

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
November 18, 2009

[LB1 LB2 LB3 LB4 LB5 LR9 LR10 LR21 LR24]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the tenth day of the One Hundred First Legislature, First Special Session. Our chaplain for today is Senator Wallman. Please rise. []

SENATOR WALLMAN: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Senator Wallman. I call to order the tenth day of the One Hundred First Legislature, First Special Session. Senators, please record your presence. Record please, Mr. Clerk. []

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

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

CLERK: I have no corrections. []

SPEAKER FLOOD: Thank you. Are there any messages, reports, or announcements? []

CLERK: I have neither messages, reports, nor announcements at this time, Mr. President. []

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, we will now proceed to the first item on the agenda. Mr. Clerk. []

CLERK: Mr. President, LB3 on Select File. Senator Nordquist, I have Enrollment and Review amendments, first of all. (ER8002, Legislative Journal page 119.) [LB3]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB3]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB3. [LB3]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. Mr. Clerk. [LB3]

CLERK: Senator Fischer would move to amend with AM24. (Legislative Journal page 117.) [LB3]

SPEAKER FLOOD: Senator Fischer, you are recognized to open on AM24. [LB3]

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SENATOR FISCHER: Thank you, Mr. President and members of the body. This amendment is in regard to the wireless E-911 Fund that we discussed yesterday on General File. If you remember, \$5 million from the fund was originally supposed to be directed to the General Fund. However, after an Attorney General's Opinion was requested and received, it was determined that the E-911 Fund must be used for 911 purposes and any deviation is in direct conflict with federal law. Failure to follow this practice could lead to the loss of future federal funds or even the ability to collect the fee. The Attorney General did state in his Opinion that this body could direct interest accrued from the E-911 Fund to the General Fund and avoid any federal repercussions. This was accomplished yesterday by Senator Heidemann's AM19. AM24 expands upon this concept by providing a sunset date on when the interest from the fund can be transferred to the General Fund. Any transfer must take place before June 30, 2010. I feel this amendment is appropriate so that it is clear to future legislative bodies that the E-911 Fund is not open to General Fund transfers. I ask for your support for this amendment. Thank you, Mr. President. [LB3]

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the opening on AM24. We now begin discussion on the same. Senator Heidemann, you are recognized. [LB3]

SENATOR HEIDEMANN: Thank you, Mr. President. Mr. Speaker and fellow members of the body, I rise in support of AM24 about sunsetting the 911. I actually have an amendment that has come up a little bit later last night that I will offer coming up, I had a...dealing with sunsetting a cash fund. I had a conversation with Senator Dubas yesterday about sunsetting these funds. And at that time...and I still would stand with that statement, as these came up we actually was sunsetting them. We found out yesterday that there might actually be some funds that weren't brought up during our discussions in Appropriations that we will sunset. One of them for sure that I know about is the board (sic) of Aeronautics, and I have an amendment that will be following here shortly, will sunset that. There probably are others out there, and I'll stand up and tell you that right now. We can put it in the public record. When January or February rolls around, we're in regular session, we can address those at that time and it is my intention to do so. So with that, I support AM24 to LB3. [LB3]

SPEAKER FLOOD: Thank you, Senator Heidemann. Senator Pahls, you are recognized. [LB3]

SENATOR PAHLS: Good morning, Mr. Chair. My heart feels good today. Two senators within a half a minute are standing, saying we need to take a look at sunsets. There's value in sunsets. I've been told by listening...because for future bodies to make decisions, sunsets are important. I thank them for bringing that forth. Thank you. [LB3]

SPEAKER FLOOD: Thank you, Senator Pahls. There are no other lights on. Senator

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Fischer, you are recognized to close on your amendment. Senator Fischer waives her opportunity. The question before the body is, shall AM24 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB3]

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of Senator Fischer's amendment. [LB3]

SPEAKER FLOOD: AM24 is adopted. Mr. Clerk. [LB3]

CLERK: Senator Heidemann would move to amend with AM28. (Legislative Journal page 121.) [LB3]

SPEAKER FLOOD: Senator Heidemann, you are recognized to open on AM28. [LB3]

