

us, 662, and the one that's following it, LB 663, to the floor and having a vote on the bill. I wouldn't want to do anything to jeopardize that bill because of an amendment that was attached to the bill. And I have...I mean, as far as I'm concerned, I don't have any feelings one way or the other as far as the amendment is concerned but the bottom line for me is I don't want to lose the bill if, in fact, we find that any part of that bill, including that amendment, makes it unconstitutional. And so I'm not going to talk about all the things we've already talked about. I will let Senator Scofield talk about the bill itself. I would just hope that you would agree with me that we ought to do this. I have had my staff working and looking, and from what they have come up with, they feel that the courts apply two kinds of tests in determining whether portions of an act which are declared unconstitutional can be severed from the valid portion of the act. And the first test they found is whether the portion to be severed is independent of the rest of the law and that is that the remaining law would make sense without the severed portion. And we feel that clearly in this case the section under discussion is independent of the act. The program could function fine without the section on abortion counseling. The second test is more difficult but we believe to be severable the section being severed cannot be a deciding inducement in the passage of the act and that is that would the act pass without the section? It's a harder issue to argue. We have to be honest about that. But I would argue that the inducement to pass this act is actually what it will do for communities and who will receive the grants under the act. And that's why this act will be or won't be passed as far as I'm concerned. It has nothing to do with the amendment that was attached to it originally. Courts have then allowed severability clauses to serve as statements of legislative intent. That is a court could see the severability clause on LB 662 and then they could decide that that means the abortion counseling section of the bill, by legislative intent, did not serve as a deciding inducement and, in fact, it could be severed then. In fact, that is one reason to adopt the severability clause as a statement of legislative intent. The courts can sever an act without the severability clause but by adopting the severability clause we will be indicating the Legislature's intent to the courts which might be even a better reason for us to attach the severability clause. So that's what we have come up with. We have a number of opinions that we went back in the files and in the statutes and the Journals, looked for, and we feel that those two issues that they were able to