

MARCH 21, 2005

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FLOOR DEBATE

March 21, 2005 LB 121, 382, 570, 588

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, and welcome to the George Norris Legislative Chamber, for the forty-seventh day of the Ninety-Ninth Legislature, First Session. Our chaplain and prayer this morning is provided by Senator Price, District 26. I'd ask everyone to please stand.

SENATOR PRICE: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Price. We'll now call the Nebraska Unicameral, forty-seventh day of the Ninety-Ninth Legislature, First Session, to order. I ask all senators to please check in by roll call.

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

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Do you have any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Do you currently have any messages, reports, or announcement on the desk?

CLERK: Mr. President, I do. Your Committee on Enrollment and Review reports LB 588 and LB 382 to Select File, both having Enrollment and Review amendments. Enrollment and Review also reports LB 570 as correctly engrossed. And, Mr. President, an appointment letter from the Secretary of State to the Accountability and Disclosure Commission. An announcement, Mr. President, that the Transportation Committee will have an Executive Session this afternoon at 1:30 in Room 1113; Transportation, 1113 at 1:30. That's all that I had, Mr. President. (Legislative Journal pages 913-914.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now move to the first item on General File. Mr. Clerk.

CLERK: Mr. President, LB 121, a bill by Senator Loudon. (Read title.) The bill was introduced on January 6, referred to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 121

Natural Resources, advanced to General File. I do have committee amendments, Mr. President. (AM0046, Legislative Journal page 357.)

PRESIDENT SHEEHY: Thank you. Senator Louden, you're recognized to open.

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. LB 121 would allow discounted hunting and fishing permits for members of the military who are deployed out of state for more than half the period covered by the permit. The discounted fee would be \$5, which is the same amount currently charged to replace a lost permit. To qualify for the discounted permit, a person would have to meet the following: be a resident of Nebraska; provide proof of purchase of the original permit; and provide proof of deployment out of state for more than half the period covered by the original permit. I introduced LB 121 after it was brought to my attention by a constituent that people who are serving in the Nebraska National Guard and Reserves are subject to much longer periods of deployment than they were before the war in Iraq. These longer deployments create many hardships for Nebraska members of the armed forces. I know that our military members willingly make these sacrifices, and that they knew when they signed up that they would be sent out of state for duty. However, when they return to the state, employers and the community try to help with their return to civilian life. LB 121 is an attempt to help with that return. Currently, if someone loses a permit, he or she can replace it for \$5 with proof of purchase. A permit entitles the holder to a benefit. In the situation that the subject...is the subject of LB 121, the benefit is lost. I think that is reasonable, to treat those lost benefits in a way that is similar to the way that we treat a lost permit. LB 121 came out of the Natural Resources Committee with a vote of 7 in support and 1 absent. It received favorable comments at its hearing, including the support of Game and Parks Commission, which rarely supports proposals that reduce the cost of permits. The fiscal note for the bill estimates that the relevant Game and Parks cash fund will lose around \$8,700 per year if half of all eligible persons use the discounted permit. However, this doesn't take into account that the bill would increase the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 121

number of permits purchased by armed forces members who live in Nebraska. Such an increase could offset any decrease in the cash fund. Major General Lempke testified at the bill's hearing that armed forces members, such as those at Offutt Air Force Base, will be more inclined to purchase permits if there is a mechanism to apply for a discounted permit to replace one that couldn't be used. Even if the bill did not increase purchases, I believe that the fiscal note's estimate is a small amount to restore a benefit that members of the military given up they paid for but could not use because they fulfilled their obligation to serve their country. This legislation is a small way that we can help military veterans return and continue with their life. I believe that Senator Schrock will be discussing the Natural Resource Committee's amendments to LB 121, and then an amendment that he also has to introduce on the bill. I support his amendments, and will be happy to answer any questions following Senator Schrock's introduction of the committee amendments. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Loudon. We'll now move to committee amendment AM0046 by the Natural Resources Committee. Senator Schrock, you're recognized.

SENATOR SCHROCK: Lieutenant Governor and members of the Legislature, listen up. We need to do this right. Because of a drafting error, I'm going to ask you to vote against this amendment, and then we'll have the proper one up in the proper sequence. So please vote red on this amendment. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Schrock. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I want to ask Senator Schrock a question. Senator...

PRESIDENT SHEEHY: Senator Schrock, would you yield?

SENATOR SCHROCK: Yes.

SENATOR CHAMBERS: Senator Schrock, will this take the place of

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 121

the committee amendment?

SENATOR SCHROCK: Yes.

SENATOR CHAMBERS: I'm not going to put a fly in the ointment. But after we get through, I'm going to call something to your attention. I'm not opposed to the amendment. I'm not opposed to the bill. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Anyone else wishing to discuss AM0046? Senator Schrock, you're recognized to close.

SENATOR SCHROCK: Just please vote red.

PRESIDENT SHEEHY: The question before the body is, shall AM0046 be adopted? Those in favor vote yea; opposed vote nay. Please record, Mr. Clerk.

CLERK: 2 ayes, 30 nays, Mr. President, on the adoption of committee amendments.

PRESIDENT SHEEHY: AM0046 fails.

CLERK: Mr. President, Senator Schrock offers AM0154. Senator, I have a note you want to withdraw that?

SENATOR SCHROCK: (Microphone malfunction)...is correct.

CLERK: Senator Schrock would move to amend with AM0664. (Legislative Journal page 685.)

PRESIDENT SHEEHY: Senator Schrock, you're recognized to open on AM0664.

SENATOR SCHROCK: Lieutenant Governor, members of the Legislature, this is the one I've been waiting for. The committee amendment removes the range of the fee that could be established for a discounted permit. The bill provided for a range of between \$1.50 and \$5. The committee amendment requires that the fee be established at \$5. The reason for this is that

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 121

the federal government provides matching funds of up to approximately \$35 for every permit for hunters and anglers sold for at least \$5. The amendment also provides that the permit holder who is deployed out of the state of Nebraska for the entire season of the permit may apply for a discounted permit and receive such permit upon showing that the permit holder had an original permit, and evidence of his or her deployment. If the permit holder does not want a discounted permit, he or she may request a refund of the amount paid for a big game permit. What this says, if you're deployed and you can't use the big game permit that you applied for, you can get your money back, which is something that they're doing now, although they probably don't have the correct authority for it; or you can hold on to that permit and then at a future date--it doesn't have to be the next year--future time, you can get that...you can get a permit for \$5. Sometimes these permits are hard to come by. The permits we're talking about are for a deer permit, which costs \$26; an antelope permit, which costs \$26; an elk permit, which costs \$130; a fee for mountain sheep permit, which is a \$20 for an application fee to be a part of the lottery; and a fee for a wild turkey permit, which is \$21. So I would ask you to support the committee amendment. It seems like the fair thing to do. If a member of our National Guard or a Reservist is called into deployment and they can't utilize the permit that they have bought, they should be able to get their money back or get another permit for \$5 at a date down the road. With that, I would ask for your support on the committee amendment.

PRESIDENT SHEEHY: Thank you, Senator Schrock. Is there any discussion on the floor on AM0664? No one has lighted in. Senator Schrock, you're recognized to close. Senator Schrock waives closing. The question before the body is, shall AM0664 be adopted? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: AM0664 is adopted.

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

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 121, 234

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now move to LB 121, by Senator Louden. Is there further discussion from the floor? Senator Louden, you're recognized to close.

