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Floor Debate  
May 01, 2007

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[LB5 LB8 LB30 LB69 LB88 LB89 LB107A LB132 LB144 LB147 LB152 LB162A LB162 LB188 LB195 LB199 LB208 LB214 LB219 LB221 LB226 LB227 LB233 LB234 LB247 LB252 LB256 LB274 LB277 LB289 LB296 LB317 LB318 LB319 LB320 LB321 LB322 LB323 LB324A LB339 LB343 LB364 LB368A LB373 LB382 LB388 LB396 LB424 LB445 LB449 LB469 LB471 LB481 LB504 LB508 LB554 LB561 LB573 LB580 LB603A LB603 LB646 LB649 LB658 LB664 LB701 LB701A LR81 LR82 LR95]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for this, the seventy-second day of the One Hundredth Legislature, First Session. Our chaplain for today is Senator Kruse. Please rise. []

SENATOR KRUSE: (Prayer offered.) []

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

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

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

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

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

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and engrossed LB144 and find the same correctly engrossed, LB188, LB208, LB219, LB289, LB471, all correctly engrossed. Enrollment and Review also reports they've examined LB603 and recommend it be placed on Select File, LB603A, LB373, LB226, LB195, LB199, LB396, LB5, LB256, LB388, LB147, LB504, LB364, LB481, LB152, LB221, LB664, LB227, LB132, LB561, LB252, LB69, LB162, LB162A, LB277, LB469, LB445, LB233, LB449, LB214, LB424, LB580, LB508, LB8, and LB382, all to Select File, some having Enrollment and Review amendments attached. And, Mr. President, finally, an amendment to be printed to LB274. And that's all that I have. (Legislative Journal pages 1327-1336.) [LB144 LB188 LB208 LB219 LB289 LB471 LB603 LB603A LB373 LB226 LB195 LB199 LB396 LB5 LB256 LB388 LB147 LB504 LB364 LB481 LB152 LB221 LB664 LB227 LB132 LB561 LB252 LB69 LB162 LB162A LB277 LB469 LB445 LB233 LB449 LB214 LB424 LB580 LB508 LB8 LB382 LB274]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now proceed to Select File, LB658. Mr. Clerk. [LB658]

CLERK: Mr. President, LB658. The first item I have, Senator McGill, Enrollment and Review amendments. (ER8064, Legislative Journal page 1077.) [LB658]

SENATOR LANGEMEIER: Senator Raikes, would you make the motion for the E&R amendments? [LB658]

CLERK: E&R amendments, Senator. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members. I move the adoption of the E&R amendments. [LB658]

SENATOR LANGEMEIER: You've heard the motion to adopt the E&R amendments to LB658. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB658]

CLERK: Mr. President. Senator Dierks, I have AM826 in front of me. [LB658]

SENATOR LANGEMEIER: Senator Dierks, you are recognized to open on AM826. [LB658]

SENATOR DIERKS: Thank you, Mr. President. I'd like to withdraw that amendment. [LB658]

SENATOR LANGEMEIER: It is withdrawn. Mr. Clerk, next motion. [LB658]

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

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

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I don't know of any bill in the last several years that I have been more involved with than the Class I school issue. This amendment of mine puts Class I's back like they were. Senator Raikes does not like this. There are others that do not like this. But we had a referendum vote in November, and near...well, 287,000-plus people said, give us back our Class I schools. We have areas of need in the state because of distance, we have areas of desire, we have instances where children in Class I schools have higher test scores than their K-12 "mergees," or "mergeors," whichever it is. We have, in Class I

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schools, a built-in remedial program, because the 3rd graders hear the 5th graders' lessons. We have a built-in enrichment in Class I's, because the younger kids hear the older kids. This particular amendment is an attempt to deal with the November vote repealing LB126. You can discuss all you want about the reason any one person voted to repeal this bill. You can say they did it because they didn't like the forced consolidation. And actually, Class I schools were consolidating. They had reached the point in their business that they didn't have enough students to continue with school, there were problems with the building and they didn't have the money, whatever the reason was. Whatever motivation you assign the vote, the result is the same. The voters repealed LB126 resoundingly. With that vote, it was clear that the voters told the Legislature, we don't like what is being done. The repeal of LB126 requires this body to take a fresh look at the issue of forced consolidation. It's a fundamental principle in the law that when someone is injured, that you try to put the wronged person back in the condition they would have been had they not been injured. In the case of LB126, the injured parties are those people displaced from their schools by forced consolidation. AM724 has, as its core principles, to place the Class I and Class VI schools back where they were before LB126. It tries to do that in the most economical, least burdensome, and timely fashion possible, taking into consideration the passage of time and changing circumstances that may have occurred between implementation and repeal of LB126, and with no impact on any school not impacted by LB126. AM724 provides for the reestablishment of the boundaries as they existed prior to LB126. It provides that the district shall be affiliated in the same manner as they were. It provides for a mechanism in which the voters of the Class I district can vote not to reorganize, and remain as the were. This amendment retains the funding formula set forth on pages 107 and 108 of LB658. It's my belief that this funding mechanism is reasonable, in light of the passage of time and the lack of data that would be available for the district to qualify for aid under the formula as it exists without this change during the first year of operation. The time lines set forth in AM724 should provide for adequate time to allow the voters of the school district to inform themselves of the costs, resources, and needs of the reorganized district, so that they can cast an informed vote as to whether or not to dissolve the district. This amendment and this bill...well, the amendment would put things back the way they were. The bill is going to change things forever. It is going to eliminate the Class I schools. We have been told that in LB658 there is a mechanism for Class I's to reorganize. Unfortunately, that reorganization is very difficult, very time consuming, and pretty hard for Class I schools to do. I visited with a superintendent in the last week, and he said it is his duty to manage the property and the assets of the K-12 district. And when the Class I was merged with that district, he said that that made a difference of \$100,000 to the K-12, to the good. Well, of course it did, because they got all of the assets from the Class I--the building, the computers, the desks, everything. They got it all. And of course it did, because they got the acreage from that Class I. They now will be getting the valuation from that district. They will be getting increased taxes from that district. And since they also got an addition of students, their numbers are going to go up. And if your numbers go up, then that's going to affect your state aid.

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This has been a very difficult bill for the people, whose schools were forced to close, to swallow. It is not more economical. It is not more efficient. What did we do last year? LB1024. We took the Omaha school system and divided it up, because it was felt that the neighborhoods could more likely determine what their children needed. I agreed with them. That's why I voted for LB1024. And now what do we do with LB126? We make everything bigger. Bigger is not better. I would appreciate your attention to this matter. If you have questions on any of these amendments or bills, please...or the bill, please ask. But if you look at the procedures for LB658, just remember that your school, if you had any Class I's, is going to be very much more difficult for them to go back. The voters knew what they wanted. They said, we don't want you to take our schools. And that's what I'm asking you to do today, is please don't take our schools. If they decide that they want to close, that should be their opinion. Who currently owns the land and the assets that were transferred from the Class I's to the Class IIs, IIIs, and IVs? Can you point me to the language that gives them the authority... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR HUDKINS: ...to hold or to sell or otherwise dispose or control those assets? This was a windfall to these K-12 districts. They just absorbed the building, the equipment, and the students, and the valuation. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. You have heard the opening on AM724, offered to LB658. The floor is now open for discussion. Senator Raikes, you're recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members. I oppose this amendment. This is, I think, very similar to, I believe, LB30, which the committee heard and considered and actually IPPed. So this is ground that we have considered and been over. A couple of comments on a number of things that Senator Hudkins mentioned. You are, I think, being told, or encouraged to believe, I should put it that way, that somehow the Legislature, because of the vote on Referendum 422, is required to reinstate Class I school districts as they were some point in the past. A couple of key points about that: That question was not on the ballot. Even the opposition folks to the Class I merger agreed that that was not part of the deal. In fact, I've given you a handout, which you may wish to take a look at. The top heading is "State Supreme Court Ruling." You'll notice, in the italicized remarks, comments there made by the plaintiff attorneys in a U.S. District Court action. And the plaintiffs in this particular case were those that were supporting the anti-LB126 forces, which clearly states that there is nothing...there was nothing about the vote or nothing in statute that requires the reestablishment of Class I school districts by the Legislature. It is, I think, a valid issue and a valid question as exactly what was the message of LB422 (sic--Referendum). And to her credit, Senator Hudkins mentioned that there was a lot of confusion about that. Keep in mind that the question put to the voters on LB422 (sic) was not a question

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crafted by the Legislature. It was crafted by those outside the Legislature. The voters clearly have said twice that the proposal which is the beginning of this amendment, they don't want to do. They clearly said, in not signing the petition, 10 percent not signing the petition, that they did not want to move backwards in terms of school organization. They also were given an opportunity to sign another petition, the so-called Green petition, and they refused to do so. What the voters have said is that they prefer a middle road. They don't want, in my view--and this is just my view--they don't want the future to proceed without the possibility of a Class I school district. Certainly, Class I school districts are allowed by the law which is now in effect, which went back into effect when LB126 was repealed. What LB658 does is expands the opportunities for Class I districts to be formed. You've heard that the process is difficult. I disagree. There are five steps. They are straightforward steps. They are steps you would expect to have to be taken in order to accomplish a significant action such as this. She also mentioned a money motive. I think that is clearly not based on the realities of school finance. The budget before the Class I's were merged still went through a system. So in terms of there being some kind of a financial windfall on the merger of Class I's with K-12s, it simply didn't happen. As a matter of fact, I think we're going to hear some comments later on today that in some instances exactly the opposite happened. [LB658 LB30]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR RAIKES: Finally, I would just mention that a key factor here is that LB126, even though it was repealed, worked in the vast majority of cases; 155 of roughly 200 former Class I school buildings are still open. Had it not been for the repeal of LB126 and the repeal of the building protections, there would be even more of those 155 that would remain open in the next year. LB658 is an effort to honor that process and to expand the opportunities for Class I districts to be formed in a manner that is constitutional. A final point is that LB30, I think, flies directly in the face of the closed class provision in the constitution, and thereby would be an unconstitutional component... [LB658 LB30]

SENATOR LANGEMEIER: Time. [LB658]

SENATOR RAIKES: ...in a bill. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. (Doctor of the day introduced.) Returning back to discussion on AM724 to LB658, Senator Avery, you are recognized. [LB658]

SENATOR AVERY: Thank you, Mr. President. I'd like to go back just a little bit, to some comments that Senator Hudkins made about the economic benefits of consolidation. You may remember that prior to LB126 passing last year, 50 percent of Nebraska school districts served about 3 percent of the students. That's not an efficient use of

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resources. Also, Class I teachers were the lowest paid in the entire state. Things have improved now. There are a number of advantages to consolidated schools--wider range of curricular and extracurricular offerings and opportunities for students; consolidated schools permit sharing of courses and facilities, therefore promoting efficiency; savings that are captured because of no need to maintain and upgrade duplicate facilities can be diverted to other uses; combined classes require fewer teachers; fewer administrators are needed. I think that the advantages that are offered by consolidation are pretty clear. Consolidation can free up resources that could be redirected to other school needs, such as improved teacher pay. And many of the Class I teachers have experienced that. What LB658 does, it both respects the popular vote last year to repeal LB126, and it respects the law as it exists in the state today. The voters said they wanted Class I schools restored in the law. LB658 provides a means to do that. The voters also said that they were unwilling to prevent the law dissolving the Class I's from taking effect. So LB126 became law, and Class I schools became part of a statewide legal--and I underline, legal--school system that is now K through 12. That's the law in the state of Nebraska. So we are now a K-12 state, and whatever action is taken to recreate Class I schools must recognize this perhaps inconvenient truth, but nonetheless a truth. Any decision that we might make to recreate a Class I school must be agreed to by voters in the entire K-12 district. I think this is a good piece of legislation, LB658, and I would urge you to oppose AM724. Thank you. [LB658]

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

SENATOR LOUDEN: Thank you, members...Mr. President and members of the body. As I listened to Senator Raikes and Senator Avery outline what LB126 did and didn't do, one thing you want to remember, the voters, by a 53 percent or 54 percent vote, wanted it changed different than what the Legislature did. No, there was nothing in the law that said the Legislature had to reinstate Class I's or anything else like that, but using that as an example is really just a matter of toe-dancing around the issue. And part of the issue was that the Legislature, with the passage of LB126, completely destroyed your Class VI school systems, which worked quite well out in the western part of the state and in the rural areas. And those were K-12 systems. They were in place, been operating for years, and were doing quite well. You had local control. This is what Omaha is fussing about now. When you put...split Omaha up into three districts, all we've heard ever since then is trying to figure out ways to put them back as one. So if it's...if Omaha has to be back as one, why, what is the difference where your rural areas have to be back as one? Now, whether this amendment, AM724, is the right vehicle or not, I haven't decided that or not, or whether Senator Ron Raikes's LB658. I think whatever is done has to be done so that it is possible for people to form their Class I districts. And perhaps there should be ways to form your Class VI districts again. Those were viable, working entities that did quite well. You had your local control in your elementary levels, and then you had your overriding budget authority with your high school districts,

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something that was worked out, came across over the years, and was a proven success. As we were told when we...when LB126, they were going to save \$3 million bucks. First, they were going to save \$12 million bucks. And the way the dust has all settled, why, it's cost the state of Nebraska considerably more. And not only that, we have districts now that are somewhere around 75 or 80 miles from one corner to the other of them, in the same district, so it's consequently very unwieldy districts in some of the western areas for one school board to manage. They have to have satellite people out there doing something the way it is. When they talk about being able to consolidate and more efficiency, I think Senator Avery said, what, 6 percent of the schools, 3 percent of the schools did 6 percent, or whatever his percentages were, that's great in Lincoln and Omaha, but when you get out there and people are traveling 15-20 miles and you have such a small student ratio per square mile, there is no cost efficiency. You can't use those numbers. It isn't a matter of cost efficiency; it's a matter of whether you're going to educate the students in Nebraska. And that's part of the state law, is you've got to provide education for students from, what, 5 to 21 years of age, in the state of Nebraska...or 5 to 18, whichever it is. But this is part of the thing that the state of Nebraska has to do, is provide education. I think something has to be done, I think, whether we go along with the community learning centers as the Omaha Public Schools have usually vetoed with their idea out there, that's probably your Class VI system in...another way of calling a Class VI system. So I think there's other things out there that we can improve this education system in Nebraska. And I think we certainly should go forwards in trying to do that. I don't think, to point back, that the cost of efficiency and where the prices are, the wages are, sure, some of the Class I districts' teachers have an increase in wages, but the state of Nebraska picked that up when they did. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR LOUDEN: So I think at the present time I don't intend to support Senator Hudkins' AM724 entirety. But I think we have the right idea coming, that these Class I's have to have the authority to be reestablished, and it has to be done easily. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Louden. Wishing to speak we have Karpisek, Dubas, Hudkins, Wightman. Senator Karpisek, you're recognized. [LB658]

SENATOR KARPISEK: Thank you, Mr. President, members of the Legislature. I would just like to rise in support of anything that can make it easier for our Class I's to come back, to make sure that the K-12s are paid back the costs that they had to incur because of this. I don't agree with Senator Raikes. I feel that the voters knew what they were talking about, they voted, and they want them back as easily as can be. I also do not believe that they didn't sign the petitions; I believe they didn't have much time to sign the petitions. I think they got a lot of signatures in a short amount of time. So I think, as a Legislature, the votes have been counted; we need to do what the people

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have voted on. I don't see what the idea is here. To me, it feels like an end run around what they said and what we want. What I want is for them to go back, if it is at all possible, to get the teachers the money that they deserve, to get the K-12s the money they deserve, and put it back the way it was before we meddled with it in the first place. I don't understand. Maybe it's only me. But I will support anything that we can get closer to that. I think Senator Dierks and Senator Hudkins, Senator White, a lot of senators have worked hard on this. There's a group that wants to do what the voters want to do, and I think that's why, when the voters voted for us, we were sent here to do, to honor the vote of the people. Thank you very much, Mr. President. [LB658]

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

SENATOR DUBAS: Thank you, Mr. President, members of the body. This is really, really...I am looking forward to this debate, because this is going to be an opportunity for us to get all these issues out on the floor and really try to show the voters of the state of Nebraska that we recognize where we're at today, and give them their due. We do need to honor the vote. How we're going to do that, that's the \$60 million question, I guess. But the people that believe in and support Class I districts worked very hard last summer to get the necessary signatures that they needed, and they did an outstanding job in a very short amount of time. I believe they had 69 days to get their work done, so they definitely had an uphill climb. But they did what they could do, and they were able to get the signatures that they needed to get this put on the ballot, and the vote was taken. And all too often, it seems like I hear on the floor, when there is a vote of the people, and we as a body don't necessarily agree with that vote, we tend to say, well, the voters didn't really know what they were talking about, the voters didn't really know what they wanted, they didn't really understand the situation. There's no doubt in my mind that the voters understood and do understand this situation and the impact that it has on the state. We have Class I's and Class VIs that provide outstanding education for our students. We do not have a one-size-fits-all scenario in this state. What works in the eastern end of the state does not necessarily apply as you move west. Right, wrong, or otherwise, this legislative body and past and future legislative bodies tend to have a problem with maintaining credibility with the voters. Again, I think it goes back to the fact that all too often we don't respect their wishes, we don't listen to what they have to say, and do some things that maybe lead to that credibility problem. We have the opportunity now to prove to the voters that we do understand them, we are hearing them, we do believe that they know what they're talking about. Just last week, we were debating on the floor whether the...whether state senators deserve a raise. When we do not listen to the will of the people, I think that lends to that problem with people wanting to pay senators additional money. We need to listen to what the people have to say to us. We need legislation that will put Humpty Dumpty back together again, because he's definitely in a million pieces. We need to put forward legislation that is going to be effective, that's going to work, that is not going to put this state in the position of having

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further litigation that's going to cost us more money, that's going to allow those Class I's that want to be put back in place to be put back in place. The ones that are satisfied with the way things are going right now, that's all well and good. But we do have Class I's who have every right to be put back in place. We do not have the luxury of time anymore. Way too much time has passed. If we're going to have to spend time in courts defending legislation or fighting for legislation, we're just going to continue to use up very, very valuable time, and make it even that much more difficult to put these Class I's back together again. Again, I am looking forward to this debate, to the issues that are going to be brought forward onto the floor. And hopefully, by day's end, we're going to be able to move something forward that's going to address and show the respect to the voters that they so well deserve. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Wishing to speak, we have Hudkins, Wightman, Lathrop, Kruse, Carlson, Flood, and others. Senator Hudkins, you are recognized. [LB658]

SENATOR HUDKINS: Thank you, Mr. President and members of the Legislature. I would like to direct a question towards Senator Avery, but he does not have to answer. But I wish he would...I would hope he'd be listening. [LB658]

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

SENATOR AVERY: Yes, I will. [LB658]

SENATOR HUDKINS: Actually, this is a rhetorical question, Senator Avery. But can you...you talked about problems that you perceived in my bill. And you know, we talk about windfalls and all that. But can you put...point out in the statutes where the ownership of the assets of the Class I's is transferred to the Class IIs, IIIs, and IVs? [LB658]

SENATOR AVERY: I can't tell you the statute, but my understanding is that the ownership is in question in some cases. But I believe they would go to the K-12. [LB658]

SENATOR HUDKINS: And I guess that's one point on which we disagree. If the K...or the Class I's go back, then they should also have their assets back. Thank you. And, oh, one more thing. Are you aware that upon the repeal of LB126, all of the pre-LB126 statutes are now the law, and those statutes recognize and identify the classes of schools? We have had six classes: Class I's, which were elementary-only; Class II is territory having a population of 1,000 inhabitants or less maintaining both an elementary and a high school. You could sit down. I won't ask you any more questions. [LB658]

SENATOR AVERY: Well, I would just comment that... [LB658]

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SENATOR HUDKINS: Well, I'm not quite through. Class III is a school district that has inhabitants of more than 1,000 and less than 150,000, both elementary and high school; Class IV is 100,000 or more with a city of the primary class--obviously, that's Lincoln; and Class V is...it's a long description, and that's Omaha; Class VI used to be high school only. We have now gotten rid of Class VIs, and we have gotten...well, not "we," some of us got rid of Class I's. The Class I's...well, Senator Heidemann, can I ask you a question? Are you here? He's not here, so I'll just say it anyway. I would like to know if Senator Heidemann is aware of the claims process. And of course he is, because he is the Chair of the Appropriations Committee. We pass a claims bill every year or so, and in that bill, we pay money to specifically identified persons. No one else fits in that class. It's a closed class. Then are those bills unconstitutional? And, Senator Raikes, final question, I think. Senator Raikes? [LB658]

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

SENATOR RAIKES: Yes. [LB658]

SENATOR HUDKINS: Senator Raikes, thank you. I think someone said, or at least intimated, that this particular amendment is unconstitutional. There have been discussions that perhaps Senator Dierks's is unconstitutional. Who will sue to determine if either or both of these bills or amendments are unconstitutional? [LB658]

SENATOR RAIKES: I can't answer that question for you. I think, generally speaking, the approach of the...certainly, the Education Committee, and probably the Legislature in general, is to make sure that whatever is put in a law passes constitutional muster, rather than worrying, well, we're going to do something unconstitutional, but we don't think anybody will object to it. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR RAIKES: So I can't answer your question, Senator, but I don't think it's good practice to knowingly put something in a statute that is a violation of the constitution. [LB658]

SENATOR HUDKINS: Thank you, Senator Raikes. Thank you, Mr. President. [LB658]

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

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I have a few questions that I would like to ask Senator Hudkins, if she would yield. [LB658]

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

SENATOR WIGHTMAN: Senator Hudkins, your AM724 has some language with regard to restoration of various assets that belonged to the Class I districts prior to LB126. You're familiar with those? [LB658]

SENATOR HUDKINS: Yes. [LB658]

SENATOR WIGHTMAN: You talk about...the bill talks about physical assets and tangible personal property or tangible property. Is it your understanding that bank accounts that were held by the Class I district that have been turned over to the K-12 district would be restored? [LB658]

SENATOR HUDKINS: Senator Wightman, we had that discussion just a few minutes ago, and we talked about tangible and intangible property. And through somewhat expert opinion, it was thought that "tangible" does not include cash. We talked to Senator Dierks about that, and there may be an amendment forthcoming. [LB658]

SENATOR WIGHTMAN: So right now, you think that the amendment, AM724, does not include intangibles, which would include bank accounts, but you're not sure that's the way you want your amendment to end up reading? Is that correct? [LB658]

SENATOR HUDKINS: If I understand your question, yes. [LB658]

SENATOR WIGHTMAN: Because right now it would appear that we're talking about buildings, equipment, and what we would normally consider tangible property. Is that your understanding, the way it reads now? [LB658]

SENATOR HUDKINS: Yes. [LB658]

SENATOR WIGHTMAN: Also, I have a question or two with regard to the method of election. It appears that the districts would be restored under AM724, the Class I districts, and then there would be a special election or a special meeting called, and that would be the only vote of the Class I district on whether or not they would continue as a Class I district? Is that correct? [LB658]

SENATOR HUDKINS: We want the Class I schools to have the first vote. If they have decided that, okay, we're merged, and we're not real happy, but it's working, and we really don't want to go through the hassle of going back to the way we were, then if they, as a former Class I, vote no to reestablishing their school, then we would not have to go back and do all of the other things necessary in LB658 to establish their school. Now,

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Senator Raikes has said that in LB658 it will be--and this was not negotiable; we didn't like it--but he said it will not be negotiable that after the Class I's have decided, yes, we want to merge...well, let's say they don't, then there's...that's it. That's the end. But if they say, yes, they do want to go back, then the K-12, the entire...the K-12, including the Class I, would have to vote. [LB658]

SENATOR WIGHTMAN: Right now, as I understand it, a special meeting or a special election would be called. It wouldn't be by a secret ballot or anything, as we normally have in elections, but that election would be conducted at that special meeting, and unless 50.1 percent voted not to reconstitute or not to continue the district, then it would be continued. Is that correct? [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR HUDKINS: Yes. [LB658]

SENATOR WIGHTMAN: Thank you, Senator Hudkins. Thank you, Mr. Chairman. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Lathrop, you're recognized, followed by Kruse, Carlson, Flood, Dierks, Erdman, and others. [LB658]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I am standing here not to encourage you to support LB658 or AM724 or not, but maybe to give you a little bit of background, because our first responsibility, I think, as a Legislature is to ensure that the bills that we pass, the laws that we pass in this body, are not unconstitutional. When we all started our journey in the Legislature, we swore to uphold the constitution, and today we are ignoring the constitution. In fact, Senator Hudkins suggests that it would be all right just to pass this, because who's going to care? I want to suggest that I've had an opportunity to read the Attorney General's Opinion. Senator Dierks, I believe, requested an Opinion from the Attorney General with respect to AM826. And the Attorney General has provided us all with an Opinion that this classification is unconstitutional. I'd like to share with you that Opinion, maybe relevant portions of it, so that we can be guided today in our discussions by the first principle that should control our activity, and that is, is this bill constitutional? The classification created in virtually all the amendments that have been offered and will be offered provides that, on the effective date of this act, the Class I, II, III, IV, V, and VI school districts which were organized as such immediately before December 1, 2005, shall be reorganized according to the boundaries on file with the Department of Education on November 30, 2005. The question for the Attorney General was whether or not that created special legislation. It is a classification, very clearly. The classification is all school districts in the state in existence immediately prior to December 1, 2005. Our state constitution, in Article III, Section 18, prohibits the passing of any special legislation. And legislation can

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be special legislation where...and can violate the constitution, where it creates a permanently closed class. The Nebraska Supreme Court has had occasion to interpret that provision of the constitution, has concluded that a classification which limits the application of the law to a present condition and leaves no room or opportunity for the increase in the numbers of class by future growth or development is special and in violation of this clause of the constitution. These amendments...I can appreciate the concerns of Senator Hudkins and my good friend, Senator Dierks, but these amendments which attempt to go back and recreate a class that existed a particular point in our past is a closed class. It is special legislation, and it violates our constitution. We can talk about it all we want, the wisdom in what the voters thought they were doing with their referendum, but it doesn't change the fact that the only way we can put the pieces back together again is to set up a system that allows for their recreation in some form other than trying to wave the wand over the past and make these school districts reappear. Senator Hudkins asked a rhetorical question, and that is, who's going to care? If we pass this law, who's going to care? Who's going to file a lawsuit? And I will tell you that the plaintiffs for that lawsuit are easy to find. They will be... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR LATHROP: ...and they will actually and invariably file a lawsuit, which will cost the state money as we try to defend this unconstitutional piece of legislation. The potential plaintiffs would be those people who are now in the K through 12 districts that the Class I's merged into or became affiliated with. If you pass this amendment, their tax base would be eroded, it would change the financing of those K through 12 schools, and they would have standing, in my judgment, to bring a suit to challenge the constitutionality of this. It will serve no purpose. We will have given false hope to our friends who want Class I schools. And I think those amendments, like AM724, are unconstitutional and a bad idea. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Kruse, you're recognized. [LB658]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I stand to favor the bill without the amendment. But I am more wanting to respond to thoughts about the vote. I certainly respect the vote of the people. That is an important part of our life and thought. The question before us is, how do we go forward, not how do we recover the past. And I have no problem at all in representing the people of my district, because I am sure that my district would not support repeal. And that's from many interviews that I've had with persons, just on the street and so on, and say, well, what were you thinking about there? Everyone I talked to thought that the vote was to repeal Class I districts. I would have a follow-up question: Do you favor a separate district in some places for elementary schools? And in all cases, it was no. So I certainly question what impact we should give to a confusing ballot. However, that was the vote, that was recorded, and

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we have to pay attention to it. The thing that we have to do at this point, I feel, is to go forward and figure out how to reconstruct, in a helpful way, those that can be reconstructed, and where they are needed. And they are needed. I am a graduate of a Class I district, a good one, and I certainly have no opposition to the elementary school that stands alone as an attendance center. The other thought I have is the same as it was two years ago when we discussed this before. I am strongly in favor of local control, and I think the proponents of the...of this action here are ignoring a key part of local control. When I graduated from Class I and went to high school, my parents could no longer vote for the school board. That's wrong. And that is the reason that I voted for the original LB126, and why I take my present stand. I think that every parent should have a right to vote for the board of the schools that are giving an education to his or her child. Thank you. [LB658]

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

SENATOR CARLSON: Mr. President, members of the Legislature, I'm going to speak to some unintended consequences of LB126. Senator Karpisek addressed those very well. But in this process, I am very much in favor of something that allows the Class I's, that want to, to continue. I'm also in favor of allowing the Class I schools that are satisfied with what LB126 did, and want to stay with a K-12 district, to stay there and not go back. There are unintended consequences to a few K-12 districts, like Holdrege in my district, that did not receive nearly enough assets to cover the additional expenses brought on by LB126. Now, in the process of LB126, Class I's did not ask for LB126. K-12s, in general, did not ask for LB126. The previous Legislature developed and passed LB126. And therefore, to some K-12 districts, LB126 brought about an unfunded mandate, an unintended consequence. Holdrege spent an additional \$320,000, or thereabout, in complying with LB126 for the 2006-2007 school year. Now, in the total picture of everything in the state, \$320,000 isn't a large amount of money. But in Holdrege, it's depleted their cash reserves. The state needs to refund the dollars where the Class I assets weren't sufficient to do so. In the case of Holdrege, the shortfall was not caused by building or physical expenses, but by incorporating 21 FTEs into the Holdrege salary, retirement, and benefits system. And I will listen to this debate, and I will support a total bill that will simply allow Class I's to continue, allow Class I's that don't want to continue to remain as they are now with no difficult hoops to jump through, and which will refund K-12 districts for extra mandatory money spent. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Wishing to speak we have Flood, Dierks, Erdman, Raikes, and Janssen. Senator Flood, you're...waives his opportunity. Senator Dierks, you are recognized to speak. [LB658]

SENATOR DIERKS: Thank you, Mr. President. I'd like to give my time to Senator

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Hudkins. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator Hudkins, 4 minutes, 50 seconds. [LB658]

