIGHTMAN: And basically, they divide that into three segments--the commercial, residential, and rural or farm? [LB334]

SENATOR LANGEMEIER: I could probably break it down in more, but I don't know how they would break it down. It depends on the county and how much you have of each.
[LB334]

SENATOR WIGHTMAN: Okay. I know that you talked about, part of the reason that maybe it was...the cost of running the assessor's office in those nine counties was higher, because they had an appraiser on staff. I know that Dawson County, for example, has an in-house appraiser, but if they go out and assess a particular type of property and go out and inspect it, then they bring in an outside assessor. Are you saying the state does not do that, that that is included in their staff that takes care of the assessor's office in a particular county? [LB334]

SENATOR LANGEMEIER: Typically with the assessor's offices that are taken over by the state have in-house appraisers. Now, they may bring an expert in to do a packing plant or a large ethanol facility. It's pretty limited who will take on those tasks. [LB334]

SENATOR WIGHTMAN: Okay. I guess I do support Senator Adams' amendment, AM908, from a standpoint that I don't think that the six years necessarily will be the amount of time that a particular county will take to reappraise all of the property, but it does give them a larger window. And from that standpoint, I think that it's probably fair and equitable that they have a longer period of time. I can see the argument on the other side, as well, that maybe you don't bring the counties into compliance and into equalization as often if you do wait for six years. But I don't know that the fact that we set it for six years would be a limiting factor, and I think they could still visit with the state department...or, the department that has charge of the equalization, which would still be part of the Department of Revenue, if this bill passes, and that could still be suggested, and yet give them a greater window. So I feel at this time--and I'll listen to the rest of the debate--that I would support AM908. Thank you, Mr. President. [LB334]

SENATOR FRIEND: Thank you, Senator Wightman. Senator Gay, you are recognized.
[LB334]

SENATOR GAY: Thank you, Mr. President. I'd like to ask Senator Langemeier a question. [LB334]

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SENATOR FRIEND: Senator Langemeier, will you yield to a question? [LB334]

SENATOR LANGEMEIER: Yes. [LB334]

SENATOR GAY: Thank you, Senator. I appreciate your input of where the Revenue Committee was coming from this. And I guess the question would be this. The way I read this amendment and the way it's written, any county, larger counties who want to go on a shorter time frame can do that, correct? [LB334]

SENATOR LANGEMEIER: I don't think there would be any reason you couldn't do it the way the law anticipated, that you do them all every year like you're supposed to. [LB334]

SENATOR GAY: Yeah. Well, all right, that's...the point I wanted to make is, the six years, in many of these cases, again, where they're doing numerous duties, you know, give them a little bit more time. I'm with you, though. I think what you're getting to the point, more frequent probably is best, obviously, but some counties just don't have those kind of resources to do that. That's a county board decision, and maybe one that they should look at. In some of the...I know in Sarpy County, where I'm from, we had 16 assessors on staff. But it's a larger county. But I can imagine, you know, in your business, how complex this is becoming, that it may be, you know, fairly hard to find a good appraiser and somebody that can do the quality job, or has that expertise to do that. So I would, again, urge your support on this amendment. It just clarifies and gives some flexibility to some of these smaller counties. Thank you, Mr. President. [LB334]

SENATOR FRIEND: Thank you, Senator Gay. Senator Adams, there are no other lights on. And with that, you are recognized to close on your amendment to the committee amendments. [LB334]

SENATOR ADAMS: Thank you, Mr. President. I'll keep it very short. I think everything has been said that needs to be said. County assessors can get at the business of assessing property in the time line that they feel most comfortable with. This very simply gives a little more shoulder room to those counties that are pressed in terms of resources and employees and availability of appraisers to get it done. Thank you, Mr. President. [LB334]

SENATOR FRIEND: Thank you, Senator Adams. Members of the Legislature, you have heard the closing on AM908. The question is, shall the amendment to the committee amendments be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Record please, Mr. Clerk. [LB334]

ASSISTANT CLERK: 34 ayes, 1 nay on the adoption of the amendment to the amendment, Mr. President. [LB334]

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SENATOR FRIEND: The amendment is adopted. [LB334]

ASSISTANT CLERK: Mr. President, I have nothing further pending to the committee amendments. [LB334]

SENATOR FRIEND: We are...members of the Legislature, we are back to discussion on the committee amendments, AM775 to LB334. Senator Janssen, I see no lights on, no one wishing to speak. You are recognized to close on those committee amendments. [LB334]

SENATOR JANSSEN: Thank you, Mr. President, members of the Legislature. We had a good discussion on this portion of the committee amendments, and I ask for your favorable vote in support. Thank you. [LB334]