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. I'd just urge that we go ahead and advance this bill. I agree with Senator Schrock's amendment there. This is something to fine-tune the bill up. We get our \$5 fee in there so that we can at least get a matching funds from the federal government for some of the upland game and waterfowl permits that go through the state. And so with that, I would urge that you vote yes on LB 121, do what we can to help our servicemen. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Louden. Question before the body is, shall LB 121 advance to E & R Initial? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 32 ayes, 0 nays on the advancement of LB 121, Mr. President.

PRESIDENT SHEEHY: Thank you. LB 121 advances. Next item on the agenda.

CLERK: Mr. President, LB 234, a bill by Senator Connealy. (Read title.) The bill was introduced on January 10, referred to the Urban Affairs Committee, advanced to General File. There are Urban Affairs Committee amendments, Mr. President. (AM0134, Legislative Journal page 386.)

PRESIDENT SHEEHY: Senator Connealy, you're recognized to open.

SENATOR CONNEALY: Thank you, Mr. Lieutenant Governor, members. LB 234 allows the extension of storm water sewers from one mile to two miles beyond the corporate limits of cities of the first class. It does not, however, give authority to these cities to charge fees for storm water regulation or storm water management plans in this extended area. I introduced this bill on behalf of the League of Municipalities. Current law allows cities of the first class to extend their zoning authority two miles. In

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 234

2001 legislation we passed, allowed cities to extend sanitary sewer districts throughout their zoning jurisdictions. LB 234 simply expands the authority to storm water sewers, so that we can have good planning and allow growth in the zoning areas. Thank you. There are committee amendments that clarify the language of the bill. I urge your support of the amendments and the bill.

PRESIDENT SHEEHY: Thank you, Senator Connealy. Mr. Clerk, do you have a motion at the desk?

CLERK: Senator Friend would offer committee amendments, Mr. President.

PRESIDENT SHEEHY: Senator Friend, you're recognized to open on AM0134.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, the intent of the bill is to expand a first-class city's right to establish a storm water district to the full reach of the city's extraterrestrial (sic) jurisdiction. It may, though, in actual effect, either extend it beyond that area in some instances, or restrict it to something less in others. The committee amendment follows a statutory change enacted in 2001 in LB 222, when a similar bill was enacted to extend the authority to first-class cities to extend water and sanitary sewer districts to the full reach of the extraterritorial jurisdiction. That legislation increased the authority for providing such services to all areas within the designated extraterrestrial (sic) zoning jurisdiction of each class of city. And the change took into account the fact that no first- or second-class city or village is granted automatic authority over the full territory within the extraterritorial jurisdiction area defined by statute, which is, the cities or villages themselves must define by ordinance the area over which they exercise that zoning jurisdiction, subject to the limit of one mile from their boundaries for second-class cities and villages, which would be Section 17-1002; and two miles from their boundaries for first-class cities, Section 16-902. Some cities, for various reasons, do not extend their jurisdictions to the full maximum extent allowed. And if a city received expanded

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 234

jurisdictional authority from a county pursuant to Section 13-327, which was LB 729 in 2002, the original form of this bill would restrict development into the expanded jurisdiction of the city. The committee amendment, therefore, does the same thing that was done in LB 222 and this bill. It changes the current language, moving authority from one to two miles, to provide that the first-class cities would extend storm water sewers to serve areas within the extraterritorial zoning jurisdiction they have defined pursuant to Section 16-902. With that, I would ask for the adoption of AM0134 into LB 234, and the advancement of the bill. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Friend a question.

PRESIDENT SHEEHY: Senator Friend, would you yield?

SENATOR FRIEND: Yes.

SENATOR CHAMBERS: Senator Friend, this deals with...this bill deals with first-class cities and storm sewers?

SENATOR FRIEND: Yes, to a degree.

SENATOR CHAMBERS: Does it have anything to do with Elkhorn desiring to flush Omaha down the sewer? (Laughter) You don't have to answer that.

PRESIDENT SHEEHY: Is there anyone else wishing to speak on AM0134? No further lights? Senator Friend, you're recognized to close.

SENATOR FRIEND: Thank you, Mr. President. Extraterritorial. Extraterrestrial? I apologize to the body. That would be it. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you. The question before the body is, shall AM0134 be adopted? All those in favor vote yea; opposed vote nay. Please record, Mr. Clerk.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 234

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

PRESIDENT SHEEHY: AM0134 is adopted. We will now move back to LB 234 for discussion from the floor. Senator Beutler, you're recognized.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature. Senator Connealy, this is a bad, bad, bad bill. And the reason is because it deals with storm water. And you know, from our discussion on Senator Flood's bill, that storm water is a bad thing. And I'm wondering, are you encouraging people to develop storm water infrastructure ahead of development out there beyond the city limits of these cities of the first class? Is that the bad thing you're up to?

PRESIDENT SHEEHY: Senator Connealy, would you yield?

SENATOR CONNEALY: Yes, I would. I believe that we ought to grow our cities in a way that fits the needs. And storm water is part of that. So, yes, I am encouraging storm water development in the zoning jurisdiction.

SENATOR BEUTLER: Well, isn't this going to encourage cooperation between Norfolk and these other cities and their NRDs and their counties? I mean, this is...this couldn't be good, could it?

SENATOR CONNEALY: Yes, I think it will be good.

SENATOR BEUTLER: You think it will be good. Oh. Well, doesn't it relate to that bill in the Natural Resources Committee that talks about storm water and does these bad things with respect to storm water development?

SENATOR CONNEALY: As far as it relates to building the infrastructure, it does. It doesn't allow any more taxing authority or allow the addition of taxing to this new area. But as it does to the development of storm water treatment, I think that that's how they're tied together, yes.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 234

SENATOR BEUTLER: But this is going to require that property taxes probably be used to pay for this storm water development, isn't it?

SENATOR CONNEALY: Property taxes, sales taxes, other taxes that come from a city, yes.

SENATOR BEUTLER: Okay. And we know from Senator Flood's bill that some people object to property taxes being used for the development of storm water. Isn't this doing that very thing?

SENATOR CONNEALY: It is no expanded authority for taxes, but, yes, it's allowing the building as they are now, on...

SENATOR BEUTLER: So...

SENATOR CONNEALY: ...within the limits of the city.

SENATOR BEUTLER: So because this bill doesn't allow for the assessment of any different type of fee system, as the bill in Natural Resources does, you would argue that this bill is okay for us. Is that accurate?

SENATOR CONNEALY: I don't know if I'd argue that because of that. I think that building the storm water as the city grows is a needed function and a good planning. I'm not speaking against the Natural Resource bill; I'm talking in favor of this one.

SENATOR BEUTLER: So storm water per se is not a bad word or a thing we shouldn't do. Is that a fair assessment of your position?

SENATOR CONNEALY: Absolutely.

SENATOR BEUTLER: Okay. Thank you, Senator Connealy.

PRESIDENT SHEEHY: Further discussion? No other lights are on. Senator Connealy, you're recognized to close.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 234, 516

SENATOR CONNEALY: Thank you, Mr. President, members. Once again, this allows a city, as they work into the planning zone jurisdiction, to have the authority to extend storm water sewers as they do sanitary sewers now. I urge your support of the bill.

PRESIDENT SHEEHY: Thank you. The question before the body is, shall LB 234 advance to E & R Initial? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB 234.

PRESIDENT SHEEHY: Thank you. I do have an announcement that the rolls that are being distributed on the floor this morning are to honor Senator Schimek's birthday today. (Applause) Next item, Mr. Clerk.

