

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

Floor Debate  
March 05, 2009

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[LB60 LB91 LB98 LB111 LB121 LB136 LB153 LB184 LB222 LB225 LB260 LB261  
LB273 LB278 LB286 LB323 LB329 LB346 LB356 LB398 LB415 LB420 LB447 LB483  
LB497 LB531 LB547A LB560 LB601 LB642 LR7 LR35 LR36 LR44]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-ninth day of the One Hundred First Legislature, First Session. Our chaplain for today is Pastor Jimmy Shelbourn, from the First Presbyterian Church in Beatrice, Nebraska, Senator Wallman's district. Would you all please rise.

PASTOR SHELBOURN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Pastor Shelbourn. I call to order the thirty-ninth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Government, Military and Veterans Affairs reports LB273 to General File with committee amendments attached. I have a new resolution, LR44, offered by Senator McCoy. That will be laid over. Senator Wightman has selected LB121 as his personal priority bill for this session. Hearing notice from General Affairs signed by Senator Karpisek, as Chair. An amendment to LB184 by Senator Loudon to be printed. I have received a report from the Department of Revenue. That will be on file in the Clerk's Office, available for member review. And, Mr. President, the lobby report as required by statute. That's all that I have. (Legislative Journal pages 657-661.) [LB273 LR44 LB121 LB184]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR35 and LR36. Senator Pankonin, you're recognized for a point of personal privilege. [LR35 LR36]

SENATOR PANKONIN: Good morning, Mr. President and members of the Legislature. The Retirement and Appropriations Committees requested projections of the state's obligations for the three defined benefit and two cash balance retirement plans. The

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analysis was conducted by Buck Consultants which provides actuarial services for the state retirement systems. Actuarial projections are based on three market recovery scenarios: slow, modest, and strong. A copy of the market return assumptions and additional state contributions based on these projections is attached to the handout at your desk. Also attached is a chart showing the impact on the state budget financial status with additional retirement contributions. The state of Nebraska has a long tradition of meeting its obligations to state-administered retirement plans. Even with the recent steep decline in financial markets, current retirees will continue to get their retirement payments. During these uncertain times, state government will work with retirement plan representatives on long-term sustainability issues. The Appropriations Committee will be budgeting some additional retirement plan contributions based on a modest market recovery assumption. Future state obligations will depend upon actual market results; realized demographics, for example, the actual rate of retirement, the age at which people retire, etcetera; and potential changes in contribution rates. Included in your information packet is a table which lists each retirement plan administered by the state, the year the plan was established, and the type of plan, whether it's defined benefit, defined contribution, or cash balance. Defined benefit plans provide a specific benefit based on years of service, salary, etcetera. For example, Social Security is a defined benefit plan. Defined contribution plans are similar to 401(k) plans. The cash balance plan guarantees a minimum return of 5 percent. This packet of information has also been e-mailed to each senator's office. I will be available on the floor to answer questions individually or feel free to contact me in my office. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Mr. Clerk, we'll move to the first item on the agenda under motion to withdraw.

CLERK: Mr. President, Senator Fulton would move to withdraw LR7. [LR7]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on your motion to withdraw LR7. [LR7]

SENATOR FULTON: Thank you, Mr. President. Basically, this was a resolution that I introduced at the request of a citizen here. And my load is pretty heavy, and I've talked with Senator Gay and the Health and Human Services Committee has quite a bit on their plate. And that this is simply a resolution, I've just decided, in the interest of helping us to move forward with our own workloads, to withdraw. And I would ask for your consent to do that. Thank you, Mr. President. [LR7]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the motion to withdraw LR7. Are there members requesting to speak? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the motion to withdraw LR7. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LR7]

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CLERK: 30 ayes, 0 nays, Mr. President, on the motion to withdraw. [LR7]

PRESIDENT SHEEHY: The motion to withdraw passes. Mr. Clerk, we'll move to the first item under General File, 2009 senator priority bills. [LR7]

CLERK: Mr. President, LB483, a bill by Senator Langemeier. (Read title.) Introduced on January 20 of this year, at that time referred to the Natural Resources Committee. Bill was advanced to General File. There are committee amendments, Mr. President. (AM502, Legislative Journal page 606.) [LB483]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Langemeier, you're recognized to open on LB483. [LB483]

SENATOR LANGEMEIER: Mr. President, members of the body, as you have heard the committee (sic) state, there are committee amendments to follow. It does strike the green copy so if you're reading along, I'd advise you to go right to the committee amendments. However, I'm going to talk here a little bit. LB483 was generated from the thought of the fully...LB962 and its designation of fully appropriated, overappropriated, or not appropriated at all. As I started to sit back and think about that, LB962 put a lot of good steps in to take us from nonfully appropriated to fully appropriated to overappropriated at the time when it was passed. But there was never anything in there to go backwards. Right now if you're not fully appropriated and you want a well permit, you go to your NRD, you apply for a well permit. It's first come, first serve. There's no questions asked. As long as you meet the minimum spacing requirements, they will give you a permit. Once your district has become fully appropriated, you...or preliminarily fully appropriated, you have a well moratorium put on your district. And at that point, as you've all heard, those that just came into this situation within the Platte River Basin, there becomes a pent-up desire to have irrigation expansion, irrigation wells on areas that probably were not thought of prior to this. And as I sit and listened to the discussion on this fully appropriated and preliminarily appropriated, I got to thinking. As over time, if a big user per se in the Niobrara Basin, if Nebraska Public Power would cease to request their use of water for their hydro facility, that district may then be reevaluated and moved out of fully appropriated back to just a nonfully appropriated district. And at that point, we're going to get a lot of people start applying for irrigation wells. And my concern is if that were to happen, that that new influx of wells would take us back to fully appropriated or maybe even to a level where we should be called overappropriated. So LB483 was designed to put some...a backstop in that. It would allow each district, upon the change of a designation, those applications could then be submitted to the NRDs. The NRDs are going to set up some criteria of how they are going to issue those permits based on "farmability." It may be soil type. We left that up to each NRD to deal with their particular situation that they face. So they'll set up these guidelines. It would allow them to expand up to 2,500 irrigated acres within a basin. They can do that for

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each year for four years, and then after the fourth year they would have the opportunity to continue that policy or they could then open it back up. That way the pent-up desire to have the expansion of irrigation that comes with a fully appropriated designation would have some logical way to back out of that designation and control the rush to expand irrigation. In the discussion on this bill, the question came up is, is 2,500 acres right? So we put a provision in here that would allow the NRDs, if they thought that 2,500 was too low or even too high, that they could come up with a plan to alter that and submit it to DNR. And if DNR would concur and approve the plan, they could set their limits at a level that was more suiting to their situation. So if you got in the Upper Elkhorn where there's not a lot of irrigation wells and there was some opportunity to expand a little more than the 2,500, they would have that opportunity to negotiate. So first you'd have two steps: One would allow you to negotiate a plan with DNR, how you're going to expand your irrigation, in what manner, or if you didn't want to do that you'd go to the default of the 2,500 acres. There is a provision in here on surface water to not...to allow them to expand as well, and I will prewarn you all that we're having a meeting again on Monday on that provision. That part of this bill will get a little more tweaking as we want to make sure that the surface irrigation folks understand that this is not...this bill is not designed to trump their surface water rights over DNR...with the NRDs in any way. And so we may have some cleanup language on Select File to make that perfectly clear that this is not about setting one above the other in any priority or any fashion in that regard. So I look forward to that meeting with the surface water people on Monday. And with that, I will conclude on this and we will go to the committee amendment. Thank you. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. As was noted, we have a committee amendment from the Natural Resources Committee. Senator Langemeier, you're recognized to open on AM502 to LB483. [LB483]

SENATOR LANGEMEIER: Mr. President, members of the body, I've kind of given you a brief outline already of the committee amendment. We have a couple technical changes in that. The committee amendment adds the provision that allows the NRDs to negotiate their own plan with DNR if they don't want to fall back to the 2,500-acre base. It adds that provision. And with that, I would ask the body to adopt AM502 and LB483. And I will tell you, there will be a technical-type amendment regarding the surface water guys for Select File, and I'm happy to answer any questions if there are any. Thank you. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening of the committee amendment, AM502, to LB483. Members requesting to speak are Senator Stuthman. [LB483]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to ask Senator Langemeier a couple of questions. [LB483]

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PRESIDENT SHEEHY: Senator Langemeier, would you yield to questions? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR STUTHMAN: Senator Langemeier, at the present time where some of these basins are...have been declared preliminary fully appropriated, has there been the 90-day effect, when you can repeal that stuff, has that taken place already? Are we past that 90-day program or could you give me some information on that? [LB483]

SENATOR LANGEMEIER: No, that's why I prioritized this bill is, is we are in a deadline for one designation that is coming out. The 90 days is March 10. The director has 30 days actually...excuse me, March 12 is the final hearing on the preliminary designation, and then the director has 30 days after that to make his designation. So the object of this bill is to have it in place prior to that April 12 date. And so if the director would make a decision--that is pending, we do know that one is pending, but it will come in others--we do want to have this in place by April 12 and that's why it has the emergency clause. [LB483]

