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Floor Debate  
March 02, 2010

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-fifth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Reverend Ryan Lewis from St. Thomas More Church in Omaha, guest of Senator Krist and Senator Mello. Would you all please rise.

REVEREND LEWIS: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Reverend Lewis. I call to order the thirty-fifth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Enrollment and Review reports LB1002 to Select File with E&R amendments attached; notice of hearing from Revenue Committee signed by Senator Cornett, as Chair. That's all that I have at this time. (Legislative Journal pages 713-714.) [LB1002]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Doctor of the day and visitors introduced.) Mr. Clerk, we will move to the first item on the agenda under legislative confirmation reports.

CLERK: Mr. President, the Retirement Systems Committee reports on the appointment of Randall Rehmeier to the Public Employees Retirement Board. (Legislative Journal page 688.)

PRESIDENT SHEEHY: Senator Pankonin, you're recognized to open on the Nebraska

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Retirement System confirmation report.

SENATOR PANKONIN: Good morning, Mr. President, members of the Legislature. The Nebraska Retirement Systems Committee held a confirmation hearing on February 25 for Judge Randall Rehmeier, who has been appointed by the Governor to serve the remainder of Judge Camerer's term on the Public Employees Retirement Board. This term expires on January 1, 2011. The Public Employees Retirement Board oversees all of the state-administered retirement plans. Judge Rehmeier received his B.A. in business administration from UNL and in 1972 earned his juris doctorate from the University of Nebraska. He served as the Otoe County Attorney for 15 years and was appointed as county court judge in 1987. He has served as district county judge since his appointment to this position in 1990. The past four years he has served as chair of the district court judge retirement committee. He brings his experience, dedication, and a strong work ethic to this position and he will be an excellent addition to the Public Employees Retirement Board. On a personal note, Judge Rehmeier is a native of Cass County and lives in Nebraska City. He will be an outstanding member of NPERS. The Retirement Committee unanimously voted to move Judge Rehmeier's appointment to the Legislature for confirmation. I would ask for your support in confirming this appointment.

PRESIDENT SHEEHY: Thank you, Senator Pankonin. You've heard the opening of the Nebraska Retirement Systems confirmation report. Are there members requesting to speak? Seeing none, Senator Pankonin, you're recognized to close. Senator Pankonin waives closing. The question before the body is on the adoption of the confirmation report from the Nebraska Retirement Systems. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 714.) 36 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

PRESIDENT SHEEHY: The confirmation report is adopted. Speaker Flood, you are recognized for an announcement.

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. In my office, we've been fielding a number of questions about how today's agenda will operate so, for those of you who are still a little unclear, I want to walk through how an agenda with different time designations work. This morning, obviously, we begin our work with the confirmation report, which we just adopted, and we'll work through General File on the agenda, as we work our way through the bills. At 1:30, when we return after our noon recess, we will begin with LB1006, the first bill listed under the Select File Carlson division. After completing that bill, we will continue to work our way down the agenda from that point forward. At 2:30, we will stop wherever we are on the agenda and move to the General File Haar division and begin debate of LB763 and, once again, once that

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bill is completed, we will continue to work our way down the agenda from that point forward. When times are listed on the agenda, we only move back to the top of the agenda if it is so noted on the agenda. So that hopefully provides a little extra clarity for today's lengthy agenda. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. We'll move to the first item under General File, 2010 Senator priority bills, Cornett division, LB1036. [LB1036]

CLERK: LB1036, a bill by Senator Council. (Read title.) Bill was introduced on January 21 of this year, Mr. President, at that time referred to the Health and Human Services Committee for public hearing, the bill was advanced to General File. There are Health Committee amendments pending. (AM1839, Legislative Journal page 600.) [LB1036]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Council, you're recognized to open on LB1036. [LB1036]

SENATOR COUNCIL: Yes, thank you, Mr. President. Again, I rise to offer for this body's consideration adoption of LB1036. The purpose of LB1036 is to adopt a 2006 version of the Uniform Anatomical Gift Act. Nebraska adopted the original Uniform Anatomical Gift Act in 1971 and it has been substantially revised since that time by others, including a 1987 version of the law that was enacted in every state except Nebraska. Additionally, the law on anatomical gifts is no longer uniform or harmonious because of changing federal law, new technologies, and current practices with regard to organ, tissue, and eye donation. And while the Uniform Anatomical Gift Act of 2009, excuse me, 2006 harmonizes the uniform act with federal law, current technology, and practice and advanced medical directives, it does so operating on the premise that we maintain the moral worth and dignity of each human being, that we recognize an individual's right to govern disposition of his or her body after death, and a recognition and respect for the wishes and feelings of the families of deceased individuals if the individual has not made a choice. These objectives are achieved in a variety of ways under the 2006 version of the act, including strengthening substantially first-person consent to bar others from amending or revoking a gift or a donor's refusal to provide a gift. It facilitates gifts by family and agents if the deceased has not acted to make or refuse to make an anatomical gift. It provides for cooperation and coordination between procurement organizations and medical examiners, particularly with regard to procurement from potential donors under the jurisdiction of a medical examiner. The primary purpose of the Uniform Anatomical Gift Act is to facilitate and encourage donations and the 2006 version does that while also achieving the objective of uniformity among the states. Now the act that is before you now does reflect some amendments to the uniform act and those amendments were made after diligent discussions and negotiations between all interested parties, medical providers, organ recovery organizations, the Catholic Conference, representatives of the Uniform Law Commission. I must tell you that what you have before you with the amendments that will be offered by the committee Chair,

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Senator Gay, what you have before you is a prime example of individuals coming together and working collectively to arrive at a bill that will advance the interests of the state of Nebraska in encouraging organ donations while at the same time placing us in a position of being consistent with the acts of other states across the nation. As I stated, this version of the 2006 act is strongly supported by organ, eye, and tissue procurement organizations, as well as the universities, the hospitals, and the medical centers. Now I think Senator Gay will be, through the amendment, addressing one of the issues that came up during the consideration of this measure and, as you will see, there was a fiscal note originally associated with the bill. One of the amendments addresses that issue and, thus, eliminates the fiscal note by bringing into play the Nebraska Anatomical Gift Board. I want to thank Senator Stuthman for designating LB1036 as his priority because he, like many others who have worked on this bill, appreciate and understand the importance of having a clear and definitive policy on organ donations, one that is consistent with those policies enacted in other states. And with that, I would urge you to consider the committee amendment and the amendment to the committee amendments that will be coming to you through Senator Gay. Thank you. [LB1036]

PRESIDENT SHEEHY: Thank you, Senator Council. You've heard the opening of LB1036. As was noted, there is a Health and Human Services amendment, AM1839. Senator Gay, you're recognized to open. [LB1036]

SENATOR GAY: Thank you, Mr. President. The committee amendment changes a few things and one is the minimum age of donation, changes from...to 16 the minimum allowable age for a minor to donate an organ through a driver's license or an identification card. LB1036 would have allowed the age to be 13, so that's raised. It also...Section 9 specifies a priority list for the class of people who can donate a decedent's body or organ at the time of death, and the committee amendment adds "other than any medical personnel caring for the decedent at the time or immediately leading up to the decedent's death" after "an adult who exhibited special care and concern for the decedent," in the (9) priority class. Also, there's a quick technical amendment that adds the State Anatomical Board as an organization that may receive the gift of a body for the purpose of research or education under the Anatomical Gift Act. And also regarding the definition for "declaration," specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor. The committee amendment changes "life-support system" to life-support (sic) treatment. Thank you, Mr. President. [LB1036]

PRESIDENT SHEEHY: Thank you, Senator Gay. Madam Clerk, you have an amendment to the committee amendment. [LB1036]

ASSISTANT CLERK: Mr. President, Senator Gay would move to amend the committee amendments with AM2066. (Legislative Journal page 709.) [LB1036]

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PRESIDENT SHEEHY: Senator Gay, you're recognized to open on the amendment to committee amendment, AM2066. [LB1036]

SENATOR GAY: Thank you, Mr. President. Senator Council alluded to the complexity of something like this, and it is. I also would like to take a minute to thank the people working on this and Larry Ruth, representing the state on Uniform Law Commission, and Jim Cunningham with the Nebraska Catholic Conference have worked very well together and I think helped this bill along quite a bit. But I'd say they're both very professional. This amendment then is from their work and working with Senator Council as well and the committee. But what this amendment does, it adds clarity and emphasis to the test that is to be used when determining whether measures may be used to ensure the suitability of the organ. It integrates into the Department of Motor Vehicles statutes the 16 years of age threshold set under the committee amendment to be able to donate, which was when we talked about going from 13 to 16. This kind of meshed those together with the DMV language in the law. It clarifies that those having made an organ donation by driver's license under the current law who are only 13, 14, or 15 years old have made a valid donation. So if they're already made a donation under the current law this clarified it but that their parents have the right to revoke or amend the donation as long as they are an unemancipated minor when they die. So the parents have a say in the people who have made a donation right now and they will...so it put a little strength in the parent's ability to approve or disapprove. It also amends the committee amendment to maintain the public policy that a gift specifying only a general intent to make an anatomical gift by such words as "donor" or "organ donor," that the gift is to be used only for the transplantation or therapy, not expanded to assume they have made a whole body donation to the State Anatomical Board. So they are donating organs, not their whole body for research, so this clarifies that as well. Thank you, Mr. President. [LB1036]

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening of the amendment to committee amendment, AM2066 to AM1839. Members requesting to speak: Senator Gloor, Senator Stuthman, and Senator Loudon. Senator Gloor, you're recognized. [LB1036]

SENATOR GLOOR: Good morning, Mr. President, members of the body. I wonder if Senator Council would yield to a question. [LB1036]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Gloor? [LB1036]

SENATOR COUNCIL: Yes, sir. [LB1036]

SENATOR GLOOR: Senator Council, on page 14, lines 11 and 12 of the bill, it's a section that deals with the default provisions who can make decisions about this important issue and number ten is actually...under lines 11 and 12, would be the last of

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those people involved. And it says, "Any other person having the authority to dispose of the decedent's body." From a social justice standpoint, can you offer me some degree of comfort that the donor is protected in this instance? [LB1036]

SENATOR COUNCIL: Yes. And that's an excellent question, Senator Gloor. That was one of the issues that was an issue of concern that the parties have addressed during their discussions, and there was a concern that, like homeless individuals or transient individuals, they would not be respected with regard to those issues. But I think by adding the, for example, the State Anatomical Gift Board as an organization that can receive a body that we're looking to protect and respect the rights of all individuals, and I believe that the bill with the amendments, and Senator Gay has not addressed each and every amendment, but that was one of the issues that was raised and it is my understanding that all of the parties are in agreement that the bill, as it stands after the amendment, will sufficiently and adequately address that issue. [LB1036]

SENATOR GLOOR: Thank you, Senator Council. I think, fellow members, that's a good example of the effort that's gone into refining and further defining this bill. And to Senator Council's credit, she's put an awful lot of effort into this. This is an important issue. Organ donations are an area that this country and this state fall woefully short in. Additional efforts certainly can be made in this effort but this is a good start. My thanks also to Senator Stuthman for prioritizing this bill. I am in support of both the amendments, the effort that's gone into the amendments, and the underlying bill, LB1036, and would urge my peers to please vote in support of this. Thank you, Mr. President. [LB1036]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Stuthman, you're recognized. [LB1036]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. First of all, I want to thank Senator Council for introducing this bill this year and I think it is very important that we pass this bill. I want to explain one of the reasons why I decided to have this as my priority bill. This is the last year I will be able to prioritize anything and this is my last priority bill, my personal priority bill. And I think it's very important that we have a Uniform Anatomical Gift Act that is uniform throughout all the states of the nation. I think that's very important. But the main benefit, in my opinion, is that when we adopt this uniform act I think it is the benefit to the people that will be receiving, you know, these organs to help them to sustain their life. There are a lot of individuals that wait for a long time for someone to donate an organ and I think that's very, very important. And if we can have this uniform act to make it uniform throughout the states on the ability to donate the organs and the people receiving these organs, because I know of...I do personally know of individuals that have received these organs and have gone to live a normal life. I think that's very important. And I think it will be...it's one of the things, to me, why I chose this bill, is that it can help a lot of people in years

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to come that they can lead and have a healthy life, you know, for many, many years; just the fact that, you know, we are allowing, you know, people to donate organs, we're allowing people to receive these organs, and it's a uniform process to go through. And I appreciate everything that's been done with this bill and I especially want to thank Senator Council for bringing this bill and I truly appreciate that. Thank you and we need to pass this bill. Thank you, Lieutenant Governor. [LB1036]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Wightman, you're...or, correction, Senator Louden, you're recognized. [LB1036]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Council yield for questions, if she would, please? [LB1036]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Louden? [LB1036]

SENATOR COUNCIL: Yes, sir. [LB1036]

SENATOR LOUDEN: Senator Council, as I look through some of the bill, in Section 16 I think mostly talks about the felonies and the...some of the rules of law on the thing. At this time, does Nebraska have anything on statutes that govern any kind of issue like this, for instance, a few years ago when a funeral home was selling body parts or something like that? Now does Nebraska have anything at the present time that makes that against the law or is this what this is going to address? [LB1036]

SENATOR COUNCIL: Well, Senator Louden, Nebraska currently has in effect the 1971 version of the Anatomical Gift Act and it provides penalties for violations of the act similar to those found in this version. [LB1036]

SENATOR LOUDEN: Okay. Thank you. And then does...then, therefore, this would include funeral homes, hospitals, or anyone...anything like that? [LB1036]

SENATOR COUNCIL: A person is broadly defined under the act and so it would be broad enough to cover those types of situations. [LB1036]

SENATOR LOUDEN: Okay. Thank you, Senator Council. As I look through the bill, I think this is something that we probably need to have clarified in the state of Nebraska, so I will support the bill and the amendments to it. Thank you, Mr. President. [LB1036]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Wightman, you're recognized. [LB1036]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. If Senator Council would yield to a question, I had one question. [LB1036]

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PRESIDENT SHEEHY: Senator Council, would you yield to Senator Wightman?  
[LB1036]

SENATOR COUNCIL: Yes, sir. [LB1036]

SENATOR WIGHTMAN: Senator Council, as many members of this body do, we look at the committee statement and I notice there was an opponent. NATA was opposed to the bill and I'm wondering if you tell us. Generally, I think I'm in support of the bill, but I did want to know the answer to that, if I could. [LB1036]

SENATOR COUNCIL: Yes, Senator Wightman. The Nebraska Association of Trial Attorneys did raise one objection to the bill and that's found on page 23 of the green copy, and it has to do with the fact that the current law under the 1971 version of the act, that has been in place since 1971, it provides immunity and the Trial Attorneys, you know, are generally opposed to immunity provisions. And there will be an amendment after the committee amendments that are addressed, we have worked out that issue as well with the Trial Attorneys and that will be addressed by placing in Section 18, which begins at line 14, the phrase "reasonable care," so that in terms of who the immunity applies to, a person that acts with reasonable care in accordance with the act will be provided immunity. And the Trial Attorneys have advised me, shortly before I entered, that they are in agreement with that amendment and I will be...I have already filed it and I will be offering it after the committee amendments. [LB1036]

SENATOR WIGHTMAN: Thank you, Senator Council. One other question: I see that the Nebraska Catholic Conference also appeared in a neutral capacity. Were they in opposition at all or...? [LB1036]

SENATOR COUNCIL: Well, the Catholic Conference, Senator Wightman, raised a number of concerns with regard to specific provisions of the act and, as Senator Gay went through the amendments, those amendments reflect the agreement between and among all of the involved parties, including the Catholic Conference. [LB1036]

SENATOR WIGHTMAN: Thank you. Thank you. Those addressed my concerns. I will be in support of the amendments and the underlying bill. Thank you, Mr. President.  
[LB1036]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Council, you're recognized. [LB1036]

SENATOR COUNCIL: Yes, thank you. Yes, thank you, Mr. President. I just want to briefly again, in the event my colleagues didn't hear my explanation, if you look at the fiscal note for the bill as originally introduced, it reflects a \$400,000 fiscal note and that

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fiscal note was the projected impact on the University of Nebraska if we did not include the State Anatomical Gift Board in the act. As originally presented, it repealed that section that had the State Anatomical Gift Board as one of the organizations that could receive bodies, and what the university advised us is if that...if the state Anatomical Gift Board is not included as one of the organizations that can receive bodies, that they would have to purchase those bodies. And that's what the fiscal note arises from. With the amendments, the committee amendment that Senator Gay discussed, we do include...we reinstate the State Anatomical Gift Board as an organization that could receive bodies and, as a result, the fiscal note disappears because the university would be able to receive bodies through that organization and there would be no need to purchase. So I just wanted to be clear that the amendments address the issue that presented the fiscal note and eliminates that fiscal note. [LB1036]

PRESIDENT SHEEHY: Thank you, Senator Council. Seeing no additional requests to speak, Senator Gay, you're recognized to close on your amendment to committee amendment, AM2066. [LB1036]

SENATOR GAY: Thank you, Mr. President. I'll actually speak on both. But I just wanted to take this time to thank Senator Council and Senator Stuthman for working on this bill. The amendments are...it's a complex bill, as we discussed, and the amendments enhance that. But I would say they've both been very good to work with. Senator Council is obviously always well prepared and does a great job getting this together. But Larry Ruth and Jim Cunningham, again, put a lot of work into this and I do really commend them for working on it. Senator Stuthman discussed his personal reasons for making this his priority and I just wanted to say my hat is off to him because this is an important bill for the Health Committee as well that Senator Council has been working on. But I commend Senator Stuthman. This is a...absolutely needs to be done and it will get us updated to where we need to be on this important issue, and this is one of those bills, I think, where, you know, the Legislature puts in a lot of work and does some good things and this would be one of those bills. So I'd encourage you to support both committee amendments to make the bill a much better-working bill. Thank you, Mr. President. [LB1036]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the closing to the amendment to committee amendment, AM2066. Members, we are having some technical difficulties this morning with the voting board and also seeing the requests to speak and so we are going to take voice votes on these issues until we have the system back. If we get to a point where we need to record them, then we'll work through that. So you've heard the closing on AM2066 to AM1839. All those in favor say aye. Opposed, nay. AM2066 is adopted. We'll now return to floor discussion on AM1839. Seeing no requests...seeing no requests to speak, Senator Gay, you're recognized to close on the Health and Human Services amendment, AM1839. Senator Gay waives closing. The question before the body is on the adoption of AM1839 to LB1036. All

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those in favor say aye. Opposed, nay. AM1839 is adopted. Mr. Clerk, you have an amendment on your desk. [LB1036]

CLERK: I do, Mr. President. Senator Council would move to amend with AM2083. (Legislative Journal page 715.) [LB1036]

PRESIDENT SHEEHY: Senator Council, you're recognized to open on AM2083. [LB1036]

SENATOR COUNCIL: Yes, thank you, Mr. President. As I alluded to earlier in response to Senator Wightman's question, this amendment is designed to address the concern that was expressed by the Nebraska Association of Trial Attorneys with regard to immunity, and all it does is imposes a standard of reasonable care in order for an individual to be covered by that immunity. This revision, as with all of the amendments that have been adopted to this bill has been the topic of discussion among all of the interested parties. This amendment was discussed with the Uniform Law Commission representative Larry Ruth, with Mr. Cunningham, with hospitals, medical providers. I think the only person...the only group we hadn't contacted directly was the university but we have no reason to believe that they have any objection to this. And again, all it does is add a standard of reasonable care in order for someone to claim immunity under the Anatomical Gift Act. And I would urge your adoption of this amendment. [LB1036]

PRESIDENT SHEEHY: Thank you, Senator Council. (Visitors introduced.) You have heard the opening of AM2083 to LB1036. Are there members requesting to speak? Seeing none, Senator Council, you're recognized to close. [LB1036]

SENATOR COUNCIL: Yeah, just briefly, it kind of sounds like a lovefest here but I do want to recognize and acknowledge all of the hard work that has been put into this measure by Senator Stuthman, by Senator Gay and members of the Health and Human Services Committee, by all of the interested parties. The work began on this bill during the interim last year and the parties have worked diligently. I must add, any time there was an issue raised by either side, there was an immediate attempt to resolve that issue, and I believe that we have accomplished our original objective, which is to harmonize our current Uniform Anatomical Gift Act with federal law, new technologies, and medical directives while at the same time maintaining our objective of facilitating and encouraging organ donation. And I would urge the body to approve this amendment. Thank you. [LB1036]

PRESIDENT SHEEHY: Thank you, Senator Council. You've heard the closing of AM2083 to LB1036. The question before the body is on the adoption. All those in favor say aye. Opposed, nay. AM2083 is adopted. We will now return to LB1036. Seeing no requests to speak, Senator Council, you're recognized to close. Senator Council waives closing. The question before the body is on the advancement of LB1036. All those in

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favor say aye. Opposed, nay. LB1036 advances. Mr. Clerk, we'll now proceed to LB919. [LB1036 LB919]

CLERK: Mr. President, LB919, introduced by Senator Schilz, relates to cities of the first class. (Read title.) Bill was introduced on January 13 of this year, at that time referred to the Urban Affairs Committee. Bill was advanced to General File. There are committee amendments pending by Urban Affairs, Mr. President. (AM1848, Legislative Journal page 591.) [LB919]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Schilz, you're recognized to open on LB919. [LB919]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning. It's another beautiful day in Lincoln, Nebraska. Maybe we'll have a little warmer weather today. But let me get into this. LB919 is a bill that would allow a city of the first class to keep that designation even though it falls below the population threshold as set out in statute. Population loss, as you know, is a huge concern and reality for rural Nebraska. It is essential that we give those communities every opportunity and the tools necessary to turn this tide and start revitalizing our rural communities. One of these communities that is dealing with this issue is Ogallala, my hometown. I've been a lifelong resident. I've seen my community fight to maintain their population and I would guess that many of my colleagues have had some of the same experiences. I believe it's in the best interest of the state to help those communities maintain first-class city status. Ogallala and Lake McConaughy...or Ogallala is the gateway to many attractions and businesses and highways. Interstate 80, three highways, Highway 30, 61, and 26, all pass through the community. We are on the main line of the Union Pacific Railroad and Ogallala is the gateway to Lake McConaughy. According to Nebraska Game and Parks data, Lake McConaughy had 892,000 visitors last year in 2009 and that's a pretty consistent number. It runs anywhere from about 800,000 to about 900,000, so pretty large numbers that are coming to and through our community. It's also the gateway to other attractions: Pine Ridge, the Black Hills of South Dakota, and even Yellowstone National Park. Locally, we have one of the largest sale barns in the nation. Last I checked, it was the top ten in the country. Ogallala has been a center of commerce and traffic since the Texas Trail brought cattle from Texas to be loaded on trains and sent to points east. It remains today as it was--a community that has a history of gaining population during the summer months and contracting in the winter. You know, if you're from...and the other thing is if you're a city of the first class and you're hovering around this threshold, this bill should be of interest to you as well. If you have a major employer that controls a large number of jobs in one of those communities, this bill should be important to you because it would give you some time and breathing room should that company or business not be there one day for whatever reason. These are the realities of the day and we need to deal with them in a pragmatic way. Being able to have a chance to bring their population back into line while

