

**FEBRUARY 9, 2001**

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Transcriber's Office  
FLOOR DEBATE

February 9, 2001 LB 152A, 152, 706

SPEAKER KRISTENSEN PRESIDING

SPEAKER KRISTENSEN: Good morning and welcome to the George W. Norris Legislative Chamber. Our chaplain for the day is the Chair of the Exec Board, Senator Coordsen.

SENATOR COORDSEN: (Prayer offered.)

SPEAKER KRISTENSEN: I call the twenty-sixth day of the Nebraska Unicameral Legislature to session...to order. Members, please record your presence. Roll call.

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

SPEAKER KRISTENSEN: Any corrections?

CLERK: No corrections, Mr. President.

SPEAKER KRISTENSEN: Any messages, reports or announcements?

CLERK: Your Committee...your Executive Board reports LB 706 to General File with amendments. That's signed by Senator Coordsen. Business and Labor Committee offers notice of hearing, and I have received reports from the Nebraska Investment Finance Authority. Those will be on file in the Clerk's Office. That's all that I have, Mr. President. (Legislative Journal pages 593-594.)

SPEAKER KRISTENSEN: Thank you, Mr. Clerk. We'll next move to General File, LB 152A.

CLERK: Mr. President, LB 152A by Senator Jensen. (Read title.)

SPEAKER KRISTENSEN: Senator Jensen, you're recognized to open.

SENATOR JENSEN: Thank you, Mr. Speaker. Good morning, members of the body. LB 152 was this brain injury registry that we passed last week. This is the A bill that follows it. I did pass a sheet around on your desk that explains kind of how this operates. This has been funded in the past through a grant from the CDC, that's the Center for Disease Control and Prevention.

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LR 28

We certainly anticipate that we'll...this will be funded again this next year, however, it will appear as a General Fund appropriation, actually from Senator Wehrbein's Appropriations Committee. With that, I'll be glad to answer any questions, Mr. Speaker.

SPEAKER KRISTENSEN: You've heard the opening. Any debate on advancement of the bill? Seeing none, Senator Jensen, you're recognized to close. He waives closing. The question before the body is the advancement of LB 152A. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 152A.

SPEAKER KRISTENSEN: LB 152A advances. Members, would you please return to your seats so we can begin Final Reading. Before we begin Final Reading, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR 28. Mr. Clerk, LB 67E.

CLERK: (Read LB 67 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 67, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 595.)  
40 ayes, 0 nays, 1 present and not voting, 8 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 67, with the emergency clause attached, passes. We next move to LB 68. The first motion is to dispense with the Final Reading. All those in favor of dispensing with Final Reading vote aye; all those opposed vote nay. Record.

CLERK: 34 ayes, 2 nays, Mr. President, to dispense with the at-large reading of LB 68.

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February 9, 2001 LB 68, 111, 118, 131

SPEAKER KRISTENSEN: The at-large reading is waived. Mr. Clerk, please read the title.

CLERK: (Read title of LB 68.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 68 pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 596.) 42 ayes, 0 nays, 7 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 68 passes. LB 111.

CLERK: (Read LB 111 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 111 pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal pages 596-597.) 42 ayes, 0 nays, 7 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 111 passes. LB 118E.

CLERK: (Read LB 118 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 118, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 597.) 42 ayes, 0 nays, 7 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 118, with the emergency clause, passes. LB 131.

CLERK: (Read LB 131 on Final Reading.)

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February 9, 2001 LB 131, 137, 138, 151

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 131 pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 598.)  
43 ayes, 0 nays, 6 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 131 passes. LB 137.

CLERK: (Read LB 137 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 137 pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 599.)  
43 ayes, 0 nays, 6 excused and not voting.

SPEAKER KRISTENSEN: LB 137 passes. LB 138E.

CLERK: (Read LB 138 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 138, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record. Record.

CLERK: (Record vote read, Legislative Journal pages 599-600.)  
43 ayes, 0 nays, 6 excused and not voting.

SPEAKER KRISTENSEN: LB 138, with the emergency clause attached, passes. LB 151.

ASSISTANT CLERK: (Read LB 151 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 151 pass? All those in favor vote aye; all those opposed vote nay. Please

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record.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 600.) Vote is 43 ayes, 0 nays, 6 excused and not voting.

SPEAKER KRISTENSEN: LB 151 passes. LB 156.

ASSISTANT CLERK: (Read LB 156 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 156 pass? All those in favor vote aye; all those opposed vote nay. Record.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 600-601.) Vote is 43 ayes, 0 nays, 6 excused and not voting.

SPEAKER KRISTENSEN: LB 156 passes. LB 168E.

ASSISTANT CLERK: (Read LB 168 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 168E pass? All those in favor vote aye; all those opposed vote nay. Record.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 601-602.) Vote is 45 ayes, 0 nays, 4 excused and not voting.

SPEAKER KRISTENSEN: LB 168, with the emergency clause attached, passes. LB 168AE.

ASSISTANT CLERK: (Read LB 168A on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 168A, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

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February 9, 2001 LB 168A, 173, 197

ASSISTANT CLERK: (Record vote read, Legislative Journal page 602.) Vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 168A, with the emergency clause attached, passes. We next move to LB 173. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Record.

ASSISTANT CLERK: 37 ayes, 2 nays on the motion to dispense with Final Reading, Mr. President.

SPEAKER KRISTENSEN: The at-large reading is suspended. Mr. Clerk, read the title.

ASSISTANT CLERK: (Read title of LB 173.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 173 pass? All those in favor vote aye; all those opposed vote nay. Record.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 603.) Vote is 46 ayes, 0 nays, 3 excused and not voting.

SPEAKER KRISTENSEN: LB 173 passes. We next move to LB 197. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Record.

ASSISTANT CLERK: 35 ayes, 1 nay on the motion to dispense with Final Reading, Mr. President.

SPEAKER KRISTENSEN: Final Reading is suspended...or the at-large reading is suspended. Mr. Clerk, please read the title.

ASSISTANT CLERK: (Read title of LB 197.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 197 pass? All those in favor vote aye; all those opposed vote nay.

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Record.

CLERK: (Record vote read, Legislative Journal page 604.)  
45 ayes, 0 nays, 1 present and not voting, 3 excused and not  
voting, Mr. President.

SPEAKER KRISTENSEN: LB 197 passes. We next move to LB 198.  
First vote is to suspend the at-large reading. All those in  
favor vote aye; all those opposed vote nay. Record.

CLERK: 36 ayes, 2 nays, Mr. President, on the motion to  
dispense with the at-large reading of LB 198.

SPEAKER KRISTENSEN: The at-large reading is suspended.  
Mr. Clerk, please read the title.

CLERK: (Read title of LB 198.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure  
having been complied with, the question is, shall LB 198 pass?  
All those in favor vote aye; all those opposed vote nay.  
Record.

CLERK: (Record vote read, Legislative Journal page 605.)  
44 ayes, 0 nays, 2 present and not voting, 3 excused and not  
voting.

SPEAKER KRISTENSEN: LB 198 passes. LB 209E. The first vote  
is to suspend the at-large reading. All those in favor vote  
aye; all those opposed vote nay. Record.

CLERK: 37 ayes, 2 nays, Mr. President, to dispense with the  
at-large reading.

SPEAKER KRISTENSEN: The at-large reading is suspended.  
Mr. Clerk, please read the title.

CLERK: (Read title of LB 209.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure  
having been complied with, the question is, shall LB 209E, with

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the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 606.)  
46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 209, with the emergency clause attached, passes. LB 209A.

CLERK: (Read LB 209A on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 209A pass? All those in favor vote aye; those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 607.)  
45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 209A passes. LB 214.

CLERK: (Read LB 214 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 214 pass? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

CLERK: (Record vote read, Legislative Journal pages 607-608.)  
46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 214 passes. LB 252.

CLERK: (Read LB 252 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 252 pass? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

CLERK: (Record vote read, Legislative Journal pages 608-609.)

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43 ayes, 1 nay, 2 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 252 passes. LB 275.

CLERK: (Read LB 275 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 275 pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 609.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 275 passes. LB 295.

ASSISTANT CLERK: (Read LB 295 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 295 pass? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 610.) Vote is 39 ayes, 6 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 295 passes. LB 302E.

ASSISTANT CLERK: (Read LB 302 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 302E, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 610-611.) Vote is 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

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**SPEAKER KRISTENSEN:** LB 302, with the emergency clause attached, passes. LB 365.

**ASSISTANT CLERK:** (Read LB 365 on Final Reading.)

**SPEAKER KRISTENSEN:** All provisions of law relative to procedure having been complied with, the question is, shall LB 365 pass? All those in favor vote aye; all those opposed vote nay. Please record.

**CLERK:** (Record vote read, Legislative Journal page 611.) 46 ayes, 0 nays, and 3 excused and not voting, Mr. President.

**SPEAKER KRISTENSEN:** LB 365 passes. LB 162.

**CLERK:** Mr. President, Senator Chambers would move to return the bill. (AM0294, Legislative Journal page 553.)

**SPEAKER KRISTENSEN:** Senator Chambers, you're recognized to open on the motion to return.

**SENATOR CHAMBERS:** Mr. President, members of the Legislature, and I showed the amendment to Senator Hudkins, as I try to do on these...on everybody's bill when I'm aware of whose bill it is. There are references to a...some kind of code or set of standards for people who are in this activity and the amendment simply says that that reference is to this code as of the effective date of this particular bill which is before us now, and that's what it does.