SENATOR STUTHMAN: Thank you, Senator Langemeier. Some of the concerns that I have with the designation of fully appropriated in my area, and my area is one of those that is in that situation, in my experience in some of the wells that I'm familiar with, you know, the water level has been rising in those wells, you know, in the last, well, 15 years since they've been checking the water level of those wells. The wells have increased in their amount of water in those wells. The water table has been coming up. Our rivers, you know, have an increased supply of water and we're coming to the issue right now that it is fully appropriated. In my opinion, you know, why is a designation fully appropriated when we have larger amounts of water, you know, under the ground because of the fact that the water table is rising. And some of the wells have risen as much as one to two feet in those years. Every year that whenever they take the test on it, it does increase--couple inches one year, five or six inches the next year, a foot the next year. I think I have some real concerns with that but hopefully that will be addressed, you know, in some of the hearing process that has taken place. Because I really feel that there must be something else in mind, you know, of making these fully appropriated designations to the fact that, you know, is someone, you know, concerned about, you know, water downstream that the supply water will not be there in years to come? I'm sure it will be. I mean, we've gone through many, many, you know, drought times where the water table has dropped a little bit. But in the past couple of years, you know, I've seen the Platte River in the Columbus area, you know, have abundant amount of water traveling through there. And I think this is one of the first years where the Platte River never did dry up from Duncan to Columbus. There was water there continuously. So I'm very interested in this and I will keep, hopefully, keep informed on this bill because I really think that if we want to continue to expand the agriculture in the state of Nebraska, you know, we have to rely on irrigation. But with technology right now

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at the present time, you know, the use of water is... [LB483]

PRESIDENT SHEEHY: One minute. [LB483]

SENATOR STUTHMAN: ...so much more, you know, taken care of by the fact that crops do not utilize as much water, irrigation with a pivot system, you know, does not utilize as much water as it did in the past. Years ago, yes, there were a lot of people that, you know, started the well and just kept it running and it kind of recycled itself, in my opinion, went down the streams and came back. But I am very concerned that if we, you know, allow the NRDs to fully appropriate areas when there is more than abundant amount of water, we need to take that into consideration. With that, thank you, Lieutenant Governor. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Additional members requesting to speak on Natural Resources Committee amendment, AM502, are Senator Carlson, followed by Senator Loudon, Senator Wallman, and Senator Campbell. Senator Carlson. [LB483]

SENATOR CARLSON: Mr. President and members of the Legislature, I want to compliment Senator Langemeier for his work on LB483 and the amendment, AM502. I think it's important that as a body we remember, and I believe this is true, water is our most valuable resource in Nebraska. Water is more valuable than oil and it will continue to be that way. We talk about fully appropriated and overappropriated areas, basins. If an area is fully appropriated, that's not necessarily bad. That simply means we're using the amount of water that we have available. When a basin becomes overappropriated, we do have a concern and we've got a problem and we need to address those problems. In the whole issue across the state, it's most important that we understand what sustainability is, and that we are able to reach points of sustainability in various areas throughout the state so we are using no more water than what we have available, and so looking 50, 100 and more years into the future, we continue to have a supply of water that can sustain us. And Senator Langemeier is concerned about basins becoming fully and overappropriated and then the reverse happening. And hopefully, that will happen. And when it does, there needs to be an orderly method by which we treat that circumstance of going from fully appropriated to not fully appropriated. I want to make a statement that I'm also very strongly supportive of and that is that irrigation is not evil. Irrigation is good. Irrigation in Nebraska is vital. In a conference that I attended in late January, and so did Senator Dubas, we were told by different speakers that in the next 20 years in the United States we need to double our production in agriculture in order to feed the world. I think this is true. In Nebraska, we're going to need to do this on less water. That's a challenge. But we do need an orderly process for allowing new wells for agriculture, for industrial purposes, and for municipalities. Irrigation is the lifeblood of our economy. Let's understand that and let's treat it in a manner that is worthy. Senator Stuthman talked about levels of water in various parts of the state

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increasing rather than decreasing. That's a fact. And that's certainly different than the areas where we are depleting the aquifer and we see those levels going down. We've got to address those issues. And that's part of becoming sustainable across the board. But I support Senator Langemeier's attempt and will be supportive of LB483 and AM502. Thank you, Mr. President. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Louden. [LB483]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at the bill and the amendment, and, of course, the amendment replaces the bill, I understand what we're trying to do here. The Department of Natural Resources fully appropriated the Lower Platte River system here a year...last summer, whenever it was, last spring. And when they did that, I don't know if they realized it or not, but that took in the whole Loup River system, the Elkhorn River system, and clear up into western Nebraska. Now, if any of you have ever went out into those areas in the Sandhills, those rivers run about the same volume the year-round. In fact, the Dismal River is the most even flowing river in the world. And so why was that part of the fully appropriated river system? I think part of our problem is, is the way the DNR went about that. Now my understanding is, you can always start at the top of a river system and come down such as they did with the North Platte River when they did from Elm Creek west to the Wyoming line here a few years back and called that actually overappropriated. With this system, that from somewhere around Ashland on up the Elkhorn River and the Loup River should have never been fully appropriated. And, of course, consequently, when they did that, then that took care of any development that may happen up those rivers. That is where some of the problem lies and that was probably where we should be looking to solve those problems is how we do that with the Department of Natural Resources, what they can fully appropriate and how they do that. Now whether they don't have enough gauging stations in those rivers to realize what the flow rate is, I don't know. But there is a problem, lies in there. This is a way that they're trying to fix the problem. I have, it's...I don't have any reason to doubt that what it wouldn't work. What I'm concerned about is the fact that you can do 2,500 acres of irrigated land every year for four years, which totals up to, what, 10,000 acres of irrigated land every four years. Consequently, if you're talking about something that's fully appropriated, that looks like to me that could possibly be the straw that would break the camel's back. So I have a concern about allowing something like that to continue. This is something the NRDs should be taking care of as they go along and it is mentioned in there that, right there in the Section 13(a) about the subdivisions 46-707 and 46-739, and that's what addresses that is what the NRDs can do already in statutes. So I'm wondering if there's probably some language in here that probably wasn't completely necessary. But it makes it look good for those people up in the Elkhorn River Basin and some in the Loup River Basins, where, as you get in some of the Sandhills, those rivers flow at the same level usually the year-round and, at the present time with that designation, you can't even put an end gun on the end of a sprinkler, if they do...or on a circle pivot if they do have a circle pivot

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in those areas. And there probably, in some of those areas of the Sandhills, there probably isn't going to be that much development anyway, so. With that, that was my concerns with this bill. I think the amendment helps the bill, but I do have some concerns on how much we're going to allow of development over the next period of four years or something, and it could tally up to be a major breaking point. Thank you, Mr. President. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Wallman. [LB483]

SENATOR WALLMAN: Thank you, Mr. President. I would like to ask Senator Stuthman a question. [LB483]

PRESIDENT SHEEHY: Senator Stuthman, would you yield to questions? [LB483]

SENATOR STUTHMAN: Yes. [LB483]

SENATOR WALLMAN: If your basin is overappropriated and your water levels keep going up, how hard is it to get that...the overappropriation done? [LB483]

SENATOR STUTHMAN: I think it would be a major process to try to get that accomplished, in my opinion. [LB483]

SENATOR WALLMAN: Thank you. And that's my problem. We have NRDs set up to take care underground water, surface water. That's their job. We gave them the authority to do that and I have trouble with somebody, one person or little board, overappropriation something, overappropriated something, and then deal with it. So the NRDs have to deal with that. I hate to pick on my neighbor over here because I've been irrigating maybe for 50, 60 years, and the guy next door wants to sell his farm. It could have been irrigated all these years but wasn't. All of a sudden he can't put down a well. Why shouldn't I be pumping less water to accommodate him? That's what we should be doing. So many gallons of water, acre-feet out of the aquifer, metered wells, pay attention to what we're mining. We're mining underground water, folks, we're mining. Whether it be coal, water, oil, it's mining. So let's pay attention to what we're taking out of the ground. So I'd be interested in listening to what is said here, and thank you, Mr. President. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Mr. Clerk, you have an announcement. [LB483]

CLERK: Mr. President, Transportation Committee will have an Executive Session, 9:45 underneath the north balcony.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Continuing with floor discussion on

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Natural Resources Committee AM502 to LB483. Members requesting to speak, Senator Campbell, followed by Senator Stuthman. Senator Campbell. [LB483]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. I just have a question if Senator Langemeier would yield to a question. [LB483]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to questions? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR CAMPBELL: As one of our colleagues said to me, now the urban senators need to start paying attention to these issues and to the details, my question has to do with surface water. And I know that you're going to work on this because you indicated that you have a meeting on Monday. But I was just questioning, how did you come to the threshold of the 400 acres per calendar year? [LB483]

SENATOR LANGEMEIER: Basically, in a surface...if you've seen a surface water area, you're running the water down a canal. And you got to keep running water down the canal so when you do want to pull it, you can. So you have water loss. So the 2,500 acres of a direct pump out of a well, put it on a field, is equivalent to the 400 for surface because they're running water past, it's going down the stream, that is not being used as it goes by. So it's just an efficiency rating. [LB483]

SENATOR CAMPBELL: Okay. Thank you, Senator. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Stuthman. [LB483]

SENATOR STUTHMAN: Thank you, Mr. Lieutenant Governor, members of the body. I would like to ask Senator Langemeier a question. [LB483]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR STUTHMAN: Senator Langemeier, in the amendment which becomes the bill, you've got the 2,500 acres a year for four years. Those 2,500 acres, that is for the whole area of a natural resource district? [LB483]

SENATOR LANGEMEIER: That would be for each NRD district within the hydrologically connected area which is the 1050 line. [LB483]

SENATOR STUTHMAN: So in other words, you know, there's three of the districts in my area that had the preliminary fully appropriation designations,... [LB483]

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SENATOR LANGEMEIER: Right. [LB483]

SENATOR STUTHMAN: ...the Lower Elkhorn, Lower Platte North and the Lower Loup. So if...does that mean that these 2,500 acres, could that be 7,500 acres in those three districts? [LB483]

SENATOR LANGEMEIER: It could be 2,500 in each, correct. For an example, you and I share Colfax County, for example. [LB483]

SENATOR STUTHMAN: Yes. [LB483]

SENATOR LANGEMEIER: And it's two NRD districts. But let's put that aside for a minute. You have the Platte River, where I live, and then our hydrologically connected area. It's just two miles off the river to the north. You get into northern Colfax County, that's not fully appropriated in the north end of Colfax County. The Lower Elkhorn has self-mandated just to calm the waters until this preliminary designation is done. So, but that's not in the fully appropriated so that would not count towards these 2,500 acres. It would just be those within the 1050 lines of the stream. [LB483]