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maintaining first-class city status is very important or could be very important to these communities. The green copy of this bill would have brought into play a number of different criteria for a city of the first class to remain as such, but in negotiations with the Urban Affairs Committee and during the hearing they've helped out quite a bit. They've worked to help simplify the language and clean the bill up. This work that they've done and the work that Senator Krist, which I'd like to thank him, has done to bring the amendment was great and it garnered a unanimous vote from the committee to bring this bill to the floor. And I'd like to say thank you to Senator McGill and the Urban Affairs Committee for their work. And with that, I will yield my time. Thank you. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Schilz. You've heard the opening to LB919. As was stated, there is an Urban Affairs Committee amendment. Senator McGill, you're recognized to open. [LB919]

SENATOR MCGILL: Thank you, Mr. President, members of the body. The Urban Affairs Committee acknowledges the impact that cities face when lingering on that threshold of becoming a second-class city and some of the benefits of being a first-class city may be taken away from them. We want to make sure that cities do have a sufficient opportunity to rebuild their population before changing all the structures that are based around whether you're a first- or second-class city. Like Senator Schilz said, the green copy we did have some problems with because it would have made a city like Ogallala, that's a county seat, a permanent first-class city, and we didn't feel that was the route we wanted to go. Instead, we wanted to make sure that their ten-year window of improvement was there and clearly in statute in terms of having...if their population falls between 5,000 and 4,000 people, that they can present a plan on how they're going to redevelop their economy and grow their population, and then bring that data and that information to the Secretary of State during two consecutive census periods before they are changed down to becoming a second-class city. You know, we feel that this is a good move. I thank Senator Krist for helping us come up with this amendment so that we can help cities like Ogallala get a second chance. We're really not changing statute too drastically and I should note that in statute we do allow for second-class cities to maintain their status even when their populations fall below that 800-person threshold. Thank you, Mr. President. [LB919]

PRESIDENT SHEEHY: Thank you, Senator McGill. You've heard the opening of the Urban Affairs Committee amendment, AM1848. Senator Stuthman, you're recognized. [LB919]

SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. I support this bill. I think it's very, very important because of the fact that, you know, some communities, in case one of the economic development and one of the larger employers of that community, you know, decides to move out, maybe across the water, and put their business in another country, I think that's very, very important that we

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address this situation. Because if we allow these communities the opportunity, you know, to hopefully look for someone to come and utilize those buildings and bring the people back to the community, I think that's very important. So I truly support this bill and the amendment because of the fact that, you know, the communities are the ones that are going to have to take the burden to try to entice and invite people back to the community, and I think that's very important, especially out in the rural areas. You know, we want to grow Nebraska but there are times when companies leave the community, but this is an opportunity to allow them to remain in the same class that they were and that they can hopefully invite somebody back to their communities and grow their communities like we are trying to do in the fact that we're trying to grow Nebraska, especially in the rural areas. So I do support the amendment and the bill. Thank you. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Additional members requesting to speak on AM1848: Senator Fischer, followed by Senator Dubas. Senator Fischer, you're recognized. [LB919]

SENATOR FISCHER: Thank you, Mr. President and members. I, too, agree with Senator Schilz on the importance of our rural communities and the beauty in the Ogallala area that they enjoy there. I do...I do have some questions on the bill, though, and I was wondering if Senator Schilz would yield. [LB919]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Fischer? [LB919]

SENATOR SCHILZ: Yes. [LB919]

SENATOR FISCHER: Senator Schilz, do you know what the benefits are of being a first-class city right now? Senator McGill said there were some benefits. I don't have any first-class cities so I don't know that right offhand. Do you? [LB919]

SENATOR SCHILZ: Sure. Yeah, and the main...the main thing is how...at least as far as I understand it, is how they receive their roads funding and how that goes. The city of the first class gets their roads funding directly and they're put into a separate pool than cities of the second class. City of the second class has to actually go through their county to receive their roads funding. And then, you know, one of the other things that's a difference is that if you're a city of the second class or you have to become a city of the second class, then you also have to redo all of your ordinances to come in line with that. And according to the testimony that we had during the committee, that would have come up to about \$20,000 in their estimate, so a couple different things that has to happen. And other than that, it's, you know, there's some other things that come in as far as employee things and stuff like that, that enter into that as well, but that's most of the differences there. [LB919]

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SENATOR FISCHER: Okay. And you and I had talked about the roads funding and that is correct that first-class cities receive their federal dollars directly. And it is the policy of the Department of Roads to send federal money to cities that are smaller than first-class cities to the counties and then it is up to the counties how they distribute that money out. So there is a, I guess you can say, a benefit of being a first-class city because you aren't relying on your county government to provide you with any kind of federal roads funding dollars, but that's just a policy of the Department of Roads currently. On your amendment, there's...or the committee amendment, there's a place on the committee amendment that would allow a first-class city, if they so desired, to become a second-class city, as I read that, and that's determined by a vote of the people. If a community feels they can't possibly ever get back up to that 5,000 population mark, how does that work specifically on a vote of the people to...if they choose to become a second-class city? Do you know? [LB919]

SENATOR SCHILZ: Right. And, Senator Fischer, thank you for the question. I think it should be noted that from first class to second class, if the community decides to move down to second class, it would be by a vote of the council, the city council, and not a vote of the people exactly. So that would be...but you're correct, so they have that opportunity. We're not saying you can't become a city of the second class. We're just giving them an opportunity to maintain a city of the first class. [LB919]

SENATOR FISCHER: Okay. Thank you, Senator Schilz. And I do support the bill and I thank you for bringing it. I think it provides good options, especially for our rural areas when we do see sometimes tremendous fluctuations in populations in these smaller communities if there's a loss of a business or a manufacturing plant there. And hopefully our small communities can rebound and get back up there on their population in order to maintain... [LB919]

PRESIDENT SHEEHY: One minute. [LB919]

SENATOR FISCHER: ...that first...or city of the first-class status. So thank you, Senator Schilz. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Members requesting to speak on AM1848: Senator Dubas, followed by Senator Wightman, Senator Coash, and Senator Adams. Senator Dubas, you're recognized. [LB919]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. Good morning, members of the body. Would Senator Schilz yield to a question? [LB919]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Dubas? [LB919]

SENATOR SCHILZ: Yes. [LB919]

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SENATOR DUBAS: Thank you, Senator Schilz. And I do support this bill and the underlying amendment, but I just would like to have some things clarified. Does this in any way, you know, if this city uses this particular bill to help them come up with a plan and try to get themselves back up to those numbers, does it put them in jeopardy if they're like applying for any kind of federal grants or state grants? Some of those grants do have population stipulations, so if they aren't technically still a city of the first class would that cause any problems for them? [LB919]

SENATOR SCHILZ: Well, as I understand it, what happens is the states are relied upon and the states are given the authority to define their city as a city of the first class or second class, and then as they define those, that's how the federal government looks at those. They aren't...the federal government has given states the ability to define those and so if, as I understand it, if they are a city of the first class in the eyes of Nebraska, then they're a city of the first class in the eyes of the federal government. [LB919]

SENATOR DUBAS: Okay. That was my main question. And then I don't know if this is a question for you or if it's for Senator McGill, but it talks about this plan, the city creates this plan. Now this plan is submitted to the Secretary of State's Office. Is that correct the way...? [LB919]

SENATOR SCHILZ: Right. And you know, as you look at that, what that does is it gives everybody...what it does is it gives notice to everybody that is going through this that, you know, it's not...this isn't a bill just to help out a community and to not require them to try to get back there. What this bill is here for is to give people...give communities an incentive and a path and mostly what needs to happen is if people are planning for the future and planning for that growth, that's a lot easier than just trying to...just trying to get there through hope and goodwill. [LB919]

SENATOR DUBAS: So the amendment doesn't really lay out what needs to be in this plan. Each community will be able to come up with what they need to do. [LB919]

SENATOR SCHILZ: Absolutely. And I think...I think that flexibility needs to be there because every community is different and every community has different strengths, different needs, and different plans that need to come into place. [LB919]

SENATOR DUBAS: Thank you, Senator Schilz. [LB919]

SENATOR SCHILZ: Sure. [LB919]

SENATOR DUBAS: And as I said, I do support this bill for all of the reasons Senator Schilz outlined. We do have a lot of challenges facing us in the rural parts of the state and I know in my communities, I know how hard that they're working to make their

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communities attractive, inviting places for people to live and raise their families. And you know, so anything that we can do to give them a little leeway, take a little bit of pressure off, allow them to move forward with their different plans, I think it's a good thing to help our communities meet some of these challenges. So I appreciate your introduction of the bill. Thank you. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Wightman, you're recognized. [LB919]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I do rise in support of LB1036 and the amendment. I like the idea that we do have a provision in there that they have to be a county seat to qualify. I think that's under the amendment. I do have a couple of questions of Senator Schilz, I see he's on the phone right now, if he would yield. [LB919]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Wightman? [LB919]

SENATOR SCHILZ: Yes. [LB919]

SENATOR WIGHTMAN: Senator Schilz, one question that was asked were what benefits you continue to have by remaining first-class city, and one that I think you did not mention but I think it is important, and my understanding is you have broader zoning powers under first-class cities, in that you have a two-mile zoning limit instead of the one-mile zoning limit that second-class cities and villages have. Is that correct? [LB919]

SENATOR SCHILZ: Yeah, thank you, Senator Wightman. Yes, that would be correct and that would be another advantage. Thank you. [LB919]

SENATOR WIGHTMAN: And really, I think that's a fairly substantive benefit that they do retain because particularly if they intend to...hope to grow, and I'm sure they do, and where they are located in a recreational area, such as they are near Lake McConaughy, I think Ogallala really probably should have the two-mile zoning jurisdiction that first-class cities have. Again, some of this has been caused by loss of some industry, I think, in the Ogallala area and if they're able to reclaim some of that industry I think there's a possibility that they could grow back to where they would qualify under the population provisions. So generally, I think they are...they're at a crossroads, too, with regard to the transportation, and Senator Schilz mentioned that. So I do think there's a lot of reasons that it would be helpful to Ogallala and the surrounding community if it does remain a first-class city. Thank you, Senator Schilz. Thank you, Mr. President. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Coash, you're recognized. [LB919]

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SENATOR COASH: Thank you, Mr. President, members of the body. Would Senator Schilz yield to a few questions? [LB919]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Coash? [LB919]

SENATOR SCHILZ: Yes. [LB919]

SENATOR COASH: Thank you, Senator Schilz. Senator Schilz, I just want to ask you a few questions about Lake McConaughy... [LB919]

SENATOR SCHILZ: Sure. [LB919]

SENATOR COASH: ...which is in your district, correct? [LB919]

SENATOR SCHILZ: I'd be happy to answer. Yeah,... [LB919]

SENATOR COASH: Okay. [LB919]

SENATOR SCHILZ: ...sure is. [LB919]

SENATOR COASH: When you talk about the overall economy of that area, how much does Lake McConaughy play into the economic activity in that area? [LB919]

SENATOR SCHILZ: Well, I think...I think that as you look at...as you look at the area out there and Lake McConaughy and what goes on, I don't have any of the numbers right in front of me but Lake McConaughy plays a significant role. I mean almost 70 percent of those visitors, the 892,000 that they had in 2009, were out-of-state visitors that are coming into the state and leaving their dollars here in Nebraska, and so in that sense it's huge for...it's huge for Ogallala, it's huge for Keith County, it's huge for western Nebraska, and I also think it's a huge advantage for the state as well. [LB919]

SENATOR COASH: Okay. Let's talk a little bit about the bill that's in front of us. You answered Senator Fischer's questions and you talked to Senator Fischer about the roads funding. Can you talk a little bit about how...what you predict would happen to the roads that lead into McConaughy and how that might impact the economic development should we not be able to keep you or keep this city at the class level that it currently is? [LB919]

SENATOR SCHILZ: Sure. As, you know, like I said in my opening, Ogallala really truly is the gateway to Lake McConaughy. It's not uncommon for 75, 80, 90 percent of that traffic to travel through Ogallala on a weekend. And so what you'll find is that, you know, we're not just talking cars. We're talking large trailers. We're talking boats. We're talking

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heavy trucks that are going out there and recreating out there. And so what we find is that traffic or those people are using all the services within Ogallala as well and at times that does put a strain on things. And you know, I don't have actual traffic counts or what they're using or things, but I can tell you this. On a Thursday night it's not uncommon to have campers and trucks and trailers backed up almost over the overpass going back for almost a quarter of a mile. [LB919]

SENATOR COASH: All right. Thank you, Senator Schilz. Colleagues, as Senator Schilz and Senator Fischer have illustrated on this bill and others, our roads are the gateway to our economic development. And while there are many benefits to keeping it the class of city that Senator Schilz is trying to protect here, roads is one of the big ones. And if we're going to protect some of our economic activity, we've got to look at ways to protect our roads as well. And I mentioned this a few bills back, that I would continue to talk about this issue as my tenure in the Legislature moves on, that's tourism. As we talked with the tourism-oriented signs in Senator Rogert's bill, this is our number three industry. Right behind agriculture and manufacturing, tourism is our number three industry and we have to pay attention to that and we have to remember that this kind of legislation is how we protect our number three industry. And I do support the bill. I thank Senator Krist for his contribution in committee in the form of an amendment because I think this does give this city the time that it needs to get where it needs to be, and I urge the body to support both the amendment and the bill. Thank you, Mr. President. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Coash. Members, at this time, if you push your button to request to speak, it does not show up on to the page's computer, so if you want to be put into the queue, we would ask that you would call up and we are keeping a list up here for requests to speak, so also just a reminder. We are currently debating LB919 and we are on the Urban Affairs Committee amendment, AM1848. Senator Adams, you're recognized. [LB919]

SENATOR ADAMS: Thank you, Mr. President, members. I have yet to take a position on this bill. I need to hear the debate on it. And, Senator Schilz, Senator McGill, I may yield one of you time if you want to respond. If you don't want to, I understand that as well. Here's what I'm struggling with and maybe it's because I need to think out of the box and I'm not. In state law, we have designated metropolitan, primary, first-class, second-class cities, and villages, and they are so designated via population. Now I don't know why we did that, and that's what I'm wrestling with here. And Senator McGill or anyone here on the floor that would hit their light and get up and respond and explain that to me, but here's what I'm struggling with: There was a reason that we gave to metropolitan and primary-class cities certain kinds of authorities, and first-class cities and second-class cities and villages certain kinds of statutory prerogatives, and if there was a reason for doing it, are we sliding away from that for the right reasons, because of roads? Now, for instance, second-class cities don't have as much extraterritorial jurisdiction as a first-class city. Now is that a big deal? I don't know. If a first-class city

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becomes a second-class city, they've got to go back through their zoning book and their ordinance books and change some things. A big deal? Maybe not. But here's what I'm wondering. Why did we say to second-class cities, these are the things you can do, and to first-class cities, these are the things that you can do, yet in this place we have a city that's dropped into a second-class status that we're going to say can stay at a first-class status, and I'm wondering here. Now at first blush, quite frankly, the practical side of me says support Senator Schilz's bill, I'm not sure what the big deal is. And that's maybe at the end of the day where I'll be, Senator Schilz. I just am wondering why historically the Legislature has designated those different classes, has given them different authorities and now are we throwing that out the window? And, Senator Schilz, if you'd like to respond to that, if I have any time, you can. [LB919]

PRESIDENT SHEEHY: Senator Schilz, would you yield? [LB919]

SENATOR SCHILZ: Yes. Thank you, Senator Adams. I think...I think that...and what we did, what we did was when we went and looked at the statutes all the way through and we looked at first-class city statutes and what was required there and what was required with reporting as according to population, then you look at the second-class city statutes, and this is just statute itself, and really what this does is this harmonizes and it puts into place a lot of what's already in the second-class city status. They have a range that when they hit 800 people or below that they can opt to stay as a city of the second class rather than go to as a village. So they have a 700-person gap too. And then I know that Senator Krist has some information coming up later on that he can help explain a little bit more of this, but it's not...you know, it's not just about roads. It's about a lot of different things that go on in a first-class city and what needs to be maintained as those services... [LB919]

PRESIDENT SHEEHY: One minute. [LB919]

SENATOR SCHILZ: ...are used...thank you...as those services are used and as those services are needed. And so...and so it's not just about one issue. But if you're talking about the one issue that's dollars coming in, the roads is one of those issues. But there will be some other folks that will stand up and help explain that further. Thank you, Senator Adams. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Adams. Senator Krist, you're recognized. Also, members, the system is back up and operational, so you can queue in as you need to. Senator Krist, you're recognized. [LB919]

SENATOR KRIST: He waved his wand and the magic happened again. Thank you. I became interested in this bill, Senator Adams, and when it came through our committee because it seemed to be, in these economic times, with the problems that we have in our small towns and cities around Nebraska, there might be room for us to legislate and

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give a variance and help those cities stay where they are. It's not just about roads. It's about...think about this for a second. When Senator Schilz talked about his recreational areas and Lake McConaughy, almost a million people a year drive on those roads, come in and out of town, and use the facilities in Ogallala. It is the county seat. Their population is down to a point where it's plus or minus 300 from being at that level. What the amendment actually does is, instead of a ten-year period, after a census they realize they have an issue, they have ten years to put a plan in place, which Ogallala has done, a very extensive plan to try to bring people back in and keep the population where it should be, but it wasn't enough time as they took their opportunity to try to correct the problem. What this is going to give them is an additional census period or an additional ten years. In essence, that's what we're doing. We're giving them the opportunity bring themselves back where they need to be. I became interested in it because...looking for a way to enable them to keep their status, other states like Minnesota, Wisconsin, and those states that are heavily, heavily recreational oriented and tourism oriented, have a provision in their roads that allows them for a census based upon a peak in that variance. So they, in essence, are getting credit for those--let's just say it Bemidji, Minnesota--they're getting credit for a million people that go in and out of that area every year. We don't have that in the state and it makes it difficult. Think about a first-class city, when you go to the second class, think about the number of city workers, employees, municipal police, all those kind of things that have to support that recreational community. I don't think...I think that when you wrestle with are we changing the law to suit out needs, which is a fair question, I mean are we just making a new law because we can't meet the standard that was established at that point, I think not. I think we're enabling those communities to identify their problem, giving them an extra census period to get back to where they need to get to and keep where they are. Remember, if they're forced--in this case Senator Schilz says we're harmonizing the provisions--if they're forced to go down there's action required, and I think the \$30,000 to \$50,000 range that we heard is pretty modest in terms of what it actually would cost, and it's going to cost them jobs. It's going to cost them a police member or a fire member or whatever they might have to support those activities. So in essence, we're enabling them to get back, that second period of time to get back where they need to go, and we're harmonizing, I think, that standard with all sizes of cities in the state. I hope that answers some of your questions and I would rise in support obviously of LB919 and AM1848. Thank you. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Krist. Members requesting to speak on AM1848 to LB919: Senator Gloor, followed by Senator Hansen, Senator Carlson, Senator Council, Senator Campbell, and Senator Wightman. Senator Gloor, you're recognized. [LB919]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I wonder if Senator Fischer would yield to a question. [LB919]

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PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Gloor? [LB919]

SENATOR FISCHER: Yes, I will. [LB919]

SENATOR GLOOR: Senator Fischer, earlier in comments you kind of tweaked my interest and gave me an aha moment. What would be the impact of LB919 on competition for stimulus funds that relate to roads, both if the community were to stay as a Class I or drop to a Class II city? [LB919]

SENATOR FISCHER: Aha, Senator Gloor. (Laughter) There would be competition for those funds. The way they were distributed this last year, the federal government passed out money to the metropolitan area to...Omaha received, I think it was, \$23 million. Lincoln was a class by itself; they received either \$7 million or \$9 million. I can't remember the exact amount. Cities of a population of 200,000 to...down to 5,000 received \$28 million or \$29 million. And then cities below 5,000 population, maybe \$10 million they received, I can't remember for sure, but that money went to counties. Omaha could not go down and dip into Lincoln's money or into the first-class city, basically that pot of money, and so forth. You couldn't go down and dip into money, but you could go up and dip into money. That...as far as I know, that did not happen. If this bill would pass, cities that would drop below 5,000 in population would still be eligible if there's more stimulus money that comes. Those cities would still be eligible to have their projects considered in that pot of money from 5,000 population to 200,000 population. So in effect, those cities that under current statute would not be first-class cities, if this bill would pass, they would be first-class cities and they would be in competition with cities in that group for roads funding for their projects. Did I answer your question on that? [LB919]

SENATOR GLOOR: Yes. Yes, you did. I mean it...and that, as relates to stimulus monies but on an ongoing basis as relates to our budgeting, biennial budgets, would it have any impact that you know of now? [LB919]

SENATOR FISCHER: With regards to roads funding? [LB919]

SENATOR GLOOR: As regards to roads funding. I'm sorry, yes. [LB919]

SENATOR FISCHER: I don't believe it would. It would only have a negative impact on other first-class cities with regards to federal stimulus roads funding if there is more in the future. [LB919]

SENATOR GLOOR: Okay. Thank you, Senator Fischer. And I'm glad I asked, as is the question. I think Senator Adams brings up some good points. Why are we at the definitive numbers we're at? And for those individuals who represent Class I cities... [LB919]

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PRESIDENT SHEEHY: One minute. [LB919]

SENATOR GLOOR: Thank you, Mr. President. Obviously, we're talking about making a decision here that increases the competition in those communities for those monies. That may not be a bad thing but certainly worth something to consider as we deliberate and make our decision on this important bill. Thank you, Mr. President. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Hansen, you're recognized. [LB919]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I was wondering if Senator Schilz would yield. [LB919]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Hansen? [LB919]

SENATOR SCHILZ: Yes. [LB919]

SENATOR HANSEN: Thank you, Senator Schilz. I agree and I think I understand what the difference is between a first- and second-class city, and I see the reasons why Ogallala does not want to go down to second-class city. I'm an employer in Keith County. We have a ranch there and I love that county. It's a great county and a great old railhead for the Texas cattle that came up and a lot of history in the Ogallala area. I question, and I talked to you off the mike very briefly about it, that the bypass that Keith County built, and I don't know if it's a state road or what it is, but the bypass west of Ogallala looks to me like that is taking a lot of business away from...away from the city of Ogallala. It is...do those businesses, I know there's a few new businesses around the lake. Are they taking up the slack for what Ogallala is losing? [LB919]

SENATOR SCHILZ: Well, and I think that...thank you, Senator Hansen, for the question. When that bypass was built, it is a state...it is a state highway. It connects Highway 26 and Highway 30, just the west side of Ogallala there. [LB919]

PRESIDENT SHEEHY: (Gavel) [LB919]

SENATOR SCHILZ: The good thing...thank you. The good thing that we found is that most of the attractions for Lake McConaughy are on the eastern end of the lake and so still the majority of the traffic is traveling through Ogallala. I can't say that the bypass hasn't taken some traffic away but I don't know, I can't tell you how much for sure. But there is always that risk when you build that. I do know this: No new businesses have sprung up along that bypass either so...but I'm sure, I'm sure there is some effect. [LB919]

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SENATOR HANSEN: I think the destination is the lake and is the golf course up there too. Both of them are fantastic tourism draws and especially for the people in eastern Colorado in the front range. So I will go ahead and support this amendment and I do hope that Ogallala can rebound and I think that you have an opportunity with the city's plan to do that even though Ogallala is losing population and I hope it can rebound. It's a great city, has a great history. Thank you, Mr. President. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Carlson, you're recognized. [LB919]

SENATOR CARLSON: Mr. President and members of the Legislature, I would like to ask Senator Schilz a question, if he would yield. [LB919]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Carlson? [LB919]

SENATOR SCHILZ: Yes. [LB919]

SENATOR CARLSON: Senator Schilz, I am in support of AM1848 and the underlying bill, LB919. And just to clarify, this bill does not do anything to allow more communities into the classification of Class I city. Is that true? [LB919]