SENATOR HUDKINS: Thank you, Mr. President, and thank you, Senator Dierks, very much. Senator Lathrop, I am...Senator Lathrop? I am quite offended. I did not say, who's going to care? That was not any part of my vocabulary. All I wanted to know was, if this was found unconstitutional, who is the person that's going to question it. That's not saying, I don't care. Thank you. And then, I have in my possession, as do all of you, an editorial from the Omaha World-Herald talking about an impressive spirit of collegiality. There was an impressive spirit of collegiality because a lot of us, myself excluded, are from a system of schools that are large. Lincoln, Omaha, there's 26 right there; North Platte, Scottsbluff. So that's where the collegiality came from, because the ones that live in Lincoln and Omaha and the other larger towns don't understand the Class I situation. They don't understand why the people want their kids to go to a small school. Nebraska...again, quoting from this editorial: Nebraska needs to approach the Class I matter with the care and deliberation the situation warrants. And I think that's what we're doing this morning. We have reached some agreement on LB658, very little, as far as the Class I supporters are concerned, because we still think it's too difficult for the Class I's to be recreated. Any change...again quoting: Any change should be done logically and fairly. "Fairly" seems to be the key word here. When these schools were merged, what was fair about that? They lost everything. One of the senators talked about senators...or teachers, I'm sorry, teachers, when they went from a Class I situation to a K-12 situation, they got an impressive increase in salary because, as this senator said--and I'm sorry, I don't remember who it was--that the Class I teachers are some of the poorest paid teachers in the state. Perhaps some of them are; not in all cases. So to generalize that the Class I teachers are not well paid is not fair. I happen to know of a circumstance where a Class I teacher, when she...her school was merged with a K-12, and she went on their salary schedule, she took a several-thousand-dollar pay cut. Now, I'm not talking about the teacher in Louisville or wherever it was that was getting \$102,000; absolutely not. That is not the typical salary. But what I'm saying is that we need to look very carefully at LB658. We need to--and Senator Raikes and I have been talking--we need to discuss some of the finer points, make it a little easier for the Class I's to go back into existence. And because of that, Mr. President, I would respectfully ask that AM724 be withdrawn. [LB658]

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

ASSISTANT CLERK: Mr. President, the next amendment I have is offered by Senator Engel, AM1046. (Legislative Journal page 1324.) [LB658]

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SENATOR LANGEMEIER: Senator Engel, you are recognized to open on AM1046, when you're available. [LB658]

SENATOR ENGEL: Mr. President, members of the body, AM1046 to LB658 allows students affected by schools' consolidation, as required under LB126, to be given another choice of an enrollment option program. And as soon as I get my breath, I'll give you the rest of this. (Laughter) I'll give you an example. Jackson Public School, in my legislative district, was a Class I district, and due to LB126, the land was consolidated with three different K-12 districts. Then the former Class I building in Jackson is now part of the Ponca school district. But for example, let's say a family wanted their children to remain at the Jackson building, but their land was merged with the South Sioux City school district. The family had to use their one choice through the enrollment option program to allow their children to continue to attend school at Jackson. However, this will mean that they will attend high school in Ponca. The family had always wanted to use the enrollment option program so their children could attend the high school in Homer, but now are unable to do so because they have already used their one choice available under the enrollment option program. This amendment would give families another choice when their children complete the grades offered at a former Class I school. I'll be glad to ask (sic) any questions, and I'd like to see the approval of this amendment. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Engel. (Visitors introduced.) You have heard the opening on AM1046, offered to LB658. The floor is now open for discussion. Senator Erdman. Those wishing to speak are Erdman, Raikes, and Janssen. Senator Erdman, you're recognized. [LB658]

SENATOR ERDMAN: Mr. President, members of the Legislature, Senator Engel tells me that Senator Raikes is all right with this amendment, which I'm not sure that bodes well for his amendment. But it seems logical to me, Senator Engel, to be honest with you. Just a candid observation: I've shared this with Senator Kruse in the past. He's brought up this logic before about the reason you'd vote for LB126 is so that you could let people vote in the school district in which your student resides. And it seems somewhat fitting, then, that it falls under the debate under this amendment, because if you option your student into another district, you still don't have a vote. So don't we have to solve that problem, too, then? Because if I'm a resident of Bayard and I option my student into Bridgeport, I can still only vote in the Bayard school district. Are those the reasons why we're passing these laws? I would argue that it's not. I would argue that there were other reasons. Just as I can't argue why the voters repealed LB126 with Referendum 422 definitively, I can give you some pretty good reasons in my area why they did. Senator Loudon, I think, has touched on some of them. The peculiar part of this debate, I guess, from my perspective, is, is that this is probably the first session that we've had the opportunity to have both a bill dealing with the organization of rural schools, and a bill dealing with the organization of urban schools in the same session,

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because we had LB126 in one year, we had LB1024 in the next year. I believe I was consistent in my vote. I voted against LB126 and I voted against LB1024. And now I see all these wonderful press releases or, excuse me, editorials, from the World-Herald, saying, well, we think Ron Raikes is the smartest guy on earth when it comes to Class I's. At least, that's the plain reading of this. I wonder if they'll have the same opinion of him if LB1024 doesn't get repealed this session. There's a lot at play here. I think what's at point--and maybe Senator Karpisek hit this nail on the head--was that whether or not you believe constitutionally or whether or not it's proven that we can do constitutionally what I believe the voters in my area voted for is subject for discussion, but to the extent that we can reflect that more appropriately than what's in LB658, I think we should try. And whether that's in Senator Dierks's next amendment, or other amendments that will be offered--I know Senator Raikes has other amendments that he is proposing based on our discussion on General File, and I look forward to seeing those provisions offered--I think it would do us well to analyze this process and to make sure that we understand why we're voting this way. Because if we're simply saying, well, I see a minor area of law that should be fixed and, therefore, I'm going to throw this whole thing out, as some have argued why they voted for LB126, you have that same problem in existing law now that we have all K-12 districts. So I would urge the body, if I can, to be thoughtful in our deliberations as we were on General File, but also that as we go through this process of analyzing how more appropriately we can reflect what the voters wanted, within the confines of constitutional law and the legal framework, but also the most effective way to educate young people, that I think we should attempt to hit that goal, and not necessarily try to give credit to one committee or one senator or another. I think we as a body owe it to the people of the state of Nebraska to try to make sense out of this, and I think we can get there. But I hope that the conversations reflect the policy debate of where we are today, and not necessarily a reflection of some Pollyanna approach to why we would pass a reorganization bill that would attempt to consolidate 200 and some Class I districts into K-12s. You've thrown the baby out with the bathwater if that was your goal. And I would argue that that's probably one of the reasons why the voters said no to LB126 and voted to repeal it. [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR ERDMAN: Here's the other thing that I think is missing from this. When you go down that path of trying to get a law stayed from being implemented, you have to get to 10 percent of the vote. If you do everything that you can, as Senator Dubas pointed out, in the 69 days that you had, and you come up at 7.5 percent, you still have to put that on the ballot. You got enough votes to have it be on the ballot. It was obviously more preferable, it was obviously a more ideal situation had we got to 10 percent, those of us that signed that. But once that went on the ballot, then you had to reevaluate the process that you were in. I firmly believe that the people that voted for 422 thought in good faith that we as a Legislature would do our best to try to get to a goal that they had envisioned. And I'm still optimistic that we can arrive there today. Thank you, Mr.

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President. [LB658]

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

SENATOR RAIKES: Thank you, Mr. President, members. Senator Engel is right, I do support this amendment. I...this is, I think, in the line of a number of what I would call good faith amendments to try to make the process feasible and user-friendly to those folks who are interested in creating a Class I district. This one deals with a option student and the opportunity to option into a district, allows an extra opportunity for those who are involved for a...with a former Class I district, and I think is entirely appropriate addition to LB658. I'll mention, while I have the opportunity, a couple three other amendments that are coming along which I think are in this same vein. They're intended to enhance the bill, particularly from the standpoint of the feasibility of creating a Class I district. One of them has to do--and this we talked a little bit about on General File--has to do with the K-12 district maintaining a building available, or a former Class I building, so that in the event there were folks in the now K-12 district that wanted to undertake the process of forming a Class I district, there would be a building available for them to use. I think that's something that's not only very reasonable, but should be very helpful. A second thing, we had in the original bill a requirement that in forming a Class I district you could not split a voting precinct. In looking at what is involved with some of the various counties in the state and how many voting precincts there are, we've discovered that that would be too onerous, in terms of a barrier or requirement for a Class I district to be formed. So another amendment strikes that provision requiring that a voting precinct not be split. Finally, we did include, on General File, I believe, an amendment to allow additional funding for a K-12 that decided to keep a remote former Class I building open. The incentive was a financial incentive, based on the number of students served in that building. It was brought to us, well, why is that just for standard cost group schools? What about for sparse or very sparse? So there is another amendment which extends that allowance for keeping a former Class I building open to sparse or very sparse school districts, as well. So again, I think Senator Engel's amendments and these others that are coming up are all amendments that certainly I support, and also that I think make the bill a better bill, and make it better particularly in the direction of enhancing the likelihood that people will consider the...people who are interested, I should say, will consider the process something that is manageable. And you'll also have protections for them keeping the facilities open, and so on. And to the extent that LB126 is working well and that there are remote buildings that are being kept open, that you'll have financial incentives available for... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR RAIKES: ...K-12 districts to continue to keep those buildings open. So again, I support the Engel amendment. Thank you. [LB658]

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SENATOR LANGEMEIER: Thank you, Senator Raikes. Senator Janssen, you are recognized. [LB658]

SENATOR JANSSEN: Thank you, Senator Langemeier, members of the Legislature. You know, I...this discussion brings me back to when we argued the LB126 bill, you know. And at that time, I said very little about what we were trying to accomplish, because I didn't have a dog in that fight. The district that I represent has no Class I schools in it. And I'm pretty darn proud of Dodge County. They have taken the initiative to consolidate their schools. There are different types of schools. Of course, the city of Fremont is the largest city in that district. They have a very good school system. There are no Class I's in Dodge County and, you know, I'm kind of proud of that, because the people took care of that themselves. They weren't forced to close those Class I districts; they did it because it was economically sound. And we were...Dodge County is a little different than some of your districts where you have several Class I schools. And looking at this sheet that Senator Raikes passed out, you know, I was surprised of the number of schools that didn't close. Apparently, there is a need there for an attendance center. And I believe that under LB126, those students were probably getting a better curriculum. They were...it was a curriculum that was set out by that district itself to enable those students to get a very good education. You know, and I remember the debate on LB126, and there was an issue that was brought up that there was a Class I school that had been closed for several years, and they still spent several thousand dollars a year. Now, was that economically feasible? They were spending tax dollars, and had no students. You know, you wonder about these types of things. And I stand in support of LB658 and Senator Engel's amendment, AM1046, because there are some unique situations that come up. Not every district is the same. And I understand what Senator Engel was talking about, some students that were being forced to go one place or the other, and this would take care of that. That's about all I have. I think this is the last time I'll probably talk on the bill itself, because of what I've said before, this really does not affect the 15th Legislative District. With that, I'd give the rest of my time to Senator Raikes, if he would like to have it. [LB658]

SENATOR LANGEMEIER: Senator Raikes, a minute, thirty, if you would like it. I do not see Senator Raikes. Oh, he's out in the lobby, waving. [LB658]

SENATOR JANSSEN: That's fine. I'll... [LB658]

SENATOR LANGEMEIER: Thank you, Senator Janssen. (Visitors introduced.) Continuing discussion on AM1046, offered by Senator Engel to LB658. Senator Fischer, you are recognized. [LB658]

SENATOR FISCHER: Thank you, Mr. President and members. Senator Carlson earlier said that the people did not ask for the consequences here that they've been, I guess

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you could say, victim to, under LB126. The Class I's didn't ask for it, the K-12s didn't ask for it, but two years ago, this body voted to advance and make into law LB126. I did not support that bill. In my legislative district, there's been a number of unintended consequences. I represented more Class VI-Class I districts than any other senator in this Chamber. As a result of LB126, those Class VI-Class I K-12 systems no longer exist. I also represented a number of K-12 districts that had affiliated Class I's. Because of LB126, those affiliated Class I districts no longer exist. In my personal district, the Valentine school district, we had, I think it was 17 Class I school districts, the largest of which was the Valentine elementary school district, in the city limits of Valentine, with about 400 students. That school district is now one, where it used to be 19. For the most part, for the most part, the transition was smooth. But as a consequence of LB126, I have seen in my own school district six of those school buildings closed. Next year, the school board is discussing closing three or four more. Those are tough decisions. I served on that...on the high school board for 15 years before coming here to the Legislature, and those are tough decisions to make. I now have school districts that are 30, 45, 72 miles from Valentine. I'm sorry, they aren't school districts anymore. Let me rephrase that. I now have school buildings that are that far from Valentine, and the patrons in those buildings, that area, are very concerned on what's going to happen to them next. They've seen the districts closer to town--and when I say "closer to town," in my area, 10 miles is down the block--so they've seen those schools that are close to town close. As I said, that school board has had tough decisions to make. Also in my district you have K-12s where they lost land because of the way LB126 was set up, with those affiliated Class I's. They lost valuation, they lost land that went to other school districts. So now we're seeing battles at that level. We have K-12 districts, one that received an increase in land, increase in valuation, in disagreements with other...with another K-12 that lost that land. That's a consequence of LB126. Just outside of my district to the east, I go up just about to O'Neill in Holt County,... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR FISCHER: ...I received an e-mail from the superintendent there. They had six Class I school districts. They were affiliated Class I districts. Four of those will now be closed. In the superintendent's e-mail, she said that that was a somewhat smooth transition and that the people involved in it were ready to do that. But she also said in that e-mail that she opposed LB126. She is now in favor of LB658. But she opposed LB126 because she felt those Class I's were closing on their own. That's another unintended consequence that we've had. This is just the beginning of the debate on this bill. As Senator Erdman said, I hope we can move forward and find a way to help in situations that many of us in this body have in our legislative districts. And I certainly hope those of you... [LB658]

SENATOR LANGEMEIER: Time. [LB658]

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SENATOR FISCHER: ...who do not have these situations will listen to us and try and help us. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Fischer. There are no other lights on. Senator Engel, you're recognized to close on AM1046. [LB658]

SENATOR ENGEL: I'd like to thank everybody for their comments. I believe this is an amendment that will make the bill better, I think, the situation better, because families can stick together as far as the schools they're going to. And with that, I would ask that you advance this bill to Select File...or, I mean, I'm sorry, approve the amendment. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Engel. You have heard the closing on AM1046. The question is, shall AM1046 be adopted to LB658? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Engel's amendment. [LB658]

SENATOR LANGEMEIER: AM1046 is adopted. Mr. Clerk. [LB658]

CLERK: Mr. President, Senator Dierks, AM1148. (Legislative Journal pages 1336-1341.) [LB658]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Dierks, you're recognized to open on AM1148. [LB658]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. This amendment addresses the concerns that Attorney General Bruning mentioned in his Opinion of April 26, 2007. Several changes have been made to my original amendment, AM826. I had that withdrawn a little earlier. They include taking out all references to only the Class I schools that were closed due to the passage of LB126. The school board or board of education of the Class I school shall consist of the persons who were elected at the two most recent elections for the particular school. References to any Class I schools affected in LB126 were changed to every Class I school. A major change in AM1148 is found on page 2, lines 23 to 27. All school districts, not just Class I's, shall be entitled to exceed the levy limitations during fiscal years 2007 and '08, and 2008 and '09, without a vote of the people, for the purpose of paying costs incurred as a result of the enactment of LB126 in 2005. This is important so that all school districts can afford the requirements of this bill. There's one more section of AM1148 that I would call to your attention. On page 9, Section 16, lines 14 to 25, all physical assets that the Class I districts possessed on June 14, 2006, shall be returned to the Class I school by the

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school district in possession of the assets within 90 days of this act. AM1148 is important because it honors the vote of the people. Within 60 days of the effective date of the bill, each Class I school shall call a special meeting of the board of education and the legal voters to decide what to do with their schools. It restores the Class I school districts where a special vote of its legal voters choose to keep their schools. In areas where the legal voters choose not to reorganize, the excess property may be dissolved by order of the State Committee for the Reorganization of School Districts once they receive the notice, agenda, minutes, and recorded vote to dispose of the buildings and physical assets. For fiscal years 2007 and 2008, and 2008-2009, every Class I school district shall be entitled to a budget at least equal to the budget it had for school year...school fiscal year 2005-2006. Any certified employee who worked at a Class I school, but became employed by a Class II, III, IV, V, or VI school district because of LB126, shall be reassigned back to the Class I district. Terms and conditions of the employment contract they are currently under remain in effect when the employee is reassigned and reallocated back to the Class I district. I'll repeat that. Terms and conditions of the employment contract they are currently under remain in effect when the employee is reassigned and reallocated back to the Class I district. The employee remains under this contract until it is nonrenewed, terminated, canceled, or amended. We have made every effort to protect the teachers affected by AM1148. Class I school districts under this amendment shall have levy and budget authority that is separate and distinct from the school district they were affiliated with after the passage of LB126. This is what they had before LB126 was enacted, and we believe that is the way it should be reestablished. The adoption of AM1148 to LB658 is one of the most important votes you will cast during 2007. When the citizens of this state develop a referendum, gather enough votes to place an issue on the ballot, and the majority of people support the referendum, the people are speaking loudly and clearly to the Legislature. In my opinion, LB658 does not honor the vote that was taken last November. That is why I have introduced AM1148. I hope you'll join me in fulfilling the wishes of the majority of voters last November by adopting AM1148. I'd like to read from the Attorney General's Opinion. On the conclusion, he says, "There are no Nebraska cases which deal with the precise facts and issues presented by your opinion request." "There are no Nebraska cases which deal with the precise facts and issues presented by your opinion request. Therefore, as is often the case with this type of inquiry, our 'opinion' is really our best estimate of what Nebraska courts would do with the questions under consideration." In other words, this is really a best estimate of what the AG's Office thinks would happen with this bill...with this amendment. Thank you for your attention and I urge your support of AM1148 to LB658. [LB658]

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

CLERK: Mr. President, Senator Dierks would move to amend his amendment. Senator, AM1157. (Legislative Journal page 1341.) [LB658]

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SENATOR LANGEMEIER: Senator Dierks, you are recognized to open on AM1157. [LB658]

SENATOR DIERKS: Thank you. This is an amendment that was brought to us by one of the senators, Senator White had been visiting with some certified employees of school districts, and this amendment is one that we are happy to try to add to this, AM1157. It states on page 8, line 16, after the word "district,": except that the Class I district shall pay such certified (sic) employee salary and benefits equal to or greater than the amount paid to teachers by the nearest school district which offers instruction in grades kindergarten through 12. In other words, teachers come to the Class I schools that are being formed by this legislation, shall be paid benefits and salary equal to or greater than the amount paid to teachers at the nearest K-12 school districts. With that, I'd urge your support of the amendment. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Dierks. You have heard the opening on AM1157 to AM1148 to LB658. The floor is now open for discussion. Senator White, your light is on and recognized. Senator White waives. Senator Raikes, you are recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. The amendment we're on now, as I understand it, would require that teacher salaries in a remote elementary, I'll put it that way, be kept up with the K-12 schedule. This is an issue that we dealt with in the committee amendment. We, in spelling out LB658, we included in the committee amendment that there is a single salary schedule for all teachers in the K-12/Class I combination if, in fact, that's what's formed. So certainly I don't object to the notion that you're going to have a salary schedule in whatever district organization you come up with that treats all teachers fairly and equitably. That's been a key component of LB658 since its...since it was in committee. The larger issue, though, I certainly object to. The amendment that Senator Dierks has offered is what I would describe as a chaos amendment. This goes back and basically blows everything up, undoes all school district boundaries and then somehow magically redoes them. It's simply not either a workable proposal or one that is consistent with, in any sense, with good state policy. So even though I do support the notion that teachers be treated equitably and fairly, regardless of the building they serve in or the particular district that they're in, that is in LB658, as it is now amended. As far as I'm concerned, that's a good provision and should remain there. The Dierks amendment that is being amended here, however, is something that I absolutely cannot agree with. Thank you. [LB658]

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

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I have some questions for Senator Dierks, but I don't see him at his chair right now. If he's not available,...

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[LB658]

SENATOR LANGEMEIER: I don't believe he's on the floor. [LB658]

SENATOR WIGHTMAN: ...I'll come back and ask those questions later, so... [LB658]

SENATOR LANGEMEIER: I don't believe he's available at this time. [LB658]

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

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

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. Senator Raikes, I guess I wasn't listening carefully enough to your comments, or you weren't speaking clearly enough. That could be part of the problem too. (Laugh) No, just kidding. Tell me what the bill says now regarding these Class I teachers, and was that...I thought you said the amended version, did we do an amendment on General File... [LB658]

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

SENATOR SCHIMEK: ...that took care of that? [LB658]

SENATOR RAIKES: Yes, I would yield. The committee amendment on LB658 included a provision which makes it a common salary schedule for all teachers in the K-12 district and/or K-12/Class I combination. [LB658]

SENATOR SCHIMEK: So if that teacher took a job in any district in the state, or would it have to be that same district? [LB658]

SENATOR RAIKES: No each...each district, no, no, each district has its... [LB658]

SENATOR SCHIMEK: Right. [LB658]

SENATOR RAIKES: ...has its own salary schedule, but the salary schedule for a district, a K-12 district, would apply even to teachers who are serving in buildings that are part of a Class I district that is...has been carved out, so to speak, of the K-12. So if I can give an example, if we had a K-12 district now, the procedure was followed and a Class I was formed such that part, 20 percent, of the K-12 district was now a Class I district, the remaining 80 percent was the K-12. [LB658]

SENATOR SCHIMEK: Okay. [LB658]

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SENATOR RAIKES: There would be one salary schedule that would apply to that entire 100 percent. [LB658]

SENATOR SCHIMEK: Okay. Thank you very much for that explanation. I think it makes it clear. I did miss the discussion on General File, so I had not realized that particular point. So thank you very much. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Seeing no lights on...there are no lights on. (Visitors introduced.) Senator Karpisek, your light is on and you are recognized. Senator Karpisek, you're recognized. [LB658]

SENATOR KARPISEK: Thank you, Mr. President. Members of the body, I would just like to rise in support of Senator Dierks's amendment. I know there's been a lot of busy work being done this morning trying to get both sides to come to some sort of an agreement, and I know that Senator Dierks has been working very hard to get that done; not only Senator Dierks. There's about everyone that's not in here is still working on it. So I just wanted to rise in support and please ask that we think about the vote and what it means. I realize that not everyone agrees. There's...Senator Raikes has some very valid points and he means to do the right thing. I just don't know that we all agree that that is the way to go. But I know that in his heart, he is trying to do the right thing for the state of Nebraska. I would just urge you to please vote with Senator Dierks's amendment. Thank you. [LB658]

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

SENATOR WIGHTMAN: Thank you, Mr. Chairman. I do have some questions that I would ask Senator Dierks, if he would yield. [LB658]

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

SENATOR DIERKS: Certainly. [LB658]

SENATOR WIGHTMAN: Senator Dierks, my questions go more to your original AM1148 than to AM1157. With regard to AM1148, we talk in there, you do, about the restoration of assets, and you talk about physical assets and tangible property. Is it your understanding that your amendment would restore the accounts, the bank accounts, and funds that were held by the Class I districts at the time of the passage of LB126? [LB658]

SENATOR DIERKS: Do you consider that intangible or tangible? [LB658]

SENATOR WIGHTMAN: Well, I'm asking you. I would consider them to be intangible.

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[LB658]

SENATOR DIERKS: Well, see, I think we didn't put cash in there especially because we felt it was too volatile an issue. [LB658]

SENATOR WIGHTMAN: So it is not your intention right now to restore those funds that were turned over to the K-12 districts. [LB658]

SENATOR DIERKS: Yeah. That's right. Well, they have to...I'm sorry, but I think that that comes back...some of that comes back to the school. Actually, the district is allowed to set up their, by a vote of their new district school board, they can establish their budget and they have the ability to override or go over the limit on lids to do that. So that's how we're going to take care of that. [LB658]

SENATOR WIGHTMAN: Okay. Part of my concern here is that I know there were Class I districts in my district that were holding, I'll tell you, from between \$500,000 and \$850,000. Well, one of them, yeah, one of them was almost \$850,000 that they were holding at that time. And I wanted to be sure that your bill would not restore those assets to the Class I districts. [LB658]

SENATOR DIERKS: Well, I think that's right. [LB658]

SENATOR WIGHTMAN: Then I had another question or two with regard to the method of election. As I understand it, the Class I would be reconstituted in its old boundaries, and then they would immediately call a special meeting or a special election. Is that correct? [LB658]

SENATOR DIERKS: Yes. [LB658]

SENATOR WIGHTMAN: And at that meeting, unless 55 percent voted against continuing, the district would automatically continue. Is that correct? [LB658]

SENATOR DIERKS: If they voted against it, it would not. [LB658]

SENATOR WIGHTMAN: Well, except that if they didn't vote at all. If people attended, they would be included in the base, wouldn't there, and there would have to be a 55 percent vote against reorganizing the district, as I understand it. [LB658]

SENATOR DIERKS: My understanding is that it takes 55 percent vote to organize the district. [LB658]

SENATOR WIGHTMAN: Was there any thought to having an election in which it would be a secret ballot, as opposed to attending a meeting and then it would be based upon

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those in attendance at the meeting? [LB658]

SENATOR DIERKS: I don't think that came up. We just told them they had to do a vote. [LB658]

SENATOR WIGHTMAN: I guess I can see a lot of pressure being put on at these meetings, and maybe it doesn't constitute as fair a vote as you would have if you had a ballot box and actually voted in a secret ballot as you do in most elections. [LB658]

SENATOR DIERKS: Well, if I were a member of that board that was going to have a vote, I would see to it that it was a private vote. I mean it wouldn't be a...I mean, maybe just written out by hand and handed in on a piece of paper, but at least not a voice vote or an arm...show of the hands or anything like that. [LB658]

SENATOR WIGHTMAN: Okay. Then I had a question on the override levy. I think you said that without a vote of the people during the first two years, perhaps, I'm not sure of the exact language,... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR WIGHTMAN: ...that they could override in order, apparently, to create a fund to reorganize the school. Is that correct? [LB658]

SENATOR DIERKS: That's correct. Two years. [LB658]

SENATOR WIGHTMAN: For the first two years. [LB658]

SENATOR DIERKS: Yeah. [LB658]

SENATOR WIGHTMAN: But it wouldn't take a vote. It would be just of the board of education as it was reconstituted. [LB658]

SENATOR DIERKS: Well, it requires a positive vote on the board, yeah. [LB658]

SENATOR WIGHTMAN: I assume then, when you talk about reconstitute, they would call the meeting but then there would be a new board elected. Is that correct? [LB658]

SENATOR DIERKS: That's correct. [LB658]

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

SENATOR DIERKS: You bet. [LB658]

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SENATOR WIGHTMAN: ...Senator Dierks. Thank you, Mr. Chairman. [LB658]

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

SENATOR WHITE: Thank you, Mr. President. I rise to speak to my colleagues about the constitutional...or perceived constitutional problems with Senator Dierks's amendment. I would offer my opinion that if we could treat with Class I schools in the initial bill that abolished them and not create a closed class, then certainly we can recreate them and it won't be a closed class. I mean the logic of now when we try to amend the problem it's a closed class but when we abolished them it wasn't stands on its head; makes no sense to me whatsoever. If we can abolish them certainly we can recreate them. Now how and why we should recreate them and when and under what circumstances and what policies should guide our decision I would submit to you that's fair debate, but to argue that somehow we can destroy but not recreate because of the constitution, I just don't accept that. Furthermore, the constitution specifically provides that educational associations are exempt from the closed class prohibition. We have plenty of room, Senator Lathrop, plenty of room in the liberal reading of the constitution to solve the problems that we ourselves have created. I would submit to you that anyone who would argue that the constitution allows us to destroy but not create simply is not reading the constitution fairly, but is reading it for a political end. I also urge you to understand that the Attorney General's track record is not always sterling. They are frequently wrong when they try to predict what the courts will allow and will not allow. They, like Senator Lathrop, are merely lawyers with opinions. (Laughter) I exclude myself from that closed class, I want you to know. In any event, I think Senator Dierks offers us a viable method of approaching the problem and, more than that, it respects the will of the voters and the people of this state. And I appreciate your time. [LB658]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Lathrop, you're recognized. [LB658]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Senator White, Senator White, Senator White, (laughter) have you had a chance to read this AG's Opinion? [LB658]

SENATOR WHITE: (Microphone malfunction) Several times. [LB658]

SENATOR LATHROP: I have read the Opinion and I am trying to help Senator Dierks work out something that will permit some of these Class I's to be included in what will be LB658. But I have to tell you that the amendment that's before us today, Senator Dierks's amendment, contains the very same class that was addressed by the Attorney General's Opinion. And I disagree with Senator White, who suggests that, because the Attorney General is wrong, in Senator White's opinion, from time to time, that we can

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ignore this. I think the Opinion of the Attorney General in this case, although I don't always agree with our Attorney General, I believe that it is well reasoned. It is also supported by case law from the Nebraska Supreme Court, which is the ultimate arbiter of what our constitution says and how it's interpreted, and the class...any class that you create, any class that you create that says we go to a particular date and use information available on that date to determine what the class is, is not an open class. It's a closed class. And that's exactly what happened in a case cited in the Attorney General's Opinion when they used a particular census to determine which particular cities would have to have airports. And the fact of the matter is that we can...we have broad authority when it comes to legislating in this body, but when it comes to legislating we are, in some cases, limited in our legal authority by the constitution and we cannot create a closed class. This bill certainly would create a closed class, or this amendment would, and the fact that we can undo Class I's without violating the constitution doesn't mean that when we try to wave the wand over the past and recreate these school districts, and limit those school districts that are being recreated, that it is not offensive to our constitution. I would urge you to vote against the amendment because it is unconstitutional. And I appreciate your time. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. (Visitors introduced.) Returning to the discussion on AM1148...or AM1157 to AM1148, Senator Adams, you are recognized. [LB658]

SENATOR ADAMS: Thank you, Mr. President, members of the body. I do not support the amendments to LB658 and my rationale is this. And, Senator Raikes, Senator Erdman, you may have to correct me if I'm wrong here, but I'm trying to go back to piles of notes here from when this bill was up on General File. And I heard two key comments, one from Senator Raikes and one from Senator Erdman, and they both dealt basically with the same thing--we need to create an opportunity, and I have that in quotes; we need to create a method for recreating these school districts, and I have that in quotes. LB658 is an opportunity, it is a method for recreation. Is it what everybody wants? Probably not. As a member of the Education Committee, I remember sitting in on those public hearings for 4.5, 5 hours on LB30, LB247, and this particular bill as well. Here's what I gleaned from that public testimony; that, number one, in my opinion, there may very well be a geographic need to allow these former Class I attendance centers to get up and running. I think LB658 allows for that. We can argue that, well, the voting threshold or the petition thresholds won't allow them to recreate. My sense of it may be, particularly when I look at this long list of former Class I attendance centers that are still open, is that the patrons of those districts where there is geographic issues to deal with are empathetic to the need for those attendance centers. They understand it. Also, what I took out of that hearing was that we may have Class I's that don't want to reorganize. They've done different things. Students have acclimated. Budgets have adjusted. Boundaries have adjusted. Teachers have adjusted and there may be some that should not recreate. LB658 creates an opportunity. You know, besides folks who wanted the

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Class I's recreated who testified at the hearing, there were patrons, and particularly superintendents and school board members of K-12 districts who were there, that said, hey, folks, we did what we were told; we absorbed assets, we absorbed liabilities, we took on teacher load, we did all the things that you ask us to do, so in the process of looking at a methodology, an opportunity, to recreate something representing Class I school districts, don't forget about us. The physical assets that we took on, the dollar liabilities and assets, the teacher load, the student load, all the things that they did, LB658, I believe, recognizes distance, it recognizes the fact that maybe some of them don't need to recreate, and it recognizes the fact that K-12 school districts did what this body asked them to do. So I stand in favor of LB658 and not the amendments. Thank you, Mr. President. [LB658 LB30 LB247]

SPEAKER FLOOD PRESIDING [LB658]

SPEAKER FLOOD: Thank you, Senator Adams. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR81, LR82. Mr. Clerk, motion on the desk. [LB658 LR81 LR82]

CLERK: Mr. President, if I may, some items: Your Committee on Judiciary, chaired by Senator Ashford, reports LB573 to General File with amendments; new A bill. (Read LB107A by title for the first time.) New resolution, LR95, offered by Senator Kopplin; that will be laid over. Senator Erdman, an amendment to LB368 to be printed, LB368A, I should say; and Senator Preister to LB343. (Legislative Journal pages 1342-1345.) [LB573 LB107A LR95 LB368A LB343]

Mr. President, Senator Erdman would move to recess until 1:30 p.m. []

SPEAKER FLOOD: The question before the body is, should the Legislature recess until 1:30 this afternoon? All those in favor say aye. All those opposed say nay. The ayes have it. We stand adjourned until 1:30. []

RECESS []

SENATOR LANGEMEIER PRESIDING []

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

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

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

CLERK: Just one, Mr. President, a confirmation report from the Education Committee. That's the only item I have. (Legislative Journal pages 1345-1346.) []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. At this time, we'll return back to Select File where we were discussing AM1157 to AM1148 to LB658. We'll return now to discussion. The lights that were on when we recessed were White, Erdman, and Carlson. Senator White, you are recognized. [LB658]

SENATOR WHITE: Thank you, Mr. President. I again rise to speak to the membership here and also to mention to Senator Lathrop that frequently our Attorney Generals have been in error in their Opinions. But more than that, I raise the following concept to you. And I don't think it's been fairly rebutted and I'm not sure it can be. They claim that this solution is a violation of the closed class provision of our constitution. But I ask you logically then, how was the original bill not also violative of that? And if it was violative of that, what, if any, force did it have? We are dealing with exactly the same class in Senator Dierks's amendment that we were when we got rid of the Class I's. If that was an effective, constitutional piece of legislation, it strikes me that this one at minimum is presumptively the same because it deals with the same effective class. I would, of course, yield to Senator Lathrop or others who might have an answer to that logical inconsistency. Thank you, Mr. President. [LB658]

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

SENATOR ERDMAN: Mr. President, members of the Legislature, I always enjoy the State Bar Association's meetings at the Capitol. It brings a lot of insight for those of us who are not lawyers. And since there are no constitutional lawyers in the Legislature, we're probably all qualified to pontificate. This kind of reminds me of a comment that I believe Senator Loudon made. I don't know if it was on LB126 or another bill. But he said, if you have one attorney in one of these small towns, they usually starve to death; but if you have two, they both retire millionaires. And it's because you're shopping for opinions. And so I'm appreciative that our new colleagues here are arguing effectively the points of law. I wanted to come back and add some additional clarification to something that Senator Adams was pointing out before we recessed. When we talk about what happened under LB126, you also have to recognize what was in play at the time. And I have looked at the committee statement from then. The State's Education Association was in favor of LB126, or at least they testified in favor of the bill at the hearing. The Council for School Administrators testified in favor of LB126 at the public hearing. And a number of other entities that would generally stand to become to the beneficiary of LB126, should it become law or when it became law, testified in favor.