CLERK: Mr. President, LB 516 is a bill by Senator Baker. (Read title.) Introduced on January 14, referred to the Transportation Committee, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT SHEEHY: Senator Baker, you're recognized to open.

SENATOR BAKER: Thank you, Mr. Lieutenant Governor and members. LB 516 allows the Public Service Commission to apply for or assist any political subdivision in applying for any federal or other funds available for 911 service or enhanced 911 service. As you well know, we're having considerable discussion about 911 service and availability, or lack thereof, across the state, both wire line and wireless. This allows the Public Service Commission to help out those political subdivisions in grant applications and so on. I would strongly encourage your support for LB 516. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Baker. The floor is now open for discussion. Senator Beutler, you're recognized.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature. Senator Baker, we had a short conversation about

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 516

the liability language in lines 11 through 14 of the bill, which says, except for failure to use reasonable care and for intentional acts, the commission shall be immune from liability. Which is to say, it shall not be immune from liability if somebody failed to use reasonable care; which seems to say that they are subject to a tort action based on the duty to use reasonable care. Is that your intent?

PRESIDENT SHEEHY: Senator Baker, would you yield?

SENATOR BAKER: Yes, I would. And that language came from existing statute, Senator Beutler. It's something we need to look at. It's interesting that you brought it up. But right now, it...we can document the fact that it is in there in other statutes. So we need to look at it. And I understand your point. To answer your question, is that our intent, was, yes, it was to eliminate the liability issue.

SENATOR BEUTLER: It was to eliminate ordinary negligence as a basis for a lawsuit?

SENATOR BAKER: Yes.

SENATOR BEUTLER: Okay. Well, we have the intent clear, then. And we can talk about the language. But I don't think the language that's there, Senator, does what you want it to do.

SENATOR BAKER: I understand that. And I'd be glad to work with you between now and Select File if we need to amend that.

SENATOR BEUTLER: Thank you, Senator Baker.

PRESIDENT SHEEHY: Any further discussion from the floor? Senator Baker, you're recognized to close. Senator Baker waives closing. The question before the body is, shall LB 516 advance to E & R Initial? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 516.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 485, 516

PRESIDENT SHEEHY: LB 516 advances. Next item on the agenda.

CLERK: Mr. President, LB 485, a bill by the Business and Labor Committee. (Read title.) Bill was introduced on January 14, referred to the Business and Labor Committee, advanced to General File. At this time, I have no amendments to the bill.

PRESIDENT SHEEHY: Thank you. Senator Cunningham, you're recognized to open.

SENATOR CUNNINGHAM: Thank you, Mr. Lieutenant Governor and members. The Department of Administrative Services Risk Management Division asked the Business and Labor Committee to introduce LB 485 as the department's annual cleanup bill. In Section 1, the department asks that the State Claims Board be allowed to approve claims up to \$25,000. The current cap of \$5,000 was established back in 1969. There still will need to be a unanimous approval by the board, and claims over \$25,000 will be submitted to the district court. Sections 2 and 3 concern changes that are necessary for the appropriate processing and payment of auto claims against the state. In the past, the state has fully...has been fully insured against auto claims. Claims that were processed as an insurance claim and paid from the Insurance Fund and the insurance contract established in the process and procedures used for the claim. Due to high cost of insurance, the state moved to self-insured status for auto claims. The state is currently self-insured up to \$300,000 for standard auto claims, and self-insured to \$1 million for a pursuit claim. But the language in our statutes...language does not provide a procedure for the processing of any auto insurance claims under a self-insured status. Because these claims are in fact a tort claim, the Department of Administrative Services asked that the statutes be changed to allow for the processing of these auto claims as they currently process as tort claim. So under Section 2, you have clarifying changes to Statute 81-8,224 that permits the department to pay an award or a judgment from the Tort Claim Fund or the Insurance Fund, as is appropriate. Additionally, it inserts new language that whether an award, judgment or costs are covered by insurance or fall within the self-insured retention limits, the claims shall be paid from the State

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 485, 492

Insurance Fund. Under Section 3, we're permitting the actual cost of these claims to be paid from the State Tort Claims Act. Section 4 clarifies that the Risk Manager may retain money in the State Insurance Fund to pay the self-insured retention. And I think with that, I will end, Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Cunningham. The floor is now open for discussion on LB 485. Seeing no one wishing to speak, Senator Cunningham waives closing. The question before the body is, shall LB 485 advance to E & R Initial? I'd ask you to vote yea if in favor; nay, against. Please record, Mr. Clerk.

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB 485.

PRESIDENT SHEEHY: LB 485 does advance. We'll now move to the next item on the agenda, Mr. Clerk.

CLERK: LB 492, introduced by Senator Kremer. (Read title.) Bill was introduced on January 14, referred to the Agriculture Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0326, Legislative Journal page 481.)

PRESIDENT SHEEHY: Thank you. Senator Kremer, you're recognized to open.

SENATOR KREMER: Thank you, Mr. Lieutenant Governor, members of the body. LB 492, the purpose is to remove any ambiguity under current law whether 88-547 of the Nebraska Grain Warehouse Act takes precedence in determining the disposition of all grain inventories of a failed warehouse regardless of the conflicting perfected security interests in the warehouse-owned grain by a creditor of the warehouse. The intent of LB 492 does not change existing understanding and the case law, but merely reinforces the current law. The bill addresses an issue that came to light with the failure of the Richland grain elevator warehouse, where the warehouse lender filed a replevin action asserting that the security interests are superior to the PSC's ability to take the title of the grain. If this action would have

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 492

been...would have stood up by the courts, the current understanding is that all grain inventories, including warehouse-owned grain, applies to satisfy storage obligations, and that the successful action would have resulted in the PSC not being able to take or seize the warehouse-owned grain, subject to the liens claim by the secured lenders. It would also have complicated the PSC's examinations of warehouses, because the PSC would have to discover security liens of warehouse lenders in order to know if the sufficient grain was available to satisfy the storage obligations. It also defeats the purpose of the...or, defeats the purpose of the Warehouse Act to that orderly distribution of grain assets by the administrative mechanism. If lenders have ability to seize liens asset before the PSC, the lenders of producers would be forced to intervene and result in many lawsuits to avoid...avoided by the current law. In the case of the Richland elevator, there was some action that said the...lost the word. Replevin action was filed, saying that they had superior liens over those that had stored. And it went to court. It held it up for about 12 months, and took a lot of time for the PSC, and the courts came back and ruled that the current law was okay. This just clarifies that so we don't have to go through that again. We do have a technical amendment that the bankers have brought to us. That would be the committee amendment. But this just really clarifies what we think the law says, so that there not be any misunderstanding and hold up the distribution of grain or the money that's the proceeds from grain when a warehouse files for bankruptcy. With that, I will answer any questions.

PRESIDENT SHEEHY: Thank you, Senator Kremer. We do...Mr. Clerk, do you have an amendment at the desk?

CLERK: I do have committee amendments, Mr. President.

PRESIDENT SHEEHY: Senator Kremer, you're recognized to open on the Agriculture Committee amendment, AM0326.

