

MAY 20, 2005

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SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Stuhr, from the 24th District. Senator Stuhr.

SENATOR STUHR: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Stuhr, for doing that for us. We appreciate it. Would call the eighty-second day of the Ninety-Ninth Legislature, First Session, to order. Senators, please record your presence. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Thank you, Mr. Clerk. Any corrections for the Journal?

CLERK: No correct...I'm sorry, Mr. President, I do have a correction. (Read correction, Legislative Journal page 1681.) That's all that I have, Mr. President.

SENATOR CUDABACK: Any messages, reports, or announcements?

CLERK: One item, and that's a report of registered lobbyists for this week to be inserted in the Journal. That's all that I had, Mr. President. (Legislative Journal pages 1681-1682.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to legislative confirmation reports, Health and Human Services Committee. Mr. Clerk.

CLERK: Mr. President, Health and Human Services offers four appointees to the Commission for the Deaf and Hard of Hearing. (Legislative Journal page 1616.)

SENATOR CUDABACK: Senator Jensen, Chairman of the Health and Human Services Committee, you're recognized to open on the first confirmation report.

SENATOR JENSEN: Thank you, Mr. President and members of the

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Legislature. Good morning. I'll do this in four different reports because they're in four different commissions. But the first is the Health and Human Services Committee desires to report favorably upon the following four appointments to the Commission for the Deaf and Hard of Hearing. The committee suggests that appointments be confirmed by the Legislature and suggests also a record vote. The first is Mary Ann Burke, a new appointee for a three-year term ending January 31, 2008, from Bellevue. Unable to appear in person, Senator Cornett appeared before the committee in support for her appointment. Ms. Burke is a lab assistant in sign language at Metro Community College, a graduate of the Iowa School for the Deaf. The second one is Michael Carruthers, a new appointment for a three-year term ending January 30, 2008. He is a retired teacher who is hard of hearing and lives in Minden. He is also a CASA volunteer. The third is Daniel Darnall, a reappointment for a three-year term ending January 31, 2008, who was also unable to appear. Senator Howard appeared in support of his appointment. He is a graduate of the Nebraska School for the Deaf and a mentor for persons who are deaf and hard of hearing. Number four is Luana Duennerman, a new appointment for a four-year term ending January 31, 2009. She is deaf, lives in Lincoln. She is employed with the U.S. Citizenship and Immigration Service, Department of Homeland Security, as a program analyst assistant. I would ask for confirmation of these four appointees to the Commission of Deaf and Hard of Hearing.

SENATOR CUDABACK: Open for discussion on the first confirmation report by Health and Human Services Committee. Seeing no lights on, Senator Jensen waives closing. The question before the body is adoption of the first report offered by the confirmation report of Health and Human Services Committee. All in favor vote aye; opposed vote nay. We're voting on the first confirmation report offered by the Health and Human Services Committee. Have you all voted on the report who care to? Have you all voted? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal page 1682.)
28 ayes, 0 nays on the adoption of the report, Mr. President.

SENATOR CUDABACK: The first report has been adopted.

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Mr. Clerk.

ASSISTANT CLERK: Mr. President, the next report offered by the Health and Human Services Committee relates to Steven Dokken to the Rural Health Advisory Commission. That's found in the Journal on page 1616.

SENATOR CUDABACK: Chairman Jensen, you're recognized to open on the second report offered by your committee.

SENATOR JENSEN: Thank you, Mr. President. The Health and Human Services Committee desires to report favorably upon the following appointment to the Rural Health Advisory Commission. The committee suggests appointment and confirmation of Steven Dokken, a new appointee to a two-year term ending September 30, 2007. Mr. Dokken was unable to appear in person. Senator Heidemann's office appeared and presented a statement in support of the appointment. Mr. Dokken is a dentist who has maintained a private practice in general dentistry in Pawnee City since 1967. I'd ask for the confirmation of this report.

SENATOR CUDABACK: Thank you, Senator Jensen. Open for discussion on the second report offered by the Health and Human Services Committee. There are no lights on, Senator Jensen. Senator Jensen waives closing. The question before the body is adoption of the second report offered by the Health and Human Services Committee. All in favor vote aye; opposed vote nay. The issue before the body is the confirmation report offered by the Health and Human Services Committee. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1682-1683.) 32 ayes, 0 nays, Mr. President, on the adoption of the Health Committee confirmation report.

SENATOR CUDABACK: The second report has been adopted. Mr. Clerk.

CLERK: The third report, Mr. President, involves an appointment to the State Board of Health. (Legislative Journal page 1617.)

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SENATOR CUDABACK: Senator Jensen, you're recognized to open, as Chairman of the Health and Human Services Committee, on the third report.

SENATOR JENSEN: Thank you, Mr. President. The Health and Human Services Committee desires to report favorably upon the following appointment to the State Board of Health: James Schiefen, a reappointment to a five-year term ending in August of 2009. Unable to appear in person, Senator Baker appeared in support of his appointment. He's a general surgeon from Imperial and has long been a member of the Health and...or of, excuse me, of the State Board of Health. I would ask for confirmation of Mr. Schiefen.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the opening on the third report offered by the Health and Human Services Committee. Open for discussion. Seeing no lights on, Senator Jensen. Senator Jensen waives closing. The question before the body is adoption of the third report offered by the Health and Human Services Committee. All in favor vote aye; opposed, nay. We're voting on the third report offered by the Health and Human Services Committee. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1683-1684.) 28 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: The third report has been adopted. Mr. Clerk, last report.

CLERK: Fourth report, Mr. President, involves an appointment to the Foster Care Review Board. (Legislative Journal page 1617.)

SENATOR CUDABACK: Senator Jensen, to open on the fourth report.

SENATOR JENSEN: Thank you, Mr. President, and this is the last report. The Health and Human Services Committee desires to report favorably upon the following appointment to the State Foster Care Review Board: Joellen McGinn, a new appointment for a two-year term ending July 15, 2006. Joellen is a pharmacist,

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born in Ponca, Nebraska, now lives in Lincoln, former member of the local Foster Care Review Board. I'd ask for confirmation of Ms. McGinn.

SENATOR CUDABACK: You've heard the opening on the fourth report offered by the Health and Human Services Committee. All in favor of adoption of that after discussion? Senator Jensen, did you wish to close? He waives closing. All in favor of adoption vote aye; opposed, nay. We're voting on adoption of the fourth report offered by the Health and Human Services Committee, presented by Chairman of the committee Jensen. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1684.) 29 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: The confirmation report has been adopted. We now move on to General File, appropriation bills. Mr. Clerk, LB 348A.

CLERK: LB 348A by Senator Bourne. (Read title.)

SENATOR CUDABACK: Senator Bourne, you're recognized to open on LB 348A.

SENATOR BOURNE: Thank you, Mr. President and members. This is the A bill that will carry out the judges' salary increase and the fee increase to subsidize or take care of the judges' retirement shortfall. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on LB 348A by Senator Bourne. Open for discussion. Seeing no lights on, Senator Bourne, did you wish to close? Senator Bourne waives closing. The question before the body is, shall LB 348A advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. The question before the body is advancement of LB 348A. Have you all voted on the question who care to? Record please, Mr. Clerk.

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

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LB 348A.

SENATOR CUDABACK: LB 348A does advance. Mr. Clerk, LB 478A.

CLERK: LB 478A by Senator Cornett. (Read title.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB 478A.

SENATOR CORNETT: Thank you, Mr. President and members of the Legislature. This A bill is for a one-time computer upgrade for the system. The Department of Revenue estimates a one-time implementation cost of \$33,000. This is composed of making changes to a one on-line filing system for LB 478. Thank you.

SENATOR CUDABACK: Thank you, Senator Cornett. You've heard the opening on advancement of LB 478A. Open for discussion. Senator Chambers.

SENATOR CHAMBERS: Mr. President and members of the Legislature, Senator Cornett knows I hate her bill, the underlying bill, but since that bill moved for some unexplainable reason by all legislative logic, but if you look at our colleague, looking innocent, trying hard to make her mark the first time, that might explain why that bill moved. Notwithstanding all other things, the A bill should follow it so that if I can find a way to wipe it out, I want everything associated with it to be right there together. So for my convenience and ease of purpose, I'm going to support advancing the A bill, too. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on advancement of LB 478A? Seeing no lights on, Senator Cornett, did you wish to close? Senator Cornett waives closing. The question before the body is, shall LB 478A advance to E & R Initial? All in favor vote aye; those opposed, nay. The question before the body is advancement of LB 478A. Have you all voted who would care to? Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB 478A.

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SENATOR CUDABACK: LB 478A advances. We now move on to Select File, 2005 senator priority bill, Bourne division. Mr. Clerk, LB 117.

CLERK: Mr. President, LB 117 was discussed yesterday on Select File. Enrollment and Review amendments were considered and adopted, as was amendment by Senator Bourne. Senator Beutler had offered AM1655. That is the amendment pending. (Legislative Journal page 1672.)

SENATOR CUDABACK: Senator Beutler, would you like to inform the body what your amendment contains?

SENATOR BEUTLER: Senator Cudaback, I'm sure the members of the Legislature recall that we were on the electronic database idea. This is the concept that was presented to you yesterday that would require the State Patrol to develop a complete plan for an electronic log of sales and to report back to the Judiciary Committee next year on that plan. And if then the Legislature approves the funding for moving ahead with this particular concept, then we would do this next year. But the amendment requires that a plan be developed. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Open for discussion on adoption of AM1655. Senator Beutler, there are no lights on. Did you wish to close?

SENATOR BEUTLER: I do wish to close, Senator Cudaback. There was some information in the paper today that troubled me, and it seemed to me that it had some relationship to what we're doing today in a broader sense. So I want to talk about that a little bit. But I want to let you know that I recognize that what I'm about to say is not the perfect political speech for trying to gather your votes on this amendment, but it just seems like something I need to say. But I have this feeling that we're becoming a more fearful person, a more fearful society, not really trusting our own judgments anymore to weigh the good and the bad in everything, and that we are more often seeking refuge in ideologies or in rigid defining lines rather than embracing the broader concept of the common good or of the greater good.

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We seem to be more often stuck on definitions rather than flowing forward, confident of our ability to distinguish right from wrong in new situations of one type or another; that we are becoming a more hesitant people in general, ignoring that kind of take-it-on heritage that is ours and which made us...has made us the greatest country in the world ever. And that heritage has always succeeded in reconciling science and technology and religion and individual freedom by a careful weighing of the facts in each case. Let me talk about the two specific examples that brought this all to my mind. One is small and one is large. And the small one is this whole business of the amazing technology of data collection and data information and databases, and the enormous power to do good with this technology. And in this particular situation, we have a particularly bad problem, methamphetamine, and we can apply this technology to help us solve a bad problem. And yet, we are hesitant. And I understand that the rights to privacy and that whole line of thought is important to the discussion. But it seems to me that sometimes it's the thing itself, it's the technology itself, that makes us uncomfortable, and we're not engaging and not willing to recognize the pros and cons of something and engage and decide on that basis. And then the other thing, a much larger thing, was in the paper today. "Stem cell research breakthrough in Korea." Korea, a very fine people, I'm sure, like all others, but a country in my early youth that was known for making trinkets and fireworks and trivial things. They made the first breakthrough in stem cell research. Now,...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...South Korean scientists have created the first human embryonic stem cells that are a genetic match to patients. Scientists harvested 12 lines of stem cells, each a genetic match to the donor of the skin cells. And yet, here we are, paralyzed with apprehension, immobilized by indecision, unable to recognize the enormous greater good in what can be accomplished in this area of science; paralyzed like we are with so many things because we lack confidence that we can put adequate parameters on a new technology. Yet we've always done it in the past. We're not an immoral society today. We have

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found the right balances. Why are we so hesitant to move forward in several different areas today?

SENATOR CUDABACK: Time, Senator Beutler. Thank you, Senator Beutler. You've heard the closing on AM1655. The question before the body is, shall that amendment be adopted to LB 117? All in favor vote aye; those opposed, nay. We're voting on the adoption of the Beutler amendment, AM1655, to LB 117. Have you all voted on the issue who care to? Senator Beutler, are you...for what purpose do you rise?

SENATOR BEUTLER: Just to ask for a call of the house and roll call vote.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed vote nay. Record please, Mr. Clerk.

CLERK: 20 ayes, 2 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators please report to the Chamber. The house is under call. All unexcused senators please report to the Chamber. Senator Cunningham, would you check in, please? Thank you. Senator Byars, Senator Landis, Senator Raikes. Senator Howard, would you check in, please? Thank you. Senator Raikes. All members are present or accounted for. There's been a request for a roll call vote on the question. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken, Legislative Journal page 1685.) 18 ayes, 16 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The motion was not successful. The amendment was not adopted. I do raise the call. Mr. Clerk, when you get time, next amendment.

CLERK: Mr. President, the next amendment I have is by Senator Aguilar, AM1456. Senator, I have a note that you'd like to withdraw AM1456 and offer, as a substitute, AM1673.

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(Legislative Journal pages 1685-1686.)

SENATOR AGUILAR: That is correct.

SENATOR CUDABACK: Any objection to the substitution? Seeing none, so ordered.

CLERK: AM1673, Senator.

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President and members. This amendment is a compromise that Senator Aguilar and I worked out with Senator Redfield, and what it basically will do is all starch-based and liquid-based pseudoephedrine-based products will be behind the counter except for liquid pediatric formulations. Those will be in front of the counter unless and until it is documented by a law enforcement agency to the State Patrol that liquid pediatric formulation has been found and used at a methamphetamine manufacturing site. So what will happen is pediatric-dosed pseudoephedrine products will be out in front of the counter until the State Patrol sees that they have been used or are present at a methamphetamine manufacturing plant, and then by rule and reg, they will be placed behind the counter. I would...again, this is a compromise with Senator Aguilar, Senator Redfield, and I think it's fair. I think it does make sense, given that the doses of pseudoephedrine are so low in pediatric formulas. With that, I would urge your adoption of this amendment. Thank you.

SENATOR CUDABACK: You've heard the opening on AM1673. Open for discussion. Seeing no lights on, Senator Bourne, did you wish to close?

SENATOR BOURNE: Certainly. Thank you, Mr. President. Again, this is...this makes sense. Pediatric doses would be out in front of the counter until it is determined that they have been used to manufacturing meth. I would urge your adoption. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the

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closing on AM1673. All in favor of adoption of that amendment vote aye; those opposed vote nay. The question before the body is the Bourne amendment, AM1673, to LB 117. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 34 ayes, 1 nay, Mr. President, on the adoption of Senators Bourne and Aguilar's amendment.

SENATOR CUDABACK: AM1673 has been adopted. Mr. Clerk.

CLERK: Next amendment, Mr. President, Senator Brown, AM1467. (Legislative Journal page 1673.)

SENATOR CUDABACK: Senator Brown, you're recognized to open on AM1467 to LB 117.

SENATOR BROWN: Mr. President, I believe that the body has spoken about their enthusiasm for the idea of an electronic log. Even the idea of just examining it was not well received. I would say again that those individuals who are concerned about the use of data, the gathering and use of data electronically, should wish to be a part of determining in our state how it is done and what the parameters are going to be, the safeguards are going to be, because it is most probably going to happen, and we could serve as one of the states that helps define this discussion on a national level, if we can be restrictive and yet allow for the appropriate usage. And with that, I would withdraw the amendment, or ask that it be withdrawn.

SENATOR CUDABACK: Thank you, Senator. The amendment is withdrawn. (Doctor of the day introduced.) Mr. Clerk.

CLERK: Mr. President, Senator Dwite Pedersen would move to amend with AM1076.

SENATOR CUDABACK: Senator Pedersen, you're recognized to open on AM1076 to LB 117.

SENATOR Dw. PEDERSEN: I would like to substitute that, Mr. Clerk, with AM1668.

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SENATOR CUDABACK: Any objection? Seeing no objection, Mr. Clerk.

CLERK: Senator, I now have AM1668 in front of me. (Legislative Journal page 1676.)

SENATOR Dw. PEDERSEN: Thank you.

SENATOR CUDABACK: Senator Pedersen, to open.