SENATOR STUTHMAN: Okay. That clarifies that a lot better for me. You know the concern of 2,500 acres, you know, is really, really in my opinion, a small amount of acres because, you know, that would probably be like 15 pivots. [LB483]

SENATOR LANGEMEIER: Um-hum. [LB483]

SENATOR STUTHMAN: Fifteen to eighteen pivots is really what that would be, you know. In an area like that, that's just almost like a drop in the bucket when you really think about the total number of acres in those designated areas. I think this bill might be okay but I would like to see the fact that, you know, there would be a larger number of acres that could be developed. I really agree with Senator Wallman as far as the fact of how many inches of water that we're taking out of the aquifer. I think that's more important than the fact that we're, you know, not allowing any wells to be drilled. Because, you know, if we don't allow wells to be drilled, I'm sure there's going to be more acres added to the existing wells that we have right now, especially for people that own property right adjacent to where they are irrigating if they have the opportunity to purchase that ground. I just think that I have real concerns about the fact that there is something other than the fact of...that we're taking too much water out of the ground, which to me hasn't been proven yet. And it's not a case, in my opinion, in listening to Senator Loudon's discussion stating that these rivers, you know, run about the same all the time. I think there is an issue that when you develop these streams underground, I think, you know, there is more water coming into the area. We have situations in our area where, you know, halfway up the hill, you know, their water comes oozing out of

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the ground in the wet years and we still have that situation at the present time. So thank you, Mr. Lieutenant Governor. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Nelson, followed by Senator Rogert. Senator Nelson. [LB483]

SENATOR NELSON: Thank you, Mr. Speaker, members of the body. Would Senator Langemeier take a few questions at this time? [LB483]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to questions? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR NELSON: Thank you, Senator. I'm looking at the amendment AM502 on page 3, the lower portion of page 3. Is this all...is this an all new statute or does a lot of this in the first several pages reflect what's already in existing law? [LB483]

SENATOR LANGEMEIER: That's all existing statute. Matter of fact, page 4, page 5, page 6, page 7, that's all existing statute. [LB483]

SENATOR NELSON: Okay. That...I'm just interested in replacement water wells and transfer rights and things like that. So there's really no change in policy there as far as that goes. As a matter of interest, do you know if you have to replace an irrigation well and it's in a certain location and in order to go to a pivot system you have to move it, move that well 300 feet, 500 feet, is that going to come under the category of a new well then? [LB483]

SENATOR LANGEMEIER: It does not nor does that get affected within this fully appropriated designation. [LB483]

SENATOR NELSON: Okay. [LB483]

SENATOR LANGEMEIER: As an NRD district, they have to come up with an integrated management plan. After you're fully appropriated, you have to come up with an integrated management plan. And in that integrated management plan, you're going to deal with replacement wells, conversion. So let's say you need to move your well to the center of the field or you don't want to trench it or something like that. They're going to come up with an integrated management plan to figure out how to do that. So that's going to currently go on. So we are talking just new, new expanded acres. [LB483]

SENATOR NELSON: And just briefly, could you explain what a transfer is as far as transferred wells or rights to wells? Does that go from one owner to another or is that within the same owner, if you know? [LB483]

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SENATOR LANGEMEIER: Yeah. If I happen...I'm in the real estate business, so if I sell a quarter of ground that has a registered well, it is of the buyer's interest, and I do it as a real estate agent to help them with...send those forms in to the state to make sure that well gets transferred to the new buyer. And I can tell you in my 17 years in the real estate business, my first four or five we didn't care about that. And there were a lot of wells out there that weren't to the right name. But as the full LB962 came in and certified acres and well ownership became an issue, we have sent a lot of those in, in the last five years. [LB483]

SENATOR NELSON: All right. Just roughly doing the math, 2,500 acres, if I'm correct, converts into about, if you figure there's going to be a well on a quarter section, you're talking about 16, 17 new wells. Would that be about right? [LB483]

SENATOR LANGEMEIER: Yeah. You have basically 137 acres under a pivot... [LB483]

SENATOR NELSON: All right. [LB483]

SENATOR LANGEMEIER: And so, yeah, it's roughly 20 is what we're shooting for. [LB483]

SENATOR NELSON: Yeah. So we're talking, over a four-year period, there might be...you could authorize an increase of perhaps 60 wells. Is there any standard area, overall area here, you know, in the district? Is there any average or does it just vary greatly as to what the effect would be, if you understand? [LB483]

SENATOR LANGEMEIER: I'm not sure of the question but I will... [LB483]

SENATOR NELSON: Well... [LB483]

SENATOR LANGEMEIER: I'm a politician, I'm going to talk anyway. [LB483]

SENATOR NELSON: Yeah, with the total of wells how does that compare, what percentage? Let's put it that way. [LB483]

SENATOR LANGEMEIER: It just depends on what basin you're in. If you're in the Lower Platte North, example, you're in their NRD district, it's less than 1 percent of the wells out there. But for an example, we took a five-year average of wells applied for and there were 62 wells a year. So we're reducing that a third. The reality is, is this is designed to have responsible expansion of irrigation. If you go out...let me give you a little example, if you don't mind me burning your time. [LB483]

SENATOR NELSON: That's fine. [LB483]

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SENATOR LANGEMEIER: I did an appraisal two years ago and I went out... [LB483]

PRESIDENT SHEEHY: One minute. [LB483]

SENATOR LANGEMEIER: ...on a quarter of ground and out in the middle of this quarter of ground was an old acreage and it had a bunch of trees out there. And I asked the gentleman, I said, how come you don't take those trees out and irrigate this and he said, well, he says, that acreage was Grandpa's, he homesteaded it, we want to keep it. Well, now two years later we're preliminary fully appropriated, he called me and he says, man, I could have dozed those trees out and put up a well. So now that you're fully appropriated there's this pent-up desire to expand that wasn't there prior to today. So what we're trying to do is deal with a responsible way to deal with this newfound demand over the next four years and then, after that, then it's back open and then we can continue but we'll have a responsible way to deal with this into the future. [LB483]

SENATOR NELSON: Well, having seen the implosion when it looked like there might be a fully appropriation of wells that weren't really necessary, I'm supportive of this bill if it's going to be workable. Thank you, Senator Langemeier. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Thank you, Senator Langemeier. Senator Rogert. [LB483]

SENATOR ROBERT: Thank you, Mr. President, members of the body. I rise in support of AM502 to LB483. I have a little unique of a situation in my district where the two major river basins are, the Elkhorn and the Missouri. The Missouri River Basin is probably never going to be fully appropriated and so we've got no problems there. But the Elkhorn is a very similar situation only it has one bad problem and it flows into the Platte about 20 miles before it hits the Missouri River. And so, just because we flow into the Platte, we come under the carpet of blanket moratorium and that really screws up a lot of folks in my district who are trying to make the best use of their farmland. This will allow us over the next four years to add a few more wells in the Elkhorn River Basin and determine whether we're doing anything to the water levels, which I fully believe we won't have any effect on them with this type of a bill. And so I fully support this idea so that it gives us more local control to monitor in more places where our water may or may not be dropping or staying where it is at this current time. So I rise in support, and I thank you, Mr. President. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Stuthman, followed by Senator Carlson. Senator Stuthman, this is your third time. [LB483]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would...in the discussion of Senator Langemeier, I would like to ask him a question or

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two. [LB483]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to questions? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR STUTHMAN: Senator Langemeier, in the last statement that you had you mentioned about new expanded acres. Can you explain what you mean by that new expanded acres? [LB483]

SENATOR LANGEMEIER: Well, the bill is designed on acres and not wells, because you may put in a well to irrigate 40 acres and I may put a well in to irrigate 160 acres, so I didn't want this caught up on just wells. Everything in this calculation to fully appropriated is not necessarily based on wells, it's based on acres. And so this would...this is designed for the expansion of new acres. So if you have a piece of ground that's 80 acres that you're gravity flow irrigating and you get the opportunity to buy the next 80 next to you, so now you think, well, let's get more efficient, which I would encourage you to get more efficient and go to a pivot. I will. I'll give my little sales pitch for pivots. I would encourage you to become more efficient, go to a pivot. That new 80 acres or 70, whatever it is, 72.5 acres of that 80 that becomes irrigated would be expanded within the 2,500. [LB483]

SENATOR STUTHMAN: So in other words, in all reality the fact that there may not be another well drilled because of the fact that there could be new expanded acres, a person could, because of technology and the amount of water used to raise the corn is less, they could put underground to another quarter and irrigate another quarter. [LB483]

SENATOR LANGEMEIER: Exactly. [LB483]

SENATOR STUTHMAN: So there could be the issue that there may not be any new wells allowed. [LB483]

SENATOR LANGEMEIER: Exactly. [LB483]

SENATOR STUTHMAN: The other issue that I have is, is when there are acres to be expanded do you got to put in a permit or request or how would that...how does this all develop? [LB483]

SENATOR LANGEMEIER: You would have to request it from the natural resources district and they will put it through. In this bill they have to come up with guidelines to how they're going to prioritize those applications, and then they would permit them from there. [LB483]

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SENATOR STUTHMAN: So in other words, there could be an application for the fact of new wells and there's a process to go through. But an individual, you know, may want to do some of this and he may never have the opportunity to ever be accepted in the fact that he wants to add another 80 acres on to the pivot, which he has only irrigated the windshield wiper and he could add on and then he purchased that next 80. But he may not be allowed to do that because of the fact that the NRD has set up the guidelines and A, B, and C has, you know, a priority over him. So it may not happen. It may not happen in the four years that this individual will be allowed to irrigate those other 80 acres. [LB483]