SENATOR KREMER: Okay. Thank you, Mr. Lieutenant Governor and members of the body. The committee amendment clarifies Section 3 of the bill. Section 3, subsection (1) of the bill

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 492

creates a presumption that the grain physically deposited is deposited for storage and not for sale, unless it is deposited by notice...or, unless it is deposited by a priced scale ticket or signed contract passing title to the warehouse upon deposit. The committee amendment clarifies that this presumption is for the purpose of the Nebraska Grain Warehouse Act only. The amendment was requested by the bankers, Nebraska Bankers Association, and it's to be consistent with the remainder of the bill. It just clarifies that to make sure that it only applies to Nebraska Grain Warehouse Act. With that, I will close on the committee amendment. Ask your support, please.

PRESIDENT SHEEHY: Thank you, Senator Kremer. The floor is now open for discussion on AM0326. Seeing no one wishing to speak, Senator Kremer, you're recognized to close. Senator Kremer waives closing. We'll move back to AM0326. Shall it be adopted? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of committee amendments.

PRESIDENT SHEEHY: Committee amendment AM0326 is adopted. We'll now move back to LB 492, for discussion from the floor. Senator Beutler, you're recognized.

SENATOR BEUTLER: Members of the Legislature. Senator Kremer, pursuant to our earlier discussion, I wanted to get on the record a statement of intent with respect to your intent on Sections 1 and 4 of the bill. As you know, Section 1 of the bill indicates, in its new language, that in a replevin action, under the state Warehouse Act, notice shall be given as provided in Section 4 of this act. Section 4 then goes on to describe a notice that must be given within a certain number of days when any creditor of a warehouse commences a judicial proceeding. And my question with respect to your intent is basically this: If the creditor fails to give the Section 4 notice, is that a fatal flaw in the replevin action? In other words, is it what we call jurisdictional in the law as far as process is concerned? And, for example, a lawyer in opposition of the replevin action might come in and get a summary judgment on the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 492

basis that that notice wasn't given. Is it your intent that the requirement of Section 1 have this kind of jurisdictional import?

PRESIDENT SHEEHY: Senator Kremer, will you yield?

SENATOR KREMER: Yes, I will. Yes, it is. If the PSC is not, in the last investigation, or at the elevator not determine something wrong, and there was a replevin action by the lender of the warehouse, it would...they need to give notice to the Public Service Commission that they're going to do this, so the Public Service Commission then could come in and see if there's not...is sufficient grain on storage, so they can take action. So if they do not give notice within that ten days, it probably would be void then. And that's kind of the intention, that they must...and it could be that if the Public Service Commission came in and even decided there was not sufficient grain, that even then they would be in second position as far as a creditor, because the Public Service Commission takes over the grain, and the first in line would be the stores or the grain that's never been paid for in there. So this is the...that is the intent of the bill.

SENATOR BEUTLER: Okay. I think I understand, Senator Kremer. Your intent is to absolutely block that replevin action unless they file that notice?

SENATOR KREMER: Yes.

SENATOR BEUTLER: Okay. Thank you very much. Thank you, Mr. Lieutenant Governor.

PRESIDENT SHEEHY: Thank you. Anyone else wishing to speak on LB 492? Senator Kremer, you're recognized to close.

SENATOR KREMER: Thank you, Mr. Lieutenant Governor. I guess, to follow up a little bit on your question, I...it's going to be up to the bankers now to notify all their bankers or lenders to a warehouse that they need to do this, so that they're aware of that, and not by neglect to find out that they're not in line for some response to the shortage of grain in case of a lawsuit.

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 39, 492

With that, I just ask you to advance the bill. It's really just a clarification to what the courts have decided. Actually, the court did not...it was filed in court, but they settled out of court, but then they decided that it was...the law was substantial in that, and that this clarifies it so there not be any ambiguity. Thank you very much. I ask for the advancement of LB 492.

PRESIDENT SHEEHY: Thank you, Senator Kremer. The question before the body is, shall LB 492 advance to E & R? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 34 ayes, 0 nays on the advancement of LB 492.

PRESIDENT SHEEHY: LB 492 advances. Next item on the agenda, Mr. Clerk.

CLERK: LB 39, by Senator Raikes. (Read title.) Bill was introduced on January 6, referred to the Education Committee, advanced to General File. I have no amendments at this time, Mr. President.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Raikes, you're recognized to open.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. As the Clerk mentioned, this bill deals with persons employed by the State Forester, and actually can be viewed as correcting an overreach in statute, and thereby giving the State Forester more flexibility in the people they hire and the qualifications of those people. Particularly, the current statute requires that, quote, persons employed as professional foresters must be graduates of accredited forestry schools of recognized standing, end quote. The language can be interpreted to mean that any Nebraska service employee that deals in any way with trees or shrubs be a graduate of an accredited forestry school. But for some positions, an arborist is the person, the skills required. That would be a person who deals with individual trees rather than stands of trees. Or it might be a horticulturalist, depending upon the particular skills needed. Or it might be a person trained in wildlife management. Just

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 39, 352

because a person is working for the National Forest Service...or Nebraska Forest Service, rather, it doesn't follow that that person must be a professional forester. A second difficulty is that there is no accredited forestry program at UNL, so it is not possible, given the strict interpretation of the current statute, for a person to work for the Nebraska State Forester if in fact this degree requirement is in place. The university has a category of employees called managerial professional. And NF...Nebraska Forest Service employs several people under this category. This category indicates a professional, and one who is trained to serve the need required. But it eliminates...or it is not necessary, I should say, that they have to be professional foresters from an accredited program. The solution proposed here is simply to strike that language. As I say, it can be interpreted as an overreach. So this is just a simplification. There's a part of Section 85-162.04 that would be stricken. This would eliminate the difficulties I have mentioned, and also give the State Forester more flexibility in serving...or completing their personnel needs, if you will. So with that, I urge your support. Thank you.

PRESIDENT SHEEHY: You've heard the opening on LB 39. Is there discussion from the floor? No discussion. Senator Raikes, you're recognized to close. Senator Raikes waives closing. The question before the body, shall LB 39 advance to E & R? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB 39.

PRESIDENT SHEEHY: LB 39 does advance. Next item on the agenda.

CLERK: LB 352 is a bill by Senator Preister. (Read title.) Bill was introduced on January 11, referred to the Education Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

PRESIDENT SHEEHY: Thank you. Senator Preister, you're recognized to open.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 352

SENATOR PREISTER: Thank you, Honorable President, friends all. The bill that you have before you today is a bill that adds clarity to the community colleges section of statute that is currently in the K through 12 sections of statute. Our community colleges basically have been modeled after those sections. And when they were created, most of it was transferred over. This is a clarifying section that was not transferred over. It's one sentence. It simply reads: A person who has been hired to fulfill the duties of a teacher or school nurse who is on a leave of absence shall not accrue rights under Sections 85-1528 to 85-1534 during this period that the person is fulfilling such duties. The purpose of that is that when a teacher, for sick reasons or for disability reasons, for other reasons, needs to be away from their position and a temporary worker is hired to fulfill those duties, it would avoid a conflict in the event that that period of time was greater than two years. At a two-year period of time, the temporary employee could be considered full-time and be entitled to that same position. In order not to have two employees legally entitled to the same position, this clarifies for the temporary employee that they would not be entitled, simply by virtue of the two-year expiration time, to have this position. It makes it fair to the full-time employee who is off work, knowing that their job is still there as soon as they're well and able to return to work. It's fair to the temporary employee. That employee knows they will be there until the full-time employee is able to return. And it's also fair to the students who, just prior to the two-year time, if the full-time employee is not able to return, then another temporary employee has to be brought in. I think it adds clarity. It's fair to everyone. And initially I had a concern that the temporary employees' rights may be overstepped. But these temporary employees also receive the same benefits, the same salaries. They're treated just as the full-time employee would have been. So they're not losing anything. If the full-time employee is not able to return back to the classroom, then that temporary employee can apply for and would probably be eligible and have a good opportunity to be hired full-time in that position. These situations don't occur very often. But where they do, it has become a problem, and could lead to litigation. This clarifies and I think is good public policy. I would be happy to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 299, 352

entertain any questions that anyone may have. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Preister. You've heard the opening on LB 352. The floor is now open for discussion. Seeing no one wishing to speak, Senator Preister, you're recognized to close. Senator Preister waives closing. The question before the body is, shall LB 352 advance to E & R? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB 352.