SENATOR Dw. PEDERSEN: Thank you, Mr. President and members of the Legislature. This looks like a simple amendment but it's one that I hope that I can convince you. I'm sending out a handout of what a lady wrote in the Lincoln Journal Star, which gives real good reason for this type of amendment. This changes the milligrams to grams, and the reason of it is that one of the most popular drugs I know for...used for allergies is Claritin, Claritin-D. And when LB 117 was drafted, it was drafted using Sudafed, and Sudafed is used every 4 hours and Claritin, you can get, that lasts one for 24 hours, so it's going to have more grams in it than the Sudafed for 4 hours. The note that this lady wrote, or editorial, was that she's going to have to run to the doctor...or to the pharmacy a lot more times than she ever has before in order to get the medication she does now for her family who all suffer with allergies. And Senator Chambers mentioned when he first started that all we're going to add is a burden onto people with this. I don't know if that's all but it is going to be a burden to have to run to the store every time you want Claritin-D, and it is a widely used drug for allergies. I would hope that you would consider changing this. I know that Senator Bourne and the Governor's Office do not support this, but take a look at it, people. How many people do you have, how many of you people, which I'm sure every one of you has been touched by allergies in your families, and how they depend on over-the-counter drugs to take care of them. Now the makers of Claritin-D happens to be a company that is in my district by the name of Schering-Plough. But not just because of that am I carrying this amendment. I've got family members who survive year around on Claritin-D. I've got a son-in-law who has many, many allergies, and Claritin-D controls them. I think it is ridiculous to put this down and leave it the way it is and

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inconvenience these people by having to stop at the store every day to get a fix for something that is a noninflicted condition that they need this for. If you've got any questions, I would try and answer them for you. I would encourage you to support this amendment. With that, I thank you.

SENATOR CUDABACK: Thank you, Senator Pedersen. You've heard the opening on AM1668 by Senator Dwite Pedersen. Open for discussion. Senator Bourne, followed by Senators Stuthman and Kopplin. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President and members. With all respect to Senator Pedersen, I rise in strong opposition to his amendment. Let me tell you what his amendment would do. It would more than double the limit that is proposed in the bill, and I'll go back just a little bit. When the original green copy of the bill had, I believe it was, a three gram limit in a month, but there was also a logbook proposed. So as a compromise, we responded to the retailers and the pharmacists, and we reduced the...well, we eliminated the logbook, which seemed to gather a lot of...the ire against the bill was the logbook. Well, if you get rid of the logbook, you really have no way of tracking or making sure how much pseudoephedrine-based product people are buying. So in order to remove the logbook, we felt that if we kept the three gram limit, what Senator Pedersen is advocating for, it would make...it would essentially do nothing. So what we did was we eliminated the logbook but, in return, we put in a 1,440 milligram per day restriction. So that's the most you can buy, 1,440 milligrams, and I think that that's fair. So what Senator Pedersen is advocating is that we more than double the limit that's proposed in the bill. Three grams a day equals ninety grams of pseudoephedrine-based product. That equals 90,000 milligrams per month. Compare that with the 1,440 milligrams that we're talking about, 90,000 milligrams. So a person could buy three grams a day, every day for a month. They would have enough product, pseudoephedrine-based product, to make 82 grams of methamphetamine. So if we allow Senator Pedersen's amendment to be adopted, that would allow someone to purchase eight...or, excuse me, that would allow someone to purchase enough pseudoephedrine-based product to make 82 grams of meth.

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Eighty-two grams of meth would be...would roughly be about 350 doses of methamphetamine because a quarter gram of meth is considered a single dose. So what Senator Pedersen is advocating is that we would allow people to make 82 grams of methamphetamine from this limit. So I think it's too broad. I think it opens it up too much, and I rise in opposition to this. The reason that Senator Pedersen is bringing this amendment is in response to one pharmaceutical company that's in his district, and I don't begrudge him that for one second. What they are saying, and this pharmaceutical company manufactures a product called Claritin-D. Under the bill as it's drafted now, 1,440 milligrams, a person could buy a week's supply of Claritin-D. And what Senator...or excuse me, what this pharmaceutical manufacturer wants to do is allow someone to buy two weeks' supply of Claritin-D. The problem again with that is that two weeks' supply, or what Senator Pedersen is advocating, is that it could make 82 grams of methamphetamine, or roughly 350 doses of methamphetamine product. I think that's too broad, and I don't support it. You know, we respond to constituents all the time, but this is simply an economic deal. This is simply...I'll be honest with you, it is simply a pharmaceutical company that's apparently not making enough money that wants to make more. I think to expand it in this regard is wrong. I don't think it's the right thing to do for Nebraskans. I would urge you to reject Senator Pedersen's amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Further discussion on the Pedersen amendment? Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. First of all, I'd like to get into just a little bit discussion with Senator Bourne, if I may, please. I see he's busy, but...

SENATOR CUDABACK: Senator Bourne, would you...

SENATOR STUTHMAN: Senator Bourne,...

SENATOR BOURNE: Yes.

SENATOR STUTHMAN: ...in this bill, and I'm totally in

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opposition to this part of it, but I'm very sympathetic...

SENATOR BOURNE: Excuse me. You're in opposition to the pending amendment?

SENATOR STUTHMAN: No, I'm...yes. Yes.

SENATOR BOURNE: Thank you.

SENATOR STUTHMAN: But what I am concerned with is that I'm very sympathetic to the people that have allergies. Can these individuals get a prescription...

SENATOR BOURNE: Absolutely.

SENATOR STUTHMAN: ...to get it and go to that extent to get the larger amount for that individual person?

SENATOR BOURNE: Absolutely. We discussed that on General File, and Senator Burling had asked me a question. He buys I think was Claritin-D, it's an allergy product, and he buys in bulk, and it was either 30 or 60 tablets at a time. And he can continue to do that with a doctor's prescription. We're simply talking about over the counter. This law would apply to over-the-counter purchases. It would not apply to a doctor's prescribed pseudoephedrine or a Claritin-D.

SENATOR STUTHMAN: Well, thank you. I think that is a...that is what I wanted to get clarified, is because, you know, these people that have severe allergies can get their things taken care of. They have to go through a...get a prescription from a doctor, which they probably are already. So you know, that really doesn't change that. And we're just talking about the over-the-counter part of it, and that's why I think we should leave it as it is at the 1,440 milligrams per day. If we're going to be effective, that's the only way we can be effective. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. On with discussion. Senator Kopplin.

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SENATOR KOPPLIN: Thank you, Mr. President and members of the body. I'm going to talk just a little bit about being neutral on this proposal, and the reason that I'm saying I'm neutral, I do not want to scuttle this bill in any which way. I think there's a lot of things in the bill that are wrong and it's not the greatest of bills, but I'm not interested in defeating it. But I do want to tell you that I, in the fall and spring, take Claritin-D. I buy them a 30-day supply at once. And if you want to know, I go to the discount centers of Sam's and I get it in what I can handle financially, let's face it. But again, we really need to think about what we're doing here. You're trampling on people's rights. You're trampling on me saying, hey, you go to the doctor, you pay the doctor, you get the prescription, then you can buy it. Why? It's a legal product. We've got to be careful about trampling on what people need to do, the decisions they need to make, all so that we can deal with, maybe 10 percent at the most, meth production. You've got to decide whether it's worth it. How much are you willing to give up? Now, I can go to the store every five days and get my Claritin-D. It's going to cost me twice as much, it's going to cost me to get to the store. Or I can go to the doctor and pay him his \$80 visit call so he can take one minute to write out a prescription and say it's okay for you to go to the pharmacy and buy some Claritin-D. Be careful of what you're doing to people's rights here, all in the name of a good thing. That's why I'm not going to try to scuttle or do anything to this bill. But you've got to be really careful about people's rights because we haven't done anything, not one illegal thing, but we're being tromped on in the name of we're going to solve the meth problem, which this bill is not going to do. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Kopplin. On with discussion. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. Senator Bourne said this is a company that wants to make more money. Obviously every company wants to make more money, but this amendment would only give that company permission to do business as they have. Now I wasn't born yesterday. I can see the handwriting on the wall, so I'm going

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to switch it a little bit. First of all, some of you are asking, why is a drug and alcohol counselor up here talking about something that might be a plus for meth people? Well, I'll tell you, as being an alcohol and drug counselor, I've worked with mostly criminals in my life. And, people, you need to look at your own selves and look at what has happened every time we've made a law like this to control people from breaking the law. Do you really believe that this bill is going to stop the meth use or cut down on the meth use? It's like closing down the local bar and say we're going to stop the drunks from drinking. All they do is go down the street to the next bar or down to the next county or the next state. Then somebody said, we're going to get them so-and-so meth cookers and we're going to lock them up. Let me tell you, in the business of drug and alcohol addiction, as a counselor, I have not met anybody who has cooked meth for any other purpose than to use it themselves and to sell enough so they can use more. Quick dollars? Yes. But these aren't a bunch of rocket scientists. With a bill like this, we will lock up more and then when we come back for treatment, we won't have the treatment dollars for them. And what do we have is still the same problem with more rules on the books. What works, people, is education. Every one of us in here have experienced the education that's gone on with tobacco. It hasn't been the laws outlawing it here and there. It's when people know that smoking is bad for them. And they're teaching the young that smoking is bad for them. And whatever high you get for it is not worth the penalty you're going to have to pay. It's education. It's not laws, we'll lock you up if you do it, because they're going to do it anyway. And if they can't get it out of the drugs on the counter in the drugstore, they'll get it out of somewhere else. Even though they're not rocket scientists, they are determined and they do win. And they win on the dark side. This amendment that I'm offering you here today is only to let the business continue that it has without inconveniencing the people. It's not just the drug company. It's what they package, it's what they sell, and it's been a successful drug, and we're going to make people run back and forth...

SENATOR CUDABACK: One minute.

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SENATOR DW. PEDERSEN: ...more times to the drug store to get it. And you look at it down two, three years down the line that it's changed the meth use? No. Has it locked up more meth cookers? Sure. And I'll bet you every meth cooker you lock up is going to have an addiction, and all we're doing is housing them and we treat a few, but it's going to cost you, one way or the other. And if we don't start doing it right, it's just going to be cost, and a bunch of fancy bills on the books, and gee, this feels good; we got that meth cooker and we got him deep in the hole. And right behind him is three other meth cookers. Thank you.

SENATOR CUDABACK: Thank you, Senator Dwite Pedersen. (Visitors introduced.) Also, the rolls being passed out are in honor of Senator Kopplin's birthday, so we congratulate him on having another birthday. Senator Kopplin. On with discussion of the Senator Dwite Pedersen amendment to LB 117. Senator Bourne, followed by Senator Aguilar.

SENATOR BOURNE: Thank you, Mr. President and members. Listen, Senator Pedersen is running this amendment for one pharmaceutical manufacturer. And again, I don't have any trouble with him doing that. That's great. I tend to be responsive to my constituents as well. But I want to give you a sense of what we're doing. Now this amendment is specifically targeted to Claritin-D because Claritin-D has a large amount of pseudoephedrine in it. And under our...if...should LB 117 pass the way it is now, without Senator Pedersen's amendment, you can buy a one-week supply of Claritin-D. A one-week supply is eight or nine bucks. Now I don't know about how many of you all here, but I've never bought more than one package of Claritin-D at a time because it's too expensive. I'm thinking about, I have a 12-year-old son that drinks milk like a maniac, and I'm probably at the grocery store three times a week buying milk for that kid, and so I really don't see this as a big hardship to go there, you know, more than once a week or once a week to buy this product. I don't see that as a big deal. But I do want to make...point out to you what this means. If we change this for one pharmaceutical manufacturer, here's what will happen. All of the sudden, with the Pedersen amendment, you would be able to buy 100 tablets of Sudafed at a time, 100 tablets. So you could

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buy 10 tablets of Claritin-D. That doesn't sound like a lot, but you could buy 100 tablets of Sudafed. Now, who needs 100 tablets of Sudafed? You could buy eight bottles of Children's Tylenol a day, eight bottles a day under the Pedersen amendment. Children's Benadryl, you could buy four boxes. Now how many people in here have ever bought four boxes of Benadryl at one time, let alone 100 tablets of Sudafed? You could buy six packages of Advil Cold and Sinus under the Pedersen amendment. So what we're doing is we're opening up, we're broadening out the limits on this for one company who wants to make more money, and we're going to do a 100 tablets of Sudafed, eight bottles of Children's Tylenol, four boxes of Children's Benadryl, and six packs of Advil Cold and Sinus. I don't think that's appropriate. It's too much to respond to one pharmaceutical manufacturer that wants to make more money. I think it's wrong. We had some talking here or some discussion about consumer inconvenience. I'll acknowledge that there's going to be a moderate amount of inconvenience here. But we did a survey...or we tracked what surveys had been done regarding consumers' viewpoints on this. And this was done by the National Consumers League and Food Marketing Institute. They commissioned a study by Harris Interactive, and it discussed putting cold and cough and allergy products behind the pharmacy counter. The study was released on April 4 of this year. Sixty-two percent do not believe restricting sales to pharmacies is reasonable. Now this bill doesn't discuss that. Seventy-one percent believed putting product behind the retail counter is very reasonable. Seventy-one percent of those surveyed say that it's reasonable to put it behind the counter. Sixty-two percent believe putting the product in a locked case is reasonable, very reasonable. Eighty-four percent believe limiting the quantity that can be purchased is somewhat or very reasonable. Eighty-two percent, excuse me, eighty-four percent of those surveyed believed that limiting the quantity is either somewhat or very reasonable. Seventy-four percent believe that restricting the age of the purchaser is somewhat or very reasonable. And then 59 percent believe signing a logbook is very reasonable. That's not in this bill. Listen, my point is we're responding to one manufacturer that wants to sell more product, and it opens it up. One hundred tablets of Sudafed, how many people buy that?

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SENATOR CUDABACK: One minute.

SENATOR BOURNE: Six packages of Advil Cold and Sinus, that's inappropriately broad. It's too much. I would urge your rejection of the amendment.

SENATOR CUDABACK: Thank you, Senator Bourne. (Visitors introduced.) On with discussion of the Senator Dwite Pedersen amendment. Senator Aguilar.

SENATOR AGUILAR: Thank you, Mr. President and members. I'm also going to rise in opposition to this amendment. And I can't help but point out, it's kind of surprising to me when introducers don't support a specific amendment. That introducer automatically changes over and opposes the entire bill, starts telling you how it won't work, it's no good. Well, the state of Oklahoma would disagree with that, big time. One of the things I specifically want to address was the comment made by Senator Kopplin. Senator Kopplin said he's going to have to go pay \$80 for a doctor's visit to get his Claritin-D. I contend that's not true. I just walked over and asked our doc, Senator Johnson, if a patient that he knew the history on would call him on the phone and ask him for a prescription for Claritin-D, would he write that prescription? He said, of course I would, any doctor would. And I said, and that's without the charge of an office call? He said, of course. Simple as that, folks, a very minor inconvenience. We're not taking away anybody's rights. We're trying to save the lives of some people. Let's get back to reality. Let's look at what the heck we're really trying to accomplish here. And I'm sorry if this hurts some pharmaceutical's bottom line. For heaven's sakes, they make enough money. They don't need to double it with this amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Aguilar. On with discussion. Senator Jensen, on the Dwite Pedersen amendment.

SENATOR JENSEN: Thank you, Mr. President and members of the Legislature. I would rise in opposition to my good friend Senator Pedersen's amendment. I think we are really faced with

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a situation here that certainly I didn't want Nebraska to be in. I didn't want any state to be in, and I wish that we had a national policy here rather than individual state policies. But Iowa did pass one of the toughest meth bills in the country, and last week there was an Iowa vehicle that was a mobile meth lab found in Sarpy County. On Monday, Iowa's law goes into effect, one of the toughest meth bills in the country, that does have a log requirement, does have many other things that this bill...which LB 117, I think, is a great start and I'm strongly in support of it. But still, these people are going to go where there's least resistance, where they can find an opportunity to produce meth and get their products without any problem, by walking into a store. We certainly all know that you...cigarettes are now behind the counter. That was to stop underaged from smoking. I think it has worked. But it is very important that we here in Nebraska have the proper legislation that will restrict, to a point, meth use and being able to obtain products. Every year, at least once a year, I go down to Catholic Charities' Campus for Hope in Omaha, which is the detox center in Omaha. And visiting with the director down there, Scot Adams, even individuals now coming in or being picked up on the city streets and using marijuana, they will find in marijuana it's being laced with methamphetamine. Cocaine is being laced with methamphetamine. Why? Because the high is higher and it's longer. I don't think we have a choice here, my colleagues, that we must pass some legislation and we must pass some tough legislation. Is it going to inconvenience some people? I absolutely think it will. I'm also one of those who believes that all pharmaceuticals are used far in excess as to their need. And to make it a little tougher, to perhaps get that, you know, a few hours, generally the cold goes away, the stuffiness sometimes goes away. I'm stuffed up this morning. It must be something in the air. And, yes, I used to take Sudafed fairly regularly. Found out Sudafed raises blood pressure. I don't do that anymore. My blood pressure gets raised enough in here. But anyway, I think it is really imperative that we pass some legislation that is meaningful. I think LB 117 is just that legislation that will do that. And to make it a little inconvenient for a few people in purchasing of their pharmaceuticals, I'm ready to go there. With that, I'll return the rest of my time back to the Chair. Thank you.