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And so to the point that Senator Adams made that they were given this responsibility to deal with these Class I districts and they have done so and now we need to be sensitive in going forward, that's a true statement. However, they asked for it. They asked for that authority over those existing districts that were out there to be placed in a different governance structure which would give them more responsibility and ultimately more say over how things were done in those districts. If you look at the committee statement for LB658, you see a few new additions to the proponent side of LB658, but you still see some of the same people who testified in favor of LB126 in favor of LB658. And earlier I mentioned that I hope we find a process that better reflects what I believe the voters would want us to do, and that is to respect the wishes that they had in repealing LB126 in our efforts to come up with a process that's fair for those preexisting districts. That, I think, is an important part of this process. But again, go back and look at the people who are players in this and understand how they figure in. The real question is, who gets the trump card? And I think that's where this comes down between the disagreement. The disagreement, it would appear, is that we should let the K-12s have the final say over whether or not a Class I would be able to reorganize. And I'm trying to figure out some additional information, but say I'm in a Class I district in rural Scotts Bluff County. The new district is Scottsbluff Public Schools. So say I'm Lake Alice, Lake Minatare, Haig, Highland, one of those school districts that's a Class I, and we decide that under LB658 we want to reorganize. We, as I understand it, have to get a vote of the entire K-12 district for that to happen. Why on earth would a citizen within the boundaries of the city of Scottsbluff, that sends their kid to that public school, vote to move that valuation back into a different district? They probably wouldn't. And that's what I'm trying to understand, is when that vote happens and those assets become part of that Class I or how it happens under LB658, what does that actually look like? Not what's the intent, but is it practical and feasible to expect that that will be successful? If the answer to that is no, and in fact we didn't really give the Class I's the vote to be consolidated, why do you give the K-12s the veto to keep them from reorganizing? I think that's this fundamental disagreement. Senator Raikes would argue that that's the most appropriate vehicle for this discussion to have because they're most affected. But you have to balance that... [LB658]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR ERDMAN: ...against what we believe, and I would argue is appropriate for us to consider, and that's the wishes of the people. There has to be some common sense here. I think this battle has always been, and will continue to be throughout the discussion today, about who has that trump card over the organization of these districts. And I think if you are going to give that trump card to the K-12s, that you have to make it as fair and as equitable as possible, that if a Class I chooses to reorganize under this vehicle that it's expected that they will have an opportunity to do that. And I'm continuing to research to see the practical application of this law should it become law. Thank you, Mr. President. [LB658]

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SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Dierks, you're recognized, followed by Karpisek, then Raikes. [LB658]

SENATOR DIERKS: Thank you, Mr. President. I just wanted to remind the body of a few things that happened about LB126. From the Nebraska Supreme Court ruling on Pony Lake v. the State Committee for the Reorganization of School Districts, there's a quote there from that Supreme Court decision that said when the people invoke the right to a referendum, they are exercising their coequal legislative power to expressly approve or repeal the enactments of the Legislature. In no sense can such an act be considered advisory to the Legislature or without the force of law. Senator Raikes was quoted as saying, in October last year, that LB126 won't change anything because I think, if you look at it carefully, it is a meaningless vote. Assistant Attorney General Dale Comer says if the people choose to repeal LB126 at that time, it will send a strong message to the Legislature that the people of the state want those districts to continue in existence. Under those circumstances, other state and local officials will also have to do whatever needs to be done or undone. The Supreme Court said that if the voters reject LB126, the act will stand repealed. To repeal it is to rescind or abrogate an existing law. Abrogate is a pretty strong word, folks. I think it means what it says. The Legislature and the electorate are concurrently equal in rank and sources of legislation. In no sense can such an act be considered advisory to the Legislature without the force of law. This is part of the Pony Lake decision. According to the Black's Law Dictionary, to rescind or abrogate means to go back to the beginning, as though the law never existed, with every party being returned to their prior status. It's not difficult, as far as I'm concerned, to come up with a decision that I've come up with as far as amending LB658. I think that AM1148 that I have up there does exactly the things that the people of this state have asked us to do. We've gone over it with a fine-tooth comb. We've been over it even today to make some changes. We think that it's constitutional. I guess, since I heard Senator White and Senator Avery on a little dispute here this morning, but I think that, as far as I know about it, most lawyers, when they graduate from law school, know how to argue either side of an issue, don't they? And maybe that's how we got to where we got on that argument as far as constitutionality. But I really think that the Opinions of the Attorney General and the Supreme Court on the Pony Lake thing stand us in good stead. And I urge your support of AM1148, actually with the amendment to AM1148, AM1157, which I think clarifies AM1148. And I urge your support of AM1148. Thank you very much. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator Karpisek, you're recognized. [LB658]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I would just like to go over a couple things that I heard today, too. I also read the AG's Opinion on Senator Dierks's amendment. Seemed to me, at the very bottom it said, well, this is

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what I think but I don't know if that's how a court would rule. That seems like a big maybe; in my opinion, maybe. The closed class issue, to me, the OPS bill that we have coming up looks a lot maybe like a closed class situation, too. They seem to mirror each other an awful lot. And I guess I will be very interested to see how that all shakes down. The other part is, Senator Adams said that this is a chance for them to come back. And I agree, Senator Adams, it is a chance for them to come back. Before term limits, we probably stood a chance to make a million dollars here, too. We might have to live 1,000 years, but we had that chance. I don't think that this is an honest chance, an easy chance for them to come back. It is not just as simple. As Senator Erdman said, why would someone in town say, okay, yeah, I think we don't need as much money, let's let them do that? They might, this is Nebraska, you never know. But I don't think that that is the right way, the easiest way to go about it. I think these Class I's do a good job, they've done a good job, they can still do a good job. A lot of them are gone due to attrition. They will keep going. Let's let them go on their own. They have school boards, they have people that go there. Let them make the tough decisions for them. I don't think we need to make their decisions for them. So I again think that we should let it come back as easy as we can, make sure that it's fair to both the K-12s and the Class I's. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Raikes, you are recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President and members. Senator Erdman, I think, probably appropriately characterized certainly me as a nonconstitutional lawyer. And probably I don't have any business even commenting on some of these issues. But Senator White raised a question as to if recreating Class I's as they were at a date specific is a closed class issue, how is it that you could merge such districts? The answer is, at the time the districts were merged, it was an open class so that a school district could join the class of Class I districts. Now whether any did or not, I don't know. I doubt that they did. But it was, in fact, an open class. What we have before us...Senator Dierks then mentioned the Supreme Court ruling. And I think there's a couple of things that you need to keep in mind. The court went through the issue of LB126 very thoroughly. In no instance did they rule in favor of the anti-LB126 forces. He mentioned specifically the impermissible advisory vote which was raised and the Supreme Court specifically said that dissolving small school districts before the referendum did not, I repeat, did not turn the referendum into an impermissible advisory vote. The folks on the other side of LB126 are very interested in litigation. I think they have filed something in the direction of 200 lawsuits. On a final ruling, I think they've won none of them. They've all gone down the other way. What you're hearing now is that, rather than LB658, they would prefer nothing. And I think the reason is that if the Legislature does nothing, it makes it more likely that we'll be able to file yet another lawsuit, yet another use of taxpayers' money for litigation purposes which, of course, has very little, I would argue, to do with the education of kids. Keep in mind the

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amendment we're on is an amendment that would make teacher salaries comparable throughout a district, whether there are Class I school districts in that district or not. There is a single salary schedule affecting both the K-12 and Class I, if there are any. As I said before, I have no problem with that. That is a part of LB658, was added in the committee amendment, and certainly I support that. The Dierks amendment that is amended by that, in contrast, I strongly object to. It is a chaos amendment. It is sort of intended to get around, I think, the closed class issue, but does so in a way that is totally and completely disruptive of all school districts in the state of Nebraska. So I urge you to reject this amendment. This is not workable and it is not good policy. Thank you. [LB658]

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

SENATOR FULTON: Thank you, Mr. President. Would Senator Raikes yield to a question? [LB658]

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

SENATOR RAIKES: Yes. [LB658]

SENATOR FULTON: Senator, just two quick questions to get to you. Firstly, I'm going off of this summary that you passed early and I'm looking at point four: Five steps to create a Class I district under LB658. And this touches a little bit on what Senator Erdman had talked about that I'd like to, you know, put this question to you, I guess, in a different way. Point four, the majority vote of the affected K-12 at the next primary or general election will need to be recognized to allow the Class I to reorganize. If we assume that voters voted to repeal LB126, if we could operate under that assumption--maybe you agree or disagree with that--if we could operate under the assumption that voters wanted to repeal LB126, how does point four, how does that honor that vote? How does that work into the honoring of that vote? I guess another way to say it is, logically then, would you say that wasn't what people were voting for when they voted on that repeal referendum? Could you respond to that? [LB658]

SENATOR RAIKES: Senator, I don't think that's what you would argue. In fact, I think the other way you would argue is that if people voted on 422, the referendum, and they voted favorably, if in fact their intention in voting for that referendum was to support Class I school districts, then it should not seem onerous at all to those interested in creating a Class I school district that those same voters be asked to approve on a specific individual basis what it is they want to do. [LB658]

SENATOR FULTON: Would you say then that...well, I guess let's go back to the first assumption. Let's assume that people did vote knowingly on that repeal

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referendum--whatever the number was, 421 or 422--to repeal LB126. Let's assume that was the intention of the voter. If that's the case, does point four comport to that assumption? [LB658]

SENATOR RAIKES: It does, Senator, in my opinion. I may be missing your point. But it certainly does. And it is...it comports with it. It is, in some sense, a different question. The repeal of LB126--and I happen to agree with you, that I think the appropriate thing for the Legislature to do is to recognize that what was done in the voting booth last November was done intentionally and knowingly. That's what I would argue. And if you put the things together, what they did was they knowingly voted on the repeal of LB126, knowing that, at that point, the only operational aspect of LB126 was building protections and some funding provisions. They knew, because it was a matter that had been clearly explained, that the districts had already been merged. So I am very comfortable and I think it's appropriate to recognize that voters knew what they were doing and they acted accordingly. And point four, just to continue if I may for a second, rephrases the question in terms of a specific proposal. It says, okay, we want to have a Class I district here. It's going to be a part of what is now properly, legally, and constitutionally constructed as a K-12 district. The proposition we bring to you is that we want to take part of that K-12 district and make it a Class I district. So that you know specifically what it is we're planning to do and you can express your voice on whether or not that should be done, knowing that you as a member of the K-12 district are going to be... [LB658]

SENATOR FRIEND PRESIDING [LB658]

SENATOR FRIEND: One minute. [LB658]

SENATOR RAIKES: ...impacted by that decision. [LB658]

SENATOR FULTON: That's...therein lies my concern. Putting point four and reformulating it and providing another alternative to vote pursuant to this point four assumes that folks weren't voting to repeal LB126. In my opinion, if we are assuming that this is their intention, that this is to repeal LB126, notwithstanding the legal ramifications that existed because some of these Class I's were already shut down, it seems to me that putting point four in front of voters again is to basically re-ask the question in a different way. And if we do that, then we are assuming that they weren't trying to repeal LB126 in the first place. That's why I pose my question that way. If we assume that they voted to repeal intentionally, then aren't... [LB658]

SENATOR FRIEND: Time. [LB658]

SENATOR FULTON: ...we asking the question again? Thank you, Mr. President.  
[LB658]

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SENATOR FRIEND: Thank you, Senator Fulton, Senator Raikes. Senator Dierks, there are no other lights on. You are recognized to close on AM1157. [LB658]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. We've kind of gotten away from the discussion of AM1157 and onto the amendment, AM1148. But for right now we need to take a vote on AM1157, the amendment that Senator White and I came up with to guarantee the salaries of the teachers that are involved with these Class I districts. So if you would vote for that, I'd appreciate it. Thank you very much. [LB658]

SENATOR FRIEND: Thank you, Senator Dierks. Members of the Legislature, you have heard the closing on AM1157 to AM1148. The question is, shall AM1157 be adopted? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish to? Senator Dierks, for what purpose do you rise? [LB658]

SENATOR DIERKS: Mr. President, I'd like to ask for a call of the house, please. [LB658]

SENATOR FRIEND: Members of the Legislature, there has been a request for a call of the house. All those in favor please signify by voting aye; all those opposed vote nay. [LB658]

SENATOR DIERKS: Call-in votes, Mr. President. [LB658]

SENATOR FRIEND: Record please, Mr. Clerk. [LB658]

CLERK: 31 ayes, 0 nays, Mr. President, to place the house under call. [LB658]

SENATOR FRIEND: Members of the Legislature, the house is under call. All unauthorized guests please leave the floor. All senators report to the Chamber. The house is under call. Senators, please record your presence. Members, please check in. The house is under call. Senator Dierks, I have been informed that you did ask for a machine vote. The machine vote was inadvertently cleared, if you will, so we can proceed with a roll call vote. [LB658]

SENATOR DIERKS: Let's do a roll call vote in regular order, please. [LB658]

SENATOR FRIEND: Thank you, Senator Dierks. Mr. Clerk. [LB658]

CLERK: (Roll call vote taken, Legislative Journal page 1346.) 28 ayes, 10 nays, Mr. President, on the amendment to the amendment. [LB658]

SENATOR FRIEND: The amendment is adopted. Members, I raise the call. Mr. Clerk,

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back to AM1148, correct? Senator Erdman, you are first and you are recognized to speak on AM1148. [LB658]

SENATOR ERDMAN: Thank you, Mr. President and members of the Legislature. And I guess I didn't realize that no one else had anything to say. Senator Raikes, would you yield to some questions so that I can better understand AM1148 compared to the provisions in the committee amendment? [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR ERDMAN: Under this amendment, as I understand it, the first difference is, is that in order to create a Class I under this amendment, we go back to the Class I's as they existed according to the November date, as opposed to your proposal in LB658 which would require the plan and the State Reorganization Committee, that initial phase. Is that accurate, that's one of the main first differences between these two or is that... [LB658]

SENATOR RAIKES: Two points I'd make in that regard, Senator. Number one, the basis for LB658 is that we are now K-12 districts. We are now organized as K-12. Secondly, this amendment not only undoes all the boundaries of Class I's, it does all the boundaries of all other school districts in the state. So that, for example, Class IV, which is Lincoln, the boundaries would be, as they are now, would be undone and we would go back to a time in the past, November 30, 2005, as I understand it. [LB658]

SENATOR ERDMAN: Okay. And on that point, how many...and obviously those boundaries are in flux obviously with the city of Lincoln and the way that they expand, the school district follows the boundaries of the city. But generally, are we talking about most of the districts in the state have seen a change or is it fair enough to say that a majority of the impact of these district changes will be in those Class I areas? Obviously, we're in a K-12 situation, but was that a result predominately of the Class I bill or is that...are there other factors that we need to be aware of as well? [LB658]

SENATOR RAIKES: I think that's an interesting question, Senator, because if you argued that really the only districts that would be affected are the ones that were adjacent to a Class I, then I think the argument would be very effective that this is really the same bill as LB234 or LB30; that it has exactly the same closed class provisions as those bills did. But what is different about this one is including Class III and Class IV school districts so that, as you mentioned, for example, the one city, one school district policy that's been employed in Lincoln, Grand Island, and many other cities would, in effect, be destroyed by this because...as near as I can tell, because you would be undoing the boundaries, any additions that have been made to the districts because the city has expanded and the school district has expanded with it, and go back to what you had before that. [LB658 LB234 LB30]

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SENATOR ERDMAN: But wouldn't that only be for an intervening time and then they would obviously snap back to wherever the district boundaries were, as I understand the language? Because there's a 60-day time frame and, while it may affect more than just the Class I's, in those scenarios, whether it's Lincoln or Grand Island, we don't decimate those districts. We would go back to that same time. But then after that time frame, if there wasn't an affirmative vote to reorganize, they would then go back to that, what we would now know as their boundary? [LB658]

SENATOR RAIKES: Well, you know, it's, I think, a good question. But would that also be the case--for example, thinking about Lincoln--would that be the same for the Waverly District as well as the Lincoln District? And if you have affirmative votes or lack thereof in one district... [LB658]

SENATOR FRIEND: One minute. [LB658]

SENATOR RAIKES: ...but not the other, how is that resolved? [LB658]

SENATOR ERDMAN: And I'm just trying to...because I think what we need to understand is the differences. And I would get to the point, the next point then, is how a district can be created. Your provision would require an affirmative vote of the affected K-12 vote. This amendment, as I understand it, would require the Class I district residents to vote, 55 percent would have to vote to reorganize. So notwithstanding the issues of how the boundaries are drawn or the determination used in Section 1 to arrive at the preexisting boundaries, the real battle here becomes on who has the responsibility or who has the authority to control that ultimate vote. Is that an accurate reflection? [LB658]

SENATOR RAIKES: I think so. In LB658, again as I mentioned, we recognize that we are now organized as K-12 districts and the K-12, the folks in the K-12 district, make the decision about reorganizing their district. [LB658]

SENATOR FRIEND: Time. Thank you, Senator Raikes and Senator Erdman. (Visitors introduced.) On with discussion of AM1148, Senator Raikes, you are recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. Again, I would emphasize that this bill not only moves us backward but creates chaos in the process. This is neither workable nor good policy. Senator Erdman asked me about LB658 and its comparison. In LB658, the critical component is that we begin as a K-12 district. We allow for the creation of Class I districts. As I mentioned, we've already made a number of amendments which expedites the process, if you will. One very important one that Senator Hudkins was interested in was moving it up a year earlier,

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which is in there now. We have other amendments following this one, which I think would further enhance that process. This amendment goes the opposite direction and has the opposite effect. This amendment, if adopted, would make it so that we, in effect, would be able to do anything to address Class I issues in this session. And that's a result that I don't think is good for anyone, particularly those that are particularly interested in Class I school districts. So I would urge you to reject this amendment. Let's get on with LB658, adopt the other amendments that enhance the process, and get the bill then moved forward. Thank you. [LB658]

SENATOR FRIEND: Thank you, Senator Raikes. Senator White, you are recognized. [LB658]

SENATOR WHITE: Thank you, Mr. President. I rise to speak in favor of Senator Dierks's amendment. I would urge my colleagues to first look at what, in fact, the Legislature did. We ended the existence of Class I schools. Now we find ourselves debating what the voters meant. I would suggest to you it's not very complicated. They wanted to reverse what we did. The closest, most direct method that I am aware of to accomplish what I believe the democratic process has told us the will of our bosses, the people, have expressed is Senator Dierks's amendment. I do not know why, after a vote of the people reversing or at least clearly indicating disapproval of what we did as a body, we should then force them to go through gymnastics, saying, well, we are now a K through 12 and we have to go through this process. We do not have to go through that process. We may choose to make the voters go through that process, but it is not a requirement. Nowhere has anybody indicated that it, in fact, is required. I believe that when the people speak so loudly and clearly, we have a moral obligation to respond in a clear and simple manner. Senator Dierks does that. This amendment does that and I support it and ask you to do the same. Thank you. [LB658]

SENATOR FRIEND: Thank you, Senator White. Senator Erdman, you are recognized. Senator Erdman, you are recognized. [LB658]

SENATOR ERDMAN: Thank you, Mr. President. I was having a conversation with the constitutional scholar, Senator Lathrop, and he actually has claimed that as his title, and I will give him that because he's actually done constitutional law. So I will stand corrected. Senator Raikes, would you continue with our earlier conversations about the way that a district may be organized under the two different scenarios we have before us? [LB658]

SENATOR RAIKES: I would. [LB658]

SENATOR ERDMAN: So if I were to...prior to LB126, and as I would argue that the law stands today, it's the same. If you were going to try to organize as a Class I prior to that, what process would you have gone through? [LB658]

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SENATOR RAIKES: That's a good question, Senator. The formation of an affiliated Class I district was, before LB126, specifically prohibited and is specifically prohibited now in what is the current statute. There are two ways that a Class I district can be formed: one, a K-12 district can give up its high school grades and thereby could convert itself, if you will, to a Class I district; or there's also a provision whereby a Class III, a Class II or III can convert itself to a Class I/Class VI district. I think that requires a 55 percent of the registered voters signing petition. There's one more I'll mention quickly, and that is if you have two Class IIIs going together to form a Class I/Class VI, then that can be done with a board to board. But those are, as far as I know, the only ways in current statute that a Class I district can be formed. [LB658]

SENATOR ERDMAN: And so it would be your opinion that the only way that a Class I should be reorganized would be to have a majority vote of the K-12 residents, as opposed to the K-12 board of education? [LB658]

SENATOR RAIKES: That's right, yes. [LB658]

SENATOR ERDMAN: So when we get into this discussion about having that vote, the example that I gave earlier with, for example, the Scottsbluff Public School system now, if Lake Alice or Lake Minatare, Highland, Haig, one of those--Haig is actually in Gering--one of those school districts that's actually in the Scottsbluff School District would choose to petition. They got, under your proposal, the plan submitted to the State Reorganization Committee. Then they would have a vote of all of the residents of Scottsbluff Public Schools to decide whether or not they would be allowed to proceed with their Class I. Is that accurate? [LB658]

SENATOR RAIKES: That's right. That would basically be their last step. I mean, the actual implementation of the plan would be the final step. But the final qualifying step would be a vote of the people in the K-12 district. [LB658]

SENATOR ERDMAN: So they could essentially submit their existing structure that they have prior to LB126 as their plan. If it was approved by the State Reorganization Committee, they would then petition the voters of the district to vote to allow them to do that. With that vote, should it be successful, then how does that Class I proceed with their operations? Are they then...are they as they were or is there additional safeguards that have been put in place over top of them than they would have had prior to LB126? [LB658]

SENATOR RAIKES: There are some additional safeguards, you might mention. But keep in mind, before LB126, there were two different arrangements with Class I's. You either had affiliated Class I's or Class I's that were a part of a Class I/Class VI system. [LB658]

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SENATOR FRIEND: One minute. [LB658]

SENATOR RAIKES: First off, the Class I under LB658 is affiliated with a single K-12. Many of them were before but not all of them were. So that is one consideration. Once the vote is taken and the majority of the people in the K-12 district agree that this should be formed, then there is a board selected, a Class I board selected. They have responsibility for staffing, they have responsibility for curriculum, much the same matters as they've had under the old arrangement. There is a difference, particularly with affiliated, in that Class I voters would have the opportunity not only to vote for the Class I board members but also to vote for the K-12 board members. And the Class I voters and residents would, like the K-12 voters and residents, vote on... [LB658]

SENATOR FRIEND: Time. Thank you, Senator Raikes and Senator Erdman. On with discussion of AM1148. Senator Hudkins, you are recognized. [LB658]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. We have been told that, well, why wouldn't the K-12 people vote for these Class I's to be reorganized, assuming that they go through the proper procedures? Let me see now. If I were a K-12 patron, which I am, I am being asked to vote for taking away property that belongs to a K-12 school district and putting it into a Class I system. Hmm, that could conceivably raise my property taxes. I think not. If I were a property taxpayer in a K-12 and I have recently...my district has recently received \$100,000 in assets, let's say. And then I am asked to give that \$100,000 back, plus lose the valuation, plus lose the students, plus lose the equipment. No, I don't think so. Why would I want to harm my own school district? We have eliminated Class...well, 30-plus of us have eliminated Class I's. Who's next? Class IIs? Small Class IIIs? Are we going to go to one school district per county? After all, bigger is better. So I will be supporting Senator Dierks's amendment. I think that we need to at least pay some credence to the vote of the people. Did they know what they were voting on? Well, obviously not, because they all thought that repealing LB126 would restore their schools. Now was the referendum worded exactly correctly and exactly properly? Well, obviously not because it doesn't do what we all thought it would do. We want to protect the buildings. We want to protect the students. We want to protect the teachers. And we want to protect our integrity. And I think our doing this LB658, although it does allow a way for Class I's to be reinstated, it will allow it on the very sparse information, which is obviously in the western part of the state. But there are other schools throughout the state that want their small schools. They're not trying to do them for religious purposes, maybe there's some that are, but there are others that want the smaller setting for their kids. That's what I want. I want to do what these parents want to do. If your school has merged and everybody is happy, fine, it's not a problem for you. But just remember that it is a problem for other families. They have had their school taken away from them. They have seen their child's class size grow from 6 to 45. [LB658]

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SENATOR FRIEND: One minute. [LB658]

SENATOR HUDKINS: And so, as much as I dislike LB658 and what it does, it does have some points. But obviously not enough to suit me. So I will be supporting Senator Dierks. Thank you, Mr. President. [LB658]

SENATOR FRIEND: Thank you, Senator Hudkins. Senator Erdman. Senator Erdman, you are next and you are recognized. [LB658]

SENATOR ERDMAN: Thank you, Mr. President. This is my third time on this amendment, is that correct? [LB658]

SENATOR FRIEND: That is correct. [LB658]

SENATOR ERDMAN: Thank you. Senator Raikes and I have been having a discussion about this process. And I think it's important, both when we went through the development of LB126 on the floor, and then now as we proceed with LB658 and possibly the Dierks amendment, to understand how this would work. It's my understanding from our discussion and maybe contrary to what I heard from Senator Hudkins, it's my understanding that even if a Class I would reorganize under this provision in LB658, that that land would still be under the common levy. And I would yield to Senator Raikes so that we can continue our dialogue, if he would, Mr. President. [LB658]

SENATOR FRIEND: Senator Raikes, you have 4 minutes and 10 seconds. [LB658]

SENATOR RAIKES: Thank you. Thank you, Mr. President and Senator Erdman, although I'd like to continue the dialogue, if we could. But you're absolutely right. If you got the impression, from what Senator Hudkins said, that there is some money exchange going on between a Class I that might be formed and the K-12 from which it would be separating, that's not correct. The K-12 and the Class I would be treated for state aid purposes as a single system, just as they have in the past. So all the students would be accounted for. It doesn't make any difference if they're in this building or this building, they're still counted. And similarly, there is a common levy within the district, just as there was before. So there's no change in that regard. The only way there might be a change is that if you had...and this may influence a voter in a K-12 election. If, for example, you were going to create a number of Class I districts within a K-12, each with a building that is underpopulated, so to speak, so that it is a relatively high-cost building, the overall cost for operating the district might go up as a result of that, but yet there wouldn't be any more revenue because the revenue is accounted for as a system and takes into account the number of students and so on. So we're very much down the path, down the well-trodden, if you will, path of school finance in LB658. It is a common

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levy within the...and I can't resist. Somehow we can do a common levy in Class I's and K-12s, but we can't do a common levy in the metro area because it's just too scary. But at any rate, it is a common levy and... [LB658]

SENATOR ERDMAN: I note the irony and I would imagine that, depending upon the outcome of this bill, there may be other ironies that come up with that bill as well. If we're talking about...and again, your argument is that the K-12 residents would have to vote before they would be reorganized. If there is no impact to their valuation because it's part of the common levy, if there is no impact there, then why wouldn't it be appropriate to have the board acting on behalf of those? Maybe they'll make that decision. And I guess I come at this from my perspective that I'm interested in a solution. I'm not necessarily convinced one way or another about some of the arguments I've heard legally. But I'm interested in a solution and I believe the solution is that, within certain parameters, if a goal that can be shared can be accomplished, that we should pursue that. Your argument is, is that goal should only be accomplished as the organization...or the decision to create a district by a vote of all the residents. I would generally see that similar to, say, a bond issue. You would ask the residents to... [LB658]

SENATOR FRIEND: One minute. [LB658]