SENATOR FRIEND: Thank you, Senator Janssen. Members of the Legislature, you have heard the closing on the committee amendments. The question is, shall the amendments be adopted to LB334? All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB334]

ASSISTANT CLERK: 34 ayes, 0 nays, on the adoption of committee amendments. [LB334]

SENATOR FRIEND: The amendment is adopted. We're back to discussion on LB334. There is no one wishing to speak on the bill. Senator Dierks, you're recognized to close on LB334. [LB334]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. I, too, appreciate the discussion this afternoon. I think that we've probably all picked up a little bit from it. I would urge your support of this bill and advance to Select File. Thank you very much. [LB334]

SENATOR FRIEND: Thank you, Senator Dierks. Members of the Legislature, you have heard the closing on LB334. The question is, shall LB334 be advanced to E&R Initial? All those in favor signify by voting aye; all those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB334]

ASSISTANT CLERK: 33 ayes, 0 nays, on the motion to advance the bill, Mr. President. [LB334]

SENATOR FRIEND: LB334 does advance. Next bill, Mr. Clerk. [LB334]

ASSISTANT CLERK: Mr. President, LB219 was introduced by Senator Dierks. (Read

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title.) The bill was read for the first time on January 9 of this year, referred to the Education Committee. That committee reports the bill to General File with committee amendments. (AM357, Legislative Journal page 595.) [LB219]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Dierks, you are recognized to open on LB219. [LB219]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. LB219 is a bill that I introduced with the assistance of Senator Raikes' staff and Cathy Lang, the Property Tax Administrator. For those who are not familiar with freeholder petitions, a person may file a petition with a board consisting of the county assessor, county clerk, and county treasurer, asking to have any tract or tracts of land described in the petition set off from an existing Class II or Class III school in which the land is situated, and attached to an accredited district which is contiguous to such tract or tracts of land if the following four conditions are met: number one, the Class II or III school district has had an average daily membership in grades 9 through 12 of less than 60 for two consecutive school years preceding the filing of such petition; number two, the Class II or III school district has voted to exceed the maximum levy established pursuant to subdivision (2)(i) of Section 77-3442, which vote is effective for the school fiscal year in which the petition is filed; number three, the high school is within 15 miles on a maintained public highway or maintained public road of another high school; and number four, neither school district is a member of a learning community. Some schools have suffered financial difficulties because freeholder petitions are filed and granted after August 1, when schools are required to have set their budgets. Imagine the problems that have occurred when property that has been in the school district for years is allowed to be attached to another school district after budgets are set and teachers are hired. LB219 offers a solution to some of these problems by inserting dates into statute. June 1 is the deadline for someone to file a freeholder petition with the county board. If granted, the freeholder petition will transfer to the new school district as of January 1 of the following year. I've tried to find a solution to allow citizens the right to freehold their land if they meet the qualifications, yet give them a deadline by which to do this, help county officials and school officials by setting a deadline for these petitions to be filed, and allow everyone to know exactly when the petitions become effective. Thank you for your consideration of LB219. There are committee amendments to this bill, and I think that Senator Raikes will be talking about those. [LB219]

SENATOR FRIEND: Thank you, Senator Dierks. As mentioned, there are committee amendments from the Education Committee. Chairman Raikes, as the Chairman of the Education Committee, you are recognized to open on AM357. [LB219]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. The committee amendment would require that a board, which is already mentioned in the statute, consisting of the county assessor, county clerk, and county treasurer, approve

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or disapprove petitions on or before November 1. The appeals provisions would also be amended to reflect the November 1 deadline. As Senator Dierks has mentioned, the deadline under the bill for filing the freeholder petition would be June 1. So then this November 1 date follows as a time at which there's determination as to whether or not all the requirements are met. If they are met, then the land would transfer the following January 1. And to give you just a little bit more background, Senator Dierks mentioned the criteria for freeholding which would be reviewed by this board on or before November 1. Even though this provision has been in statute, the freeholder provision has been in statute for a number of years, as far as I know, there has not been a situation in which petitions were filed and the process could actually be undertaken. I think at the moment, there are three districts in the state which would qualify here. One of them is Wynot, I think another one is Prague, and a third one maybe is Hampton. The one where there's actually been quite a bit of activity is Wynot, up in northeast Nebraska. And really, to some extent, I think Senator Dierks' bill brings needed clarification to the statute, because this has never been implemented before, even though it's been in statute for a long time. There's almost a situation of chaos as to how this works. And I think if you look at the bill, the way it works is that the...a person or a property owner that is adjacent to another district can file for...a petition to have their property moved. Well, as soon as that person files, then the person next to them is eligible, so that there's sort of a...can be almost an instant collapse of the district transferring to an adjoining district. Well, if that happens and if there's no date specified as to when this becomes effective or by when it has to be done, you can have a situation where no one knows for sure, as Senator Dierks explained, how the school district is going to be financed during the next year of its operation. So this bill and the amendment I think are important in clarifying exactly how this procedure is to go forth, so I would encourage your support of both the committee amendment and the bill. Thank you. [LB219]