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SENATOR CUDABACK: Thank you, Senator Jensen. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. President and members of the Legislature. I respectfully would ask the Clerk to withdraw this amendment.

SENATOR CUDABACK: AM1668 is withdrawn. Mr. Clerk, next amendment, please.

CLERK: Mr. President, Senator Synowiecki would move to amend with AM1663. (Legislative Journal page 1675.)

SENATOR CUDABACK: Senator Synowiecki, you're recognized to open on AM1663 to LB 117.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members of the Legislature. Much of the discussion and much of the components of this bill--matter of fact, so far all of it--has focused on the criminal justice interventions on the front end. And I believe that our public policy focus on this should be all-encompassing and provide for statutory mechanisms to deal with this population on the back end of our criminal justice system, on the post-conviction area. A lot of the discussion relative to this meth bill has been on the inconveniences to the general public that will be brought on as a result of the components of this bill. Well, I believe it is important that this bill also include attention toward those that have been found to have violated sections of this law and are using illegal drugs, and to give our probation and parole people, the post-conviction people within our criminal justice system, the statutory tools necessary to carry out and to be effective in dealing with this population in the post-conviction realm. With that, this amendment does essentially three things. It updates our statutes relative to the recognition that the meth addict encompasses certain mental health problems. I think anyone that has any degree of experience in working with this population would admit that, particularly those that are severely addicted to meth, that there is a mental health component to this. And this bill opens up the sections in law relative to probation and

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parole and how we deal with these individuals. And the amendment will, on page 15, expand the fact that you have to be assessed and treated for drug abuse to also include a mental health component to that, and that those that are found convicted of violations within this section are required to satisfactorily attend and complete an appropriate mental health or drug abuse assessment, conducted by a licensed mental health professional or substance abuse professional authorized to complete such assessment and complete recommended treatment and counseling. That simply updates our statutes to include the mental health component, as it is very, very widely recognized. And I think Senator Jensen would agree that there is a correlation between meth addiction and mental health. Secondly, and this...the amendment speaks to both probation and parole, as I go through this. Secondly, the amendment indicates that as a public policy of the state of Nebraska, if you're found guilty to have violated sections of law on the felony level relative to illegal drug use, that you be subject to periodic testing for illegal drug use by your probation and parole officer. Right now that is not a part of our public policy stance of the state of Nebraska, and I can attest on the floor of this Legislature that we have individuals that are on probation for a felony-level drug offense that are not required to be subject to urinalysis testing. I think that it's important that we get this on our books, and that as a public policy of the state of Nebraska, if you're found guilty of a felony-level drug offense, that you be subject to testing. And finally, the amendment calls for a conviction within this section, relative to amphetamine, that if you are on probation or parole for methamphetamine offense, either possession or intent to deliver, that you do not use any medication containing pseudoephedrine unless prescribed by a practitioner. And here's the thought or the philosophy behind that. Time and time and time again a probation officer or parole officer will have one of these offenders provide a UA sample. And time and time again that sample will come back testing positive for amphetamine. And their knee-jerk response to that is they took Sudafed last weekend, they had a cold yesterday, they took some Sudafed. So methamphetamine is quite unique in that one cannot go to the Walgreens...go to a Walgreens store and buy marijuana. I mean, if you test positive for marijuana, it's fairly conclusive that

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you used marijuana. Likewise with cocaine; if you test positive for cocaine, it's fairly conclusive that you used cocaine illegally. But methamphetamine is one of those unique substances that you can buy an over-the-counter drug, pseudoephedrine, and it causes a positive test for amphetamine in terms of a urinalysis. So I think, as a public policy perspective of the state of Nebraska, we indicate within our statutes that if you're convicted of these types of offenses, you shall not use pseudoephedrine unless prescribed by a physician. I think these three elements for both our probation and parole community, our post-conviction community, gives them the statutory tools necessary to deal effectively with this population. I think this amendment represents sound public policy, and I really think that my amendment ought to be adopted, and it sends a message to those that stand convicted that we're serious about this and that we want to give also to our probation and parole officer community, that we want to give them the tools necessary, statutorily, to effectively deal with this population so we can enhance our successful outcomes relative to recidivism. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. You've heard the opening on AM1663. Open for discussion. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President and members. There is no one that I listen to more than Senator Synowiecki on probation and parole matters. As far as I'm concerned, he is the absolute go-to person in our body here on matters relating to probation and parole. He's the dean of probation and parole, Senator Synowiecki. And I will tell you, I'm not adverse to his amendment, but I do want to let you know what we as a body are doing here. If you...I'm sure you all read every word of the budget that we passed recently, and in that budget there was \$200,000 appropriated to the Community Corrections Council to study the other end of this methamphetamine problem, and that is treatment. So the Community Corrections Council, in conjunction with the Judiciary Committee and the Health Committee, are going to issue an RFP, and there will be a vendor that is going to do a study on this matter over the summer. And there will be legislation introduced in January relative to treatment of methamphetamine. And I am...and I agree with Senator Synowiecki

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that what he is talking about here is absolutely essential because we...if we pass LB 117, we have one prong of the problem addressed--I didn't say solved, but addressed--and we don't have the treatment component addressed. And it is my intent that we will take this study that's going to be done this summer and we will incorporate that. There will be legislation. And the matters that Senator Synowiecki are outlining in this amendment will be contemplated in that study, and I promise they will be contemplated in the legislation that's introduced come January. With that, I don't think that this is an appropriate time to add this amendment to the bill. I think it makes sense to have an outside vendor look at the problem. And I am comfortable that this will be one of the components of legislation introduced, but I do believe it's putting the cart before the horse at this particular time. Again, I thank Senator Synowiecki for this idea. There's nobody I listen to more on probation and parole matters than Senator Synowiecki. But I do believe that we need to let the study go forth and add this as a next component come next January. With that, as much as I hate to say it, I would urge your rejection of AM1663. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. On with discussion of the Synowiecki amendment, AM1663. Senator Synowiecki.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback. While it's true there's going to be a study undertaken by an independent body, that study is relative to capacity of treatment. It relates to...you know, I'm kind of dumbfounded by Senator Bourne's trying to link a study that is going to study treatment resources within the state of Nebraska with good, sound public policy for post-conviction attention to this offender group. We are looking at a bill here relative to methamphetamine abuse in our society, and it is serious. It's quite serious. And we have a population of offenders that are not being addressed appropriately. We have an opportunity here to do effective work, on a statutory basis, with this population that the probation and parole officers do not right now have the tools to do. The fact that there's going to be a study this summer I endorse, and it...and what that study is going to look at is treatment capacity and has nothing to do with...in terms of the

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policy relative to how we deal with this population. This amendment is right on target with the essence of the underlying bill. The underlying bill addresses the interventions at the front end of the criminal justice system. And I just think that it is incumbent upon us to also have some sort of public policy attention to the post-conviction. I have talked with the probation administrator relative to this. This is a no-brainer. These are no-brainer provisions that we're having in here. I talked to the parole administrator, or to the Department of Corrections head. They're moving with these perhaps on an administrative basis, but I'd like to see this as a public policy in our statutes. Don't let the fact that there's going to be a study this summer deflect from what we need to do to have appropriate attention, well-rounded attention, to this problem. This is a serious problem, and probation officers have obstacles and barriers statutorily based that provide barriers to them doing effective work with this population. This amendment attempts to bring down some of them barriers. It attempts to draw a focus on our public policy attention of this group and give them the tools necessary to carry out their duties, and so we have a dramatic decrease in recidivism. You know, I think that is a very serious problem with this population, is the fact of their high level of recidivism. That study, Senator Bourne, isn't going to address that. It's not going to address the recidivism factors and our lack of attention to this problem in our statutes. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. (Visitors introduced.) On with discussion. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President and members. I won't speak again on this particular amendment, other than to urge you to reject it. If you read the amendment, it says that a person on probation or parole must satisfactorily attend and complete an appropriate mental health... (cough)--Senator Synowiecki has me so flustered I can hardly speak--satisfactorily attend and complete an appropriate mental health or drug abuse assessment conducted by a licensed mental health professional or substance abuse professional authorized to complete such assessment and complete recommended treatment and counseling. The point of the

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study is we don't even know what type of treatment is required and what type of treatment we already have in place. If we add this to the bill, we don't even know if we have the capacity to treat these individuals today. So what we would be saying statutorily, they have to complete this assessment and this...and the treatment, but we don't know if the treatment or the assessment capacity exists. So all I'm saying is, let's let the study go forward and we will add this in January to the legislation that will follow this, regarding treatment. So is that...Senator Synowiecki, and again I absolutely think he is the voice on this matter, but I just think we're putting the cart before the horse. He is saying they have to get treatment and assessment, or assessment and treatment. We don't know if we have the capacity to provide that service to these abusers. So I'm saying let's study it, let's find out if we have that capacity and then let's add this in, in January. The second thing is, is what...we don't know what the cost of this is. We didn't have a hearing on this particular matter so we don't know what it costs. I'm very sympathetic. I think Senator Synowiecki is absolutely on the right track, but I just think we need to study it, get a firm grip...a firm grasp on what we're attempting to do here, and implement it come January. With that, I would urge you to reject this amendment at this time, and then I'll be advocating for something in a similar form come January. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Synowiecki, yours is the only light on. You may either speak or close.

SENATOR SYNOWIECKI: I'll close, Senator, thank you.

SENATOR CUDABACK: You're recognized to close.

SENATOR SYNOWIECKI: The current statutes already indicate...I'm reading current statute now: Any person convicted of violating this section, if placed on probation, shall, as a condition of probation, satisfactorily attend and complete treatment and counseling. So it's already in there, and they're already required to attain this treatment and counseling. All this amendment does is update our statutes to recognize the

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corresponding relationship with mental health, and that there's a mental health component to this. That's all that does. And I, again, I appreciate the fact that we're going to study the treatment capacity throughout the state of Nebraska this summer. I'm excited about that study. But that does nothing relative to what we're trying to do with our methamphetamine epidemic in the state of Nebraska. You want to undertake to address the methamphetamine epidemic in the state of Nebraska and ignore a population of offenders that have been found to have violated these sections of law. This is a real simple no-brainer amendment. Senator Bourne seems to think that there would be some costs associated with this. I don't see that there would be any cost whatsoever. The overwhelming majority of these offenders are required now to submit themselves to testing. If they are required to do testing, Senator Bourne, the offender pays for it. It's not something the state does. Relative to the fact that meth...or pseudoephedrine use would be prohibited by our...again this is a population of offenders that are...have found themselves to be convicted of violating these sections of law. The fact that they would not be able to use Sudafed and pseudoephedrine would be no cost. The cost for the urinalysis testing is paid for by the offender. And the section of the amendment which speaks to broadening it to include mental health, there's the word "or" there. And quite frankly, I think Senator Jensen will tell you as part of this assessment, the mental health component is already looked at. It's already done. I'm just trying to get our statutes up to date in the twenty-first century relative to recognizing the corresponding relationship between methamphetamine addiction and mental health. There is no cost here. I can assure you of that. I had worked with Senator Bourne on drafting the amendment. I appreciate his assistance. We had discussions relative to this with the staff, with the Governor's staff obviously. Senator Bourne is now not supporting what I'm trying to do here. This is a real simple, simple thing here. We're trying to update our statutes to recognize a mental health component. We're saying that you...if you violate sections of this law, you should be subject to testing, and it's already paid for by the offender. And lastly, if you violate a section of this law as it relates to methamphetamine, you can't be giving the excuse to your probation or parole officer that you took Sudafed all last

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weekend. It's a real simple amendment. I would urge its adoption. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. You've heard the closing on AM1663. The question before the body is, shall that amendment be adopted to LB 117? All in favor vote aye; all those opposed vote nay. The question before the body is the Synowiecki amendment, AM1663, to LB 117. Have you all voted on the question who care to? Have you all voted? Senator, are you...

SENATOR SYNOWIECKI: I'm requesting a call of the house, please.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed vote nay. Record please, Mr. Clerk.

CLERK: 23 ayes, 2 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. Senator Bourne.

SENATOR BOURNE: I'd like a roll call vote in regular order, please.

SENATOR CUDABACK: Been a request for a roll call vote in order when all members check in. Members, please check in. The house is under call. Senator Janssen, would you check in, please? Thank you. Senator Cunningham, Senator Don Pederson, Senator Raikes, Senator Mines. Thank you. Senator Chambers, Senator Howard, Senator Cunningham. Senator Howard and Senator Chambers. The house is under call, Senator Howard and Senator Chambers. Looking for Senator Chambers. Thank you, Senator Synowiecki. Senator Synowiecki says we may go on. There's been a request for a roll call vote in regular order. Mr. Clerk, please call the roll on the question before the body.

CLERK: (Roll call vote taken, Legislative Journal

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pages 1686-1687.) 15 ayes, 13 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment was not agreed to and I do raise the call. Mr. Clerk, next amendment, please.

CLERK: Mr. President, Senator Redfield has the next amendment but I have a note she wishes to withdraw.

SENATOR REDFIELD: Senators, Senator Bourne has capitulated to the power of the moms and we've already adopted the elements of this, so I would withdraw this, please.

SENATOR CUDABACK: It is withdrawn.

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

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 117 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance. Any discussion? Seeing no discussion, all in favor of advancing say aye; opposed, nay. It is advanced. We now go on to General File, 2005 senator priority bills, the McDonald division. Mr. Clerk, LB 146, please.

CLERK: LB 146, offered by Senator Price, relates to nursing. (Read title.) Bill was introduced on January 7, Mr. President, referred to the Education Committee, advanced to General File. I do have Education Committee amendments pending. (AMI235, Legislative Journal page 1274.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Price, to open on LB 146.

SENATOR PRICE: Thank you, Mr. President and members of the body. After motorcycle helmets, prairie dogs, it's time now that we grow some nurses to take care of everybody. LB 146 addresses the severe nursing shortage that Nebraska and other

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states are facing across the nation. In five to ten years, Nebraska could lose up to 25 percent of its nurses to retirement. This shortage is exacerbated by the limited capacity in our nursing schools due to a lack of faculty. We are actually turning away the very nursing students we need because there are not enough educators. LB 146 seeks to increase nurses to attend master's and doctoral programs to prepare them to be instructors. Under this bill, nurses can apply for a loan of up to \$5,000 per year for three years. Applicants must agree to teach full-time in a nursing program for two years for each year they receive a loan. The loan would be forgiven if the recipient completes this agreement. If the recipient drops out or quits full-time teaching early, the loan must be repaid with interest. I have had distributed to you a copy of a recent Omaha World-Herald article that discusses the nursing shortage. I feel it's a very good piece of material. The shortage is well-known in the nursing field, but few people outside the profession realize what we are about to face. Allow me to highlight a few points from research by the Nebraska Center for Nursing. In 2000, the Federal Bureau of Health Professions estimated that there was a shortage of 110,000, or 6 percent, in the demand for full-time registered nurses. This is nationwide, 110,000 shortage of nurses. This...it projects that shortages in 2005, this year, will be 150,000 shortage of nurses. That's across the entire field of nursing or where nurses play a part. In 2010, there will be a shortage of 275,000 nurses nationwide; 2015, 507,000 nurses that would be needed in the nation; and the number in 2020 will be 808,000 nurses, 808,000 nurses. A 2003 report by the American Association of College of Nurses found more than 11,000 qualified applicants to bachelorette (sic) and higher degree programs were not accepted. At the same time, enrollment increased by 16.6 percent between Fall 2002 and Fall 2003. Associate degree programs also turned students away. More faculty is needed to educate more nurses; however, faculty vacancies already exist in Nebraska and across the nation. The average age of nursing faculty at retirement is 62.5 years, and the average age of current doctoral prepared faculty is 53.5 years. In Nebraska, the average age of nurses with a doctorate is 53 years. The average age of those holding a master's degree is 47, so you see the maturity in the nursing field. We have a

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crisis emerging. There will be nurses to care for me at the end of my life, but I worry who will be there into the future. We must have the foresight to act now and offer some incentives to nurses to pursue higher education. We need nurses to grow nurses. This will ensure we have the faculty to properly educate the nurses who will care for us in the future. At the request of the Education Committee, so they would agree to send the bill out of the Education Committee onto the floor, I have requested no General Funds for this program. I was tempted. I was tempted to ask for \$20,000, \$30,000, or \$50,000 per year for this, but I said I would not. Instead, the seed money for this will be from a \$1 fee on nurses' licenses for one year. That will be collected for the seed money for the loan fund, and then I will have to spend the interim and next year finding other sources of funding to fund this piece of legislation, LB 146. That is the opening, and I would answer any questions that any of the body would have, Mr. President.