SENATOR SCHILZ: The only...it does not...it does not change what it would take to become a city of the first class. [LB919]

SENATOR CARLSON: And so someone that hasn't reached the 5,000 population level could not jump into a Class I status. Is that true? [LB919]

SENATOR SCHILZ: That is correct. [LB919]

SENATOR CARLSON: Okay. Thank you, Senator Schilz. I listened to discussion and it's been brought up, Senator Gloor and Senator Fischer, about stimulus money. We ought to take advantage of whatever is available there, but that's a short-term fix. That's a band-aid on a situation that's a real challenge. My District 38 has one Class I city--Holdrege, where I live. We've got challenges in Holdrege. We've got the problem of population out of rural Nebraska and population in, in the areas around Lincoln and Omaha. But we can look at it, is the glass half empty or a glass half full, and I will contend that we've got a glass that's half full and we need to focus on that. Rural Nebraska has an opportunity for families to come into a community where there are good schools, good churches, good recreational opportunities, good medical care available, the kind of community that's safe for the most part, the kind of community that is conducive to raising a good family. And in this day and age where technology is such that there is a whole population of people that can live wherever they want to live, and that could be rural Nebraska, and still bring their jobs with them instead of having jobs

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available for them, we need to focus on that and do some more work to see what we can do to inviting people to come out and join us in rural Nebraska. And those of you that are new in the Legislature in the last couple of years, I'd ask you from rural Nebraska to look at LB609, which was my bill that allowed rural communities to apply for grants to recruit and advertise their communities. Several communities have done that. We're still too early in it to actually see what the results are, but this is an opportunity and we need to pick ourselves up in rural Nebraska and be willing to put forth the leadership and the effort to invite people to join us because we've got a great place in which to live. Thank you, Mr. President. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Campbell, you're recognized. [LB919]

SENATOR CAMPBELL: Thank you, Mr. President. Would Senator Schilz yield to a question? [LB919]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Campbell? [LB919]

SENATOR SCHILZ: Sure. [LB919]

SENATOR CAMPBELL: In listening to the explanation by Senator Krist, I just want to make absolutely sure I understand, so that if in one ten-year period a first-class city did not reach that threshold and the mayor came forward with a plan, by the time the next census rolled around, if the city had not reached that would they have an opportunity to submit another plan? They only have one chance? [LB919]

SENATOR SCHILZ: Yes, that's correct. They have...they have that one time period between those censuses and if they can't...if they can't fulfill those numbers then they would automatically drop down then. [LB919]

SENATOR CAMPBELL: Okay. The other comment that I'd make, and maybe it's a question, if Senator McGill would yield. [LB919]

PRESIDENT SHEEHY: Senator McGill, would you yield to Senator Campbell? [LB919]

SENATOR MCGILL: Yes, I would. [LB919]

SENATOR CAMPBELL: Senator McGill, was there any thought given to readjusting the limits for all of the cities? [LB919]

SENATOR MCGILL: No, we didn't really discuss that, Senator Campbell. We did look at the fact that if you're a second-class city and are falling under the lower end of the threshold that they can maintain and stay a second-class city pretty easily, so we knew

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there didn't need to be any tweaking there on that end. And in terms of giving other cities a bigger scope of time, we didn't discuss that. [LB919]

SENATOR CAMPBELL: Okay. Thank you, Senator McGill. I think with the explanation that we've been given, the major advantage here, it seems to me, has come from the zoning area and possible roads from a stimulus, but the zoning would be very important for that city. And with that, I would support AM1848 and the underlying bill. Thank you, Mr. President. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Members requesting to speak on the Urban Affairs Committee amendment, AM1848, to LB919, we have Senator Wightman, followed by Senator Gay and Senator Krist. Senator Wightman, you're recognized. [LB919]

SENATOR WIGHTMAN: Thank you, Mr. President. I know that Senator Adams had some questions a few minutes ago and I don't know that what I will say will answer those questions, but as we look at the western half of Nebraska, and I know a lot of you think that western Nebraska starts in central Lincoln somewhere, but central Nebraska really, according to the map and if you look at it geographically, starts at about Cozad or Lexington and you'd find that half of the area of the state lies west of that. I count eight first-class cities in that area and probably no city has gained first-class status in the western half of the state in the last 50 years. And the ones I show, and Senator Schilz might be able to confirm this, but I think Alliance, McCook, Lexington--and Lexington is barely in the western half of the state--Chadron, North Platte, Scottsbluff, Gering, and Sidney would be a complete list of the first-class cities in the western half of the state. So it's not a growing number. We probably will not have very many cities that drop below that in the next 20 or 30 years, so it probably is pretty specific to Ogallala. The growth in first-class cities would be as we move east and in metropolitan Omaha and Lincoln; probably Waverly, if it hasn't reached that stage yet, will shortly; Gretna; Elkhorn; and we're seeing a lot of the suburban, probably Bennington somewhere down the line. So we are seeing growth of that class of cities in the east but in the west we aren't seeing that and I think it is important that these cities which have been really a hub of commercial activity be allowed to maintain that status. There will be some competition for funds perhaps. I think a lot of federal funding, though, is based upon size and not upon the classification of the city, so that if you're 5,000 or 10,000, you may qualify for grants. Probably not very many of those are based upon the state's classification of those cities. So I really feel it is important that we protect that first-class status for Ogallala. There may be a few added in the west half of the state in the next 50 years. Cozad, in my district, is one that's kind of on the bubble with about 4,500 or 4,600 people, but it might be the only other one that's likely to reach that in the next 50 years. So I hope I'm wrong. I hope 50 years sees more development in western Nebraska than I fear it probably will, but I think it is important that we protect that status. So, again, I do ask for your support for LB919 and AM1848. Thank you, Mr. President. [LB919]

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PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Gay, you're recognized. [LB919]

SENATOR GAY: Thank you, Mr. President. Listening to the debate, a few things came across my mind, if Senator McGill would yield to a few questions. [LB919]

PRESIDENT SHEEHY: Senator McGill, would you yield to Senator Gay? [LB919]

SENATOR MCGILL: I'd be happy to. [LB919]

SENATOR GAY: Thank you, Senator McGill. Senator Wightman just discussed about some of the communities that are close to dropping in this category, but on the amendment then if...this amendment says this census. Are we looking at this census that they're going to take? And then do you get ten years after that? So you'd have to fall below two censuses? [LB919]

SENATOR MCGILL: Yes, that's true. [LB919]

SENATOR GAY: So that's where we get the ten-year window here? [LB919]

SENATOR MCGILL: Yes. [LB919]

SENATOR GAY: It's not 20 years. It's ten years. [LB919]

SENATOR MCGILL: Yeah, that's exactly the intention. [LB919]

SENATOR GAY: Okay. And then he'd answered that question about how many first-class cities there are out there, but as I was listening to the debate, Senator Krist did a good job explaining maybe why, kind of convinced me a little more to support this bill and the amendment. But I do think it allows for a chance of these communities that may be facing this situation a chance. But in your committee, did they discuss all the services? We talked about road funding, losing roads funding, but those other services, are those based on your first-class or second-class status,... [LB919]

SENATOR MCGILL: Yeah. [LB919]

SENATOR GAY: ...state aid? [LB919]

SENATOR MCGILL: Yeah. I think that most...some of the senators, Senator Schilz and Senator Krist, some others, have discussed some of the zoning issues and some of the other services and funding that are at play here. [LB919]

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SENATOR GAY: Okay. Well, thank you. I was out earlier, the introduction, so I missed that if that was covered. But I do think that is important, too, and I think this allows those communities. I've been out to Ogallala several times and it's a great asset to the state on the tourism end of things. And Senator Krist mentioned that and Senator Schilz, I know, has mentioned that. But I do think, you know, when you...when I was out there, I mean, there were a lot of people staying at the hotels and were out there for specifically golfing, fishing events that were going on. It's just a great asset to the state and this would allow, I think. But if we let those community services slide a little bit we'd probably be doing the whole state a disservice. So I know this is a little bit specific but I do like the amendment. I'm going to support the amendment and the bill. But I think that's one of those things, as we look at this, to support those other services than just roads funding. That's so important, I know, but I think if they start letting those services slide or we don't give them the help they need, we're probably in the long run going to do a disservice to the state. So I commend you on the amendment and the bill and I support both. Thank you, Mr. President. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Hadley, you're recognized. [LB919]

SENATOR HADLEY: Members of the body, Mr. Speaker, I'm just standing and I will support this bill, but I'm concerned we're rearranging the chairs on the Titanic. We're putting a band-aid on, we're going to buy some time, and we're hoping against hope that things are going to change. But I have some statistics that, as you well know, I like to look at numbers, from 1990 to 2000, 40 counties in Nebraska added population; from 2000 to 2008 only 18 counties added population and they were basically the metropolitan counties. Population change by size of cities between 2000-2008, if you get down to 5,000 to 9,999, they lost on an average 2 percent of their population; 2,500 to 5,000, they lost 6.3 percent of their population; 1,000 to 2,500, they lost 4.2 percent of their population; 500 to 1,000, they lost 5.3; 250 to 500, they lost 6.2 percent. I find this the most startling when you compare changes by city size category--Nebraska, Kansas, and Iowa: if you take between 5,000 to 10,000 residents, Nebraska lost on average 2 percent; Kansas gained 9 percent in that level of cities; Iowa gained 8.9 percent in population; 2,500 to 5,000, Nebraska lost 6.3 percent in population, Iowa gained...Iowa was even, and Kansas gained 2.6; 1,000 to 2,500, Nebraska lost 4.2 percent in population, Kansas minus 1.4, Iowa actually gained .1. The point I'm trying to make, unless we figure out some way to convince people to live in cities west of 27th Street in Lincoln, I think we're going to...that some future Legislature is going to be back 10, 15, 20 years from now saying, well, shall we move the first-class cities, shall we move it down to 3,000, 2,500? I'm going to support this bill to give it a chance but I think, unless we can figure out the cause of the underlying problem and do something about the underlying problem, we're just rearranging the chairs. Thank you, Mr. President. [LB919]

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PRESIDENT SHEEHY: Thank you, Senator Hadley. Seeing no additional requests to speak, Senator McGill, you're recognized to close on Urban Affairs Committee amendment, AM1848. [LB919]

SENATOR MCGILL: Thank you, Mr. President. The amendment replaces the green copy. It's what we've been discussing for the last hour or so. Just gives Ogallala particularly but all first-class cities, if they fall into this gap, the opportunity to have another ten years in the census to make a case and to improve their population. With that, I hope that you will support AM1848. Thank you, Mr. President. [LB919]

PRESIDENT SHEEHY: Thank you, Senator McGill. You have heard the closing. The question before the body is on the adoption of AM1848 to LB919. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB919]

CLERK: 40 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB919]

PRESIDENT SHEEHY: AM1848 is adopted. We will now return to floor discussion on LB919. Seeing no requests to speak, Senator Schilz, you're recognized to close. [LB919]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Thank you so much for all of the good debate here this morning. I particularly want to comment on Senator Hadley's testimony. I think that's exactly right. I think what he's saying is the elephant in the room, and we do need to find a way as a state to help promote rural population growth and rural development because if we don't we all know where we'll be. We will be sitting here in 20 years and not wondering are we going to readjust those chairs on the Titanic but, you know, which towns, which communities are just not going to be there anymore, and that's what we're dealing with here. So I do appreciate everyone's support on this bill. I do appreciate all of the concerns. Those concerns, a lot of those concerns were my concerns, are my concerns, and so I agree with that. But I will say that this bill has brought out a lot of commentary on exactly what a lot of the issues are in rural Nebraska and we seem to understand the problem or see the symptoms of the problem, but can we get to the root of it? And I hope that as we go along we will have some concerted effort to be able to do that. So with that, I would just ask everyone to vote yes on LB919 and, with that, I yield my time. [LB919]

PRESIDENT SHEEHY: Thank you, Senator Schilz. You have heard the closing. The question before the body is on the advancement of LB919. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB919]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB919. [LB919]

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PRESIDENT SHEEHY: LB919 advances. Mr. Clerk, do you have items for the record? [LB919]

CLERK: I do, Mr. President. Thank you. Executive Board gives notice of hearing. New A bill. (Read LB888A by title for the first time.) And a Reference report regarding a certain gubernatorial appointee. That's all that I had, Mr. President. (Legislative Journal pages 715-716.) [LB888A]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to LB937. [LB937]

CLERK: LB937, a bill by Senator Fischer. (Read title.) Bill was introduced on January 14 of this year, at that time referred to the Education Committee for public hearing, the bill was advanced to General File. There are committee amendments, Mr. President. (AM1949, Legislative Journal page 595.) [LB937]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Fischer, you are recognized to open on LB937. [LB937]

SENATOR FISCHER: Thank you, Mr. President and members. The purpose of LB937 is to eliminate per diems for members of a learning community coordinating council. The bill aligns the reimbursement structure to that of school board members. As explained in Section 79-546 pertaining to school board reimbursement, school board members shall not receive a per diem but may be reimbursed actual and necessary expenses incurred while carrying out their duties. As a former school board member, I believe that learning community coordinating council members provide a similar function for our schools and should not be paid a per diem for their efforts. The only opponent to LB937 at the Education Committee hearing was the registered lobbyist for the learning community of Douglas and Sarpy Counties. His opposition to the bill was that the original purpose of the per diem was, in part, to compensate learning community coordinating council members for the time they would invest in building the learning community. He also stated that learning community council members spend a significant amount of time each week on learning community work and should be compensated for that time. With these comments in mind, I would counter that the bulk of the design work is now complete and, therefore, the initial phase requiring a per diem is past. Additionally, learning community council members do not necessarily spend more time on council business than school board members spend on their districts' business. Many school board members across the state invest significant amounts of time in their school boards and they are not paid a per diem. This bill addresses a fairness issue and rectifies a mistake I believe was made when the Legislature established the learning community council and treated the members more favorably than other school board members. I would like to thank Senator Hansen for making this bill his personal priority bill and I urge you to advance it. Thank you, Mr. President. [LB937]

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SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Fischer. As the Clerk has stated, there are committee amendments offered by the Education Committee. Senator Adams, as Chairman of the Education Committee, you're recognized to open on AM1949. [LB937]

SENATOR ADAMS: Thank you Mr. President. Members of the body, what the committee amendment does is very simply say this, that if a member of the learning community council right now is in term, they are serving the term that they are elected for, they would keep their per diem until that term ends. All right, that's half of it. They would keep their per diem until the term that they are currently serving ends. What the committee amendment also does is to say that those learning community coordinating council candidates who have recently filed for office, if they are elected they would get the per diem for their four-year term and then it would come to an end. So what the committee amendment attempts to do is to account for two groups: (A) those that are currently serving and they knew when they filed and ran and won that seat that there was a per diem; and it also allows those who have recently filed for those positions to serve one four-year term with a per diem. That's the committee amendment. Thank you, Mr. President. [LB937]

SENATOR LANGEMEIER: Thank you, Senator Adams. Mr. Clerk for a motion. [LB937]

CLERK: Mr. President, Senator Fischer would move to amend the committee amendments with AM1987. (Legislative Journal page 637.) [LB937]

SENATOR LANGEMEIER: Senator Fischer, you are recognized to open on AM1987. [LB937]

SENATOR FISCHER: Thank you, Mr. President and members. I appreciate the Education Committee passing the bill to the floor, but I do have problems with their committee amendment. AM1987 would allow learning community council members who are currently serving to continue to receive their per diem through the end of their term. The Education Committee amendment allows the learning community council members who are currently serving and those potential members who are filing for the next election to receive the per diem through their terms. I do not support that as it's currently drafted. The rationale for this amendment is in part because, according to Article III, Section 19 of the Nebraska Constitution, the Legislature shall not increase or diminish compensation during a public officer's term. In drafting the original bill, LB937, I spoke with Bill Drafters and several attorneys regarding this matter. Everyone I spoke with did not think that the per diem fell under the purpose of this article. The Supreme Court cases interpreting this section found in statute primarily deal with salary and there is no reference to a per diem. While I do think that LB937, as originally drafted, would not be unconstitutional, I am willing to allow those learning community council members who

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are currently in office to receive their per diems through the remainder of their term, but I do not support allowing members who are filing for this current term to receive a per diem the next four years, and this amendment to the committee amendment reflects that. Thank you, Mr. President. [LB937]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the opening of the amendment to committee amendment, AM1987. (Visitors introduced.) Continuing with floor discussion on AM1987, members requesting to speak: Senator Gay, followed by Senator Nordquist, Senator Adams, Senator Howard, Senator Ashford, and Senator Wallman. Senator Gay, you're recognized. [LB937]

SENATOR GAY: Thank you, Mr. President. Just I am in favor of this bill of Senator Fischer and thank her for bringing it. The amendment I'm going to listen to. I did a quick check, a call. Right now there are 10 out of the 18 candidates have filed for election, so when you're making this decision, a majority are filing for election. There was a article or a news story done a couple weeks ago and they talked to many of the members of the learning community and I know many of these people personally. They're good people and they've got their heart...trying to do good things. You know where I stand on the whole concept, but I do want to talk just on this bill--the payment. I do think they do some service but no other school boards are getting paid. And they're going to say they're different. And they're unique, but I don't know if they're different. But many of my school board members in our community and yours are doing a lot of work as well and they're going to meetings, they're doing things every day for their community at no pay. But yet on this one we've got per diem and special, special pay. So what I'm wondering, though, if a candidate files, and there could be a situation, I know personally, a candidate who's on there resigns. Do they still get paid? How does this work? So I'm in favor of the amendment that Senator Fischer has just to say, hey, you know what you got when you're getting into it. If we could amend it that you're receiving the pay, the way I understand it, without this committee amendment, they would still receive their pay till they're done with their term. None of them, and they talked to, on that Channel 7 news story, many of them said I would do this for free, it's important work. And it is and I do believe they would do it for free. So I'm in favor of Senator Fischer's amendment, AM1987, and the bill, LB937. I'm going to listen to AM1949, and since AM1987 deals with AM1949, I want to hear how this goes. But 10 of 18 have already filed so we're talking, if we're going to do this, that's a good majority of the candidates. Also, in the fiscal note, if you read the fiscal note, we're talking about \$216,000 that's being given to the community members. We give the learning community right now a million dollars in General Funds and then also \$1.6 million state aid through the educational service units, the way I understand this fiscal note. So they have money to do their job and they're doing it, they're working right now. I don't believe the candidates...or not the candidates but the current members need to be compensated for the work. I don't think

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it is that much different than a regular school board member that many...and I don't know what the number of school board members there are throughout the state who are working hard for no pay but expenses. So I commend Senator Fischer for the bill and I'm going to listen closely on the discussion on the amendments. Thank you, Mr. President. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Nordquist, you're recognized. [LB937]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise in opposition to the underlying legislation mainly for a couple reasons. Number one, I'll disagree a little bit with Senator Gay, I think they are different than a school board. They are intended to have a different purpose. They're going to be administering programs, whether it's elementary learning centers, they're administering potentially focus schools down the road. That takes a significant amount of time to research, to establish programs, to operate programs, and to evaluate programs. That's why I think it is different and that's why, after talking to several members of the learning community coordinating council in the metropolitan area, that if those...you know, many of them said we may have to hire staff if we don't have the time and capability ourselves to go out and do this and receive our per diem. I mean these are busy folks that I believe are putting in good time but deserve some reasonable compensation for that. I don't know that there's...there's no cost savings to the state unless we reduce their appropriation and there will be no cost savings overall certainly if they have to go out and hire staff to fulfill their duties to administer the programs, the elementary learning centers and the focus schools under the learning community coordinating council. Thank you, Mr. President. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator Adams, you're recognized. [LB937]

SENATOR ADAMS: Thank you, Mr. President. Senator Fischer and I have discussed her amendment and she knows where I fall on this. I don't support it; I do support the committee amendment. Let me explain my reasoning. For me personally, I have philosophically one leg on both sides of this. I do think that there should be a point when the per diem ends. I do think that there should be a time. We are one year into this experiment and already we're becoming impatient, we want results. And in spending a lot of time talking with members of the learning community board in an attempt to develop legislation and listen to how things are going there, I can't stand here and tell you today that all 18 members are putting in every minute that they ought to, but I can tell you that many of them are doing yeoman work. They're doing a job that we asked them to do and it is a big job. Is it comparable to a school board member? In some cases it is. Let me remind you that there are school board members that are on the learning community who not only are serving in their school boards but then they're putting in extra time to work on the learning community council. Open enrollment,

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diversity plans, this is a huge task. That's why the money was put there, in my belief, and that's what it should be there for. Do I think that there comes a time when it's over for per diem? Yes. Yes, there should be a time when these learning community board members become policymakers, not implementers. And policymaking shouldn't require the time that the implementation is taking right now, and then they shouldn't get per diem. Is that this year? Is it next year? Is it one term? Is it two terms? I can't say. What I can say is it isn't over. Their job is not complete. That's why the committee amendment is where it is. It was a compromise with me. It was a compromise because I don't believe in one year of operation their work is over. Now if someone wants to come to the mike and ask me when does it come to an end, I'll tell you right now I can't answer that question. I can't. But for me, with a certain degree of caution, I think that the committee amendment kind of straddles the gap, a gap between wanting to shut it off now and recognizing there is still work to be done and there's good people trying to do that work. So I don't support Senator Fischer's amendment but certainly would support the committee amendment. Thank you, Mr. President. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Adams. Senator Howard, you're recognized. [LB937]

SENATOR HOWARD: Thank you, Mr. President. I rise in support of LB937. I've been a member of the Education Committee since I was sworn in down here in 2005 and stood shoulder to shoulder with Senator Raikes when we worked through the hard battles of the learning community. I do have serious concerns about the direction this is going and often think to myself, I wonder if this is what Senator Raikes had in mind. In these tough financial times, we need to look at how we spend every taxpayer dollar. We have a responsibility to spend our educational funding in the setting where it will do the most good, and that is in the classroom. I support the work done by our dedicated teachers and our most effective funding is to support those who work directly with our students. Far too much money is spent on overhead and the more we can redirect this spending to our students and our teachers the more we all will benefit. I support Senator Fischer's amendment, AM1949, and LB937. Thank you. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Howard. (Visitors introduced.) Continuing floor discussion on the amendment AM1949 to AM1987, members requesting to speak: Senator Ashford, followed by Senator Wallman, Senator Dubas, Senator Campbell, Senator Hansen, and Senator Gay. Senator Ashford, you're recognized. [LB937]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor, and I rise, too, in support of the committee amendments for many of the reasons Senator Adams has given, but I would add a couple more. In this session, we'll be dealing with some amendments to the learning community statute which more specifically sets forth what I believe was the original intent of the learning community law to start with, which essentially is to move needed funds and expertise into areas that will help young people learn, especially