**SPEAKER KRISTENSEN:** Debate on the motion to return? Seeing none, Senator Chambers, you're recognized to close on that motion. He waives closing. The question is, shall LB 162 be returned to Select File for specific amendment? All those in favor vote aye; all those opposed vote nay. Record.

**CLERK:** 38 ayes, 0 nays, Mr. President, on the motion to return the bill.

**SPEAKER KRISTENSEN:** We are on Select File. Mr. Clerk.

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CLERK: Senator, AM0294.

SPEAKER KRISTENSEN: Senator Chambers, you're recognized to open on your amendment.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I explained the amendment so, unless there are questions, I simply move that it be adopted.

SPEAKER KRISTENSEN: Debate? Seeing none, Senator Chambers, you're recognized to close. He waives that closing. The question is the adoption of the amendment. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 45 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment.

SPEAKER KRISTENSEN: The amendment is adopted. Senator Chambers, you're recognized for a motion to re-advance.

SENATOR CHAMBERS: I move that the bill be re-advanced.

SPEAKER KRISTENSEN: Heard the motion. The question before the body is the re-advancement of LB 162 as amended. All those in favor say aye. Those opposed say nay. It is advanced. We next move to Select File, LB 128. Mr. Clerk.

CLERK: Mr. President, no E & R's, Senator Erdman. I do have amendments to the bill. Senator Schrock has the first amendment, AM0088. (Legislative Journal page 390.)

SPEAKER KRISTENSEN: Senator Schrock, you're recognized to open on your amendment. Senator Schrock, you have opened on the amendment. It's been some period of time since the body has considered this. Would you give us an update on to the amendment and I'll give you a couple of minutes to do that.

SENATOR SCHROCK: Mr. Speaker, we'd like to withdraw that amendment.

SPEAKER KRISTENSEN: It is withdrawn.

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CLERK: Mr. President, Senator Chambers (sic--Beutler) would move to indefinitely postpone the bill. Want to withdraw? Senator Erdman, I have nothing further pending on LB 128.

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for a motion to advance.

SENATOR ERDMAN: Thank you, Mr. Speaker. I move the advancement of LB 1...

CLERK: I'm sorry.

SENATOR ERDMAN: Excuse me.

CLERK: Senator, excuse me. I misspoke. Senator Beutler, it's your motion to indefinitely postpone. Forgive me. Excuse me, Senator.

SENATOR BEUTLER: Mr. Clerk, that's fine.

SPEAKER KRISTENSEN: It is withdrawn.

CLERK: Now, Senator, I have nothing on the bill.

SPEAKER KRISTENSEN: Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. Speaker. I move the advancement of LB 128 to E & R for engrossing.

SPEAKER KRISTENSEN: Heard the motion to advance. All those in favor say aye. Those opposed say nay. It advances. LB 128A.

CLERK: Senator Erdman, I have no amendments to LB 128A.

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for the motion to advance.

SENATOR ERDMAN: Mr. Speaker, I move the advancement of LB 128A to E & R for engrossing.

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SPEAKER KRISTENSEN: Question before the body is the advancement. All those in favor say aye. Those opposed say nay. It advances. LR 1CA.

CLERK: LR 1, Senator, I do have E & R amendments, first of all. (AM7008, Legislative Journal page 389.)

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for a motion to adopt those.

SENATOR ERDMAN: Mr. Speaker, I move the adoption of the E & R amendments to LR 1CA.

SPEAKER KRISTENSEN: Question before the body is the adoption of those amendments. All in favor say aye. Those opposed say nay. They're adopted.

CLERK: Senator Stuhr, I have an amendment from you, Senator, but I have a note you wish to withdraw.

SENATOR STUHR: Yes, that is correct.

CLERK: Mr. President, Senator Beutler, AM0058, Senator. (Legislative Journal page 612.)

SPEAKER KRISTENSEN: Senator Beutler, you're recognized to open.

SENATOR BEUTLER: Senator Kristensen, members of the Legislature, I do not wish to open this entire subject up to another long debate, but I'm feeling a high level of discomfort with it around the fact that I believe that the debate on General File with regard to the legislative intent on this bill was mixed, muddled, confused, and unascertainable. And because this is going to the people of the state, I think it is important to have a clear statement of intent, especially in light of the fact that the public has rejected a version of this proposed amendment before. And so what I would like to do with this amendment is not necessarily pass it but to use it as a vehicle to get a clear statement of intent. What the amendment...first of all, where the bill lies right now is with the addition of the language, "and such language," referring to

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the English language, "shall be used in the public schools", and then it deletes the language with regard to the use of the language in private and parochial schools, that...that particular objective. The ambiguity that exists in the language itself, in my mind and I think it could exist in many minds, is that the language in the proposed constitutional amendment that says that the English language shall be used in the public schools doesn't say whether it should be used sometimes, it should be used half the time, or it should always be used in teaching the courses that are taught in our public schools. And the floor debate on that particular subject did nothing at all to clear up the confusion as to what the Legislature intended. The language of my amendment says, "The public schools shall teach all classes in the English language except language classes", and it says that supplementary education may be taught in a person's native tongue. That language, I think, encapsulates one idea of what is intended or what was intended by the language that is actually in the bill, and if that is the interpretation that is intended and the meaning of the language in the bill, then I think we're putting forth clearly to the people the same proposal, in essence, that we put to them in the first instance. And I think that that proposal, rightly understood, would be approved by the people, but I do not think we should put forward to them something ambiguous, suspecting that they would not want to pass it, that goes beyond the simple objective of eliminating the parochial schools and the private schools in accordance with the constitutional directive from the purvey of the constitutional language. So I want to ask Senator Stuhr clearly about the intention of the language in the bill. This is her bill. The language was originally committee amendment language, but from this point on it is her language in her bill, and so I want to direct a question to her with regard to intent, if I may, Senator Stuhr.

SPEAKER KRISTENSEN: Senator Stuhr, would you respond?

SENATOR BEUTLER: And then I would like to...

SENATOR STUHR: Yes.

SENATOR BEUTLER: ...leave the discussion open to the floor in

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case anybody else has any input and, at that point, if we have a clear intent, then it's satisfactory to me to simply withdraw the amendment and we can say to the people of the state this is what it means. Senator Stuhr, I know that you have read the language of my amendment as proposed, which I think you take as unnecessary because that language expresses, in a different way, what your intent is with the language that is currently in the bill; that the effect of the amendment would be one and the same whether you adopted AM0058 to the bill or whether you kept the same language. And so I would simply ask you, does AM0058 essentially express the intent of the bill as you intend it to be?

SENATOR STUHR: Yes, it does, Senator Beutler.

SENATOR BEUTLER: Senator Stuhr, thank you. And, Mr. Speaker, I would yield up the remainder of my time in case there are others who wish to comment on the bill. Thank you.

SPEAKER KRISTENSEN: Thank you, Senator Beutler. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB 67, LB 68, LB 111, LB 118, LB 131, LB 137, LB 138, LB 151, LB 156, LB 168, LB 168A, LB 173, LB 197, LB 198, LB 209, LB 209A, LB 214, LB 252, LB 275, LB 295, LB 302, and LB 365. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. Speaker and members of the body. I thank Senator Beutler for his discussion and that we now do have that clarification on the record. I do feel that the present language that we have is as plain as is possible and, as was stated, I would prefer that the resolution be passed in its present form. Just a clarification, for the purpose of this resolution is to simply clarify the constitution. The Constitutional Revision Commission began their work in 1996 and, as was stated earlier, Senator Warner, Jerry Warner, worked on this bill in 1997 and I'm merely trying to finish the work that was started back then. So I would ask for your support on this resolution and thank Senator Beutler for his concern and for his comments. Thank you.

SPEAKER KRISTENSEN: Senator Chambers.

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SENATOR CHAMBERS: Mr. President, members of the Legislature, I do believe that Senators Beutler and Stuhr have achieved the goal that they have in mind. I believe that anybody who would read the amendment on the ballot would understand what it is that is being attempted, but that doesn't necessarily mean that the amendment will pass. I'm going to vote against it because I don't like the idea of English as an official language, especially with the "globalness" of the world's not only economy but other interactions. I do not intend to speak at length on this matter. I do not intend to offer any amendments. I just want the record to be clear that, despite the effective work of Senators Beutler and Stuhr in crafting language to say what they intend, I still do not agree with it, nor do I support it. I also have to get in a dig at my Catholic friends, not those on the floor but those who wear the robes, the paraphernalia and the other things, and hold official positions in their church. They have been able to get this Legislature to agree to make certain funds available to allow people who attend private and parochial schools to get in on programs supported with state money. Then we have a situation such as is before us today, based on what the Nebraska Supreme Court has said, by the way, where they're not going to be held to the same standard as the public schools. I saw where their teachers, the heads of the church don't want certain programs to go through relative to teacher pay because Catholic teachers are not going to get it. Well, establishing a church, establishing schools associated with the church, deciding to teach in those schools are all matters based on volition, and if they choose to do that, let them. But the fact that they do not want to be governed by the laws that govern the public schools, they should not be trying to eat from the public trough. These things usually are not touched on, on the floor of any Legislature, because people are afraid of sounding anti-Catholic. Well, I don't care what I sound like. I am pro-public schools. There is not enough money to properly fund them, so if any of those proposals come through here that will allow state money to go to raise salaries for people teaching in nonpublic schools you got a fight on your hands from me. I'm just making it kind of clear, and this proposal before us gave us that opportunity. On the one hand, they want to determine how they're going to be ruled and

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regulated, and they want to base that strictly and entirely on their doctrine, their dogma, their tenets of faith. They don't want the state to tell them anything about how they're going to be operated in that area, so I say don't come to the state to try to get the state to turn over to these private operations public money when, among other things, these schools can discriminate based on their religion. So that is all I will offer this morning and I'm sure that those comments of mine will guarantee that Senator Stuhr's proposal is going to move unanimously save one, that one being moi.