SENATOR HEIDEMANN: Thank you, Mr. Speaker, fellow members of the body. Just as the amendment before us, there was an issue with the board (sic) of Aeronautics that we became aware of: a cash fund that we hadn't sunsetted. With this amendment it would be sunset. It actually states on page 6, line 18, after "Legislature," insert "through June 30, 2011." It would allow us to do what we intend to do in this special session but still sunset it after that. I would urge your support of AM28 to LB3. [LB3]

SPEAKER FLOOD: Members, you've heard the opening on AM28. There are no members wishing to speak. Senator Heidemann, you're recognized to close. Senator Heidemann waives his opportunity. The question before the body is, shall AM28 be adopted? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB3]

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB3]

SPEAKER FLOOD: AM28 is adopted. Mr. Clerk. [LB3]

CLERK: I have nothing further on the bill, Mr. President. [LB3]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB3]

SENATOR NORDQUIST: Mr. President, I move LB3 to E&R for engrossing. [LB3]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB3 is advanced to E&R for engrossing. Mr. Clerk. [LB3]

CLERK: Mr. President, LB2 on Select File. Senator Nordquist, Enrollment and Review

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amendments, first of all. (ER8001, Legislative Journal page 119.) [LB2]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB2]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB2. [LB2]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments to LB2 are adopted. Mr. Clerk. [LB2]

CLERK: Mr. President, Senator Heidemann would move to amend with AM27. (Legislative Journal page 122.) [LB2]

SPEAKER FLOOD: Senator Heidemann, you are recognized to open on AM27. [LB2]

SENATOR HEIDEMANN: Thank you, Mr. Speaker, fellow members of the body. There was an issue that came up late last night, and I'm going to offer an amendment to LB2 and an amendment to LB3 to try to make things run a little bit smoother with something that we did as an Appropriations Committee and something that was then adopted up here on the floor yesterday. We had accessed some interest money off of the Nebraska Capital Construction Fund, the NCCF. And in doing that, what we had did was to pick up a couple of capital construction projects that were being funded with General Fund money and we was going to fund them with interest money off of the NCCF. We determined last night that it would be a lot cleaner if we actually just took the interest money from the NCCF and transferred it to the General Fund. And that's what the next two amendments that you will hear, this one on LB2 and the next one on LB1, will do. The end gain, the end result is going to be exactly the same. It will not change the status. It's just a whole lot cleaner way of doing it and I would appreciate your support and urge your support on AM27 to LB2. [LB2 LB3 LB1]

SPEAKER FLOOD: Members, you've heard the opening on AM27. There are no members wishing to speak. Senator Heidemann, you're recognized to close. Senator Heidemann waives his opportunity. The question before the body is, shall AM27 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB2]

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB2]

SPEAKER FLOOD: AM27 is adopted. Mr. Clerk. [LB2]

CLERK: I have nothing further on LB2, Mr. President. [LB2]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB2]

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SENATOR NORDQUIST: Mr. President, I move LB2 to E&R for engrossing. [LB2]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB2 is advanced to E&R for engrossing. Mr. Clerk. [LB2]

CLERK: Mr. President, LB1 on Select File. Senator Nordquist, I have Enrollment and Review amendments. (ER8003, Legislative Journal page 119.) [LB1]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB1]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1. [LB1]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments to LB1 are adopted. Mr. Clerk. [LB1]

CLERK: Mr. President, Senator Heidemann would move to amend. Senator, I have AM20 in front of me. (Legislative Journal page 118.) [LB1]

SPEAKER FLOOD: Senator Heidemann, you're recognized to open on AM20. [LB1]

SENATOR HEIDEMANN: Thank you, Mr. Speaker, fellow members of the body. We are going to deal with AM20 before we deal with the other amendment that I had talked about before with the NCCF fund. AM20 is actually just a technical cleanup amendment that I am offering, so I urge your support. Noncontroversial whatsoever, just technical in nature, so I urge your support of AM20. [LB1]

SPEAKER FLOOD: Members, you've heard the opening on AM20. There are no members wishing to speak. Senator Heidemann, you're recognized to close. Senator Heidemann waives his opportunity. Members, the question before the body is, shall AM20 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1]

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB1]

SPEAKER FLOOD: AM20 is adopted. Mr. Clerk. [LB1]

CLERK: Mr. President, the next amendment I have: Senator Heidemann, AM26. (Legislative Journal page 122.) [LB1]

SPEAKER FLOOD: Senator Heidemann, you're recognized to open on AM26. [LB1]