SENATOR ERDMAN: ...vote on a bond issue because it affects them financially. As I would understand your argument, if this doesn't affect them financially--they're part of the common levy, they're part of the same structure that we had before--what would be the value, I guess, in forcing the people to go through the cost of an election when you ultimately could make the plan submission, you could by a petition process and have the K-12 board make that decision? And I guess I would like your analysis. We're short on time, but... [LB658]

SENATOR RAIKES: Well, it's a fair point, Senator. Under current statute that's in place now, if you are going to convert a single Class III, II or III to a Class I/Class VI, then you go to the people. It's only if you are merging two that you do it by a board to board. Your other point about, well, is there a direct financial impact or fiscal impact, no...(loud crash) not in the sense of a... [LB658]

SENATOR FRIEND: Time. (Laughter) Thank you, Senator Raikes and Senator Erdman. Senator Raikes, your light is next and you're recognized to continue, if you can. [LB658]

SENATOR RAIKES: (Laugh) I'll try, Mr. President, thank you. To continue, Senator Erdman, there may not be a direct financial impact in terms of the levy or the amount of state aid. But certainly, the decision about creating, shall we say, a hierarchy of additional districts and buildings may have a cost impact. So you could argue that certainly there is an impact there. But I think your general question relates to why the

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voters, not the K-12 board. Am I correct? [LB658]

SENATOR FRIEND: Senator Erdman, will you yield? [LB658]

SENATOR ERDMAN: I would, to answer my own question. That's generally kind of the understanding that I'm trying to get at, is why that decision was made that it's a vote of the people, not the board. To follow up on that, as I understand your earlier comments, if you're going from a Class III to a Class III on a merger scenario, you can have a vote of the board. But if you're going from a Class III to a VI and a I, then you have to have a vote of the people. [LB658]

SENATOR RAIKES: Right. [LB658]

SENATOR ERDMAN: I would argue, and maybe not effectively so, but I would argue that if you're going to merge a III and a III, you're probably going to close a building somewhere. And that's a vote of the board. If you're going to keep buildings open, you're going to have a vote of the people. Under this scenario, we're trying to reopen some buildings or at least provide some autonomy. I think we can write it however we want to. I'm looking for the direction from you as to why this has to be done this way, given the fact that we can go either way under different scenarios for organizing school districts as they would choose to restructure themselves. And so I'm trying to find the simplest process that doesn't prolong this or cost money but also provides the proper oversight in making sure that whatever process we would proceed with under Class I reorganization, that it's not a prolonged process. You have offered amendments on making it a primary election or other ideas, and I think those are appropriate to consider. I'm just making sure that I understand fully why we would only choose to have a vote of the people here when we have other options available for other organizational structures when they choose to reorganize. [LB658]

SENATOR RAIKES: Well, again, the precedent, if you're talking about restructuring a single district, the precedent that's in statute now is for a vote of the people. And that's basically what we followed, to answer that question. You're saying, could you do it another way? You probably could. But I would certainly argue that, one way or another, the K-12 folks, the folks in the K-12 district that is proposed to be reorganized, need to be heard from fully and completely before such an action is taken. And that's really the main thing we're after. [LB658]

SENATOR ERDMAN: But couldn't you make that same argument, Senator Raikes, on the issue between Class IIIs and Class IIIs? I mean, obviously there is a precedent that's been set when you're dealing with reorganization within an existing district. But I'm trying to understand why we wouldn't then carry that--and I'm not trying to bring other issues into this--I'm just trying to understand why you wouldn't carry that logic then to say that anytime those districts would merge or change their structure, you'd have to

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have a vote of the people as well. [LB658]

SENATOR RAIKES: Well, it is in a directly opposite direction. In a III and a III, you're merging two districts; you're combining the area that's under the same governance, if you will. In LB658, where you're forming a Class I, you're going in exactly the opposite direction. You're splitting up the governance; you're creating an additional governance for the same area. [LB658]

SENATOR ERDMAN: I understand that. I'm just thinking through this. And this is your time, so we can proceed with... [LB658]

SENATOR FRIEND: One minute. [LB658]

SENATOR ERDMAN: ...(laugh) your issues or I can continue. It's up to you. [LB658]

SENATOR RAIKES: Okay, please continue. [LB658]

SENATOR ERDMAN: Would there be any movement, in your mind...or maybe you don't feel this way. Would it be appropriate to examine a vote of the boards or are you firmly set that it has to follow the precedent that's in the Class III going to a VI and I, that it has to be a vote of the people? Is there a scenario that you would accept an alternative way to accomplish this? [LB658]

SENATOR RAIKES: I don't have anything in mind, Senator. I certainly would be willing to listen to a proposal, although, as you know, I've listened to some proposals which I eventually couldn't accept. But I would be willing to listen to a proposal. I think it...I think, to some extent, my sort of feeling or belief is that the base situation is for a K-12 vote. Now might there be... [LB658]

SENATOR FRIEND: Time. [LB658]

SENATOR RAIKES: ...a situation in which we do less? Maybe. Thank you. [LB658]

SENATOR FRIEND: Thank you, Senator Raikes and Senator Erdman. Senator Dierks, there are no other lights on, no other senators wishing to speak. You are recognized to close on AM1148. [LB658]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. Ignoring the vote of the will of the people is fooling maliciously with the petition process and the election process. In 69 days, nearly 2,000 volunteers collected 87,000 valid signatures, which were enough to place Referendum 422 on the ballot November 7. On November 7, 289,526 Nebraskans expressed their broad dislike for LB126 by voting to repeal the law. I can't see where there's much argument there. The vote was to repeal

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LB126. LB658 provides much of the same things LB126 had. It still provides for K-12 governance over the Class I's. That wasn't there before LB126, but it's there in LB658. The people that I am talking with, the people that I represent, have all said we don't want to do the K-12 vote to get our Class I districts back in position. I just have to go back to the basics of where we came and how we got here. We came because people in our districts voted us into office and they expect us to do the will of the people. They expect us to be attuned to the constitution, that we do constitutional...that our legislation is constitutional. We have gone over the problems that Senator Raikes has with my amendment, AM1148. And there's, as far as I'm concerned, we've answered the constitutional problems that the Attorney General has. I don't think there's any question about it. So there's not a constitutional problem with my amendment. But my amendment does do what the people of the state of Nebraska have asked us to do and lets the Class I districts form without having to go through a K-12 district to do it. I think we're answering the will of our citizens with this amendment and I would urge your support of AM1148. Thank you. [LB658]

SENATOR FRIEND: Thank you, Senator Dierks. Members of the Legislature, you have heard the closing on AM1148. Senator Dierks, for what purpose do you rise? [LB658]

SENATOR DIERKS: I'd like a call of the house, Mr. President, and I'll ask for a roll call vote when we get to that point. [LB658]

SENATOR FRIEND: Members, there has been a request to place the house under call. The question is, shall the house go under call? All those in favor please vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB658]

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

SENATOR FRIEND: Members, 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. Speaker Flood, would you check in, please? Senator Cornett, Senator Chambers, Senator Aguilar. Members, please record your presence. The house is under call. Members, the house is under call. Senator Chambers, please check in. All members are accounted for. Senator Dierks, how would you like to proceed? [LB658]

SENATOR DIERKS: Roll call vote (inaudible). [LB658]

SENATOR FRIEND: There has been a request for a roll call vote in regular order. Mr. Clerk. [LB658]

CLERK: (Roll call vote taken, Legislative Journal page 1347.) 18 ayes, 19 nays, Mr. President, on the amendment. [LB658]

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SENATOR FRIEND: The amendment is not adopted. I do raise the call. [LB658]

CLERK: Mr. President, the next amendment I have, Senator Carlson, AM1149. [LB658]

SENATOR FRIEND: Senator Carlson. Mr. Clerk, next item please. [LB658]

CLERK: Mr. President, Senator Raikes would move to amend, AM1122. (Legislative Journal pages 1347-1348.) [LB658]

SENATOR FRIEND: Senator Raikes, you are recognized to open on AM1122. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This amendment is one that I mentioned earlier. This is to accommodate folks interested in joining the process of creating a Class I school district. In particular, what this does is keeps the building under the ownership of the K-12 district, even though it may not be operated as a school, until those interested in forming a Class I school district would have the opportunity to begin the process, the five-step process that we've mentioned several times. There is a specific time requirement involved with this, that once the clock begins, so to speak, that there's a certain amount of time during which the K-12 district cannot dispose of the facility, can't sell it. If at any point the process stops or certain parts of the process are not completed, then the moratorium goes away so that the K-12 district then could move to handling the facilities however they wished. So this is an amendment that is being offered in good faith, if you will, to accommodate those who are interested in initiating the formation of a Class I school district. I urge your support. Thank you. [LB658]

SENATOR FRIEND: Thank you, Senator Raikes. Members, you have heard the opening on AM1122. (Visitors introduced.) On with discussion of AM1122, Senator Erdman, you are recognized. [LB658]

SENATOR ERDMAN: Mr. President, members of the Legislature, thank you. Senator Raikes, I have a question for you on the wording of this amendment if you... [LB658]

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

SENATOR RAIKES: Yes. [LB658]

SENATOR ERDMAN: And I would generally support this and I think this is a...your effort in good faith here I think is recognized. As I read the way that this functions, the school district cannot sell or otherwise dispose of the buildings pursuant to Sections 1 through 4 of the act, unless the plan, petition, or election pursuant is not successful. It further goes on to say that that letter has to be delivered by June 30 of 2007 and the school

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district cannot sell or otherwise dispose of the building for 60 days after receipt of that letter. When would the district have a chance to vote to reorganize? Wouldn't it be until the next primary in '08, or am I not understanding the time line here? [LB658]

SENATOR RAIKES: The intent of this, Senator, is that they have the 60 days to begin the process. Once the process is begun, the moratorium is in place as long as the process is on track. So for example, within the 60 days the plan is brought forward, it goes to the "reorg" committee, it's approved by the "reorg" committee, the petition process is underway and completed, and then finally we go to the vote. All of that is a part of the process. So during all of that time, the moratorium would be in effect. Now suppose that some part of that procedure failed or wasn't completed, so that the petition signatures weren't gathered or whatever. Whenever it is clear that the process has stopped, it's not going forward anymore, the moratorium would end. That is the intent here. [LB658]

SENATOR ERDMAN: So if I have...if I'm a school district in the state and there was a plan submitted or a petition drive or there was a ballot issue already approved for the purposes of LB658, the district may not do anything, may not dispose of that building until the result of that action is completed unsuccessfully. [LB658]

SENATOR RAIKES: That's right. As long as that building is the legitimate objective of an effort to form a Class I district that would be headquartered in that building, then that building would be retained as a building by the K-12 district. [LB658]

SENATOR ERDMAN: So there are essentially two provisions to this amendment. The first part of Section 5 talks about what a school district may not do during the time in which the plan, petition, or election is commencing. The second part deals with informing the district that you plan to proceed with either a plan, petition, or election and that you have to file that by June 30 of '07 and that they cannot do...they cannot dispose of that property until after 60 days. And assuming that means that they were not successful in getting the plan approved, because then that would fall under that previous example that you have the 60-day window to accomplish either the plan approval, begin the petition process, or to get it on the ballot. And if you're unsuccessful in 60 days in accomplishing that after June 30, then the assumption is made that it won't be successful and they can dispose of the property? [LB658]

SENATOR RAIKES: Well, I'm not sure I agree with that. I think the intent here is that as long as the process is underway and proceeding according to schedule, then the moratorium on the sale is in place. So that doesn't mean you have to get to an election, for example, within 60 days after you begin the process. If the election is the primary election next spring and as long as the steps are being made and completed in an orderly fashion... [LB658]

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SENATOR FRIEND: One minute. [LB658]

SENATOR RAIKES: ...up to that primary time, then the building is kept available for the Class I district. [LB658]

SENATOR ERDMAN: Is it your intent, based on the way that this language is written, that the effort to submit a plan or to petition the voters to sign the appropriate petition documentation to get it on the ballot, is it your intent that that process also would hold the district under the prohibition? So in other words... [LB658]

SENATOR RAIKES: Yes, yes, it is. [LB658]

SENATOR ERDMAN: ...when they're in that process... [LB658]

SENATOR RAIKES: As long as...yes, as long as they're proceeding with that process. Now if you got to the point where the petition drive drug on and we got to the designated election and the petitions were not assigned or that step wasn't completed, then the moratorium is thereby voided or... [LB658]

SENATOR FRIEND: Time. [LB658]

SENATOR RAIKES: ...if you get to the election... [LB658]

SENATOR FRIEND: Thank you, Senator Raikes and Senator Erdman. Senator Hudkins, you are recognized. [LB658]

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

SENATOR FRIEND: Senator Raikes, will you yield to a question from Senator Hudkins? [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR HUDKINS: Senator Raikes, I have not sat down with this particular amendment and do the strikeouts on page whatever, lines whatever to whatever. The question I have is on the third page of the amendment, the very last paragraph beginning on line 13. [LB658]

SENATOR RAIKES: Right. [LB658]

SENATOR HUDKINS: Are you with me? Okay, can you explain that, the high school district may deny the request. Are we still talking about the option requests? [LB658]

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SENATOR RAIKES: No. [LB658]

SENATOR HUDKINS: Okay, could you just explain that? [LB658]

SENATOR RAIKES: Yeah. And I'm glad you brought that up because I should have mentioned that in my opening and I didn't. There are actually a couple other provisions in this amendment that I neglected to mention. One of them, there's basically the enrollment option component in there that Senator Engel introduced earlier in an amendment and was adopted. There is also on that same last page, there is a financial incentive for a K-12 district to keep a building open if they're more than seven miles from the nearest other...this adds "or located in a separate incorporated city or village." So again, that's intended to be an additional enhancement for those who are interested in forming a Class I district. The final paragraph basically protects the budget of a Class I district as long as they have at least three students. [LB658]

SENATOR HUDKINS: Okay. So the word "request," what specifically is that request? And if you said it, I missed it. [LB658]

SENATOR RAIKES: So that would be a budget request. [LB658]

SENATOR HUDKINS: All right. All right, thank you very much. Thank you, Mr. President. [LB658]

SENATOR FRIEND: Thank you, Senator Hudkins and Senator Raikes. Senator Erdman, you are recognized. [LB658]

SENATOR ERDMAN: Thank you, Mr. President. Senator Raikes, would you yield to some more questions? [LB658]

SENATOR FRIEND: Senator Raikes... [LB658]

SENATOR RAIKES: Yes. [LB658]

SENATOR FRIEND: ...will you yield to some questions? [LB658]

SENATOR ERDMAN: Just so that I'm clear to the language here, we talked earlier that when the petitioners are in the process of filing their plan, actually going through the process of getting the signatures for the petition, or when there has been a ballot issue approved, the district is prohibited from disposing of the building that's included in that plan. The second provision deals with the preliminary work that would be done prior to the submission of a plan by three registered voters in that district. The letter of intent specifies the building and that would be included in the plan and delivered to the

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affected school district before June 30 of 2007. Is the, just so that I have further clarification, the letter of intent doesn't have to include the plan on June 30; it just has to state to the district that you intend to include that building in your plan. [LB658]

SENATOR RAIKES: That's correct. That's what's the intent is here, using that word. [LB658]

SENATOR ERDMAN: And then they would have that prohibition. And I guess the question that I have is that if you're in the process of preparing the plan, the petition, or the ballot issue, or you're in some phase of that and you submit the plan to the State Reorganization Committee and it takes, you know, 45 days or something, that's treated in the first half of the amendment. The second half of this Section 5 amendment only applies where you haven't begun the process of formally filing anything. Is that a fair representation? [LB658]

SENATOR RAIKES: Right. This is a 60-day period to allow you to get the three people together and decide that you're going to submit a plan. Once you've submitted that plan and that plan lays out a timetable for the events up to the election, you would be allowed that timetable, under the moratorium, so long as you adhered to that timetable. [LB658]

SENATOR ERDMAN: Does LB658 have the E clause on it? [LB658]

SENATOR RAIKES: Right now it does not. [LB658]

SENATOR ERDMAN: Is it your intent that it should? [LB658]

SENATOR RAIKES: I think it would be a good idea, because without the E clause the bill doesn't go into effect until whatever the rule is, September sometime. With the...and thereby, you would have buildings unprotected from sales during that period. If you had the E clause, the bill would go into effect as soon as the bill was signed and this provision then would go into place at the same time. [LB658]

SENATOR ERDMAN: And further, the time line of June 30, 2007, would be unenforceable because it wouldn't have become law. That time line... [LB658]

SENATOR RAIKES: Right. [LB658]

SENATOR ERDMAN: ...that's outlined in your amendment, without the E clause, doesn't become operative until September. And if you're making them have this requirement of June 30, 2007, you're actually making them have a requirement before the bill would become effective, short of the E clause. So I'm just trying to make sure that I piece this together. If the intent is that the E clause makes this bill effective

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immediately, then I think the date is appropriate. If we're not going to put the E clause in LB658 or if we would write it in such a way that certain sections become effective in September and this section becomes effective upon, you know, a modified version of the E clause as far as the effective dates, I think we have to make sure that whatever form the bill takes, that time line has to reflect that reality. Because again, if you're looking at June 30 for this deadline for people that want to use a school building that's from a former Class I but we don't have an effective date until September 1, then I think we have to adopt this. And maybe you had additional comments. [LB658]

SENATOR RAIKES: Your point is well-taken, Senator. There is not an E clause on this amendment. And you, I think, you think are correct... [LB658]

SENATOR FRIEND: One minute. [LB658]

SENATOR RAIKES: ...in two ways: that if...this provision is made a lot more effective with an E clause because then it extends toward us, backward I guess, the protection afforded those buildings; the second thing is if you don't have an E clause and the June 30 date is in a window whereby the bill hasn't taken effect. [LB658]

SENATOR ERDMAN: Correct. And that was just an observation, now that I understand this process, making sure that the dates that petitioners would be required to meet for their letter of intent would actually be part of the law should it become effective. And whatever that needs to be, whether it's adding the E clause or changing this date, I would think that having this protection in law sooner, maybe this one specifically, so that those buildings are available and that districts don't have the ability, as some have done, to get rid of them before the effective date of this bill. I think... [LB658]

SENATOR FRIEND: Time. [LB658]

SENATOR ERDMAN: ...it is your intent and I think it's the intent of those that are following this legislation. Thank you, Mr. President. [LB658]

SENATOR FRIEND: Thank you, Senator Erdman and Senator Raikes. Senator Raikes, there are no other lights on. You are recognized to close on AM1122. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members. This amendment includes the moratoriums on sales of buildings, which Senator Erdman and I were just discussing. It also includes a technical amendment, as well as the inclusion of an incorporated city or village in the protection and also a protection on the Class I budget to prevent a zeroing out of the budget if the district has at least three students. These are all amendments intended to facilitate the process for those interested in creating a Class I district. I urge your support. Thank you. [LB658]

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SENATOR FRIEND: Thank you, Senator Raikes. Members of the Legislature, you've heard the closing on AM1122. The question is, shall AM1122 be adopted to LB658? All those in favor please signify by voting aye; all those opposed vote nay. Record please, Mr. Clerk. [LB658]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Raikes's amendment. [LB658]

SENATOR FRIEND: The amendment is adopted. Mr. Clerk, items? [LB658]

CLERK: Mr. President, your Committee on Judiciary, chaired by Senator Ashford, reports LB554 to General File, with amendments attached. Communication from the Governor to the Clerk. (Read re: LB701, LB701A.) And I have an amendment from Senator Schimek to LB646, to be printed. And that's all that I had, Mr. President. (Legislative Journal pages 1349-1350.) [LB554 LB646 LB701 LB701A]

SENATOR FRIEND: Thank you, Mr. Clerk. Members of the Legislature, as the schedule indicates, we will move to General File, budget bills. Mr. Clerk, LB317. [LB317]

CLERK: LB317, Mr. President, a bill introduced by the Speaker at the request of the Governor. (Read title.) The bill was introduced on January 11 of this year, referred to the Appropriations Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM726, Legislative Journal page 1289.) [LB317]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Heidemann, as Chairman of the Appropriations Committee, you are recognized to open on LB317. [LB317]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. The first thing I want to do to you is point out that I had handed out a new General Fund financial status. The reasoning for this, after we had put out the last one, which was Thursday at noon, the Economic Forecasting Board met. The Forecasting Board met and has changed the economic forecast for the state. Because of that, they've shown an increase. The financial status sheet has changed a little bit, and I wanted to point that out before we get started. In the first year, would be '07-08, which actually is the current biennium, they increased the revenues by \$15 million. By law, if that projection is met, that will go into the cash reserve, and if you looked under the Cash Reserve Fund, that would reflect in the '07-08 year. That's an increase of \$15 million. In the next two years, it would be '07-08, '08-09, there was an increase the first year of \$26 million, and an increase in the second year of \$14 million, for a total increase of \$40 million gross revenue. That's 38.8 net; 1.2 percent of that would be...would go to the 3 percent cash reserve. That reflects on line 34 of the status sheet and also on lines 41 and 43, on the impact of bills pending box. LB317, which I'll open on, is the deficit bill. The bill,

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LB317, is introduced by the Speaker at the request of the Governor. It is part of the Governor's biennial budget recommendations. This bill is a deficit bill. It makes adjustments to funding for state operations, aid, and construction programs in the current fiscal year ending June 30, 2007. The appropriations will be used in programs where the forecasted cost has risen or decreased due to circumstances that were unforeseen when the budget bills were passed two years ago, and (inaudible) amended to the Legislature to 2006 Session. The amendment will become the bill, so I'll speak more at that time. [LB317]

SENATOR FRIEND: Thank you, Senator Heidemann. Members, you have heard the opening on LB317. Senator Heidemann. Excuse me, Senator Heidemann. Mr. Clerk, we...yes, thank you. Senator Heidemann, we are on the committee amendments. You are recognized to open on AM726. [LB317]

SENATOR HEIDEMANN: Thank you, Mr. President. The committee amendment becomes the bill. The amendments reflect the Appropriations Committee's recommendations for adjustments for the deficits in the current fiscal year, 2006-2007. Please refer to the state of Nebraska biennial budget, fiscal year 2007-2008 and 2008-2009, as proposed by the Appropriations Committee, Hundredth Legislature, First Session, published in April 2007, beginning on page 94: fiscal year 2006-2007 deficiencies appropriations for the detailed discussions of the committee recommendation. A listing of the Governor's recommendations, as compared to the committee's recommendations for all funds, may be found beginning on page 96. With the committee's amendments, the net change to the current year General Fund appropriations is a net reduction of \$17,211,171. You would refer to line 22 of the status attached to the agenda. Many of the items of reduction are a result of evaluation of spending patterns that are less than the appropriations required, the single largest being a base reduction to Medicaid in the amount of \$13,500,000. If you have questions, I will be happy to answer them. I move the adoption of the committee amendments. [LB317]

SENATOR FRIEND: Thank you, Senator Heidemann. Members, you have heard the opening on AM726, the Appropriations Committee amendments to LB317. The floor is open for discussion. Senator Heidemann, there are no senators wishing to speak. Senator Heidemann waives closing on AM726. Members, the question is, shall the Appropriations Committee amendments, AM726, be adopted? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB317]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of the committee amendments. [LB317]

SENATOR FRIEND: AM726 is adopted. Back to discussion of LB317. Senator Heidemann, there are no senators wishing to speak. You are recognized to close on

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LB317. [LB317]

SENATOR HEIDEMANN: Thank you for the support of the amendment. The amendment now becomes the bill, and I ask that you support LB317. [LB317]

SENATOR FRIEND: Thank you, Senator Heidemann. Members of the Legislature, you have heard the closing on LB317. The question is, shall LB317 advance to E&R Initial? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB317]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB317. [LB317]

SENATOR FRIEND: LB317 does advance. Next item. [LB317]

CLERK: Mr. President, LB318, a bill introduced by the Speaker at the request of the Governor. (Read title.) The bill was introduced on January 11, referred to the Appropriations Committee, advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB318]

SENATOR FRIEND: Senator Heidemann, as Chair of the Appropriations Committee, you are recognized to open on LB318. [LB318]

SENATOR HEIDEMANN: Mr. President, fellow members, LB318 is introduced by the Speaker at the request of the Governor, as part of the Governor's biennial budget recommendation. This bill makes appropriations each year of the biennium for the salaries and benefits of the 49 state senators. This separate appropriations bill is required by the state constitution and funds the \$12,000 annual salary of each senator and the corresponding employer payroll contribution for Social Security. I ask that you support this bill. [LB318]

SENATOR FRIEND: Thank you, Senator Heidemann. Senator Preister, you are recognized. [LB318]

SENATOR PREISTER: Thank you, Honorable President, friends all. Senator Heidemann, could I ask you a question, please? [LB318]

SENATOR FRIEND: Senator Heidemann, will you yield to a question? [LB318]

SENATOR HEIDEMANN: Yes. [LB318]

SENATOR PREISTER: Senator, this contains the salary, the \$12,000 a year, and it also contains the portion to pay Social Security; is that correct? [LB318]

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SENATOR HEIDEMANN: That's the way I understand it, yes. [LB318]

SENATOR PREISTER: Is there anything in here about healthcare? [LB318]

SENATOR HEIDEMANN: No, sir. [LB318]

SENATOR PREISTER: Is there anything in here about retirement? [LB318]

SENATOR HEIDEMANN: No, sir. [LB318]

SENATOR PREISTER: Is there anything at all in here for any other benefits for state senators? [LB318]

SENATOR HEIDEMANN: We don't receive any other benefits so, no, sir, there's none in there. [LB318]

SENATOR PREISTER: Thank you, Senator. I just wanted to clarify that, because there are some members of the public who think that we receive the compensation that the federal government does. They think that we get \$165,000 a year. They think that we have separate retirement package that is very generous, and even more than Social Security. There is a lot of misinformation and uncertainty about who we are in comparison to who our representatives in Washington, D.C., are. I think the amount of money...Senator Heidemann, could you tell me how much this appropriation is for, this total appropriation? [LB318]

SENATOR HEIDEMANN: Approximately \$632,000. [LB318]

SENATOR PREISTER: Six hundred thirty-two thousand. I would venture to say that that's probably the cheapest of any state in the union. I think we get--thank you, Senator Heidemann--quite a value in the state of Nebraska. Our Unicameral is certainly very efficient, it's economical, and the people are well served by the process. But certainly, the legislators are not overpaid, the legislators do not receive the kind of compensation or reimbursement that some people think. Yes, there is an additional amount that we receive to pay some of our expenses, but I would venture to say virtually everyone in here uses every penny of that and then some, to pay their expenses, particularly those who have to rent apartments and live in Lincoln. They do not receive even enough and have to use some of that \$12,000 to offset that compensation. Those of us who commute back and forth know the cost of gas, know the cost of repairs, know the cost of replacement for our vehicles when they wear out. We certainly use all of that money. The \$12,000 a year is not a lot of compensation, and it does preclude many people from even running for this office, particularly blue collar workers and lower-income wage earners. This is a great value, and I hope the public understands and appreciates that, like we in this body do. Thank you very much. [LB318]

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SENATOR FRIEND: Thank you, Senator Preister. Senator Heidemann, there are no other senators wishing to speak. You're recognized to close on LB318. [LB318]

SENATOR HEIDEMANN: Thank you, Mr. President. I want to say that I totally agree with Senator Preister, but at this time, this is what we got to live with, so I ask that you support LB318, so that we can make the big bucks. (Laughter) [LB318]

SENATOR FRIEND: Thank you, Senator Heidemann. Members, you have heard the closing on LB318. The question is, shall LB318 advance to E&R Initial? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB318]

CLERK: 44 ayes, 0 nays, Mr. President, on the advancement of LB318. [LB318]

SENATOR FRIEND: LB318 does advance. Next item. [LB318]

CLERK: LB319, introduced by Speaker Flood at the request of the Governor. (Read title.) Introduced on January 11 of this year, referred to Appropriations, advanced to General File. There are committee amendments, Mr. President. (AM928, Legislative Journal page 1289.) [LB319]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Heidemann, as Chair of the Appropriations Committee, you are recognized to open on LB319. [LB319]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. LB319, introduced by the Speaker at the request of the Governor, is part of the Governor's biennial budget recommendation. This bill provides for funding of the salaries and benefits of certain state officers, as required by the state constitution. This bill includes all judges, elected constitutional officers, the Parole Board, and the Tax Commissioner. The committee amendment becomes the bill. I will speak more at that time. [LB319]

SENATOR FRIEND: Thank you, Senator Heidemann. As the Clerk mentioned, there are amendments. First amendment is the Appropriations Committee amendment, AM928. Senator Heidemann, as the Chair of that committee, you are recognized to open on the amendments. [LB319]

SENATOR HEIDEMANN: The amendment becomes the bill. The amendment provides for the Appropriations Committee's recommended funding of the salaries and benefits of certain state officers, as required by the state constitution. Salary levels are those set forth in law for the respective officers, except for the Tax Commissioner, whose salary is set by the Governor. Most adjustments for the original bill amounts are minor

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differences due to calculations of benefits. The bill includes appropriations for salaries of all judges, elected constitutional officers, the Parole Board, and the Tax Commissioner. With the Appropriations Committee's amendment, the General Fund costs are \$20,147,046 in fiscal year 2007-2008, and \$20,330,476 in fiscal year 2008-2009, as noted on line 21 of the financial status attached to the agenda. I move the adoption of the committee amendments. [LB319]

SENATOR FRIEND: Thank you, Senator Heidemann. Members of the Legislature, you have heard the opening on the Appropriations Committee amendments, AM928. The floor is open for discussion. Senator Heidemann, there are no lights on. You're recognized to close. Senator Heidemann waives closing. Members, the question is, shall AM928, the Appropriations Committee amendments, be adopted to LB319? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB319]

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB319]

SENATOR FRIEND: AM928 is adopted. Back to discussion of LB319. The floor is open. Senator Heidemann, there are no senators wishing to speak. You are recognized to close on LB319. [LB319]

SENATOR HEIDEMANN: Thank you, Mr. President. The committee amendment becomes the bill. Thank you for support of the committee amendment, and I'll ask you for support of LB319. [LB319]

SENATOR FRIEND: Thank you, Senator Heidemann. Members, you have heard the closing on LB319. The question is, shall LB319 advance to E&R Initial? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB319]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB319. [LB319]

SENATOR FRIEND: LB319 does advance. Next item. [LB319]

CLERK: Mr. President, LB320, a bill by Senator Flood at the request of the Governor. (Read title.) The bill was introduced on January 11, referred to the Appropriations Committee, advanced to General File. There are Appropriations Committee amendments pending. (AM727, Legislative Journal page 1289.) [LB320]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Heidemann, you are recognized to open on LB320. [LB320]

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SENATOR HEIDEMANN: Mr. President, fellow members, LB320 is the capital construction bill. LB320, as introduced by the Speaker at the request of the Governor, is part of the Governor's biennial budget recommendation. This bill appropriates funds for the reaffirmed and new construction projects recommended by the Governor for the next biennium. Reaffirmed projects include those projects currently underway that have already received approval and funding previously, but were funded over several years, including the next two years in the budget biennium. The amendment becomes the bill. I'll speak more at that time. [LB320]