SPEAKER KRISTENSEN: Further debate? Seeing none, Senator Beutler, you're recognized to close on your amendment.

SENATOR BEUTLER: Senator Kristensen, I would withdraw the amendment.

SPEAKER KRISTENSEN: The amendment is withdrawn.

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

SPEAKER KRISTENSEN: Senator Stuhr, would you make a motion to advance the bill, please?

SENATOR STUHR: I would so move that LR 1CA be advanced.

SPEAKER KRISTENSEN: Heard the motion. There's been a request for a machine vote. All those in favor of advancement vote aye; all those opposed vote nay. Has been a request for a record vote. Please record.

CLERK: (Record vote read, Legislative Journal page 613.)  
38 ayes, 1 nay, Mr. President, on the advancement of LR 1CA.

SPEAKER KRISTENSEN: The bill advances. LB 126.

CLERK: LB 126. First of all, Senator Erdman, E & R amendments, Senator. (AM7020, Legislative Journal page 438.)

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for the adoption of the E & R amendments.

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SENATOR ERDMAN: Mr. Speaker, I move the adoption of the E & R amendments to LB 126.

SPEAKER KRISTENSEN: You've heard the motion. The question before the body is the adoption of those amendments. All in favor say aye. Those opposed say nay. They're adopted.

CLERK: Senator Chambers would move to amend with AM0127. (Legislative Journal page 456.)

SPEAKER KRISTENSEN: Senator Chambers, you're recognized to open.

SENATOR CHAMBERS: Mr. President, members of the Legislature, to simplify this process, I'm going to start referring to this as the Chambers amendment, not based on ego, but so that you'll know it is that one that I'm offering on all of these bills that I find or that are brought to my attention that make references to federal rules, regulations or statutes. And it simply says that we are making a reference to that item as it existed on the effective date of the particular bill that is making the reference, so that is what this amendment would do.

SPEAKER KRISTENSEN: Debate on the amendment? Seeing none, Senator Chambers is recognized to close. He waives that closing. The question before the body is the adoption of the amendment. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment.

SPEAKER KRISTENSEN: The amendment is adopted.

CLERK: Senator Erdman, I have nothing further on the bill, Senator.

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for a motion to advance.

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SENATOR ERDMAN: Mr. Speaker, I move the advancement of LB 126 to E & R for engrossing.

SPEAKER KRISTENSEN: Heard the motion to advance. All in favor say aye. Those opposed say nay. It is advanced. LB 278.

CLERK: I do have E & R amendments to LB 278, Senator. (AM7022, Legislative Journal page 438.)

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for a motion to adopt those amendments.

SENATOR ERDMAN: Mr. Speaker, I move the adoption of the E & R amendments to LB 278.

SPEAKER KRISTENSEN: Heard the motion to adopt the amendments. All those in favor say aye. Those opposed say nay. They're adopted.

CLERK: Senator Janssen would move to amend with AM0129, Mr. President. (Legislative Journal page 472.)

SPEAKER KRISTENSEN: Senator Janssen, you're recognized to open on your amendment.

SENATOR JANSSEN: Thank you, Mr. Speaker, members of the body. This amendment takes care of a drafting error on the...on the bill and it inserts the following. On page 22 inserts: The local governing bodies may impose the occupation tax on the business of a catering license (sic--licensee) doing business within a liquor license jurisdiction of the local governing body as provided by subsection (5) of this section. Right now, it just says cities, villages or counties. This would be the local jurisdiction which would be...which would fall within the three-mile jurisdiction of a...of a...of a first class city. With that, I would answer any questions on...on the amendment, but it just puts in...into the statutes which jurisdiction that occupation tax could be imposed upon that license, which there is an occupation tax on all governing entities within that jurisdiction. With that, I'd answer any questions anyone would have. Thank you.

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SPEAKER KRISTENSEN: You've heard the opening. Debate on the amendment? Seeing none, Senator Janssen, you're recognized to close. He waives that opportunity. The question before the body is the adoption of LB...or of AM0129. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 29 ayes, 1 nay, Mr. President, on the adoption of Senator Janssen's amendment.

SPEAKER KRISTENSEN: The amendment is adopted.

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

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for a motion to advance.

SENATOR ERDMAN: Mr. Speaker, I move the advancement of LB 278 to E & R for engrossing.

SPEAKER KRISTENSEN: Heard the motion. The question before the body is advancement of the bill. All in favor say aye. Those opposed say nay. It is advanced. LB 278A.

CLERK: LB 278A, Senator, I have no amendments to that bill.

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for a motion to advance.

SENATOR ERDMAN: Thank you, Mr. Speaker. I move the advancement of LB 278A to E & R for engrossing.

SPEAKER KRISTENSEN: You've heard the motion. The question before the body is advancement. All in favor say aye. All opposed say nay. It advances. LB 105.

CLERK: LB 105, no E & R's. Senator Bromm would move to amend with FA14. (Legislative Journal page 472.)

SPEAKER KRISTENSEN: Senator Bromm, you're recognized to open.

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SENATOR BROMM: Thank you, Mr. Speaker. When we had the bill on General File the Nebraska Title...Land Title Association brought a clarifying amendment to me and asked me if I would consider adopting this amendment or proposing this amendment, and this amendment simply inserts language which provides that the deed of distribution, which is dealt with in this statute, would be recorded in each county in which the real property is situated. I...it's a...in my opinion, it's a very acceptable clarifying amendment and so I would urge the body to adopt it. If there are any questions, I'll try to answer them. It's just fairly technical on the title aspect of the bill. So, with that, I will yield the rest of my opening time to the Chair. Thank you.

SPEAKER KRISTENSEN: Thank you, Senator Bromm. Debate on the Bromm amendment? Seeing none, Senator Bromm, you're recognized to close. He waives that closing. The question is the adoption of the amendment. All those in favor vote aye; all those opposed vote nay. Record.

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

SPEAKER KRISTENSEN: The amendment is adopted.

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

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for a motion to advance.

SENATOR ERDMAN: (Microphone malfunction) advancement of LB 105 to E & R for engrossing.

SPEAKER KRISTENSEN: Senator Beutler, debate?

SENATOR BEUTLER: Mr. President, members of the Legislature, Senator Bromm, if I may, just one clarification. The bill indicates that when a deed is filed that the court where the probate proceedings were conducted would be identified on the deed. That's...that's the intent, correct? I would like to yield to Senator Bromm, if I may, Senator Kristensen.

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SPEAKER KRISTENSEN: Senator Bromm, your microphone is on.

SENATOR BROMM: Thank you, Senator Beutler. You are correct that the court where the original probate is pending would be noted on that deed of distribution so that, for example, if the probate was in Lancaster County but involved a piece of real estate in Cass County, that when the abstractor or the title examiner came across that deed of distribution in Cass County they would know where the original probate is so they could check for inheritance tax or...or the provisions of the will or the trust. That is what it would do.

SENATOR BEUTLER: Okay. Senator, as you're probably even better aware than I am, there are questions related to what's called marketability and various kinds of flaws that might be in deeds or other instruments are sometimes, in the opinion of the bar or in the opinion of the courts, sometimes such flaws are deemed to be affecting marketability. That is, it would be okay for an examiner of title or a lawyer to raise an objection to the transfer if the deed had certain kinds of flaws, for example. And there's a committee, a bar committee, out there that often interprets these bills and makes a decision on whether particular defects might present a question of marketability or not. What I wanted to be clear, if a deed were filed that did not have the probate proceedings, the place of the probate proceedings identified on the deed, I take it you would not intend that that would be such a serious flaw that title to the trans...title based on the transfer could be called into question.

SENATOR BROMM: I would not, Senator Beutler. I think it would be more of a ministerial aspect or a detail that should not affect marketable title to the real estate.

SENATOR BEUTLER: Okay. And so a register of deeds may...may refuse to file the document if it didn't have that information on it, but once it is filed it would be a good transfer regardless of whether that information was included on it or not.

SENATOR BROMM: That would be my intent, Senator Beutler.

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SENATOR BEUTLER: Thank you, Senator. I would yield back the rest of my time, Senator Kristensen.

SPEAKER KRISTENSEN: Further debate on advancement? Seeing none, the question before the body is the advancement of LB 105. All those in favor of advancement say aye. Those opposed say nay. It is advanced. LB 313.

CLERK: Mr. President, LB 313, Senator Erdman, Enrollment and Review amendments first of all, Senator. (AM7025, Legislative Journal page 463.)

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for an adoption of those amendments.

SENATOR ERDMAN: Thank you, Mr. Speaker. I move the adoption of the E & R amendments to LB 313.