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those who are living in poverty in our community in the metro area. It also refocuses or reemphasizes two additional points: one, that in providing services to children in need and poverty, students who need the help that is provided by the learning community in the statutory prescriptions, that that help be given primarily by third-party providers, that there are in our community, as there are in every community in this state, third-party providers who have expertise in various areas, whether it's dealing with the truancy issues, whether it's dealing with literacy, a major issue for all of us to deal with throughout the state, and other kinds of issues that confront families that have children who are in poverty and are not learning at the appropriate standard. So what we're making very specific in this...in the bill that will be coming before you this session, that that is really the primary role on the service side, is not to provide direct services but to utilize the services that are out there and be as Senator Howard has suggested be, and assist the schools in providing education, as they're supposed to do, and getting those resources to the schools and to the children. The second change is a funding change that makes it clear again, as we did when we passed the original bill, that the focus schools which promote diversity and promote specific programs in our community for children, helping them to learn, is a major...should be a major focus of the learning community. So we will be reallocating some focus, some money to make certain that those focus schools get jump-started and get moving. We also, hopefully, will have a piece in the bill that will talk about evaluations to make sure that the learning community goals are being met on a day-to-day basis, year in and year out; that this learning gap is being closed; that children who have been truant are in school; that they are learning up to a standard level and not so far below the standard as has been the experience with many children in the metro area for so, so many years. And so the new...the new provisions in the learning community law take us in the direction where Senator Adams I think is taking us in his comments and that is that the board, the learning community board, will become very, over time, and really a policymaking board, very similar to school boards. And I realize, of course, that school board members do much more than simply sit back and make policy, but it's clearly the movement that we're promoting here. In the interim, certainly over the last year and in the next few years that evolution will take place and so Senator Adams I think is correct in saying... [LB937]

PRESIDENT SHEEHY: One minute. [LB937]

SENATOR ASHFORD: ...that it may take a little more time to get the board there. There are some that work harder than others but, clearly, there are many learning community board members who are working every day on issues, on getting this learning community up and going. So my message is twofold. One is hopefully when we get a bill out here on the learning community itself, we will see the movement towards some of these things I think we originally intended to do when we passed learning community law--use third-party providers, work on getting focus schools up and going. And as that occurs, the need to have learning community board members working at such a furious pace, as they have been over the last year, will recede and the need to pay them will

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recede. And I think...certainly I think Senator Adams and his committee amendment is the way to get there. Thank you, Mr. Lieutenant Governor. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Wallman, you're recognized. [LB937]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Thank you, Senator Fischer. I'm against the committee amendment and for Senator Fischer's amendment and the bill. A learning community, aren't all schools supposed to be learning communities? I used to sit on a school board for 16 years. Talked to inner cities from Atlanta, Savannah, New York City. Guess what? What do you do if your school is in trouble? You hire good principals, you hire good teachers. You don't put another management layer over the top of things. You pay attention who you hire. School boards go into the classrooms. I would go into classrooms, if we had trouble with a teacher, as a school board member and sit there and listen, and most generally it was a child that had the problem, not the teacher. So the teachers make the turnaround. The teachers are the learning community, not another school board. That doesn't work. It's another management thing. So teachers, principals, and good superintendents, if they pay attention to what's going on they take care of their problems. You can't sit in office buildings and look out and say, well, we got trouble over here, we got trouble over there, what are we going to do--meetings, meetings, meetings. You go visit these schools who have success, and you turn that program around (snaps fingers) immediately. You hire people who know what they're doing, who have had success, whether it be, you know, New York City, Miami, L.A. They've all had troubles in the past, so superintendents should have been seeking these schools out what had success. It's pretty easy, just simple. They get paid quite well. Superintendents should go to these meetings when they have school board meetings. They have superintendents' meetings. They talk to people so let them use their expertise and what they're getting paid for to help out the teachers. And you got to have teachers to have a learning community. I can't emphasize that enough. It's teachers, teachers, teachers. Thank you, Mr. President. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Dubas, you're recognized. [LB937]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. Members of the body, I rise in support of Senator Fischer's efforts here. As a former school board member, I know the responsibilities that school board members have. Every school district across this state has its own set of unique circumstances and challenges. We as a legislative body understand that as we're trying to enact policy, kind of a one-size-fits-all yet we have such diversity across our state, so, you know, that's our challenge to craft that policy. But I know as local school board members the challenges that they face, the amount of time that they put in. When you're on a school board similar to in the Legislature, when

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you're in the Legislature we serve on various committees, when you're on the school board you serve on various committees. There's a lot of work outside of just the normal scheduled school board meetings. When you're in especially smaller communities, no matter where you go you're on. People are talking to you about what's going on in the schools, what their concerns are, what their frustrations are. So you're never not a school board member. You're always on, you're always discussing issues with your constituency. Is the learning community's situation different? Yes, it is. It's different but it's not unique. They are working. You know, I understand what they're trying to achieve with the learning community. I think the jury is still out on whether it's successful or not. I understand the unique set of challenges that these particular board members are facing in crafting something that is very different and unique from most of the school systems that we have across the state, but I don't feel that these board members deserve special treatment. We all recognize when you run for a public office what the ramifications of running for a public office are, and there is an inordinate amount of time that's required to go into these responsibilities, obligations and responsibilities. If you're doing something like this for the money, you're probably not doing it for the right reason. So the fact that these people are probably having to build something from the ground up, yeah, that does put them in a little bit of a different circumstance. But I don't think it sets them apart from the work that every other school board member across this state does. And so I do rise in support of Senator Fischer's bill, what she's trying to achieve here. I think if we're going to pay these school board members then I think we need to pay all school board members, and that's not some...that's not a road we're probably willing to go down right now either. So appreciate Senator Fischer's efforts in what we're trying to do here. I know this was an issue that was discussed when we were talking about the learning community bill and there were a lot of concerns expressed at that time about why should this particular set of members be paid when the rest of our school board members aren't. So I'll continue to listen to the discussion and the dialogue this morning, but am in support of LB937. Thank you. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Campbell, you're recognized. [LB937]

SENATOR CAMPBELL: Thank you, Mr. President. I stand in support of AM1987 and the committee amendment, and wanted to share with my colleagues that I believe sincerely that money does not influence or dictate the public service of elected officials, and none more so than the school board members who for years and years have served without any compensation and who probably take more phone calls, more letters, more e-mails than we can ever imagine because every parent is an expert on their child and they want their school board member to pay attention. I believe that well-meaning and dedicated people have stepped forward for the community learning centers and to implement it. Without their dedication, we probably wouldn't have come as far as we have even for this first year. But just as well, I think there are well-meaning and dedicated people who have stepped forward to serve on school boards and I think

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we do not send a correct message and so, therefore, I would support Senator Fischer's amendment. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Hansen, you're recognized. [LB937]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Just want to explain a little bit why I prioritized this bill. Senator Avery tells me that Tennessee is the volunteer state, but I think Nebraska could be just as well called a volunteer state for all the volunteer boards that we have across this state. We have, in North Platte alone, we had a school bond issue voted on three times by the people of the town and the third time it was passed and it will build a \$29 million high school. All volunteer people that went out and kept speaking, kept promoting the bond issue and it finally passed, all volunteer positions. I think the volunteer positions that fill the school boards across the state are great. Those people are invaluable. The only reason they ever get any pay or any...not pay, not per diem, but they get reimbursed for their travel and they get reimbursed for their housing if they're traveling out of town for the school district. This is what volunteers are all about. Yet with the learning community that we passed in this body we allow \$200 a day for 18 members, a total of \$12,000 per year or \$216,000 that could be used in the classroom. That's where that money should have gone and it certainly needs to go there now. The learning community has had some time. If we don't keep giving them duties, they can fulfill those duties and become a volunteer board, and that's why I prioritized the bill. I know they do have staff and I know they do have a lobbyist. I know they had a lobbyist before they had an office so that tells you where some of their momentum comes from. Thank you, Mr. President. And I'd like to give the rest of my time to Senator Lautenbaugh, if he wishes. [LB937]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're yielded 3 minutes. [LB937]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. Sorry you caught me on the phone there but I do appreciate the time and I just want to rise in support of this amendment, support of the underlying bill, and let me explain why. I was speaking to a group last night and it was probably a particularly gloomy type of speech to be giving but I gave it just the same and I pointed out that we had a bill awhile back that would have saved us a million dollars if we passed it in our original form and I said, well, that's great, if we can find another 600 to 1,000 ideas like this we can be in balance over the next biennium because that's what we're facing and that's something we can never forget. And, yes, the savings set forth in this bill might not necessarily be state dollars, but we're fooling ourselves if we don't think that it's all connected, and we're fooling ourselves if we don't say, well, this might lower some of the burden at the local level because there may be some things coming down the pike that limit the resources we send to the local level. That's just the reality of what we're staring at and this is a modest step, and we need, like I said, about 1,000 modest steps if you use the

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numbers in this one. Well, this isn't state money so there's no point in translating it. But we need to start saving wherever possible and a corollary of that is we need to start allowing the localities to save whenever possible because we might not be able to help them over the next couple years as much as we are now even. So this is what's coming and we could either act or we can wait till we're trying to do it all at once and then no one is happy with what we do and it seems hurried. But when an opportunity comes along like this, I think we have to seize it. And this is a good bill and this is a good amendment and I understand the need for it and I think you all do as well, and it doesn't come close to getting us where we need to go... [LB937]

PRESIDENT SHEEHY: One minute. [LB937]

SENATOR LAUTENBAUGH: Thank you, Mr. President. But every little bit helps and this is just a little bit but it's a savings we should let the localities realize, let ourselves realize by extension. Thank you very much. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Members requesting to speak on AM1987 to AM1949 are Senator Gay followed by Senator Lautenbaugh, Senator Adams, Senator Wallman, and Senator Sullivan. Senator Gay, you're recognized. [LB937]

SENATOR GAY: Thank you, Mr. President. I hit my light again, not so much to speak in favor, which I still am in favor of the amendments, but just a clarification. I had mentioned there are ten candidates filed for three positions and I maybe misrepresented there were ten positions open. There are three positions. District 1, 2...1, 3, and 5 are open right now in the learning community. There are ten candidates filed for that. So I did want to clarify that position and not mislead anyone. However, when I was thinking about that, if there are that many people vying for three positions, I doubt they're doing it for the money anyway. I'm still in favor of the amendments, Senator Fischer's amendment, but you've had...there's four candidates in District 1, four in District 3, and two in District 5. I know many of the people that are filed for those seats and they're not doing it for the money anyway. However, you've heard the different discussions from different members about, again, it's the principle. I do think that those people who are serving in the community, yeah, they travel a little bit but they're not doing it for the money. They're doing it like any other school board member. And is it different? I'm not out to trash the learning community. That's not what this discussion is about. This is about paying people for doing some of the same things that others all throughout the state and in my district as well and your district that are doing and not getting compensated. So it's a fairness issue, it's a fiscal issue and...but I did want to clarify that just in case. I didn't want to mislead anyone. So then, when you look at it that way, we are only talking about three people here on this amendment that it's affecting, which quite honestly I think is even better. It's not affecting ten different positions. It's only three positions and these people know what they're getting into. I

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don't think they're doing it for the compensation anyway. Thank you, Mr. President.  
[LB937]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Adams, you're recognized.  
[LB937]

SENATOR ADAMS: Thank you, Mr. President. I'm not going to take much more time because I think it's a simple matter and people have their minds made up. But before this amendment comes to a vote I want to remind you once more, do I think that there comes a point when the per diem needs to go away? Yes, or I wouldn't have voted to move this bill out of committee. I support the committee amendment the way that it is. If you have yet to come to grips or don't agree with the workload that they have, there's probably not much more that I can say. Walk a mile in their shoes. There's no doubt in my mind but what there are school board members from one end of this state to the other that probably put in extraordinary amounts of time. I meet with them all the time; I know that they do. And some of those people are also serving double duty on the learning community council. So if the workload, if you've made up your mind about the workload then consider one more issue. The committee amendment, the bill itself, ends the per diem. We can live with that. Then the question becomes in my mind also a matter of fairness. These people have filed for the job. Did they file because of the money? I hope not and I doubt it, but I can't imagine that they went in blind and didn't recognize that it was there. I'll end with that, Mr. President. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Adams. Members requesting to speak on AM1987 to AM1949: Senator Wallman, followed by Senator Sullivan, Senator Pirsch, Senator Price, and Senator Council. Senator Wallman, you're recognized. [LB937]

SENATOR WALLMAN: Thank you, Mr. President. I'm not against these people that serve on the learning community; I'm just against the principle, the idea. We should have had a sunset on the bill in the first place but it didn't happen. It's not happening here, so we're just extending this. And so I thank again Senator Fischer and I will support her amendment but not the committee amendment. Thank you, Mr. President.  
[LB937]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Sullivan, you're recognized. [LB937]

SENATOR SULLIVAN: Thank you very much, Lieutenant Governor and members of the body. I wasn't here when the learning community was created and I've been trying hard in the process to learn more about it. And I think, quite frankly, it's entirely appropriate that not only the Education Committee reviews what the learning community is doing but that this entire body does because at the end of the day it is this body who will assess ultimately the future of a learning community, because the learning community is

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accountable to us. As Senator Ashford said that you will be hearing some learning community legislation that is coming forth from the Education Committee, this was coming from Senator Fischer, I think both are very appropriate because, in my mind, the jury is still out, in my mind, on the effectiveness of the learning community. So I'm keeping my ears open and hopefully my mind open as to how this thing is evolving and I think it's incumbent on all of us to monitor how it is evolving. Because, quite frankly, I don't want to be funding an organization, an entity, that is not holding true to its original intent. So I'm going to, as I said, be monitoring it closely. As to this particular piece of legislation, I think probably I'm going to hold with the committee amendment. It I think clarifies that we aren't changing horses in the middle of the stream and so I think that it's more appropriate with the committee amendment to this legislation by Senator Fischer. Thank you. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Pirsch, you're recognized. [LB937]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I appreciate the comments that have been made here today and, I tell you, I do rise in support of the underlying bill and the amendments. I think that it's quite clear that the people who are coming forward are not doing it and shouldn't be doing it for personal enrichment, the public service. And so I think, and I'll be brief here because a lot of the good points were already reached, but in part, in my mind, the economic situation that the state finds itself in dictates that we must do this. I think everybody's got to, you know, as Senator Lautenbaugh pointed out, we may well be scraping for \$600 million or more next year and so every little bit counts. And I think as we ask for a lot from some people and some groups, we have to at least symbolic, you know, take symbolic amounts from everyone. So in large part, the economic situation, but I think also it's a matter of parity. We do ask right now from a lot of public boards to contribute without any compensation and we rely on. There would be no feasible way that we could have functioning school boards with as many as that exist and other type of boards that exist if we were to have to make these type of payments, and I don't want to denigrate the importance of the nature of their work by having this disparity. So on both of those counts, I would just urge passage of the underlying amendments and the bill. Thank you. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Senator Price, you're recognized. [LB937]

SENATOR PRICE: Thank you, Mr. President, members of the body. I rise in support of the bill and the amendment made by the committee there, and one of the things we've been hearing a lot about is the fairness between boards, you know, your local school boards across the state and this learning community board. And we've heard that maybe stopping the per diem and things that's going to do, but one thing I want to make sure we understand, there are 18 voting members on the board and there are also

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anywhere between two to four nonvoting members who sit on school boards and then what they do, they get appointed to the learning community predicated on the fact that their district does not have an elected official sitting on the board. It's kind of like a consolation prize. You get to sit on the...you get to sit on the learning community board to represent your area but you don't get to vote; oh, and guess what, you don't get the per diem. So we already have people who sit on the learning community board who aren't paid. We already have set up from the inception a basis for a difference amongst the board members there. So I wanted you all to know that, that this would harmonize within the...with the board itself and that we currently have members who sit on the board because they couldn't get elected and, in my opinion, because they don't have a large enough voter base to compete with the larger demographic areas so there's a good chance they will never have representation on the learning community, and they don't get paid and they don't get a vote. Thank you, Mr. President. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Price. Senator Council, you're recognized. [LB937]

SENATOR COUNCIL: Yes, thank you, Mr. President. I have sat and listened to all of the positions that have been taken on the underlying bill and both of the amendments and, having as well served on a local school board for more than a decade, I understand the work and the commitment of school board members, but I also understand and recognize the difference between the learning community council and its responsibilities and those of a school board member. And I'm not going to get into a debate as to whose motives are more altruistic than someone else's, but the learning community council, as I have observed their operations, I mean we're talking about a group of people who have to rely in many respects on their own resources. I guess I had the advantage of being from a large urban school district. A lot of the work that I was able to perform was assisted by staff members and the learning community council doesn't have a staff. What the Legislature has expected the learning community council to do is to actually create an institution, not merely administer an institution. I think that's a little different. The problem I have with Senator Fischer's amendment is, and I've heard the commentary that people ought to be running for these positions because they want to do the job, not because they're being paid to do the job, but I think that we cannot ignore the fact that if people have begun to devote the kinds of time and energy to performing these functions as we expect them to, that they have altered other parts of their lives that may affect their ability to earn income. And with regard to those who are currently filing, I guess I'd feel differently if the effective date of this bill was before the filing deadline. And while reasonable minds can differ as to whether people would have filed or not filed, regardless of the pay or whether people who in part took that into consideration, whether they're deserving of serving on the community council for me is a nonstarter in terms of this discussion. The fact of the matter is that, in terms of fairness of equity, people relied upon the state of the law as it existed on the filing deadline and if we are going to change that law we should provide individuals an

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opportunity, sufficient time, to make adjustment to that change. Earlier today we advanced a bill that was designed to give cities of the first class additional time, up to literally 20 years, to make adjustments and here we're talking about, in essence, a one-year period of time for individuals to make the adjustment. And for the reasons that I've outlined in terms of fairness and equity, and I'm not going to try to substitute my opinion on the motives of individuals who seek these positions, but the fact of the matter is filing deadline was yesterday. Incumbents had to file... [LB937]

PRESIDENT SHEEHY: One minute. [LB937]

SENATOR COUNCIL: ...prior to February 15. These individuals have made decisions based upon the law as it existed. If it's going to be changed, I think they need to be provided with a reasonable time period within which to adjust to that change. And for that reason, I will not be supporting AM1987 but I will support AM1949. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Council. Seeing no additional requests to speak, Senator Fischer, you're recognized to close on AM1987. [LB937]

SENATOR FISCHER: Thank you, Mr. President and members, and thank you for your thoughtful discussion on this amendment to the committee amendment. First of all, I would like to thank everyone who serves in any capacity within their communities. School board members put in a lot of time, as do learning community council members. It's a big job. This bill in no way is saying that it's not a big job and it is in no way saying we do not thank you for your service. We do thank those members for their service. It was my privilege to serve on a school board for over 20 years and during that time I was also privileged to serve on the board and as president of the Nebraska Association of School Boards. I'm sure many of you have been contacted by your local school board members because that association came and testified in favor of my bill. They were at that hearing. That hearing was held on February 2. It received a lot of publicity. With all due respect to Senator Adams and to Senator Council, I believe my amendment to the committee amendment is important and I feel it is fair. This is a matter of fairness. Anyone who filed to run for the learning community council board, I would assume, had heard about this bill because the hearing was held February 2, before incumbents had to file and before nonincumbents had to file yesterday. The only person in opposition to the bill was the lobbyist for the learning community. I would assume from that, that the incumbent learning community members knew about the bill and gave him direction to come down and testify in opposition. So I believe that all those parties are well-aware of the bill and well-aware of my intentions. As I said, I thank all of those who serve. It is a big job but it is a volunteer job. I support the committee, and Senator Adams and I had discussions that I would support an amendment that would allow those who were elected and currently serving to finish out their next two years and receive that per diem, to receive that \$200-a-day per diem. Members last year on the learning community council were paid \$216,000 for that annual per diem. They have done their work. They

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have put in time. They have established the learning community. Yes, it will continue to be work but, yes, our local school board members continue to work day in and day out, too, without a per diem, without a salary. [LB937]

PRESIDENT SHEEHY: One minute. [LB937]

SENATOR FISCHER: Thank you, Mr. President. I thank those members for their service and I would suspect that all of them will continue to serve and that those who are interested in the children in their districts and the children in this state will continue to step forward. Whether it's our local school boards or whether it's the learning community council, those people will continue to step forward. They will continue to serve. This per diem makes no difference, as it should be. A per diem should not make any difference and a per diem should not be paid. We are past that with the learning community. I would urge you to support my amendment to the committee amendment. Thank you, Mr. President. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the closing. The question before the body is on the adoption of AM1987 to AM1949. All those in favor vote yea; opposed, nay. Senator Fischer. [LB937]

SENATOR FISCHER: I would like a call of the house, please, Mr. President. [LB937]

PRESIDENT SHEEHY: There has been a request for the call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB937]

CLERK: 32 ayes, 0 nays to place the house under call, Mr. President. [LB937]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Heidemann, Senator Dierks, Senator Lathrop, Senator Loudon, Senator Langemeier, the house is under call. Senator Fischer, Senator Langemeier is on his way. Once everyone is present and accounted for, how would you like to proceed? [LB937]

SENATOR FISCHER: I would like a roll call vote, reverse order, please. [LB937]

PRESIDENT SHEEHY: Senator Fischer, all members are present or accounted for. Members, the question before the body is on the adoption of AM1987 to AM1949. There's been a request for a roll call in reverse order. Mr. Clerk. [LB937]

CLERK: (Roll call vote taken, Legislative Journal pages 716-717.) 27 ayes, 14 nays, Mr. President, on the adoption of the amendment. [LB937]

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PRESIDENT SHEEHY: The amendment to committee amendment, AM1987, is adopted. The call is raised. We will now return to floor discussion on the Education Committee amendment, AM1949. Are there members requesting to speak? Seeing none, Senator Adams, you're recognized to close. [LB937]

SENATOR ADAMS: Thank you, Mr. President. My first reaction was to waive closing, but I am going to take a moment. I can accept defeat. As I think I have made clear throughout the course of this debate, I do believe that there is a point at which the per diem needs to end and now I'm faced, as a committee Chair, closing on an amendment that I don't agree with, but that comes with the territory. What the amendment now does is allow those who are currently in office within the learning community to continue to get their per diem but then it's over, and those who have filed for office, if they win a position, if this bill passes, won't get the per diem. It's just that simple, and I think I know the direction that this is heading. With that, Mr. President, I'll say no more. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the closing. The question before the body is on the adoption of the Education Committee amendment, AM1949, to LB937. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB937]

CLERK: 30 ayes, 11 nays on the adoption of committee amendments. [LB937]

PRESIDENT SHEEHY: AM1949 is adopted. We will now return to LB937. Member requesting to speak, Senator Hadley, you're recognized. Senator Hadley waives. Seeing no requests to speak, Senator Fischer, you're recognized to close on LB937. [LB937]

SENATOR FISCHER: Thank you, Mr. President and members, and I thank you for your votes on the amendments and would ask that you advance the bill to Select File. I've been visiting off the mike a little bit with some of you, including Senator Heidemann, with regards to that \$216 (sic) that probably will not be going out to those board members anymore and just where that money can and cannot go to help either with education or with General Fund. So with that, I would ask you to please advance LB937 to Select File. Thank you. [LB937]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the closing. The question before the body is on the advancement of LB937. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB937]

CLERK: 35 ayes, 10 nays, Mr. President, on the advancement of the bill. [LB937]

PRESIDENT SHEEHY: LB937 advances. Mr. Clerk, do you have items for the record?

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[LB937]

CLERK: I do, Mr. President. Your Committee on Banking, Commerce and Insurance reports LB931 to General File with committee amendments attached. New resolution, LR343 by Senator Hadley; that will be laid over. An amendment to LB1021 to be printed by Senator Avery. Announcements: Revenue will have an Exec Session at 1:30 in Room 2022; and tomorrow the General Affairs Committee will hold an Executive Session at 4:00 in Room 1015. (Legislative Journal pages 717-718.) [LB931 LR343 LB1021]

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

PRESIDENT SHEEHY: You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We stand at recess.

RECESS

PRESIDENT SHEEHY PRESIDING

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

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

PRESIDENT SHEEHY: Are there items for the record?

CLERK: I have no items, Mr. President.