SENATOR CUDABACK: Thank you, Senator Price. You heard the opening. As stated by the Clerk, there are committee amendments by the Education Committee. Senator Raikes, Chairman of the committee, you're recognized to open on AM1235.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. The bill itself, the green copy, and particularly the issue has been explained by Senator Price. I'll try to go over the changes that the committee amendment makes. I think she has already indicated what the...what the resulting bill, the provisions of the resulting bill, but I'll hit that again quickly. There would be a \$1 fee on nursing license renewals for 2006-2007. The cash fund would be used to administer the act and to give loans. The cash fund could also receive grants, donations in addition to the \$1 fee, and any loan repayments would go into that fund. There is a strict prohibition against the use of General Fund appropriations to administer the act or provide loans, so there is no General Fund commitment here. Repayment provisions for those not completing the program specify interest would accrue as of the date the borrower signed the contract. The interest rate would be determined based on the prime interest rate as of the date the borrower signed the contract. The equivalent of nursing instruction is deleted as

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an option for fulfilling the contract. It has to be nursing instruction. Repayment requirements would be based on failing to provide nursing instruction, regardless of whether or not the failure was voluntary. The department would be required to track borrowers and develop repayment tracking and collection mechanisms. Department would be required to report amounts forgiven as potential taxable income to the borrower. The Department of Revenue, and the IRS, and the department would be required to annually report to the Governor and the Clerk of the Legislature on this program. So those are the provisions. If you have questions, I'd be happy to try to address them, as I'm sure Senator Price would. I urge your adoption of this committee amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Mr. Clerk. Mr. Clerk, please. Thank you.

CLERK: Mr. President, Senator Price would move to amend the committee amendments with AM1628. (Legislative Journal page 1644.)

SENATOR CUDABACK: Senator Price, you're recognized to open on your amendment to the committee amendments.

SENATOR PRICE: The amendment that I am introducing adds a definition for approved nursing programs that's consistent with the definition of the Nursing Student Loan Act. It defines approved nursing programs as programs offered by public or private postsecondary education institutions in Nebraska, which consists of courses of education in regularly scheduled classes leading to a master of science degree, a bachelor of science degree, an associate degree, or a diploma in nursing, and programs offered by public or private postsecondary education institutions in Nebraska for the preparation for licensure as a licensed practical nurse available to regularly enrolled undergraduate or graduate students. And the remainder of the amendment removes repetitive language that becomes unnecessary with the above definition. I urge your support of this amendment.

SENATOR CUDABACK: Thank you, Senator Price. You've heard the

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opening on the Price amendment to the committee amendments to LB 146. Open for discussion. Senator Combs, followed by Senators Price and Schimek.

SENATOR COMBS: Thank you, Mr. President, members of the Legislature. As most of us already realize, Marian and myself are the two nurses in the body that still remain, and I want to rise in support of her amendment, the committee amendment, and the bill. And Marian has very well articulated the need for more nurses in Nebraska. Some of the data that's been given is the average age of nurses in Nebraska right now is 45. Well, it's no secret I'm going to be 50, so I'm right around there. And it says that some 27 percent of the state's current nurses will reach retirement age in the next ten years. Well, I plan on working at least 15, probably 20, given my situation, but I'm probably not in the mainstream there for that. But as they retire, there will not be enough new nurses to replace them and, again, it gets back to we don't have enough nurses teaching nurses. At the age that we find most of the nurses that might enter these programs, many of us are sending our own kids to college and there just maybe not...may not be the funding because of other family members that need an education that we are obligated to help, needing the money, and many times nurses, we're the last ones to think of ourselves. Unfortunately, that's the way we live our lives, personally and professionally. And I think having this loan available will give that little extra push that many of us might need to get back into the university setting and get the degree that perhaps we started working on when we had children or other things that entered our lives where we got away from the university. Maybe...maybe it's just because we were too busy working at the hospital, supporting our family all these years, or whatever venue we are nursing in, that we are just too busy working to get something done. So I think in two ways the people who have not been getting more education because of financial reasons and also just because we've just been too busy. Maybe there's some of us that would enter the postsecondary field that maybe never even thought of it, but when this bill gets passed, it gets put out in the nursing journals, we get it in our nursing news, the associations promote it. Some nurses out there may...some of that 27 percent that are going to be retiring might say, hey,

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this looks like a pretty good thing to do; I think I'm going to do it. So I really...and (b) part of our responsibility here is to look ahead of where we are and certainly in the next, you know, 15-20 years I'm going to need good nurses taking care of me, and so to do that we need this program now. This bill came out of committee with no opponents testifying against it. It is a cash funded program with \$1 coming off of our license fees to pay for it. And we also do similar programs for rural physicians and loan forgiveness in other areas of medical professionals. So I do support this. I ask the body to please lend your support to this. Help us move it through quickly. We would like to get it through and signed by the Governor this year, and we want it expedited. So we would appreciate your support on this. And I'm sure that if anyone wants to direct any questions to me, I would also be happy to answer them in addition to Senator Price. And I would give any remaining time to Senator Price, if she desires.

SENATOR CUDABACK: Senator Price.

SENATOR PRICE: Thank you. I was reminded that...

SENATOR CUDABACK: About one minute.

SENATOR PRICE: ...in the amendment it states that the apartment--the apartment--the department may adopt rules that require the maximum forgiveness amount of \$15,000 pursuant to subsection (3) of Section 4 of this act be present in the Nursing Faculty Student Loan Cash Fund before each qualified student is chosen. That doesn't mean we're going to fund on a year-to-year basis. We will be starting out with about \$22,000, but if you do the math, \$5,000 a year per year for a student, and I am not going to permit a student to start until they have the full \$15,000, so they can go the full three years. So already that money, by one student, is already eaten up. But I do not want to fund this on a year-to-year basis. This is...

SENATOR CUDABACK: You're now on your time, Senator Price.

SENATOR PRICE: Yes, sir. As we have talked this bill around this past year in anticipation of introducing it this year, as I

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have been contacted by schools of nursing and have been to other educational facilities, there are students there that are waiting to go into schools of nursing. They're on hold. It's like planes coming into an airport. They're on hold. There are not enough instructors there for them to be admitted to a school of nursing, and this is...this is sad because we need these young men and young women. But if there aren't enough instructors, they cannot be trained and go into the nursing field. The age of nurses, we are getting older. Well, each one of us are, but young, fresh nurses being mentored by adult nurses is very beneficial. I have talked to a number of young women, young men, who are getting ready to finish school and they said, hey, I would love to go into instruction and into faculty because then I would have my weekends free, I'd have my evenings free, and when I marry and have children I would be able to spend quality time with my family. Nursing instructors do not make as much money as floor nurses do or people working in specialties. They...the cost of their salary is much less than if they were into a specialty. An instructor needs to be somebody who wants to make a better use of their time, spend time with their family, or has a strong desire to be an instructor. This may be really hard for people to understand that they would give up \$60,000, \$70,000 out there and come back to a school of nursing for \$30,000 or \$35,000, but it is a strong desire to grow nurses. It makes me think of teachers. You know, they don't make the highest salary, but they have a strong desire to work with our children in public education. I urge you to support this legislation. So we pass the bill this year. We have enough for one student. Then I am going to have to talk to colleges and see if perhaps they will match tuition. I'm going to have to be real creative. I'm going to have to look at federal programs, how we can get monies. I would like to get \$100,000 in here, and so we're going to have to work to find money. This is not your job. Your job is to help me pass this piece of legislation, and then the real work begins on finding the funding for this loan forgiveness. And I look forward to your questions. Are there questions? Mr. President, I open it up to questions.

SENATOR CUDABACK: Thank you, Senator Price. On with discussion. Senator Schimek, followed by Senators Johnson,

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Raikes, Senator Dwite Pedersen, Senator McDonald. Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. Senator Price, if I might, I do have some questions.

SENATOR CUDABACK: Senator Price.

SENATOR PRICE: Yes.

SENATOR SCHIMEK: I think, by listening, I think you've answered some of my questions, Senator Price, but the committee amendment basically says that if you get the \$15,000 worth of loans, that can be forgiven a third at a time. In other words, if you...if you teach two years, a third of that loan will be forgiven; if you teach another two years, another third. So it's in increments.

SENATOR PRICE: Yes.

SENATOR SCHIMEK: You also talked about, I think, earlier on, that there would only be \$22,000 in this program. Did I misunderstand you?

SENATOR PRICE: In order to get some seed money to get started with this, we were being creative and so I went to the...I went to the nurses and the licensed practical nurses, and to get some money so we would at least have some money there, we have about \$22,000 to \$25,000 of money that is there, so we could underwrite one nurse right now. But that is just the bare minimum, you know? We're looking at raising much more money, but that was because of the graciousness of the nurse's license, is that we have the seed money.

SENATOR SCHIMEK: That's what I thought I heard, Senator Price.

SENATOR PRICE: But we are going to...

SENATOR SCHIMEK: That's all I wanted to know.

SENATOR PRICE: ...but we're going to seek more dollars for

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the...

SENATOR SCHIMEK: But I...but what I want to say to you is that's very, very, very difficult if it's...if you're going to try to raise it through private donations and that kind of thing. Is that what you have in mind?

SENATOR PRICE: No, I'm going to talk to schools of nursing and colleges, community colleges, that have these educational programs and see if, instead of giving me funds, they can...they can reduce or do a match on tuition as to have the actual cash.

SENATOR SCHIMEK: I did hear that. Senator Price, how many of these nurse teachers are needed? How many of them are needed? Do you have a figure for that?

SENATOR PRICE: No, but I would be glad to on the next reading...I'll ask the Center of Nursing if they would have an idea.

SENATOR SCHIMEK: I'm just trying to get an idea of the scope of this thing. And I remember when we set up the screening fund for mammography to pay for screening for low-income women and we asked that a cash fund be...or that a fund be set up so that we could take money into that fund so that we could help pay for this screening. Well, very fortunately for us, because I think that was going to be a really long haul, we got the grant from the CDC to the tune of, I recall it was about, \$9 million over a four-year period, which helped get the Every Woman Matters Program started. What I'm wanting to ask you, and you just mentioned it in your last remarks, is are there programs at the federal level that are addressing this particular problem, because it is nationwide? And if you'd just like to have the rest of my time, that would be fine.

SENATOR PRICE: I met with a group of nurses recently and they gave me materials that shows me what is being done federally on how other states are tapping into federal funds once the legislation is passed. Once you have the legislation...

SENATOR CUDABACK: One minute.

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SENATOR PRICE: ...then you can go to the federal level and tap into funds there.

SENATOR SCHIMEK: Okay. That makes me think of another question. Do we have a fund set up in this so that we can take in that federal money, or do we need to?

SENATOR PRICE: I would have...I would have to ask...

SENATOR SCHIMEK: You don't...you don't have to answer, but you might...

SENATOR PRICE: I would have to ask the Fiscal Office. Right now we were just talking about this, this small amount, small but very important amount.

SENATOR SCHIMEK: Yeah, you might want to ask that. I don't know if it's necessary or not.

SENATOR PRICE: Yes. Thank you.

SENATOR SCHIMEK: Thank you, and thank you for bringing the bill. I'm going to be supportive.

SENATOR PRICE: Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. On with discussion. Senator Johnson.

SENATOR JOHNSON: Senator Cudaback, members of the Legislature, I rise in strong support of Senator Price's bill. This is a looming crisis in the state of Nebraska and the only thing wrong with this bill is it doesn't go far enough. This is a good start. It brings it to our attention, but in having conversations with nursing faculty, both at the facility at UNK and at UNMC, the faculty is aging and it is extremely difficult to attract faculty. Why would anyone who is making--and I will just pick out an arbitrary number of \$50,000 per year--give up an income for a couple of years to go back to school, pay your way through school, and then qualify for a job that pays

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significantly less? It doesn't make any sense. This is the classic example of negative or disincentives to accomplish what we want to do. So I want to...I won't take a lot of time this morning to talk about this. This is a start. We need to enhance this bill as time goes on and that we all need to take part in this, not just the private sector, the foundations, but I believe the state of Nebraska. We have other loan programs to encourage people to do certain things. This is a place where we might want to look, as well. Thank you for your time.

SENATOR CUDABACK: Thank you, Senator Johnson. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. I just wanted to comment on Senator Price's amendment. I think this is a good amendment. It clarifies some important things and so I would urge your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Dwite Pedersen. Is Senator Dwite Pedersen on the floor? I do not see Senator Pedersen. Senator McDonald.

SENATOR McDONALD: Mr. President and members of the body, my daughter is the assistant administrator of the hospital in Gothenburg, and has always been a struggle to find nurses to fill those positions, and I think we don't realize where those nurses come from. They come from our local colleges. Several years ago my stepdaughter graduated from the nursing program in Kearney and I attended that graduation. I couldn't believe there were only about 32 or 33 graduates of the nursing program in Kearney. And I happened to sit by Gladys Stiles Johnston at that point and I says, how come there are no more students than this? And she said, we don't have the faculty or the facilities to educate more than a few over 30 students each year. And I was totally amazed and thought, gee whiz, how are we going to solve the nursing shortage if we don't have the teachers and the colleges behind this to produce more nursing...in the nursing profession? So I commend Senator Price for coming up with a way that hopefully will move those students, those colleges, into the nursing profession, but also to move them up into teaching professions. So I commend Senator Price for this, I hope it works, and I am supportive. Thank you.

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SENATOR CUDABACK: Thank you, Senator. Senator Price, yours is the last light. You may either speak or close on your amendment.

SENATOR PRICE: Thank you.

SENATOR CUDABACK: Are you closing?

SENATOR PRICE: How much time do I get on closing, compared to just speaking?

SENATOR CUDABACK: You get 5 minutes each.

SENATOR PRICE: Well, sir, I will close. I will use this as my closing.

SENATOR CUDABACK: You're recognized to close.

SENATOR PRICE: A question here about faculty members, the ratio in schools of nursing, there are about ten students per faculty member. So if nationwide we're short 110,000 nurses, we would need 11,000 new teachers or faculty for schools of nurses nationwide. In Nebraska, according to this World-Herald article, it says currently there are 450 students on waiting lists for admission to nursing schools in Nebraska, the Center for Nursing reported. Do the math. We need 45 new instructors here in Nebraska. As these students remain on these waiting lists at community colleges or other colleges, they wait, they wait, they wait, so sometimes they enter other medical professions, which they're needed as members of the team, but they really wanted to be nurses. And so we're losing them then from the nursing field but yet the health team is acquiring them in other ways. We will have more nurses. The main thing is if...when this...we will have more nurses when this is passed. I think people, schools of nursing, colleges are watching to see this legislation be successful in its passage. Then I won't be the only one talking about raising funds to underwrite this loan forgiveness plan. With the success of the passage of LB 146, then there will be much more interest. We will have to continue to look for funding, and we will welcome any contributions

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because it will be going to possibly care for you, your grandchildren, and maybe your great-grandchildren. And so vote for this bill and we'll assure that you have good nursing care to the end of your life. And I close with that positive note, Mr. President.

SENATOR CUDABACK: Thank you, Senator Price. You've heard the closing. All in favor of adoption of AM1628 to the committee amendments vote aye; those opposed, nay. Voting on the adoption of the Price amendment to the committee amendments to LB 146. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Price's amendment.

SENATOR CUDABACK: The Price amendment has been adopted. Back to discussion of the committee amendments. Seeing no lights on, Senator Raikes, you're recognized to close. Senator Raikes waives closing. The question before the body is adoption of the committee amendments, offered by the Education Committee. All in favor vote aye; opposed, nay. The question before the body is adoption of the committee amendments, offered by the Education Committee, amendments to LB 146. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: The committee amendments are adopted. Anything further on the bill, Mr. Clerk?