PRESIDENT SHEEHY: LB 352 does advance. We'll now move to the next item on the agenda, Mr. Clerk.

CLERK: Mr. President, LB 299, by Senator Landis. (Read title.) Introduced on January 10, referred to the Revenue Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0500, Legislative Journal page 577.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Landis, you're recognized to open.

SENATOR LANDIS: Thank you, Lieutenant Governor, members of the Legislature. This just came out of reading the Omaha World-Herald. I saw a couple of years ago that the Douglas County system for property valuations allowed a single commissioner to hear appeals from the people inside their area, and decide the appeals for their constituents, acting alone and singly. It just struck me that there was an opportunity for...bad judgment, shall we say? And so I introduced this bill. Now, I'm sticking my nose into Douglas County business. It was just my own idea. But it struck me that that was not the way to run a ship. The committee agreed. We reported the bill out. And by the way, I have had subsequent e-mails from the Douglas County Board, saying that they have dropped that proposal; they're not doing it any longer. This bill says, you can't have single commissioner appeal processes in which the

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 144, 299

single commissioner gets to determine the appeals for their own constituents in their own areas. I would ask for the advancement of LB 299.

PRESIDENT SHEEHY: Thank you, Senator Landis. (Visitors introduced.) We'll now move to committee amendment from the Revenue Committee on AM0500. Senator Landis, you're recognized to open.

SENATOR LANDIS: The committee amendments strike the qualifiers that limit the bill to county commissioners presiding over hearings involving property in their own districts. As amended, LB 299 would prohibit hearings before a single commissioner in all counties.

PRESIDENT SHEEHY: Thank you, Senator Landis. Any discussion from the floor on AM0500? No one wishing to speak, Senator Landis. You're recognized to close. Senator Landis recognizes...or, waives closing. We'll move back. Shall AM0500 be adopted to LB 299? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments.

PRESIDENT SHEEHY: Committee amendment AM0500 is adopted. Any discussion on the floor on LB 299? No lights. Senator Landis, you're recognized to close. Senator Landis waives closing. The question before the body is, shall LB 299 advance to E & R? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB 299.

PRESIDENT SHEEHY: LB 299 does advance. Next item on the agenda, Mr. Clerk.

CLERK: LB 144 is a bill by Senator Price. (Read title.) Introduced on January 7, (microphone malfunction)...advanced to General File. I do have committee amendments, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 144

(AM0462, Legislative Journal page 669.)

PRESIDENT SHEEHY: Senator Price, you're recognized to open.

SENATOR PRICE: Mr. Lieutenant Governor, members of the body, through LB 144, I sought to require the same level of responsibility from employees in the school retirement system when retirement benefits are verified. Under current state statute, employees have 90 days after receipt of their annual report from the retirement systems to dispute the report. If the employee does not dispute the report within 90 days, it is binding on the employee. The burden of ensuring a correct retirement statement cannot be placed solely in the hands of employees. Employees rely on these statements to plan their retirement. And current system leaves employees in a vulnerable position. The committee's amendment resolves this inequity by removing the 90-day requirement from employees, and specifies that the retirement board has a fiduciary duty to the employees. Thank you very much.

PRESIDENT SHEEHY: Thank you, Senator Price. We'll now move to committee amendment AM0462. Senator Stuhr, you're recognized to open.

SENATOR STUHR: Thank you, Mr. President and members of the body. The committee amendment, AM0462, becomes the bill, LB 144, and removes the current statutory language requiring plan members in the School Employees Retirement System plan to verify their credible service statements for errors within 90 days after receipt of the statement from the Nebraska Public Employees Retirement Systems. Presently, if the school board member does not bring the error to the attention of NPERS within 90 days, the member is barred from challenging such information after the period has elapsed. And the committee felt that that was not appropriate. Currently, Section 79-907 requires that such statements shall be sent by NPERS every two years by first-class mail to school plan members. Each statement contains information on the amount of credible service earned by the member's reported income and other such information determined necessary by the director of NPERS in order to calculate the members' retirement benefits. Under this

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 144

amendment, plan members are no longer prohibited from bringing challenges to NPERS due to salary and credible service information the plan member believes to be incorrect. Finally, the amendment would insert language in order to specify that the Public Employees Retirement Board overseeing NPERS has an ongoing fiduciary duty to modify or correct a member's statement if the board discovers an error in the information it has on record. The board would be required to make such a modification within 60 days after the error is brought to the attention of the board. The bill was...as amended, was passed unanimously out of the committee. And I ask the body to adopt AM0462 and pass the bill as amended. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Stuhr. You've heard the opening on AM0462. We'll now have floor discussion. Senator Beutler.

SENATOR BEUTLER: Mr. Lieutenant Governor. Senator Stuhr, just one quick question. With respect to that provision that says the board has an ongoing fiduciary duty to modify or correct a member's statement if the board discovers an error, I assume the substance of that sentence is that there is no affirmative obligation to go out and look for...or to go into the records and look for errors, beyond whatever the current practices of that institution are, that is, beyond the board's current practices; that their only obligation is to follow up errors that have in fact been identified through current practices or by current employees that are covered. Their only obligation is to follow up on those identified errors and make corrections within that time period. The basic question being, is, they don't have to change any of their current practices, except in the event that an error happens to be discovered one way or another under current practices. Is that accurate?

SENATOR STUHR: Yes, that would be accurate.

SENATOR BEUTLER: Okay. Thank you, Senator Stuhr.

PRESIDENT SHEEHY: Further discussion from the floor? Seeing none, Senator Stuhr, you're recognized to close on AM0462. Senator Stuhr waives closing. The question before the body is,

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 144, 684

shall AM0462 be adopted to LB 144? Those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of committee amendments.

PRESIDENT SHEEHY: Committee amendment AM0462 is adopted. Is there floor discussion on LB 144? Seeing none, Senator Price, you're recognized to close. Senator Price recognize...waives closing. The question before the body is, shall LB 144 advance to E & R? Those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 144.

PRESIDENT SHEEHY: LB 144 does advance. Next item on the agenda, Mr. Clerk.

CLERK: LB 684, a bill by Senator Schimek. (Read title.) Bill was introduced on January 19, referred to the Government Committee, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT SHEEHY: Senator Schimek, you're recognized to open on LB 684.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. This bill was heard by the Government Committee, and advanced, I...as I recall, unanimously, 7 to 1 vote; we had one person absent. But it provides for the Capitol Commission the ability to set up a revolving fund. And just as a little background, for those of you who have not been here, the Capitol Commission has been established to oversee, protect, cherish, and care for the Capitol. And the commission itself has evolved a little bit over time. But presently, the commission consists of the Governor, the Speaker of the Legislature, the State Court Administrator, the dean of the College of Architecture of the University of Nebraska, the director of the State Historical Society, and three other members of the public that are appointed from each congressional district. The intent of this

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 684A, 684

bill is to establish that revolving fund, so that the Capitol Administrator, who is Bob Ripley, with the approval of the Capitol Commission, can enter into agreements to provide additional facility-related maintenance, renovation, and operation services requested by agencies that are housed in the Capitol. These charges would be collected from the agencies and placed into a Capitol Commission Revolving Fund, rather than the DAS Building Division fund. Second provision of this bill designates the Speaker of the Legislature as Vice Chair of the Nebraska Capitol Commission. And this provision becomes more necessary because occasionally the Chair of the commission, the Governor, is not able to attend. And this just simply designates the Speaker to fill that capacity. So with that, Mr. Chairman, I would simply ask for the advancement of LB 684.