SPEAKER KRISTENSEN: You've heard the motion for the adoption of the amendments. Senator Coordsen, debate on the...the question before the body is the adoption of the E & R amendments. All those in favor say aye. Those opposed say nay. They are adopted.

CLERK: Mr. President, I had an amendment from Senator Baker, AM0149, but a note that he wishes to withdraw that particular amendment.

SPEAKER KRISTENSEN: Senator Baker, you wish to withdraw? It is withdrawn.

CLERK: Senator Baker would move to amend with AM0441, Senator. (Legislative Journal page 614.)

SPEAKER KRISTENSEN: Senator Baker, you're recognized to open.

SENATOR BAKER: Thank you, Mr. Speaker. Members of the body, what this amendment does is shorten the time frame that anyone can apply for these funds by one year. The original bill extended this application period three years, and we felt, as a

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reasonable compromise, we would make it only two. I think it's been extended once prior to this before people really took notice of what it did, and I'd like to go on record as saying that this, as far as I'm concerned, there will be no more extensions here; that something would have to change drastically. The AM0441 should, I think, be on your machines and it simply cuts the time frame back one year across the board. I do not have a new fiscal note on this but, talking to Senator Coordsen, and he certainly can speak for himself, but I would believe that this would cut the fiscal impact back, maybe not by one-third, because we may speed the process up and have more people apply for these funds in the two years that they're eligible now instead of dragging it out three. So I don't know how exactly that's going to come back, that new fiscal note, but it should cut back our exposure to potential expenditures with that. I have nothing else to add to the amendment, and be glad to answer any questions if I could, but, in a nutshell, that's all it does. It cuts it back from a three-year extension to a two-year extension. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: You've heard the opening on AM0441 to LB 313. Senator Coordsen, for discussion.

SENATOR COORDSEN: Thank you, Mr. President, members of the body. LB 313A, which we introduced a...I think earlier this week, did reflect a lower exposure with the language with a three-year date, as Senator...a lower exposure of General Fund appropriations, I think is what I should have said. Senator Baker's amendment does, in fact, reduce the time and would have the practical effect of reducing the expenditures, however, for those of you that read the fiscal note on the original bill, you would find that the word "uncertain" is used a lot in that because what we're providing for is a maximum of incentive payments and how those are spent is not...how much of those monies are used is contingent upon how many schools qualify for those payments. But the reason I put my light on wasn't so much to talk about the money as to indicate that I really don't have any problem with shortening the time up a year. It's a program that had a slow start. All at once it blossomed. We were faced

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with the...with the real possibility of schools that had went through a merger and, in some cases, an affiliation agreement; had been told, I don't think "promised" is a good word, but told that they would be entitled to a sum of money over...that would be distributed over a period of three years from General Fund resources to help them cover the costs of putting two or more schools into one. What I am concerned about, and it doesn't relate to the Baker amendment, is that we wouldn't be able to carry forward with those promises without making some provisions for the future. I think that the thing to do is we...certainly, I have no problem with amending LB 313 to reduce it a year, but I would think that the wiser choice after that would be to move LB 313 and the accompanying LB 313A over to Final Reading and, of course, there it sits and waits till we do the biennial budget appropriations. I'm not as confident as a lot of members in this body that we've got money rolling out of our ears to spend on whatever programs that we might want to spend, and it appears to me that there is certainly an outside chance, if not a middle of the road chance, that we're going to have to be looking very closely at what we want to expend state resources on and a continuation of this program that creates an additional General Fund appropriation might be something that we find at that stage of this session we can't logically expect to do. However, I would hope that we would create enough funding to carry out our promises to those districts who have already made the qualifying steps and are in the merger and are entitled to the incentive payments that they have...

SENATOR CUDABACK: One minute.

SENATOR COORDSEN: ...received. So, with that, I don't necessarily rise in support of the Baker amendment, but I certainly don't rise in adamant opposition to it either, Mr. President.

SENATOR CUDABACK: Thank you, Senator Coordsen. Senator Dierks, on the Baker amendment.

SENATOR DIERKS: Thank you, Mr. President. Members of the Legislature, I'd like to ask Senator Coordsen a question, please, for the record.

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SENATOR CUDABACK: Senator Coordsen, will you yield to a question, please?

SENATOR DIERKS: With the approval of this amendment, when would be the...what would be the date that the...the last date that a school...that a unified district could apply for funding?

SENATOR COORDSEN: I...I think the last date would be 2002-2003? Is that right? I don't have the amendment right in front of me, 2003-2004?

SENATOR DIERKS: Yeah. Mr. President, could we...could I have...

SENATOR COORDSEN: Senator Baker.

SENATOR DIERKS: ...Senator Baker respond please?

SENATOR CUDABACK: Senator Baker, would you respond, please?

SENATOR BAKER: Yes. Yes, I would. The...the final application period, approval of these...this merger, consolidation, unification, whatever you call it, would be August 2nd of 2004.

SENATOR DIERKS: Two thousand four.

SENATOR BAKER: It was 2005, so they still have a considerable amount of time here to get this moving.

SENATOR DIERKS: Well, thank you very much, Senator Baker. The...it may sound like it's a considerable amount of time and most places it probably is, but sometimes these school districts move pretty slow and takes a lot of convincing of some of their...some of their constituency to do that. But...and I, too, like Senator Coordsen, would say we've...we've set our course to do unification and I don't think we should do anything to slow that down. If this amendment passes, why, we'll probably be looking at renewing the funding in 2003 or 2004, so I just think that this legislative body did...did direct the course of this action with that unification legislation and it

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seems to be working. I visited this morning with the superintendent of unified District 1 in my legislative district and they're very pleased with what's happened with the administration part of it and with the transportation part of it and with the funding part of it. So I think that what we have started is working and there seems to be a tremendous amount of interest and I'd hate to see us put a wet blanket on that process. Thank you.

SENATOR CUDABACK: Thank you, Senator Dierks. Senator Beutler, on the Baker amendment, AM0441.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I just wanted to briefly support the Baker amendment. Again, I think most of us feel that some kind of support in this area is certainly appropriate, but it's also expensive for something that affects a very small percentage of the school districts and an even smaller percentage of students. So his amendment makes some sense, especially in light of the committee amendment, which essentially doubled the cap and resulted in a fiscal note that went from \$6.8 million of potential liability in the out year of 2002-2003, to a potential liability of over \$10 million. So the Education Committee has made this a very good thing for a short period of time and I think Senator Baker's amendment starts to bring this into some kind scale that represents something that's arguably doable for a very small number of students out of state funds, but, even at that, it's a lot of money. But I would like to thank Senator Baker for proposing the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Baker, you're recognized on your amendment. Senator Baker, did you wish to use your...Senator Baker.

SENATOR BAKER: Thank you, Senator Cudaback and members. I misspoke when I answered the question for Senator Dierks. My amendment changes...it simply says this section shall apply, meaning the consolidations and unifications (inaudible) with an effective date after May 31st of 1996 and before August 2nd of 2003. The bill reads 2004. We shortened the application period one year. They have to have...this merger, consolidation,

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unification has to have an effective date before August 2nd of 2003. Want to make sure we got it correct here now. That's all I have to say. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Wehrbein, on the Baker amendment.

SENATOR WEHRBEIN: Mr. President and members, just very briefly I want to say I support Senator Baker's amendment, but I don't want to get...with reservations that, upon Final Reading and budget considerations in May, I may look very carefully at the General Funds in this. I definitely support the transfer of the funds that we have at this point, but I...I don't want to mislead anybody in where we may end up in May. So, with that, I do support this amendment.

SENATOR CUDABACK: Thank you, Senator Wehrbein. We're discussing the Baker amendment to LB 313. Senator Baker, there are no further lights. Did you wish to close? Senator Baker waives his option to close. The question before the body is AM0441 to LB 313. All in favor of the amendment vote aye, opposed nay. We are voting on the Baker amendment to LB 313. Have you all voted who care to? Have you all voted? Record, please, Mr. Clerk.

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

SENATOR CUDABACK: The Baker amendment is adopted. Speaker Kristensen.

CLERK: I have nothing further. I'm...

SPEAKER KRISTENSEN: Mr. President, members of the Legislature.

SENATOR CUDABACK: Speaker Kristensen, you're recognized for an announcement.

SPEAKER KRISTENSEN: Okay, thank you, Mr. President. Members, just to give you a heads up yet this morning, we're going to pass over LB 270 and LB 270A, so we will not take them up.

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We'll continue on with Select File obviously here, but when and if we get to General File we'll not do LB 270 or LB 270A. We'll start with LB 334 and work our way through. We will not work through the noonhour today. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Speaker Kristensen. Mr. Clerk, next item.

CLERK: Mr. President, again I misspoke. Senator Smith would move to amend with AM0444. (Legislative Journal page 615.)

SENATOR CUDABACK: Senator Smith, to open on your amendment.