CLERK: Nothing further, Mr. President.

SENATOR CUDABACK: Open for discussion. There are no lights on. Senator Price, you're recognized to close on LB 146.

SENATOR PRICE: We're approaching the 11:00 hour, which is the drop-dead time, so right now I say please vote for LB 146, and I thank you in advance.

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SENATOR CUDABACK: Thank you. You've heard the closing on LB 146. The question is, shall LB 146 advance to E & R Initial? All in favor vote aye; those opposed vote nay. Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB 146.

SENATOR CUDABACK: LB 146 does advance. Mr. Clerk, LB 146A, please.

CLERK: LB 146A by Senator Price. (Read title.)

SENATOR CUDABACK: Senator Price, to open on LB 146A. Senator Price. Senator Price. Senator, please, the eleventh hour is nearing. Open on LB 146A.

SENATOR PRICE: Better hurry, we have one minute. As you see, we're asking for no General Funds and so there's no cost, so there is this A bill that is on file.

SENATOR CUDABACK: You've heard the opening on LB 146A. Open for discussion. Seeing no lights on, Senator Price, did you wish to close? She says...you say no? The question before the body is, shall LB 146A advance to...she said no to...right. (Laughter) That's what I thought you said. The question before the body is advancement of LB 146A to E & R Initial. All in favor vote aye; opposed, nay. Have all voted who care to? Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB 146A.

SENATOR CUDABACK: LB 146A does advance. Mr. Clerk, items for the record, please.

CLERK: Yes, Mr. President. Thank you. Your Committee on Enrollment and Review reports LB 348 to Select File, and LB 348A to Select File, and LB 478A to Select File. New resolutions, Mr. President: LR 228, Senator Raikes; LR 229, Senator Raikes; LR 230, Senator Synowiecki; LR 231, Senator Raikes. All will be

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laid over. And I have an amendment to be printed to LB 500 by Senator Redfield. That's all that I have, Mr. President. (Legislative Journal pages 1688-1690.)

SENATOR CUDABACK: Thank you, Mr. Clerk. It is 11:00. As the agenda states, 11:00, we go to Select File, 2005 committee priority bills. Mr. Clerk, LB 126.

CLERK: Mr. President, LB 126, discussed yesterday on Select File. Enrollment and Review amendments were offered. When the Legislature left the issue, Senator Louden had pending AM1217 as an amendment to the bill. (Legislative Journal page 1655.)

SENATOR CUDABACK: Senator Louden, would you like to inform the body what your amendment contains, please. Just take a minute or so.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. AM1217 reflects proposals made by the senators who are concerned about some of the provisions in LB 126 as it stands on Select File. As you will recall, LB 126 was advanced to Select File with the agreement that proponents and opponents would have the opportunity to work on the disagreements before the bill came up again for debate. Those of us that worked on this bill have come up with this amendment, AM1217. And some of the major proposals in there would be protection for attendance centers. Also, there would...there was required that state aid would be adjusted and would be followed through for some of the factors, that included Indian land, limited English proficiency, poverty, and extremeness, and that...that it would be tracked for those students that are eligible for that. And also, AM1217 would provide that LB 126 didn't apply to some of the Class I districts in Class VI territories...in Class VI districts. The other...one of the other changes was to change the definition of the local systems of Class VI district and its associated districts, and that these four protections would be on the Class I districts as they would be affiliated with the Class II, III, IV, and V districts. That's about the summation of the amendment, Mr. President. And I think there were some good ideas and good suggestions in here. The committee has done a lot of work on what we've done to come up with some of these

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ideas to help, further, and improve LB 126. So I would encourage a vote on LB 126,...

SENATOR CUDABACK: Thank you...

SENATOR LOUDEN: ...and on the amendment to LB 126. Thank you.

SENATOR CUDABACK: Thank you for the review, Senator Louden. On with discussion of AM1217. Senator Smith, followed by Senators Fischer and Raikes. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I rise in support of Senator Louden's AM1217, and the efforts of the rural senators who have worked very hard in coming up with a response to LB 126. I can only speak for myself, but I can say that I have put in more time on this issue than any other issue in my seven years in the Legislature. I never thought that I would feel so strongly as I do about a topic. And especially in a passive sort of way, given the fact that I am responding to LB 126, rather than advocating for a bill in and of itself, in a reverse fashion as of LB 126. Some of the most moving stories that I've heard regarding Class I schools--and this is not an isolated scenario; it's come multiple times--but it comes from parents who say that in the larger school setting their child was in a special ed track. They opted their child, not out of bitterness, but they saw the Class I school setting outside of town a little ways, and they saw the smaller class sizes, the two grades per classroom, perhaps. But merely another option to education, to public education. So they moved their child, who was in special ed in town, to another setting. In the new setting, they weren't a special ed student. Extra funds were no longer required. This has happened multiple times. And if we are really wanting to stand behind our word of quality education, we will replicate Class I schools, not eliminate them. Why do Class I schools work? In my opinion, it's because of the autonomy. I am willing to support a compromise of LB 126, as long as there is at least some sort of autonomy. And I'm not looking for taxation. I'm not even looking for bottom-line budget autonomy. I'm looking for operational autonomy, operational autonomy within the Class I setting, where those parents, community members, school board members come

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together to discover what's best for that set of students in that community, in that local setting, so that they can meet those needs. Of the 230-some Class I operations around the state, we have a diverse need. Some are close to town; some aren't. Some are on mile line roads, some are on a very narrow gravel road in the Sandhills. The fact is, the needs are different around the state. And I believe that we should meet those needs. But I don't believe we should meet those needs in a cost matter that is unreasonable. And that's why I speak with emphatic support of those Class I schools, the majority of which operate very efficiently, and certainly those in western Nebraska. It's interesting to read educational research that talks about the kindergarten through 8th grade setting being the most desirable, over a K-6, and certainly over a K-5. A few years back, we saw that the middle school concept was the way to go. It's failing.

SENATOR CUDABACK: One minute.

SENATOR SMITH: It's not working. The middle school concept isn't working. And while the Class I schools that we have today are holdovers from the past, they've come full circle. Now, all of a sudden, we, as I mentioned, are seeing the research that supports the existence of kindergarten through 8th grade, because there's a greater chance of students from the same family being under one school roof, which means a greater chance of parental support. When I hear from educators, the number one lacking factor in public education today is parental support. LB 126, I will guarantee you, will alienate public schools from parental support in communities. And there's no better time than now that we need to build upon it, and not discourage it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. On with discussion of AM1217, offered by Senator Loudon. Senator Fischer, followed by Senator Raikes. Senator Fischer.

SENATOR FISCHER: Thank you, Mr. President, members of the body. Senator Loudon and I introduced this amendment because we felt it was in the spirit of negotiating, and we felt that this amendment addresses some of the concerns that we heard on

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General File from supporters of LB 126. As Senator Loudon said, this amendment does offer some concessions to the people who support LB 126. But there's one concession we couldn't make, and that is recognizing the quality education that Class I districts provide, and the importance of those Class I districts in many areas of Nebraska. And so under this amendment, Class I districts are allowed to continue to exist as political subdivisions, as they have for many, many years here in the state. There are some requirements, though. The Class I districts would need to address the concerns that were expressed in regards to accountability. In that regard, in this amendment you will see that Class I districts, in order to meet that requirement, will take a three-year average of the student assessments, their scores. And if they can meet the K-12 district's assessment scores or be above the K-12 district's assessment scores, they are allowed to remain open. In regards to the efficiency question that was brought up during General File debate, our proposal is, in this amendment, that if a Class I district with a three-year average cost per pupil, if that is equal to the K-12 district or below the K-12 district's cost per pupil, that Class I district will be allowed to remain open. In regard to enrollment, if the Class I district has two...an average of two students per grade enrolled, that Class I district will be allowed to remain open. In regard to the argument on the necessity for Class I districts to be out there, or if they're supposedly out there as some type of haven, in one form or another, our proposal is that that Class I district, if it is at least four miles from another elementary district, on a reasonably maintained public highway, that Class I district will be allowed to remain open. We also have a proposal in here in regards to state aid. I personally believe that there isn't much accountability from school districts when they receive their state aid check from the Department of Education. Senator Loudon, I thought, had a wonderful idea on how we can get more accountability from school districts when they receive that check. As most of you know, in the state aid formula, districts receive money based on need. That need is determined by a number of factors. And some of those address specific problems or challenges the students face. In this proposal, that is addressed. If a school district, K-12, Class I, whatever, is receiving state aid because they meet the

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requirements to help students get past these problems and challenges that they face, that money that they receive from the state of Nebraska and from the taxpayers of Nebraska needs to go to those students. It's not just thrown into the General Fund. It has to be accounted for.

SENATOR CUDABACK: One minute.

SENATOR FISCHER: Districts already do that when they receive federal funds, with your Title I money. Districts have to account for where that money is going, and they have to show and prove that it is reaching the students that that money has been designated for. I feel this is a very important point in this amendment. As I said yesterday, this was our first proposal back to the supporters of LB 126. We had negotiations since then. But we're discussing this amendment here and now, and I support this amendment, and I would urge your support of it also. Thank you.

SENATOR CUDABACK: Thank you, Senator Fischer. On with discussion of AM1217. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I want to agree with some of the things that Senator Louden and Smith and Fischer have said. We've worked very hard on LB 126. There are some passionate views and beliefs about this issue. And I will tell you that I believe we have reached an accommodation that is not going to satisfy everyone. I think that simply was not possible. But I believe it is a good proposal. I know it's not everything that I wanted. But yet, it's something I can live with, and it's something I believe...I believe the people on the other side of this issue could say roughly the same thing. That amendment will be coming down the line shortly, and I'll go through that at the time. For the moment, I did want to comment why I cannot support this amendment. First off, it leaves Class I districts as independent. It...we do not achieve the primary goal I've had all along of a K-12 organization in the state. You've heard reasons from folks why they don't feel that's necessary. But nonetheless, that is a key bottom line for me. So I cannot support that. I will tell you that some of the items in here

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regarding protection of elementary attendance centers are incorporated in the amendment that will be coming down the line. And I hope that indicates to you that we tried very hard to accommodate wherever we could. And we did include some of the suggestions that were offered to us by people on all sides of the issue. I will tell you also that there are some things in here that we did not include. We...student achievement in really small schools, using that as a criteria for keeping them open, you run into real issues with reporting requirements and disclosure of individual results. The groups are too small to report those results. Cost per student information I have felt for some time--and we talked about this on General File, if you can...if you have a good memory--that the bigger issue for a K-12 organization is the cost to the entire K-12 district. It's...what happens in any one particular building or in any one particular classroom is not really the critical issue. Finally, I think a good point is made about directing money that's associated with demographic factors to the students that you are identifying in that formula. But this is not a good way to do it. This, in fact, I think puts a burden on smaller school buildings that makes it basically untenable. So again, I recognize and want to begin to acknowledge now all the work that's gone into LB 126 from...by all those involved. I would, however, urge that you not support this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. On with discussion of AM1217. Senator Kopplin.

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I rise to just offer one little outlook on the proposed amendment, things that I see may be a hazard. I am not attempting to say who is either efficient or who might be a quality school, because both efficiency and quality are in the minds of the beholder, and everybody is right. But I would point out, on page 2, in part (3), the comparison that is asked to be made compares elementary costs versus K-12 costs. It costs a whole lot more money to educate 9 through 12 than it does through K through 8. So that's really not a proper comparison. It also doesn't address...it does address that, well, we'll take the special education costs out. Perhaps it should be considered that you take the English language learners

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cost out, which is considerable for some K-12s, and not for the K-6s. The other caution I would raise is trying to do some kind of a comparison of a three-year average of test scores. Testing is a complicated item. I do not think you will be pleased with any kind of result you can find with this. Standardized tests are not a very accurate indicator of either achievement or quality. Thank you.

SENATOR CUDABACK: Thank you, Senator Kopplin. On with discussion. Senator Smith, followed by Senator Redfield.

SENATOR SMITH: Thank you, Mr. President and members. I just handed out to you a Wall Street Journal article from April 6, where it talks about middle schools going out of fashion, and that the model is becoming the kindergarten through 8th grade model. I spoke of that earlier. But you can look at some of the research. And I realize that it's from a big-city newspaper. However, I believe that there's some credibility there, and I hope that you will look at that. But when we think about quality education, we're not talking number crunching relating to dollars. We're talking about a qualitative analysis of our education system today. We would be seeing more Class I's. If that were truly happening, we would see more Class I's around the state...or, kindergarten through 8th grade operations, operating in a context of autonomous decisions. And we need to see more of that, not less of it. I'm very concerned about this worked-out deal, so to speak, containing new state mandates. It's going to...and for those of you who are hearing from Class III districts, K-12 districts, saying, oh, we've got to close those Class I schools, or more so, we need to control those Class I schools, that's what this is about. If it's not about closing the schools, it's about control. So it's a little power play. Nothing different than that. But these K-12 districts, Class III districts, are basically asking for mandates. And I suppose when there are various entities asking for mandates and we want to give it to them, I say, do that with caution. Be careful what you want; it may come back to haunt you. That's why I am very, very, very adamant that I will not support something that does not contain some autonomy, because that is the quality driver. We talk about prevention here in the body, primarily in health, health-related fields. We talk

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about prevention, early childhood, because if we can educate them early enough, or intervene early enough, we can prevent further cost down the road. Tell me how that works into LB 126. I'm not convinced. If we're going to talk about prevention, we're going to look at the facts around the productivity of Class I schools, relating to high school graduation, relating to how dollars are leveraged in the community, how a Class I school brings in help from the community to build on a new addition, and probably cuts the cost of the new addition in half because there's volunteer labor. I don't see that happening in Lincoln Public Schools. I hear more about golf outings of the administrators than the community coming together in Lincoln Public Schools. We hear about communities needing, and I'm talking about true need for a new facility, and be that K-12 or not, or Class I or not, but there's true need for a new facility. And there can't be a bond issue passed because there's an alienation between the community and the public school system because of property taxes. Tell me how LB 126 is going to help that. It won't. Tell me how we bring back so many students that are being pulled out...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...into home schools. These are quality students that are being pulled out of whatever school district to be homeschooled, because there's an alienation between the public school district and the taxpayers and parents. Tell me how LB 126 gets to that. We've got some very real issues facing public education today. And a lot of it is public perception. And LB 126 is going to alienate not only public education, but public policy around Nebraska. And in the meantime, we're going to have to spend more money to do it. I don't believe for a minute that we're going to save money with LB 126. And that points to the facts, the bare facts of more administration over the last 30 years. It grows and grows and grows, and that costs money.

SENATOR CUDABACK: Time, Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

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SENATOR CUDABACK: Thank you, Senator Smith. Senator Redfield, followed by Senator Mines.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I rise only to say that throughout Nebraska we have good schools. We have good teachers, we have good parents, we have good kids. We have quality education in lots of our schools. And I find it somewhat disconcerting when, during the debate, I've heard repeatedly that parents won't be involved. We have parents that are involved in all of our schools. We have teachers that will go the extra mile in all of our schools. And I'm truly grieved when I've received letters from some of the children in the Class I schools, and I see fear. They say, please don't make me go to the town school. And they quote things like the Columbine massacre. Why are we making our children afraid of change? There's a big world out there, and we're going to have to face it. And I'm not saying that we shouldn't protect our children and care about our children. But certainly, they go to town, that town of 800 or 1,200, and they go there for church, and they go there to shop, and they look forward to going to town. Why would it be different to going to school in town? There's nothing in the bill that says every Class I school is going to close. It's just about governance. I hope that we can help our children learn not to be fearful people, but people who are bold and brave and willing to go out and face the world. Because it will come sooner or later. Nebraska is not a fearful place. Nebraska is a great place. We call it the good life, and we call it the good life from the Missouri River to the western border. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Mines. The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM1217? All in favor vote aye; opposed vote nay. We're voting on ceasing debate. Have you all voted on the question who care to? We're voting on ceasing debate. Record please, Mr. Clerk.

CLERK: 25 ayes, 5 nays, Mr. President, to cease debate.