PRESIDENT SHEEHY: Thank you, Senator Schimek. You've heard the opening on LB 684. Is there a discussion from the floor? Seeing none, Senator Schimek? Senator Schimek waives closing. We'll now move to LB 684 for advancement. I ask, please, those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 30 ayes, 0 nays on the advancement of LB 684.

PRESIDENT SHEEHY: LB 684 does advance. (Visitors introduced.) Next item on the agenda, Mr. Clerk.

CLERK: LB 684A, by Senator Schimek. (Read title.)

PRESIDENT SHEEHY: Senator Schimek, you're recognized to open on LB 684A.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members of the Legislature. This...the fiscal note on this, I believe, is about \$15,000 to set up this fund. And it would actually be...oh, excuse me. We changed that--\$25,000 from the Capitol Commission Revolving Fund for 2005 and '06, and \$25,000 from the Revolving Fund for 2006 and '07. And no expenditures for permanent or temporary salaries and per diems for state employees shall be made from funds appropriated from this section. And this is an estimate that was arrived at with the help of the Capitol Administrator and the Fiscal Office. So,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 668, 684A

thank you, Mr. President. Oh, and it also has an emergency clause on it. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Schimek. You've heard the opening on LB 684A. Discussion from the floor? Seeing none, Senator Schimek, you're recognized to close. Senator Schimek waives closing. The question before the body is, shall LB 684A advance to E & R? Those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 28 ayes, 0 nays on the advancement of LB 684A.

PRESIDENT SHEEHY: LB 684A does advance. Next item on the agenda, Mr. Clerk.

CLERK: Mr. President, LB 668, by Senator Johnson. (Read title.) Bill was introduced on January 19, referred to General Affairs, advanced to General File. I do have committee amendments. (AM0684, Legislative Journal page 730.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Johnson, you're recognized to open on LB 668.

SENATOR JOHNSON: Lieutenant Governor, members of the Legislature, this bill is to transfer land that is located south of the Youth Rehab Development Center in Kearney. This land has been associated with this institution ever since its origination. My understanding is that it was to be used for one of two purposes. One is that there were farming operations that were carried out by the residents, or at least thought of at one time. And indeed, there was a section that was used for gardening, et cetera. This, however, is an irrigated corn field. It's located across, south of Highway 30, from the institution. This land is actually governed, shall we say, by Health and Human Services Committee (sic), since the Youth Development Center is under their auspices. We have a willing giver in Health and Human Services, a willing receiver in the University of Nebraska at Kearney. The...one of the things that was a question is that there is rent from this irrigated land. I think the last figure I saw was \$33,000 per year. In the amendment that will be coming forth, there is a provision where

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 668

all net agriculturally related income for the next ten years will be passed on to Health and Human Services.

PRESIDENT SHEEHY: Thank you, Senator Johnson. We do have a General Affairs Committee amendment, AM0684. Senator Janssen, you're recognized.

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. AM0684 is a technical amendment that was adopted by the General Affairs Committee at the request of Senator Johnson. It is simply a revised and corrected description of the land that is to be transferred. I understood that an abstractor pointed out errors in the land description in the bill, and also provided Senator Johnson with his information. It's a technical amendment, cleans up the abstract on the piece of land. For further explanation, I would yield the rest of my time to Senator Johnson, if he'd like to have it.

PRESIDENT SHEEHY: Senator Johnson, would you yield?

SENATOR JOHNSON: Yes, sir. Thank you. No, this...it was just a technical question of whether I would add the amendment. But we thought it was more appropriate that the General Affairs Committee did add the amendment. And with the amendment, it...the bill and amendment then passed with an 8 to 0 vote.

PRESIDENT SHEEHY: Thank you. Senator Cudaback.

SENATOR CUDABACK: Mr. President, members, this is something that should have been done a long time ago. The amendment that Senator Janssen has is merely technical. We're not giving the land to anybody; we're keeping the land within the same pot, you might say. Health and Human Services, the University of Nebraska, it's all the same thing. It should have been done years ago, but we just failed to...it was an oversight. And this kind of clears up the fact that the property should go along with the University of Nebraska, where it's currently at. So I urge your support for the bill.

PRESIDENT SHEEHY: Thank you, Senator Cudaback. Senator Stuthman, you're recognized.

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 668

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to ask Senator Johnson a question or two.

PRESIDENT SHEEHY: Senator Johnson, would you yield?

SENATOR JOHNSON: Yes, sir.

SENATOR STUTHMAN: Senator Johnson, who is the present owner, or the prior owner of this ground? And how is the valuation figured, as far as county taxes? Is there going to be any changing in the valuation of it, as far as taxation of the county is concerned?

SENATOR JOHNSON: Well, I...it's now owned by Health and Human Services, a state agency. And the...it will now be owned by another state agency, University of Nebraska at Kearney. There is the lease agreement that we referred to. I believe that the lease goes till February of next year. So this couldn't possibly go into effect before that. But be my guess that there would be no change. But I'd have to look that up for you, sir.

SENATOR STUTHMAN: The thing that does concern me, Senator Johnson, is that, you know, I don't know where they use their base valuation, but if the valuation on that property, which I had just heard in the conversation, you know, it is generating \$33,000, I'm concerned, you know, is that income-generating property being taxed fairly in comparison to with the neighbor's ground that is being farmed just right across the fence? That's a concern that I have. And I may not have an issue with it, but I just thought I would bring this up. Sometimes, you know, that ground isn't being taxed, yet it is an income-generating property.

SENATOR JOHNSON: I'll be happy to look that up for you and get the answer to you. One of the other concerns here is that the state Roads Department is considering, when they put a new four-lane extension of Highway 30 going west out of Kearney, that that four-lane road may use part of this ground as well. So that's why we put it in as the net agricultural benefit.

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 668

SENATOR STUTHMAN: Okay. Thank you. I'll return the balance of my time to the Chair.

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Burling, you're recognized.

SENATOR BURLING: Thank you, Mr. Lieutenant Governor and members of the body. I'd like to ask Senator Johnson a couple questions, please.

PRESIDENT SHEEHY: Senator Johnson, would you yield?

SENATOR JOHNSON: Yes, sir.

SENATOR BURLING: Do you know if...or can you share with us if UNK has any educational plans for this property within the next ten years? You indicated the income still goes to the HHS.

SENATOR JOHNSON: Sir, the only one that I've heard discussed seriously is that the Safety Center is in rather bad repair. It's my understanding that...and I believe it's private money, has been given to repair the Safety Center. The Safety Center is very adjacent to the UNK campus, being almost directly south. What I've heard discussed is moving that Safety Center out to this ground, which then would potentially free up the other ground adjacent to the campus. What plans they have for that, or potential plans, I do not know.