SENATOR SMITH: Thank you, Senator Cudaback. Members, AM0444 has to do with mergers of educational service units, and right now ESUs receive state dollars for core services: staff development, technology and a couple other...other objectives. This amendment has no fiscal impact in terms of increased spending. It does not affect that at all. What it does is it...that it says that if ESUs merge for three years, they get those same core service dollars as they did before, so that they can achieve the efficiencies that they are looking to achieve through the merger and then that...that way they wouldn't be cut off from those dollars that are provided through the core service dollars right now. And to give you a little more information on that, each ESU receives the core service dollars based on enrollment and based on the fact that each unit receives 2.5 percent of the total \$9.7 million, and then after the 2.5 percent for each ESU is divvied out, then the rest is based on student enrollment. And, with that, I would take any questions.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Raikes, on the Smith amendment.

SENATOR RAIKES: Thank you, Senator Cudaback and members. Senator Smith, I do have some questions for you. Let me try to make sure I understand how the funding works now for ESUs and how this may affect it. Currently, an ESU receives a certain amount of funding as, more or less, a fixed amount regardless of the number of students. Is that correct?

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SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Correct. Approximately...or it is 2.5 percent.

SENATOR RAIKES: Okay. And under current statute, if two ESUs were to merge, and let's just pick a number, I don't have any idea what it was, but let's say that that 2.5 percent amounts to \$250,000. Under current statute, if two were to move...to merge, in effect, that allocation, rather than being...currently, each of them gets \$250,000, for a total of \$500,000.

SENATOR SMITH: Correct.

SENATOR RAIKES: If the two of them merged, under current statute that merged unit would get \$250,000.

SENATOR SMITH: Correct.

SENATOR RAIKES: So there would be a loss of \$250,000 in some sense.

SENATOR SMITH: Yes.

SENATOR RAIKES: Under your proposal, the merged unit would get both chunks, both individual chunks, for three years, so the merged ESU would receive an allocation of \$500,000 for each of three years, and then they would drop back to \$250,000 in the fourth year. Is that correct?

SENATOR SMITH: Right, following the transition period of three years.

SENATOR RAIKES: Okay. Another question for you, how many ESU mergers have there...have there been?

SENATOR SMITH: One, to my knowledge,...

SENATOR RAIKES: Okay.

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SENATOR SMITH: ...in the last five years anyway.

SENATOR RAIKES: Do you know<sup>l</sup> of some that are being considered or proposed at this time?

SENATOR SMITH: I...I understand that some discussion is taking place.

SENATOR RAIKES: Do you...do you think that the current statute would be...would act as an impediment to this sort of a merger; that, in effect, if we...if we merge we would lose this, in my example, \$250,000?

SENATOR SMITH: I really would, because I would see it as a disincentive for merging with current statute in place.

SENATOR RAIKES: Okay. Another question. This bill deals with the reorganization incentive money for schools and the reorganization incentives are based on movement from one cost group to another cost group, which largely is enrollment levels. For example, if a school moved from a size category of a hundred to two hundred students up to a thousand students there would be a certain amount of money that they would be allocated under this bill. Does that affect ESUs at all?

SENATOR SMITH: Not to my knowledge, and...and this amendment does not even affect any funding to ESUs based on enrollment.

SENATOR RAIKES: Okay. So...so this is...this would not bring ESUs into that...

SENATOR SMITH: Correct.

SENATOR RAIKES: ...arrangements.

SENATOR SMITH: Correct.

SENATOR RAIKES: Okay. The other question then finally I would have, the...the \$250,000 in my example that the merged unit, the extra \$250,000 they would get for the three years, where does that money come from?

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SENATOR SMITH: That comes from the entire appropriation to ESUs for core service. We can call that state aid to ESUs I think.

SENATOR RAIKES: Okay, so this would not...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...would not make the total appropriation to ESUs any...any larger. What it would do, it would cause a certain reallocation of that money.

SENATOR SMITH: That's right.

SENATOR RAIKES: Is that correct?

SENATOR SMITH: Only upon merging.

SENATOR RAIKES: Okay.

SENATOR SMITH: And for a short period of time.

SENATOR RAIKES: Okay. Thank you, Senator Smith, and thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Raikes. We are on AM0444 to LB 313. Those wishing to speak, Senators Hartnett, Smith, and Janssen. Senator Hartnett, you're recognized.

SENATOR HARTNETT: Mr. President, members of the body, Senator Smith, if I could ask you some questions.

SENATOR CUDABACK: Senator Smith, would you yield, please?

SENATOR HARTNETT: Was there a bill? Did you introduce a bill on this subject?

SENATOR SMITH: No, I did not.

SENATOR HARTNETT: Where did the amendment come from?

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SENATOR SMITH: My office.

SENATOR HARTNETT: Your office. Isn't it kind of a rule of this body that we have a hearing on things like this before they come up?

SENATOR SMITH: It depends to what extent. I think that if this included new dollars I would agree with that concern. I believe that, because this doesn't impact significantly the dollars spent or even increase the dollars spent, I believe that it's relatively insignificant.

SENATOR HARTNETT: What's the process for merging ESUs?

SENATOR SMITH: I'm not intimately familiar with the exact process, but it's a very deliberate process to make sure that everyone is included, and I believe it was about a two-year process when ESUs 12 and 13 merged in the Panhandle.

SENATOR HARTNETT: What you're doing with this bill, just guaranteeing that if there is a merger that they would keep the (inaudible).

SENATOR SMITH: If there is a merger. Correct.

SENATOR HARTNETT: Thank you.

SENATOR CUDABACK: Thank you, Senator Hartnett. Senator Smith, you're next.

SENATOR SMITH: Thank you, Senator Cudaback, members. I do want to point out that in the areas of the state that are more sparsely populated, shall we say, call it rural, call it whatever you would like, I believe that when...when we expect efficiencies to occur we can't expect those to occur overnight, and our current policy expects that to occur overnight. And so I think that this allows a short transition period to provide the dollars for ESUs to become more efficient over that three-year period, as stated in the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Janssen,

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on the Smith amendment to LB 313.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the body. Senator Smith, would you yield to a few questions, please?

SENATOR CUDABACK: Senator Smith, would you respond, please?

SENATOR SMITH: Yes.

SENATOR JANSSEN: Senator Smith, if I understand you right, now, you know of one or two ESUs that have...have merged. Is that correct?

SENATOR SMITH: That is correct.

SENATOR JANSSEN: And the reason for them merging was the lower enrollment in the schools and the schools have merged so they have less school districts to work with. Is that right?

SENATOR SMITH: That could be one consideration, but I think they felt that if they merged they would have a greater economy of scale and be able to meet the needs of the districts more appropriately.

SENATOR JANSSEN: Um-hum. So they would probably have...these ESUs would, the merged ESUs would probably have more students, but they would have less districts. Is that correct?

SENATOR SMITH: Well, merged ESUs, barring any other action by individual districts, would have the same number of students, same number of districts.

SENATOR JANSSEN: Um-hum. But the bill before us is to allow school districts more time to complete their merger if they so desire to do so. You would see more consolidation of districts if we...if we take this carrot, so to speak, and hang out in front of those school districts to help them make themselves more efficient. That is the reason for the...for the bill that we have, is so that we see more consolidation, so on and so forth. And I, you know, I have a little problem with...with

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leaving the funding, the \$250,000, for each ESU and putting that and making that \$500,000 for the...for the merged ESU, where I think, maybe I'm wrong here, but in my opinion I think that they're workload would be...would be reduced to an extent where maybe they wouldn't need that other \$250,000 because they would be less, so to speak, buildings or...or less districts to work with. They'd have more students, but, you know, we've always...we've always said that efficiency is larger...larger classrooms and so on, so forth, and that's where we're getting our efficiency. Are you following me? Do you understand what I'm talking about? I think their workload would probably be lessened a little bit by the merger. Would you want to comment on that?

SENATOR SMITH: Yes. I agree with you and that is why it has a three-year...it's basically a sunset, so the ESUs merging to one ESU will not carry the supposed \$500,000, \$250,000 times 2,...

SENATOR JANSSEN: Um-hum.

SENATOR SMITH: ...that will not be indefinite. It's three years. It says, hey, let's...let's cut this down while we become more efficient and carry on. And let me...let me add that I agree with you in...in saying that the merged entity or the merged ESUs should be more efficient and their expenses should reflect that. I will say that when ESUs 12 and 13 merged, it's pretty big and there are a lot of miles in between the school district buildings and up to 150-160 miles for...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...for staff to travel to set up workshops in various communities in and around the ESU. So there's a lot of new things to accommodate upon the merger.

SENATOR JANSSEN: Now let me ask you a question. When this happened in that particular case, were...did they reduce their staff?

SENATOR SMITH: There were several positions eliminated, yes.

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SENATOR JANSSEN: Okay, so...

SENATOR SMITH: There were buildings that they didn't need anymore because of the merged unit and so they could save there, but there are a lot of transportation costs that they need initially while they're getting things set up and coordinated.

SENATOR JANSSEN: Okay. So in one case they reduced their cost; in the other case there were some costs that went up, such as mileage and so on.

SENATOR SMITH: Right, that I believe can be temporary if they're given the capacity to carry out that transition period and be able to...

SENATOR CUDABACK: Time.

SENATOR SMITH: ...plan on that.

SENATOR JANSSEN: Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Coordsen, you're recognized on AM0444.

SENATOR COORDSEN: Thank you, Mr. President. Senator Smith showed me this, and I was aware of the issue before, but I would be of the opinion, Mr. President, members of the body, that since this represents a significant departure from the intent of LB 313, which was to continue an existing program, not to create a program, this issue hasn't had a public hearing, although it's had some public discussion now, that this would not be an appropriate time to add AM0444, AM0444 to the bill. Whether or not it has a fiscal impact, there may be other impacts that we're not familiar with, so I believe it does represent enough of a different issue that it ought not to be attached to LB 313 at this time. Thank you.