SENATOR LANGEMEIER: What I foresee is, is the NRDs, as they set up this policy, they're going to determine whether that type of a situation has precedence over someone that's going to put in a well and do gravity. Yes, they're going to set up a policy. Yes, there's probably going to be more than 2,500 acres applied for to be expanded, but that's the purpose of the bill, is to control that growth into the future. And I'm burning your time but...and I can turn my light on if you need more time. But here's what I'm thinking, is the director sits there today and they have...let's use the preliminary fully appropriated area because we...and the only reason I use that is because there is a decision pending on that, so something is going to happen there. But as that director sits there and looks at his science that got us to this preliminary fully appropriated, and the NRD brings in their science that says maybe you didn't quite tweak that right or maybe we need this or maybe we need some clarification, what I'm hoping with this bill is, is... [LB483]

PRESIDENT SHEEHY: One minute. [LB483]

SENATOR LANGEMEIER: ...as the director sits there and says, well, maybe they have some good points but if I were to change my designation, we're close enough that I could just stay fully appropriated. But as he sits there and thinks about that, and I don't want that fear of this future big growth to be a deciding factor how open-minded they are to the new thoughts, because, granted this is pretty blurry and those numbers are fuzzy in modeling, I don't want them to be restricted by the fear that we could have this growth. [LB483]

SENATOR STUTHMAN: Yeah. [LB483]

SENATOR LANGEMEIER: And maybe 2,500 acres is too small. Then your NRD, in the earlier portion of this bill, could meet with DNR and discuss a higher level and approve a plan. [LB483]

SENATOR STUTHMAN: So there is an opportunity that the 2,500 acres isn't really set in stone. There is a process that that could be changed. [LB483]

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SENATOR LANGEMEIER: The 2,500 acres is a default. The NRD... [LB483]

PRESIDENT SHEEHY: Time, Senator. [LB483]

SENATOR LANGEMEIER: ...could negotiate a different level. [LB483]

SENATOR STUTHMAN: Thank you. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Thank you, Senator Langemeier. Members requesting to speak on AM502, Senator Carlson, followed by Senator Hansen. Senator Carlson. [LB483]

SENATOR CARLSON: Mr. President, members of the Legislature, before Senator Langemeier gets too far away, I'd like to address a couple of questions to him if I could. [LB483]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR CARLSON: Senator Langemeier, I did step out a few minutes so if I'm asking something that's already been covered, let me know that. But your bill applies specifically to each NRD separately. [LB483]

SENATOR LANGEMEIER: Correct. [LB483]

SENATOR CARLSON: And each NRD will make a determination of how those permits are awarded and allowed if a basin gets to the point that get off of fully appropriated and allow some expansion. [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR CARLSON: And I think that that's the way it should be, just as a point. And we don't want to add any more legislation than we need to add. So I don't want this to become a part of this bill, but it would not be very prudent for an NRD that's determining where these 2,500 acres expand, to expand into a portion of their basin because we have this in existence. There are portions of an NRD where the water levels are actually rising and there are portions of the same NRD where they're dropping. And if we have a significant drop in a portion of the NRD, it wouldn't be very prudent to award a new well to that section. So I would hope that that's the way those decisions are made. Senator Stuthman brought up a point that I don't think this bill addresses but I'm asking you. He talked about having a pivot on an 80 acres and then buying the adjacent 80 acres and

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not being able to use that pivot to irrigate the additional 80. He's correct on that, isn't he? [LB483]

SENATOR LANGEMEIER: Correct. [LB483]

SENATOR CARLSON: And I think that brings out a point that...people don't like it, but if we had meters across the state, and on that particular well he'd been irrigating with 12 inches of water on 80 and decided that I'd like to irrigate the other 80 acres and put 6 inches on each one, because as we get to be more and more efficient with the way that we irrigate and use hybrids that are developed that take less water, that may be prudent. I think the only way that could be addressed is if we had meters on wells. So thank you, Senator Langemeier. Thank you, Mr. President. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Carlson. (Visitors and doctor of the day introduced.) Continuing floor discussion of AM502, members requesting to speak, Senator Hansen, followed by Senator Utter. Senator Hansen. [LB483]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I would like to ask Senator Langemeier a couple questions, too, if I could. [LB483]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR HANSEN: Senator Langemeier, off the mike we were talking a little bit about natural free-market increase in the number of wells in some NRDs. Would you want to repeat that, about how many wells are being drilled, new wells being drilled in some NRDs around your area? [LB483]

SENATOR LANGEMEIER: You know, we just checked with them as we went around and they're basically on an average amount that we're not seeing a big rush on wells. So you're seeing about 64 on an average per year for wells. [LB483]

SENATOR HANSEN: Thank you. That figure is free market and that's what the people can afford. That's what they find in efficiencies. That's what the free market says, you know, we can probably do this. We talk about expanded markets. We have ethanol in this state now and that demands that we grow more corn. I sat back here for...since this bill was introduced on the floor by Senator Langemeier and fuming a little bit about what happened in our NRDs and how that process went. If we would have had something in this line of AM502 and the underlying bill, it would saved some angst. This is a very hot-button issue that the NRD, the local NRDs, with a lot of persuasion from the state, said that you need to decide whether this is a fully appropriated or overappropriated. Well, and that a moratorium on the wells are going to take place in a year and a half.

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Well, it wasn't efficiencies, it wasn't expanded markets, it was fear. It was fear that drove those producers to drill more wells. If we're ever going to drill a well, we've got to drill it now. That's not what should...that's not the way we should think about our resources, and especially our water resources. And then the next year, it was the Department of Natural Resources said: You've got to prove up on those wells. You've got to make sure that there's a pivot on it. You've got to make sure that there's a crop on it. So we had marginal land, wells drilled on marginal lands. The grass plowed up in order to grow a crop. That's not the way we should look at increasing production in this state. It should be market driven, expanded markets, and efficiencies. I commend Senator Langemeier for bringing this bill, and I certainly will support it unless he adds more amendments to mess it up. But this is a topic that we just get spitting mad about in our area, so I'll probably vote for it no matter how he messes it up. Thank you. [LB483]

PRESIDENT SHEEHY: (Laugh) Thank you, Senator Hansen. Senator Utter. [LB483]

SENATOR UTTER: Thank you, Mr. President. Senator Langemeier, would you yield? And I want to... [LB483]

PRESIDENT SHEENY: Senator Langemeier, would you yield? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR UTTER: And I want to apologize if this question a has been covered and I missed it. But would you just briefly describe for me how the outcome in the Republican River Basin might had been different had this bill had been enacted four or five years ago? [LB483]

SENATOR LANGEMEIER: That's a good question. The problem we had with that is four or five years ago we didn't have LB962 and this fully appropriated and overappropriated designation. The thing we all have to remember in the Republican, as we have these discussions, is we had expansion of irrigation, we had expansion of wells done very legally. We didn't have any provisions that would limit it. We didn't...currently, the NRDs have no provisions now to filter through applications in regards to what Senator Hansen said--should that have even been irrigated? Right now they don't have that. It's...if you're not fully appropriated, you apply for a permit, you get it in, you darn near can get the permit before you walk out the door, long as you meet the...and every year it gets a little bigger, as you meet the spacing requirement from your neighbor. That's the tools the NRDs have now. So it's hard to say. If they had this tool maybe to allow them to filter through those applications, maybe it would have looked different. [LB483]

SENATOR UTTER: Thank you. I will join Senator Hansen in supporting this legislation. I think it's an important step as we move along this process of developing sensible state water...a sensible state water plan. And so I would admonish you, Senator Langemeier,

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unless you mess it up with some more amendments, why, I will support it. Thank you. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Sullivan, followed by Senator Dierks. Senator Sullivan. [LB483]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. First of all at this point in time, I believe I do stand in support of LB483 and the accompanying amendment, in part because I think it adds some flexibility to a situation that right now appears to be having quite a lot of subjectivity. There are different models that are being used to determine whether a basin is fully appropriated and that subjectivity leads to a lot of differences of opinion. So that's why I think Senator Langemeier's bill gives some flexibility to irrigators in the area when those determinations are still in process. But I do have a couple of questions for Senator Langemeier. I wonder if he would yield. [LB483]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR SULLIVAN: Senator, do you feel that the NRDs currently have some authority to do some of the things that you're affording them in this legislation? [LB483]

SENATOR LANGEMEIER: The NRDs do have the ability to set moratoriums on reaches within their NRD district and set a policy to handle that. Yes. So you ask the next question is, is why do you do this? Well, as the director sits to make these decisions, everything that we can fix as a known number helps them make decisions. And so, as these...policy is set forth, the director knows what could happen into the future. We could have an NRD...and I'm just going to use some for example, and they have no relevance, but I'm going to use the Lower Platte North which I served on. They could set up a policy and be very stringent, follow this kind of a guideline and be fine. You could have another NRD that has very active board members, very active farmers that say, let's do nothing, and put themselves back in jeopardy of going fully appropriated. This sets a base groundwork so that the department can say, okay, we know there's not going to be just an onset of wells next year if we change this designation. We know what's going to happen, so now we can very clearly look at the science, both that they have and what they're hearing in their testimony of the hearings. [LB483]

SENATOR SULLIVAN: So in other words, they use all of that information, because I guess that leads to my second question as far as how...under this legislation then, what is the process that an NRD would use in setting priorities and the rules and regulations, as you indicate in this legislation that they would be bound to do? [LB483]

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SENATOR LANGEMEIER: Well, I'm going to give that right to the NRDs. You know, I thought about coming in here and saying, okay, if you want to expand on class one soils, you're going to get first priority class twos, you're going to get second priority to get these 2,500 acres. But that doesn't work in all NRDs. For example, you get in the Platte River Basin where I'm at, you have class twos, class threes are irrigated. The class ones happen to be up out of the sandy valley and happen to be up in the hills, so that common mind-set doesn't work. The NRDs then could set procedures on...using Senator Stuthman's, for example, they may put the expansion of acres with no new well as a priority in their district, and that might be the way they prioritize it. But each NRD district knows their district very well, and so I think it's crucial that we elect those elected to boards and those people that know it better than we do to set that criteria. [LB483]