SENATOR BURLING: Okay, thank you. And I'll just add that at the Hastings Regional Center, the HHS owns property there that is leased out to a local farmer, and that is valuated at least as high as surrounding ag ground. So in that particular county, it's in accord with what Senator Stuthman was asking. Thank you very much.

PRESIDENT SHEEHY: Thank you, Senator Burling. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Johnson a question, for my

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 668

information. Senator Johnson, by the time everything is done, ownership or title to this land will pass from HHS to University of Nebraska at Kearney. Is that true?

SENATOR JOHNSON: Yes, sir.

SENATOR CHAMBERS: But even after the title passes, then some rent that is produced by the land will go to the university...I meant to HHS for the next ten years?

SENATOR JOHNSON: Yes, sir. There are different reasons for that. I mentioned the...

SENATOR CHAMBERS: Oh, that's okay. I just want to be sure...

SENATOR JOHNSON: Okay. Yes.

SENATOR CHAMBERS: ...I understand what is going to happen.

SENATOR JOHNSON: Yes, sir. For ten years...

SENATOR CHAMBERS: After the ten years, if there is rent realized, it will then go the University of Nebraska at Kearney?

SENATOR JOHNSON: Yes, sir.

SENATOR CHAMBERS: And if Kearney should happen to sell the land before any development occurs, any money that is realized would go to HHS?

SENATOR JOHNSON: Yes, sir.

SENATOR CHAMBERS: There is nothing that would restrict what Kearney can do with the land,...

SENATOR JOHNSON: There's nothing...

SENATOR CHAMBERS: ...other than what would be done with the money if they sell it?

SENATOR JOHNSON: ...that they personally can do. But they

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 668

cannot sell it without the proceeds passing through to HHS.

SENATOR CHAMBERS: Okay. And I was trying to get through so your time wouldn't run out. Thank you, Senator Johnson.

SENATOR JOHNSON: Yes. Thank you.

PRESIDENT SHEEHY: Senator Janssen, you're recognized.

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor. Just for a little clarification to Senator Stuthman, this land has always been held in public trust. And that has nothing to do with the valuation around the other, because it has been tax exempt all these years. The rent, I am sure, the cash rent apparently is what they're doing with this land, is comparable to any cash rent that would be in the surrounding farmers. So that is where the income is coming from, from cash rent. Because it is irrigated land. That's all I have. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Janssen. Senator Cudaback.

SENATOR CUDABACK: Mr. President, members, this simply transfers property within a family. Has nothing to do with the valuation, it has nothing to do with anything else, but simply puts it over into the...another part of the same family. With that, why, I won't take more time up. Thank you.

PRESIDENT SHEEHY: Thank you. Senator Beutler.

SENATOR BEUTLER: Senator Johnson, a quick question. I know we're going on a little while on this one. Again, a question as to intent. The bill talks about selling any part of the real estate. I'm assuming it would be okay, under this language, to trade land also, either for other land or for money. And if they traded it for money, I assume the proceeds would go to DHH?

SENATOR JOHNSON: Yes. I think it does clearly state that any monies received in this period of time, if they sell some land, the money gets passed through from the sale.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 668

SENATOR BEUTLER: Okay.

SENATOR JOHNSON: Seemed to me it would be a little bit more complicated if there were trades made. But it would seem to me that the logic would say that that would still be the case.

SENATOR BEUTLER: The logic would say that you could trade, as long as no money transferred. But if there was money transferred, it would go to DHH.

SENATOR JOHNSON: Yes.

SENATOR BEUTLER: Would that be a fair interpretation of...?

SENATOR JOHNSON: That's what I would understand.

SENATOR BEUTLER: Okay. Thank you very much.

PRESIDENT SHEEHY: Thank you, Senator Beutler. Any further discussion from the floor? Senator Janssen, you're recognized to close.

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor. Only to say that this is a transfer of property between two entities. And the...on the amendment, it just updated some of the statutes with this type of situation. So I ask for your support on the amendment. Thank you.

PRESIDENT SHEEHY: Thank you. The question before the body is, shall AM0684 be adopted to LB 668? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 34 ayes, 0 nays on adoption of committee amendments, Mr. President.

PRESIDENT SHEEHY: AM0684 is adopted.

CLERK: Senator Johnson, AM0445. I have a note you want to withdraw, Senator?

SENATOR JOHNSON: That is correct.

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 131, 668

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

PRESIDENT SHEEHY: The question before the body is, shall LB 668 advance? All in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB 668.

PRESIDENT SHEEHY: LB 668 does advance. Next item on the agenda, Mr. Clerk.

CLERK: Mr. President, LB 131, a bill by Senator Cunningham. (Read title.) Bill was introduced on January 6, referred to the Agriculture Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0604, Legislative Journal page 753.)

PRESIDENT SHEEHY: Senator Cunningham, you're recognized to open.

SENATOR CUNNINGHAM: Thank you, Mr. Lieutenant Governor and members of the body. LB 131 makes changes in the current exemptions to the definition of "food establishment" in the Nebraska Pure Food Act. Such items or operations falling under an exemption to the definition of "food establishment" are thereby exempted from licensure and inspection under the Nebraska Pure Food Act. One exemption pertains to an establishment or vending machine operation that offers only prepackaged soft drinks. LB 131 strikes language that is not needed, and includes canned or bottled fruit and vegetables juices in the exemption. LB 131 also adds two new exemptions to the definition of "food establishment," and those two exemptions are the reason that I brought the bill. And there were some changes in those, so they will be explained by Senator Kremer when he introduces the committee amendment. Legislation was introduced a couple of years ago that broadened the facilities that required inspection and permits. However, there were some unintended consequences. After I introduced this bill this year, the Department of Ag Bureau of Dairies and Foods notified

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 131

me that there may be some other instances that needed to be addressed. I asked for a late hearing date, which Senator Kremer gave us, allowing time to work with the department and other interested parties. The committee amendments are the result of those negotiations. And with that, I will turn my time back, Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Cunningham. We'll move to committee amendment AM0604. Senator Kremer.

SENATOR KREMER: Thank you, Mr. Lieutenant Governor and members of the body. Senator Cunningham did explain kind of the purposes of the bill. The committee amendment strikes the original sections and becomes the bill. The amendment does not substantially alter the original purpose of LB 131, but better defines the exclusions to the definition of "food establishment" originally contained in Section 1 of the introduced bill, which becomes Section 4 of the amendment. The committee amendment makes the following changes. It retains the original revision in subsection (1), but adds prepackaged ice to the list of items that may be sold without defining the operation as a food establishment. Number two, it retains the bill's extended exclusion in new Section 7 to private homes preparing foods for charitable functions, but qualifies the exclusion to make it clear that it applies only to donated food, and is not applicable to food that is catered for compensation. The amendment retains the requirement for notification at the point of consumption that the food is prepared in an unlicensed premise. Number three, it replaces the introduced new Section 11, and restates the exclusion to apply to operations that sell only commercially packaged non-potentially-hazardous food, if the establishment is not a commercial food establishment. Section 3 of the amendment defines a commercial food establishment as a permanent retail sale location having more than 100 square feet of food space. This would thus exclude most private home retail activities and sales occurring at temporary retail venues such as a farmer's market and craft shows, as intended by the bill as it was introduced. The last change was Section 1 and 2 of the amendment. Incorporates the definition of a commercial food establishment in Section 3 of the amendment into the Nebraska Pure Food Act. I might say that

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 131

both the Department of Agriculture and the Nebraska Food Advisory Committee support the bill and the committee amendments. And the department would welcome not having to expend some of its operation time and resources on the...something that does not have any likelihood of having any risk involved. So I think Senator Cunningham mentioned that it was a case where somebody was doing things for charity in preparing in their home, and it was becoming very popular, but then they had to come under the scrutiny of the...of all the regulations, when this kind of makes a more...makes it applicable so they can do this in a way not to be interfered with. So with that, I'd ask your adoption to the committee amendments to LB 131.