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SENATOR HEIDEMANN: Thank you, Mr. Speaker and fellow members of the body. I do believe this is the last one that I have. AM26 to LB1 is the other part of AM27. The NCCF issue actually dealt with LB3 and LB1. This is just the other part of that. You approved the other amendment. I urge your support of AM26 to address the NCCF issue to LB1. [LB1 LB3]

SPEAKER FLOOD: Members, you've heard the opening on AM26. There are no members wishing to speak. Senator Heidemann, you're recognized to close. Senator Heidemann waives his opportunity. Members, the question before the body is, shall AM26 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB1]

SPEAKER FLOOD: Senator Heidemann's amendment is adopted. [LB1]

CLERK: I have nothing further on the bill, Mr. President. [LB1]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB1]

SENATOR NORDQUIST: Mr. President, I move LB1 to E&R for engrossing. [LB1]

SPEAKER FLOOD: Members, you've heard the motion. We now return to discussion on Senator Nordquist's motion. Senator Sullivan, you've been recognized to speak. [LB1]

SENATOR SULLIVAN: Thank you, Mr. President. And I certainly rise in support of LB1, but I just wanted to reiterate some comments that I made yesterday with respect to early childhood programs and the proposed reduction in those. I visited with Senator Heidemann last night. I'm confident that he recognizes the concern as well, and I plan to work on this issue going forward. And hopefully we'll revisit the issue in January because I think we have too many children at risk in this state. We recognize the value of early childhood programs, and if we are to move forward as a state, preparing our young citizens to be productive and involved in this state and solving its challenges, then I think we need to go to where the problems exist and curb them early. So I just wanted to make mention that I will be working on this in the general session. Thank you. [LB1]

SPEAKER FLOOD: Thank you, Senator Sullivan. Senator McCoy, you are recognized. [LB1]

SENATOR MCCOY: Thank you, Mr. President and members of the body. Would Senator Mello yield to a question, please? [LB1]

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SPEAKER FLOOD: Senator Mello, will you yield to a question from Senator McCoy?
[LB1]

SENATOR MELLO: Absolutely. [LB1]

SENATOR McCOY: Thank you, Senator Mello. If you could, you have been on the forefront of asking for pay freezes for state employees before the session, during the special session. And as a point of clarification, I assume that you intended that to also include Legislative Council as well? [LB1]

SENATOR MELLO: Actually when I discussed it in committee and it was widely rejected, I did discuss anyone making over \$100,000 in state government. Yes. [LB1]

SENATOR McCOY: Thank you. [LB1]

SPEAKER FLOOD: There are no other lights on. Senator Nordquist's motion, as previously stated, was shall LB1 advance to E&R for engrossing? All those in favor say aye. Those opposed say nay. LB1 is advanced to E&R for engrossing. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR9 and LR10. [LB1 LR9 LR10]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Mr. Clerk, LB4. [LB4]

CLERK: Mr. President, LB4 on Select File, no E&Rs. Senator Flood would move to amend with AM22. (Legislative Journal page 116.) [LB4]

SENATOR LANGEMEIER: Senator Flood, you are recognized to open on AM22. [LB4]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. LB4 is the appropriations bill that is introduced every special session to appropriate the expenses for the special session. This amendment provides for a 12-day special session, assuming an end date of Friday of this week. Senator per diems in this amendment are calculated at a lower rate prior to October 1. At this point I do believe we will be able to conclude on Friday. If that turns out not to be the case, it is my intention to introduce a deficit appropriation's bill beginning in the next regular session to cover the additional expenses. The total expenses for a 12-day special session is \$110,651. I do ask your support for this amendment and the advancement of LB4 to E&R for engrossment. Thank you, Mr. President. [LB4]

SENATOR LANGEMEIER: Thank you, Senator Flood. You have heard the opening on

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AM22 offered to LB4. The floor is now open for discussion. Seeing no lights on, Senator Flood, you are recognized to close on your amendment. Senator Flood waives closing. The question before the body is, shall AM22 be adopted to LB4? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB4]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Flood's amendment. [LB4]

SENATOR LANGEMEIER: AM22 is adopted. [LB4]

CLERK: I have nothing further on the bill, Mr. President. [LB4]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB4]