PRESIDENT SHEEHY: We will proceed to the 1:30 agenda under Select File, 2010 committee priority bills, Carlson division, LB1006. [LB1006]

CLERK: Senator Nordquist, I have E&R amendments first of all. (ER8166, Legislative Journal page 641.) [LB1006]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1006]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1006. [LB1006]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1006]

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CLERK: Senator Adams would move to amend with AM2055. (Legislative Journal page 701.) [LB1006]

PRESIDENT SHEEHY: Senator Adams, you're recognized to open on AM2055 to LB1006. [LB1006]

SENATOR ADAMS: Thank you, Mr. President, members. Just as a quick reminder. What this bill does is to change the kindergarten eligibility date from October 15 to July 31. The other thing that it does, it makes it mandatory for all school districts to find and/or develop an assessment process so that if you have a four year old that's right there at the mark that might be able to go, they would be assessed to determine whether they're developmentally ready to get in. What this amendment does is respond to a couple of phone calls we've gotten. They are rather unique but we do have in the state a couple of kindergartens that start very early in the summer, July 1. And so we are just simply with amendment adjusting language a little bit so that they don't have to change when they start. And the law would continue to apply to them as well. But it's just a very unique situation. Thank you, Mr. President. [LB1006]

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening of AM2055 to LB1006. Member requesting to speak, Senator Fulton, you're recognized. [LB1006]

SENATOR FULTON: Thank you, Mr. President, members of the body. I stand in support of AM2055 and then the underlying bill. And I wanted to take this opportunity to speak on this because I didn't get the opportunity on General File. I had some concern because we ran into this with our own kids where, and actually my own situation. I started kindergarten way back in the stone ages when I was four. But we had our children, a couple of them, that were just outside of the time frame. And we would have liked to have started them early but indeed we were not able to. This amendment though addresses a concern that I had in that it's in the parent's judgment that the child is prepared and ready to enter kindergarten. And then those parents work collaboratively with the kindergarten and with the school. There ought to be a way forward. And AM2055 does that. I just had a talk with Senator Adams, and this provides a mechanism and an avenue for parents whose children do not fall in the appropriate age or birth date to, nevertheless, have their day in court with the local school district. And I think it's a reasonable way forward. So I do stand in support of AM2055. Thank you to Senator Adams. Thank you, Mr. President. [LB1006]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Seeing no additional requests to speak, Senator Adams, you're recognized to close. Senator Adams waives closing. The question before the body is on the adoption of AM2055 to LB1006. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB1006]

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CLERK: 34 ayes, 0 nays on adoption of Senator Adams' amendment. [LB1006]

PRESIDENT SHEEHY: AM2055 is adopted. [LB1006]

CLERK: I have nothing further on the bill, Mr. President. [LB1006]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1006]

SENATOR NORDQUIST: Mr. President, I move LB1006 to E&R for engrossing. [LB1006]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1006 advances. We will proceed to LB865. [LB1006 LB865]

CLERK: LB865, Senator, I have E&R amendments first of all. (ER8165, Legislative Journal page 641.) [LB865]

PRESIDENT SHEEHY: You have heard the motion on the adoption of amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB865]

CLERK: Senator Fischer would move to amend, AM2078. (Legislative Journal page 719.) [LB865]

PRESIDENT SHEEHY: Senator Fischer, you're recognized to open on AM2078. [LB865]

SENATOR FISCHER: Thank you, Mr. President and members. AM2078 clarifies the definition of livestock animal. During Enrollment and Review, Bill Drafters raised a question about that definition, particularly what animals would be included in the definition of livestock animals. The amendment strikes the reference to "used for food or fiber" and simply lists the animals included in the definition. My office spoke with the groups who worked on this bill originally, including the Nebraska Humane Society, Nebraska Farm Bureau, and Nebraska Cattlemen regarding this amendment and they all support the change. So I would urge you to adopt the amendment. Thank you. [LB865]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You've heard the opening of AM2078 to LB865. Seeing no requests to speak, Senator Fischer, you're recognized to close. Senator Fischer waives closing. The question before the body is on the adoption of AM2078 to LB865. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB865]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Fischer's

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amendment. [LB865]

PRESIDENT SHEEHY: AM2078 is adopted. [LB865]

CLERK: I have nothing further on the bill. [LB865]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB865]

SENATOR NORDQUIST: Mr. President, I move LB865 to E&R for engrossing. [LB865]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB865 advances. We will now proceed to LB910. [LB865 LB910]

CLERK: LB910, Senator, I have E&R amendments first of all. (ER8168, Legislative Journal page 641.) [LB910]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB910]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB910. [LB910]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB910]

CLERK: Senator Carlson would move to amend, AM2075. (Legislative Journal pages 719-720.) [LB910]

PRESIDENT SHEEHY: Senator Carlson, you're recognized to open on AM2075. [LB910]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. LB910 involves an increase in license fees for certain dog and cat breeders and facilities and the application of a \$1 fee on all licensed dogs and cats in the state of Nebraska. The amendment, AM2075, allows for the collection fee of 3 percent payable to the person or the entity collecting the fee. And it specifies that the payment from the fees collected go to the State Treasurer. The State Treasurer transfers those payments to the Dog and Cat Breeders Inspection Cash Fund. I ask for your support on AM2075. Thank you. [LB910]

PRESIDENT SHEEHY: Thank you, Senator Carlson. You've heard the opening of AM2075 to LB910. Seeing no requests to speak, Senator Carlson, you're recognized to close. Senator Carlson waives closing. The question before the body is on the adoption of AM2075. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB910]

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CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Carlson's amendment. [LB910]

PRESIDENT SHEEHY: AM2075 is adopted. [LB910]

CLERK: I have nothing further on the bill, Senator. [LB910]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB910]

SENATOR NORDQUIST: Mr. President, I move LB910 to E&R for engrossing. [LB910]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB910 advances. We'll now proceed to LB910A. [LB910 LB910A]

CLERK: I have no amendments to LB910A, Senator. [LB910A]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB910A]

SENATOR NORDQUIST: Mr. President, I move LB910A to E&R for engrossing. [LB910A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB910A advances. We'll now proceed to LB770. [LB910A LB770]

CLERK: LB770, I have E&R amendments, Senator. (ER8167, Legislative Journal page 641.) [LB770]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB770]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB770. [LB770]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB770]

CLERK: I have nothing further on LB770, Senator. [LB770]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB770]

SENATOR NORDQUIST: Mr. President, I move LB770 to E&R for engrossing [LB770]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye.

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Opposed, nay. LB770 advances. We'll now proceed to LB888. [LB770 LB888]

CLERK: LB888, I have E&R first of all, Senator. (ER8170, Legislative Journal page 680.) [LB888]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB888]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB888. [LB888]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB888]

CLERK: Senator Conrad would move to amend, AM1847. (Legislative Journal page 622.) [LB888]

PRESIDENT SHEEHY: Senator Conrad, you're recognized to open on AM1847 to LB888. [LB888]

SENATOR CONRAD: Thank you, Mr. President. Thank you, colleagues. AM1847 contains cleanup amendments to LB888 which would enact the Nebraska Uniform Limited Liability Company Act. I briefly alluded to and explained these amendments on General File and they are now finalized and ready for your consideration here on Select File. They emanate from the Attorney General's Office, the Department of Revenue and the Secretary of State's Office, who have each scrutinized LB888 and have each recommended one simple tweak each that are contained in this one amendment. In each case, these three changes would adjust the language in the bill so that the new Uniform LLC Act would more closely reflect existing provisions already found in our current LLC Act. Well, what would the amendments do? Purpose of an LLC: The Attorney General's Office has pointed out that what we might call the purpose clause in the new Uniform LLC Act is a bit broader than the purpose clause in our current LLC Act. Therefore, the Attorney General's Office feels the new Uniform LLC Act, when read together with our Nonprofit Corporation Act, could create unintended consequences or loopholes that may be exploited to circumvent the Nonprofit Corporation Act's existing protections for organizations formed for charitable or similar purposes. As such, this amendment addresses that concern. Currently, Nebraska does not recognize nonprofit LLC's, there's no such thing under Nebraska law. Nonprofit organizations need to form under the Nonprofit Corporation Act so their charitable or similar interests that they enjoy...so that they can enjoy the protections of that act and the oversight scrutiny from the Attorney General's Office. These amendments would not prevent anybody from doing something they could not do now if they wanted to, and the amendments would not stop anybody from continuing to do something they are already doing. Tax purposes: The issue presented by the Nebraska Department of Revenue was that our

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current LLC Act was not a uniform act and has a Nebraska-specific provision in which it says, "A LLC's shall be classified for state income tax purposes in the same manner as it is classified for federal income tax purposes." That language is in current Section 21-2633. The Department of Revenue tells us that there are no similar provisions in the new Uniform LLC Act, thus out of an abundance of caution we want to make sure that nobody in the future could suggest a change in this established policy was ever intended by the Legislature simply because this language in Section 21-2633 of the old LLC Act was not carried over into the new Uniform LLC Act. Therefore this amendment addresses that and adds the language from Section 21-2633 of the current act to the Uniform Act. Finally, foreign LLCs: The Office of the Secretary of State has pointed out that a very close reading of the new Uniform Act would give rise to an argument that registration of a foreign LLC is optional rather than mandatory prior to transaction of business within the state. Thus again, out of an abundance of caution, these amendments would specifically provide that a foreign LLC may not transact business in Nebraska until it qualifies with the Secretary of State. These amendments were sent to Professor David Walker at the Drake University Law School. He's a lead member of the Uniform Law Commissioners and the Uniform LLC Act. Professor Walker concurs that our clarification would be appropriate. In conclusion, I urge the adoption of these amendments as put forward by the Attorney General's Office, the Department of Revenue, and the Nebraska Secretary of State. Thank you. [LB888]

PRESIDENT SHEEHY: Thank you, Senator Conrad. You've heard the opening of AM1847 to LB888. Seeing no requests to speak, Senator Conrad, you're recognized to close. Senator Conrad waives closing. The question before the body is on the adoption of AM1847. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB888]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Conrad's amendment. [LB888]

PRESIDENT SHEEHY: AM1847 is adopted. [LB888]

CLERK: Senator Lautenbaugh would move to amend, AM2041. (Legislative Journal page 709.) [LB888]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on AM2041. [LB888]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And those of you who know me best know that one of my lifetime passions has dealt with charging orders against an LLC member's interest. And I know there's not a one of you here who doesn't remember last year when we passed this seminal bit of legislation that governed charging orders against a member in an LLC's interest. So I know I don't have to give a lot of background because I know you all remember it like it was yesterday, so

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I'll not. But as happens sometimes it wasn't a perfect piece of legislation. And so I had to introduce a bill this year to correct it so that it would be clear that the remedies set forth in the statute that we passed last year were the exclusive remedies, and we've clarified what those are. Once again, the deals with charging orders against a member of an LLC's interest...ownership interest, excuse me, in that LLC. So I introduced this bill separately. With Senators Conrad...Senator Conrad's blessing, I'm bringing this as an amendment to her LB888. I don't believe there was an opposition to my bill in committee. And I would be happy to talk about it at length all afternoon if anyone is so inclined. Otherwise, I'll just ask you to vote green. Thank you. [LB888]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the opening of AM2041 to LB888. Member requesting to speak, Senator Conrad, you're recognized. [LB888]

SENATOR CONRAD: Thank you, members. Thank you, Senator Lautenbaugh. And for the record, it is always a distinct pleasure to have the opportunity to work with you on important legislation. And I have had the opportunity to increase my personal knowledge base surrounding charging orders and LLCs through this process. And it has, in fact, been a fantastic learning experience and a unique opportunity to work together on important legislation. Thank you for finding the apparent synergies in these two bills. And I look forward and urge their consideration and adoption as we move forward so that we can have a complete set and structure in place for dealing with these issues. Thank you. [LB888]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Seeing no additional requests to speak, Senator Lautenbaugh, you're recognized to close. [LB888]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And thank you, Senator Conrad, for your courtesy on this. I would urge you to vote green. [LB888]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the closing. The question before the body is on the adoption of AM2041 to LB888. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB888]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Lautenbaugh's amendment. [LB888]

PRESIDENT SHEEHY: AM2041 is adopted. [LB888]

CLERK: I have nothing further on the bill, Mr. President. [LB888]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB888]

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SENATOR NORDQUIST: Mr. President, I move LB888 to E&R for engrossing. [LB888]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye; opposed, nay. LB888 advances. We'll proceed to LB821. [LB888 LB821]

CLERK: LB821, Senator, I have no amendments to the bill. [LB821]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB821]

SENATOR NORDQUIST: Mr. President, I move LB821 to E&R for engrossing. [LB821]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB821 advances. We'll now proceed to LR295CA. [LB821 LR295CA]

CLERK: LR295CA, Senator, I have no amendments to the resolution. [LR295CA]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LR295CA]

SENATOR NORDQUIST: Mr. President, I move LR295CA to E&R for engrossing. [LR295CA]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LR295CA advances. We'll proceed to LB689. [LR295CA LB689]

CLERK: LB689 does have E&Rs, Senator. (ER8169, Legislative Journal page 680.) [LB689]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB689]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB689. [LB689]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB689]

CLERK: I have nothing further on that bill. [LB689]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB689]

SENATOR NORDQUIST: Mr. President, I move LB689 to E&R for engrossing. [LB689]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB689 advances. We'll now proceed to LB764. [LB689 LB764]

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CLERK: I have no amendments to LB764, Senator. [LB764]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB764]

SENATOR NORDQUIST: Mr. President, I move LB764 to E&R for engrossing. [LB764]

PRESIDENT SHEEHY: Senator Sullivan, you're recognized. [LB764]

SENATOR SULLIVAN: Thank you very much, Lieutenant Governor and members of the body. I rise, first of all, in support of LB764, but I also wanted to take this opportunity with Senator Fischer's advance agreement to ask a series of questions of her, not only to establish some legislative history but also to get information into the public record on the intent of this legislation. So with her permission, I wonder if Senator Fischer would yield to some questions. [LB764]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Sullivan? [LB764]

SENATOR FISCHER: Yes, I will. [LB764]

SENATOR SULLIVAN: Thank you very much, Senator. First of all, LB764 allows NRDs to develop voluntary integrated management plans for basins that are not designated as fully appropriated. What's the advantage in doing this? Is it a good idea? [LB764]

SENATOR FISCHER: I think it's a great idea, Senator Sullivan, and it's a proactive approach to how we manage our water resources across the state. We're not going to wait until a basin is declared fully appropriated before we look at how that basin needs to be managed. This is a step, I believe, in the right direction and in the proper direction in the management of our water resources. [LB764]

SENATOR SULLIVAN: Now the NRDs are taking the lead on this, but what role does the Department of Natural Resources play in this voluntary process? [LB764]

SENATOR FISCHER: They would have the same role in the voluntary process that they currently have with the mandated IMP process once a basin is declared fully appropriated. DNR and the NRDs jointly work on that integrated management plan. [LB764]

SENATOR SULLIVAN: Now did the Department of Natural Resources, they don't oversee NRDs, do they? [LB764]

SENATOR FISCHER: They don't...I guess I'd question, what do you mean by oversees? My interpretation, if somebody oversees something, they're in charge of it.

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And no, the Department of Natural Resources is not in charge of our NRDs. They have...both have different and distinct responsibilities. [LB764]

SENATOR SULLIVAN: And so NRDs, the oversight of them really is from their elected boards, is that correct? [LB764]

SENATOR FISCHER: Their locally elected boards oversee NRDs. With regards to integrated management plans, the Department of Natural Resources, they have to review the plan. They have to review those rules and regs that the DNR...or excuse me, that the NRDs come up with, and they do have to sign off on it. It has to be a mutual agreement on an IMP. [LB764]

SENATOR SULLIVAN: All right. Now what about irrigation districts, reclamation districts, public power and irrigation districts, and others that are vested in surface water groups? What involvement will they have in the NRDs' development of the voluntary IMP? [LB764]

SENATOR FISCHER: Well, I think they'll have the same involvement that they currently have when an IMP is required once you become fully appropriated. And that is in statute, Senator Sullivan, if I can quote part of that to you. In 46-717--and I'm picking and choosing here but: During preparation of an integrated management plan, the affected natural resources districts shall consult with any irrigation district. So that would not change under my bill. [LB764]

SENATOR SULLIVAN: So in that consultive position, though, at the end of the day do NRDs actually have the power to tell other local officials,... [LB764]

PRESIDENT SHEEHY: One minute. [LB764]

SENATOR SULLIVAN: ...such as those irrigation districts, what to do? [LB764]

SENATOR FISCHER: I wouldn't say that. The NRDs have the ultimate responsibility of coming up with the IMP. They also have the responsibility to include those named stakeholders, such as the irrigation districts, but they need to include all stakeholders when they go through this planning process for that basin. The NRD then works on that integrated management plan to come up with a plan, again in consultation with the Department of Natural Resources, but I guess you could say that ultimately the Department of Natural Resources, since they have to sign off on that plan, they may be the ones that have the ultimate authority over an integrated management plan. Our Nebraska Department of Natural Resources, I guess my belief is that they have that ultimate authority and they oversee the whole process. It...never in my...from what I've learned about it, and maybe other senators might know differently, but I don't believe there's ever been a true veto of a plan. I think the Department of Natural Resources and

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the local NRDs have tried to work together on plans and have thus far been successful in agreeing on what those integrated management plans should be. [LB764]

PRESIDENT SHEEHY: Senator, you're into your next five minutes. [LB764]

SENATOR SULLIVAN: Thank you very much. [LB764]

SENATOR FISCHER: I guess I would invite, if another senator knows where that didn't happen, for them to let us know. But I can't recall that there's been any veto done by the Department of Natural Resources on an integrated management plan because it is a very thorough process that they have to go through. [LB764]

SENATOR SULLIVAN: In this process of consulting communication conversation, is it possible, though, that the NRD could perhaps make decisions that would impact irrigation districts and the irrigation districts wouldn't have the opportunity to consult with their elected boards? [LB764]

SENATOR FISCHER: Can you repeat that question? [LB764]

SENATOR SULLIVAN: Well, I guess what I'm getting at is that these irrigation districts have some statutory responsibility and they have elected boards that they, in turn, have to answer to. Is it possible that in this whole communication and involving them in the development of the IMP process, irrespective of that, could there be some decisions made where the irrigation district hasn't had the chance to, I guess, run it by their respective elective boards? [LB764]

SENATOR FISCHER: I believe any stakeholder in this process has the ability and the time to consult with their boards, whether they're elected boards or appointed boards--in the case of Game and Parks Commission, that's an appointed board--that they have the time to do that. Yes. I don't think there's...it's certainly not my intent and I don't believe it's ever been the intent of any NRD who has worked through this process to exclude any stakeholder. There might be a case where maybe a stakeholder has, who views themselves as a stakeholder, feels excluded because, just numberswise, how big can the group be. But I...that's just me thinking out loud here. I have not ever heard of that taking place either, but my intent is to assure that all interested stakeholders in a basin participate. And as I said before, in statute it specifically mentions the irrigation districts. [LB764]

SENATOR SULLIVAN: But at the end of the day, it will be the NRDs that sign off, so to speak, and implement the voluntary IMP. Is that correct? [LB764]

SENATOR FISCHER: To some extent that's correct. But as I stated previously, I believe it's the Department of Natural Resources that has the ultimate say when it comes to

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finalizing an integrated management plan. They work with the NRD, but--and they have to review it--but they have to be the ones that sign off on it. The DNR has to be the ones that sign off on it. If they don't, I believe that NRDs continue to work on the process, and with their stakeholders they continue to work on that process. And... [LB764]

PRESIDENT SHEEHY: One minute. [LB764]

SENATOR FISCHER: Thank you, Mr. President. Until the Department of Natural Resources can sign off on it. Or in some cases, until litigation has been taken care of. [LB764]

SENATOR SULLIVAN: So then with LB764, working through the process, it's really through the Department of Natural Resources that the water rights of surface water users will be acknowledged? Is that correct? [LB764]

SENATOR FISCHER: The Department of Natural Resources is given the responsibility in this state, they're charged with the responsibility of managing surface water. [LB764]

SENATOR SULLIVAN: Okay. Very good. I think, Senator Fischer,... [LB764]

SENATOR FISCHER: And I hit my light, Senator Sullivan, if you want to continue this too. [LB764]

PRESIDENT SHEEHY: Yeah. Senators, you may continue. Senator Sullivan, this will be your third time. [LB764]

SENATOR SULLIVAN: Okay. Well, I think for the most part you've covered it. I really, as I said at the onset, that I wanted to get some clarification partly for my own mind but also for the record. And as I mentioned, I think when we discussed this bill under General File, in my district there are three reservoirs and five irrigation districts serving nearly 200,000 irrigated acres through hundreds of miles of canals and laterals which provide recharge to the aquifer. I just want to make sure that the local officials who are elected to control and determine the management of these and other irrigation districts across the state, in basins that are not fully appropriated, are legitimate participants in the voluntary IMP process and should not be left out or their suggestions ignored by the NRDs. I think this process works best if everyone who is affected by the IMP gets to participate in the decision making, whether they sit on the NRD board or not. So, Senator Fischer, I really appreciate your fielding my questions and thanks for the opportunity. [LB764]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Fischer, you are next in the queue. [LB764]

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SENATOR FISCHER: Thank you, Mr. President and members. And I want to assure Senator Sullivan and all members of the body that, again, the purpose of this bill is to be proactive, to take a positive step in managing our water resources. The NRDs are currently required, when they have to go through their planning process, to include all stakeholders. That does not change under this bill. The NRDs must consult with their locally elected boards, and the stakeholders should be consulting with their locally elected boards also. So the local people in a basin have the input on an integrated management plan. To me, that is one of the most important things about this bill, that we have local people in that basin managing those resources. I don't want to see this state become fully appropriated in every basin in the state of Nebraska. In my opinion, that's going the wrong direction. We need to manage basins to manage our water for beneficial use for all stakeholders at this point in time. And I hope you will support the bill and advance the bill so we can move forward in managing our water resources in a proactive, a positive, and a beneficial manner. Thank you, Mr. President. [LB764]

PRESIDENT SHEEHY: Thank you, Senator Fischer. There are no additional requests to speak. Members, there was a motion on the advancement. All those in favor say aye. Opposed, nay. LB764 advances. We will now proceed to LB805. [LB764 LB805]

CLERK: LB805, Senator, I have E&Rs pending. (ER8173, Legislative Journal page 691.) [LB805]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB805]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB805. [LB805]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB805]

CLERK: I have nothing further on that bill, Senator. [LB805]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB805]

SENATOR NORDQUIST: Mr. President, I move LB805 to E&R for engrossing. [LB805]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB805 advances. We will proceed to LB951. [LB805 LB951]

CLERK: LB951, I have ERs, first of all, Senator. (ER8171, Legislative Journal page 692.) [LB951]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB951]

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SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB951.  
[LB951]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments.  
All those in favor say aye. Opposed, nay. They are adopted. [LB951]

CLERK: Senator Avery would move to amend the bill, AM2061. (Legislative Journal  
pages 721-723.) [LB951]

PRESIDENT SHEEHY: Senator Avery, you're recognized to open on AM2061 to LB951.  
[LB951]