PRESIDENT SHEEHY: Thank you, Senator Kremer. You've heard the opening on AM0604. The floor is now open for discussion. Senator Beutler.

SENATOR BEUTLER: (Microphone malfunction)...Cunningham, a quick question, if I may. You have an exemption in here for the private home or other area, whatever that might mean, where food is prepared for distribution at a fund-raising event for a charitable purpose. If food is prepared in a private home or other area, under this provision, and compensation is provided in any amount, does that exclude them from the availability of this exemption? In other words, if they take money for preparing this food, or other compensation for preparing this food for the charitable purpose, do they then become a caterer, or something that is regulated under some other provision?

SENATOR CUNNINGHAM: Yes, they do, Senator.

SENATOR BEUTLER: Okay. Thank you.

PRESIDENT SHEEHY: Further discussion from the floor? Senator Kremer, you're recognized to close. Senator Kremer waives closing. The question before the body is, shall AM0604 be adopted to LB 131? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 9, 72, 131, 135, 186, 222, 256, 302, 335
439, 440, 461, 479, 501, 630, 673, 698, 734
735
LR 61

amendments.

PRESIDENT SHEEHY: AM0604 is adopted. We'll now move back to LB 131. Open for discussion from the floor. Seeing none, Senator Cunningham, you're recognized to close. Senator Cunningham waives closing. The question before the body is, shall LB 131 advance to E & R? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB 131.

PRESIDENT SHEEHY: LB 131 does advance. Mr. Clerk, do you have items at the desk?

CLERK: I do, Mr. President. Amendments to be printed: Senator Kremer to LB 439; Senator Smith to LB 256; Senator Stuhr to LB 72; Senator Preister to LB 501. New resolution: LR 61, by Senator Stuhr. That will be laid over. Reference report referring certain gubernatorial appointment. Your Committee on Urban Affairs, chaired by Senator Friend, reports LB 735 to General File; LB 302, General File with amendments; LB 734, General File with amendments; LB 135 indefinitely postponed; LB 186, LB 461, LB 479, LB 630, and LB 698 reported indefinitely postponed. Agriculture Committee, chaired by Senator Kremer, reports LB 440 to General File with amendments; LB 673, General File with amendments; LB 222 indefinitely postponed. And, Mr. President, new A bill. (Read LB 529A by title for the first time.) And that's all that I have. (Also, Enrollment and Review reports LB 335 as correctly reengrossed, Legislative Journal pages 917-932.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now be moving to the next item on the agenda, which will be Final Reading. I would ask all unexcused senators to return to the Legislature. All unauthorized personnel please step off the floor. Senators, please take your seats. LB 9, Mr. Clerk.

ASSISTANT CLERK: (Read LB 9 on Final Reading.)

PRESIDENT SHEEHY: All provisions of law relative to procedure

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 9, 55, 78, 97

having been complied with, the question is, shall LB 9 pass? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 932-933.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT SHEEHY: Thank you. LB 9 does pass. LB 55E, Mr. Clerk.

ASSISTANT CLERK: (Read LB 55 on Final Reading.)

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB 55E pass with the emergency clause attached? All those in favor vote aye or yea; opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 933-934.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. LB 55E passes with the emergency clause attached. We will now proceed to LB 78.

ASSISTANT CLERK: (Read LB 78 on Final Reading.)

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB 78 pass? All those in favor vote aye; those opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 934.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT SHEEHY: Thank you. LB 78 passes. We will now proceed to LB 97.

ASSISTANT CLERK: (Read LB 97 on Final Reading.)

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 97, 105, 115, 122

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB 97 pass? All those in favor vote aye; all those opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 935.) Vote is 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

PRESIDENT SHEEHY: LB 97 passes. We will now proceed to LB 105.

ASSISTANT CLERK: (Read LB 105 on Final Reading.)

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB 105 pass? All those in favor vote aye; all those opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 935-936.) Vote is 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. LB 105 passes. We will now proceed to LB 115.

ASSISTANT CLERK: (Read LB 115 on Final Reading.)

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB 115 pass? All those in favor vote yea; all those opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 936.) Vote is 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

PRESIDENT SHEEHY: LB 115 passes. We will now proceed to LB 122.

ASSISTANT CLERK: (Read LB 122 on Final Reading.)

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 122, 201, 241, 247

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB 122 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 937.) Vote is 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. LB 122 passes. We'll now move to LB 201E, with emergency. LB 201E.

ASSISTANT CLERK: (Read LB 201 on Final Reading.)

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB 201E pass with the emergency clause attached? All those in favor vote aye; all opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 937-938.) Vote is 47 ayes, 0 nays, 2 excused and not voting.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. LB 201E passes with the emergency clause attached. We will now proceed to LB 241.

ASSISTANT CLERK: (Read LB 241 on Final Reading.)

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB 241 pass? All those in favor vote aye; all opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 938-939.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT SHEEHY: Thank you. LB 241 passes. We will now proceed to LB 247.

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Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 247, 259

ASSISTANT CLERK: (Read LB 247 on Final Reading.)

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB 247 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 939.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT SHEEHY: Thank you. LB 247 passes. We will now proceed to LB 259E.

ASSISTANT CLERK: (Read LB 259 on Final Reading.)

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB 259E, with the emergency clause attached? All those in favor vote aye; those opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 940.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. LB 259 passes with the emergency clause attached. Mr. Clerk, do you have an announcement at the desk? Speaker Brashear, you're recognized.

SPEAKER BRASHEAR: Thank you, Mr. President. Members, a couple very brief reminders: Tomorrow will be our first full day of debate this session. It will be the only full day of debate this session (sic). You know we're having some special Executive Sessions of committees with the other afternoons. Next Tuesday, March 29, we will begin full-day floor debate. For the purposes of planning, I'd like to plan...I'd like to think in terms of a 4:00 to 4:30 time frame as being a full day. On Wednesday and Thursday of this week, we will adjourn at noon. We will not work through the lunch hour on Thursday of this week, our last day of the week, but in the future that will be our practice, as has been in the past, that on the last day of

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 21, 2005 LB 9, 55, 78, 97, 105, 115, 122, 201, 241
247, 259, 373

the week we will work through the lunch hour if we have not adjourned by 12:00 noon. I thank you for your time and attention and your diligence, and hope we have a good week. Thank you.

PRESIDENT SHEEHY: Thank you, Speaker Brashear. Mr. Clerk, do you have any other messages at the desk? While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB 9, LB 55E, LB 78, LB 97, LB 105, LB 115, LB 122, LB 201E, LB 241, LB 247, and LB 259E.

ASSISTANT CLERK: Mr. President, Senator Flood asked to add his name to LB 373. (Legislative Journal page 940.)

And I do have a priority motion. Senator Cudaback would move we adjourn until Tuesday, March 22, 9:00 a.m.

PRESIDENT SHEEHY: Do have a priority motion to adjourn until the 22nd at 9:00 a.m. All those in favor say aye. Opposed? We are adjourned.

Proofed by: gsk