SENATOR FRIEND: Thank you, Senator Heidemann. Members of the Legislature, you have heard the opening on LB320. There are senators wishing to speak. Senator Erdman. Senator Erdman, did you want to speak to the underlying bill or the committee amendments? [LB320]

SENATOR ERDMAN: I believe there are committee amendments, Mr. President. Is that correct? [LB320]

SENATOR FRIEND: There are, but I was going to recognize you, if you wanted to... [LB320]

SENATOR ERDMAN: No, I think it's appropriate to let Senator Heidemann open on his committee amendments. [LB320]

SENATOR FRIEND: If I say so. (Laughter) Senator Heidemann, I agree with Senator Erdman. You are recognized to open on the Appropriation Committee amendments. [LB320]

SENATOR HEIDEMANN: Thank you, Mr. President. The amendment becomes the bill. The amendment contains the Appropriations Committee recommendations for reaffirmed and new capital construction projects recommended for funding in the forthcoming budget biennium. Authorization for certain higher education facilities' expenditures are also included in Sections 8 and 9 of the amendment. These expenditures authorize the use of bond surplus funds and proceeds from bond issuance. They are not cost to the General Fund. Previously, such bond-related projects have been approved by means of the single reading of a resolution when the Legislature was in session. Since 2006, these projects have been included in the budget bills for the legislative review, rather than by resolutions. Please refer to your budget book, beginning on page 85, capital construction, for detailed discussion of the committee's recommendation. Total General Fund expenditures contained in the bill may be found on line 19 of the status attached to the agenda. Appropriations for fiscal year 2007-2008 and fiscal year 2008-2009 are \$8,150,822 for each year. This represents costs for long-term projects, costs related to the university and state college projects under LB605, deferred maintenance and repair projects, and the costs

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associated with the public safety tower financing. These specific items have ongoing costs from the capital budget that go beyond the next four years. Shorter term projects, both new and reaffirmed projects anticipated for completion with the next four years, are appropriated from the Nebraska Capital Construction Fund, the NCCF. Funding for these projects come from transfers contained in LB323 from the Cash Reserve Fund to the NCCF, primarily \$75 million in fiscal year '07-08, and \$99,590,000 in fiscal year '08-09. Additionally, a single \$12 million is transferred to the NCCF for the specific purpose of acquiring property in the Capitol environs, which is the Assurity Life Building. The total sum of these new transfers to the NCCF is \$96.6 million. A listing of all projects contained in the bill may be found on page 87 of the budget book, along with written descriptions of the new items. If you have any questions, I would be happy to try to answer them. I move the adoption of the committee amendments. [LB320 LB323]

SENATOR FRIEND: Thank you, Senator Heidemann. Members of the Legislature, you've heard the opening on AM727, the Appropriations Committee amendments. Senator Erdman, you are recognized. [LB320]

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. Senator Heidemann, you make reading the budget sound so enjoyable. I appreciate your tone. Would you yield to a couple of questions, please? [LB320]

SENATOR FRIEND: Senator Heidemann, will you yield to a couple of questions? [LB320]

SENATOR HEIDEMANN: Two questions, yes. [LB320]

SENATOR ERDMAN: Okay. The first question that I have, since I am limited to two...the first question that I have, and based on your last comments, is it an accurate representation that the amount of money that's going to be spent out of the Cash Reserve Fund for capital construction is in this bill, as opposed to LB323? [LB320 LB323]

SENATOR HEIDEMANN: LB323 transfers the money; this bill spends it, expends it. [LB320 LB323]

SENATOR ERDMAN: Okay. And so I'll count this as 1B, then. So we have to do both this bill and LB323 to effectively accomplish the transfer of the funds from the Cash Reserve. So are we spending the money before we transfer it here? [LB320 LB323]

SENATOR HEIDEMANN: You might look at it that way. [LB320]

SENATOR ERDMAN: Okay. Let me ask you this final question. If you were to actually use the money that's being appropriated from the Cash Reserve in LB323 and being

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spent in LB320, what percent of total growth do we add to the actual budget? [LB320 LB323]

SENATOR HEIDEMANN: I believe we was right at 4.7, if I understand your question. [LB320]

SENATOR ERDMAN: Okay, so we're actually, because of the way that this is being done, the money that shows up on the bottom of our financial status sheet that you distributed, which is \$96.6 million the first year, and a number less than that--I think the total is right around \$113 million--but it's my understanding that if you add that to the cost of the budget, the actual cost of expenditures for the state, including construction, is actually 4.7 over the two years, and not 4.5? [LB320]

SENATOR HEIDEMANN: Yes. [LB320]

SENATOR ERDMAN: I'm just restating what I believe you said. [LB320]

SENATOR HEIDEMANN: Yes. [LB320]

SENATOR ERDMAN: Okay. [LB320]

SENATOR HEIDEMANN: You're right. We would be...by paying, not out of the General Fund but paying out of the NCCF some of the construction projects--and what I call some, is those that are going to take place over the next four years and be paid over the next four years--you literally save the spending increase from 4.7...we took it down to 4.5. [LB320]

SENATOR ERDMAN: But for the sake of full and fair disclosure, the actual amount being expended is closer to 4.7, when you add the construction in, notwithstanding the rationale, which I would tend to concur. It's just that we're actually spending 4.7, not 4.5, when you add in the capital construction, which is being done the way the committee proposed? [LB320]

SENATOR HEIDEMANN: I believe that was actually in your budget book. If you would have read the budget book, it was disclosed in there. [LB320]

SENATOR ERDMAN: Very good. Thank you. And if I need someone to read it to me, Senator Heidemann, the way that you have effectively read your openings on all of these, I think it would be more enjoyable than if I read it myself. But I'll keep you posted. Thank you, Mr. President. [LB320]

SENATOR FRIEND: Thank you, Senator Erdman and Senator Heidemann. Senator Mines, you are recognized. [LB320]

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SENATOR MINES: Thank you, Mr. Speaker. Would Senator Heidemann yield to questions, please? [LB320]

SENATOR FRIEND: Senator Heidemann, will you yield to a question? [LB320]

SENATOR HEIDEMANN: Yes. [LB320]

SENATOR MINES: Senator, just going over, on page 87 of the book that you handed out--I did read it, by the way--I have a question about the Nebraska Educational Television...NETC. What does C stand for? NETC... [LB320]

SENATOR HEIDEMANN: Commission. [LB320]

SENATOR MINES: ...Commission, there we go, okay. The numbers stand out very clearly. It appears that we will spend, in 2007-08, \$5.7 million; that amount again in 2008-09; and then \$4., roughly, 7 million in 2009-10 to something about a transponder replacement. Could you tell me a little bit about that? [LB320]

SENATOR HEIDEMANN: It's the last two years...last three years of a ten-year program to replace the transponders. It's the last part of a program that they started ten years ago, or seven years ago probably, to replace these things. [LB320]

SENATOR MINES: And the transponders are like satellite things, right? Okay, thank you. And I assume the \$100,000 a year for 2007-08, 2008-09 is for in-house equipment replacement of some kind. Could you enlighten me on the State Capitol renovations and improvements, a million dollars a year? What are we doing with that? [LB320]

SENATOR HEIDEMANN: I believe that's something that we are going to start to do on the inside of the building. There is some money in another spot that...the masonry is on a different line. This will take part...and if you look up, there's water damage in the Chamber,... [LB320]

SENATOR MINES: Right. [LB320]

SENATOR HEIDEMANN: ...and I believe it will start taking care of things like that. [LB320]

SENATOR MINES: So that's in addition to, as you mentioned, masonry/structural that's \$6.6 million and then \$10.2 million. Is that correct? [LB320]

SENATOR HEIDEMANN: That is correct. [LB320]

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SENATOR MINES: Okay. About the only other question I've got is the Assurity Life Building, and that's \$10,980,000. Is that correct? [LB320]

SENATOR HEIDEMANN: It should be \$12 million. [LB320]

SENATOR MINES: I'm sorry. There's \$1.2 million in 2007-08. What is that building going to be used for? [LB320]

SENATOR HEIDEMANN: It will house state employees. The state employees have probably yet to be determined. [LB320]

SENATOR MINES: Oh, so it's just...it's additional space. As government grows, we need some place to go? [LB320]

SENATOR HEIDEMANN: Actually, we would probably hope not. We have a...the state has a lot of leased space around the city of Lincoln. [LB320]

SENATOR MINES: Right. [LB320]

SENATOR HEIDEMANN: It would be our hope, probably, to not lease the space, own the building, and in the long run, it has been shown to us anyway, to be cheaper than to actually rent the space or lease the space. [LB320]

SENATOR MINES: Okay. And the \$12 million, is that a fair market value? I mean, did we have an appraisal? Did we go through the whole process? [LB320]

SENATOR HEIDEMANN: We did have an appraisal done, yes, and we felt, on Appropriations, it was a very fair cost. [LB320]

SENATOR MINES: Okay. Thank you, Senator Heidemann. Thank you, Mr. President. [LB320]

SENATOR FRIEND: Thank you, Senator Mines and Senator Heidemann. Senator Pirsch, you are recognized. [LB320]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I was just wondering if Senator Heidemann would yield to a question or two. [LB320]

SENATOR FRIEND: Senator Heidemann, will you yield to a question? [LB320]

SENATOR HEIDEMANN: Yes. [LB320]

SENATOR PIRSCH: And I appreciate your explanation to responses to Senator Mines's

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questions regarding those items on page 87. And again, could you indicate...the category I believe he was inquiring about are labeled reaffirmations. When were those commitments made with respect to the, for instance, the Nebraska Educational Television Commission? [LB320]

SENATOR HEIDEMANN: It would have been in quite a few previous sessions, actually, even before...that one, specifically, was before I even arrived in 2005. It's just reaffirming the money for projects that we've kind of already committed to. [LB320]

SENATOR PIRSCH: I see, and so those are scheduled, then, to trail off in 2009-2010. Is that correct? [LB320]

SENATOR HEIDEMANN: Yes, on the second line, that one would be. There are some that actually go off in '08/09, too, for NETC. [LB320]

SENATOR PIRSCH: Okay, and with respect to the category "new construction," the NETC, there's a line item that is "final DTB transmitter conversion" with appropriations in 2008-09 and in 2009-10 of...it appears to be a quarter million dollars in 2008-09 and then \$900,000 in 2009-10. Do you know what is with regards to? [LB320]

SENATOR HEIDEMANN: All of the old...if my memory serves me right, all the transmitters used to transmit in analog, and I think it's a federal government regulations that they had to be put over to digital, and that's the last part of this. [LB320]

SENATOR PIRSCH: Okay. I do appreciate that. I'd yield the balance of my time to Senator Heidemann, if he would...had something he wanted to say. Good. [LB320]

SENATOR FRIEND: Thank you, Senator Pirsch, and thank you, Senator Heidemann. Senator Wightman, you are recognized. [LB320]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I rise just to maybe give you a little more information on the purchase of the Assurity Building. There's been quite a lot of suggestions that we obtain more parking, and that does come with about a block and a half of parking, and I thought that perhaps the members might be interested in that. There's almost a full block, one block east of the Assurity Building, or from the east edge of the Assurity Building, as well as a good deal of property to the north. Probably it will serve the parking of employees as they work, and as we maybe move them out of current rental facilities. But I did think that the body should know that that does include a substantial amount of parking in the \$12 million. Thank you, Mr. President. [LB320]

SENATOR FRIEND: Thank you, Senator Wightman. Senator Pirsch, you are recognized to speak. [LB320]

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SENATOR PIRSCH: I'm sorry. That, for some reason, didn't turn off. I...that was inadvertent, Mr. President, members of the body. I'll yield back the time. Thank you. [LB320]

SENATOR FRIEND: Thank you, Senator Pirsch. Senator Heidemann, there are no other senators wishing to speak. You are recognized to close on AM727. Senator Heidemann waives closing. Members, the question is, shall AM727, the Appropriations Committee amendments, be adopted? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB320]

CLERK: 37 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB320]

SENATOR FRIEND: The amendments are adopted. [LB320]

CLERK: I have nothing further, Mr. President. [LB320]

SENATOR FRIEND: Back to discussion of LB320. The floor is open. Senator Heidemann, there are no senators wishing to speak. You are recognized to close on LB320. [LB320]

SENATOR HEIDEMANN: Mr. President, fellow members, thank you for the support of the amendment. The amendment now becomes the bill, and I ask that you support LB320. [LB320]

SENATOR FRIEND: Thank you, Senator Heidemann. Members of the Legislature, you have heard the closing on LB320. The question is, shall LB320 advance to E&R Initial? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB320]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB320. [LB320]

SENATOR FRIEND: LB320 does advance. Next item. [LB320]

CLERK: Mr. President, LB321 is a bill by Speaker Flood at the request of the Governor. (Read title.) The bill was introduced on January 11, referred to Appropriations, advanced to General File. I do have committee amendments by the Appropriations Committee, Mr. President. (AM728, Legislative Journal page 1289.) [LB321]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Heidemann, you are recognized to open on LB321. [LB321]

SENATOR HEIDEMANN: Mr. President, fellow members of the body, LB321 is the

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mainline budget bill. LB321, as introduced by the Speaker at the request of the Governor, is part of the Governor's biennial budget recommendation. This bill is the mainline appropriations bill for the biennium that begins July 1, 2007, and ends June 30, 2009. This measure includes the recommended funding for all state operations and state aid programs. The bill includes the authorized transfers from cash funds to the General Fund and provides for the necessary definitions for the proper administrations of appropriations and personal services limitations, or PSL. The amendment will become the bill, so I'll speak more at that time. [LB321]

SENATOR LANGEMEIER PRESIDING [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. As the Clerk has stated, there are committee amendments by the Appropriations Committee. Senator Heidemann, you are recognized to open on the committee amendments. [LB321]

SENATOR HEIDEMANN: Mr. President, fellow members, the amendment becomes the bill. The amendment contains the committee's recommendation for the bulk of appropriations to be made during the budget biennium for state operations and state aid. Statutorily authorized transfers among funds are made in conformance with budget requirements, as are transfers from the General Fund. Please refer to the budget book that you received in late April. A narrative description of the highlights of the recommendations begin on page 33 for state aid, followed by operations, beginning on page 50. Tabular data follows in additional sections itemizing the recommendations by agency on page 62, aid programs on page 65, and all fund sources on page 67. A narrative description of the recommendations by each state agency begin on page 98. If you have any questions, I'd be happy to try to answer them. I move the adoption of the committee amendments. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the opening on the committee amendments, AM728, to LB321. Mr. Clerk, for a motion. [LB321]

CLERK: Mr. President, Senator Howard would move to amend the committee amendments with AM1167. (Legislative Journal pages 1350-1351.) [LB321]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Howard, you are recognized to open on your amendment, AM1167. [LB321]

SENATOR HOWARD: Thank you, Mr. President and members of the body. This amendment, quite simply explained, would restore approximately \$2 million to the Health and Human Services budget. This money has been removed and I cannot offer you an explanation as to why this was taken out. I can only tell you the effect it will have if this appropriation remains as is. Making a reduction in funding for this department,

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without a plan for where the cuts will come from, will adversely affect the lives of children in the care of Health and Human Services System, as well as the vulnerable adults that rely upon this system for their very existence. There is no relief in statutory requirements for Health and Human Services. Put simply, this means that all the obligations and duties that are put upon this department will remain as is. One of the requirements that I can tell you about in quite simple terms is that case managers are required to make monthly home visits to every state ward on their caseload. There is no possible way this can be done and the safety and security of these children can be ensured with this reduction in monetary appropriations, which will consequently affect staffing with Health and Human Services division. If we're expecting the same degree of service delivery--and I think many of us have the hopes the service delivery will, in fact, be improved through the reorganization--we're going to be sorely disappointed with this reduction. Not only are the intensity of the cases ever increasing--I think we're all familiar with the methadone problem, as well as the underlying child abuse, child neglect, all the basics that we've heard about over the years--but we're not going to be able to ensure that children who are brought into the Health and Human Services System due to abuse, neglect, abandonment, conditions that their parents and others have inflicted upon them, will be safe within the Department of Health and Human Services. We can all think back to 2003, when we had many child deaths in this state, and I think none of us, none of us wants to see a repeat of that. Governor Johanns put together a task force in that year to address these concerns. One of the recommendations at that time was actually an increase, an increase in the number of individuals staffing Health and Human Services. In 2004, LB1089 provided for an additional 120 staff for protection and safety alone. Allocation of 120 positions was for 78 protective service workers, 6 supervisors, 8 quality assurance program specialists, 27 support staffs, one Indian child welfare specialist. Are we going to eliminate these people? Are we going to lose these people? I have talked to Senator Heidemann off the floor regarding my concerns on this. I respect the work that he has done with his committee. It certainly has addressed many, many needs within the state. He has a difficult job. He explained to me that his concept of this would be reduction in administrative staff. You know, on the face of that, that sounds very good. We could say we need less people sitting around a table planning; we need more people out in the field working. But when this translates over to Health and Human Services, this isn't going to be merely administrators. This is going to go right down to line staff. This is going to be the person out in the field. This is going to be the person doing to the footwork. This is going to be your soldiers, and we're going to lose these people. We're going to backtrack. Right now, according to the information provided to me by Health and Human Services, total number of 38 vacancies combined in this system. If we're looking at a reduction of force of 78 people to 100 people, that's not going to come from just vacancies. That's going to come from vacancies, layoffs. That's going to come right out of the heart of the Health and Human Services Department. And let me tell you, I am the first person to stand here and criticize them when they're wrong, but I'll be the first person to stand here and support them when they need to get a job done. I ask for

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your support of this amendment. I think if we reduce the funding for Health and Human Services to get the job done, we're defeating everything that we've worked toward in protecting children, and I can't be a part of that. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Howard. You have heard the opening on AM1167 to the committee amendments. Wishing to speak we have Heidemann, Schimek, Wallman, and Fulton. Senator Heidemann, you are recognized. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. I rise in opposition to AM1167 to AM728. I understand Senator Howard's concern, and we on the Appropriations Committee, though, did not take anything lightly. We are not out to hurt anybody. We are not out to hurt the kids by any means, and if...and I really believe if that's what we thought this was going to accomplish, we would not have done it. What I want to point out, if you would look on page 25 of your General Fund appropriations in your budget book, and you look under agency operations, you look under the line where it says Health and Human Services, their base funding, without deficit, in '06-07 was \$218,236,466. Yes, you do see that \$6 million drop in that first year, '07-08. Look where your second year is at--\$227,277,309. That's a considerable amount more than your base year at \$218 million, almost \$9 million more. You continue on with that line, and that second year was 7.2 percent higher. And you look at your two-year average change. It was 2.1 percent spending growth. Yes, they did receive a little bit of a cut, but overall the two years, they actually received a spending increase. I ask that you oppose AM1167. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Schimek, you're recognized. [LB321]

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. I stand, first of all, to say to the Appropriations Committee, I think they've done a marvelous job this year. I think they've worked very hard, and I think I have a sense that they're really together on this budget, as well they should be. That's generally the way the Appropriations Committee works. But that doesn't mean that there should be no questions asked, and thank you, Senator Howard, for introducing your amendment so that we could discuss this budget a little bit. That's what we're here for, and I had a sense that maybe we were just going to go through this this afternoon with no discussion. I do understand what Senator Howard is saying, and I guess, Senator Heidemann, I would be concerned, even though there is going to be an increase, a 2.1 percent increase, I would be concerned if, despite that, we still had cuts in the line workers, the ones who are really working with children and families. And maybe you can tell me, and I'll ask this rhetorically, I guess, and let you respond at a different time. I would be interested to know how the committee dealt with this question of cutting numbers of employees. What kinds of employees are these? Do you know? Do you have numbers? I guess I would have the same kinds of concerns that Senator Howard does. But I mean if there's

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a rational explanation and you can tell me that we aren't going to have some of these caseworkers taken away, that kind of thing, maybe I'm okay with the committee's generalization. Part of the problem with being just a regular member up here on the floor is that we don't get to hear a lot of those discussions. We don't know what the rationale is. We don't know why more money is given to one thing and money is taken away from the other thing, and part of our job up here is to help prioritize, and we may not always agree with the Appropriations Committee, although I'm not saying we're going to disagree either, Senator Heidemann. But you're at your microphone now. Would you be willing to answer? [LB321]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB321]

SENATOR HEIDEMANN: Yes. [LB321]

SENATOR SCHIMEK: The basic question is, how did the Appropriations Committee decide that it wasn't going to hurt to lose these employees that Senator Howard is concerned about? Do you know what kind of employees they will be? How did you justify, as a committee, knowing that something like that was going to happen, and yet you felt comfortable making this recommendation? [LB321]

SENATOR HEIDEMANN: I don't think that we know what's going to happen, and that might be a concern. But we don't know what's going to happen. I think it would be the committee's intent that it's going to come from administration and not the front-line workers, and that would be our hope, but we cannot guarantee that. There was no language put in there, you know, whatsoever. I believe you served on Appropriations, if I remember right. [LB321]

SENATOR SCHIMEK: Oh, it was many, many years ago, but, yes, I did. [LB321]

SENATOR HEIDEMANN: And how we come up with that, the Governor had took vacancy savings, and as you are probably aware of, serving on Appropriations, there's modifications down to 95 percent. [LB321]

SENATOR SCHIMEK: Right. [LB321]

SENATOR HEIDEMANN: They offer modifications. We took the modifications and the vacancy savings, with the hope of maybe... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR HEIDEMANN: ...probably eliminating some administration costs, but hoping that it wouldn't go to the front-line workers. I think that's probably what the committee had in mind. [LB321]

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SENATOR SCHIMEK: But yet there is a commitment, I believe, there has been a commitment by the Legislature to make sure that we have more caseworkers, that they have more training, and all those kinds of things. So if we haven't got a commitment from the department that that's going to continue, that could likely be the...I mean, that could very likely be the place where these cuts are made. [LB321]

SENATOR HEIDEMANN: It's not impossible. They can't...well, this would be a very broad discussion, once we got into it. We don't know where they're going to be made, but it sure wouldn't be the committee's intent, I believe, to cut front-line workers. That's not where we was headed. [LB321]

SENATOR SCHIMEK: Okay, thank you. But I think the discussion is one that we should have, and I would hope that either we decide that we need to be more specific about the language... [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR SCHIMEK: ...in the bill, or the department needs to make a commitment. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Wishing to speak is Fulton, Dubas, Howard, Wightman, and Harms. Senator Fulton, you are recognized. [LB321]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. If...we received an orange booklet a few...last week, I think it was, that has a summary of our final recommendation. I'm on page 146 of that orange booklet, Agency 25, Department of Health and Human Services. Bear in mind also that there is...we passed LB296. There will be a reorganization to Health and Human Services, so there may be question as to where the present-day Agency 25 fits into the future day, reorganized Health and Human Services, and I don't have that answer right now, but that would be a legitimate question that I could answer, if someone had that question. When we look at overall budget here, this amendment, which I'll state on the record I will not support this amendment, AM728 (sic), and here are some of the reasons why. Number one, if you look at the overall agency total budget, the committee proposed in the far right-hand columns, you go to the bottom, to get an idea of...just to give you some perspective, this is almost a \$2.8 billion, with a B, dollar budget. Granted, that's General, cash, federal, revolving funds. It includes state aid, but I'm talking just generally, to give you an idea, some perspective. This is a pretty good-sized budget. In the following year, fiscal year '08-09, talking about almost a \$2.9 billion budget. Now to hone in a little bit closer, to become more particular to what we're talking about here, by way of appropriation, if you go to the operations row, same column, go to the operations row, the amount that we're talking about within operations is \$514 million, so half a billion dollars we're talking

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about. Again, this is just by way of perspective. If you go up a couple more lines, we're talking about General Fund dollars, and that's what we're talking about here today, specifically. The committee has proposed \$211 million, so just less than a quarter of a billion dollars. So my point here in pointing these numbers out is that we're talking about a very big agency. The...inside...in your copy of the amendment, where we are taking this money, or where this money is proposed to be put back in, AM728 (sic), is to Program 33, I believe. Yes, Program 33, which is, by definition, administration. So that's...this was part of the debate, and we did have this debate in the committee as to what an appropriate level of funding ought to be for administration, Program 33, within Agency 25, Health and Human Services. And this is what we arrived at, and so I will, therefore, not support AM728 (sic). And I just wanted to point out what we're talking about here. We're talking about an overall budget of \$2.8 billion in a year's time, and we're talking about a General Fund appropriation of \$211 million. We felt that's appropriate. Now the question as to where these positions will come from, if indeed positions are going to be taken, I would hate to put money...this is an analogy that I gave earlier. We have a black box and we put \$10 into the black box, with the idea that that \$10 is going to go to the recipient on the other end of the black box. If the argument as to why we need to support AM728 (sic) is, if we put \$12 into that black box, we'll guarantee that \$10 reaches its destination, that's what part of the problem, I think, is within Health and Human Services. We put a lot of money in, without having a lot of control over what happens to that money. And so... [LB296 LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR FULTON: ...the committee looked at this program, it is Program 33, it is administration. Thankfully, we'll get to have some of this on the record. We're hoping to reduce some of the administrative costs associated with this \$2.8 billion budget. So I want to get that into the record. I won't support AM728 (sic). I do appreciate the discussion, because it helps us to put into the record what our intentions are, that we're trying to eliminate some of the administrative costs in conjunction with what we're doing with the reorganization of Health and Human Services through LB296. Thank you, Mr. President. [LB296 LB321]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Dubas, you are recognized. [LB321]

SENATOR DUBAS: Thank you, Mr. President, members of the body. We get what we pay for, and I'll be the first to say that throwing money at something doesn't necessarily solve a problem. And we do need accountability and we have said that on this floor, time and time and time again. And I'll be the first one to stand up and say that again--we do need accountability for the way that our tax dollars are being spent. We do know that HHS is a monumental agency, and they deal with monumental duties and issues, and I think they have a pretty clear understanding that we has a legislative body have put

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them on notice, that we're expecting some changes in the way they operate and in the things that they're trying to do. We expect changes. But where are the assurances that these cuts won't impact the front line? And I'm afraid, all too often, that's where it goes down to. We talk about making the cuts at the top, but somehow they always seem to trickle down to the front line, to those people who are out in the trenches, who are doing the work, who are making the contacts with the people that they're trying to serve. We have lambasted HHS on this floor many, many times, and I'm not going to say that it's not totally deserved. But we can't raise the expectation bar without giving them adequate financial support. We can't take care of our children based on what we intend and what we hope to happen. We have to put our money where our mouth is, and I hope...you know...I am glad that we're having this discussion, I'm glad that it's going into the record, we're stating our intent, but I am very concerned about the assurances as to where these cuts are going to be made, and who are the first people that are going to be impacted. And unfortunately, too many times it's always the least among them who get the impact, because they have the smallest voice. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Howard, you are recognized. [LB321]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I'd like to make a couple of things very clear as I speak on this amendment. First, I have a great deal of respect for Senator Heidemann. He and I actually shared an office space for two years, and he came to me on a number of occasions, with concerns regarding children and family situations. And I know he has no desire to fail to protect children. However, as I've learned, being down here, in two years, unintended consequences are a very real result of legislation that we pass, and we have to do everything that we possibly can to prevent good ideas from turning into bad legislation. And I'll have to apologize to the body. If I get emotional about this issue it's because I spent my life doing this, and I know the people that are out on the front lines, and I know what they're trying to do for kids. It's very difficult, it's very frustrating, at times it's very heart wrenching. Health and Human Services isn't a luxury stay for children. Foster care payments are very minimal. We have a bill this year for foster care parents to have, in our terms, a bill of rights, which really translates to the respect they deserve. Foster children deserve protection. They came into our system because the worst possible things had happened to them. If we can't afford them the basic protection through being a state ward, and I'm referring to having a minimal amount of case management provided to them, we are sorely falling down on the job. The last federal audit that this state went through in the Health and Human Services division, the state failed, for a number of reasons, for a number of reasons. The state has been working diligently. Health and Human Services has been working diligently to put a plan into practice that would address these deficiencies and would protect children. We're facing another federal evaluation, a federal audit, this summer, and the department has been working to get ready for this, to prepare the records that are going to be pulled and read by federal representatives that come to

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Nebraska to see how we're managing our Child Welfare Division, our foster care. I'm very concerned about this. We fail this audit--we lose money. We fail this audit, and once again, once again our state is doing a poor job with Nebraska's children. I believe Governor...I'm sorry, I've promoted you. I believe Senator Heidemann (laugh) intends for these reductions to be at the administrative level. However, that term is very broadly interpreted by Health and Human Services. Line workers, in fact, do have some administrative duties, in overseeing cases; for example, preparing reports for court, for Juvenile Court, regarding foster children, administrative duties. I cannot blindly go down the road of saying these cuts will only occur on an administrative level when I know full well that when this is translated down this will be line staff. The line staff turnover is far greater... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR HOWARD: ...thank you...far greater than that of the administrative staff. The average administrator stays at least ten years. Line staff is gone in three, and that actually is considered senior for line staff anymore. Can we afford to put these cuts in place, not knowing what the result is going to be to children, to the disabled, to those that rely upon Nebraska for their very existence? I ask you to consider this carefully, and don't walk away from this. The implications are severe, and I don't know how to make it any lesser. This is a problem that we're all going to have to deal it, and I think we want to deal with it now, before we have to come back and clean up the mess. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Wightman, you are recognized. [LB321]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I rise in support of LB321 and in opposition to AM1167, and in saying this, I appreciate the fact that Senator Howard filed the amendment, gave us an opportunity to visit about this, to debate it in the Legislature, and I'm sure that her remarks are about as heartfelt as anybody's could be. At the same time, I want you to understand the size of this agency and the amount of money being spent on Health and Human Services, and I don't question that it takes a lot of money to do this, but when we talk about whether or not we can shift employees, you should understand that there's between 6,000 and 6,500 employees in the Department of Health and Human Services. There are three different agencies, but most of them are in the administrative and operations. Let me tell you a little bit about what happened when we had the hearing on Health and Human Services, and we had a number of questions. One of those involved the developmental center at Hastings that deals with the developmental disabilities, and there was one program there in which there were currently only three or four patients at that time. At that time there were 100 employees for that particular program or portion of a program, really, and it just seems to me that there is no question, among those 6,000 to 6,500