SENATOR SULLIVAN: Thank you. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Dierks. [LB483]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. I wonder if I could have a conversation with Senator Langemeier, please. [LB483]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR DIERKS: Senator Langemeier, I just need some clarification on the jurisdiction of the NRDs with relationship to the Natural...to the Department of Natural Resources. If the Department of Natural Resources declares...they are the outfit that declares whether the water value is fully appropriated or not, right? [LB483]

SENATOR LANGEMEIER: Correct. DNR makes that determination, not the NRD. [LB483]

SENATOR DIERKS: So then, when there's a call for...some of the language in there says that when there's a change of status that the NRDs take over, is that...am I close to right? [LB483]

SENATOR LANGEMEIER: The change of status would be the DNR's change of status from nonfully appropriated to fully appropriated. Well, they can't go to overappropriated but if you were coming out of that, that status change is the DNR's call. [LB483]

SENATOR DIERKS: But the NRDs have no authority to change the...themselves, to change the status of the appropriated, fully appropriated, or... [LB483]

SENATOR LANGEMEIER: No, no. The only thing the NRDs have...the NRDs have and

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most NRDs have done this, in certain segments of their districts, they have put well moratoriums on already. For my example, my Butler County in my district, the Lower Platte North has taken an area where there's been great declines in the water. They have put a well moratorium. So they do affect their own well moratorium, but the status of fully and overappropriated is DNR and DNR only. [LB483]

SENATOR DIERKS: Okay. I keep coming back to the ability for our citizens to determine their destiny by local control. [LB483]

SENATOR LANGEMEIER: Uh-huh. [LB483]

SENATOR DIERKS: And the NRDs are all elected by the local NRD, natural resource district. And I just wondered, they still are overridden by the Department of Natural Resources. [LB483]

SENATOR LANGEMEIER: That's...yeah, that's currently...yes. [LB483]

SENATOR DIERKS: Thank you. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Wallman. [LB483]

SENATOR WALLMAN: Thank you, Mr. President. I yield my time to Senator Stuthman. [LB483]

PRESIDENT SHEEHY: Senator Stuthman, 4:50. [LB483]

SENATOR STUTHMAN: Thank you, Lieutenant Governor. And thank you, Senator Wallman, for the time. I would like to also engage in a little conversation with Senator Langemeier, if he would have a little time. [LB483]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to questions? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR STUTHMAN: Senator Langemeier, with the amendment and the bill, I noticed in the committee hearing that it was...the proponents were...the majority of those were the NRDs, and there was no opponents, but there was one, Jay Rempé of the Nebraska Farm Bureau was a neutral position. Can you tell me with this bill, is this going to be better for the average ag producer, the average farmer out in a community in an area with this, with your amendment, with this bill, compared to what we have presently on the books? [LB483]

SENATOR LANGEMEIER: What I think this bill offers is a sound plan to come out of a

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fully appropriated. Without a sound plan, you will never see anything come out of a fully appropriated designation. So is 2,500 acres a positive for ag versus zero? I think so. [LB483]

SENATOR STUTHMAN: So, Senator Langemeier, then in other words there is no method to add additional acres in a fully appropriated area by the DNR in a natural resource district or can a natural resource district, on their own, allow some additional acres to be irrigated? [LB483]

SENATOR LANGEMEIER: If you're fully appropriated, no, you can't expand. [LB483]

SENATOR STUTHMAN: So in other words, in other words, you know, if you're fully appropriated, the mere fact of adding another 50 acres or 100 acres or another pivot or anything like that, without this bill it would be impossible to add those acres in that determined area by the DNR as fully appropriated or overappropriated. Is that correct? [LB483]

SENATOR LANGEMEIER: Without creating an offset, that is correct. [LB483]

SENATOR STUTHMAN: Explain the offset to me. [LB483]

SENATOR LANGEMEIER: If you wanted...let's go back to your example where you wanted to add that 80 on, now you want to run your pivot around the full time. If you wanted to increase those acres you'd have to go find an offset. You'd have to go buy an irrigation well or retire acres somewhere else, and so you're shifting them, but you're not creating new ones. [LB483]

SENATOR STUTHMAN: So in other words, you're not creating or establishing any new additional acres for improved deals or anything like that. So you'd have to find an area where you would say, well, we've been irrigated and we have these declared as irrigated acres but we're going to convert those to dryland because we want to add another 80 acres of irrigated ground that was dryland so that we have to convert that over. [LB483]

SENATOR LANGEMEIER: Exactly. [LB483]

SENATOR STUTHMAN: Okay. Thank you. That is the concern that I had, is the fact that, you know, what are we doing here that will improve the situation in the rural areas so that there is a possibility that they can expand acres. I really think the 25 acres...2,500 acres is a very small amount of acres when you're considering how many acres are in some of those areas, in those NRD areas. So with that, I would like to see that expanded but I think they can if the NRDs, you know, are willing to do that. So with that, thank you, Lieutenant Governor. [LB483]

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PRESIDENT SHEEHY: Thank you, Senator Stuthman. Are there additional members requesting to speak on the Natural Resources Committee amendment, AM502? Seeing none, Senator Langemeier, you're recognized to close. [LB483]

SENATOR LANGEMEIER: Thank you, Mr. President, and I appreciate the discussion. I think this...I'll be the first one to say I don't want to limit irrigation. I don't want to limit agriculture, but I think the limitation is a responsible method to the removal of a fully appropriated. And I think over time, if 2,500 acres is not the right amount, you have the opportunity to go to DNR and negotiate. And if 2,500 is way too low, we see in the future this body can set forth a new path on the 2,500 acres if they choose to. And so with that, I would ask that you adopt AM502 and LB483. And, again, I will remind you, I do have a...there's one word that needs to be "subbasin" in this legislation. We will come back with another amendment on Select File to do some of that technical changes. I wanted to focus on the subject matter of the topic for today. And with that, I'd ask you to adopt AM502. Thank you. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You have heard the closing. The question before the body is on the adoption of the Natural Resources Committee amendment, AM502, to LB483. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB483]

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB483]

PRESIDENT SHEEHY: AM502 is adopted. We will now resume floor discussion on LB483. Members requesting to speak, Senator Fischer. [LB483]

SENATOR FISCHER: Thank you, Mr. President and members. I'd like to thank Senator Langemeier for his work on this issue. It is an extremely important issue as more and more areas of the state and more and more basins in the state of Nebraska are facing a fully appropriated designation. That has a huge impact on the economy of this state and all of us in here need to be aware of that. It's not just an ag issue. This is an issue that affects every part of the state and affects the economy of this state, so we all need to be aware of what's going on. Senator Langemeier and I had a conversation off the mike and I was wondering if he would yield so we can continue that on the mike, please. [LB483]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to questions? [LB483]

SENATOR LANGEMEIER: Yes. [LB483]

SENATOR FISCHER: Senator Langemeier, I had asked you about section (13), part (c)

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in the amendment that would give the Department of Natural Resources the ability to approve any rules and regulations set up by the natural resources district. Could you explain that, please? [LB483]

SENATOR LANGEMEIER: The mind-set on that is, is if you don't want to take the 2,500-acre default provision within this bill or the percentage default, you could come up with a plan as an NRD to propose to DNR that's at some other level. So if you're in the Upper Elkhorns where you may be at a higher level than this 2,500 versus being in the lower reaches of the Platte or even some western parts of the Platte within this designation, as you develop that plan, you're going to say this is how many acres I would like to have and this is how we're going to prioritize issuing those acres and those permits, and put those all in your rules and regs of your plan. You would submit that to DNR and mainly you submit it to DNR for their saying, well, 10,000 is way too high or...to negotiate that number out. And so that's the portion that you would take to DNR versus just going with the default. [LB483]

SENATOR FISCHER: What would DNR base their judgment of that plan on? Is that spelled out in the amendment or in the bill? Do they need to use, we all hear the term...sound science all the time, do they need to use sound science? Will the natural resource districts be able to provide them with data that they have accumulated over the years that affect...directly affects their basin in their area? How will that be determined? [LB483]

SENATOR LANGEMEIER: That's going to fall back on LB962. And LB962, when you ask right now, if you request, if you're fully appropriated and you ask to have it re-reviewed, they will give you a number of how many acres that's available, per se, or not available, how far you're over or where you're at. They can give you that number and that's already in LB962. So the NRD would have the option to go back and request that amount for one year within this bill or you then take some of it less. I think the economic drivers that drive irrigation development, it's better to have the 2,500 over four years versus if you saw you could do ten the first year and just...you know, I had a gentleman tell me, he says, just let them do ten and be done with it one year. But the net result of total number of acres would be set. But I think if you do it over a number of years, it allows irrigation well companies to...yeah, maybe they have to ramp up their employees that first year and then fire them all the next year, it allows them to start changing their business from maybe a direct well driller to more maintenance-type of a well operation if we do this over time. [LB483]

SENATOR FISCHER: Okay. Thank you, Senator Langemeier. Once again,... [LB483]

PRESIDENT SHEEHY: One minute. [LB483]

SENATOR FISCHER: ...I do thank Senator Langemeier for his work on the bill. I think

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Senator Dierks made some very wise comments on the amendment previously when he was on the mike. Our natural resource districts are represented by members of the communities in which they live. They are locally elected, they understand their areas, and I can tell you from my experience with the natural resource districts, those are people that take their jobs very seriously. They have accumulated a lot of data over the years. They work well with their local communities and I hope that we can see that that continues that they are a voice in serving the people and serving the state with regards to ground water. Once again, I hope that all of my colleagues are taking a deep interest in these issues because, as I said previously, this does affect all of us. It is not just an ag issue... [LB483]

PRESIDENT SHEEHY: Time, Senator. [LB483]

SENATOR FISCHER: ...or a rural issue. Thank you, Mr. President. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Senator Schilz. [LB483]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. And I'd just like to stand here today and talk in support of this bill. It's a good first step on getting our plan in place to move forward to be able to move districts and areas and basins out of fully appropriated so...and hopefully, someday we're going to need that. So I would just urge everyone to support this. Vote green on it and let's keep going. Thank you. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Senator Haar. [LB483]

SENATOR HAAR: Mr. President, members of the body, I'm a newcomer to water issues, but sitting through the hearings and through the Executive Sessions on this one, I want to thank Senator Langemeier for all the work he's put into it and support this bill. Thank you very much. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Haar. Are there additional members requesting to speak on LB483? Seeing none, Senator Langemeier, you're recognized to close. [LB483]

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. I would ask that advance LB483. We do have a little bit of a time line. And then, as I said before, we have a couple...like I said, I've got to add "sub" in front of "basin" in one spot, and we're going to deal with the surface irrigation people and make sure their portion of this is perfectly clear and where they need it to be, so it can be implemented. With that, I'd ask you to adopt LB483. [LB483]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the question...the closing. The question before the body is on the advancement of LB483.