SENATOR AVERY: Thank you, Mr. President. This amendment has three components, all of which relate to voter law. The first one incorporates the provisions of LB850. I met with Secretary of State Gale to talk about how to increase voter turnout, especially turnout among college students, recognizing that college students often face special difficulties in keeping their registration current when they move from their home county to the universities and colleges. At the meeting, we discussed a law that the federal government passed a few years ago, requiring universities and colleges to provide voter registration information to all students. And the universities and colleges in the state of Nebraska do this by way of e-mails and links to information and links to Web sites where they can get registered. The idea emerged during those discussions with Secretary Gale of requiring universities and colleges to inform students about how to request an early voting ballot, in addition to the other voter registration materials that they were already required to provide. A ballot for early voting allows students to vote in their home districts and it helps them avoid the problem of busy...being involved in a busy life during the academic year and discovering that an election is looming and they realize they can't get back home to their home county to vote, but they've passed the deadline for getting reregistered in, here in Lincoln, or wherever they happen to be residing while going to school. So we thought that making it easier for them to become...or to stay registered in their home counties but get an early ballot to vote by mail would be helpful. So we discussed ways to do that. And we...after we drafted the legislation that would require the universities and colleges to provide information about how to get an early ballot, we met with the representatives of the university, the community colleges, and the state college system to discuss implementation of the bill. Everyone involved agreed it was a good idea, that it was important to educate students about voting issues, especially about how to request a ballot for early voting. At the meeting, the Secretary of State discussed how they would provide an electronic link to the universities and colleges that students...that would take student straight to information on how to register to vote and how to request an early ballot. Under the bill, the information on early voting will be provided to students prior to each statewide primary and general election. This information will be provided to each student enrolled

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in a degree or certificate program and physically in attendance at the institution. As mentioned before, this requirement is in addition to the federal law that requires universities and colleges to make a good-faith effort to distribute voter registration materials. The Government, Military and Veterans Affairs Committee heard the bill and advanced it on a vote of 6-1 with one member being absent. There was no opposition to the bill at the hearing. The proponents included all of the representatives of the colleges and universities and community colleges, the NSEA, the Secretary of State, and others. The second components of this amendment incorporates provisions of LB716. LB716 adds community college area to the definition of high elective office. Current law provides that no person serving in high elective office shall simultaneously serve in any other high elective office. Therefore, under this bill, members of the community college board of governors around the state will not be allowed to serve in any other high elective office at the same time. Also any person holding more than one high elective office on the effective date of this act will be entitled to serve the remainder of all terms for which he or she was elected. The Government Committee heard this issue during an interim study back in October. At that hearing, the committee learned for the first time that we do have a situation in the state where a member of a community college board is also serving on a city council. This raised concerns about possible conflicts because often issues overlap between these two entities. Adding community college board members to the list of higher elective office is consistent with current law which includes, among others, the offices of State Board of Education, University of Nebraska Board of Regents, county, city, and learning community, or school district elective offices, all of these are considered higher elective office. No one knows why community college board members were left out of the definition of higher elective office. Nobody could think of a good reason for it to continue. So we advanced this bill from the committee on a vote of 7 to 0 with one person being absent. There was no opposition at the hearing. The Community College Association testified in a neutral capacity. The final element of this amendment is a technical cleanup of LB325. You may remember that LB325 changed provisions dealing with provisional ballots. The bill allowed an election commissioner or county clerk to designate whether a voter is entitled to a regular ballot or a provisional ballot if the name of a registered voter does not appear on the precinct list due to an error or if the registered voter moves to a new residence within the same county and precinct but the voter registration roster does not reflect that move. We had an extended debate on that you will recall. What this amendment does is amends the oath each person signs who votes provisionally. Since LB325 allows persons to vote provisionally when the registered voter has moved within a precinct or when an error appears on the poll book, the part of the oath that states "my name did not appear on the precinct list of registered voters" is no longer accurate and needs to be changed, and that's what this amendment does. It changes the oath language to "my name or address did not accurately appear on the precinct list of registered voters." And that is necessary to reflect the changes we made in LB325. Those are the three components of this amendment, AM2061. I urge you to approve it and let's move the bill LB951. Thank you, Mr. President. [LB951 LB850 LB716 LB325]

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PRESIDENT SHEEHY: Thank you, Senator Avery. You've heard the opening of AM2061 to LB951. Members requesting to speak are Senator Fulton, followed by Senator Lautenbaugh. Senator Fulton, you're recognized. [LB951]

SENATOR FULTON: Thank you, Mr. President and members of the body. Would Senator Avery yield to a question, Mr. President? Senator Avery. [LB951]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Fulton? [LB951]

SENATOR AVERY: Yes, I will. [LB951]

SENATOR FULTON: Senator, on it's LB850, the first provision of AM2061, could you describe...I went through that just as you were talking, and I noticed that it was not unanimously supported in the committee. Could you shed some more light on it? It doesn't look like it's something that is, you know, overly taxing on the universities. It doesn't look like it has a fiscal note. But I would like to see why there was opposition to it. Maybe you could talk about that. [LB951 LB850]

SENATOR AVERY: I'd be happy to answer that. The bill was not controversial. I believe the one negative vote might have come from Senator Janssen, and as I recall, he thought that...I might be putting words in his mouth, but that we do enough baby-sitting of college students--and he's nodding his head; I think I got it right--and this was unnecessary. [LB951]

SENATOR FULTON: Okay. Thank you, Senator Avery. If I can, Mr. President, if this isn't out of order, I would yield the remainder of my time to Senator Janssen if he wants to respond. [LB951]

PRESIDENT SHEEHY: Senator Janssen, you're yielded 3 minutes 35 seconds. [LB951]

SENATOR JANSSEN: Thank you, Mr. President, Senator Fulton. Senator Avery, thank you, as well. Maybe not the exact words but I think Senator Avery kind of hit it. When we debated the bill in committee, a lot of the same parties came with the same issues that a lot of similar bills. And this one seemed that everybody agreed on, and I was wondering why they agreed on it, and it appeared to be a bill that did really little of anything. It already seemed to be there and it just happened...to me, I've always gone back to the "I voted from the middle of the Persian Gulf via absentee ballot" and went through the hoops to do that. I don't think I needed everything spoon-fed to me in that manner. But at the end of the day I just thought it was a do-nothing thing and I opposed the bill, not vehemently. I was not standing upside down and shouting and yelling, which I've done before, and I will most likely support LB951 in its entirety, with or without AM2061. Thank you, Mr. President. [LB951]

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PRESIDENT SHEEHY: Thank you, Senator Janssen. Thank you, Senator Fulton. Senator Lautenbaugh, you're recognized. [LB951]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I guess I do rise in opposition to this amendment, at least to the first part of it, and let me explain why. Senator Avery and I first met several years ago when we were on a voting task force in the wake of the 2000 election. And to my recollection at that time--this will surprise the body--I'm sure we did not agree on a single thing except perhaps maybe the seating arrangement within the room, and we were on opposite ends of it. And...but I always enjoyed him. We just disagreed. But one of the questions that came up early on was: How do we get young people to participate more in elections? And I responded: Well, we should make them pay property taxes so they'll pay attention. And I received letters saying: Well, you're so stupid, we'd have to give them houses; what are you thinking; we can't afford that. And that really wasn't the point. I wasn't advocating we give houses to the young. What I was saying is people tend to participate more as the years go by and they become more invested in the community and the life of the community and the funding of the community and etcetera. And I don't know that we can do much to change that in the early years and I don't know that we should keep on trying. And what were we told here? That, you know, college students are busy. Well, let me say to college students: If you think you're busy now, wait; just wait. And before you know it, the election is upon you. And what that tells me is that you're caught somehow off guard by the fact that there's an election upon you. In Nebraska, they come around fairly predictably, in May and November, generally; even-numbered years. You can see them coming a million miles away--if you're paying attention. And let me say: You should pay attention. But we are now bending over backwards, in a way. That is probably overstating what we're doing with this relatively insignificant amendment. We're bending over backwards for the people who aren't paying attention and saying: We know you haven't really paid attention to this but it's important that you vote. And I hope all of you think on that for a moment. You haven't paid attention in the run up to this election but we think it's important that you vote. So we are where we are and we have this amendment coming and, yes, it's not something that is going to break the university, but there will be someone who has to take the responsibility of interfacing with the Secretary of State's Office, as I read this, and obtaining the materials to distribute and coming up with a way to distribute them, and somehow distributing them to the thousands of students, if we're talking the University of Nebraska at Lincoln, for instance. And that costs. It's not free and it's just another thing, and I question whether or not we get much of a bang for our buck in doing this. Is this really going to move an inattentive student to vote, assuming that's a good thing? Or are we just giving an administrator something else to do that has nothing to do with administering? And we're paying for this. Don't be misled: we'll be funding this. Whoever in the Secretary of State's Office who's charged with interacting with the university, we're paying for that. Whoever is at the university being interacted with, we're paying for that. And so it goes.

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And I think we're at a time where we need to question everything, no matter how trivial it seems, because we can't afford to do much of anything. And I question whether or not we're getting a very big bang or we'll get a very big bang for our buck out of something like this. So I do rise in opposition to the amendment... [LB951]

PRESIDENT SHEEHY: One minute. [LB951]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I won't take it. I urge you to vote no. Thank you. [LB951]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Members, we are now going to move to the 2:30 p.m. agenda under General File 2010, senator priority bills, Haar division. Mr. Clerk, do you have items for the record? [LB951]

CLERK: I do, Mr. President. Explanation of vote from Senator Giese (re LB190, LB190A, LB690, LB691, LB736, LB751, LB650, LB650A, LB698, LB721, LB722, LB731, LB738, LB743, LB749, LB791, LB798, LB814, LB871, LB667, LB705, LB708, LB725, LB762, LB788, LB797, LB806, LB816, LB832, LB873, LB911, LB226, LB512, LB643, LB711, LB723, LB746, LB787, LB848, LB867, LB890, LB891, LB892, LB914). Senator Giese offers LR344 and LR345. Both of those will be laid over. I have a confirmation report from Natural Resources Committee. And the Natural Resources Committee, chaired by Senator Langemeier, reports LB895 and LB993 to General File, and LB1025 as indefinitely postponed. (Legislative Journal pages 723-725.) [LB190 LB190A LB690 LB691 LB736 LB751 LB650 LB650A LB698 LB721 LB722 LB731 LB738 LB743 LB749 LB791 LB798 LB814 LB871 LB667 LB705 LB708 LB725 LB762 LB788 LB797 LB806 LB816 LB832 LB873 LB911 LB226 LB512 LB643 LB711 LB723 LB746 LB787 LB848 LB867 LB890 LB891 LB892 LB914 LR344 LR345 LB895 LB993 LB1025]

Mr. President, first bill this afternoon on General File, LB763, introduced by Senator Mello. (Read title.) The bill was introduced on January 6 of this year, at that time referred to the Judiciary Committee. The bill was advanced to General File. I have no amendments pending at this time, Mr. President. [LB763]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Mello, you're recognized to open on LB763. [LB763]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. LB763 is a bill that adopts the Asbestos Assessor Liability Act. While I'm the principal sponsor of LB763, I'd also like to thank the cosponsors of the bill: Speaker Flood, Senators Cornett, Lautenbaugh, Coash, McGill, Council, Rogert, and Christensen. I'd also like to thank Senator Cornett for prioritizing LB763. LB763 will rectify outdated merger rules for asbestos torts acquired through merger before OSHA issued its 1972 asbestos regulations. The result of these outdated rules is that innocent companies are currently

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being held liable. This issue became of great interest to me because of the potential job loss caused by the inequity of such liability and financial stigma associated with it. A local example of a company that was unfairly caught by these outdated rules is the company, Crown Cork & Seal, a bottle cap and can manufacturer that has an operation in Omaha. The Omaha Crown Cork & Seal plant has a largely unionized work force and is represented by the International Association of Machinists. The company was founded in 1892 by the inventor of the bottle cap, and although Crown Cork & Seal never manufactured, sold, or installed a single asbestos-containing product, the company has been named in a number of asbestos-related lawsuits across the nation, with over 300,000 claims filed against it. While Crown Cork & Seal never made a single asbestos product in its over 100-year-long history, it now pays over \$650 million in asbestos-related payments. On top of that, Crown Cork & Seal also pays an additional \$100 million annually in excess interest to Wall Street banks because of Crown Cork & Seal's junk bond rating due to the threat that asbestos claims could force Crown Cork & Seal into bankruptcy. Because many companies that were actually involved with asbestos have since gone bankrupt, Crown Cork & Seal, in spite of no involvement, has become a bigger target and is being sued in a number of growing cases because of obsolete merger rules. To keep good paying jobs in Nebraska and to expand the company operations domestically, innocent companies like Crown Cork & Seal need assistance in the form of legislation that limits the liability of innocent successor companies for the predecessor asbestos torts incurred as a result of the merger before 1972 when OSHA, for the first time, issued regulations limiting the use of asbestos. Legislation like LB763 has already been enacted by 11 states: Pennsylvania, Texas, Mississippi, Florida, South Carolina, Georgia, Ohio, Indiana, Oklahoma, North Dakota, and most recently Wisconsin. These laws fix the application of outdated successor liability laws to certain asbestos defendants such as companies like Crown Cork & Seal. Organizations, including the Council of State Governments and the American Legislative Exchange Council, have issued recommendations supporting this type of legislation. Based on the Council of State Government's suggested state legislation, LB763 has been carefully tailored so that the impact on plaintiffs is not out of proportion to the end sought. The bill is intended to provide a fair and proportionate cap on liability to a particular compelling, namely innocent, defendants that have been dragged into litigation through no fault of their own but because of the application of successor liability. The laws limit payments that a company, as a successor by merger, must pay as a result of asbestos claims, reducing the jeopardy of certain companies by fairly altering remedies available so that those harmed by a predecessor company can collect from the successor the same amount they could have collected if no merger had occurred, the successor receives credit for settlements or judgments it had paid or committed to pay since the merger. The successor's liability ceases when it has paid or committed to pay as much as the predecessor's gross assets would be now worth adjusted upward towards the passage of time. And any assessor that independently commits a tort, whether before or after a merger, could still be held liable to the full extent of its own assets for any harm that it causes. Under LB763, successor

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corporations are not granted complete immunity, and any successor that independently commits a tort, whether before or after a merger, could still be held liable to the full extent of its own assets for any harm it causes. Recoveries may be pursued against premise owners, former manufacturers of asbestos-containing products, and all noncovered successors. Workers' compensation benefits for workplace asbestos-related harms will continue to be collected since this bill does not apply to workers' compensation claims. Collections can continue from potentially dozens of trusts set up to pay claims against companies that have been forced into bankruptcy as a result of asbestos-related liabilities. Crown Cork & Seal provides good paying jobs and retirement benefits to Nebraska employees and retirees, but companies like Crown Cork & Seal need legislation here in Nebraska for this important job preservation issue. LB763 would help preserve the savings of ordinary Nebraskans who are shareholders in companies like Crown Cork & Seal through mutual and pension funds, and helps preserve the pensions and healthcare benefits of its retirees. LB763 has broad support per the committee statement, with both the Chamber of Commerce and organized labor testifying in support of this bill, because it helps preserve jobs and healthcare benefits for Nebraskans. I urge you to support LB763 and move it to Select File. Thank you, Mr. President. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Mello. You've heard the opening of LB763. Members requesting to speak are Senator Conrad, followed by Senator Cornett and Senator Lathrop. Senator Conrad, you're recognized. [LB763]

SENATOR CONRAD: Thank you, Mr. President. Thank you, colleagues. And thank you to Senator Mello for the amount of time he has invested with me in addressing some of my questions related to this legislation now before us. I can tell you also after meeting with the representatives from the company at hand and at issue, in terms of this legislation, I think any one of us would be hard-pressed to find a more sympathetic and more sincere group of people who are here petitioning and engaging their government. That being said, hard cases make bad law. And this is an issue that I believe deserves some pause for concern as we move forward. We are being told that we need this legislation to correct an injustice that has been perpetrated upon an unwilling and unwitting victim, so to speak, in terms of the cork and bottle company before us. However, by enacting this legislation to address that alleged injustice, we are, in fact, denying justice to those who may or may not have a credible claim in terms of the underlying tort issues that are at play here and may be in other instances. But as a general rule, an arbitrary limitation upon liability should cause a pause for concern. It sure does for me. And I draw upon my experience in law school and as a practicing lawyer, and as I was just visiting with some of my colleagues here on the floor, nobody is particularly excited or happy to have lawyers involved until they need one. And when you have a family member who is, or yourself, is seriously injured and suffering because of exposure to these kinds of toxins or otherwise, to then just put a bar, a barrier to your ability to access justice is something that we should be very careful with as we move

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forward. And this is not an attack or any sort of...a personal issue in terms of the powerful coalition that is involved in supporting this legislation, but it's a matter of public policy and that's what our job is. And it's a matter of striking a balance, even in...when...for unpopular litigants or individuals or others when you have a very sympathetic claim on the other side. So to be clear, I don't plan to take a lot of time and energy unless the body has additional questions in this regard. But I think we should proceed cautiously and carefully. And there's additional questions surrounding whether or not this might be or rise to the level of special legislation, which I don't think we've had a point to clarify specifically yet. But as a general principle, an arbitrary limit on liability when there are serious injuries involved, masked in the rhetoric of correcting an injustice, does in fact deny justice to those who may otherwise have it available under the existing statutory framework. So with that, I'd appreciate additional dialogue from Senator Mello or others who are interested in pursuing this legislation. But I'm really very hesitant to support it and for those reasons and others. Thank you, Mr. President. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Senator Cornett, you're recognized. [LB763]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. I just wanted to explain a little bit more what this bill...under the bill, the plaintiffs can collect from a qualifying successor the same amount that they could have collected if no merger had occurred, the total gross asset value of the predecessor at the time of the merger. The successor receives credit for the settlement or judgments paid or committed to pay since the time of the merger. The successor's liability cease when it is paid as much as a predecessor's gross assets would now be worth. As Senator Mello had talked about, this is a bill to try and rectify a problem. It is not...it is a bill that was brought about for Crown Cork & Seal but it is not just limited to Crown Cork & Seal. It contains two requirements that fairly restrict the number of qualifying successors but it does not limit it just to this company. First, that the original transfer of successor liability must have occurred as a result of a merger or consolidation prior to January 1, 1972, and second, that after the merger or consolidation, the successor corporation must not have continued in the business of mining, selling, distributing, manufacturing, removing, or installing asbestos-containing products. And while I agree with Senator Conrad that we have to be very careful in regards to the liability issues, and I know that Senator Lathrop had concerns about this just being a one-issue bill, this bill could apply to any company that is faced with the same or similar situation with asbestos. And it's a matter of whether it is fair or not for a company that purchased something prior to this being an issue and it was never engaged in this business, is continues to have an issue with liability in regards to the matter. With that, I want to thank Senator Mello for introducing the bill, and urge the body to support the bill. Thank you. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Cornett. Senator Lathrop, you're

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recognized. [LB763]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. Good afternoon. I stand in opposition to LB763 and I want to tell you why. The litigation that we're talking about is for a condition called mesothelioma and when you get mesothelioma there's no cure. You die from it. And it is the result of exposure to asbestos. And the company we're helping out today with this bill is a good Nebraska employer, I'll give you that. It's...I've met the owner. I've met the people who are part of this company, and they're all good and thoughtful people, and I understand the problem. The problem that they're having...and by the way, I don't know of any asbestos suits that have been brought in Nebraska. This would only apply to Nebraska cases. The problem that they're having is for a period of time they owned an asbestos company and then sold it. And there is a certain equitable argument here: Why should I have to pay more in judgments for this stuff, the asbestos, than we ever made on the company? The difficulty I have with the bill...the difficulty I have with the bill is, as Senator Conrad suggested, is we've had a company come to us and suggest that they're in a situation that they argue is inequitable. But under our rules and under the law, they own the assets, they bought the assets, and they get the liabilities with it, and that includes their liability for asbestos-related claims. So what we are doing with LB763 is we're carving out an exception for a company--one company. We had a hearing on this bill, as you might expect, in Judiciary Committee, and I asked not a lot of questions but this one: Who else gets to take advantage of this if we pass it? Because they passed this in other states, right? They have. No other company has taken advantage of this statute that's been passed in other states. In other words, we're...this shouldn't even be called the LB763; it ought to be the LB Crown Cork & Seal bill. And that should give us reason for concern because we cannot pass special legislation, and I believe this is. We've not said Crown Cork & Seal in the bill, but that doesn't mean that it isn't special legislation just because it is crafted so narrowly that its application is to only one employer. And I'll grant you, Senator Mello, and anybody else who has talked to these people, you will appreciate they're a good employer in Omaha. They hire union machinists. I like the guys. But the fact remains is that we are passing special legislation with LB763. I don't think we should. I think that these people who bought the assets of this company need to be responsible for its liabilities. And for that reason, I would oppose LB763. Thank you. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Members requesting to speak on LB763: Senator Stuthman, followed by Senator Lautenbaugh, Senator Wightman, and Senator Krist. Senator Stuthman, you're recognized. [LB763]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I just want to...I would like to ask Senator Lathrop a question. [LB763]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Stuthman? [LB763]

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SENATOR LATHROP: Yes, I will. [LB763]

SENATOR STUTHMAN: Senator Lathrop, can you explain to me, you know, the rule of successor liability? [LB763]

SENATOR LATHROP: Well, it's this simple: If you buy the assets of a business and it's your business, you're responsible for the liabilities. It's not a lot different than if you buy a business and they owe the utility for electricity or you owe the water company. You bought the business; you have to pay the bills that come with it. [LB763]

SENATOR STUTHMAN: Thank you. Could you explain to me, is this anything similar to strict liability? [LB763]

SENATOR LATHROP: Well, the liability that Crown Cork & Seal is being subjected to as the owner of an asbestos company is based on the theory of strict liability. If you manufacture a defective product that causes injuries to people, you are responsible for the damages that follow. So when people are making claims against companies that manufacture asbestos, including Crown Cork & Seal, during the time they manufactured the asbestos, or the company they bought did, it's a strict liability claim. [LB763]

SENATOR STUTHMAN: Okay. Thank you. Thank you, Senator Lathrop, for that information. The concern that I have is the fact that, you know, this company was purchased by another company and then they've had to go through a lot of financial stress and strain, a lot of lawsuits, a lot of claims against them because of the asbestos thing. You know, I was in school when asbestos was installed in some of the schools, many of the schools. And we had asbestos fall down on our desk and, you know, we just blew the dust off the desk and kept going. Maybe that's some of the reasons why I am so short. That could be. (Laughter) And could have lost all my hair because there could have been asbestos on there. But, I mean, this is an issue that, you know, I've lived through it. Yes, yes, like Senator Lathrop said, that people get this disease or whatever and they die from it. You know, there is one thing I will pass on some time, too, but I don't think it'll be from the asbestos. The issue that I have is the fact of an individual purchasing a unit, a place, and that, you know, they are, in good faith, buying it. And the fact is that it does have, you know, has some asbestos in, and the lawsuits to follow create a real expense to that company. I was involved in the county board's decision when we did the asbestos removal in our courthouse, lead abatement, asbestos removal, the insulation around the pipes, you know, that we had to deal with. It was a great expense but we dealt with it at that time, at the expense of the taxpayers. So I'm going to listen to the debate on this bill, but I truly feel that, you know, that I support a bill like this. I think there should be a level as to where and the amount of liability for a company that comes in and purchases a company and there is a possibility of liability abatement, lead abatement, or...I mean, not liability abatement--asbestos

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issues there. I think at some point...at some point, you know, enough is enough as far as filing claims against that company. In my opinion, it could cripple some companies that want to come in... [LB763]

PRESIDENT SHEEHY: One minute. [LB763]

SENATOR STUTHMAN: ...and hire new people to work in a company. And we want to try to make as many opportunities for people to work in this state as possible. So I do feel very supportive of this bill. Thank you, Lieutenant Governor. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Wightman, you're recognized. [LB763]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. If Senator Lathrop would yield to a question, I would have a question of Senator Lathrop. [LB763]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Wightman? [LB763]

SENATOR LATHROP: Yes, I will. [LB763]

SENATOR WIGHTMAN: Senator Lathrop, you indicate that this bill probably only applies to Crown Cork & Seal Company, is that correct? [LB763]

SENATOR LATHROP: That's what they told me. [LB763]

SENATOR WIGHTMAN: That's what they told...Crown Cork & Seal? [LB763]

SENATOR LATHROP: That in the other states where they passed this very same legislation, the only company that's taken advantage of it is has been Crown Cork & Seal. [LB763]

SENATOR WIGHTMAN: But it is broad enough that it could include another company, is it not? [LB763]

SENATOR LATHROP: I wouldn't phrase the sentence it's broad enough to include other companies. It's very narrow. Would somebody else, in theory, maybe fit in there? I don't know. What I can tell you is of all the people that are getting caught up in asbestos litigation, only Crown Cork & Seal has taken advantage of this kind of legislation in other states. [LB763]

SENATOR WIGHTMAN: The one thing that makes it pretty limited, I guess, would be the fact that it has to have been merged prior to 1972, so we're talking about 38 years.