SENATOR FRIEND: Thank you, Senator Raikes. Members of the Legislature, you've heard the opening on AM357, the committee amendments. Senator Raikes, there is no one wishing to speak. Senator Raikes waives closing. Members, the question is, shall the committee amendments, AM357, be adopted to LB219? All those in favor vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB219]

ASSISTANT CLERK: 35 ayes, 0 nays, on the adoption of committee amendments, Mr. President. [LB219]

SENATOR FRIEND: The amendment is adopted. [LB219]

ASSISTANT CLERK: Mr. President, I have nothing further pending on LB219. [LB219]

SENATOR FRIEND: Senator Dierks. Excuse me, there are...back to discussion on

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LB219. The Chair recognizes Senator Stuthman. [LB219]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. In listening to the discussion on the amendment, could I ask a question of Senator Raikes? [LB219]

SENATOR FRIEND: Senator Raikes, will you yield to a question? [LB219]

SENATOR RAIKES: Yes. [LB219]

SENATOR STUTHMAN: With this petition process, Senator Raikes, these three communities that it involves, are those the only communities that this bill would pertain to? [LB219]

SENATOR RAIKES: No, Senator, it could pertain to any district that has met these qualifications, and I think Senator Dierks spelled those out for you. It's average membership grades 9 to 12 of less than 60 for two consecutive years, has another high school within 15 miles on a maintained public highway, and has voted to exceed the maximum levy, or passed an override. You might question a district, but--like I say, there are three of them now--is that you know that there's another high school within 15 miles on a paved road, you know that you have had less than 60 students in your high school for two consecutive years, but yet you go ahead to vote for an override, knowing that if you do so, you will subject yourself to freeholding. And I think as Senator Dierks has mentioned, freeholding can...well, it could be devastating to a district, as property owners bail out to surrounding districts. But there's three instances now where school districts did just that. [LB219]

SENATOR STUTHMAN: Thank you, Senator Raikes. In other words, if I'm understanding you right, this situation could compound the problem that a school district has with the override? [LB219]

SENATOR RAIKES: Yes, it certainly could. That's absolutely right. [LB219]

SENATOR STUTHMAN: Okay. Thank you. [LB219]

SENATOR FRIEND: Thank you, Senator Stuthman. Senator Dierks, there are no other lights on. You are recognized to close on LB219. [LB219]

SENATOR DIERKS: Thank you very much, Mr. President. I just would urge your support to advance LB219 to Select File. [LB219]

SENATOR FRIEND: Thank you, Senator Dierks. Members of the Legislature, you have heard the closing on LB219. The question is, shall LB219 be advanced to E&R Initial? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk.

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[LB219]

ASSISTANT CLERK: 38 ayes, 0 nays, on the motion to advance the bill, Mr. President.
[LB219]

SENATOR FRIEND: The bill does advance. Mr. Clerk, next bill, please. [LB219]

ASSISTANT CLERK: Mr. President, next bill is LB622, as introduced by Senator Pirsch. (Read title.) The bill was read for the first time on January 17 of this year, referred to Government Committee. That committee reports the bill to General File with committee amendments. (AM259, Legislative Journal page 811.) [LB622]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Pirsch, as the sponsor of LB622, you are recognized to open. [LB622]