SENATOR CUDABACK: Debate does cease. Senator Loudon, you're

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recognized to close on AM1217 to LB 126.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As we listened to some of the discussion, we don't hear that much about educating children, or local control on schools, or what people are doing in their own area. It talks about governance. We want to have a school board system, a K-12 school board system. We've had that in Class VI school districts for years. Worked fine. LB 126 does completely away with any Class I-Class VI districts. Sure, you call them Class I's in a Class VI district. You could probably name that district...call it a Class VII with community schools, or something like that. Maybe that would make some folks look the other way, or decide that it was something different. But a Class VI district is a K-12 district. And there are many, many of the area out in western Nebraska that's covered by that type of school system. We have whole counties, at times, that are Class VI districts--naming Grant, Sioux, and a goodly portion of Sheridan County, for one, and also Cherry County, is mostly all Class VI districts. That probably takes in over a third of the surface area of the state of Nebraska. So remember, when you're voting in on LB 126, you've just sunk that all down the tube, and that will be the end of that. Some of the other provisions in there that I think are something that needs to be considered in AM1217 would be the accountability with the state aid. Up until now, we've been spending fortunes in state aid, and nobody has really ever tracked that money to see where it's going or where it...if the students that are entitled to it are receiving it. Once the state aid goes into a school district fund, then it can be used more or less however they see fit in their budget. It isn't tracked accordingly. If there's language deficiency for students, do those students receive it? If there's a poverty level and a certain school system is entitled to that type of substitution, do they have that? No, it...there's no way that any of that is tracked. That was part of the amendment LB...AM1217 would cover. Also, in some of it, it was...whether you would...you're going to have a local system for your schools. When you go with LB 126 and as the way it's being structured now, you're going with K-12 systems. Whenever you increase the size of your system, or you're going with consolidation, are you actually increasing the amount of money

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available for education? Or are you increasing the need for more administration? As your size of your districts increase, you're certainly going to need more top administrators on the top side. You're going to need more undersecretaries or "undersuperintendents" that...assistant superintendents. You're probably going to need more transportation. There's all kinds of things that, as you enlarge the areas, that you're not going to gain anything by, and probably regress in some of those matters. I think the question is, is whether you want to improve education with LB 126, or whether you want to improve the administration and the cost of the operation. And these are some of the questions that were brought up as we tried to work with this LB 126. We started in January, and here we've gotten nearly to the 1st of June. Hopefully, there's some improvement in what the...

SENATOR CUDABACK: One minute.

SENATOR LOUDEN: ...outcome will be. But at the present time, I appreciate any votes for AM1217. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Louden. You've heard the closing on AM1217 to LB 126. The question before the body is, shall that amendment be adopted? All in favor vote aye; those opposed vote nay. Voting on adoption of the Louden amendment, AM1217. Have you all voted who wish to? Senator Louden, what purpose...have you all voted who care to? Record please, Mr. Clerk.

CLERK: 13 ayes, 26 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The Louden amendment was not adopted. Mr. Clerk, please.

CLERK: Next amendment, Mr. President, Senator Flood, AM0418.

SENATOR CUDABACK: Senator Flood, to open on AM0418 to LB 126.

SENATOR FLOOD: Mr. President, I'd like to withdraw that.

SENATOR CUDABACK: AM0418 is withdrawn.

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CLERK: Mr. President, the next amendment, Senator Raikes, AM0363. Senator, I have a note that you'd like to substitute AM1672. (Legislative Journal page 1679.)

SENATOR RAIKES: Please.

SENATOR CUDABACK: Any objection? So ordered.

CLERK: Senator, AM1672 is pending.

SENATOR CUDABACK: Senator Raikes, to open.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This is the amendment that I referred to earlier in the comments. I'm going to run through this quickly. I hope you have before you now a bullet sheet on that amendment. I apologize for our lack of precision. It indicates the fluidity. I think it says, 5-19-2005, 6:25 p.m. It was actually 6:25 and 53 seconds, but we'll let that one go. There are three or four important distinctions, or important components of this that I want to alert you to. I've already mentioned that the first priority, as far as I have been concerned for some time, is K-12 organization. This amendment protects, or brings us to, I should say, K-12 organization. It does provide accommodation...and I might just mention in that connection, I think one of the major concerns of those who were on the other side of LB 126 was the protection of attendance centers, the protection of opportunities for kids to continue to attend the school buildings that are now Class I's. I'll go through the sections. First, operating councils are formed. These are...the characteristics of them are listed out. I won't go through them in great detail. They provide a local group that is advisory to the K-12 board on matters pertaining to the local building, which is called a community school building. They involve an opportunity for that advisory board to submit a budget, and again, on an advisory basis. They have an opportunity to interview and recommend staff for the community school. They would be included in the administration of the district by receiving copies of materials provided to the K-12 board that affect that particular school's operation. And they

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would also be given an opportunity to meet on a regular basis with the administrators in the K-12 school. Elected representation is the next area. And again, I'll try to quickly go through this. But you recall, at the end of General File, one of the concerns was that assimilation or closing of attendance centers could occur before you had an opportunity for everyone in a Class I district to either vote for someone or be elected on a K-12 board. This has been accommodated in this amendment. In fact, our conversations yesterday actually have led us to more than what's presented. I'll get to it in just a second. But there would be an opportunity to...for every...before any building could be closed, there would be an opportunity for every person who is a citizen in a Class I district to have voted for and/or served on a...the K-12 board. Attendance center protection is the next general area. First point I'll quickly go over, it says no protection, and that is simply no protection in the event that an attendance center does not comply with the rules for the assimilation of the district...of the Class I district into the K-12 district, which would occur in the...by the 2006-2007 school year. Beyond that, there are three levels of protection. First is the initial protection. And in effect, what's going to happen there is that if you have a...or, if a person had a child that was going to be a kindergartener in a K-6...what is now a Class I school, that parent could be assured that that child would be able to complete that...their 6th grade education in that building. So there would be ongoing initial protection for that building until that student had completed the 6th grade, if it's a K-6 building. If it's a K-8 building, the same would apply for the 8th grade. That, in effect, stretches out that initial protection period to July...or, to 2013 in the case of a K-6, and to 2015 in the case of a K-8. Beyond that, elementary attendance centers would be continuously protected from closure after that period. And there's a couple of instances. One of them would be if the closing of a building would mean that a family would have to travel more than 20 miles to get their student to an elementary school. In that event, the building would be kept open. There is also continuous protection if there's at least ten students and ten miles...and I won't labor you with all the details. But if there's ten resident students and there's at least ten miles to be traveled to get to another

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elementary building, in effect, the protection would continue. There is another level of protection also, though, in the event that a building would not meet those requirements. And that involves requiring a 75 percent majority of the school board to take action to close a building. There, the distance that would need to be met drops down to four miles. Finally, I will mention that no building would be closed without at least a majority vote of a K-12 board, so that, again, to repeat the point, there would be no mandated closing of any school building as a result of LB 126. And in fact, the thrust of the bill, in terms of all these provisions, is in exactly the opposite direction. I'll move quickly on to that, and of course, offer to answer questions as you have them. Another point that was brought up at the end of the General File discussion was financial impacts on districts that would be moving from Class I-Class VI to Class IIIs or K-12s. Two areas there. REAP funds--these are rural economic...something funds. I've forgotten the "A" right now, but I can come up with that if you'd like. These...this is a federal grant program that makes schools eligible to receive funds if they have less than 600 students. So you can see on the bullet point, I hope, that there are six Class I systems that would lose those funds as a result of this. And we are proposing that those funds would be made up to those districts. And so there is an A bill that would provide that amount of money. The second area of financial impact that I'll mention right here is transportation. Currently, there's a mixed bag across the state of required provision of transportation expense to high school students. This would make it optional for a school district to provide transportation for a high school district...or, for high school students throughout the state. It would make it similar from Class I to Class V. Everybody would be the same. It allows a great deal of local autonomy. If you now provide that transportation and want to continue it, you could do so, and it would be on the same basis, in terms of reimbursement. If you wanted to discontinue doing that, that is allowed, and the reimbursement mechanism stays exactly the same. Or if you wanted to go halfway in between, to provide, say, for the first two years of high school but not the last two, this would all be a local decision. Currently, you may...

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SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...not remember, but transportation is picked up as a part of needs in the state aid calculation. So if it's an equalized school district, whatever decision you would make in terms of providing transportation expense would be reimbursed through state aid. Finally, and quickly, I'll mention elementary improvement grants. This was an issue brought to me by Senators Langemeier and Flood. They have situations where we're talking about the impacts of reorganizing districts, moving to a K-12, and the possible negative impacts of that on getting bond issues where they are drastically needed for elementary schools. This would provide a very limited, but some, amount of money to school districts who meet the qualifications, get approval through the department, and pass a bond issue of at least \$2 million during the window identified here, which is June 15, 2006, to...

SENATOR CUDABACK: Time, Senator Raikes.

SENATOR RAIKES: ...June 15, 2007. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the opening on AM1672, offered by Senator Raikes to LB 126. Open for discussion. Senator Smith, followed by Senator Brown and six others. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I rise in opposition to AM1672, for reasons that I've stated earlier, but primarily that the autonomy that has worked so well in the local setting is dissolved. It's intentionally dissolved. I have put up several proposals to attempt to maintain even part of that autonomy, primarily being the operation of the community school, not even asking for bottom-line budget authority, not even asking for taxing authority. Because taxing authority was taken away a long time ago. In fact, it kind of reminds me of how, in the past, a compromise has been arrived at, primarily with the affiliation issue of several years ago, only to come back and be used against the Class I schools across Nebraska. That offends me. I think that it is unfortunate. And I fully realize that what one Legislature does in the early nineties they can undo in

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the year 2005. I'm fully aware of that. But I hope that we don't hold a compromise against those who agree to it. I'm kind of anxious to see how this turns out, if indeed it does pass. I guess maybe a prediction that I'll make might help people refrain from doing it. But I'm kind of anxious to see a new list of administrators called assistant superintendent for school district assimilation. Because that's probably what we're going to have. When we see the growth in administration over the last several years, I think we're bound to see more. And the most upsetting thing to me is, as we see more and more and more administrators, we're also seeing a heavier and heavier burden on classroom teachers. Classroom teachers are bogged down right now. I don't know the exact numbers, but I would suggest that there are probably more teachers leaving the profession because of the bureaucracy than because of the pay. And I know I had teachers out there, even in the K-12 setting, that I think deserved \$100,000 a year, and no less than that. They were fantastic teachers. But again, our one-size-fits-all approach prevents us from paying more money to those teachers who deserve it. And LB 126 is a one-size-fits-all program, not necessarily for teacher pay, but for the organization of a school district. To me, it flies in the face of common sense. And when I hear the most common criticism of Class I schools being that they offer higher-quality programs and a better education than a larger setting, therefore we should take it away, there's a political concept to describe that, and I can guarantee you it's not a democracy or a free market. When you take away quality, take away the benefits that someone...and the advantages that someone has so that you can spread it out among everyone else, that disturbs me a lot. What we have right now is working. But I'm even willing to endure some change. I proposed some changes. Perhaps it was a little too much change for several folks, especially behind the glass. I am opposed to AM1672,...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...again, because it takes that autonomy away, and it places new mandates. You talk about unfunded mandates, perhaps, or mandates of any kind, you be ready to take the criticism, because there...it may not happen right now, but for

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those of you who are not term limited, or those of you who will be around a lot longer than I, brace yourselves for the criticism that I think will happen several years down the road because we are forcing, we are forcing school districts to keep certain buildings open, based on arbitrary thresholds that have nothing to do with quality. This is a control battle, and nothing else. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. On with discussion. Senator Brown.

SENATOR BROWN: Mr. President, I rise in support of the amendment, and to thank all of the people on both sides of this who have spent so much effort. This is one of those issues that it's pretty hard to find a gray on it. It's been black and white. And I think we've found the gray, and I'm glad we have. And I appreciate everybody who's worked to find the gray. And I would yield the rest of my time to Senator Raikes.

SENATOR CUDABACK: Senator Raikes.

SENATOR RAIKES: Thank you, Senator Brown and Mr. President, members. I'll quickly finish this bullet sheet. I hope I covered the money that would provide, admittedly a small, but an incentive for a bond issue to be passed, where it is clear, through the state board, that such is needed. There are a couple of technical points regarding clarification of items. And you'll notice the very last one, I think, reflects a theme that if there is agreement locally to do something other than what is prescribed in here in the way of a particular procedure, but yet achieves the same result, then that will be honored. So with that, thank you, and I urge your support of the amendment.

SENATOR CUDABACK: Thank you, Senator Raikes and Senator Brown. Senator Heidemann, followed by Senator Flood.

SENATOR HEIDEMANN: Thank you, Senator Cudaback, fellow members. I just wanted to share a little bit with you about what you're going to vote for, kind of more of the fiscal side. I sit on the Appropriations Committee, and one of the things...there was many things that concerned me on LB 126. But one of the things

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that concerned me was about what we're to do fiscally. We're...we've been told we're going to save money, but how much money we're not for sure. I really believe, what we've been told, I don't think we're going to realize that. One of the things that I wanted to make sure that everybody realized though--and I handed this out, and I think this is very important to look at--out of the 231 Class I schools that we are about to shut...and the deal has been done, it's struck, it seems like it's a done deal. And the one thing that I'd like to comment is, feels like Class I's are on...received the death penalty, this is execution day, and we're about to get the last supper here with AM1672. That's what I feel. I don't know if I'm going to partake or not, but that's what it seems like is going on. But back to...they're called a REAP fund...REAP money. But it's really actually the SRA (sic) program--Small Rural Schools Achievement. A hundred and twenty-three schools out of the two hundred and thirty-one schools, the Class I's, received \$2,317,000. And the way they receive this, the federal government looks at...it's called LEAs, and it's pretty much the school districts. We are going to wipe out those school districts. And when we wipe out those school districts, we are going to take this 200...\$2,317,000 and we are going to go (rips paper) like that. And as someone who sits on Appropriations Committee, we look time and time and very hard to make sure that we get as much federal funds as possible. And now we want to do (rips paper) this. In the handout that we got that explains LB 126, there is--and Senator Raikes has explained this--there are five schools that we want to compensate. And I would like to ask Senator Raikes some questions, if he would yield to me.

SENATOR CUDABACK: Senator Raikes, are you available?

SENATOR RAIKES: Yes.

SENATOR CUDABACK: Yes, he is.

SENATOR HEIDEMANN: Where did this come from that we want to do this?

SENATOR RAIKES: Senator,...

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SENATOR HEIDEMANN: Why do we want to compensate these schools?

SENATOR RAIKES: Senator, these...this was part of the discussion on...at the end of General File, as I tried to point out. These are the Class I-Class VI schools that would lose all of this REAP money. As you pointed out, there's about \$2.3 million that goes to schools now in the state through that program. There would be...as near as we can tell, that would be reduced by about \$1 million statewide. In other words, there are a number of schools that would continue to qualify for REAP funding, even after LB 126, because they would have fewer than 600 students. These are the ones who would lose all of the REAP funding, these six...five, excuse me, five Class I-Class VI systems.

SENATOR HEIDEMANN: You are right. The school districts where these children will be assimilated with will receive some money. It will go down from sometimes on the average of \$2,000 per student, according to the formula,...

SENATOR CUDABACK: One minute.

SENATOR HEIDEMANN: ...\$100 per student. Isn't that correct, Senator Raikes?

SENATOR RAIKES: Yes. The formula is spelled out there in those footnotes, and it...I think the maximum size that can be is 600 students, to receive. And then there is a decline...I think, as schools get smaller, the amount per school goes down, but the amount per student goes up. And it's a particular quirk of the way they've decided to define this.

SENATOR HEIDEMANN: And according to the funding formula, the maximum that a school can receive is \$60,000. Why...how can we justify giving some schools \$165,000? If the maximum they would receive under the REAP program, or under that Rural Small Schools Association (sic) is \$60,000, why do we want to give them \$165,000?

SENATOR RAIKES: Well, quickly, before you run out of time, there were...this is a part of the...putting the districts

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together. And...

SENATOR CUDABACK: Time, Senator.

SENATOR RAIKES: ...the Class I's can count as separate.

SENATOR CUDABACK: Time is up.

SENATOR RAIKES: Thank you.

SENATOR HEIDEMANN: Thank you very much.

SENATOR CUDABACK: Thank you, Senator Heidemann. Senator Flood.