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employees, that they can find employees to take the place of and provide for some of the vacancy savings that there are. I can't guarantee that there aren't going to be some front-line workers, but I think there's certainly enough employees that they can find front-line workers for replacement of those. So I think it gets down to internal management. We can't provide that as a member of Appropriations Committee. All of us here in this body can't provide that internal management. All we can do is provide funding. I suggest that, in light of the total funding, it was discussed that the operations alone, \$211 million--and we're talking about a million a year, so we're talking about one-half of one percent--and when you look at the total number of employees now, they aren't all in administration and operations, but a significant number of them are, that there is certainly ability to shift within the agency. So I stand in support of LB321 and the committee amendment, AM728. I'm sympathetic with Senator Howard's amendment, to the extent that I think she truly is concerned about the agency, but I think there's plenty of money there to do that, and with the million-dollar-a-year cut that was taken, I think that there will still be sufficient money and employees that can be tapped to fill these positions. With that, I would yield the rest of my time to Senator Fulton. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Senator Fulton, a minute, 20. [LB321]

SENATOR FULTON: Thank you, Mr. President. Thank you, Senator Wightman. This is just to clarify, embarrassingly. I am...I read wrong on the board. I'm opposed to AM1167. I am in favor of the committee amendments, AM728. I misspoke earlier, so I just want to clarify the record. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Fulton and Senator Wightman. Wishing to speak we have Harms, Gay, Nantkes, Howard, Kopplin, and Synowiecki. Senator Harms, you're recognized. [LB321]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of LB321 and oppose the AM1167. I will tell you, if I thought for a moment that we were hurting children and hurting families, I'd be the first to take this issue on. But this is a \$2.8, almost a \$2.9 million (sic) budget. And you've heard me say on this floor before, we have no benchmarks, we have no planning, we have no movement towards efficiency. And efficiency can be found in that organization, and I'll be really interested to watch take place of how this administration handles this cut. If they go to the front lines, folks, that's a tragedy. If they go to the front lines to hurt children, that's a tragedy. There is absolutely no reason in my mind for that to happen. So I'm going to watch this very carefully. If I would have had my choice in sitting down with our Chair and the Fiscal Analyst, I wanted to earmark the dollars, I wanted to drive those dollars, I wanted to make sure that we got efficiency, I wanted to make sure that we had gone through the process to make sure that we knew where we were going with that center...going with that portion of government. We do not know. Until they bring a consultant in here, until

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we address the issue, until we get serious about benchmarks, this will be an issue. This will be an issue for Nebraska, it will be an issue for our families, and it will be an issue for our children. And that's a tragedy. I've been an open critic of Health and Human Services, and I will tell you they're making progress, because I've seen the progress, and I have suggested some people who needed help, and they've dealt with those. But folks, we've got a long ways to go. Until we can see this, until we can finally get a handle on it, it's going to be an issue for all of us. And if I thought for one moment that this Appropriations Committee was doing this, I'd be the first to step up. And I'll tell you, if we find out a year from now that we have made a mistake, I'll be the first to step up and apologize--apologize to the family, and apologize to you as colleagues. I believe the money is there, I believe we can accomplish those dollars. I think it's time that we address the issue. I think it's time that Health and Human Services gets serious about long-range planning, goal setting, and addressing the issue of efficiency, because it's there. We've got to do it. If we don't do it, we'll have the same problem we have today. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Gay, you're recognized. [LB321]

SENATOR GAY: Thank you, Mr. President. I rise in opposition to the amendment. It was just last week, I think, when we were singing the praises of Chris Peterson, the new director; Scot Adams; and what a great job they will do. I haven't changed in one week. We haven't changed that. They need time to do this. We had talked about reorganization. But more money is not going to do the trick. I'm on the Health and Human Services Committee. We've done a very good job trying to hold the line, knowing that overall on the budget we wanted to hold the line. I agree with Senator Harms, Senator Dubas. There's a lot more issues here at stake, as far as things we can improve upon. It takes time. We need to be patient. I think this summer...I'm already talking to a few people to look into some of these programs, roll up our sleeves, find efficiencies, as Senator Harms was talking about. They are out there; they're out there. We can deliver services better, we can do a lot of things better. And the confidence that is displayed by the head of Health and Human Services right now, you know, that's what we need. Talking to Scot Adams--I talked to him--his energy level, you know, it's 110 percent. He's working with his employees. They're making changes, but it takes time. So let's don't start off right away and start--add a little here, add a little there. Pretty soon, this adds up real quick. We're just starting this process. I appreciate the work that the Appropriations Committee has done, and I agree with Senator Schimek, we should be questioning, having these debates, this is where we're going to learn and feel our way through this whole budget. It's a big budget; we're going to have a lot of discussion. So I'm for the discussion. I just, on this amendment, I can't support it. I'd urge you not to support it. That, however, doesn't mean any talk that we have and questions we have is any way against the Appropriations Committee. That's a needed process. We need to be discussing these things. But I would give...well, I will give my word: This summer...I

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know many of us are interested in these issues, especially children and family service issues; let's get together, roll up our sleeves, work with the department, find some innovative ways to deliver services. Let's make sure that the people delivering the services are well taken care of, that they get the tools they need. And like I say, I agree with everyone else. If I really thought this was going to hurt children or foster care or anything else, of course we wouldn't vote for this. But I think we've got plenty of room here to work. It's a big budget, and by adding this, this won't do the kind of help that it's intended...good intention. I don't think this will help a whole lot, so I would rise against AM1167. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Howard, you're recognized, followed by Kopplin, Synowiecki, and Kruse. [LB321]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I'd like to make some clarifications. First off, this isn't an additional amount of money. This is a restoration of dollars that are being deducted from Health and Human Services' budget. It's not asking for new money going in there. This is saying we're maintaining. It's not new positions; it's positions that are currently funded. I'd like to ask Senator Heidemann a question or two, if I may. [LB321]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB321]

SENATOR HEIDEMANN: Yes. [LB321]

SENATOR HOWARD: Thank you. Senator Heidemann, has Health and Human Services come forward...come to you with a plan as to how this shortfall would be addressed in the department? [LB321]

SENATOR HEIDEMANN: No, we haven't heard of any opposition to this, actually. [LB321]

SENATOR HOWARD: Well, I'm not referring to opposition. I'm referring to the deduction, the reduction in staff, in force. Have they come to you saying, we've looked at this, we see what the proposal is, and here's how we're prepared to do this? [LB321]

SENATOR HEIDEMANN: No. [LB321]

SENATOR HOWARD: So there is no plan? [LB321]

SENATOR HEIDEMANN: Well, not that we're aware of. [LB321]

SENATOR HOWARD: But Health and Human Services is knowledgeable about this, you would believe? I would believe. [LB321]

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SENATOR HEIDEMANN: I would have to think by now, yes, that they would know the figures. They was notified of those, you know, awhile back. [LB321]

SENATOR HOWARD: I continue to raise the alarm. And I thank you, Senator Heidemann, for the information in the response. But I continue to raise the alarm. These cuts are not going to come from administration. They're not going to come from those in the department that have been there many decades. They're going to come from line staff. These are going to be the caseworkers. These are going to be the people out in the field. None of us want to see this happen; I certainly don't. If the thought is that this is going to come from vacancies, right now there's only 38 vacancies. That's not going to equate to saving this amount of money within the system. If you stop and think about the problems that we've already incurred, that we've already dealt with, Beatrice being a good example, this facility came dangerously close to losing federal funding, just within the last few weeks. We are dealing with a tenuous situation. None of us wants to see Health and Human Services move in the wrong direction; I certainly don't. But if we're not very careful at what we're doing with this--we're operating without a plan, we're operating without looking at what Health and Human Services would be proposing, in terms of what these cuts would be--I can't support moving in this direction. I have seen too many cases of damaged, abused, neglected, abandoned children come into Health and Human Services, to stand here and say it's okay to reduce staffing, allocations for staffing. We would be turning our backs on a critical situation. I worked there, I was a line staff worker. I had a caseload of 50 children. By the state's own standard, it should have been 15. You lose the line staff, you lose protection for children. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Kopplin, you're recognized. [LB321]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I don't know where the cuts would come, administration or front line. I certainly appreciate the work of the Appropriations Committee. I think they've done an excellent job. I think when Senator Fulton announces the big number that this budget actually is, maybe the big number floors a lot of people, but he didn't mention that this also covers a huge number of people, those in need of service, those that have to work for those services. So of course it's a big number. And I know Senator Wightman talked about, well, he's sure that...he's sure there would be savings somewhere else, but he doesn't know. And Senator Harms says he would apologize if we were wrong. Apologies are too late. And Senator Gay says, oh, there's got to be money to be saved in there. You could say that on any department, and the problem that I see is your two-year change is 2.1 percent, which is far less than any of the other agency operations' two-year change. I don't think you've given them a fair deal, and so I'm going to support AM1167. Thank you. [LB321]

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SENATOR LANGEMEIER: Thank you, Senator Kopplin. Senator Synowiecki, you're next and you're recognized. [LB321]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier, members of the Legislature. While I understand and can certainly appreciate Senator Howard's concern, I thought I might inform members of the Legislature relative to this Appropriations Committee. I've been on the Appropriations Committee now, it will be my fifth year, two prior sessions, and I must say that this has been probably the most deliberative committee that I've been a part of, in and out of the Appropriations Committee, my service in the Legislature. It certainly was, I think, a balanced, deliberative approach, and there was a lot of give and take, a lot of consultation, a lot of thought in the process. We did not do this reduction easily. It was with much deliberation, I can assure the body. And it was done with a balanced approach, because we have also, while there's been a baseline reduction in administration, there have been what I would consider to be corresponding investments in certain programs that are at an enhanced level, that are meant to mitigate our problems in the foster care system, child welfare system. I'll just point out a couple. Continue/expand a nurse visitation program targeted towards family of at-risk child abuse and neglect; an increase in the second year of the biennium of \$600,000--an increase; nurse home visitation program for high-risk pregnant teens. The program uses nurses to visit pregnant and parenting teens to provide education and support that will lead to healthier birth outcomes and healthier babies. These...and the amount invested in that, in General Fund appropriations--I remind you, all these figures are General Fund--\$250,000 the first year, \$1 million the second year. Now the Appropriations Committee commits to these investments and we expect corresponding results. We expect results of a lesser need of the welfare or the child system...the systems that these kids go to, that these investments will diminish to an extent, and I know it wouldn't end it. But it diminishes, hopefully, the need for a child welfare system and foster care system, in particular, and that we keep these families intact, with these investments. And that's precisely...so when you look at what Senator Howard is pointing to in AM1167, you know, you got to look at it more globally. You got to look at it more in a balanced perspective, as far as, what did we do to other areas of the Health and Human Services budget? And we've provided significant investment and replaced with General Funds a lot of money, relative to the loss of federal funds, too, that we stepped up to the plate with General Funds, due to a decrease in federal block grant funds and due to increased restrictions on the use of child support incentive funds. We stepped up to the plate with General Fund investments in those areas. So you got to balance what we did with Senator Howard's amendment, relative to more globally what we did with Health and Human Services. No one, I can assure you, no one on the Appropriations Committee did this action with the intent of hurting any child in our state. It was done because of the corresponding investments that we did in other areas of the Health and Human Service budget,... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

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SENATOR SYNOWIECKI: ...and the expected outcomes and results of those investments, that we can take some from administration. And Senator Wightman spoke of some overreaching, overarching inefficiencies in some of the operations of Health and Human Services. We thought that this would send a clear, crystal-clear picture that we need some of these inefficiencies addressed, and addressed in a very timely manner. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Kruse, you're recognized. [LB321]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I stand in support of the basic amendment. I am so grateful for this amendment that has been brought by Senator Howard, because it has involved the whole floor in some of the struggle and pain and anxiety and questions that we had within the committee, and that we wrestled with for weeks. This is not a simple matter. It gets into the regional centers, it gets into administration, it gets into a new system. We tried hard to get promises ahead on this and could not, and that's not a knock on anybody. They are in the process of reorganizing. So what are you going to do if you're representing this body and the taxpayers of Nebraska? Well, you're going to put pressure on, where you can. At no point--it's been said by several, but I emphasize again, I stand right with my colleagues here on this--at no point did we make any move that would cut services, front-line people or anything like that, that we could tell. We directed cuts such as they were, and there's a great number of these--it gets very complicated. But we directed cuts to administration, where we thought it was reasonable to have that kind of a cut. We installed more money for visiting nurses, hoping that that would cut down on child abuse, things like that. So we made some cuts in there. But at the same time we installed review specialists. We increased the potential of some of these groups that are looking at it. The foster care was left without a cut. These are all efforts, looking ahead, waiting for the response. If HHS makes cuts in front-line workers, when we have made this kind of a cut to administration, there will be serious pay back, and I can guarantee you that it's not fun for any agency to come before the Appropriations Committee when we're grumpy. We want to see what they can do. We have confidence that they can do it. We have confidence that they will do it better if we put a little pressure on, and that's our job, and that's what we're reporting here. But again, I'm so grateful that you have had a chance for this kind of conversation. I don't think there's any other part of the budget that could have been picked out as a better example of where you are seeking to provide more services, at the same time hold a major, huge agency to accountability, and let them know that we are watching and expecting. We aren't waiting for two years for this. We'll be meeting again next year, and we'll need a review on this next year, and if there's adjustments, we'll look at them. But we do want to have a response to our challenge of them to strengthen the field work, the caseworkers, the front lines, and to reduce the administration. Thank you. [LB321]

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SENATOR LANGEMEIER: Thank you, Senator Kruse. Seeing no lights on, Senator Howard, you are recognized to close on AM1167. [LB321]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I thank the body for the discussion on this amendment. I think we all have the responsibility; certainly, not just me. It's certainly not just Senator Heidemann. We all have a responsibility to be very vigilant in the area of child welfare and child protection. I'm going to request to withdraw this amendment, but I want to finish my remarks on this. I hope that the Appropriations Committee and this body will monitor this closely. I think the effects of this budget reduction could be very telling. I want the transcription of this to boldly put in the record that this legislative body does not intend for this cut to come from front-line workers, and I'm going to emphasize this. This legislative body does not intend for these cuts to come out of the case management staff. Those individuals are our foot soldiers. They're out there in the war on child protection...on child abuse. And I would request of the Appropriations Committee that they look further into this and that they ask Health and Human Services where these administrative cuts will be coming from, so that we can address this on the Select File. And if we don't have a satisfactory answer, I'll once again look at putting on an amendment to discuss this, because this is too critical. I appreciate the discussion, and I thank you all for the time that you've given me on this, and I thank the Appropriations Committee for the work that they have done, and I ask that they stay vigilant on this issue. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Howard. You did wish to have this withdrawn? Was that a yes? [LB321]

SENATOR HOWARD: Yes. (Laugh) [LB321]

SENATOR LANGEMEIER: Thank you. It is withdrawn. We now return to the committee amendment. There are no lights on. Senator Heidemann, you are...Senator Mines, you are recognized. [LB321]

SENATOR MINES: Almost forgot me. Thank you, Mr. President. Would Senator Heidemann yield, please? [LB321]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB321]

SENATOR HEIDEMANN: Yes. [LB321]

SENATOR MINES: Senator Heidemann, I'm not very good at this, and I didn't do my homework so I apologize. But I'm looking, in particular, at the sex offender treatment center in Norfolk and I'm trying to find the Hastings facility outline. Would that be...? Where might I find that? [LB321]

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SENATOR HEIDEMANN: I think...are you on your General Fund status right now?  
[LB321]

SENATOR MINES: I'm in your book. [LB321]

SENATOR HEIDEMANN: Okay. It would have to be in the book. Just one moment.  
Hastings is under the regency center, I was told...regional center. [LB321]

SENATOR MINES: All right. Oh, my question is, if the Speaker would give me back my  
book...(laughter). Thank you, Mr. Speaker. My question is...well, now he lost my place.  
(Laughter) My question is...oh, you are just great. (Laughter) My question was...who do  
I defer to? He lost my...here it is. My question is, Senator, I'm trying to understand  
the...we've got some transition funding and I need to understand what transition funding  
is, and I believe it's for 103 FTEs, is that...? Am I close? [LB321]

SENATOR HEIDEMANN: Okay, we passed, I think it was, LB1199... [LB321]

SENATOR MINES: Last year. [LB321]

SENATOR HEIDEMANN: ...last year. What this does and the way I understand it...if I'm  
not right, I'm sure I'm going to be corrected here shortly...we're changing Norfolk over to  
sex offenders. During this transition period, to keep these employees there, this is a  
transition time, we had to keep them on the payroll, so this money will help with  
transitioning from one program to another, to LB1199 sex offenders. [LB321]

SENATOR MINES: All right. And how much is that? I see that we've deleted one-time  
behavioral health transition funding, which would have, for '07, '08 and '09, would be  
about \$7.2 million. We've deleted that. We're continuing a \$4.5 million...excuse me,  
\$12.6 million for new admissions? [LB321]

SENATOR HEIDEMANN: What page are you on? [LB321]

SENATOR MINES: Fifty-two of your book. [LB321]

SENATOR HEIDEMANN: What was his question? [LB321]

SENATOR MINES: I guess, Senator, my question might be, what's the total number,  
transition funds, that we're paying for that facility? [LB321]

SENATOR HEIDEMANN: In fiscal year '07-08, it would be \$7,035,271. In fiscal year  
2008-2009, it would be \$3,420,510. [LB321]

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SENATOR MINES: Ten and a half million, is that right? [LB321]

SENATOR HEIDEMANN: That sounds correct. [LB321]

SENATOR MINES: For about 103 FTEs. Is that correct? That's what the book says anyway. And I guess that's kind of not where I'm going but I can't make heads nor tails of this. [LB321]

SENATOR HEIDEMANN: That was way too fast. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR MINES: Let me ask you, and Senator Burling, with due respect, my first year here, 2004, this body passed a bill to close both Norfolk and Hastings. [LB321]

SENATOR HEIDEMANN: That's correct. [LB321]

SENATOR MINES: I think that was LB1083. And I know that last year this body authorized the continuation of the Norfolk facility for sex offender crimes, and we are positioning and we're continuing to keep it going so that sex offenders now will have a location to go. And because I couldn't find the Hastings facility listed in the book, I'm curious why is that facility still open and why are we still funding that if this body voted to close it in LB1083 in 2004? [LB321]

SENATOR HEIDEMANN: You are talking about Hastings. [LB321]

SENATOR MINES: Yes. [LB321]

SENATOR LANGEMEIER: Time. Thank you, Senator Mines. Senator Avery, you are recognized. [LB321]

SENATOR AVERY: Thank you, Mr. President. I am going to support the committee's amendment and the underlying bill, and I do want to commend the Appropriations Committee for the hard work they've put in. I've stayed in touch with a number of the members of the committee. And I know often when I was going to an event to eat a good meal, they were going back to work on their appropriations bill. It's been a hard grind for them and I know that. I do, however, want to make a couple points about the university funding. That probably comes as no surprise to anybody here. This appropriation, of course, is much better than the first proposal from the Governor and what we thought might come out of the committee. In fact, it's much better. But you have to understand that it barely covers the mandated costs of increased salaries at UNK and UNO, and I think the Board of Regents have made it clear that they intend to provide it, to the extent possible, similar increases in salaries for UNL and UNMC. What

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is important to point out here is that while they...you have these mandated salary increases that the university has to cover, the appropriation that is in this bill only covers that. It does not cover other operating costs--increases in utilities, for example. And I can tell you that when the university is faced with decisions relating to tough choices when we are not funded or they are not funded adequately, programs will be hurt. Programs will be cut. And overall, you will see a reduction in morale among faculty and staff. You're going to see an increase in tuition. And let me just tell you that having spent 32 years in the political science department at UNL, I know what it means when programs are cut. When I first arrived here in 1974, the political science department had 23 full-time, tenure-track faculty members. Today, they are down to 13, yet we have a...they have a bigger--I keep saying we; I'm sorry, 32 years of training creates habits...but let me tell you that today they have even more students to service. We have more students who are majoring in political science. We have more graduate students. In fact, the graduate program has doubled in 32 years, yet we are at a fraction of what we were in terms of faculty able to cover the courses that are needed to teach these students properly. That's not the way we should be running the university. And it's not the fault of the department; it's the problem is that the funding has not been there. I can tell you also that I can remember times when programs were cut and budgets were cut, and I, along with other members of my department, would write a check every year at the end of the year to help cover operating costs--checks out of my own pocket. Now, no self-respecting business in the state would require their employees to personally subsidize the operating costs of a business. Only at the University of Nebraska did that happen. I'm telling you, this is not a trivial issue. I promised Senator Heidemann that what I would not try to amend the committee bill, and I'm not going to do that, but I do want it on the record that the university is not being funded at a level that is sufficient to protect programs... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR AVERY: ...and it is not being funded at a level that is sufficient to continue to allow working families in this state to be able to afford to send their children to the university. I'm looking at numbers right now that show that tuition has gone up since 1997 from \$78.50 per credit hour to \$160. The budget that the university is now going to have to adopt because of the money that is in this appropriations bill is going to require another 5 percent increase in tuition. That means \$168 per credit hour. Now what does that mean in real numbers? It means that if you have a student at the university, taking a normal 15-hour course load, they are going to be spending \$1,342.50 more than they had to spend in 1997. The problem with that is that ordinary families in this state can't afford to send their children to the university anymore. [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR AVERY: Thank you, Mr. President. [LB321]

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SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Kruse, you are recognized. [LB321]

SENATOR KRUSE: Mick, do you want time? Thank you, Mr. President. I yield to Senator Mines. [LB321]

SENATOR LANGEMEIER: Senator Mines, 4:50. [LB321]

SENATOR MINES: Thank you, Mr. President. Thank you, Senator Kruse. If I could continue the discussion, just to let the body know I did have a conversation with Senator Heidemann and with Senator Burling. And if Senator Burling would yield for a question. [LB321]

SENATOR LANGEMEIER: Senator Burling, would you yield to a question? [LB321]

SENATOR BURLING: Yes. [LB321]

SENATOR MINES: Senator, thank you. Again, due to my own lack of understanding and delving into the issue, could you bring me up to speed on what the facility in Hastings is used for now? [LB321]

SENATOR BURLING: Senator Mines, the way I understand it, the regional center is, in fact, a mental hospital, so the Hastings facility is functioning in other ways than a mental hospital. The mental hospital in Hastings was closed about three years ago. When the adults from Hastings mental hospital were moved to Lincoln, they moved adolescents from Lincoln to Hastings--not very many of them. So currently there is a few adolescent psychiatric patients there in a residential care setting. Aside from that, there are young men there, about 40 young men there on that campus, from Kearney who are going through a substance abuse program. Kearney did not have room, did not have facilities to do that substance abuse treatment in Kearney so they moved them to Hastings to do that. And those funds are paid for out of regional center funds, Program 365. [LB321]

SENATOR MINES: So, Senator, as I understand it then, the statute that we passed in 2004 in fact did close the regional center. Is that a correct statement? [LB321]

SENATOR BURLING: Technically, yes. [LB321]

SENATOR MINES: Technically, it is. Okay. And I will do my homework more next time and I'll be prepared to ask better questions, but I want to thank Senator Kruse for the time, and if he would like any more of it back, I would return it to him. [LB321]

SENATOR LANGEMEIER: Senator Kruse, would you like the 2:50 back? Would you

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like your time back, Senator Kruse? [LB321]

SENATOR KRUSE: Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Kruse and Senator Mines. Senator Carlson, you are recognized. [LB321]

SENATOR CARLSON: Mr. President and members of the Legislature, I would also like to direct a question to Senator Heidemann, if I could. [LB321]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB321]

SENATOR HEIDEMANN: Yes. [LB321]

SENATOR CARLSON: Senator Heidemann, I don't even know how to appreciate the work that you and the Appropriations Committee do because I've had several discussions and know that it's long, hard work, and the only reason I'm even asking a question here, because I could never have picked it up by myself, is from a call from a constituent, and so I do want to ask the question. Now, you don't have to refer to this, but on page 55 of AM728 refers to...it's section 502 in public health, and then in the budget book, page 163, if you would turn to that page, please. [LB321]

SENATOR HEIDEMANN: Yes. [LB321]

SENATOR CARLSON: And right in the middle of the page it's "Reduce the per capita aid to public health departments," 502, and it's a \$133,000 cut. And I kind of look at some of the rest of them on there, at least on that page, and there aren't cuts. And I don't know if hitting you with it this cold, you could comment on the reason for that cut? [LB321]

SENATOR HEIDEMANN: Just one moment. Last year in the biennium, would have been '06-07, we added \$1.8 million for public health departments. This year we left that all in except, the way I understand it, \$133,750, first year; \$133,750, the second year. So we added quite a bit of money the year prior and we just took a little bit of that away in this biennium. [LB321]

SENATOR CARLSON: Okay. It just would have been a small percentage cut and not any particular explanation or reason. [LB321]

SENATOR HEIDEMANN: Not that I'm aware of right now. If I find that information out, I can sure get to you. [LB321]

SENATOR CARLSON: Okay. Thank you. Thank you, Mr. President. [LB321]

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SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Christensen, your light was on. He waives. Seeing no other lights on, Senator Heidemann, you are recognized to close on the committee amendment, AM728. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I appreciate the discussion on...the committee amendment to LB321. I think it's important that we probably didn't just breeze right through this, like Senator Schimek said. I believe that there were things to talk about. I appreciate Senator Howard bringing her amendment. I think it's going to give a little bit of direction to Health and Human Services about our intentions from the Appropriations Committee. I also appreciate comments made from other members of this body. With that, I do ask your support of AM728 to LB321. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the closing on AM728, the committee amendment to LB321. The question is, shall AM728 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB321]

CLERK: 36 ayes, 0 nays, on adoption of committee amendments. [LB321]

SENATOR LANGEMEIER: Committee amendments are adopted. We return now to LB321, the bill itself. Seeing no lights... [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President and... [LB321]

SENATOR LANGEMEIER: Seeing no lights on, Senator Heidemann, you are recognized to close. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members. Thank you for the support of the amendment. The amendment becomes the bill and I ask you to support LB321. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the closing on LB321. The question is, shall LB321 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB321]

CLERK: 35 ayes, 1 nay, Mr. President, on the advancement of LB321. [LB321]

SENATOR LANGEMEIER: LB321 does advance. (Visitors introduced.) Mr. Clerk, LB322. [LB321 LB322]

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CLERK: LB322, a bill by Speaker Flood at the request of the Governor. (Read title.) The bill was introduced on January 11, referred to Appropriations, advanced to General File. I do have committee amendments by the Appropriations Committee, Mr. President. (AM1077, Legislative Journal page 1289.) [LB322]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Heidemann, you are recognized to open on LB322. [LB322]

SENATOR HEIDEMANN: Mr. President, fellow members of the body, LB322 is the funds transfer bill. This bill, as introduced by the Speaker on behalf of the Governor, creates and renames several funds, strikes obsolete sections of the statutes, provides some funding for the Nebraska Public Safety Communication Systems, and makes transfers to and from various cash funds and the General Fund. The committee amendment becomes the bill and I'll speak more on that at that time. [LB322]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. As the Clerk has stated, there are amendments from the Appropriations Committee. Senator Heidemann, as Chair of the Appropriations Committee, you are recognized to open on the committee amendments. [LB322]

SENATOR HEIDEMANN: This is the amendment regarding the Public Safety Communication System. The bill utilizes cigarette tax dollars to buy down the system's General Fund cost. There are four steps to this part. The first part is that 2 cents of the cigarette tax revenue currently goes to the Information Technology Infrastructure Fund. Right now, this is being used to pay off the debt of the state's accounting system, the NIS. That debt will be paid off in fiscal year 2009. Since that debt will be paid off, that 2 cents is to be put into the Nebraska Public Safety Communication System Cash Fund starting in fiscal year 2009. There is also language added to ensure that the amount of money generated by 2 cents is at least \$2,050,000. Second, the Municipal Infrastructure Redevelopment Fund, or MIRF, money that comes from cigarette taxes, sunsets on June 30, 2009. Starting July 1, 2009, that \$520,000 will also go to the Public Safety Communication Fund. Third and fourth, we currently have \$1.5 million going to the City of the Metropolitan Class Development Fund and another \$1 million going to the City of the Primary Class Development Fund. These both sunset June 30, 2016. Once these provisions are sunset, we'll take these dollars to the Public Safety Communication Fund, as well. None of this increases cigarette taxes. All it does is redirect the current allocations once the NIS project is paid off and when the other sections are scheduled to sunset. These are transfers that the bills make: \$5.5 million from the General Fund to the EPIC Fund, June 30, 2008, per current law; \$5.5 million more from the General Fund to the EPIC Fund, June 30, 2008, per current law; \$2.5 million from the General Fund to the EPIC Fund by June 30, 2009, per current law; the entire balance in the Information Technology Infrastructure Fund to the Public Safety Communication Cash Fund on or before July 5, 2009; the entire balance of the MIRF fund to the Public Safety

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Communication Fund as soon as possible after August 1, 2009; and the entire balance of the City of the Metropolitan Class Development Fund and the City of the Primary Class Development Fund to the Public Safety Communication Fund as soon as possible after August 1, 2016. We increased the transfer from the Tobacco Settlement Trust Fund to the Medicaid Intergovernmental Trust Fund by \$2 million per year for biomedical research. We kept the building depreciation assessment at 1 percent; that is the current rate, but was scheduled to go to 2 percent starting the next fiscal year. We created two new funds: the Microenterprise Development Cash Fund, and the BECA Cash Fund. Finally, we capped the amount of nonhighway tax checkoff that gets deposited to the Agricultural Alcohol Fuel Tax Fund; this is to pay for the operations of the Ethanol Board. Now, amounts over \$550,000 will go into the EPIC Fund to help pay for ethanol production credits. This doesn't have any dollar impact. It's basically redirecting money from one cash fund to another. If you have any questions, I would be happy to answer them. I move the adoption of the committee amendment. [LB322]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the opening on LB322 and the committee amendments, AM1070. The floor is now open for discussion. Seeing no lights on, Senator Heidemann, you are recognized to close on AM1070. Senator Heidemann waives closing. The question is, shall AM1070 be adopted to LB322? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Senator Mines, you hit your call light. Did you want to do that or did you want to vote? Record, Mr. Clerk. [LB322]

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB322]

SENATOR LANGEMEIER: The committee amendments are adopted. We return now to discussion on LB322, the bill itself. Senator Mines, you are recognized. [LB322]

SENATOR MINES: Thank you, Mr. President. Would Senator Heidemann yield, please? [LB322]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB322]

SENATOR HEIDEMANN: Yes. [LB322]

SENATOR MINES: Senator, I come before you unprepared again, but I was just made aware that...and I believe you stated this in your amendment...I think MIFR is stripped from the budget in 2009. Did someone tell me that? [LB322]

SENATOR HEIDEMANN: Actually, it's not stripped. That's already current law that it would no longer be on past 2009, June 30. [LB322]

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SENATOR MINES: So there is a statute that someone adopted? [LB322]

SENATOR HEIDEMANN: That's already in place. We did nothing as far as MIRF money in Appropriations Committee. We just realized that that was going away at that time, and actually the Governor's Office did this and they redirected that money to the Public Safety Communication Fund. [LB322]

SENATOR MINES: Okay. Was there discussion in committee about that, do you recall? [LB322]

SENATOR HEIDEMANN: If it was, it was evidently pretty short because I don't recall it. [LB322]