SENATOR PIRSCH: Mr. President, members of the body, I'm pleased to introduce LB622 to General File. A special thank you for the Speaker, Speaker Flood, for designating it as a Speaker priority bill. This bill, LB622, seeks to bring greater sunshine to government practices by requiring members of a public body that are subject to the public's records act and the Open Meetings Act to undergo training on the requirements of such acts. Preliminarily, I wish to thank the Government Committee, Chairman Aguilar, Senators Adams, Avery, Friend, Karpisek, Mines, Pahls, and Rogert for their support of this bill. It was an 8-0 vote in committee for passage. I also want to thank the Attorney General, who has made this bill a part of his 2007 legislative package. I want to thank all of those testifying in support of the bill in committee, and it is a very long and diverse list of supporters that includes the Nebraska Department of Justice, the Nebraska Association of County Officials, the League of Nebraska Municipalities, the Nebraska Association of School Boards, the Nebraska Press Association, the Nebraska County Attorneys Association, the Great Plains Environmental Law Center, Media of Nebraska, and even more. There were no opponents during the committee hearing or even neutral testifiers. A brief history explaining the reason for the bill: The state of Nebraska passed, years ago, an Open Meetings Act and Open Records Act to ensure transparency and openness in governmental bodies as they transacted the people's business. Both acts actually carry with them possible criminal penalties for violation of those acts, including the possibility of jail, fines, and removal from office--very serious penalties. There are many public bodies throughout Nebraska, from small boards like fire districts and SIDs, to larger public bodies like county boards and city councils. The Attorney General's Office is contacted every year hundreds of times regarding public bodies' compliance with the two acts. In 2006, for example, the Department of Justice received 237 complaints and inquiries involving public bodies in over half of all Nebraska counties. These complaints come from citizens and public officials both, at all levels of government. However, the bulk of these complaints and inquiries stem from local governmental bodies. The issues tend to be that many small boards and

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governmental units do not have legal assistance readily available. It's very important to stress this point: Any violations of these two statutes are rarely intentional. They occur primarily due to unfamiliarity with the two acts. So the goal of LB622 is not to punish governmental officials, but to help educate them on the two acts so that they don't inadvertently receive criminal penalties, and so that public bodies can effectively carry out the public's business in an open and transparent manner. LB622 provides for an easy training process. The Attorney General's Office will assemble training materials for availability for these boards in a variety of easy-to-use formats, including via the Internet, via CD, written format, and a number of other manners. (Machine malfunction)...would complete an assessment and obtain a certificate of completion of this training. The Attorney General's Office plans to take the appropriate steps to increase the public officials' awareness of this new requirement. LB622 does not have any appropriation bill attached. There is no additional cost to the state of Nebraska. The Office of the Attorney General plans to implement this training with their existing resources. Just a word in brief on the committee amendment. I do support it. It is, very simply...just adds to the training...to those who are required to be training current members of a public body, in addition to what the bill already purports to add, newly elected members of a public body, and so I do appreciate that modest add-on by the committee. Just to recap here: We want to make sure elected officials understand the law, in order to prevent inadvertent violations. Citizens cannot have confidence in their public boards unless they can be sure that government operates in the light of day, and this bill is an opportunity to provide a proactive, education-based solution. So I ask for your support in...on LB622 here today on General File. I yield back the balance of my time. [LB622]

SENATOR FRIEND: Thank you, Senator Pirsch. As the Clerk stated, there are committee amendments from the Government, Military and Veterans Affairs Committee. Senator Aguilar, as Chairman of that committee, you are recognized to open on those amendments. [LB622]

SENATOR AGUILAR: Thank you, Mr. President and members. The committee amendment requires current members of the public body to complete the training on the Open Meetings Act no later than one year after the operative date of this bill. Similarly, any current public officer or public employee is required to complete training on the public record statutes no later than one year after the operative date of this act. The committee felt it was important to require current public officers and employees to complete the training, as well as future ones. Additionally, the committee amendment provides that completion of the required training course, on either the Open Meetings Act or the public records statutes will satisfy the obligations of this act for any current or future service. Again, the committee felt that a person should only be required to complete the training once, and not be required to complete it again, if he or she moves a different office or position. There was no opposition on the hearing on LB622, and the committee advanced the bill 8-0. Thank you. [LB622]

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SENATOR FRIEND: Thank you, Senator Aguilar. You have heard the opening on AM259. Senator Schimek, you are recognized to speak. [LB622]

SENATOR SCHIMEK: Thank you, Mr. President and members. I...first of all, I guess I would like to ask Senator Aguilar a question or two. [LB622]

SENATOR FRIEND: Senator Aguilar, will you yield? [LB622]

SENATOR AGUILAR: I will. [LB622]

SENATOR SCHIMEK: Thank you, Mr. President. Senator, I'm just trying to understand how this training works, and if I'm understanding it right, the training would take place at the local level, so people would not have to travel somewhere to take this training; is that correct? [LB622]

SENATOR AGUILAR: That is correct. The Attorney General's Office is going to provide the training, and I'm not sure that they've finalized exactly. But I would anticipate it would be something like a video training or an on-line training, more than likely, so that they could take it at their own local workplace. [LB622]

SENATOR SCHIMEK: Okay, so the Attorney General, then, would develop the training, the program, and make it available at the local level? [LB622]

SENATOR AGUILAR: That's correct. [LB622]

SENATOR SCHIMEK: And once you take the training, then you don't have to take it again, regardless of how much the law changes over a period of years. Let's say that somebody is in office for 20 years. There could be huge changes in the public records and open meetings laws in that time, but they only have to take it once, right? [LB622]