SENATOR FLOOD: Mr. President, members, there is no doubt this is a gut-wrenching issue. If you live in a rural area and you represent a rural district, it is so gut-wrenching on so many levels, it's hard to even negotiate, because LB 126 going away seems like the only way to solve every individual problem that you have in your office here in the Capitol every day. And for some of us in the rural areas, we are balancing the interests of a Class III and a Class I. We have K-12s that have issues, and we have Class I's that have issues. And so it's a balancing act. And everyone has a different situation. I want to commend Senator Raikes, as a strong opponent to LB 126 throughout the entire process. He has negotiated, he has considered, and in my opinion, has worked very hard to recognize our stand on these issues. Now, he can't agree to every one, just like a lot of us can't agree to every one of his positions. And in this situation, negotiating with eight individual problems with very little commonality has to be difficult. So I want to recognize his efforts. In the big picture, we'd like LB 126 to go away. It's not going to. There are some pros to this amendment. Attendance center protection, that is key. Seven to nine years, that is a significant concession. You can look at a 3rd grade parent and you can tell Mrs. Smith that her son is going to finish his or her elementary school at that attendance center. I'm sure there's going to be efficiencies somewhere in the process. I'm not aware of where that is yet, but I'm hoping there's going to be some. And there's a recognition in this that there are some districts in Nebraska, like Schuyler,

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Nebraska, Madison, Nebraska, I'm sure Lexington, where the local school district patrons have a hard time passing a bond issue, for many reasons. And this is...addresses that. There are cons to this, on several different levels. We are dissolving what has worked so well for so many in education for a very long time. Class I school students are tremendous, just like we have tremendous students in our Class IIIs. This is a system that has worked well across Nebraska. That is a big loss for the entire state. There's also a by-product of what we're doing here in an effort to create a K-12 system, that will cause problems for the K-12s, and one issue that I intend to address, and that's when you change districts and their boundaries by dissolving a Class I and sending the kids either where most of the...or, sending the land where most of the kids go, or affiliating it with the Class III that they're affiliated with. We're going to have some K-12s that lose valuation, and then they turn to a state aid formula that is unpredictable, and they don't know what to expect. When they tie their income to the valued land, that is a constant that they can expect. And I will be back with other senators to address that. And finally, in the cons, we worked quickly on this. The devil is in the details. I am concerned that we don't fully know every consequence of what this type of an education reform has in it. And I hope that over the summer, as administrators, parents, and communities look through this final product that is passed by this Legislature, we can work toward solving some of the problems.

SENATOR CUDABACK: One minute.

SENATOR FLOOD: The final thing I have to say, and that would be a message to the school districts, the Class I school boards, the patrons of all the school systems affected by LB 126--we know this is a contentious issue. If you come to the table and refuse to negotiate or to cooperate, the kids lose. We have worked with Senator Raikes with that in mind. And if Class I school districts or their K-12 counterparts refuse to work in good faith, you will have problems, communities will divide further, we will have lawsuits. I hope that's not the case. That's not good for Nebraska, and that's not good for those kids. So I hope that the rest of Nebraska negotiates in good

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faith as we work together to serve this population of students that are going to be in transition. Thank you.

SENATOR CUDABACK: Thank you, Senator Flood. (Visitors introduced.) Back to discussion of AM1672. Senator McDonald.

SENATOR McDONALD: Mr. President and members of the body, well, here we are. We're ready to...we came to a compromise. We did what we thought we needed to do, and that is compromise. And since I've been a senator, I've realized that no one gets exactly what they want. And the best thing to come together is a compromise, and that's where we're at. Some people are not happy with the compromise. But because it is a compromise, not everybody gets everything they want. And if everybody got everything they want, it wouldn't be a compromise. We have worked very, very hard since we moved LB 126 from General to Select. Those that opposed LB 126 met almost weekly to come together. And let me tell you, that's a difficult thing, for those that opposed LB 126 to come together. It wasn't easy. I say it's kind of like herding cats. Because once you get everybody together, one strays away and another one runs after it. And then here we are, trying to come back together. The issue is, Class I schools mean different things to different senators. They mean different things to Senator Flood, Senator Fischer, Senator Heidemann, Senator Hudkins, Senator Smith, Flood, Langemeier, myself. They mean different things. And so to solve a problem for one sometimes creates a problem for the other. So that's why it's very, very difficult for us to come together. And I commend and thank Senator Brashear, Speaker Brashear, for trying to bring us together. And without his help, I don't know that we'd be where we are today. So I commend him and thank him for that. And most of all, I commend and thank Senator Raikes for the meetings that we had with him. We would come together, tell him our concerns, and he would take that information, have to decipher it, study it, and then come back to say whether he could or could not accept it. So it was the last day and the last hour that we needed to come together, and we did. And I feel that this amendment is the best amendment that we could have come to an agreement. Like I said, not everybody likes it. But it's a good amendment. It's better than the green copy. And those that supported LB 126 possibly

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still would like to have the green copy. But that's all about compromise, and that's where we are. And so I do hope that you support the compromise. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I'm going to make this very short. But I will be supporting the bill and the amendment. And I just wanted to express my thanks personally to all of those that were involved in this compromise. We know that it's not easy. Compromises are never easy. And particularly when it involves schools, because it's a very emotional issue. And it should be, because everyone cares. And they care about their students, and they care about their schools. So again, I just want to thank everyone. And I would certainly give my time to Senator Raikes, if he would like it. Thank you.

SENATOR CUDABACK: Senator Raikes, about 4 minutes. Senator Raikes waives his opportunity. Senator Fischer.

SENATOR FISCHER: Thank you, Mr. President, members of the body. Sounds kind of like a lovefest in here, but I'm not a part of the lovefest. I stand in opposition to AM1672. I acknowledge that we've worked for months and months and months. As I said yesterday, our group of eight senators from across this state with different Class I's, we worked hard and we made compromises within our group, in trying to reach an agreement that we felt would address the needs of students across this state, and would address the needs that these students face with challenges in their education. I don't know what else to say on this. I am opposed to the amendment. I will acknowledge also that it does make LB 126, I guess you could say, a better bill. I don't know if it makes a bad bill better. But I stand in opposition to the amendment and to the bill. Thank you. I return the rest of my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Fischer. Senator Erdman, followed by Senator Smith.

SENATOR ERDMAN: Mr. President, I yield my time to Mr. Smith.

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SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Thank you, Mr. President, Senator Erdman. I guess I'm one of the mean relatives who wishes not to participate in the eulogy at the funeral. But I can't help but think that as we stand here today and we're facing the difficult issues before us, that if we want to go home and say that we took some positive action relating to public policy, I certainly won't boast about education reorganization, if that's what you want to call it. But I will tell you that an attendance center protection without local autonomy is absolutely and completely worthless. If all you're concerned about is mileage, because gas is high, well, I suppose that's okay, because you might have a school building a little closer to home. But it's been very interesting watching all of the advocates for this, LB 126. And why is it? Why is it that certain large district lobbyists have gotten involved? What does it mean to them? We need to ask ourselves that question. I know that I never expect to get everything that I want. I made a proposal that I know other members found intriguing and were very interested in, on both sides of the issue. I never expected to get all of that, exactly what I wanted. I never expected that. I just wanted a little piece. I wanted a little piece, so that parents in the community school could determine how dollars are spent that are given to them by the K-12 district. I don't think that's a lot to ask. It was interesting learning about the various criticisms of that concept, because I can guarantee you that if there was a desire to make it work, we could make it work. And I understand the spirit of compromise, and when one asks for just a little bit, just a little bit, and they don't get it, it forces one to think, what exactly is this about? What exactly is this about? And I hear one side saying, well, this is only about K-12 organization; has nothing to do with closing buildings. But I already know that K-12 districts are planning to close buildings. I know that Lincoln Public Schools is so hungry for tax dollars that they want to make the district as large as they can so that they can take in any construction--new construction, old construction, whatever it is. I mean, I even hear of Lincoln Public School District board members wanting to take over K-12 districts, neighboring K-12 districts, saying,

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oh, nothing would change. That's what I call hostility toward other districts. It's not the first time we've seen hostility among Lincoln political subdivisions, whether it's the power district, whether it's the public school district, whether it's the public works department in the city of Lincoln, screwing up a crosswalk across the street from here.

SENATOR CUDABACK: One minute.

SENATOR SMITH: I can't help but think that as we take away this local control, and add mandates by telling districts that they can't close a building that they may need to close, we're going to tell them that because it's X number of miles away, they have to keep it open, regardless of other logical decisions. Be careful what you wish for. Thank you, Mr. President.

SENATOR CUDABACK: Senator Smith, thank you. Senator Smith, your light is on next, if you care to use it. Senator Smith waives his time. Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. Politics is tough, and all of us come here for different reasons, different backgrounds, and we try to come together on various issues. And in my experience, it's hard to get everything that you want, and, yes, Senator McDonald, compromise seems to be the word of the day. My wife and I were married some 46 years ago, and built a new house and moved out in west Omaha, into an area at 118th and Shirley Street. At that time it was a Class I school district, very small. OPS, District 66, both nearby. It was decided that the school district should close, and where should they go? Should we go to...with Omaha School District; should we go for District 66? And there was a vote that was taken, and those residents, at that time, chose to go with OPS. Kind of interesting. I live in District 66 today, but went with OPS and, boy, there were some hard feelings, and neighbors wouldn't talk to one another because they voted to go one way, and the other neighbor wanted to go the other way. I grew up, also, before coming to the city of Omaha, in a Class I school district and rode a horse to school and experienced that. By the way, District 66, if you don't know, was a Class I school district, also. And through

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some mergers and more people coming in, now is the district where it is today. I guess what I want to say is that nothing is more emotional than your children and where they go to school. It's ingrained in us, as it was in our parents and our grandparents, into that situation. But we also are a state that we need to look at everything that we do. We've made some very, very tough decisions the last several years. We've made some tough decisions on mental health, still working through that. We've made some tough decisions, particularly this session, on what are we going to do with incentive plans? I don't know that anybody is happy with everything that we got, but we're there. This is a decision, also, that some of us are going to go away from here unhappy. Matter of fact, I don't know that many of us will go away from here patting ourselves on the back and saying, wow, we did a wonderful job on the schools. But I think we can go away from here saying that we have done what, in our own deep heart feelings, was the right thing to do. I support LB 126, and I do believe, having come from a Class I school district, being part of a district today that was once a Class I school district, that we need to move on. And I would also hope, as Senator Flood mentioned, that the individuals, the parents, will look at this as what is best in the long run for this state and through our schools. When I came into the Legislature, I think we had at that time about 850 districts. I have seen that come down gradually. Do we have to, then, force LB 126? Well, even though we're reducing the numbers, I think that every, every child should be in a K through 12 district. I feel that in my heart. Others may not. I don't think we're going to...the purpose of this bill is not to go out and...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...close down buildings. The purpose of this bill, I think, is to bring some unity and also some accountability across our school districts, and I hope this does that. And so, as I vote for AM1672 and LB 126, I do that thinking that this is...that there are going to be some people that are going to be unhappy. But I think it is best for Nebraska, as far as I can see, and that's where I'm coming from, that's how I'll vote on this issue. I appreciate, I appreciate all of the rural senators that have worked on this. You know,

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if I asked for a show of hands, how many came from a rural school district, I think you would see a number of urban senators raise their hands, and also had that same experience. But I think at this point in time, that this is where we should go, and I'll be supporting LB 126. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Louden, followed by Senator Hudkins.

SENATOR LOUDEN: Thank you, Mr. President, members of the Legislature. As we've worked on this LB 126, and of course, Raikes' amendment to it, the AMI672, I asked myself, what have we accomplished? Have we...have we improved state funding for our education? Has that question been addressed? That's been a problem. Every school district you talk to, especially the larger ones, feel that they're not getting enough state funding. And if you aren't...don't believe that, why, there are some lawsuits out there that also reinforce that, that they feel that they're not getting enough funding. Has that problem been addressed in all this work that we've worked on for...on school work, you might say we've done since the beginning of the session, and probably started in last fall? I don't see any sign that we've done a thing to improve funding for state aid to education. Probably what will happen is that if there needs to be more funding, it will be pushed on property taxes. It seemed like that somewhere along the line that something like that has been considered. There's no way that that will ever be dropped back to...from \$1.05 to \$1.00, like it was at one time, until there is some consideration given, or some study or work done on funding for state aid. Some of the other things--I've noticed that the people that really support LB 126 are mostly people that are in K-12 districts, very large districts, Class III districts. If you look at some of the paperwork that floats around from the Education Department, with your average daily attendance and your average daily membership cost per pupil, some of the schools that have the highest costs per pupil are Class III districts, some of them that have been consolidated not too many years back, like Heartland Community Schools, way over \$12,000 on their attendance level. The only ones that are higher than that are schools that are on Native American lands. So I don't know if we're improving anything by more

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consolidation. I think we're probably going to raise our overall cost of education. We're not going to have more money to distribute amongst those children. We're just going to have a larger area to scatter it over...probably more administration cost. And of course, a lot of that administration cost is part of the needs that will go, so consequently, there will be more of a...paperwork, asking for more state aid to education. I think this is probably the wrong way to address school problems in Nebraska. It seems like to me, are we really trying to address the problems, or has someone set up a smoke screen so that we're spending our time and energies on something that probably doesn't need to happen? We had...we have school systems that are working quite well. We have consolidation going on every day. You're losing about 12 or 15 Class I districts every year over the state. In some places they are even disappearing faster than that, so it wasn't something that...probably, probably we would have our consolidation without LB 126. I wonder if this is something that has been brought forward, just because it's...I guess out of force of habit. It seemed like every year since I can remember, since probably 1960, I think, somebody has been trying to consolidate the schools. So is this something that has to be done a year?

SENATOR CUDABACK: One minute.

SENATOR LOUDEN: And if we don't have this project in front of us, why, we wouldn't know what to do with our time. And we've certainly spent plenty of time on this reorganization project. So really, I can't say as I support this. It was something that I didn't think needed to be done. I still don't think it needed to be done. I think it's really a shame that we're destroying our Class VI districts. They were ideally made for the rural areas, and they worked quite well. Those will go by the wayside. That will be the end of them. I think there's going to be some Class II and III districts that probably will consolidate with the Class I's. I think they would have happened anyway in areas. Many times they have been. There were some problem areas, but I think instead of addressing the problem areas on a one-to-one basis, we went out and gave a shotgun approach to what we thought was a school problem, or what some people considered to be a school problem. I think

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those areas could have been addressed otherwise.

SENATOR CUDABACK: Time, Senator Louden.

SENATOR LOUDEN: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Louden. Senator Hudkins, followed by Senator Erdman.