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All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB483]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB483]

PRESIDENT SHEEHY: LB483 advances. Mr. Clerk, do you have items for the record? [LB483]

ASSISTANT CLERK: Mr. President, your Committee on Transportation and Telecommunications reports LB60 to General File, LB111 to General File, LB222 as indefinitely postponed, LB225 indefinitely postponed, LB323 indefinitely postponed, LB329 indefinitely postponed, LB398, LB560, LB642, all as indefinitely postponed. In addition, LB278 is placed on General File. I have a notice of committee hearing from Judiciary for Thursday, March 12. Transportation designates LB497 as a committee priority bill. Your Committee on Enrollment and Review reports LB260 to Select File with amendments attached. And that's all I have at this time. (Legislative Journal pages 662-667.) [LB60 LB111 LB222 LB225 LB323 LB329 LB398 LB642 LB278 LB497 LB260 LB560]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to next item under General File, 2009 senator priority bills, Friend division.

ASSISTANT CLERK: Mr. President, LB346 introduced by Senator Gay and others. (Read title.) The bill was read for the first time on January 15 of this year, referred to the Health and Human Services Committee. That committee reports the bill to General File with committee amendments. (AM546, Legislative Journal page 632.) [LB346]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Gay, you're recognized to open on LB346. [LB346]

SENATOR GAY: Thank you, Mr. President. LB346 creates the Children and Family Behavioral Health Support Act. We had a public hearing in the Health Committee on February 5 and there were 21 people testifying in support of this bill, 3 opponents, and 4 neutral. Committee advanced LB346 unanimously out of committee. I'd like to thank Senator Howard for making this her personal priority. I want to give you a little background on LB346. Over the...we all know there was a response to the flaws in our system that were brought to light by the safe haven issue that unfolded last year, and many of you had to deal with that in the special session. These unintended consequences exposed problems with families accessing the services, particularly behavioral health services for children and adolescents. I was part of the task force organized by Senator McGill to study the issue and to facilitate a dialogue with stakeholders to find solutions. This task force involved over 40 individuals who represent organizations that work directly with these families and children, some on a

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daily basis, and experts in this area, including mental health professionals, courts, educational institutions, residential treatment facilities, advocacy groups, parents, and the Department of the Health and Human Services. And I thought these meetings, quite honestly, were very good. They opened a lot of discussion. It was monitored by other members of the Legislature who are part of the task force and that serve on different committees in the Legislature, specifically, Health and Human Services members and Judiciary members. LB346 is the result of these efforts. The bills don't go as far as what many would like to see, but they serve as a starting point and address the immediate issues highlighted by last session's safe haven law. Let me say again: This is a starting point. I think we would all agree that we need to keep the focus on our efforts and LB346 will help bring about a lot of this focus. A constant issue brought up during the special session to amend the safe haven law, and during the discussions of the task force, was that families don't know which services are available during a time of crisis and that navigating the bureaucracy in order to access these services is very difficult. LB346 is drafted by the administration of the Department of Health and Human Services with input from Health and Human Services Committee members and those issues that were discussed during the Children and Family Crisis Task Force. It also reflects the discussions of the interim task force and those immediate needs exposed during this discussion. Let me just explain a little bit about what LB346 does. First, LB346 provides that there will be one statewide phone number available 24/7 to Nebraska families who are experiencing a family crisis with their children. The triage line will be staffed with behavioral health professionals trained in assessment, triage, and referral. The triage line will provide families with options that are immediately available to the family, as well as referral information. Families in need of ongoing behavioral health services will be referred to a family navigator located in or near their community. Second, this bill will provide for these family navigators. Family Navigators will call or meet the family upon receiving a referral from the triage line. The family navigator will assist and support families who request ongoing behavioral health services by providing information about available services, where services are located, who to contact to schedule appointments, and how services are paid from Medicaid, sliding fee scale, private insurance. The family navigator also will be available in each of the six behavioral health regions. These navigators will have experience and knowledge, both personal and professional, with the behavioral health system with adults and youth. The family navigators will be supervised by licensed mental health professionals with behavioral health expertise. And they will provide strength and hope of their own experiences. It is envisioned that the health crisis line and the family navigator services would be contracted together and some of the people who may do this, and this would be put out for bid, would be...could be a Boys Town, a regional health authorities, Magellan, out-of-states providers, unknown professionals who may step forward and say, we can do this, we can run the hot line, we can do this program. So it is wide open to anybody who wants to bid on it. There will be, of course, specifics in the bill of how...what we would want during the RFP process. Third, LB346 requires the department to provide postadoption, postguardianship services, and case management services. And finally,

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the bill requires an annual report evaluating the services established by the bill. I would just tell you all, I would like to thank several people who had been working on this: Senator Gwen Howard, who was very key in the postadoption, postguardianship issues, her experience in those issues and ideas that she brought forward; Senator Pankonin, who had worked very closely with Senator McGill on the 800 line; Senator McGill had her own bill that was very close to what we were doing but the 800 line, her input has been very good as far as regarding evaluation and how we will do follow-up services. So those people and then also the people that served actually and participated over the summer in the Children in Crisis Task Force. I do believe their concerns...many times we create these task force and, you know, it's a lot of talk and no action. I do believe that their voices were heard. Some of their recommendations were forwarded, some weren't. Of course, when you get that many people together you can't find common ground on every single issue. That's why I said again and again, this is a starting point. Where do we start? How do we keep focus on this? This is an issue that will never, quite honestly, go away. I think it's a...we found during the safe haven issues, this is a national issue, not just the state. So by addressing it with what we think is a good starting point, the three main points we've heard, this bill addresses that situation. So as we have discussion, I know there will be...another thing I would want to bring up, I'd be very remiss, there is a fiscal note to this and we're working on it. We had introduced several bills. I personally had introduced some. There are others introduced of how to fund this. We knew coming into this session that funding was going to be very, very difficult. So we looked at alternatives and we're still working on alternatives, and at this point, today, we're still looking at those alternatives. And I will be the first to admit, we do not have them down. Concerns were raised by some of the opponents and neutral is why take money from one and not...you're taking money away to go address a problem that's not going to help the problem. To be responsible, we said, how could we pay for this and can we...are there services that we need to reprioritize and say, you know what, this is a bigger priority than that, (inaudible) transfer services and dollars. We're still in that process and don't exactly have that down. So I will be the first to admit, my failure on some of the bills. I still do have...I'm very optimistic though, long-term, that we can find opportunities to help fund this and we've got bills in Health Committee and there are bills that were in other committees to address some of the funding issues, and that's an ongoing discussion. I've had discussions with the Fiscal Office and others and that's continuing to be worked on at this point. So I come here today to put the concept out for you, have a good discussion, because I know everybody in this body, I'm sure, is very concerned with these issues. So with that, Mr. President, I would close. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the opening to LB346. As was noted, we do have a Health and Human Services Committee amendment, AM546. Senator Gay, you're recognized to open. [LB346]

SENATOR GAY: Thank you. The committee amendment actually replaces the bill somewhat. It retains the basic services I just had mentioned in the opening but takes

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into account testimony provided at the hearing and then other follow-up that I received and others received. The committee amendment gives the official name to the act, Children and Family Behavioral Support Act. Under the bill, the hot line was to be staffed by licensed mental health practitioners. Given that part of the problem we face in Nebraska is a shortage of licensed mental health practitioners, this was not practical. However, we wanted to ensure that those answering the call from a family in crisis were well-trained and sensitive to the family's needs. The amendment provides that the hot line will be administered by the Division of Children and Family Services but would be staffed in trained personnel under the direct supervision of a qualified mental health, behavioral health, or social work professional engaged in mental health treatment. So we want to make sure at all times that the hot lines are staffed with professionals who have dealt with these issues and can give good advice. With respect to the hot line and the Family Navigator Program, the biggest challenges from the green copy to the committee amendment are the evaluation components. This asks the Health and Human Services Department to do certain things. Committee members were a little uncomfortable with change, not only in the department that could happen, which we've seen already happen, but changes in the Legislature. As we move on through here with term limits, there will be changes, so we wanted specific evaluations on what's being done and how it's being done. So AM546 requires a hot line evaluation that includes the county of the caller, reliability and consistency of the information given to the callers, an analysis of the services needed and requested, and the degree to which the caller reports satisfaction with the referral services. Committee amendment also requires the Family Navigator Program to be evaluated by an assessment of the quality of their interactions with the program and the effectiveness of the program as perceived by the family. These assessments shall include: One, whether the family was involved through the referral recommendations. Did they actually do availability and accessibility of the services? How did you like the services? Were they timely? Were they given as you wanted them? And the waiting time, how long did you have to wait to receive these services? When you're in a crisis you obviously do not want to be waiting for days or even weeks on this, so we wanted to make sure we followed up on that. So...and then also the cost in the distance factors, how far did someone have to go to access the services? As we know, it's a very diverse state. Those services being provided in Omaha are going to be much different than those services that could be provided in Chadron. One thing we do know, that these can happen anywhere, so we need to make sure that we're flexible enough that we can deal with the rural areas, let alone the urban areas, Omaha, Lincoln, whatever, who may have a little more access to the services and the professional personnel that may be required. Finally on the committee amendment, it ensures that families who have finalized adoptions or guardianships of state wards are able to access continued services on a voluntary basis. Under AM546, the department will be required to notify parents and guardians of the availability of such services. The notification must be in writing and must be provided at the time of finalization of the adoption or guardianship and every six months thereafter or until the adoption or guardianship is terminated. So we may have...this is like until the adoptee