SENATOR CUDABACK: Thank you, Senator Coordsen. Senator Smith.

SENATOR SMITH: Thank you, Mr. President. I was going to yield to Senator Janssen, if he wanted more time.

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SENATOR CUDABACK: Senator Janssen, did you wish? He waives off. Senator Smith.

SENATOR SMITH: Thank you. Mr. President, I believe that we've had some good discussion here and I think that we are talking about the issue at hand and the efficiencies that can occur, but not mandated upon local political subdivisions, primarily those in education, and I would respectfully withdraw my amendment. Thank you.

SENATOR CUDABACK: It is withdrawn. Senator Raikes, your light was on. Did you wish...Senator Raikes waives off. No further discussion?

CLERK: Senator Erdman, I have...I have nothing further on the bill at this time, Senator.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: Thank you. I move the advancement of LB 313 to E & R for engrossing.

SENATOR CUDABACK: The motion is to advance LB 313 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk.

CLERK: Mr. President, LB 268, Senator Erdman, I have E & R amendments first of all, Senator. (AM7026, Legislative Journal page 463.)

SENATOR CUDABACK: Motion, Senator Erdman.

SENATOR ERDMAN: Thank you. I move the adoption of the E & R amendments to LB 268.

SENATOR CUDABACK: The motion is to advance the...all in favor say aye. Opposed nay.

CLERK: Senator Baker would move to amend with AM0221. (Legislative Journal page 616.)

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SENATOR CUDABACK: Senator Baker, to open on your motion.

SENATOR BAKER: Thank you, Senator Cudaback and members. This is actually I can't say a drafting error, this is a judgment error on several on us. We should have just left it the way we had it, but Department of Revenue came back after we had amended this on...on General File and they pointed out that there were eight groups that had two special event bingos last year and they're not religious groups. The Metropolitan Community Church I guess is one, but Jaycees, Lions Club, so on, et cetera, booster clubs, community clubs. So what they amendment does is reinsert the original language to allow two special event licenses per year. It maintains the 14 days per special event and, with that, I think we have everyone on board, the Revenue Department Charitable Gaming and so on. And if anyone would like to ask...any comments, Senator Janssen or I could answer them, I think. That's all the amendment does. Thank you.

SENATOR CUDABACK: You've heard the opening on AM0221 to LB 268. Senator Janssen, for discussion.

SENATOR JANSSEN: Thank you, Senator Cudaback, members. This...Senator Baker, this is a good compromise and I think that we'll still achieve what...what we intended to do and that was not to have to move the tent four feet at the State Fair. This will limit it a little bit, but I see nothing wrong with that, and I'm sure there will be no controversy on this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Baker, there are no further lights. He waives closing. The question before the body is attachment of AM0221 to LB 268. All in favor vote aye, opposed nay. We're voting on the amendment by Senator Baker, AM0221, to LB 268. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Baker's amendment.

SENATOR CUDABACK: The amendment is adopted. Senator...

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CLERK: Senator Erdman, I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: Thank you. I move the advancement of LB 268 to E & R for engrossing.

SENATOR CUDABACK: The motion is to advance LB 268 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk, next item.

CLERK: LB 104, Senator, I have no amendments to that bill.

SENATOR CUDABACK: Senator Erdman.

SENATOR ERDMAN: Thank you. I move the advancement of LB 104 to E & R for engrossing.

SENATOR CUDABACK: The motion is to advance LB 104 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced.

CLERK: Senator, LB 317, I have no amendments to that bill.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: Thank you. I move the advancement of LB 317 to E & R for engrossing.

SENATOR CUDABACK: The motion is to advance LB 317 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk.

CLERK: Senator, LB 179, I do have...I have no E & R's. Senator Beutler would move to amend with AM0443. (Legislative Journal page 616.)

SENATOR CUDABACK: Senator Beutler, to open on your amendment, AM0443, to LB 179.

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SENATOR BEUTLER: Mr. Speaker, members of the Legislature, this is an amendment that I discussed with Senator Hilgert and I think he feels comfortable with. You may recall that this is the bill that deals with a procedure whereby a board of appeals in Senator Hilgert's area is going to be allowed to have a second alternate member. The law already provides for one alternate member to this appointed board of appeals and this bill would allow a second one. All this amendment does is to designate a first alternate and a second alternate so that in the event that the regular member is not at a particular meeting you know which of the two alternates you would appoint in the event that there are two alternates there. And, by having a first alternate and the second alternate, it takes away the possibility of a chairperson or presiding officer manipulating which alternate he might like to have in place, for example, if he were particularly interested in a particular vote. So that's all the amendment does. It seeks to clarify a little bit and, if it's agreeable to Senator Hilgert, I'll proceed with it. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Hilgert, on the amendment.

SENATOR HILGERT: Thank you, Mr. President, members. I appreciate Senator Beutler giving me this amendment in advance and the questions that he did. I appreciate that. That seems to be the best way to work on these bills and I appreciate that, Senator Beutler. I want to congratulate you at the mike. And Senator Beutler is perfectly correct that I have no objections with this amendment, neither does the city of Omaha, and would encourage its adoption and then the advancement of LB 179. Thank you.

SENATOR CUDABACK: Thank you, Senator Hilgert. The question before the body is attachment of amendment AM0443 to LB 179. All in favor of that amendment vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

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SENATOR CUDABACK: Amendment is adopted.

CLERK: I have nothing further on the bill, Senator Erdman.

SENATOR CUDABACK: Senator Beutler, your light was on. Did you wish to talk?

SENATOR BEUTLER: I...I wish to speak after the motion to advance is made, if appropriate.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: Thank you. I move the advancement of LB 179 to E & R for engrossing.

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, Senator Hilgert, if I may, I just wanted...seems like this morning is intent morning but I do think occasionally lawsuits are avoided or disputes are avoided if people understand clearly what the Legislature might have intended in specific situations that might be small or minute and come up only very infrequently. But I did have a couple of questions about how you intended this alternative system to work and my first question is, if you have an alternate designated and the regular...a regular member doesn't show up at the meeting and an alternate is appointed to take his place at the meeting, is that alternate then intended to serve for the entire meeting or, in the event that the regular member should show up 15 minutes later, does the regular member then reassert and take the place of the alternate? That would be my...

SENATOR CUDABACK: Senator Hilgert.

SENATOR BEUTLER: ...that would be my first question.

SENATOR HILGERT: Thank you, Mr. President. Senator Beutler, my intent would be that that alternate would, indeed, serve as the member of the appeals board for the entire meeting.

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SENATOR BEUTLER: For the remainder of that meeting. Okay.

SENATOR HILGERT: And I will, yes, state that clearly in the record. If...and I'll restate it this way. If an alternate is named to serve at the meeting and a regular member does show up at some time after that appointment, the alternate would maintain their seat and that regular member would not be recognized. That is my intent.

SENATOR BEUTLER: Okay. And I don't know altogether the nature of the decisions that are made by this board of appeals, although it appears to be a quasi-judicial kind of function, but if at a particular meeting an alternate is part of a majority decision, that is the decision based on that alternate's vote, is it or is it not appropriate to reconsider, at some later meeting, a vote previously taken that relied upon an alternate's vote?

SENATOR CUDABACK: Senator Hilgert.

SENATOR HILGERT: Yes. I see what you're getting at, Senator Beutler. It would not be my intent that a motion to reconsider would be taken based on that alternate's vote, but, frankly, unless specifically stated in the motion to reconsider a prior vote, I think it would be difficult to ascertain what the motivation of that vote motion to reconsider would be. If it was very, very obvious and they said, well, because we don't like the alternate's vote, that would certainly be inappropriate, so I would agree with you on that. On the other hand, on the practical side, I'm not sure how you would, unless they say that, how would you really ascertain.

SENATOR BEUTLER: Okay.

SENATOR HILGERT: We do motions to reconsider here and, yet, we have no alternates. So to differentiate between the normal course of business and a normal reconsideration versus this, I think that might have some practical difficulties.

SENATOR BEUTLER: Okay. So any motion or procedure that would

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otherwise be appropriate would continue to be appropriate regardless of who...

SENATOR HILGERT: Yes, Senator Beutler, I do believe...

SENATOR BEUTLER: ...who was voting on it.

SENATOR HILGERT: ...that that would be the case.

SENATOR BEUTLER: Okay. With regard to the open meetings law and notices of meetings and that sort of thing, this is a question, Senator, that...that just came to mind, but I suppose the...the answer is obvious. I assume that the alternate is required to be giving all...to be given all those kinds of notices just as a regular member would and that in all...

SENATOR HILGERT: Yes, Senator Beutler, that's the practice in the city of Omaha on the...

SENATOR BEUTLER: Okay.

SENATOR HILGERT: ...board of appeals in the metropolitan class...

SENATOR CUDABACK: One minute.

SENATOR HILGERT: ...cities. That's the practice now. We would just have another person. They receive all the briefing packets, notices, et cetera. All the information that's mailed out to regular members is mailed out to alternates.

SENATOR BEUTLER: Okay. Senator, thank you very much.

SENATOR HILGERT: Thank you, Senator Beutler.