SENATOR AGUILAR: That's correct. [LB622]

SENATOR SCHIMEK: Okay. And there will be no cost to the state or to the local subdivisions, for offering this training? [LB622]

SENATOR AGUILAR: Correct again. [LB622]

SENATOR SCHIMEK: Okay. Thank you. [LB622]

SENATOR FRIEND: Thank you, Senator Schimek. Senator Pahls, you are recognized. [LB622]

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SENATOR PAHLS: Mr. President, members of the body, I'm patiently waiting, because it's something about open meetings law. I'm patiently waiting on the Education Committee to bring something out to the floor, and I'm going to tell you why. Because in my estimation, a violation of the open meetings law over a year or so ago, when the Omaha school district made some proposals of taking over the school system, they created a mess because they didn't follow the law. I requested that the Attorney General take a look at...and he went through...several letters went back and forth. It was very interesting how naive attorneys can be, when they spend a good part of their life working on the education of the Omaha school system, and school board members who have been around awhile. But the Attorney General said he looked at the question that I had, and he did come back with an answer, and he said that nothing was pressed against the school board, nor was I intending that. I was just trying to bring to light, to bring transparency. So that is the reason why I see this education training of individuals who are making very important decisions that effect lots of people. For example, like I'm saying, they're still affecting what's going on here. But another thing that sort of blew me out of the water a little bit is, a couple weeks ago, I was reading how the Papillion Public School board had decided that they did not want to be a part of the Learning Community, which is okay. However, they hadn't voted on it. They had been making these decisions without anybody else knowing about it. Then they finally did vote on it. I think that when we are making very, very important decisions that are affecting tons of people, that we ought to be very, very clear and honest of what we're all about. So that's why I think education is a proper way of learning on how to run an open meeting, or meeting law, or any of the procedures that need to be followed. Again, what I'm saying is, it's interesting how some simple misjudgments can cause lots of issues to happen. Another thing I would like to just point out: Douglas County--I get their agendas, and I look at the part that talks about executive session. I have not seen a change in the wording for several months, if almost a year. And I requested why that...I had not received a reply on that. So I think...I appreciate Senator Pirsch bringing this forth to us, because I do think we need something like this. Thank you. [LB622]

SENATOR FRIEND: Thank you, Senator Pahls. Senator Wightman, you are recognized. [LB622]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I had some questions of Senator Pirsch. I don't see him now, so I might have to shout pretty loudly. Is he around? Oh, there he is. [LB622]

SENATOR FRIEND: Senator Pirsch, will you yield to a question from Senator Wightman? [LB622]

SENATOR PIRSCH: I would love to. [LB622]

SENATOR WIGHTMAN: Thank you. Senator Pirsch, isn't it true at the present time, that

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the League of Municipalities, the state, the school boards, and NACO provide this service without it being part of the Justice Department's training? [LB622]

SENATOR PIRSCH: When you say "provide this service,"... [LB622]

SENATOR WIGHTMAN: The service of training new councilmen, new county officials, with regard to the sunshine law. [LB622]

SENATOR PIRSCH: Well, they may. I don't know the exact...I know it's not a requirement, of course, to belonging to any of those organizations, and the problem is...the documents are readily available, but the problem is, without requiring this training, that type of just a brief introduction to the topics within those acts never actually is done. And so it may well be that these acts are available, the important part of these facts are available, but unfortunately, the end result of it is, based upon the experiences the Attorney General has related, it's not working. [LB622]

SENATOR WIGHTMAN: Could you tell me, Senator, what all groups, other than county...are there groups other than elected officials that would become subject to the act? [LB622]

SENATOR PIRSCH: Well, it would be public bodies, any...to my knowledge, those would be all public boards, including, as I mentioned, small public bodies from fire districts and SIDs, all the way up to city councils and county boards. And so...is your question whether any private type of organizations would be...meetings would be covered by this? [LB622]

SENATOR WIGHTMAN: No, I am thinking more of appointed bodies, such as a planning commission. I assume they would be under, would they not? [LB622]

SENATOR PIRSCH: If they fall within that act, which I believe they would. [LB622]

SENATOR WIGHTMAN: So it would include bodies that were appointed by a governing board, such as a zoning board, such as probably county or city zoning boards; is that correct? [LB622]

SENATOR PIRSCH: Yeah, any organization covered by those two acts, and with good reason, obviously. There are very many important governmental decisions being made on that level, and so I think the public has a very strong interest in having sunshine and process and procedure brought into those types of meetings. [LB622]

SENATOR WIGHTMAN: Okay. I understand that maybe all of those are not going and attending such training seminars. I think the public bodies, pretty much...or I should say the elected bodies probably almost universally do. Thank you. Thank you, Mr.