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reaches 18 or 19, depending, and there may be another amendment that we need just to make sure we get that narrowed down because there could be several changes, and we had another bill dealing with adoption services that would be offered to the families. This amendment also requires an evaluation of the service be conducted which shall include the number and percentage of persons receiving such services and the degree of problem resolution reported by families receiving the services. A report on all these provisions, the hot line, the Family Navigator Program, and the postadoption/postguardianship, shall be provided every year to the Governor and to the Legislature. This could be used for, again, when people are gone. I'm not big into reports, but we do need to follow up to make sure that this program is even working since it's a new program. It could also be utilized then like a Children's Behavioral Health Task Force that's going on, others who...obviously advocacy programs and people like that who spend their life looking at these issues and would want to know more about the program. So we felt that was a very important piece. And Senator McGill, Pankonin, Howard, and I had many meetings with the department, and I'd like to thank them for their patience, and we tried to work best we could to get that evaluation component in there. The problem...I wouldn't say problem. The challenge on that is, as we learn more, we can have more evaluation, but yet we don't want it too stringent because we don't know exactly. We wanted to leave some flexibility. So we knew we wanted an evaluation component but how much of that and how much to put in, we didn't want to be the ones writing the RFP. We figured that was for the professionals in the department, to work with us. I envision that this would be a project...of course all of us on the Health and Human Services Committee and anyone else who wants to monitor that would have...would be very interested. This is where we do our work in the summer and we make sure that the RFP is written and we have some involvement and ownership of that RFP process. And I'm very convinced that...not just Senator Howard and Senator Pankonin, they're very involved in this, too, but other members of the Health Committee would be very involved and concerned on that. This did get out of Health Committee, like I say, unanimously and has good support. Thank you, Mr. President. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the opening to AM546, the committee amendment from Health and Human Services Committee to LB346. Members requesting to speak are Senator Howard, followed by Senator McGill, Senator Dubas, Senator Hadley, and others. Senator Howard. [LB346]

SENATOR HOWARD: Thank you, Mr. President. And I'd like to thank Senator Gay for allowing me to prioritize this bill, LB346. Obviously, this is an issue that's very near my heart and that I've, frankly, invested my life in working on. Many times out of a crisis situation we find ourselves with an opportunity. The safe haven bill that we passed a year ago did present some...I'll call them issues, some issues that brought us to national attention and I think we didn't fully anticipate that. I certainly didn't anticipate the numbers of youth that would be placed in secure custody, but we've learned a lot from

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that. It really showed us that the need is there and now is the time that we have the opportunity to address this need. Two years ago I stood on this floor and, on a floor amendment, I took a half a million dollars out of the Governor's budget, with the help of my fellow senators. I said, we don't need another study of foster care; we need to take action and move forward to provide services. We'd had 12 studies in eight years. Studies weren't getting us anywhere. In this bill we have the component for documentation, documentation, documentation, and that goes all through the services that are presented here. We're going to get the information that we need on what services are available, how effective they are, how long it takes families to access these services, and what's not out there, what families need that's not there to meet their needs and their child's needs. That's critically important. It starts with the crisis line, documentation regarding referrals, and where have families found effective services, and this will be across the state. I see the most effective use of the crisis line in terms of a single point of access that would be similar to an 800 number that, as Senator Gay has pointed out, will be staffed by trained professionals and these include mental health therapists, behavioral health therapists, and social workers. They have a single mission and that's to help families access services that they need to help their child. We don't want children coming into our system. We don't want children becoming foster children. We want children working with their families and remaining in that family setting. And parents, I would say for the most part, whether they're biological parents, adoptive parents or have taken a guardianship, they want to help their child and we want to help them do that. In looking at the Family Navigator piece, this is again going to be staffed by professionals who are going to provide information on peers, peers that have been down this road, that have dealt with services, that can give their opinion on what's effective, that can be supportive to the family. I think this is going to be very important. And there are groups that have come to me and said we're ready, willing and able to provide this peer support, give us the opportunity. On the adoption piece, as everyone knows, adoption is where I came from, it's where I left when I came into this body and I still have contacts with adoptive families. They call me. They tell me the progress of their children. I see them. They show me current pictures. Adoption is a building, it's a community process, it's really what warms your heart when you hear the word "adoption." Long missing has been that piece of support for adoptive families. In describing the problem I said, too often this state has had a policy of saying this is your child and we're leaving. [LB346]

PRESIDENT SHEEHY: One minute. [LB346]

SENATOR HOWARD: Thank you. The subsidy piece is helpful, important, vital in most cases, along with the medical coverage that we provide. But the piece that's been missing has been family support, knowing who to turn to, where to go, having a professional available to you when you need that. And I've requested that this information be included in the adoption contract so people know at the time that they agree, they're finalizing adoption with that child, that that's there in writing for them.

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They know where to go, who to turn to and how to access the services. So I am proud of this bill. I'm pleased we've been able to do this. Two years ago I said, look at the reconstruction of our system, the rebuilding of our system as a framework. This is an important piece in that framework to provide effective services to families and this is what we're going to do to help families help their children. Thank you, Mr. President. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator McGill. [LB346]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I completely support LB346 and thank Senator Gay and the other members of the Health and Human Services Committee that allowed me to be a part of the process in working through the details on this bill. I became involved when the Judiciary Committee was the committee hearing the safe haven issue over...during the special session, and I became very attached to this issue when I saw how poorly some parents were being treated when they really were trying to just get help for their children who have mental health problems. With the guidance of Senator Ashford, we then started the task force that met several times in December to try to find some common issues we could rally around leading into this session and the one thing that I felt everybody agreed on was the hot line issue, which is why I introduced a bill on that and was a part of Senator Gay's plan. It was that one point or that one access point that everyone felt was necessary, and then of course everybody felt there were other problems we needed to address as well. But it was my goal to come out of that task force with one specific action item that we could absolutely accomplish this year and that is found within LB346. I'm very happy about the other two elements that I believe Senator Gay and Senator Howard have already discussed, and am particularly enthusiastic about the evaluation process that's going to take place so we can see what is working, what isn't, and what services are there or what services are not. But I'd also like to take my time right now to mention a bill that came through Judiciary from Senator Dubas, LB356, which is her priority bill which I feel is also crucial that we work on and get passed this year, because her bill takes everything a step farther and actually helps provide funding for some of the services through the behavioral health regions. I mention the regions also because, you know, as much as I do absolutely support LB346, I am a little bit concerned that if some of the funding mechanisms don't come through that we're just going to raid the regions to fund the hot line. Right now in the regions for their children's services, we give them less than \$6 million already to deal with children behavioral health services. I don't think that we can afford to be raiding the regions to fund this hot line when it's the regions who are helping the kids before they're in crisis situations. We need to be doing more to fund programs for the kids before they're 16 and 17 years old and need to become state wards because they're violent towards their families. You know, so many families have been coming to me now, since I've shown an interest in this issue, when their kids are already 16 or 17, and my heart goes out to them because there's not as much we can do to help the kids because their behavior is already so ingrained in their routine. We

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need to be helping them when they're six and seven and eight years old, when they're already showing signs of mental illness. And I believe that the regions have programs that are fabulous that are doing that, but we're only spending about \$3 million on some of those programs. And this is why I support Senator Dubas' bill and doing whatever is necessary this session to fund an increase in these programs. I know it's a tough year and Senator Dubas' original bill went a lot farther than what she is now issuing and prioritizing and that she wanted to find a way to get more children help without making them state wards. That would have cost over \$100 million. We all recognize that that was not realistic this year. But in light of safe haven, you know, this bill is a great first step, I wholeheartedly support it, but I think Senator Dubas' bill is the perfect complement to it and hope that both will be passed this session. Thank you, Mr. President. [LB346 LB356]

PRESIDENT SHEEHY: Thank you, Senator McGill. Senator Dubas. [LB346]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor, members of the body. I do rise in support of this bill. I think it's a great idea, it's what we need. As a member of the Children in Crisis Task Force, I heard that over and over and over from parents and different agencies--where do we go? You know, we need a place where we can make a call and we're going to get the direction that we need. So I think it's a great start in the process. As Senator McGill just laid out, you know, it's a part of a bigger picture. Last year in the special session I introduced a bill. When I knew that we were going to have a special session I thought, great, we're going to be able to address the whole picture, we're going to be able to talk about these kids and why they're showing up at the doors of hospitals. But unfortunately the scope of the special session was very narrow and so basically all we were able to talk about was just changing the age in the safe haven...original safe haven legislation. But I was afforded the opportunity to present my bill to the committee and at least we were able to have the discussion about why these kids were showing up and where the parents were at in the process and actually the lack of process and the lack of programs and services for these kids. And unfortunately, for many of these kids that was their parents' last resort--to drop them off at the hospital. This wasn't a case of bad parenting or lack of parenting skills. This was a case of end of my rope, have gone through the process multiple times struggling to find help for my kid; the only option I have is to either make them a ward of the state or take advantage of this bill. After our special session, Senator McGill and I were able to put the Children in Crisis Task Force together and we did that because the parents said, please don't let this issue die; please don't think that because you put an age in the bill the problem is gone. I mean, all too often, out of sight out of mind. And so I couldn't just let those pleas go unanswered and that's where the Children in Crisis Task Force came from. It was an incredibly beneficial opportunity for me. As senators, we just sat back and listened. We didn't actively participate in this task force. We brought the agencies, we brought the people who are involved in this together and then we listened and, believe me, I heard what they were saying. And, you know, they were talking about the need for a hot line