SENATOR CUDABACK: Thank you, Senator Beutler. For discussion on the advancement of LB 179, Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President, members of the body. I rise just for the purpose of asking a few questions. As I mentioned on General File, this concept does trouble me

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some and I would like to find out just a little bit more how many boards and commissions there are out there and a few other matters like that. So...and this is really just for future information. I don't have any intent of trying to sidetrack this bill at all. Obviously, this is a practice that we have commonly used and I just want to get some sense of how many boards and commissions we have like this that do that. So, Senator Hilgert, would you mind answering a couple of questions?

SENATOR CUDABACK: Senator Hilgert, would you respond, please?

SENATOR HILGERT: Be happy to, Senator Schimek.

SENATOR SCHIMEK: Senator Hilgert, you have shared with me a...quite an extensive list of board and...boards and commissions that do provide for alternate members. Could you, just for the record and for the other members of the body, give them some idea of the extent of this list?

SENATOR HILGERT: Yes, Senator Schimek, I'd be glad to, and this list was provided by Bill Stadtwald in Senator Hartnett's office and I want to appreciate...thank him for doing...compiling this list. The list is a joint...the Joint Public Agency Act specifically provides for a member of political subdivisions in a joint public agency to designate representative members of the board and alternate members to serve for such representatives. The board of appeals in the metropolitan class cities, which is the bill that we're...before us today, the...in Omaha, the...

SENATOR SCHIMEK: And, Senator, I didn't need a listing of all of them.

SENATOR HILGERT: Oh.

SENATOR SCHIMEK: Just give me an idea of how many there are, like about 20 or maybe 12, 12 to 20 somewhere?

SENATOR HILGERT: Sixteen,...

SENATOR SCHIMEK: Sixteen.

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SENATOR HILGERT: ...Senator Schimek.

SENATOR SCHIMEK: I was close. (Laugh)

SENATOR HILGERT: I'd be happy to list them. I mean, you know, but... (Laugh)

SENATOR SCHIMEK: No, I don't think that's necessary. Would you...would you characterize any of these boards as being legislative, somewhat legislative in function? Now I just heard Senator Beutler characterize some of them as quasi-judicial, I think, or maybe it was you. How...how would you characterize these boards over all?

SENATOR HILGERT: I would say they vary somewhat. They are technical boards, by and large, the county boards of adjustment, the Hazardous Waste Site Review Committee. I'm not sure exactly what quasi-judicial would mean except that they do review policies and decisions made by other bodies. Grand juries and juries certainly are judicial in nature. They have alternates as well, but I think that there is a...I would characterize it as somewhat of a variety that...

SENATOR SCHIMEK: Okay.

SENATOR HILGERT: ...like the mental health boards, for example. That's certainly, I guess, quasi-judicial.

SENATOR SCHIMEK: And, okay, to take us in a little bit different direction,...

SENATOR HILGERT: Sure.

SENATOR SCHIMEK: ...what's the term of office, generally, on these boards and commissions? Probably a four year?

SENATOR HILGERT: Senator Schimek, I would assume that. I'm not...

SENATOR SCHIMEK: Okay.

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SENATOR HILGERT: ...sure all of these. Obviously, with juries and grand juries, there is no term of office, but I'm not sure the other ones with...that have permanent boards what exactly. But I think it'd certainly in the number of years.

SENATOR SCHIMEK: Well, the point I want to...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...get to and the reason I'm asking you what the term is, is because it would be possible, wouldn't it, for an alternate to be appointed and to actually be in an alternate status for, say, three years before ever being called before a particular body to serve and would not have heard any of the discussion that had gone on before, would not be familiar with any of the materials that had been presented to a board over time? Would that be a fair assumption, even if it was only a year?

SENATOR HILGERT: Yeah.

SENATOR SCHIMEK: Even if it was only six months, there would still be a learning curve that hadn't been adequately developed perhaps.

SENATOR HILGERT: I think that's a...that's a very legitimate concern, Senator. Again, I...the zoning board of appeals, of which I'm talking about, the alternates are kept...at least the materials...

SENATOR CUDABACK: Time.

SENATOR HILGERT: ...are sent out.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Janssen...Senator Jensen, rather.

SENATOR JENSEN: Thank you, Mr. President, members of the body. I am somewhat familiar with this board. I served on it for seven years. The zoning board of appeals is made up of five members and you must have four affirmative votes, and that's

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what the real problem comes in. If one member is not there then you need a complete unanimous decision. These cases are taken up as they arise because there's a hardship somehow in the zoning laws. That could be because you must have a 25-foot backyard and maybe the terrain doesn't permit that or whatever, and so they come to the zoning board of appeals for a variance. And they also even cover such things as how many dogs that you can have in a residence. In Omaha you may have three; you cannot have four. If you had four you'd have to come before the zoning board of appeals to get approval for that. The term is three years and if you're appointed as an alternate you serve as an alternate for three years, and because you're an alternate does not necessarily mean that you will then go to a permanent status. You would have to be reappointed to that permanent status. So if you're appointed as an alternate you'll stay as an alternate for that term. I do approve of Senator Beutler's motion or amendment there to have an alternate number one and an alternate number two, but that is the real reason. In this case, if two people couldn't make it, then everyone that came to that board would have to have a unanimous decision from the body itself. It is somewhat of a powerful board in that it can really overturn or...not overturn but supersede something that either the planning board or the...perhaps the city council has...has done. Occasionally, cases will be carried over, but generally they're decided in one day. The day that they're presented a decision is made right there as the individual presenting the case is before them, and then that determination is made and they go ahead and apply for their permit. That, in essence, is what the board does and the people that serve on it are usually dedicated individuals that do attend most of the meetings but, as we all know, there are some instances if you're out of town or on a vacation or whatever you cannot attend. With that, I'd be glad to answer any question that somebody might have. I only throw this in because I did serve a number of years on that board. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. (Visitors introduced.) Senator Hilgert, followed by Senator Schimek and Senator Wehrbein, on advancement of LB 179.

SENATOR HILGERT: Thank you, Mr. President. Senator Jensen, I

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appreciate your comments and...but when you said, you know, 25 feet for the backyard and the terrain doesn't allow it, for a minute I thought you said train and I thought you were talking about my neighborhood. But, anyway, that being said, I'll continue my comments and yield the rest of my time to Senator Schimek, but I will answer her question as far as it certainly is a legitimate concern if you don't keep up on matters before you if you're called in as an alternate and you don't know what's going on. The assumption is, in most...some of these boards, I'm sure that they do what Omaha does and keep them notified of the matters pending before the board, of which there are alternates too. Hopefully, that wouldn't happen. Maybe that should be examined and study it in the future. All...not all of these boards, but some of them, are where there is probably not a lot of carry over from one meeting to the next. You would look...you would think that from some of the subject matter. But, still, your concern is...is valid and maybe that should be looked into, and I'll yield the rest of my time to Senator Schimek, should she want to continue questioning.

SENATOR CUDABACK: Senator Schimek, you have about four minutes on his time, and your light is also next.

SENATOR SCHIMEK: Thank you, Mr. President and members, and I'm not going to prolong this discussion. Senator Hilgert, thank you for the time, but I guess that was going to be my next question that you just answered, at least about some of the boards and commissions, that their business doesn't seem to carry over from one meeting to the next so that, if I'm understanding you correctly, it's a whole new ball game for most of these meetings and people can come without a whole lot of experience and serve and make good decisions. Is that your impression?

SENATOR HILGERT: Yes. Thank you. For some of them, definitely, I would...I would...that would be my impression.

SENATOR SCHIMEK: Okay. And I'd like to ask Senator Jensen the same question. Senator Jensen, did you...

SENATOR CUDABACK: Senator Jensen, please.

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SENATOR SCHIMEK: ...have to have an alternate very often?

SENATOR JENSEN: Well, the alternate usually was there. Actually, in these cases, we would meet in the morning, at nine, ten o'clock in the morning, and there was someone from the planning board who would actually present the case to us and then we would get into a van and go out and inspect the properties, then come back and have...have the meeting at which the applicant would present their case. And so you not only have a plan before you of what's to be done; you can visually see what the applicant wants to do. And so it is generally on a meeting-by-meeting process. Occasionally you might lay something over because you want some more information, but generally it's...it's a once a month meeting that is presented on a regular basis.

SENATOR SCHIMEK: So you didn't have to do a lot of outside of the meetings readings or informing yourself about issues; that this was pretty much laid out on the table at the meetings and...

SENATOR JENSEN: There is an individual from the planning board who will present the case and who is knowledgeable on the zoning laws. Of course, you become knowledgeable also. These individuals, quite often they try to have a...an architect, somebody from the financial community, perhaps somebody familiar with construction, and then an at-large member from the community, and they try to have at least some experience...individuals on...on the board that are experienced in construction and zoning and development areas.

SENATOR SCHIMEK: Thank you, Senator Jensen. And, with that, I guess I would not pursue the questions any further. I feel as if...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...it has been a helpful discussion. I would...I would keep listening to any further discussion, but my fears are allied (sic) to some degree. So thank you very much,

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Senator Hilgert and Jensen.

SENATOR CUDABACK: Thank you, Senator Schimek. You did not want your light on, did you, Senator Schimek? Thank you. Senator Wehrbein, on advancement of LB 179.