SENATOR HUDKINS: Thank you, Mr. President and members of the body. This is my 13th year in the Legislature, and I think this is among the top five of the most difficult votes that I have ever had to make. Am I going to support AM1672? Yes, I am. There were a group of us that were adamantly opposed to LB 126 and what we thought it would do to the rural schools. We worked very, very hard to try to get an agreement. That did happen, to a certain extent. We didn't get everything that we wanted, but neither did the other side. That must mean that the agreement that we came up with is probably the best thing that we can do, under the circumstances. I'm a product of a Class I school. I'm also a product of a Class III school. I went to a country school two miles, rode a horse uphill both ways in the snow. (Laughter) I also then rode a school bus and then, after I got my license, a car, to high school. So I have been both places. I've been in the rural school, where there were two in my grade, and then after the 4th grade, I was the only one. I played Andy over with all of the kids in school. We played on the merry-go-round, but we learned. I don't think anyone in this room will ever say that you don't get a good education in a Class I school. You have more of the one-on-one attention. You have more of the built-in remedial, because you hear the 2nd grade lessons when you're in the 3rd and 4th grade. You have the built-in enrichment program, because you hear the 6th grade lessons when you're in the 4th grade. Senator Raikes has told us that his bottom line is K-12 organization. Senator Jensen said that that is the way to go. Well, I don't necessarily agree that that should be the educational system for every child, because once you leave a Class I system, you go to a K-12 system. So you get the benefits of both worlds. The powers that be have decided that there will be a reorganization of our schools. We have worked together with Senator Raikes and with

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the eight of us, and I am very appreciative of all the hours that everyone has put in. We have made some protections for the Class I schools, and I thank Senator Raikes for having done that. He wouldn't have had to. I will be supporting this amendment. As far as LB 126, I haven't made up my mind, but I would urge everyone to do what they think is best in their situation. The education of our children in this state is the most important thing. They get a good education or they get a bad education, depending upon a lot of factors, not just whether they're in a Class I or a K-12. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. Members of the Legislature, I think this has been an interesting process, I really do, and I think that the effort has been monumental on both sides to try to find some common ground. And it appears that, while there are some that can reach that common ground, there are obviously others that can't, and I think that's to be expected. Senator Jensen pointed out that, for parents, there's probably nothing more important to you than where your kids go to school. And I think he's absolutely correct. But you know what? I think it goes beyond that. I don't think it matters whether or not you attend Westside High School, whether you're a Bayard Tiger, or what the actual name of the school is; it's the quality of the education. And I think that's what's the most important part of that, and so for the parents that he is speaking of, and possibly himself, I think that's exactly right. It's not the location, it's not the name on the building; it's the quality of the education. The interesting part about this discussion--Senator Jensen talks about there needs to be accountability and that's why we need to pass LB 126, or the quality of education will be improved by passing LB 126. This is governance. Those issues are not here. And I think what Senator Raikes has tried to put in place here, to try to protect and to try to find that middle ground, is valuable. So I wanted to make sure that we're clear: The passage of this bill isn't somehow going to improve the quality of education in Nebraska overnight. It just simply is not. You cannot make that claim, you cannot prove that. And in fact, on General File, when there were offers made by individuals to look at test scores and the

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cost, as a determining factor on whether or not a facility should stay open or not, as an attendance center or as a stand alone facility, that was what I thought had the most validity. I went to a Class III school. I didn't go to a Class I. I wasn't around at the time of the Homestead Act and others, where there was no other options. I came into the world in 1977, and most of those battles had been fought in my neck of the woods. So I have Class I districts. I look at the fact of what it is that we're trying to accomplish. There's not the talk of improving the quality of education directly. It's the talk of governance. It's how do we better manage education and the educational systems. And obviously, those districts that are established want to have as little opposition to governing how they see fit. And so I can understand why the big schools, and why some of the entities that are out there in the lobby, that have hired lobbyists, are doing that, because that's what they feel they need to do to ensure the efficiencies for their community, and for their taxpayers. But the interesting part about this is, efficiencies aren't only gained by forcing consolidation. And in fact, I think Senator Heidemann has pointed out some interesting issues. In reality, if a school district is responsible now for a Class I, and the employees of that Class I are not at the current pay schedule, they're going to be required to bring those teachers up to those same standards. So while there may be some efficiencies gained, which the fiscal note would tell you, there's going to be some cost in accomplishing those efficiencies. So it's not a one-sided street here. I have a difficult time supporting the proposal, and it's probably because I'll have a difficult time supporting any other proposal that forces this decision to be made in Lincoln, or removes the opportunity from those decisions by local, elected school boards in those Class I's. And so I fully admit that. Do I believe that AM1672 is better than the green copy? I sure do. I sure do. But I don't believe that at this point, based on what is presented before me, that I can feel comfortable supporting it, or going back to my district, because as I've pointed out, it doesn't specifically deal with the quality of education. It doesn't specifically talk about how we accomplish those savings of efficiencies, at the same time we're going to be spending more money in certain areas. But I do think that in the future we're going to continue to

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have these discussions, and hopefully, at the end of the day, we'll see accommodations and flexibility in those final decisions beyond the direct impact of this proposal.

SENATOR CUDABACK: One minute.

SENATOR ERDMAN: Thank you, Mr. President.

SENATOR CUDABACK: Thank you. Senator Smith.

SENATOR SMITH: Thank you. Mr. President and members, the discussion is interesting and gets more interesting all the time. I have to kind of smile, I guess, and I won't tell you exactly what my thoughts are when I hear members talk about how their area consolidated a long time ago. That was voluntarily. I would ask that you would allow other districts to do the same. If Westside used to be a Class I and they consolidated, and are now a premier district in the state because they have community support, more than anything...not too many communities have overridden the levy limit. When they do, that...the first indicator is that there is community support, and I commend them for generating that community support. When a district can't do that, they need to examine themselves. When they have such a hard time convincing the community that they need extra resources, they need to really examine the scenario. What really gets my attention is when teachers, from a K-12 setting in my own legislative district, contact me and say, Adrian, keep those Class I schools open; do what you can, because those Class I schools produce positive results. And these are parents that have sent their own kids to a Class III system, but they've seen the difference. They've seen the advantages and the benefits of a Class I system, and they want to see that continue, especially when they operate at a very cost-effective level. We talk about state funds, federal funds, local funds. You know, what can we, as a state entity, do to leverage other funds and resources? Right now we have a scenario that we could even change a little bit, and encourage some efficiencies here and there, put some limits on some spending, perhaps. But we are able right now to leverage more community support, more local dollars, and more political support for public education, within the context of Class I schools and these rural

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communities, than Lincoln Public Schools would ever hope for, in a comparative analysis. I am astonished, I am astonished when I hear that, well, we consolidated a long time ago so you can now, too. There were different reasons back then. We've had various proposals. I know that Senator Heidemann ripped in half his little exhibit there. I feel like several of our proposals have been ripped in half by the other side. I'm still awaiting a critical analysis of some of our proposals, other than, well, that won't work. Do we want to make it work? Do we want to encourage innovation and excellence, or do we just want something that all looks the same? Because that's what LB 126 will do, and especially with AM1672. It is an attempt to make everything the same. You know, and if you have to take away some excellence here and some excellence there to make everything the same, well, then it's better off. I disagree with that. If we want to encourage innovation and education excellence, we need to allow the utmost of local control, the utmost of local autonomy, because that's what is best for students, that's what taxpayers appreciate and will support, and even pay more, as Westside Community Schools has indicated.

SENATOR CUDABACK: One minute.

SENATOR SMITH: They'll even pay more, when they are convinced that their tax dollars are making a difference. I've been discouraged, long before I came to the Legislature, when some bond issues wouldn't pass in Gering. They needed to. In fact, I even predicted, years ago, that Gering would have an increase in enrollment and need some square footage. There were some naysayers then, but it's happening now. There are very positive things happening around public education in Nebraska. But even as we have quality public education, we're not having public buy-in. How do we encourage more public buy-in for our quality system? LB 126 is certainly not the way. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Mines, followed by Senator Janssen. The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on the Raikes' amendment, AM1672. All in favor vote aye; those opposed vote nay. Voting on

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ceasing debate on the Raikes' amendment, AM1672. Have you all voted on the question who care to? Have you all voted? Record please, Mr. Clerk.

CLERK: 28 ayes, 5 nays to cease debate.

SENATOR CUDABACK: Debate does cease. Senator Raikes, you are recognized to close on your amendment, AM1672.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I would urge your support on this compromise amendment. Thank you.

SENATOR CUDABACK: You've heard the closing on the Raikes' amendment, AM1672. The question before the body is, shall that amendment be adopted? All in favor vote aye; opposed vote nay. A record vote has been requested. Voting on adoption of the Raikes' amendment. Have you all voted who care to? Have you all voted who wish to? Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 1691.) 35 ayes, 6 nays, Mr. President, on the adoption of Senator Raikes' amendment.

SENATOR CUDABACK: The Raikes amendment has been adopted.

CLERK: Mr. President, I now have Senator Raikes' AM1654, Senator.

SENATOR CUDABACK: Senator Raikes.

SENATOR RAIKES: Withdraw, please.

SENATOR CUDABACK: It is withdrawn.

CLERK: Mr. President, Senator Louden, AM0075.

SENATOR CUDABACK: Senator Louden, on AM0075.

SENATOR LOUDEN: Yes, Mr. President and members of the body. This amendment I will not call for a vote, but I thought it was

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something that needed to be addressed as we rush headlong into this LB 126 and (inaudible). No place in there have we really addressed what the...what tenure will be and how we will address that in the future. We're going to go out here and consolidate many of these schools. There's going to be personnel that is going to be changed around, moved around, and eventually there will be some problems that will arise. Tenure has never been addressed in Nebraska on the elementary level and your high school level for years. College level you have to be more years before you receive tenure, so this is something, I think, that a problem is going to arise, and I would just like to point out that as we go forwards with this LB 126, that I don't think it's been well thought out, of all the problems that could be...come about in the foreseeable future. And with that, I will withdraw the amendment. Thank you.

SENATOR CUDABACK: The amendment is withdrawn. Mr. Clerk, next amendment.

CLERK: Mr. President, Senator Smith would move to amend, FA21.

SENATOR CUDABACK: Senator Smith, to open on FA21.

SENATOR SMITH: Mr. President, I'd pull that amendment. Thank you.

SENATOR CUDABACK: It is withdrawn.

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

SENATOR CUDABACK: Senator Flood, for a motion.

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

SENATOR CUDABACK: You've heard the motion. Open for discussion. There were several lights on. Senator Janssen, your light was on. Senator Stuthman, your light was on. Senator Smith, your light was on.

SENATOR SMITH: And it still is, I hope. Thank you,

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Mr. President, members. The numbers are real. I have to say that I'm disappointed. I have to say that as we've looked at this--and perhaps this has been good for me, because it has certainly brought community education onto my radar screen. And I think for too long I've taken things for granted, that once you've had something for a while, you think it's always going to be there, and you take it for granted. Shame on me. I regret that. It's been a very interesting journey, and like I said, I'm disappointed. I'm disappointed mostly because we are turning a curve in the attempt to improve schools, and yet we are totally turning our heads, our eyes, and our backs on quality, and especially quality in an affordable format. We have gotten so caught up in bureaucratic methods in education today that we're chasing quality teachers out of the profession, we're costing the taxpayers more and more dollars, and they're getting mad. We get frustrated when we can't leverage that community support, and expect a new building to be built with a bond issue. We at the state level get frustrated; wonder why. When I hear that this bill is not about closing buildings, but it's just about organization, it's that bottom-line vote. It is centralizing control in a larger format, and I would like to know when large is large enough. It's been interesting, in my research lately, to learn that the size of the Lincoln Public School District and Omaha Public School District is actually very large, even in the national context. When we look at the size of school districts around the nation, a lot of them are much smaller. Even in an urban format, those school districts are smaller than Lincoln Public Schools and Omaha Public Schools. But you know what? Lincoln Public Schools insists, absolutely insists, on getting bigger, and I say that because there are board members wanting to take over Norris, Waverly, Malcolm. They've said that. And then they fight legislation on school district boundary policy, so that as...the bigger the city of Lincoln gets, so goes the school district, even though they don't need to get bigger, and they probably shouldn't get bigger. But how dare we even look at quality as a measure. As long as they can get their fancy school building that costs 50 percent more than Papillion-LaVista, they're okay. Now they even want more. I have a problem with that. But then again, that was a local decision. All I want is a local decision across Nebraska for a lot of the education policies. I don't

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think that's a lot to ask. In fact, I think it is very reasonable and well-intended. So as we vote on LB 126 today, I hope you have the future in mind. So many times the debate on Class I schools is talking about the past, and I only talk about the past as proof for the future, as proof that...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...quality exists in Class I schools, and we need to leverage that for the future. We need to leverage that community support, not discourage it. But as we cast our vote on LB 126, keep the future in mind. I predict that you will regret a green vote on LB 126, and it's not because of unhappy people with kids in Class I schools today. It's about the long-term impact on quality. We need more Class I schools across Nebraska, not fewer. Thank you, Mr. President.

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

SENATOR HEIDEMANN: Senator Cudaback, fellow members, last January I signed on to help the people that were opposing LB 126, and why did I sign on? I mean, there were people that were talking about we need to do this because of local control. I believe that's an important issue. I think that these districts should have been able to decide on their own whether to merge or be assimilated into a higher class school system than the Class I's. I believe that's important, local control. So I think the schools in these smaller communities are control--I do believe that--in these small communities are important. And I believe that it's important to have a school in a community; otherwise, it's the starting process of that community dying. Some people believe that schools are tied to economic development. I believe that, too; that if you have a school, you're more likely to have a better economy in the area, better economic development. But why did I sign on? I signed on for the 8,000 kids in these Class I schools, these 231 class schools. And I will agree with Senator Redfield that I believe that we have quality education in this state, but I also want to tell her that these Class I's had a purpose; that there were kids that not only wanted to go to these Class I's, but there were some kids that needed to go to these Class I's because they

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wasn't doing well educationally in other schools, or they wasn't doing good socially in other schools. And these Class I's were a haven to help these kids survive. And I really believe that. I signed on for the kids. It's the kids. What's this all about? I believe LB 126 is all about more money for the larger K-12 districts, and I really believe that. Will these schools have to close? No, they won't, as long as they have five resident students for a certain amount of years. And after that is over, will these schools have to close? Some of them, still not. But when these K-12 districts come upon tough economic times, instead of cutting football, basketball, or wrestling, trust me, these schools will be shut. And who suffers? It's the kids. It's the kids. I wanted to make one comment about the whole process of LB 126. There were some things that happened in the last couple of days that...it really disappointed me. There were some things that happened yesterday that I never wanted to see in this body. But it happened. I guess I have to deal with it, but I'm not happy about it. Yesterday we was talking about, both sides will not be happy. We understand that the other side--and I call the other side the ones that want to see LB 126 pass--are not happy because they compromised too much. Our side is not happy because we're losing too much. Senator Flood, the lawyer in our group, says it sounds like a divorce case, when both the wife and the husband walk away and they're both mad. Well, just like a divorce case, and the closing of these Class I schools, you know what happens? Who suffers? It's the kids. It's the kids.

SENATOR CUDABACK: Are you finished, Senator Heidemann?

SENATOR HEIDEMANN: Yes.

SENATOR CUDABACK: Senator Fischer.

SENATOR FISCHER: Thank you, Mr. President, members. I rise in opposition to LB 126. Class I districts are needed, and I believe they are especially needed in more sparsely populated areas of the state, which includes all of my district, District 43. I don't believe that you can have a broad-brush approach to a perceived problem. It seems that the body will be saying, yes, we need to have a broad-brush approach to a

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problem. I hope that the members will remember that, because in the future that may come back to haunt them on future legislation, where we say, maybe in this area something has to be fixed, and so we will sacrifice the rest of the state in order to solve that. I am sorry that this bill is going to pass. I will be voting against it. And I thank you for your time.

SENATOR CUDABACK: Thank you, Senator Fischer. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I haven't been engaged in any of the conversation, and I really didn't want to get into the discussion very much, because it realistically doesn't affect my community. But there was some conversation several days ago that I listened very close to, and it really touched my heart. And those were the comments from Senator Stuhr, when she said she doesn't have any Class I schools in her district. They have taken care of it. You know, they...for 15 years, or during the last 15 years, all of the Class I schools have closed and went into other class school districts. Did the state have anything to do with that? No, absolutely not. Is it good that they did...that they combined with other schools? Yes, but they weren't forced into it. They were not forced into it. They did it on their own. They were happy when they did it. And I think this is the thing. We are seeing every year a lot of Class I schools closing and joining with other school districts. Is it going to continue to happen? Yes. Do we have to tell them and dictate to them what they have to do? No, I don't think so. The process is falling into place. One size don't fit all. So let's keep that in mind. Things are happening already. Thank you.

SENATOR CUDABACK: Thank you. Senator Brown. The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on the advancement of LB 126? All in favor vote aye; all those opposed vote nay. We're voting on ceasing debate on the advancement of LB 126. Have you all voted who care to? Record please, Mr. Clerk.

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CLERK: 27 ayes, 5 nays, Mr. President, to cease debate.

SENATOR CUDABACK: Debate does cease. There's a motion on the floor to advance LB 126 to E & R for engrossing. All in favor say aye...

SENATOR SMITH: (Microphone malfunction) Record vote.

SENATOR CUDABACK: What do you mean by a record vote? Explain your...

SENATOR SMITH: (Microphone malfunction) Board vote.

SENATOR CUDABACK: There's been a request for a board vote. All in favor vote aye; all those opposed, nay. We're voting on the advancement of LB 126 to E & R for engrossing. Have you all voted who care to? Have you all voted? Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 1692.) 29 ayes, 12 nays, Mr. President, on the advancement.

SENATOR CUDABACK: LB 126 advances. Mr. Clerk, items for the record, please?

CLERK: Mr. President, amendments to be printed: Senator Landis to LB 13 and to LB 500, and Senator Stuhr to LR 12CA. That's all that I have. (Legislative Journal pages 1692-1694.)

SENATOR CUDABACK: Thank you, Mr. Clerk.

CLERK: Mr. President, I have a priority motion. Senator Byars would move to adjourn until Monday morning, May 23, at 10:00 a.m.

SENATOR CUDABACK: You've heard the motion to adjourn until May 23 at 10:00 a.m. All in favor say aye. Opposed, nay. We are adjourned. (Gavel)

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