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President. [LB622]

SENATOR FRIEND: Thank you, Senator Wightman. There are no other lights on. Senator Aguilar, you are recognized to close on AM259. [LB622]

SENATOR AGUILAR: Just real briefly, I would ask everybody to support the committee amendments, as well as the underlying legislation. Thank you. [LB622]

SENATOR FRIEND: You have heard the closing, members of the Legislature, on AM259. The question is, shall the committee amendments be adopted to LB622? All those in favor vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB622]

ASSISTANT CLERK: 33 ayes, 0 nays, on the adoption of committee amendments. [LB622]

SENATOR FRIEND: The amendments are adopted. [LB622]

ASSISTANT CLERK: Mr. President, I have nothing further pending on the bill. [LB622]

SENATOR FRIEND: Senator Pirsch, there are no other lights on. You are...excuse me. There are senators wishing to speak. Senator Nelson, you are recognized. [LB622]

SENATOR NELSON: Thank you, Mr. President, members of the body. Would Senator Pirsch yield to a question, please? [LB622]

SENATOR PIRSCH: Yes, I would. [LB622]

SENATOR NELSON: Senator Pirsch, I've scanned quickly the green copy of the bill, LB622, and also the amendment, and I don't think I find any definition of a public body in that. Is there one in here or elsewhere in the statute, as to what a public body is? [LB622]

SENATOR PIRSCH: I'm sorry about that. I'll have to check on that, but my understanding is it would be a public body as that which is the same as in the open meetings and public records acts. [LB622]

SENATOR NELSON: Well, my concern is that we refer to ourselves, the Legislature, as a public body, and are we going to be subject to this provision, then? [LB622]

SENATOR PIRSCH: Oh, sure. A very good question. With respect to the acts, we are subject only to one of the acts, and that would be the open records, and not the...I'm sorry, the records act, and not the open meetings act. I can certainly look into that.

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That's a very good question, so. [LB622]

SENATOR NELSON: All right. Well, I know that we have to be cognizant of executive sessions and open meetings, and so I just think that probably, if we advance this, that probably that should be looked at and clarified before we ultimately pass this bill. Thank you, Mr. President, and thank you, Senator Pirsch. [LB622]

SENATOR PIRSCH: You bet. [LB622]

SENATOR FRIEND: Thank you, Senator Nelson. Senator Gay, you are recognized. [LB622]

SENATOR GAY: Thank you, Mr. President. I rise in...to...well, I'm opposed to this at this point. I...as I read through the bill, we're going through this pretty quick here. But is it my understanding, would...everybody is going to have to take this class that is, you know, going fix all our problems in open meetings. I don't buy that. Senator Wightman is correct. These are being provided now. NACO does provide these, but if you have to go to the meetings and you take no tests, you do nothing, I think we're forcing good people to do a lot of extra work that serve on these boards. A lot of these are volunteer boards. Will they have to, then, attend these meetings? We already have them do a lot of, you know, through your accountability and disclosure methods and all those things, which is confusing to people. I guess this other thing says, the Attorney General shall provide this at no cost. It's going to cost something to make a training video. It's going to cost a lot of time for these people to sit there and look at this video, and then, if they do that, there's no test to pass, no deal. Who's going to...also, on page two, a public body shall maintain and make available for public inspection a record of all members who have completed such training course. So who is going to do that? So I...on this, I don't know. I think we should maybe get some of these clarified, if Senator Pirsch would yield to a question. [LB622]

SENATOR FRIEND: Senator Pirsch, are you in the Chamber? Senator Pirsch, will you yield to Senator Gay? [LB622]

SENATOR PIRSCH: I'd be happy to. [LB622]

SENATOR GAY: Senator Pirsch, who's the public body that shall maintain and make available for public inspection all the people who have taken this course? [LB622]

SENATOR PIRSCH: Who is the public body? It would be that particular public body of which the member is...belongs to. So in the case of an SID, it would be the SID board that would...an SID member, would be the SID board that would be required to keep that...those certificates then on file. [LB622]

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SENATOR GAY: And then do they turn those in to the Attorney General? Or where do they keep these on file at? [LB622]

SENATOR PIRSCH: No, just keep it on file during the...for display at the meetings, so. [LB622]

SENATOR GAY: Okay. And right now, in the public meetings, if you're having a public meeting--and I haven't attended an SID meeting in some time--but do they post their open meetings laws and refer to it every meeting? [LB622]