SENATOR WEHRBEIN: Mr. President, members, I'm going to be very brief, but this...this area has bothered me for quite awhile. I remember the last two, maybe four years we've had this issue and I'm not going...I guess this will be neutral testimony. I support...I'm glad Senator Beutler's amendment is on there because I do think there's room for some mischief on some of these areas. I understand the dilemma of local boards having trouble getting membership. On the other hand, if those boards are important, zoning, planning are very important, and I think they ought to take their responsibilities very seriously. But doing it this way, which I think Senator Beutler's amendment helps by making that designation, otherwise you do run the risk of appointing those members back and forth. Someone can't come, deliberately stays away, which may not be logical but may be held away, then it's a...an alternate can come in and make a critical vote on some of those, is the way I've observed them working over the years. So, at this point, with Senator Beutler's, I'm going to support it, but I simply wanted to acknowledge that I'm not all that comfortable with it either. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Hilgert, and this is your third time.

SENATOR HILGERT: Thank you, Mr. President, members. Senator Beutler, I have a correction to make and this might invite an amendment, maybe not. The...according to the statute, as it's written, an alternate serves in the absence of a regular member. Therefore, should the regular member appear, the regular member would therefore no longer be absent; therefore, the alternate would no longer be seated and the regular member would be seated. So I just wanted to make sure that I was accurate with you and clear about that. And regarding Senator Wehrbein's comments, I agree with them as well. In fact, one of the questions I asked when I was...when it was requested that I

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carry this bill for the city of Omaha is, well, don't people show up, and it seems like that would be the best case scenario, is people do take their job seriously that are on these numerous boards and attend when they're appointed to them. So, you know, that's neither here nor there, and we do have 16 of these that do exist in statute, or at least 16 entities that do have alternates. So I guess we have to deal with the world as it is and not as we would have it to be. My intent in this bill is to make this board function properly, not have so many holdovers and do the people's business for the city of Omaha in an expedited and efficient manner. That's why I agreed to carry the bill. Mr. President, I'm not sure if there's any other speakers but, if there are none, that will be my closing.

SENATOR CUDABACK: Thank you, Senator Hilgert. Senator Erdman, would like to restate the motion for the record?

SENATOR ERDMAN: Certainly. I move the advancement of LB 179 to E & R for engrossing.

SENATOR CUDABACK: The motion is advance LB 179 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk. (LB 166)

CLERK: Mr. President, the next bill, Senator, I have no E & R's. Senator Baker had an amendment. Senator, AM0189, with a note you want to withdraw AM0189 and offer...Senator Baker would offer AM0386, Mr. President. (Legislative Journal page 616.)

SENATOR CUDABACK: Seeing no objection, Senator Baker, to open.

SENATOR BAKER: Thank you, Senator Cudaback and members. We withdrew the one amendment because, thanks to Senator Chambers, we did catch the referral to a federal statute in there so we redrew it and included the...that language in the amendment referring to a federal statute. What this amendment does is...I need to back up a little bit. When we agreed to pass the .08 blood-alcohol content bill, if we did it before October we were eligible for some incentive money, cash incentive funds of, we are estimating, \$1.3 million, patterning that after the

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New Mexico payment that they got last year apparently. But we would have this approximately \$1.3 million coming in. Assuming we advanced this bill and the Governor signs it, why, we needed some place to direct this money, to be honest with you, and we brought this amendment directing the money to go to the State Treasurer for the credit of the Roads Operations Cash Fund. It's earmarking the money so it doesn't get lost in the process, somewhere or other. The Department of Roads helped us with the amendment. They support it. I think...I've talked to Senator Hudkins. I believe she supports it and has no problem with it so, with that, I would ask that we adopt the amendment and, questions, I'll try and answer them. Thank you.

SENATOR CUDABACK: You've heard the opening on the Baker amendment, AM0386, to LB 166. Open for discussion. Senator Bromm.

SENATOR BROMM: Thank you, Mr. President, and I was trying to track down Senator Baker in the last few minutes and engage him in a little discussion and I...and I...and I wasn't able to do that, so I don't want to...I don't want to blindside him but in the last few minutes there have been some concerns expressed to me about the...the wisdom of doing what this amendment would do without further study or consideration to make sure we understand exactly what it means and that those people that are impacted by it are all aware of the...of the amendment, and he's had the prior amendment up so they certainly should...should have been. But what...what the amendment would do, and he explained I think pretty well, is that in the incentive monies that the state would become eligible for as a result of the passage of LB 166, it would specifically direct that those monies would go into this cash fund, which Senator Baker has correctly identified, and used for road construction. Now I...I could very well be for that and probably would be for that. I think we need all the money we can get to help meet our needs on the roads. However, the...the federal program that makes this money available says that, without...without this amendment the money could be...could be used for providing funding assistance for additional prosecution or court...additional needs of the courts or records personnel or equipment or training or highway safety issues. Now, I don't know if we're going to have

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additional needs in that area or if any of it would be directed in that area any way other than highway construction, but we are...we are limiting our options if we adopt this amendment. We are tying the hands of the Department of Roads. It was pointed out to me in one of the contacts I had, Senator Baker, I apologize for that but I just had a contact just in the last several minutes and I went and talked to Senator Wehrbein as well because I know he's concerned about...about the fiscal situation, but it was...it was pointed out to me that some of the additional costs of implementing .08 will fall upon DMV because there will be additional hearings, there will be additional proceedings if additional prosecutions or arrests are made, and so that's why I went and talked to Senator Wehrbein right away when I couldn't spot Senator Baker to see if he had any concerns about that. And DMV is pretty much a cash-funded agency so it very well might be that the additional fees they receive from reinstatement of licenses and that sort of thing will offset the additional hearing costs and things that they will have. But I guess I wish that we would have a little more time maybe to think about this rather than...than proceeding with these questions in mind. And I...I don't think Senator Baker has a bad idea at all, but I just want to be sure that we understand fully the implications of adopting that amendment and the options that we are taking away from the Department of Roads should they choose to use them. So I offer that information or discussion, Senator Baker, which I would like to have had with you prior to telling you on the mike, but that's the way sometimes things happen here. So thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bromm. Senator Wehrbein, on the Baker amendment to LB 166.

SENATOR WEHRBEIN: Thank you, Mr. President, members. Actually, my comments are much along the line of Senator Bromm, even though we didn't discuss that part of it in great detail. The grant funds, from your fiscal note, says the grant funds may be used for highway construction and/or highway safety projects, and with Senator Baker's amendment it's strictly (inaudible) confines it to use of the highway road construction and takes away the option, the way it would appear, of highway safety projects. I, too, don't have a great difference of opinion as

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313A, 354, 355, 436, 457, 549, 845, 848

to whether this should or shouldn't go there. I tend to want to keep the flexibility for the Department of Roads, although I think there are indications perhaps as Department of Roads likes this particular amendment, so perhaps it ought to be up to the body. And partly we ought to understand a little more or a little more broadly what we are really doing here. It doesn't make...it does make sense to me that it should have a little broader use perhaps. Highway safety projects are useful too. I know we also like road construction and I think that's the attraction of this amendment, is it would dedicate those monies to strictly road construction. On the other hand, highway safety issues are...are clear and needed and the .08/.10 issue, it relates to highway safety in many, many cases. Perhaps there ought to be a broader advertising campaign or (inaudible) with these funds. So I think it's up to the body how they want to do it, but I, too, would like to maybe understand a little more broadly as to what the broad use of these funds in both categories would be before voting. Seeing as how we're right up to 11:59 point five, perhaps, perhaps we could use the...point eight. (Laugh) Perhaps we could use the weekend to think about this, and knowing we want to get through this bill, but thank you.

SENATOR CUDABACK: Thank you. Senator Wehrbein. Mr. Clerk, items for the record?

CLERK: Mr. President, I have items for the record before a priority motion. Natural Resources reports LB 457 to General File with amendments. Judiciary reports LB 355 to General File, LB 845 to General File, LB 848 to General File, LB 354 to General File with amendments. Enrollment and Review reports LB 192, LB 257, LB 257A, LB 313A to Select File, some of those having E & R amendments. Health and Human Services reports LB 549 to General File. Natural Resources reports LB 75 to General File. Agriculture reports LB 436 to General File with amendments, all those reports signed by their respective Chairs.

Bills read on Final Reading this morning were presented to the Governor. (Re: LB 67, LB 68, LB 111, LB 118, LB 131, LB 137, LB 138, LB 151, LB 156, LB 168, LB 168A, LB 173, LB 197, LB 198, LB 209, LB 209A, LB 214, LB 252, LB 275, LB 295, LB 302,

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LB 365.)

Confirmation hearing report from Retirement Systems Committee; notice of hearings from the Agriculture Committee. Senator Chambers, an amendment to LB 192 to be printed. Report of registered lobbyists for this week to be inserted in the Journal. And, Mr. President, Senator Vrtiska would like to add his name to LB 422; Senator Aguilar to LB 468. (Legislative Journal pages 617-623.)

Mr. President, a priority motion. Senator Hudkins would move to adjourn until Monday morning, February 12, at 9:00 a.m.

SENATOR CUDABACK: The motion is to adjourn until Monday morning, February 12th, at 9:00 a.m. All in favor. Opposed. We are adjourned till Monday morning. Have a good weekend and please drive careful.

Proofed by: Jody Hurlbut