SENATOR MINES: Okay. We'll be back later. Thank you. Thank you, Mr. President. [LB322]

SENATOR LANGEMEIER: Thank you, Senator Mines. Is there anyone else wishing to speak to LB322? Seeing no lights on, Senator Heidemann, you are recognized to close on LB322. [LB322]

SENATOR HEIDEMANN: Thank you for support of the amendment. The amendment now becomes the bill and I ask that you please support LB322. [LB322]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the closing on LB322. The question is, shall LB322 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wishes to? Record, Mr. Clerk. [LB322]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB322. [LB322]

SENATOR LANGEMEIER: LB322 does advance. Mr. Clerk, LB323. [LB322 LB323]

CLERK: LB323, a bill by the Speaker at the request of the Governor. (Read title.) Introduced on January 11, referred to Appropriations Committee, advanced to General File. There are committee amendments, Mr. President. (AM1090, Legislative Journal page 1289.) [LB323]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Heidemann, you are recognized to open on LB323. [LB323]

SENATOR HEIDEMANN: LB323 is a Cash Reserve Fund bill. This bill, as introduced by the Speaker on behalf of the Governor, amends Section 84-612 to provide for the following transfers to and from the Cash Reserve Fund. At the direction of the budget

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administrator, the State Treasurer shall transfer up to \$12 million from the Cash Reserve Fund to the State Employees Insurance Fund between May 1, 2007, and June 30, 2011, for employee health insurance claims and expenses. On July 9, 2007, the State Treasurer shall transfer \$12 million from the Cash Reserve Fund to the Nebraska Capital Construction Fund for the purchase of property within the Capitol environs. On July 9, 2007, the State Treasurer shall transfer \$5 million from the cash reserve to the Job Training Cash Fund. On July 7, 2008, the State Treasurer shall transfer \$5 million from the cash reserve to the Job Training Cash Fund. On or before June 30, 2008, at the direction of the budget administrator, the State Treasurer shall transfer \$75 million from the Cash Reserve Fund to the General Fund, and on or before June 30, 2011, at the direction of the budget administrator, the State Treasurer shall transfer to the Cash Reserve Fund an amount equal to the total amount transferred from the Cash Reserve Fund to the State Employees Insurance Fund between May 1, 2007, and June 30, 2011. The amendment would become the bill and I'll talk more at that time on that. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. As the Clerk has stated, there are amendments offered by the Appropriations Committee. Senator Heidemann, you are recognized...as Chair of the Appropriations Committee, you are recognized to open on the committee amendments. [LB323]

SENATOR HEIDEMANN: The amendment which would become the bill reflects the Appropriations Committee's recommendations which makes the following changes. Section 1, 2, and 4, eliminates the future transfers of interest income beginning July 1, 2007, from the Reserve Fund and the Building Renewal Allocation Fund. The amendment restores interest income from the Cash Reserve Fund to be deposited in the General Fund. You will notice this on line 13 of the status, which shows interest income returning to the General Fund with this amendment. In fiscal year '07-08, that figures is \$22,700,000; in '08-09 at \$19,400,000. These sections of the amendment eliminate the future statutory earmarks of interest income for the State Capitol Restoration Fund and for the Building Renewal Allocation Fund. State Capitol renovations will continue as planned, except financing will come from appropriations from the Nebraska Capital Construction Fund contained in LB320, and will be funded, in part, with a \$75 million transfer in Section 3 of this amendment. Section 3 includes original transfers as contained in LB323 with one variation: The transfer in the original bill submitted by the Governor of \$75 million to the General Fund is redirected in the amendment to the Nebraska Capital Construction Fund in subsection (16) in order to finance capital construction projects scheduled for completion in the next four years through fiscal year 2010 and fiscal year 2011. The original parts of LB323 retained in the amendment are contained in subsections (12) to (15) and (18). And Section 3 also includes new transfers as recommended by the Appropriations Committee...they are in subsection (17)...for a transfer of \$9,590,000 to the Nebraska Capital Construction Fund and the extension of the transfer in Section 3. Subsections (19) and (21) calls for an

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annual transfer of \$1 million to the Microenterprise Development Cash Fund; and in subsections (20) and (22), for an annual transfer of \$250,000 to the BECA Cash Fund. If you have any questions I would be happy to try to answer them. I move the adoptions of the committee amendments. [LB323 LB320]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the opening on LB323 and the committee amendments. AM1090. The floor is now open for discussion. Is there anyone wishing to speak to AM1090? Senator Erdman, you are recognized. [LB323]

SENATOR ERDMAN: Thank you, Mr. President. Senator Heidemann, would you yield to a question, please? And there may be more than one so I don't want to be specific, but it will be a series of questions, if that's more appropriate for your understanding. [LB323]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a series of questions? [LB323]

SENATOR HEIDEMANN: Yes. [LB323]

SENATOR ERDMAN: Thank you for your generosity. As we discussed earlier with LB320, that bill funds the capital construction for the state of Nebraska for the next two years. And if you read on page 87 of the orange booklet that you have distributed for our review, it outlines how much of the funding comes from the NCCF fund, and there's actually a funding that goes into the next biennium. As we talked earlier, if we transfer the funds--and I think this is just point of information; I don't think there is any surprise here--if we transfer the funds the way that we're proposing, our spending growth will be at around 4.5 percent. If we had chosen to do that capital construction out of the General Fund...in other words, if we had chosen to put that, instead of a transfer, if we had chosen to put that into spending, do you know what the proposed growth of the budget would be? [LB323 LB320]

SENATOR HEIDEMANN: I believe it's 4.7. [LB323]

SENATOR ERDMAN: Okay. I believe that's accurate if you take the total number of the Cash Reserve Fund dollars and divide that or take that as a percent of the total. In visiting with the staff of the Fiscal department, that actual number is closer to a half of a percent, so it's closer to 5. But it's treated that way because there are other ways that we transfer funds here and there and it's a matter of making sure that, if we're going to count transfers, that it changes this whole bottom line. That was the question that I was trying to get at with you earlier. I don't think there's anything here that's a problem, but I think your comment earlier, about if I would have read the book that I would have found that, actually if I would have read the book I wouldn't have found that. It was only

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because I did the research to figure out if I add \$35 million to each one of those years it adds about half a percent. So I just wanted to point that out that I had read it, I understand what we're doing here, but that there's also some realities that may not be obvious to the reader. And I hope, before the time we come up on Select File, that we'll have additional opportunities to review this, and as I have discussed with you, any issues or concerns people may have, because this is not just this bill but all of these packages, all these bills in this package, are a substantial investment by those of us in the Legislature for state spending, and I think it's important that we know exactly how this plays out. That was just an observation, and I appreciate your patience with me, and I thank you for your work, as well, and look forward to the discussion on Select File. Thank you, Mr. President. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Gay, you are recognized. [LB323]

SENATOR GAY: Thank you, Mr. President. Would Senator Heidemann yield to a question, please? [LB323]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question from Senator Gay? [LB323]

SENATOR HEIDEMANN: Yes. [LB323]

SENATOR GAY: Senator Heidemann, could you explain on the...you talked about the transfer to the State Health Insurance Fund. Is that like a contract negotiation or is that claims that we've already accrued during the process? [LB323]

SENATOR HEIDEMANN: That fund was running short. The Governor proposed, to make sure it didn't become insolvent, that we would transfer \$12 million in '06-07--you can see that in your Cash Reserve Fund on your status sheet--to that fund. And then by the year 2010-2011, you see that money coming back to the Cash Reserve Fund. They will pay that money back. It's just some money that we're going to give them to use to get them from a bad spot, hopefully to see them through some tough times. [LB323]

SENATOR GAY: Okay. I guess what I'm looking for, what are the...why is that? Is that because premiums or claims or...? Why are they having tough times? [LB323]

SENATOR HEIDEMANN: It's a combination of utilization and rates and costs that probably will have to be adjusted undoubtedly to get them back to where they need to be, and not only where they need to be, then to pay the \$12 million back. [LB323]

SENATOR GAY: Okay. When we look at some of the insurance benefits and things like that, we talk about savings. Is that reviewed or is that...has that been reviewed in the

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last couple of years, or..., you know, as far as benefits that are in that package? [LB323]

SENATOR HEIDEMANN: It's a bargained health insurance program and the Governor's Office, the administration, actually takes care of that. [LB323]

SENATOR GAY: So it's through contract negotiations. That's where we've got to this point then. [LB323]

SENATOR HEIDEMANN: I would probably agree with that, yes. [LB323]

SENATOR GAY: Okay. And I just wanted to get some clarification of kind of how we do that, so I appreciate it. Thank you, Mr. President. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Wightman, you are recognized. Senator Wightman waives his time. There are no other lights on. Senator Heidemann, you are recognized to close on AM1090. Senator Heidemann waives closing. The question is, shall AM1090 be adopted to LB323? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB323]

CLERK: 37 ayes, 0 nays, Mr. President, on adoption of the committee amendments. [LB323]

SENATOR LANGEMEIER: The committee amendments, AM1090, are adopted. We return now to discussion on LB323, the bill itself. There are no lights on. Senator Heidemann, you are recognized to close on LB323. [LB323]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. Thank you for support of the amendment. I do ask that you support now LB323. At this time I also want to recognize the committee and for all the hard work that they've put in over the last three months. They stuck with it. They asked the questions that they needed to ask. They got the information that they needed and they made those informed votes. I commend them for all their hard work and I think we're seeing it up here on the floor. Things went pretty good here today and I believe it's probably because of all the hard work that they put in over the last few months. I also appreciate all the work that the Fiscal Office has done. So I appreciate all that help and I ask for your support on LB323. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the closing on LB323. The question is, shall LB323 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB323]

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CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB323. [LB323]

SENATOR LANGEMEIER: LB323 does advance. Mr. Clerk, LB88. [LB323 LB88]

CLERK: LB88, by Senator Cornett. (Read title.) The bill was introduced on January 5, referred to the Business and Labor Committee, advanced to General File. I do have committee amendments. Mr. President. (AM993, Legislative Journal page 1306.) [LB88]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Cornett, you are recognized to open on LB88. [LB88]

SENATOR CORNETT: Thank you, Mr. President and members of the body. Unfortunately, this is going to be...take a little bit longer to go through than Senator Heidemann's bills. But LB88 is the annual approved claims bill brought by the Business and Labor Committee at request of Department of Administrative Services, Risk Management Division. LB88 appropriates funds for the payment of certain claims to authorize certain write-offs and to declare an emergency. Section 1 of the bill appropriates funds for miscellaneous claims. By statute, any approved miscellaneous claim in excess of \$10,000 must be reviewed by the Legislature. The bill requests payment from the General Fund for the following claims. The first claim is number 2006-00385 against the Department of Revenue for \$13,785.42: requesting a reissuance of an expired warrant. The second claim is against the Department of Health and Human Services in the amount of \$18,530 for the detention of a state ward, filed by the Douglas County Youth Center. The third claim is against the Attorney General's Office in the amount of \$19,128.28 for attorneys' fees and costs filed by the Nebraska Appleseed Center per a district court judgment in Bowlin v. Montanez. The fourth claim is against the Attorney General's Office in the amount of \$17,650 for attorneys' fees filed by Ogborn, Summerlin and Ogborn, per district court judgment in Spiering v. Johanns. The fifth claim is again the Secretary of State's Office for the payment of publication of constitutional amendments in the general and primary elections in the amount of \$1,238,723.69 to the Nebraska Press Advertising Service. Because we can't anticipate the cost or the length of constitutional amendments, the state goes through a claims process to appropriate funds retroactively. The miscellaneous claims total is \$1,307,817.39. Section 2 of the bill appropriates funds for the payments of tort claims under the State Tort Claims Act which have been settled by the Attorneys General in the district court or a judgment has been entered by a court and now requires the approval of the Legislature for payment. There are two tort claims included in the bill. The first is in the amount of \$20,000 against the state Department of Roads. This claim arose out of the Seward bus accident. A lawsuit was filed, a settlement was reached and approved by the District Court of Douglas County. The second claim involves 2007-01347 and 2007-01348, and arose out of an accident that involved a state vehicle. A settlement was reached and approved by the District Court of Lancaster County in the amount of \$233,000. Fifty thousand of this amount has already been paid to the

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claimants; \$183,000 represents the remaining settlement amount owed to the claimants and will be paid out of the State Insurance Fund. The tort claims total is \$203,000. Section 3 authorizes the Director of Administrative Service to issue warrants for the payment of claims bills. Section 4 authorizes the agency to write off certain unrecoverable debt. The following requests were reviewed and approved by the State Claims Board. The Supreme Court requests a write-off of \$356.29 in uncollectible debt arising from 2002 through 2004. The Clerk of the Legislature requests a write-off of \$19.96 in uncollectible debts for reproduction of legislative materials. The Workers' Compensation Court requests a write-off of \$1,074.94 in uncollectible debts for accounts from 2003 through 2005. The Game and Parks Commission requests a write-off of \$5,920.64 for 171 uncollectible checks totalling \$5,568.32 and one uncollectible amount of \$235.97. The Department of Health and Human Services Finance and Support filed requisite 2007-01297 to write off uncollectible debts in the amount of \$348,128.90. This amount involves various outstanding charges from 7-1 of 2005 through 6-30 of 2006 on patient accounts in the state regional facility. Health and Human Service Finance and Support filed 2007-01296 to write off \$6,272 of funds diverted for personal use by a former employee. The agency obtained a judgment against the employee, but the employee filed bankruptcy. HHS failed to file a petition in the bankruptcy; therefore, the debt was not ever recovered. HHS Finance and Support filed 2007-01299 to write off 34 bad checks in the amount of \$534 which were written to Office of Vital Statistics. Health and Human Service Regulation and Licensure filed 2007-01300 to write off uncollectible accounts in the amount of \$638. The Department of Correctional Services, Cornhusker State Industries requests a write-off of uncollectible debts for the period of 1994 through 2001 in the amount of \$16,982.37. Health and Human Services requests 2007-01317 to write off uncollectible debts in the amount of \$722,819.22 from AABD, CFS, CC, and ADC programs. Each of these claims is past the statute of limitations for collecting the debt. Health and Human Services for the Norfolk Veterans' Home filed Request 2007-01319 to write off \$5,278.28 for an uncollectible debt of a patient who passed away with no assets. The Military Department requests a write-off for uncollectible debts of \$10,537.58 associated with the National Guard Tuition Assistance Program. The State Fire Marshal requests a write-off for uncollectible debts in the amount of \$400 related to fees owed by grain elevators and feed mills. The total agency write-off requests are \$1,119,017.18. The Business and Labor Committee discussed the agency write-offs at length. In particular, the committee carefully reviewed the Health and Human Services write-off. I want to make it clear on the record that the Business and Labor Committee is not condoning or justifying the lack of accountability displayed by Health and Human Services for these large write-offs; however, these dollar amounts are for debt that is now unrecoverable, the vast majority of which are beyond the statute of limitations for collection or the debtor has passed away leaving no assets or has filed bankruptcy. We felt that it was best to wipe the slate clean for the new administrator. Leaving these uncollectible debts on the books would just create more confusion for the department. Moving forward, we hope to see more accountability and responsibility from Health and Human Services.

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With that, I would like to move on to the committee amendments. Thank you. [LB88]

SENATOR LANGEMEIER: Thank you, Senator Cornett. As stated by the Clerk, there are committee amendments offered by the Business and Labor Committee. Senator Cornett, as Chairman of the Business and Labor Committee, you are recognized to open on the committee amendments. [LB88]

SENATOR CORNETT: Thank you, Mr. President. The committee amendments would add the following three claims to be paid from the General Fund and accordingly adjust the total appropriations amount for miscellaneous claims under this bill. The first two claims are claims that were scheduled to be heard by the Claims Board prior to hearing on LB88 by the Business and Labor Committee. Due to the snowstorm, these two claims were not heard prior to LB88. Prior to the snowstorm, both claimants had been told and anticipated being included in this year's claims bill. The first claim is a claim number of 2007-01517 against the Department of Roads (sic--Revenue) in the amount of \$15,880 requesting the reissuance of an expired warrant. The original warrant was issued to a partnership for the sale of a tract of land to the Department of Roads. The partnership was in a legal dispute involving the dissolution of the partnership and, therefore, the check was not cashed during the one-year time frame. There is no dispute from the Department of Roads that this money is owed by the state. The second claim number is 2007-01594 against the Attorney General's Office in the amount of \$302,204.16 for attorneys' fees filed by Blackwell, Sanders, Peper, Martin per a United States District Court judgment in Jones v. Gale. This is the court case involving Initiative 300. As you know, the state lost this case and, due to the settlement of the AG's Office, was able to negotiate the costs of attorneys' fees. The settlement amount of \$302,204.16 is more than \$55,000 less than the actual attorneys' fees and costs. This settlement amount is contingent on the bill being paid by July 1, 2007. Because of these savings, the committee felt it was important to the state to include this claim within LB88. Additionally, if we do not move to pay this bill by July 1, we will incur additional interest. Finally, the third claim is against the state of Nebraska Health and Human Services System in the amount of \$830.35 for mileage reimbursement to an employee. The claim was originally denied by the Claims Board and was appealed to the Legislature in denied claims bill, LB89. At the hearing the committee was told there was no reason to question whether the employee deserved this mileage payment. The only reason she was denied her mileage payment was because she did not request it within the two-year time requirement. The Department of Administrative Services cited Nebraska Revised Statute 81-1174, claiming that expense reimbursements must be paid and submitted on a monthly basis. However, in the past, the Claims Boards has approved expense reimbursement up to a year and a half after the expenses were incurred. It was felt by the committee that this employee has no reason to believe that by submitting her claim for the reimbursement after two years she would be denied. The Claims Board has not consistently followed the monthly time frame in 81-1174, so we felt it was appropriate that this employee be reimbursed her mileage. With that, I would

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be...thank you for your time and be happy to answer any questions that you might have. [LB88 LB89]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Mr. Clerk, for a motion. [LB88]

CLERK: Senator Cornett would move to amend the committee amendments, Mr. President, with AM1156. (Legislative Journal page 1351.) [LB88]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Cornett, you are recognized to open on AM1156 to the committee amendment. [LB88]

SENATOR CORNETT: Thank you, Mr. Speaker. AM1156 makes a technical change to the committee amendments by striking the word "Revenue" and inserts "Roads." This is a simple drafting error so I would ask for your support in adopting the amendment. Thank you. [LB88]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the opening on LB88, the committee amendments, AM999...AM993, excuse me, and the amendment, AM1156. The floor is now open for discussion. Senator White, you are recognized. [LB88]

SENATOR WHITE: Thank you, Mr. President. I'd like to address several issues. First of all, I was present at the hearing with regard to Health and Human Services, and I would tell you that I was pretty horrified at the lax accounting that caused these losses. Nevertheless, I support the bill to write these amounts off. That is money under the bridge. It's water gone. And I would expect that hopefully we will take other actions as we move forward to address internal controls at Health and Human Services and continue to expect more from this agency. I also support the other aspects of the committee bill, although it pains me. I think the decision to pay the settlement and the attorneys' fees is the right one; it's economically the correct decision; it's responsible. Finally, the other provisions inside of the bill I believe are meritorious and are worthy of your vote. I'll be happy to stand for questions on specific ones, should they arise. Thank you, Mr. President. [LB88]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Pirsch, you are recognized. [LB88]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I just was wondering if Senator Cornett would yield for a question or two? [LB88]

SENATOR LANGEMEIER: Senator Cornett, would you yield to a question? [LB88]

SENATOR CORNETT: Yes. [LB88]

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SENATOR PIRSCH: And I'm sorry, Senator Cornett, if I missed it so I guess I would just ask for a little greater detail and we'll take this, and with regards to the more material amounts here, and I guess specifically on the green copy, page 2, there was a claim number 2007-01379. That was for the Secretary of State's Office in the amount of \$1,238,000. Could you once again just kind of give me a brief rundown of what that was composed of? [LB88]

SENATOR CORNETT: Yes. That is the amount that we incurred as a debt for the publication of the amendments on the ballots. [LB88]

SENATOR PIRSCH: I see. [LB88]

SENATOR CORNETT: The initiatives. [LB88]

SENATOR PIRSCH: Okay. Thank you for clarifying that. And then with respect to page 3, Tort Claim Number 2007-01347 against the Department of Roads, you indicated that was an accident involving a state vehicle. Is that correct? [LB88]

SENATOR CORNETT: Yes, it was. I do not know the details of the accident, per se. I know that the claimants were awarded \$183,000 and that a percentage of that has been paid and the remainder is what we still owe as a... [LB88]

SENATOR PIRSCH: Okay. With respect to page 5 on the green copy, it's Request Number 2007-01297, a sum of \$348,182... [LB88]

SENATOR CORNETT: Hold on one second. [LB88]

SENATOR PIRSCH: Okay. Yeah, page 5, line 10. [LB88]

SENATOR CORNETT: I've got it. Thank you very much. [LB88]

SENATOR PIRSCH: Yeah. And I apologize for going so quickly. And that's the Department of Health and Human Services. Is that what I understand...? Well, why don't you just, if you can, give just kind of brief statement as to what composes that number. [LB88]

SENATOR CORNETT: The majority of that is overpayments, that we have passed the statute of limitations as a state, to be able to collect or to go back and collect on. [LB88]

SENATOR PIRSCH: I see. And then later on, same page, page 5, now down at line 20, the sum of \$722,000, is that the same type of...? [LB88]

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SENATOR CORNETT: I've got...yes, it is. I've got a statement from the Business and Labor Committee from Health and Human Services. I believe it was from Chris Peterson. The agency is also asking to write off \$722,819.22 in uncollectible debts on the Health and Human Services' books from a portion of economic assistance programs. This one-time update is part of an effort by Health and Human Services to review and correct its financial records. They are write-offs, again, for overpayments. It says that they attempted to collect, and the due diligence wasn't necessarily given in the attempts to collect and now they are past the statute of limitations. [LB88]

SENATOR PIRSCH: I see. Okay. [LB88]

SENATOR CORNETT: I've got...if you would like to, we've got a breakdown of all of the...every claim owed. [LB88]

SENATOR PIRSCH: You know, that's all the questions I have and I do appreciate. [LB88]

SENATOR CORNETT: Okay. [LB88]

SENATOR PIRSCH: Yep. I'll yield. [LB88]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Stuthman, you are recognized. [LB88]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I'd like to engage in a little conversation with Senator Cornett. [LB88]

SENATOR LANGEMEIER: Senator Cornett, would you yield in a conversation? [LB88]

SENATOR CORNETT: Yes, Senator Stuthman. [LB88]

SENATOR STUTHMAN: Thank you. Senator Cornett, I also have some concerns about that 01317, that \$722,000. [LB88]

SENATOR CORNETT: Yes. [LB88]

SENATOR STUTHMAN: And I'm trying to recall what we discussed last year. We had a similar incident of Health and Human Services, you know, letting the time run out and they couldn't collect the debts anymore, and it just seemed like they just never worried about it. Is this what happened with this again? Is this the situation, that we have the statute of limitations, as far as trying to collect this money, they just let it run out? [LB88]

SENATOR CORNETT: Actually it is that they let the statute of limitations run out, but it's

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over a period of time. It's not just since last year. I believe it's over about a five-year time period. What happened is they've just went back and audited all their books and found that they had overpayments of these debts...or overpayments of these and had not tried to collect them, and it was discovered in an auditing process, a lot of them were. But, yes, it is that they were not following through and that they allowed the statute of limitations to run on the majority of these. [LB88]

SENATOR STUTHMAN: Senator Cornett, do you recall any of the discussion that we had similar to what we're having right now that there was a similar situation last year? And I don't recall how many dollars there was, but it was a large amount of dollars that was in this same situation. But now you're telling me that they went back through the books again and now we found another \$722,000. But I'm not aware of how many dollars it was last year that we debated, but I know there was a lot of debate and discussion on the floor when we was working on that portion of it. [LB88]

SENATOR CORNETT: I remember the discussion last year. I do not remember the dollar amounts that we discussed last year. I'm sorry about that. I can look that up, though, for you. [LB88]

SENATOR STUTHMAN: Yes. But I think this is one of the things that we've got to, you know, put their feet to the iron and make sure that they're accountable and make sure that, you know, if there is money that's been overpaid and it needs to come back, it needs to be repaid, I mean, I think there should be a procedure followed that they recapture those dollars because, you know, \$720,000 is a lot of money. There could have been a lot of programs that could have benefited with those dollars. But they continually come back to the state and need money and they're not doing their duty in trying to regain those dollars that were given to the programs and weren't utilized in the right manner. So I just want to get that on the record, that I have a real concern with that, and I hope that, you know, that this doesn't happen. I don't want to come back in two years from now and we've got another \$800,000 of, oh, well, we found it in the books again and, by gosh, we should have collected the money but we just left her go. So with that, thank you. [LB88]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Fulton, you are recognized. [LB88]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. Would Senator Cornett yield to a question? [LB88]

SENATOR LANGEMEIER: Senator Cornett, would you yield to a question? [LB88]

SENATOR CORNETT: Yes, Senator Fulton. [LB88]

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SENATOR FULTON: I have a question about how these claims will...? Where will the money come from? Will this actually occur by way of a new appropriation in this budget cycle or would this occur as a deficit spending? [LB88]

SENATOR CORNETT: It will be deficit appropriation in '06-07. [LB88]

SENATOR FULTON: Okay. [LB88]

SENATOR CORNETT: No. [LB88]

SENATOR FULTON: So, this...these... [LB88]

SENATOR CORNETT: Not in this budget. I'm sorry. We were just checking with Lavon. It will not be in this budget. [LB88]

SENATOR FULTON: Okay. Okay. So, to be clear, what we're talking about here will not affect this biennial budget. [LB88]

SENATOR CORNETT: No, it will not. [LB88]

SENATOR FULTON: No further questions. Thank you, Mr. President. [LB88]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Erdman, you are recognized. [LB88]

SENATOR ERDMAN: Mr. President and members of the Legislature, I rise to bring a related topic, but not specific to this claims bill, to your attention. At the committee hearing on Chris Peterson's appointment to the chief administrative officer for HHS, I did have a copy of the claims that were submitted to the Business and Labor Committee. And I actually did a quick accounting, and if my memory is correct, approximately 11 percent of those claims that are being written off would have or could have been avoided had the Department of Health and Human Services been given proper notice. And in a bill that I had introduced this session before the Judiciary Committee, the bill was killed and we hope to work through that next session. But in addition to making sure that our books are appropriate regarding claims and payments, we also need to make sure that if we need tools, that we're willing to give them to these agencies to make sure that they have the opportunity to file the appropriate claims necessary either on estates or under bankruptcy, to make sure that they have those tools available to them. So there are other things that are in the works, as well. I think the committee has done an exceptional job of analyzing these line by line, case by case, understanding the principles and procedures that are in place regarding the claims specifically for HHS. But in addition to the existing structure and tools, I firmly believe and am still committed to the idea that they should be given better notice because this is the state's money.