SENATOR PIRSCH: They are governed by the two acts, and so they...you're saying do they have a requirement to post those? They...I know as part of that act, they must have a set of the rules, the two acts, present with them during the meeting. And I think that as far as some sort of requirement that they mail those to every...to everyone who lives in say, the SID, I don't believe that that's a requirement. [LB622]

SENATOR GAY: Okay. One of the problems I have with this is, is when we're on the county...of course, some counties are large enough to have these, have lawyers on staff. Maybe they can ask these questions and they have to comply with this. City councils who hire an attorney can discuss this things and they are discussing these things. The problem I have with this legislation right now is, when you get down and you keep going down to these smaller communities, I'm with you. Public meetings and open meetings are very important, but I just think this needs some work, and I apologize as we're going through this quickly, that I thought there would be more debate on this, but one approved training course available on a widely available medium at no cost, that's still...I...again, here it is. We were talking about this earlier, legislation we're going to pass, and I just feel that putting this thing together,... [LB622]

SENATOR FRIEND: One minute. [LB622]

SENATOR GAY: ...and maybe I'm missing it, but I just think there's a lot of unknowns here, that we're going to now go ask a lot of local citizens and volunteers to comply with, because...one more question, Senator Pirsch. [LB622]

SENATOR PIRSCH: Sure. [LB622]

SENATOR GAY: For volunteers. They have to...if you're on a volunteer board, nonpaid, you still have to do this, correct? [LB622]

SENATOR PIRSCH: That's a great question, and...do volunteers, are they...who serve on a governmental board, are they required to also obtain this (inaudible). Yes, they are, and that is the reason that we have this balance which would not require, first of all, any payment. We don't want to discourage volunteers, and so that is why there is not any

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criminal punishment for this, and there is not any fee required for that. I do appreciate that question. [LB622]

SENATOR GAY: Okay, thank you. Thank you, Mr. President. [LB622]

SENATOR FRIEND: Thank you, Senator Gay, Senator Pirsch. Senator Burling, you are recognized. [LB622]

SENATOR BURLING: Thank you, Mr. President. Would Senator Pirsch yield to a question? [LB622]

SENATOR FRIEND: Senator Pirsch, will you yield? [LB622]

SENATOR PIRSCH: I would. [LB622]

SENATOR BURLING: Senator Pirsch, I feel a little bit like Senator Gay does, and I just don't feel like I'm informed enough yet on how to vote on this. Does the bill include the words "public employees," that have to take this training? [LB622]

SENATOR PIRSCH: It wouldn't require public employees. It would require members of the a public board. That is...the definition is set forth--and thank you for that question, and the earlier question from Senator Nelson--in 84-1409, has the definition of public body, and so it would...and so it is in the law. [LB622]

SENATOR BURLING: Okay. Now supposing I'm elected to a public body, and I don't avail myself of taking this course, for whatever reason. Is there a penalty, then, a fine? Or what happens if I just say, I don't want to do that? [LB622]

SENATOR PIRSCH: That's a great question. We don't include upon this any criminal penalty or civil penalty for...we want to...you know, there's two different approaches, the stick and the carrot. And as Senator, I think it was Gay, mentioned, oftentimes we have, on smaller boards, volunteers, and we don't want to do anything that's going to discourage volunteers from coming forward on a lot of those smaller boards. And so this bill takes, I think, just kind of a...takes the right approach in finding the proper balance. So what would happen essentially, there would be no criminal penalties, but you would subject yourself to admonition from the Attorney General's Office, who would become aware. And if you did not complete that training within the required time, they would become aware of that, and you'd subject yourself to admonition. And it does not, however, invalidate the actions of the boards. I think that's important to point out, as well. This is designed to be an encourage...to encourage public officials who are not now getting education, to use the carrot to encourage these individuals when they're conducting the public's business, which is very important business, and unfortunately, it's not occurring right now. And so this is an inducement, a way to get that training

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accomplished. [LB622]

SENATOR BURLING: Okay, thank you, Senator Pirsch. [LB622]

SENATOR PIRSCH: Sure. [LB622]

SENATOR BURLING: I understand the need for the training. I don't disagree with it. I understand the carrot. I was just asking if this had a very big stick in it, and so thank you for answering my questions. And I'm a little concerned about who will police it. I mean, Senator Pirsch mentioned that the Attorney General would know if I was elected to a public body and didn't take the training. But who's going to track all of that? There are thousands and thousands of members of public bodies across this state. I still think it's going to have a significant fiscal impact. But that's just where I'm at right now. I'm not real sure of that. So thank you very much, Mr. President. [LB622]