SENATOR NORDQUIST: Mr. President, I move LB4 to E&R for engrossing. [LB4]

SENATOR LANGEMEIER: You have heard the motion on the advancement of LB4 to E&R for engrossing. All those in favor say aye. All those opposed say nay. LB4 does advance. Speaker Flood, you are recognized for an announcement. [LB4]

SPEAKER FLOOD: Thank you, Mr. President. Good morning. This is an opportunity to kind of give you a picture as to how we're going to work the rest of today and through the rest of the week. It's my understanding that Bill Drafters upstairs will be able to have the bills ready to be placed back on Final Reading at 11:45 this morning. For that reason, I'm going to ask that we recess until 11:45 and allow us to come back in here. We'll have to check in. We'll have to have a quorum, obviously. And then we'll have those bills reported back onto Final Reading, hopefully before noon today. We'll adjourn for the day. Tomorrow will be our constitutionally required layover day. We will take up, tomorrow at 1:30 p.m., the election for Chairperson of the Urban Affairs Committee and any other business necessary to be conducted on Thursday. And then on Friday this is what I am proposing. I have had discussions with the Governor's Office relative to vetoes, in hopes of winding down the session on Friday. The Governor's Office advised that, with the Governor's schedule, if we deliver the bills to him on Final Reading before 9:00 in the morning, we can get them back at noon. If we deliver the bills after 9:00 in the morning, we will get them back at 6:00, due to his schedule. So here's what I'm proposing. On Friday morning, we go into session at 8:00 in the morning. The Legislature will decide whether or not to deliver the bills by 9:00, based upon what our actions are. If we deliver the bills by 9:00, I would like to give the Appropriations Committee an opportunity before 2:00 to meet and make recommendations to the Legislature as they see fit as to what to do on any vetoes, if any, and then reconvene on Friday at 2:00 p.m. If for some reason we deliver those bills after 9:00, I intend to come back...I intend to deliver the bills to the Appropriations Committee at 6:00 p.m., and then

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go back into session somewhere between 7:30 and 8:00 p.m. on Friday and have the veto discussion. I realize that probably compromises plans that we have on Friday night. I'd rather get it done on Friday than incur the cost of another day of special session at \$10,000 per day, and wrap this special session up on Friday. Based upon the amount of discussion today that we had on Select File, I'm hopeful that we can deliver the bills, barring any unforeseen issues, by 9:00 on Friday and get those down the hall so that we can get an answer from the Governor at noon, and then reconvene at 2:00 and take up any auxiliary matters that we have and any veto overrides that would be filed or recommended by either the Appropriations Committee or any member in this body. I guess what I want to stress to you is there will be no pocket vetoes. We've been working with the corner office on this issue, and I feel like we have a plan to address how to work together on Friday and give the Legislature a chance to do our duty as it relates to a veto override. That was the thinking behind my structure on Friday. So that's a picture as to what the rest of our week looks like. I thank everybody for working so hard, and especially want to reiterate our appreciation to the Appropriations Committee, the Fiscal Office, the Clerk's staff, and all of you for working through this difficult special session. Thank you. []

SENATOR LANGEMEIER: Thank you, Speaker Flood. Mr. Clerk, items for the record. []

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and engrossed LB5 and find the same correctly engrossed. Senator Pahls offers LR24; that will be laid over. Senators Mello and Cornett would like to add their name to LR21. (Legislative Journal pages 123-128.) [LB5 LR24 LR21]

And a priority motion: Senator Harms would move to recess the body until 11:45 a.m. []

SENATOR LANGEMEIER: You have heard the motion to recess until 11:45 a.m. All those in favor say aye. All those opposed say nay. We stand at recess. []

RECESS []

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the 11:45 a.m. session of the One Hundred First Legislature, First Special Session, tenth day. Members, please record your presence. Mr. Clerk, please record. []

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

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

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CLERK: I do, Mr. President. Your Committee on Enrollment and Review reports they've examined and engrossed LB1 and find the same correctly engrossed, LB2, LB3, and LB4; all four of those correctly engrossed. (Legislative Journal page 129.) [LB1 LB2 LB3 LB4]

SPEAKER FLOOD: Thank you, Mr. Clerk. []

CLERK: Mr. President, I have a priority motion. Senator Price would move to adjourn the body until Thursday afternoon at 1:30 p.m. []

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel) []