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And in the event that there is overpayment and we expect the department to comply with federal regulations in law in regards to how our money is spent, we need to give them the tools to do it effectively. Thank you, Mr. President. [LB88]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Pirsch, you are recognized. [LB88]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I guess Senator Erdman's statements raise a couple of good points with me. I guess I would wonder if Senator Cornett would yield for a question or two? [LB88]

SENATOR LANGEMEIER: Senator Cornett, would you yield to a question? [LB88]

SENATOR CORNETT: Yes. [LB88]

SENATOR PIRSCH: Thank you, Senator Cornett. I guess having reviewed the...I take it...did the committee take kind of a close examination of some of the breakdowns and the problems that led to this...the Health and Human Services foregoing the revenue that was owed to them? [LB88]

SENATOR CORNETT: Yes, we did, and it was a very extensive hearing. What kept...we kept hearing, time and time again, is that they did not have processes in place to keep track of these overpayments. There was testimony that paper documents had been lost. I've got a statement here, again from the committee hearing. In our conversation to our electronic recordkeeping system, many accounts were unable to be reconciled due to erroneous data transfers and corresponding paper records being destroyed. The amount of this write-off request comes from overpayments made to clients and providers of HHS between...and this gives the years. And then what, when looking at this, the overpayments, because my staff and I went through and looked at a lot of the claims that were past the statutes of limitations, and a lot of times they would only follow up with a phone call or a letter, and there was not necessarily what I would call due diligence in trying to recover this debt from a number of people. [LB88]

SENATOR PIRSCH: Okay. [LB88]

SENATOR CORNETT: Plus they did not keep paper records on a lot of it, even to who it was owed to. [LB88]

SENATOR PIRSCH: Um-hum. Well, thank you for the...based upon then your discussion with...during the committee meetings, have steps been taken to make sure that this type of problem doesn't happen in the future? And what would steps be if it was? [LB88]

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SENATOR CORNETT: Chris Peterson assured us that steps were being taken to correct the situation since she has been...was going to be appointed and has been appointed. Unfortunately, only time will tell whether that actually occurs under her administration. [LB88]

SENATOR PIRSCH: Very good. Was there any sort of pattern? You described that there was some...the fact that these records were not computerized or no... [LB88]

SENATOR CORNETT: Well, they were computerized. They testified that there was erroneous data transfer. And on particularly one of the claims, I believe it was from...it wasn't Health and Human Services...it was in regards to...I can't think of the name of the program with the prison system, that they simply destroyed the paper records and they had no other records as to who even owed them money. They just knew that they were owed money. [LB88]

SENATOR PIRSCH: Um-hum. And the particular problem that or solution that Senator Erdman raises, does that seem then to address a great deal of the problem that may be experienced? [LB88]

SENATOR CORNETT: You know, I have to express my ignorance. I am not on the Judiciary Committee and I did not read that bill that was killed in committee. I would be happy to answer that after reading the bill, but at this time I could not answer that. [LB88]

SENATOR PIRSCH: Very good. Thank you very much. That's all I have. [LB88]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Seeing no lights on, Senator Cornett, you are recognized to close on AM1156. [LB88]

SENATOR CORNETT: Thank you very much, Mr. President. AM1156, again, is just a technical amendment--it was a drafting error--striking the word "Revenue" and inserting the Department of "Roads." Thank you very much. [LB88]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on AM1156 to the committee amendments. The question is, shall AM1156 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB88]

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB88]

SENATOR LANGEMEIER: AM1156 is adopted. We return now back to the committee amendment, AM993. The floor is now open for discussion. Seeing no lights on, Senator

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Cornett, you are recognized to close on the committee amendments, AM993. [LB88]

SENATOR CORNETT: Thank you very much. I urge the body to support the passage of the amendment to LB88. It has to do with claims that were not able to be heard by the Claims Board because of the snowstorm; therefore, we had already heard LB88 prior to their hearing. If we do not pass the...particularly the second claim that I mentioned, Claim Number 2007-01594, it will cost the state an additional \$55,000, and that does not include the interest accrued. Thank you. [LB88]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on AM993 to LB88. The question is, shall AM993 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB88]

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB88]

SENATOR LANGEMEIER: The committee amendments are adopted. We return now to LB88, the bill itself. The floor is open for discussion. Seeing no lights on, Senator Cornett, you are recognized to close on LB88. [LB88]

SENATOR CORNETT: Thank you very much, Mr. President and members of the body. It is with some reservation that I urge the body to support LB88. We had long discussions in committee and I had to do a lot of, if you want to call, soul searching, whether some of these claims should be approved regarding Health and Human Services. We came...and I particularly came to the conclusion and the committee did that there is no reason not to. It was under a different administration. We need to give Chris Peterson and Health and Human Services a clean start and a place where we can begin to account, kind of a ground zero, if you want to speak. And this Legislature needs to pass LB88. Otherwise, this debt will be continued to carry over year after year and it is uncollectible. Thank you very much. [LB88]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on LB88. The question is, shall LB88 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB88]

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB88. [LB88]

SENATOR LANGEMEIER: LB88 does advance. Mr. Clerk, LB339. [LB88 LB339]

CLERK: LB339, by the Business and Labor Committee. (Read title.) Introduced on January 11, referred the Business and Labor Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM1125, Legislative Journal page 1305.) [LB339]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Cornett, you are recognized to open on LB339. [LB339]

SENATOR CORNETT: LB339 has essentially been rewritten by the committee amendments. I'm going to open on the amendment for LB339. The committee amendment rewrites the entire bill and makes the following changes. The amendment would place a two-year statute of limitations on claims brought under the State Miscellaneous Claims Act. The statute of limitations proposed by the committee would not apply to claims told under Section 25-213 of state agency write-offs, expired warrants, and claims brought under the Petroleum Release Remedial Action Act. This committee amendment was drafted in response to a recent Attorney General's Opinion. The AG's Office official Opinion is that the general statute of limitations contained in the Nebraska Revised Statute 25-218 applies to miscellaneous claims. Back in 1981, Attorney General Don Stenberg issued a similar Opinion stating that the general statute of limitations contained in 25-218 applied to miscellaneous claims. However, through the hearing process, our committee discovered that the Claims Board has inconsistently applied this general statute of limitations, even after the Opinion was issued in 1981. In fact, it is my understanding that in recent years the Department of Administrative Services and the Claims Board were unaware that this general statute of limitations even existed. Both the State Tort Claims Act and the State Contract Claims Act contain specific statutes of limitations, yet the Miscellaneous Claims Act has never contained one. Due to the recent AG's Opinion, the state has informed the committee that, without action by this Legislature, they will deny any miscellaneous claim outside the two-year limitations based on the AG's Opinion. For those members who were in the body last year, you may remember there was extensive floor debate regarding whether state-issued expired warrants should be denied on the basis of time deadline. As a committee, we think it is important that the state honor its obligations, so we have exempted out expired warrants from the statute of limitations, although also through the hearing process we were presented a miscellaneous claim to be paid from the Petroleum Remediation Act. This particular claim was denied by the State Claims Board solely on the basis of the general statute of limitations contained in 25-218. Though this claim was eventually settled outside of the Legislature, the committee felt strongly that the State Claims Board should not deny a claim from this fund based on a time deadline. This fund was set up to help those injured by petroleum leaks. We do not feel it is in the best interest of our state and its citizens to deny them access to these funds based on a time deadline so, as a committee, we have drafted the statute of limitations to exempt claims brought under the Petroleum Remediation Act. I would be happy to try and answer any questions that you might have and I urge the body to support the committee amendment. Thank you. [LB339]

SENATOR ERDMAN PRESIDING [LB339]

SENATOR ERDMAN: Thank you, Senator Cornett. Members, you've heard the opening

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on the committee amendment to LB339. Senator Lathrop, you're recognized to speak. [LB339]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I rise in support of the amendment and the bill, and I thought I'd take an opportunity just to explain what the change in the statute of limitations is. Under the Miscellaneous Claims Act, people can come before the Claims Board and make a variety of claims. And what we've done is we've...the Attorney General has said that there is a statute of limitations on these claims of two years. What we're trying to do with this amendment is to clarify the fact that you...two situations where a statute of limitations is not appropriate, and that's essentially what we're doing with the amendment. The first is in the Petroleum Remediation Act. And if you think about it, those claims are based upon a leaky storage tank for filling stations where they might contaminate or damage the water supply. Having a two-year statute of limitations doesn't serve any purpose or it is inappropriate because you may not know that you have a leak within the two years, and because your remedy is before a committee of the Legislature, purely political, we thought it more appropriate to not have a statute of limitations but merely to allow people to come before the committee with a claim after they've been before the Claims Board on damages that are the result of a gas leak from one of those tanks. The second situation has to do with warrants issued by the state. Some people...when the state issues a warrant, you have a year to cash it. If you don't cash it, you have two years to make a claim, and that has just resulted in too many people who are due money, or they wouldn't have had the warrant issued in the first place, not having a remedy. So what we've done is we've made an exception for these two circumstances. They are appropriate; they are based in reason; good logic behind them. And I would urge your support of AM1125 and LB339. Thank you. [LB339]

SENATOR ERDMAN: Thank you, Senator Lathrop. Senator Stuthman, you are recognized to speak on the committee amendment. [LB339]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to engage in a little conversation with Senator Cornett, if I may. [LB339]

SENATOR ERDMAN: Senator Cornett, would you engage in conversation with Senator Stuthman? [LB339]

SENATOR CORNETT: I'd be happy to. [LB339]

SENATOR STUTHMAN: Thank you. Senator Cornett, the expiration of a state warrant, does that state warrant ever come up on the list of unclaimed property? [LB339]

SENATOR CORNETT: I don't believe so, but I honestly don't know, Senator Stuthman. [LB339]

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SENATOR STUTHMAN: I mean, I'm looking at as, you know, the state comes out with unclaimed property that's been...a check that's been, you know, written, and they had to turn that amount of money over to the state and it's state property and it's an unclaimed gift certificate or some type of thing like that. How does this relate to the state warrant that's unclaimed? [LB339]

SENATOR CORNETT: Well, Chris Peterson and I are kind of playing a game of charades here. It looks like it does not show up at all on unclaimed property but I can double-check that and find out where. What this applies to is, in the last bill, I discussed one of the claims, and that was where a check was issued to a company and the company was being dissolved, and neither partners...the partners did not cash the check because they were in litigation, it sounded like, between one another, and the claim expired or the warrant expired. So they asked for a reissuance of the warrant. It is money owed by the state. They issue someone a check and for whatever reason, in this case it was a break up of a partnership, that check wasn't cashed. No one is saying that we don't owe the money. It's just the AG's Office has ruled that the expired warrants fall under this Miscellaneous Claims Act and the statute of limitations. [LB339]

SENATOR STUTHMAN: Okay, thank you, Senator Cornett. I was just trying to get a clarification as, you know, the relationship between a state warrant that would be a check to an individual for \$500 and he does not cash it until it expires. Is that an unclaimed parcel of property of that individual or will that never, ever get listed? Or the same situation could be if there was a \$150 gift certificate given to an individual and then that is reported as unclaimed property. I'm trying to get the relationship between the two, is what I'm trying to understand. On the one way we're saying, you know, we owe you \$200 but in two years you can't have the \$200. On the other one it is someone owes the individual, gave the individual \$200. If the guy didn't claim that property at that store or business then that business has to send that \$200 in for the unclaimed property. I'm trying to get the relationship between the two. [LB339]

SENATOR CORNETT: I actually...I don't believe there is a relationship. This is money that is owed by the state, that the state carries over these balances year after year. And in the past it has been paid out. It's just due to a current AG's Opinion that he has found that the expired warrants fall under the Misdemeanor (sic--Miscellaneous) Claims Act, and that money is sitting there and is owed by the state and we currently can't pay it off. That's why they've requested we change that for expired warrants. [LB339]

SENATOR STUTHMAN: Okay. Thank you. That fairly well answers the question that I have, but I still have concerns about the difference in the relationship between the two. The one is the state owes the person; the other one it is an individual, company, or business owes the person and he's never picked it up. [LB339]

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SENATOR ERDMAN: One minute. [LB339]

SENATOR CORNETT: That's why they brought the bill to us and asked us to fix this, is they understand that we owe this money and they want to be able to pay the people. And with the current AG's Opinion, they can't do that. [LB339]

SENATOR STUTHMAN: Okay. Thank you, Senator Cornett, and thank you, Mr. President. [LB339]

SENATOR ERDMAN: Thank you, Senator Stuthman and Senator Cornett, for your conversation. Senator Cornett, there are no lights on. You are recognized to close on the committee amendment. [LB339]

SENATOR CORNETT: Thank you very much. I just urge the body to support the committee amendments. It will resolve the issue that we have regarding the misdemeanor...or, pardon me, miscellaneous tort claims and the current AG's Opinion. Thank you very much. [LB339]

SENATOR ERDMAN: Thank you, Senator Cornett. Members, you've heard the closing on AM1125, the Business and Labor Committee amendments to LB339. All those in favor vote aye; all those opposed vote nay. Have all members voted who wish to? Record please, Mr. Clerk. [LB339]

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB339]

SENATOR ERDMAN: The committee amendments are adopted. We will now proceed to discussion of LB339. Seeing no lights on, Senator Cornett, you are recognized to close. Senator Cornett waives her opportunity to close. Members, the motion before you is the advancement of LB339 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all members voted who care to? Record please, Mr. Clerk. [LB339]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB339. [LB339]

SENATOR ERDMAN: LB339 does advance. Mr. Clerk, items for the record? [LB339]

CLERK: Mr. President, amendments to be printed: Senator Friend to LB321; Senator Synowiecki, LB508; and Senator Synowiecki to LB324A. That's all that I have, Mr. President. (Legislative Journal page 1352.) [LB321 LB508 LB324A]

SENATOR ERDMAN: Thank you, Mr. Clerk. Pursuant to the agenda, we will now return to LB658. Mr. Clerk, motion. [LB658]

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CLERK: Mr. President, the next amendment I have to LB658, Senator Raikes, AM1150. (Legislative Journal pages 1352-1353.) [LB658]

SENATOR ERDMAN: Senator Raikes, you are recognized to open AM1150. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. Continuing our discussion on LB658, this is another amendment to expedite the process for those interested in forming a Class I district. This particular amendment eliminates language that prevents a proposed Class I school district from dividing a precinct, dividing a voting precinct. We had this in the original proposal, believing that this was something that made it more feasible to have votes and election and that sort of thing; therefore, it was sort of an efficiency measure. But as we looked at voting precincts in various counties and how they're delineated, this would, in fact, cast a hardship on some people in some situations who may want to propose establishing a Class I school district. So, for that reason, we are eliminating that requirement in terms of developing a plan, and I urge your support. Thank you. [LB658]

SENATOR ERDMAN: Thank you, Senator Raikes. Members, you've heard the opening on AM1150. Are there any senators wishing to speak? Seeing none, Senator Raikes, you are recognized to close on AM1150. Senator Raikes waives his opportunity to close. Members, the motion before you is the adoption of AM1150. All those in favor vote aye; all those opposed vote nay. Have all members voted who care to? Have all members voted who care to? Please record, Mr. Clerk. [LB658]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Raikes's amendment. [LB658]

SENATOR ERDMAN: AM1150 is adopted. Mr. Clerk, next motion. [LB658]

CLERK: Senator Raikes would move to amend with AM1120. (Legislative Journal page 1353.) [LB658]

SENATOR ERDMAN: Senator Raikes, you are recognized to open on AM1120. [LB658]

SENATOR RAIKES: Thank you, Mr. President and members. We had, as you remember, in I think on General File, an amendment that provided a financial incentive for K-12 districts to keep former Class I attendance centers open and operating. That financial incentive was in the form of an allowance for increased needs calculation in the aid formula for those districts. We did not include in that mechanism anything for sparse and very sparse districts. The reason for that was the standard cost group does not reflect the costs of operating a school district where you have very sparse, or nonconcentrated, I'll put it that way, student numbers. So it made, I think, at least to me,

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good sense to include such an allowance for a standard cost group. For sparse and very sparse, we left it out because it made less sense from the standpoint that those cost groups reflect the cost of serving less-concentrated student populations. One request I had, and again this is on the order of trying to expedite and make things easier, was to include some financial incentive for sparse and very sparse school districts along those same lines. So what we're proposing in this amendment is that there is a financial incentive. Proportionately, it's half as large as what it is for the standard school districts, but there is something, an incentive, provided here for both sparse and very sparse. So that's your amendment. I would try to answer questions. I would urge your support. Thank you. [LB658]

SENATOR LANGEMEIER PRESIDING [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. You have heard the opening on AM1120, offered by Senator Raikes to LB658. The floor is now open for discussion on AM1120. Senator Carlson, you are recognized. [LB658]

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

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

SENATOR RAIKES: Yes, I would. [LB658]

SENATOR CARLSON: In the bill itself, where does it address the remote? Because your amendment now is an amendment to that, isn't it? [LB658]

SENATOR RAIKES: Are you looking at the E&R amendments? [LB658]

SENATOR CARLSON: Yes, I am. Yes. [LB658]

SENATOR RAIKES: I will try to find that for you, Senator. I don't have it... [LB658]

SENATOR CARLSON: Well, what's the...? [LB658]

SENATOR RAIKES: I'm told it is page 86, Section 69. [LB658]

SENATOR CARLSON: Okay. You can...if you'd help me out a bit here, what's the definition of remote there? [LB658]

SENATOR RAIKES: That's the name of the allowance. It's called the remote elementary allowance. It is for a standard cost group school district, as it's written in this E&R amendment. It would provide additional needs for students served in those remote sites.

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Remote sites are defined here as being 7 miles or more--that's down in line 21--from the nearest elementary school building in that same district. Now, I would remind you that earlier today we adopted an amendment that included, in addition to the 7 miles, included a school that was the only elementary in an incorporated city or village. [LB658]

SENATOR CARLSON: Okay. How does your amendment here relate to this or change that? [LB658]

SENATOR RAIKES: This would include not only standard cost group schools but would also include sparse or very sparse cost group schools, but the amount of the allowance would be proportionately half what it is for standard cost group schools. [LB658]

SENATOR CARLSON: Okay. Thank you, Senator Raikes. [LB658]

SENATOR RAIKES: Um-hum. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Seeing no lights on, Senator Raikes, you are recognized to close on AM1120. Senator Raikes waives closing. The question is, shall AM1120 be adopted to LB658? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Raikes's amendment. [LB658]

SENATOR LANGEMEIER: AM1120 is adopted. Mr. Clerk. [LB658]

CLERK: Senator Hudkins would move to amend, FA91. (Legislative Journal page 1353.) [LB658]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Hudkins, you are recognized to open on FA91. [LB658]

SENATOR HUDKINS: Thank you, Mr. President. Mr. Clerk, is that the one where it starts out "Delete Section 8?" [LB658]

CLERK: Page 7, strike Section 8(1). [LB658]

SENATOR HUDKINS: Yeah, that's it. Thank you. I would like to remove Section 8 because the way it reads now it says, "The school board of a Class II, III, or IV school district may call for a special election of the voters of an affiliated Class I school district to determine if such Class I school district shall be retained." And then you skip down a number of lines, line 16, and it says: Such special election may not be held more than

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once every two years. And I am opposing this because, first of all, I don't think that once there has been the K-12 vote to allow the Class I to go back, I don't think that there needs to be a vote every two years to reaffirm that decision. Now, I know it's only the Class I that votes on that retention of their Class I district, but at that point it should be up to the Class I district when they choose to no longer be a school. So I have talked to Senator Raikes. I won't put words in his mouth, and I think that he agrees with me on this, but I will give time to Senator Raikes, if he would want to comment on it. [LB658]

SENATOR LANGEMEIER: Senator Raikes, 8 minutes. [LB658]

SENATOR RAIKES: Thank you, Mr. President, and thank you, Senator Hudkins. My understanding, Senator, is that you plan to withdraw your next amendment? Okay. And I do support your amendment to withdraw Section 8, so I don't know that I need to take the rest of the time, but thank you. [LB658]

SENATOR LANGEMEIER: Senator Hudkins, would you like the remaining portion of your time, 7 minutes, 50 seconds? [LB658]

SENATOR HUDKINS: I'll just make a comment that, again, I don't want the Class I's to have to vote every two years on whether they maintain their existence or not, and so I would ask for your support in removing Section 8, subsection (1). Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. You have heard the opening on FA91, offered by Senator Hudkins to LB658. The floor is now open for discussion. Senator Raikes, your light is on; you are recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. I would like to bring you up to date here. Senator Hudkins' amendment, to eliminate the vote by the formed Class I district, I do support. I would remind you that today we've also eliminated the requirement that you not split a voting precinct. We've included an allowance for both very sparse and sparse school districts. We've allowed an allowance...that allowance to apply if there is an elementary in an incorporated city or village. We've adopted an amendment that provides that there has to be a budget if there are at least three students in the Class I. We have revised the option amendment, Senator Engel introduced that bill, which gives former Class I students an additional option. And we have adopted an amendment which prevents the K-12 school district from disposing of a building until those interested in forming a Class I district have an opportunity to do so. The one additional amendment that was mentioned was the E clause by Senator Erdman. I would be certainly willing to do that and would support that, but I think we're through there. I think we have gone as far as we need to go and it should go, so I hope you regard this as effort in good faith because that's the way it's been intended. We're trying our best here, but I think we've reached a point where

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we've made a good bill and we need to move forward once we get the E clause. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. There are no other lights on. Senator Hudkins, you are recognized to close. Senator Hudkins waives closing. The question before the body is, shall FA91 be adopted to LB658? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Hudkins' amendment. [LB658]

SENATOR LANGEMEIER: FA91 is adopted. Mr. Clerk. [LB658]

CLERK: Senator Carlson, I now have AM1149, but I understand you want to withdraw that one, Senator. That was that first amendment. [LB658]

SENATOR CARLSON: Withdraw. [LB658]

CLERK: Withdraw. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Carlson. It is withdrawn. Mr. Clerk. [LB658]

CLERK: Mr. President, Senator Hudkins, AM915. (Legislative Journal pages 1353-1355.) [LB658]

SENATOR LANGEMEIER: Senator Hudkins, you are recognized to open on AM915. [LB658]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. The intent of this amendment was to allow one additional way that Class I's could be formed. I discussed this amendment with Senator Raikes, who pointed out to me a couple of things that I had not read or realized or whatever. And so this amendment, when I'm finished here, will be withdrawn, but I just wanted to get in one more time of telling you why we need Class I schools. We've had a lot of discussion about what the voters were thinking when they voted 56.34 percent to 43.66 percent to repeal LB126. In at least three Nebraska Supreme Court cases dealing with determining voter intent, all three cases indicated that it's impossible to know what's in voters' minds when they're in the ballot box, so they had to use the ballot language as a guide. The choices that the voters had was either to retain or repeal LB126, and obviously, as you all know, they voted to repeal it. Therefore, it is reasonable to assume that they also intended to repeal the impacts of LB126. Unfortunately, that didn't happen. There were many, many

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organizations and hundreds and hundreds of individuals who collected signatures to, first of all, repeal LB126 absolutely. There were not enough signatures, but they did raise enough signatures to put this repeal on the ballot. I want to thank all of those people for doing what they thought was best for their school districts. LB658 is not what most people wanted out in the state, but, as I said before, there are still ways within this bill to reform a Class I district. I think that's all I need to say at this point. I appreciate Senator Raikes's willingness to look at changes that we had. He told me that he didn't mean to be surly and I said, yes, you did; and he said, yeah, you caught me there. But I don't think he is being surly. He is defending a position that is what he thinks is the best thing to do. Obviously, he and I disagree on this issue. But I do want to thank him for putting forth the amendments that we have voted on today and that do make it a better bill. I won't say makes a bad bill better, but you can put into that what you will. So with the amendments that we have put forward and have had agreement from Senator Raikes, we will go on. I have another amendment later on to add the emergency clause, after the discussion between Senator Raikes and Senator Erdman. So with that, Mr. President, I would withdraw AM915. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. AM915 is withdrawn. Mr. Clerk. [LB658]

CLERK: Mr. President, I now have Senator Hudkins' FA92. Senator, this is your emergency clause amendment. (Legislative Journal page 1356.) [LB658]

SENATOR LANGEMEIER: Senator Hudkins, you are recognized to open on FA92, the emergency clause. [LB658]

SENATOR HUDKINS: Thank you, Mr. President. And that's what this does. It simply adds the emergency clause to the bill, and I think Senator Raikes had indicated earlier that he was in support of this, after the discussion between himself and Senator Erdman. So I would ask everyone's green light to put on the emergency clause. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. You have heard the opening on FA92 to LB658. Senator Raikes, you are recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President and members. I do support this amendment. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Raikes. Is there anyone else wishing to speak to FA92? Seeing no lights on, Senator Hudkins, you are recognized to close. Senator Hudkins waives closing on FA92. The question before the body is, shall FA92 be adopted to LB658? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

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CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Hudkins' amendment. [LB658]

SENATOR LANGEMEIER: FA92 is adopted. Mr. Clerk. [LB658]

CLERK: Mr. President, Senator Carlson would move to amend, AM1168. (Legislative Journal page 1356.) [LB658]

SENATOR LANGEMEIER: Senator Carlson, you are recognized to open on AM1168. [LB658]

SENATOR CARLSON: Mr. President, members of the Legislature, I do rise to present AM1168 to LB658, and I'm sorry for not honoring, I guess, the request of Senator Raikes with no more amendments, but I have no intent of talking about anything on Final Reading, and this is the last opportunity. I talked this morning about unintended consequences of LB126, and a district like Holdrege did not receive nearly enough assets to cover the additional expenses brought on by LB126. Holdrege lost a significant amount of property valuation to four other districts with the passage of LB126. Many other districts gained property value. But because of this, Holdrege inherited an unfunded mandate. I believe there is a significant issue of fairness here, even though it was very much unintended. But when a result is unintentional and yet fixable, I think it should be addressed. I had said this morning Holdrege spent an additional \$320,000 in complying with LB126 for this 2006-2007 school year, and again in the total picture of the state, that's not a large amount of money, but in a district like Holdrege it's a very significant amount and depleted their cash reserves. I believe that the state needs to refund these dollars where Class I assets weren't sufficient to do so. And this shortfall was caused by integrating 21 Class I FTEs into the Holdrege system, and so I believe that AM1168 addresses this problem and would ask for your consideration. AM1168 would say the districts into which one or more Class I districts were merged in June of 2006 and whose full-time equivalent, certified employees represented 20 percent or more of the FTEs of the district into which they were merged, that district would be reimbursed for these expenses. I believe AM1168 addresses this unintended consequence and I urge the Legislature to support it. Thank you. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Carlson. You have heard the opening AM1168, offered to LB658. The floor is now open for discussion. We have Senators Dierks, Raikes, Wightman, and Loudon. Senator Dierks, you are recognized. [LB658]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. I guess I'm here to try to do some damage control. I'm not sure we did ourselves any favors. I think we shot ourselves right in the foot earlier today. But this is an amendment I think should be brought forth to help heal some of the wounds that occurred with the LB126 fiasco.

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So I will support this amendment and I'd urge you to do the same thing. Thank you.  
[LB658]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator Raikes, you are recognized. [LB658]

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. I'm going to present a little different view than Senator Dierks just did. The issues that Senator Carlson raises are real issues. They have, I think, certainly in a broader context, very little to do with LB126. Holdrege is one of many school districts in the state that has suffered a chronic declining enrollment. I saw some statistics which have escaped me a little bit, but I think over the last ten years they've lost about 300 students, dropping from around 1,400 down to about 1,100 or something in that range. Our state aid formula now funds...or calculates needs on the basis of per student. So the presumption in that is if you have 10 percent less students, you will incur 10 percent fewer costs. And certainly there are the costs of keeping the doors open, of having an ongoing operation, a basic staff and so on, which that arrangement ignores. The issue that he is really talking about, and he's is quite correct in that, is the state aid formula and revisions that would deal more effectively with school districts experiencing declining enrollments. We have worked on that issue for a long time; we continue to work on it. In fact, there is a bill in the committee this year, I think it's LB659 (sic--LB649), which continues that effort, but we're not going to get to that this session. The specific intersection with LB126 for Holdrege was that they had, I think, 21 teachers, 21 full-time equivalents or a number like that, of teachers that were in Class I schools and paid substantially less than the ones in the K-12 district. One of the provisions of LB126 was that there was a standard or a common salary schedule across the combined district, the K-12 plus the Class I's that were incorporated. I think few would argue, given teachers' salaries in the state in general, and particularly teachers' salaries in what were formerly Class I school districts, that increasing those salaries on the average is a bad thing. I think that was a good thing and a much needed thing. So I'm certainly not apologizing for the impact of LB126, and in Holdrege's case I think that there were about 21 teachers that the cost to the school districts, which include salary plus benefits, amounted to, as I understand it, about \$15,000 per teacher. So it was a substantial increase in pay for those teachers, or another way to look at it, they were substantially underpaid before LB126, as compared to their counterparts in the K-12 district. Holdrege, like every other equalized school district, and Holdrege is an equalized school district, received state aid to the...Senator Carlson mentioned, and he's correct, in their particular situation they lost some property valuation. Our equalization formula is meant specifically to address that. To the extent that needs are not met by local property resources, additional state aid comes the district's way, and that's exactly what is going to happen with Holdrege. He makes the point, and I think effectively, that in this one particular year the increase in the salaries for those teachers is going to have to be absorbed, and he's right about that. But this is not the appropriate

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way to deal with that... [LB658 LB649]

SENATOR LANGEMEIER: One minute. [LB658]

SENATOR RAIKES: ...and no doubt that, I'd just mention, that there are some other districts where this happened, as well. So even though I empathize with the problem, I think it is something that we need to address, this is not the way, at this particular time, to do it, so I don't support the amendment. Thank you. [LB658]

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

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I'm wondering if Senator Carlson would yield to a couple of questions. [LB658]

SENATOR LANGEMEIER: Senator Carlson, would you yield to questions? [LB658]

SENATOR CARLSON: Yes, I would. [LB658]

SENATOR WIGHTMAN: Senator Carlson, have you done...do you have a fiscal note on this as to what it would cost over the state? [LB658]

SENATOR CARLSON: I don't know what it would cost over the state and I don't know how accurate I am, Senator Wightman, on this. When I included in there that if with the K-12 district integrating the Class I teachers was equal to a 20 percent or more of the total FTEs in the K-12 district, I think that Holdrege may be the only one that high. [LB658]

SENATOR WIGHTMAN: You believe that it creates a relatively small class and maybe a class of one. Is that correct? [LB658]

SENATOR CARLSON: Say that again. [LB658]

SENATOR WIGHTMAN: You believe that it would constitute a relatively small class and perhaps a class of one, huh? [LB658]

SENATOR CARLSON: Maybe so, maybe so. [LB658]

SENATOR WIGHTMAN: Okay. I guess that's the only question I have. Thank you. [LB658]

SENATOR CARLSON: Thank you. [LB658]

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

SENATOR LOUDEN: Thank you, Mr. President and members of the body. LB658 is probably a way that Class I's can be formed. There were ways that it could have been made better. Whenever you have something like this, if you want to have local control and local people do things like that, it's got to be a little bit more explicit. It's got to be easy to do and it can't be set up so that somebody can be held hostage. My concern is, with LB658, that with the voting in there, although the percentages have been lowered, that we probably perhaps still have some chances for, if a Class I wanted to be formed, to be somewhat held hostage and there would probably be very few instances where they could be formed. When you have to get your percentages, 10 percent of the district, why, then your larger districts around, such as Senator Carlson mentioned with Holdrege or something, I don't know if they would ever allow a Class I to be formed in that district. I am concerned that as we always go through these convulsions with working over this school system, it's odd that the Legislature can never come up with a system that makes most of the people satisfied in the state of Nebraska. You either tear it up for one end of the state or the other. You ripped it all up for the western part of the state here in LB126, turned around and did the same thing with LB1024. The difference is we're going to be discussing the whole thing again, and somewhere along the line it looks like to me we ought to be able to figure out how to do this right. I don't know if this is the answer this time, but I would hope that by the time we get done with Omaha's deal that someplace along the state of Nebraska that they would come up with a system that people would be satisfied and we would get it done right. Thank you, Mr. President. [LB658]

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

SENATOR HARMS: Mr. President and colleagues, I really wanted to talk to Senator Carlson. Since he's not here, I'll try to catch him when he gets back into the Chamber. So thank you, Mr. President. [LB658]

SENATOR LANGEMEIER: Thank you, Senator Harms. There are no lights on, so, Senator Carlson, you are recognized to close on AM1168. Senator Carlson, you are recognized to close. [LB658]

SENATOR CARLSON: Thank you, Mr. President. Sorry that I stepped out. I believe that as we look at a situation again where there is a degree of unfairness and there is an opportunity to do something about it, I believe that we should do it. I will give you an example of what, in terms of amounts of dollars, I believe this equates to. I looked at total dollars for our K-12 systems, and if we equated that to pretending that we had 2,120 senators in this Chamber and we found out that one of them hadn't received the

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\$1,000 salary, what are we going to do about it? We either figure out that the 2,120 senators get together and make whole that one that didn't get the salary or we find the money someplace else. And in that case, it would amount to 34 cents a senator, and that's about what we're talking about with this amount of money in relation to the money spent in the K-12 systems in our state. So I appreciate your listening and I appreciate the consideration. I would ask that you vote for AM1168 and I would like a call of the house. [LB658]

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

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call. [LB658]

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. All senators are present or accounted for. Senator Carlson, how do you wish to proceed? There has been a request for a machine vote. The question is, shall AM1168 be adopted to LB658? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB658]

CLERK: 11 ayes, 15 nays, Mr. President, on the amendment. [LB658]

SENATOR LANGEMEIER: AM1168 is not adopted. With that I raise the call. [LB658]

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We return to discussion on LB658, the bill itself. Seeing no lights on, Senator Raikes, you are recognized to close on LB658. [LB658]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I appreciate your hard work, whether you were always on my side or not. I think we've done a lot of good work on this bill. I think it is something that represents good policy and represents something that is very consistent with what we've heard from, from not only from the voters but very consistent with what amounts to good state policy in school district organization. So with that, I urge your support for its advancement. Thank you. [LB658]

SENATOR LANGEMEIER: You have heard the closing on LB658. All those in favor say aye; all those opposed say nay. All those...there has been a request for a machine vote. The question is, shall LB658 advance to E&R for engrossing? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk.

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[LB658]

CLERK: 31 ayes, 11 nays, Mr. President, on the advancement of LB658. [LB658]

SENATOR LANGEMEIER: LB658 does advance. Mr. Clerk. [LB658]

CLERK: Mr. President, I have a priority motion. Senator McGill would move to adjourn until Wednesday morning, May 2, at 9:00 a.m. []

SENATOR LANGEMEIER: You have heard the motion by Senator McGill to adjourn until Wednesday morning, May 2, at 9:00 a.m. All those in favor say aye. All those opposed say nay. The ayes have it. We are adjourned. []