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Is that correct? [LB763]

SENATOR LATHROP: That's true. And it has to be a merger instead of a company that simply was set up to manufacture asbestos, as many of them were. [LB763]

SENATOR WIGHTMAN: Do you know anything about the particular merger? Was the company that they merged with in financial trouble, or do you know? [LB763]

SENATOR LATHROP: What I do recall from the explanation--and I'll be the first guy to admit those folks from Crown Cork are awful nice guys--what they told me was that they bought a...they manufacture bottle caps, right? So they bought a bottle cap manufacturing concern that also made asbestos products. They intended only to manufacture bottle caps. So shortly after they bought it, and I say shortly...I think it might have taken them a year and a half to buy up all the stock and then once they had all the stock they sold it. So they had an interest in this asbestos company for a brief, relatively brief period of time, but it was certainly manufacturing asbestos-related items and putting them into commerce. [LB763]

SENATOR WIGHTMAN: Senator Lathrop, as far as you know, this was a complete merger. It wasn't a sale of some of the assets of the merged company? [LB763]

SENATOR LATHROP: I think they bought the company that had the...that made bottle caps and asbestos-related products, and then kept the bottle cap division and sold the asbestos manufacturing aspect of it because it wasn't their...it wasn't in their wheelhouse. [LB763]

SENATOR WIGHTMAN: Okay. So the rest...the part of the company that was merged into Cork & Seal, Crown Cork & Seal, apparently was sold and was operated by some other company, then later, is that correct? [LB763]

SENATOR LATHROP: After they...I think, if I understand the history right, and maybe Senator Mello remembers this explanation better than I, but I think there was a period of time where it took them a while to gather up all of the outstanding shares of stock. And once that was accomplished, then they sold the asbestos and kept the bottle cap business. [LB763]

SENATOR WIGHTMAN: And as far as you know, the bottle cap company had no relation or no involvement in the manufacture, or anything, of the asbestos. Is that correct? [LB763]

SENATOR LATHROP: No, no, no. The business that Crown Cork & Seal bought had a...they did two things. One, they made bottle caps, and two, they made asbestos-related products. Crown Cork & Seal was after the bottle cap business, but

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they couldn't get both without buying...couldn't get the bottle cap business without buying the asbestos-related manufacturing business. They did that and later sold the asbestos... [LB763]

PRESIDENT SHEEHY: One minute. [LB763]

SENATOR LATHROP: ...manufacturing part of that business. [LB763]

SENATOR WIGHTMAN: Thank you, Senator Lathrop. I do support LB763 from the standpoint that it seems to me that the successor company probably continued to do business. There would probably be liability there. I don't know that. I don't know that anybody knows that at this point. But it just seems to me that there ought to be a cutoff of some kind and I agree with Senator Stuthman and his remarks that it just seems to me that there...in a matter of fairness, there ought to be some limit to that liability. And this seems to be a fair limit. So I will support LB763. I'll listen to the rest of the debate. Thank you, Mr. President. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Krist, you're recognized. [LB763]

SENATOR KRIST: Thank you, Lieutenant Governor, colleagues. To answer Senator Wightman's questions, paragraph 1 of the background that was a handout to us, gives a background in Crown Cork & Seal buying a company which had an interest in. And I would ask you to read that paragraph because it clearly defines where the liabilities may have been. I'm not going to talk about the specifics of Crown Cork. If another company out there uses this legislation to do something it needs to do to reduce its exposure and its liability in asbestos cases, if it's important or if it's correct, then I'm sure someone will use it eventually. But I'm going to stand up here and tell you that my father died from mesothelioma. It's a disease that takes about 30 years, 20 to 30 years, to come to fruition, and when you're finally diagnosed, it is a death sentence. I'm going to tell you that as a family, and you'll excuse the slang with the lawyers in the building, but as a family we were approached by the ambulance chasers and offered an opportunity to get paid from that fund, that trust that is set up by all the companies that have ever been involved with asbestos in this country, and they pay out based upon those claims that are filed. As a dependent, as the son of a man who was afflicted by asbestos, I should be standing up here telling you that they should pay and continue to pay and continue to pay. I'm not going to tell you that. That's not the fair thing to do. They have already paid out \$100 million-plus as a function of their merger, their buyout with the company that they had no exposure to until they bought the company, and then did away with the assets. I echo Senator Wightman's comments and Senator Stuthman's comments: There has to be some logical end to that payout as a result of the exposure, and although asbestos is a terrible thing and it causes a terrible disease that I witnessed firsthand, at some point there has to be an end to that liability. These are people who

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work in Nebraska for a company in Nebraska, revenue that's produced in Nebraska, and we are crippling them by allowing this to continue to happen. So I would urge you to support LB763, if only to send a message that the good life in Nebraska supports the fact that at some point you have paid your debt and you need to move on with life. Thank you, Mr. President. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Krist. Members requesting to speak on LB763: Senator Lautenbaugh, followed by Senator Nelson, Senator Conrad, and Senator Wallman. Senator Lautenbaugh, you're recognized. [LB763]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this bill. I thank Senator Mello for bringing it. I thank Senator Cornett for prioritizing it. I do want to address the concerns about justice that were raised earlier. And I don't see this as we're balancing, if we give justice to this manufacturer and those similarly situated, we're denying justice to potential plaintiffs, because on these facts, especially, and as this bill was written, it would be unjust to continue to hold this manufacturer of bottle caps liable for asbestos claims. There is no reasonable, colorable argument as to why this entity should have paid out the hundred million or two hundred million that it's paid out to date. But it does have real-world consequences for an employer that has to do something like this. It raises your capital costs. It costs jobs. It could force you out of business. And we should not be in the business of forcing employers out of business, especially now, but never...but especially now. I would suggest that this is not special legislation as that term has been explored and expanded upon by the courts. There are other companies...it is conceivable that other companies could fit within the ambit of this bill. The fact that we only know of one does not mean there are not others. It just means we only know of one because they're the ones who came knocking on our door. But as many have said, Senator Stuthman, Senator Wightman, Senator Krist, there does have to be an end at some point. There does have to be some sort of finality. And this is not a new concept in the law. We have statutes of limitations. If you don't bring your claim within a certain amount of time, it can be barred. If statutes are reposed...say, if you manufactured a product X number of years ago, you're no longer responsible. But those don't apply really in the asbestos world, at least not to give relief to ones situated as this manufacturer is, but it does come back around to justice. And we are not denying justice to any plaintiff by giving, by doing justice for this manufacturer and those similarly situated, if there are any. We're providing a reasonable end and a justifiable end to a liability that should not exist. It's narrowly drawn and it is not a complete exemption from liability. It just limits...if you are within this group, you're limited to the amount you paid for the company you purchased, as I read it. And that is not a complete exemption from liability but it would be infinitely more just than what we're doing, and I don't think we have competing claims of justice here. I'd urge you to vote in favor of this bill. I would yield the remainder of my time to Senator Mello. [LB763]

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PRESIDENT SHEEHY: Senator Mello, you're yielded just under 2 minutes. [LB763]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Thank you, Senator Lautenbaugh. Just wanted to touch upon what Senator Krist did mention. There are two handouts that I passed out. One handout provides a fairly good background on the history of how at least...how Crown Cork & Seal was involved in this issue in regard to their purchasing Mundet Company stock. It was a company that produced bottle caps as well as asbestos insulation piping. It was a coincidence that this asbestos-related piping...the reason that the company did it was a government contract they had to put this asbestos piping in Navy ships. That was the business and as soon as Crown Cork & Seal purchased Mundet Company they got rid of that branch. They sold that aspect of Mundet Company... [LB763]

PRESIDENT SHEEHY: One minute. [LB763]

SENATOR MELLO: ...as well as all the equipment with it. So that one background gives a fairly good history of that specific situation, but also some of the numbers that have been mentioned both by a few other senators. Crown Cork & Seal, for an example, has paid out over \$650 million in asbestos-related liability claims while never producing asbestos-related products. They pay annually \$100 million to Wall Street banks in interest alone because of their bond rating status because of the potential that might come with asbestos liability claims because of the merger of Mundet back in the mid-sixties. So with that, Mr. President, I just wanted to clear up any concerns or questions people may have. Thank you. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Mello. Thank you, Senator Lautenbaugh. Senator Nelson, you're recognized. [LB763]

SENATOR NELSON: Thank you, Mr. President and members of the body. Senator Mello has addressed a number of the questions that I was going to ask him. I guess I do have one other question if he would yield. [LB763]

PRESIDENT SHEEHY: Senator Mello, would you yield to Senator Nelson? [LB763]

SENATOR MELLO: Yes. [LB763]

SENATOR NELSON: Senator Mello, this all took place before 1972, did it not, this merger when OSHA then put out its regulations as far as asbestos was concerned? [LB763]

SENATOR MELLO: That would be correct, Senator Nelson,... [LB763]

SENATOR NELSON: Okay. [LB763]

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SENATOR MELLO: ...that the merger that happened, the mergers...under this legislation, companies that merged prior to that 1972 date on January 1, 1972, would not...they wouldn't have been affected or known about the OSHA requirements that were established that year. [LB763]

SENATOR NELSON: Um-hum. And we're working with some kind of obsolete merger laws, but it's my understanding from a legal standpoint that had they simply merged and provided protection for themselves under that process, what, in fact, happened, is that they bought out all the stock in the company and then that, under the law, placed them in a position of liability, is that correct? [LB763]

SENATOR MELLO: That would be correct. [LB763]

SENATOR NELSON: Do you know, was this company that they bought for about \$7 million was it actually doing any asbestos work at the time of the merger or had that been some time previous? [LB763]

SENATOR MELLO: That was not, as far as my understanding of the background of the story, they were not doing any asbestos-related work, Mundet Company was not,... [LB763]

SENATOR NELSON: Um-hum. [LB763]

SENATOR MELLO: ...and that that was...they had done it prior to... [LB763]

SENATOR NELSON: Um-hum. [LB763]

SENATOR MELLO: ...but when the company was bought by Crown Cork & Seal that was not the case. [LB763]

SENATOR NELSON: And asbestos was not an issue at that time and so what's happened is they got sucked into this because of the nature of the merger and the stock buyout, is that correct? [LB763]

SENATOR MELLO: That would be, according to at least what happened in 1972... [LB763]

SENATOR NELSON: Um-hum. [LB763]

SENATOR MELLO: ...with the OSHA change,... [LB763]

SENATOR NELSON: Right. [LB763]

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SENATOR MELLO: ...that would be correct, yes. [LB763]

SENATOR NELSON: You've mentioned the amounts that they've already had to pay out in return for a \$7 million acquisition. Are there companies across the United States that have been forced into bankruptcy because of this, this type of litigation? [LB763]

SENATOR MELLO: Oh, there has been, yes, absolutely. [LB763]

SENATOR NELSON: Um-hum. And so that's resulted in loss of jobs and loss of production activity, would that be correct? [LB763]

SENATOR MELLO: I would...that would be my assessment, Senator Nelson, that due to liability that other companies have undertaken and have gone bankrupt that thousands of jobs have been lost by companies. [LB763]

SENATOR NELSON: Do you know as a matter of fact whether Crown Cork & Seal has had to reduce its work force and limit its production because of this huge number of lawsuits? I don't know how many claims they've paid. [LB763]

SENATOR MELLO: They...Senator Nelson, they have. They've over 300,000 claims that Crown Cork & Seal has been a defendant in alone and to help deal with that \$650 million that they've paid out, through asbestos-related claims, they've had to sell branches of their company, other aspects of their manufacturing business to help keep the company afloat as well as to help continue to pay off that \$100 million of excess interest they have to pay every year. [LB763]

SENATOR NELSON: All right. Thank you very much, Senator Mello, for the information provided. I, too, rise in support of this bill. It's been said here that there needs to be an end, there needs to be a cap to this. The company has already suffered. Many other companies, I think, have suffered more. I think other companies that are experiencing this sort of thing can be encompassed in this. It doesn't seem to me, at any rate, that it's too narrow a bill and I would support LB763 and ask members of the body to support it themselves. Thank you, Mr. President. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Conrad, you're recognized. [LB763]

SENATOR CONRAD: Thank you, Mr. President and thank you, colleagues. I think this is actually a very informative and good discussion. And to reiterate the points that have been brought forward, this in no way is meant to be a negative attack or otherwise on the very sympathetic individuals and corporation that is involved and is at issue, the singular corporation that is at issue in this legislation. But we have heard some dialogue

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this afternoon that I think is worthy of clarification. I think that Senator Lautenbaugh and Senator Krist have made compelling arguments about seeking some sense of finality or limitation so that we can be perspective in nature and move forward. But be clear, colleagues, this legislation does not offer that to you. This legislation does not contain that solution. It ends the liability for this company. It does not end the liability of the claims that emanate from the harm that was in court. It shifts that risk instead to a public forum, to us, to the state, to the taxpayer. It shifts it in terms of public benefit assistance, public benefits and assistance that may be paid out for those undiagnosed claims that come to fruition later and are barred from being paid out of those who caused harm. And it also shifts additional risk, additional liability, and additional costs to the state's workers' compensation system, which people on the other side have proclaimed is the sole remaining remedy for any of these potential litigants that might not otherwise find relief if this legislation is passed. And with that, colleagues, I think it's important to, it reinforces my very point is that this does not provide finality. This does not end the situation. It shifts the risk. It shifts the liability from the private sector to the public sector. If that's a philosophical issue that you're comfortable with asking a Nebraska taxpayer to foot the bill for acts and injuries that have occurred in the private sector, that's okay. And we can have a philosophical disagreement about that. I don't think that we should engage in that kind of cost shift, that kind of burden shift, that kind of risk shift. Senator Lautenbaugh, I see that you are still in the Chamber. I was hoping that maybe we could have a dialogue and you would yield to some questions in regards to the parallels you brought forward in relation to statute of limitation questions. [LB763]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Conrad? [LB763]

SENATOR LAUTENBAUGH: Yes, I will. [LB763]

SENATOR CONRAD: Thank you, Senator Lautenbaugh. And I know as a practicing attorney you have a great deal of experience in these issues and you brought forward an issue of dialogue in relation to...we have statute of limitations in other areas of law, and in essence this is really a continuation of that kind of public policy, was that the point you were making earlier? [LB763]

SENATOR LAUTENBAUGH: The point was really that there are limitations and there can be some sort of an end or finality. This really doesn't operate like a statute of limitations. [LB763]

SENATOR CONRAD: Okay, because I thought that that was the point that you made was that this was similar to a statute of limitations and so it was to provide reenforcement for support of the bill. Thank you, Senator Lautenbaugh. And I would tell you, colleagues, that if in fact that was the point, but it seems that Senator Lautenbaugh has clarified that, I think that's good because I would disagree. Whenever this body has

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set statute of limitations prior in other contexts, in other issues surrounding the limitation of liability, we do so in a way that is prospective and that specifically exempts preexisting claims. To do otherwise would run afoul of state constitutional protections in regards to access to the courts and retroactivity issues. [LB763]

PRESIDENT SHEEHY: One minute. [LB763]

SENATOR CONRAD: So it's not fair to draw parallels in terms of statute of limitations in regards to this legislation. One final question, Senator Mello, if you would yield, please. [LB763]

PRESIDENT SHEEHY: Senator Mello, would you yield? [LB763]

SENATOR CONRAD: Senator Mello, in the legislation, and I hope we don't run out of time, but there is a cap that is contemplated in terms of damages, is that right? [LB763]

SENATOR MELLO: There is a cap on damages based on the amount the company was worth or valued as well as the growth of that company in real time to the present in their assets, yes. [LB763]

SENATOR CONRAD: Thank you, Senator Mello. And to be clear, has Crown Cork reached that cap yet? [LB763]

SENATOR MELLO: As far as I know, depending upon the numbers that I...interpretation of the numbers I gave you, it all depends on the specific state. So in some states, yes, some states, no. [LB763]

SENATOR CONRAD: Okay. Well, thank you for that clarification. And, colleagues, again, just a pause for caution in terms of how we move forward because while there... [LB763]

PRESIDENT SHEEHY: Time, Senator. [LB763]

SENATOR CONRAD: Thank you, Mr. President. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Members requesting to speak on LB763 are Senator Wallman, followed by Senator Lautenbaugh. Senator Wallman, you're recognized. [LB763]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Yes, this is a issue that's tough. You know, do we pass legislation for one company or one city or one thing, but we're dealing with asbestos which is probably a nationwide problem, whether it be submarines, whether it be ships, destroyers, aircraft carriers, those in the

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military have dealt with asbestos. And if it was covered up or taped up, I don't think it would cause any problems. But this company here acquired a company with stock and figured some liability, I am sure, but never like this. So I think there has to come an end to it so I would urge you to support Senator Mello's bill. Thank you. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Seeing no additional requests to speak, Senator Mello, you're recognized to close on LB763. [LB763]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. LB763 it was a good debate, but at the end of the day LB763 and part of my testimony not only deals with the liability of companies such as Crown Cork & Seal that unfortunately fell victim to some merger laws prior to an OSHA enactment of 1972 regarding asbestos, but an underlying point though is good employers like Crown Cork & Seal who pay good wages in our state are on the verge of bankruptcy. And LB763 helps mitigate some of those concerns and risks to help good companies stay out of bankruptcy because of unfortunate situations such as described in the Asbestos Successor Liability Act. With that, Mr. President, I encourage members to please vote yes on LB763. And if you do have questions, if we do pass this from General File to Select, you have questions or would like to talk more about it, I'm more than willing to discuss on Select. Thank you. [LB763]

PRESIDENT SHEEHY: Thank you, Senator Mello. You have heard the closing. The question before the body is on the advancement of LB763. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB763]

CLERK: 32 ayes, 2 nays, Mr. President, on the advancement of LB763. [LB763]

PRESIDENT SHEEHY: LB763 advances. We will now proceed to LB1087. [LB763 LB1087]

CLERK: LB1087 introduced by Senator Adams. (Read title.) Introduced on January 21 of this year, referred to the Education Committee. The bill was advanced to General File. There are Education Committee amendments, Mr. President. (AM2034, Legislative Journal page 685.) [LB1087]

PRESIDENT SHEEHY: Senator Adams, you're recognized to open on LB1087. [LB1087]

SENATOR ADAMS: Thank you, Mr. President and members of the body. At the risk of sounding like your old teacher, now I want you to follow me. Let me, first of all, in the opening of the bill explain the problem to you and then there is a committee amendment follows that replaces the bill and it's, I think, a good solution to the problem. Numerous times when I talk to superintendents about, why is your graduation rate low? Why isn't

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this working? Why isn't that working? I can tell you that typically, and they're not making excuses, that the typical response is, we're doing all that we can inside of the classroom. But these kids have issues and they need wraparound services. There's drug issues. There are alcohol issues. There's behavior issues. There's parent issues. And they need wraparound services for us to do our job. And in this state we have wraparound services. And some of those entities, like a Boys Town, a Uta Halee, an Epworth Village, there are numerous institutions like that, provide those wraparound services. They counsel kids. They help them through drug problems. They help them through alcohol problems, behavioral problems. But realize they don't do that just in the summer. It has to be done when it's needed and a lot of times that's right during the school year. Now the kids we're talking about in this bill are not, I repeat, they are not wards of the state. Instead we're talking about kids who are experiencing difficulties which is complicating their education and their parents have made a decision to move them from their residential school into an interim school setting. And in interim school we can also, if we use the State Board of Education language, call them a Rule 18 school. That Rule 18 school or that interim school...let me give you an example. Let's say it's Epworth Village in York. They are a residential treatment center. But within the residential treatment center they have a school, a school that the State Board of Education allows them to operate. And when a student from somewhere in Nebraska, when their parents believe they need to be removed from their regular school setting and sent to Epworth Village or sent to Boys Town for treatment they will receive education at that location in the interim school, the Rule 18 school. Now we currently have in statute a means of getting the kid there, a means of determining the contract of what it's going to cost to provide that service. We have a means of exchanging the money. We have a means of resolving disputes. So it would seem like, why is there a problem, Adams? Well, a lot of times we pass statutes and down the road we realize we got to go in and fix things because they're not working the way they're supposed to. Currently, under current law, if school district A, and we're going to call them the resident school district, if a student leaves that school district to go into an interim setting, the school district that the student left from is responsible for setting up a contractual arrangement for payment. They are also responsible for the individual educational plan, the IEP of that student. So in other words, the student leaves the resident school and goes to Epworth Village, the resident school doesn't completely wash their hands of their education. They stay in contact with the interim school for that education and then the interim school has to try to get its money out of the school that sent them or where the child has come from. It gets more complex. I'm going to use York, Nebraska, as an example. The student comes from the resident school district, goes to Epworth Village and, the way the current statute reads, York Public Schools has to enter into a contractual relationship with the school district that the kid came from even though, in reality, York Public Schools may never offer one moment of service to that child. They may spend every day at the interim school that's several blocks down the street that York Public School has nothing to do with. Under current law, if the school district where the child is coming from says, we're not going to pay, then the

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interim school is left out or they have to go to the school district wherein the interim school is at and say, hey, will you do battle with the school where the child came from? And that school district is saying, oh, great. We get caught up in this relationship because of current law. We potentially have to hire legal assistants to do battle with the school district where the kid is leaving in order to get the money. This is crazy. If the dispute between the two schools can't be resolved, they go to the Commissioner of Education. And the commissioner is the final appellate process. But there's a problem, has no teeth. If the commissioner says, this is what you owe, the school district can walk away and say, oh, okay, thank you very much, and never write the check. This bill, LB1087, is designed to clean up, take people out of the picture that don't need to be in the picture and help these interim schools get the check that they need so that they can go about providing the services and the education for these nonward students that have gone into these schools. And the amendment, the committee amendment that's coming in, really becomes the bill and explains all that relationship. I'll stop right there before I confuse things any more, Mr. President. [LB1087]

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening to LB1087. As was noted, there is an Education Committee amendment, AM2034. Senator Adams, you're recognized to open. [LB1087]