SENATOR FRIEND: Thank you, Senator Burling. Senator Pirsch, yours is the only light on. You are recognized...you can use this time to close, if you'd like. [LB622]

SENATOR PIRSCH: I'll use it to close, then. [LB622]

SENATOR FRIEND: Continue on. [LB622]

SENATOR PIRSCH: Well, I thank you for all the questions here. I want to point out that this particular bill is in response to problems that the Attorney General is fielding on a, just a regular basis--very troubling type of instances where the public's business is going on, and it's not occurring in an open and transparent manner. And so this bill is designed to encourage sunshine to take place in a way that is not occurring now. And it is written the way it's written because there is a very delicate balance that needs to be reached, so that when you have on one end of the spectrum, smaller boards with volunteer members, this bill isn't written in such a way as to be punitive and to make volunteers say, forget it, I'm not going to do it, then. On the other hand, it also...it does address a lot of the problems that are going on, and there are a lot of problems, just within...I don't think you can open a newspaper on any given week without seeing some. And I won't mention the specific cities. Here's one of the largest cities in Nebraska, just occurred this year an illegal, closed-door session in January, about a plan to downsize the council, and these cause doubts to form in the back of the citizen's mind. And this is one of the greatest troubles that can plague us in government, is making sure that the government...I'm sorry, the people, have faith and belief in their government. Here's another instance. Out in a county, and I won't mention that, voters who attended the board meeting--this was at the end of last year--were denied their right to vote by the board members in an election for a board position. Very clearly had the right to do so. The problem is not that these board members are willfully obstructing the law. The problem is one...is they don't understand what the law is, because they haven't had

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encouragement to actually look, open the...even a synopsis of the acts and figure out what it means. And so this law is...this bill is the...a natural step to make sure that we do have sunshine as near as possible in our...the way our government operates. So with that, I would just say that we do have a lot of instances where this is going on, and this is an appropriate remedy. So I'd ask you to join with me and make sure that elected officials understand the law, in order to prevent inadvertent violations, so that the people can have confidence that our government operates in the light of day. Thank you so much for your time. I appreciate your vote. [LB622]

SENATOR FRIEND: Thank you, Senator Pirsch. Members of the Legislature, you have heard the closing on the advancement of LB622 to E&R Initial. All those in favor signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Have you all voted who care to? Senator Langemeier, for what purpose do you rise? [LB622]

SENATOR LANGEMEIER: I'd ask for a call of the house. [LB622]

SENATOR FRIEND: There has been a request for a call of the house. Members, all those in favor of the house going under call signify by voting aye. All those opposed vote nay. Record please, Mr. Clerk. [LB622]

ASSISTANT CLERK: 35 ayes, 0 nays, to go under call, Mr. President. [LB622]

SENATOR FRIEND: Members, the house is under call. Senators, please record your presence. Those senators outside the Chamber, please report to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. The house is under call. Members, please record your presence. Senator Johnson, please report to the Chamber. Senator Langemeier, how would you like to proceed? [LB622]

SENATOR LANGEMEIER: I'd accept call-in votes. [LB622]

SENATOR FRIEND: Members, the house is under call. Pardon me. Senator Langemeier. [LB622]

SENATOR LANGEMEIER: I would go ahead and start, and exclude Senator Johnson. [LB622]

SENATOR FRIEND: Thank you, Senator. Senator Langemeier, for what purpose do you rise? [LB622]

SENATOR LANGEMEIER: I'd ask for a roll call vote in regular order. [LB622]

SENATOR FRIEND: Mr. Clerk, there's a request for a roll call vote in regular order.

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Senator Aguilar, for what purpose do you rise? [LB622]

SENATOR AGUILAR: Could I change to not voting? [LB622]

ASSISTANT CLERK: (Roll call vote taken. Legislative Journal pages 1051-1052.) The vote is 22 ayes, 16 nays, Mr. President, on the motion to advance. [LB622]

SENATOR FRIEND: The bill does not advance. Mr. Clerk, items for the record, please? [LB622]

ASSISTANT CLERK: Mr. President, a series of name adds: Senator Pirsch to LB236; Senator Howard to LB367; Senator Dwite Pedersen to LB565; and Senator Gay to LR6CA. (Legislative Journal page 1052.)

Priority motion: Senator Lathrop would move to adjourn until Tuesday, April 3, 2007, at 9:00 o'clock. [LB622 LB236 LB367 LB565 LR6CA]

SENATOR FRIEND: Members of the Legislature, the motion is the adjourn until Tuesday, April 3, 2007, at 9:00 a.m. All those in favor say aye. All those opposed say nay. The ayes definitely have it. We are adjourned.