SENATOR ADAMS: Thank you, Mr. President. Here we go. The amendment becomes the bill and solves the problem. What the amendment will do is this: the resident school district where the student is currently at, mom and dad say, we're going to move them because they need help, our child needs help. And we're going to move them over here to an interim school. What the amendment says now is that when that occurs, the school district from where the child is coming from and the interim school no longer have a financial contract between them. All that they will do is to maintain an IEP, an individual educational program. They will stay in contact with one another as to how this kid is progressing, what they need, because eventually, more than likely, this student is going to be going home. And both the interim school and the school where they came from need to stay in touch educationwise. The second thing that's going to happen. We're going to take that third party, that school district that's standing there saying, why do we have to be part of this, we're going to take them out of the picture. Get out of there. And now what we will do in the amendment, the interim program such as Uta Halee, such as Epworth, such as Boys Town, will go straight to the Department of Education and directly contract with the Department of Education for payment for the education services, not the residential treatment, that's out of mom and dad's pocket. But for the education part they're going to go straight to the Department of Education to get that money and the check goes straight to the interim school. So we've eliminated one entity that doesn't need to be in this complex triangle. We are making sure that the interim school gets their money for educating that child whether it be for a month, or six months, or a semester, whatever it may be. And the school from where the child came from, their obligation now is purely an educational one. It is to maintain that program

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relationship, that learning relationship with the interim school and the school where they came from. It really cleans up what has been a cumbersome, messy problem. With this amendment the commissioner no longer has to be an arbitrator because the money will come directly from the Department of Ed. It's going to come right out of special ed money that the department has and disburses to all 253 school districts. It will come right out of that and fix, I believe, what has been an ongoing complex, complicated, cumbersome problem. Thank you, Mr. President. [LB1087]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thank you, Senator Adams. Returning to discussion on AM2034, Senator Rogert followed by Senators Coash, Ashford, Krist, Nelson, and Price. Senator Rogert, you are recognized. [LB1087]

SENATOR ROBERT: Thank you, Mr. President. Good afternoon, members. I want to thank Senator Adams for bringing this bill and explaining it to the point where I'm sure you're all just as confused as you can be and then (laughter) that's the way a good teacher does things, right? Just glaze over and they'll be fine. I prioritized this bill for a variety of reasons. I had several of my own bills that I was looking to get some stuff done that grabbed priorities in other avenues. And I wanted to find something that was an important issue, that didn't have a priority on it, that, in my opinion, needed to be done this year in an effort to solve a problem. And it came to my attention that this bill was doing just that. There has been a problem for many years in terms of when children who need extra help that go to these nonresident schools, that the money involved with their care doesn't follow them necessarily like it should. In the past, the resident school district wasn't required to contract directly with...in the residential setting, so consequently some districts tried to contract with the school district in which the residential setting was located which caused a funding problem. If a student is already declared as needing special education services when they arrive at the residential facility, there needs to be clarity about who is responsible for what and when the payment is to be made. Some districts were using the vagueness or the iffy parts of the statutes to either not pay or just delay or not worry about it. And so then some folks were stuck with the bill that maybe shouldn't be. Statute also gives a definition of what rate has to be paid and that is pretty important because in all reality the rate that is written doesn't cover the cost. Whatever the payment is it's still not enough. But at least it puts into statute the definition of where that payment level should be. It benefits all districts. I think there's around 100 kids in District 16 that receive these services at some point or time. They're not kids that are necessarily always living full-time in one of those facilities but maybe they're going and visiting them, being temporarily treated there. And the goal of these facilities is to send the kids back to their home district as soon as possible, whenever possible. And with this bill and the committee amendment we've described that the money will follow the child in every instance when special services are needed for whatever reason. It's not always behavioral issues, it sometimes is

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special education needs, psychological needs, maybe there's just problems at home that aren't getting taken care of, so they're sending them to these folks for a little time period until they can come back home. And that hit home with me in the fact that there was 100 kids in District 16 that this would benefit. And that's why I prioritized this bill, and I thank Senator Adams and all the folks that came together to work on this to remove all the opposition and come together to solve a problem the correct way. So I encourage your support of the committee amendment and the bill and think about how you're helping the kids that need the most help with this bill. Thank you, Mr. President. [LB1087]

SPEAKER FLOOD: Thank you, Senator Rogert. Senator Coash, you are recognized. [LB1087]

SENATOR COASH: Thank you, Mr. President. Thank you, members of the body. Senator Adams, thank you for bringing this. And I wasn't confused about this bill because I was looking at a similar bill because I had seen the problem through my work with the developmental disability providers. The interim schools or the Class 18 schools that Senator Adams mentioned provide an invaluable service to our state. And I wanted to tell you one of the things that they do that's pretty special. They provide these services to children and they don't ask parents to make their children state wards before they provide the service. And that's pretty special. Wanted to just echo a couple of things Senator Adams said. Colleagues, this is a problem and while the previous mechanism that Senator Adams outlined you could negotiate it. You could, and if you were a parent or a provider or one of these schools you could negotiate the system that's in place, but it wasn't easy. But I want you to put yourself in the position of a parent who is struggling with the behavioral health of their child. And there's a light at the end of the tunnel and it's one of these interim schools and you find one that's going to provide your son or daughter some support, and then all of a sudden you run into these roadblocks that the education system by way of our current statutes puts in front of you. Here's what happens, it delays the service and many times with the children who need this behavioral health support a delay can mean pretty costly alternatives. They end up in...these children can end up in the law enforcement system, criminal justice system. They can end up in inpatient mental health treatment on an emergency basis. What Senator Adams' is proposing through LB1087 and the underlying amendment cleans this up. And it's going to help parents negotiate this. And it's going to help providers as well because here's what happens to providers. They're real good at providing the services and then they've got to find a way to negotiate a system that is currently set up, puts up some barriers to them. So they spend time and they spend resources negotiating the system instead of providing support to their kids. And what we have here is a solution to that problem. And I thank Senator Adams for bringing this and I do urge the body's support of this initiative. Thank you, Mr. President. [LB1087]

SPEAKER FLOOD: Thank you, Senator Coash. Senator Krist, you are recognized.

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[LB1087]

SENATOR KRIST: Thank you, Mr. President and colleagues. I wondered if Senator Adams would yield for some questions. [LB1087]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Krist? [LB1087]

SENATOR ADAMS: Yes, I will. [LB1087]

SENATOR KRIST: More of a dialogue, I guess, Senator Adams. I applaud what you're doing. I stand in support of AM2034 and the underlying bill and I will support it. However, I'd like to talk through a couple of issues. When you say special education money, are we talking about all kinds of special ed, whether it be a behavioral issue or OT/PT or those kinds of things that are funded by the state? [LB1087]

SENATOR ADAMS: Students that have been identified through the identification process as special ed. And also, we're also talking about some students here, not nearly as many, but who were not identified as special ed. They're general ed students. They make up a very small percent of the total kids that are moving from, into an interim school. [LB1087]

SENATOR KRIST: So I wish you had your whiteboard because I'd like you to dialogue this one, but...or diagram this for me, but essentially if that student is cost out in special ed to be receiving \$10,000 to that home district, let's say for sake of argument, some of that money is going to go now directly to one of those providers of services and it's going through that home district. What you're proposing in the bill sends that money directly to that provider. And some of that money continues to go to the district to maintain the IEP connection between the student and the service? [LB1087]

SENATOR ADAMS: In a way, if I understand your question, with the implementation of the amendment and then the bill, what would happen is the money would flow directly from the Department of Education from their existing pot of special ed dollars directly to the interim school. Now the school that is the resident school where the student came from, they have counted that student in their TEEOSA calculation so they're receiving whatever their basic funding level is for that student. They're still there. And the odds are that in time, because they are interim programs, within a few months that student may very well be right back in that school district. But the money is coming directly from the department. [LB1087]

SENATOR KRIST: And we talked off mike and I'll make this point to the body. This in no way is going to solve an additional problem that's out there and that is for a school district to allow that student or to say that that student can move into a different area.

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Because it is in the interest of the school district to continue to be funded and take care of that student, particularly in the area of special education where there's a lot of money coming into that district. Would you agree with that statement, Senator Adams?  
[LB1087]

SENATOR ADAMS: Yes. I do think it depends on the school district though and their ability to provide service and to deal with the kid. You know, a lot of times, Senator Krist, if I could be very candid with you, based on my experience a lot of times the school districts can very well provide the services but the parents have said, look, because of the drug problem, the behavioral problem, the alcohol problem, we have to remove them from this setting. And the schools are saying, yeah, but wait a minute, we can handle this. We can handle this. And at the same time that they may be in effect calling a student back, I can't help but think that there are also times when school districts are saying, goodbye. [LB1087]

SENATOR KRIST: I need help, yeah. [LB1087]

SENATOR ADAMS: Yep. Yes. [LB1087]

SENATOR KRIST: Absolutely. Okay. Well, again, colleagues, I'm in full support of AM2034 and LB1087 and encourage you to go green on this. Thank you. [LB1087]

SPEAKER FLOOD: Thank you, Senator Krist. Senator Nelson, you are recognized.  
[LB1087]

SENATOR NELSON: Thank you, Mr. President and members of the body. Senator Adams, you're always so clear in your introductions. You take it step by step and make it appear very easy and when you finish up by saying, I will not muddy the waters further, it makes me think that maybe I missed something that was really important. Senator Krist addressed some of the questions that I have. Would you yield to a question or two, Senator Adams? [LB1087]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Nelson?  
[LB1087]

SENATOR ADAMS: Yes, I will. [LB1087]

SENATOR NELSON: I'm wondering, I'm just following the money here and you stated that when a student comes from a resident district to Epworth, for instance, that it may not be for a long time. Is there an average time there or once they come to Epworth or Uta Halee or something like that, are they kind of gone from the district for a long period of time? [LB1087]

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SENATOR ADAMS: You know, the providers could answer that question better for you, Senator, but I do recall a statement like that during committee, I believe, where it's typical that at least a semester. [LB1087]

SENATOR NELSON: About a semester. Is there an adjustment then as far as the resident school district is concerned? Do they get less money from the Department of Education because money is coming out of the special education fund? [LB1087]

SENATOR ADAMS: No. [LB1087]

SENATOR NELSON: So they're left with the same amount of money, same money. [LB1087]

SENATOR ADAMS: They're left with that same amount, yes. [LB1087]

SENATOR NELSON: Okay. Is this going to create an additional burden for the special education fund then? Are they, the Department of Education, going to require more funds to handle this program? [LB1087]

SENATOR ADAMS: I don't think they'll require more funds. Quite frankly, as long as I'm speaking with a member of the Appropriations Committee, I would tell you that the appropriations fund for special education needs to be a lot fuller than what it is... [LB1087]

SENATOR NELSON: Okay. [LB1087]

SENATOR ADAMS: ...with or without this issue. But now that I had that opportunity, what this does, we reimburse schools at about a 60 percent level. And what this would do given relative to the state, the small number of students we're talking about, now the reimbursement is more like 59.9 percent, something. I can't give you an exact number but it's a very small off-the-top allocation. [LB1087]

SENATOR NELSON: Okay. Does the special school, do they contract then with the Department of Education or does the department...they... [LB1087]

SENATOR ADAMS: Yes. [LB1087]

SENATOR NELSON: So it's a two-way street here. They...Epworth, for instance, would say, well, these are my needs and this is what I think is right and then the department can say, no, that's too much. [LB1087]

SENATOR ADAMS: Right. There is a formula that is used for...because what we're talking about is not housing, not food, not the professional attention they need, only the

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education portion. [LB1087]

SENATOR NELSON: Right. Thank you, Senator Adams. I didn't see anything in the fiscal note that was alarming. I, too, fully support this bill. There's a lot of reading there but it sounds to me like the committee amendment has handled this very satisfactorily. Thank you, Senator Adams. Thank you, Mr. President. [LB1087]

SPEAKER FLOOD: Thank you, Senator Nelson. Senator Price, you're recognized. [LB1087]

SENATOR PRICE: Thank you, Mr. President and members of the body. I would wonder, would Senator Adams yield to some questions? [LB1087]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Price? [LB1087]

SENATOR ADAMS: Yes, I will. [LB1087]

SENATOR PRICE: Thank you, Senator Adams. First and foremost, thank you for your clear, concise description there. It is difficult to follow. I've taken a few moments to look over a few items and if you could go with me on a few of them here. The first thing I had a question about is, you mentioned that the educational plan under this bill would follow the student. So that leads me to believe that currently one doesn't follow the students? [LB1087]

SENATOR ADAMS: No, they do already. [LB1087]

SENATOR PRICE: Okay, thank you. The next thing, we're going to page 5, paragraph (d), line 18 and 19, where we talk about 110 percent payback to a resident school. And as I read the bill I understand that a resident school was, I guess, well, my question really comes into, how does the Department of Education pay the wrong school? Because that's really what we have. We say, if the resident school or the wrong school was paid, they have to go ahead and pay the correct school and the penalty will be 110 percent. [LB1087]

SENATOR ADAMS: If I follow you right, we're also talking about payment to the resident, a resident school. So, for instance, if a student is at Epworth and Epworth has...I'm not sure that I understand your question. Run it by me again, if you would, please. [LB1087]

SENATOR PRICE: The question comes in why are we charging 110 percent? The money is following the student where they go. It seems the wrong entity receives the payment. When the right entity gets the payment, they get it with a premium of 10

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percent and I'm a little bit concerned that we've got a system that we already know where they'll pay the wrong entity to and we're going to give them a bonus of 10 percent. That's what concerns me. [LB1087]

SENATOR ADAMS: Well, if the student is placed...and maybe this clears it up. If the student is placed in an interim setting for their behavior issues, drug and alcohol, whatever it may be, and if that setting does not have an interim school in it, but down the street there is one, and so that's where that student will go to get their education. Follow me? [LB1087]

SENATOR PRICE: Uh-huh. [LB1087]

SENATOR ADAMS: Now if a student comes from Bellevue and they come to Epworth Village in York, within Epworth Village besides the professional help that they get and resident provision, there's also a school. But let's assume that the student comes from Bellevue and goes to another setting to get that treatment and that setting doesn't have a school within it, instead the student will have to go to the school district there. Then the arrangement will be between the Department of Ed and the interim school. [LB1087]

SENATOR PRICE: May I interject briefly? [LB1087]

SENATOR ADAMS: Fire away. [LB1087]

SENATOR PRICE: I'll give you an opportunity to go back and read that because my understanding is as you read the section, one school was paid out and it actually should gone to another, so we put 110 percent, but we'll move off there because I have more to ask about, if you don't mind. And that is, as we go through all this, in Section 7, page 9, paragraph (2), line 17, we talk about the 10 percent and then we go to Section 7 again, paragraph (3) on page 9, "reimbursement percent shall be the ratio of the difference," I mean... [LB1087]

SPEAKER FLOOD: One minute. [LB1087]

SENATOR PRICE: ...ladies and gentlemen, and members, I would urge you to follow that line also, because Senator Adams did lay out a good thing on the purpose and everything. But I wanted everybody to understand what we're doing because it all comes down to, as I was reading the fiscal note, it says the bill would appear to create upward pressure on the GFOE--and you spent a lot of time trying to educate me on the GFOE--with regard to TEEOSA. And so my question comes out, the fiscal note was on the bill but how about the fiscal note in the impact of the amendment and the GFOE impacts of all this? And that's where my...I'll yield the balance of my time to Senator Adams. [LB1087]

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SPEAKER FLOOD: Twenty-four seconds. [LB1087]

SENATOR ADAMS: All right. Very quickly, the amendment, Senator Price, the amendment we have up on this bill, takes TEEOSA out of it. There is no GFOE impact then. [LB1087]

SPEAKER FLOOD: Thank you, Senator Price, Senator Adams. Senator Carlson, you are recognized. [LB1087]

SENATOR CARLSON: Mr. President and members of the Legislature, I, too, would like to address a question to Senator Adams if he would yield. [LB1087]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Carlson? [LB1087]

SENATOR ADAMS: Yes. [LB1087]

SENATOR CARLSON: Senator Adams, I am in support of what you're doing here, but I want to make sure that I'm understanding it. I see that you've eliminated a school district from the process that really has nothing to do with the student. That's part of it. [LB1087]

SENATOR ADAMS: Correct. [LB1087]

SENATOR CARLSON: Correct. And the school that takes the student gets paid from the State Department of Education. [LB1087]

SENATOR ADAMS: Correct. [LB1087]

SENATOR CARLSON: Is the payment immediate? [LB1087]

SENATOR ADAMS: I believe it's every 45 or 60 days. I'd have to check again. [LB1087]

SENATOR CARLSON: Okay. Well, it says in there that the bill says within 60 days of the request. But then it says something in there, if funds are available. Well, if it's from the State Department of Education, surely funds are available. [LB1087]

SENATOR ADAMS: Yes. [LB1087]

SENATOR CARLSON: But then it also says if they're not available, within 30 days after the start of the next school year. Now am I reading it wrong? Because that could be quite a delay. [LB1087]

SENATOR ADAMS: Right. And I don't have an immediate answer for you. [LB1087]

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SENATOR CARLSON: Okay, okay. Now that makes the Department of Ed then responsible to collect the money from the school district from which the student left, is that correct? [LB1087]

SENATOR ADAMS: No, the Department of Ed is using the total aggregate pot of money that they have for special education that it typically is distributing out to all of the different schools. This is going to come right off the top and pay these interim schools. What remains then goes out to the 253 school districts in special ed allocation. [LB1087]

SENATOR CARLSON: So the original school has not yet received money then for the student who leaves? [LB1087]

SENATOR ADAMS: They have received their money in TEEOSA aid because that student was calculated in. [LB1087]

SENATOR CARLSON: Okay. I may have to...I don't want to take, necessarily, more mike time here but they're not double paying? [LB1087]

SENATOR ADAMS: No, no, no. [LB1087]

SENATOR CARLSON: Okay. Okay. Well, thank you for that and I do support the bill. Thank you, Mr. President. [LB1087]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Wallman, you are recognized. [LB1087]

SENATOR WALLMAN: Mr. President and members of the body. Would Senator Adams yield to a question? [LB1087]

SPEAKER FLOOD: Senator Adams, would you yield to a question from Senator Wallman? [LB1087]

SENATOR ADAMS: Yes. [LB1087]

SENATOR WALLMAN: Believe it or not I am for this bill. Regards to the cost of special ed, your IEPs and the cost issues, is transportation figured in on this too? Transportation of the student? [LB1087]

SENATOR ADAMS: Well, the school district is responsible for transportation of the student. But typically we're talking about, not exclusively, but typically we're talking about students that have actually moved into a residential setting. Otherwise they would be. If the residential setting that they were going to for treatment was just a little ways

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away, the school district could then provide that transportation. [LB1087]

SENATOR WALLMAN: Okay. Thank you. This is a reimbursement issue. Special ed usually doesn't cover the cost but the State Board of Education then would cover the cost totally to the...the school district would pick up the rest of the cost then? [LB1087]

SENATOR ADAMS: Only the cost of education, not the cost of housing the student or providing whatever professional services they're there for, only the cost of education. [LB1087]

SENATOR WALLMAN: Thank you, Mr. President. [LB1087]

SPEAKER FLOOD: Thank you, Senator Wallman. Senator Louden, you're recognized. [LB1087]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Adams yield for a question? [LB1087]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Louden? [LB1087]

SENATOR ADAMS: Yes, I will. [LB1087]

SENATOR LOUDEN: As I look through this bill, Senator Adams, I'm wondering if there's a school district, say, out west someplace that isn't equalized, and they send a student to one of these schools where they get this type of education, now who pays for that? You keep saying that the State Board of Education or...pays for this tuition or something like that. Now would that school district that they came from or their resident school district pay for this...for their education? [LB1087]

SENATOR ADAMS: Under current law, Senator, if a student left the Hyannis Public Schools and their parents took them to a residential setting, an interim school someplace, under current law Hyannis would pay the cost of the education cost of having that student there. [LB1087]

SENATOR LOUDEN: Okay. [LB1087]

SENATOR ADAMS: What this does is say that the State Department of Education will pay it and they're going to draw it out of the total special ed funding that's available. So in effect, every school district in the state, to a small degree, is going to contribute to paying that and Hyannis doesn't pay. [LB1087]

SENATOR LOUDEN: Okay. And that funding comes out of the special ed fund...

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[LB1087]

SENATOR ADAMS: Correct. [LB1087]

SENATOR LOUDEN: ...the statewide special ed fund. Well, that was what I was concerned about. As I looked through the bill I couldn't notice anything in here that said anything about these unequalized districts where they fit into the plan on that. [LB1087]

SENATOR ADAMS: Well, there again, we treat the nonequalized just like an equalized district. It has nothing really to do with TEEOSA because the money would come from the Department of Ed. [LB1087]

SENATOR LOUDEN: It all comes through the educational fund. [LB1087]

SENATOR ADAMS: Correct. [LB1087]

SENATOR LOUDEN: Such as for any special ed now comes through the special education fund. Now would they get reimbursed...used to be there was always a time lag when we had...when I was on the school board with special ed. We usually got paid the following year for what we spent on special education. Is there a time lag in here or do they pick up the... [LB1087]

SENATOR ADAMS: No, the time lag, the money from the Department of Ed for these students comes as quickly as it can. There won't be that kind of time lag. [LB1087]

SENATOR LOUDEN: From one year to the next. [LB1087]

SENATOR ADAMS: Right. [LB1087]

SENATOR LOUDEN: Very good. Thank you, Senator Adams. And thank you, Mr. Speaker. [LB1087]

SPEAKER FLOOD: Thank you, Senator Louden. (Visitors introduced.) There are no other lights on. Senator Adams, you're recognized to close on AM2034. [LB1087]

SENATOR ADAMS: Thank you, Mr. President and I have probably worn the body out on this and so I'll not get my imaginary whiteboard out. But just let me very quickly summarize. The committee amendment becomes the bill. What the committee amendment does, very simply, is say, the school district from where the child comes from is responsible for the IEP between them and the interim school, that the finance end of it is between the interim school and the Department of Education. In simplest form, that's what it is. Thank you, Mr. President. [LB1087]

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SPEAKER FLOOD: Thank you, Senator Adams. Members, you've heard the closing on AM2034. The question before the body is, shall AM2034 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1087]

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB1087]

SPEAKER FLOOD: AM2034 is adopted. [LB1087]

CLERK: I have nothing further on the bill, Mr. President. [LB1087]

SPEAKER FLOOD: There are no lights on. Senator Adams, you're recognized to close on LB1087. [LB1087]

SENATOR ADAMS: Thank you, Mr. President and as I described, the committee amendment becomes the bill, and I don't know that there is that much more than needs to be said about it. Thank you. [LB1087]

SPEAKER FLOOD: Thank you, Senator Adams. Members, you've heard the closing. The question is, shall LB1087 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Senator Harms. Mr. Clerk, please record. [LB1087]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB1087. [LB1087]

SPEAKER FLOOD: LB1087 advances to E&R Initial. Mr. Clerk, items for the record. [LB1087]

CLERK: Mr. President, your Committee on Revenue, chaired by Senator Cornett, reports LB779 to General File with committee amendments attached. Amendments to be printed: Senator Karpisek, LB258; Senator Adams, LB1014; Senator Rogert, LB882. Business and Labor will meet in Executive Session upon adjournment underneath the north balcony; Business and Labor upon adjournment, north balcony. Name adds: Senator Flood to LB258 and to LB943. (Legislative Journal pages 725-730.) [LB779 LB258 LB1014 LB882 LB258 LB943]

And a priority motion. Senator Lathrop would move to adjourn the body until Wednesday morning, March 3 at 9:00 a.m.

SPEAKER FLOOD: Members, you've heard the motion. All those in favor of adjournment until March 3, 2010, at 9:00 a.m. say aye. Those opposed say nay. (Gavel) We are adjourned.