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but they were also talking about the need for services, and why do I have to make my child a ward of the state in order to get services? Why do I have to relinquish my control and my ability to participate in the health and well-being of my child in order to get services? So they were extremely, extremely frustrated. And as we talked about the hot line, it's like, okay, we have the hot line; where do we go from there? You know, do we have the linkage? Do we have the programs in place? We heard incredible things about programs that are in place but, again, you know, parents weren't able to access them because they had to make their child a ward of the state in order to get the help that they needed. Last year during the special session we would have had an opportunity to address the bigger picture. We had the money. We were still, you know, sitting in better shape financially maybe than we are now. But we had an opportunity to put some things in place, but unfortunately, for a variety of reasons, we weren't able to move forward in that. But this is our opportunity now. We have to look at the big picture. This is a puzzle. You can't have one piece without the other to make the picture complete. You can't have a hot line without giving parents a place to go when they call. You can't have services without adequate funding for those services. It's a challenge. We all know that that challenge is there but, by the same token, we cannot forget the voice... [LB346]

PRESIDENT SHEEHY: One minute. [LB346]

SENATOR DUBAS: The eyes of the world were on us last year, literally. I was interviewed by papers from France and all over the world. The eyes of the world were on us. They were looking at us. A lot of them were making fun of us for putting ourselves in the position that we did. And while the safe haven original legislation did create some problems, it also pointed out some very important issues that we just, many of us, were just not fully aware of. And so we have the opportunity to just say it's over, it's done with, we addressed the original intent of safe haven, let's go on from there. Or we have the opportunity through this bill, my bill, and other bills that have been introduced to really step up to the plate, recognize the issues that these parents brought to our attention and actually do something for them. So I do appreciate the work that Senator Howard has done, Senator Gay has done. They have invested... [LB346]

PRESIDENT SHEEHY: Time, Senator. [LB346]

SENATOR DUBAS: ...immeasurable time, so I appreciate their help. Thank you. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Additional members requesting to speak on the Health and Human Services Committee amendment, AM546, to LB346 are Senator Hadley, followed by Senator Pankonin, Senator Stuthman, Senator Ashford, and others. Senator Hadley. [LB346]

SENATOR HADLEY: Mr. President, members of the body, when I looked at this bill and

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what it said it should do, you know, a single point of access, behavioral health triage, screening and assessment, referrals to existing community-based resources, it reminded me a little bit of a call to 911. And I thought to myself, can you imagine what would happen if I called 911 and I had said I had existing pains down my left arm and I'm lying on the floor, and they said, oh, that sounds like a heart attack but we don't have services in Kearney to help you anymore, we're going to have to send you to Omaha or someplace else. I think one of the problems we have, I applaud this bill, but we have to think further also because we have to have existing community-based resources to help people. And I'll give you just an example that's happened in Kearney within the last two days. It was a headline, Richard Young, which is the psychiatric hospital in Kearney, is to phase out one of four programs that is cutting 35 jobs. They're closing its residential treatment center for adolescent females, a move that will eliminate 35 jobs. Why are they doing that? Well, the CEO says they've done everything they can to keep the doors open for Richard Young, the psychiatric hospital, but they can't afford to lose \$1.8 to \$2.7 million a year on this kind of services. And the reason for the disparity is the difference between the cost to provide care and the amount of reimbursement they're getting. Right now in the residential treatment center, the one that they're closing, it costs, on average, \$560 a day for a young female to be treated. The reimbursement rate averages \$294 a day. We in the state, we cannot expect the private sector to subsidize what the state should be paying for. Without...I will quote John Allen, who's the CEO: Without improved reimbursement from payers, the future for behavioral health programs in Nebraska is at risk. The government can't do as good a job as the private sector, I really believe that, but the private sector will not continue to do it at a loss. I think this is a great start to the program. I think we need this exact...this kind of service, but we cannot have people call this service and tell them we have no place to refer them, we have no place to send them or if we have a place to send them, it is three-fourths of the way across the state where it's almost impractical for them to get there. So let's pass this bill but let's hope that we can get a comprehensive program that really does deal with mental health problems, behavioral problems and such as that and not just put a band-aid on the problem and hope it goes away. It is not going to go away and the longer we look at it the more it's going to cost us. We only have to times...look at the problems we have in Beatrice that if we'd a solved them four years ago, we wouldn't be looking at the millions of dollars we're looking at today. So I urge you to support this bill... [LB346]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB346]

SENATOR HADLEY: ...and support further looking at reimbursement so that providers can earn at least a break-even point when working with mental health problems. Thank you, Mr. President. [LB346]

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SENATOR LANGEMEIER: Thank you, Senator Hadley. Senator Pankonin, you're recognized. [LB346]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I just wanted to give my perspective on AM546, which of course becomes the bill, LB346. As has been mentioned, there were several people that spent a lot of time on this issue and I want to just briefly recognize there again from my perspective. Senator Ashford, through his committee, Judiciary Committee, had delegated much of this work to Senator McGill and, between the two of them, they organized meetings last fall that were an important part of the process of bringing families together, mental health providers, and other members that were interested, including several from this body, and I applaud them for getting this process started. And then in late December, as been indicated, Senators Gay and Howard spent a lot of time with the administration working on LB346 and what could be accomplished. I have a personal interest in three issues or three ideas out of this bill. First of all, the thing that I don't think has been mentioned this morning is that mental and behavioral health issues affect, because they do nationally, one out of four Nebraska families. And over a lifetime, many families in our state will be affected by family members, themselves, neighbors that have these issues. And the thing that came out of these discussions was that, with proper treatment, a high percentage of folks can have recovery and have quality lives. And I think that's an important starting point with all these discussions, is that by making the system better we can improve lives and actually cut costs in many areas. Two things that I really like about this bill that I understand would be, first of all, the 800 line. We heard in every meeting that a single point of access is an important aspect of the system and we have some very good lines that are on a regional basis or different providers have, but to have one number that can be adequately advertised to everyone and staffed in a proper fashion is an important piece of the puzzle because what we learned from our research is that oftentimes even some of these problems can be alleviated or solved with that first call. Most are going to need further treatment and further follow-up, but just having a place to call, having that security that in the middle of the night, if there is a crisis, there is access to someone that is a mental health trained professional. And I think this is an important aspect that I'm very, very pleased that we got accomplished in this bill. Secondly, I think the peer support in the Family Navigator portion of this bill is an important concept. Oftentimes when families are affected by these issues, they think they're the only ones, they're the only ones with a child in crisis or themselves. We know that with talking to others that have been there and who have had successful outcomes with proper treatment, that that peer support can be an important aspect of having a system that makes for higher quality care. So I'm very pleased that we've got this bill before you and we sure would ask for your support, and I want to again thank all those that have worked on it. Thank you. [LB346]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. Those still wishing to speak, we have Senator Stuthman, Ashford, Howard, Campbell, Pirsch, White, Gloor, and

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others. Senator Stuthman, you're recognized. [LB346]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I've been involved in this bill for quite a bit of time. One of the things I do want to talk about, you know, I did support it coming out of committee but there are issues that we have to be very cautious about and we have to consider a lot of things, you know, before this bill does pass Final Reading. I want to just mention, I want to thank Senator McGill for some of the issues that she brought up. You know, we have districts, we have programs that are working in the state, we have hot lines that are working. We've got one hot line in my area that is very successful. One of the things that I'm very concerned about also is the fact that, you know, by creating another hot line, a state hot line, is the fact that, you know, when we create this and in order to fund this portion of it is, is are we going to be able to find enough money to support this without taking money away from some of the programs of child welfare, some of the hot lines, the regional hot lines that we have already in place? And it comes down to the fact that we have got a lot of programs that are unfunded and the fact is that they won't be able to survive and then in several years from now we will not have anything. So I think we have to make sure of that. But I think that one of the bigger issues that I'm really concerned about is the fact that, you know, when we do create this hot line and we have it, you know, manned 24 hours, are we going to have the services available to satisfy the needs of the people when they call the hot line? Are they going to be able to get some services, you know, within, you know, in an area where they have...where they need the services? You know, I think that's going to be a bigger issue, in my opinion, than the creation of the hot line, you know. You can call the hot line and give them your situation and your need there, but if there's no place to refer these people to, to get satisfaction for their concerns, you know, then the hot line is not of very much value. As I had stated before, you know, we do have hot lines in certain areas that are working, Crisis Navigator hot lines. We have other programs in other regions that are working and are very successful that refer people to services that they can get. So I think we have to be...we have to take a lot of thought with this bill. I do support the fact that we need to be doing something, you know, to hopefully address, you know, these families and children that are in a crisis. We need to address them almost immediately when that comes up with those situations. I think we already have in some areas in some districts the fact that we have some, you know, some unfunded systems that are, you know, trying to survive at the present time with limited resources, and if we take more money away from these programs just to create this hot line, then we have really not done our job. So I think we got to do a lot of discussion on this bill yet. You know, I'm totally in favor of it. I think we can get something that works out. But the fact is we just need to make sure that once this hot line is created that there are services available for these people to get. I think that's very important. The worst thing that I would...the worst thing that I think would happen was the fact that we have this hot line and they say, well,... [LB346]

PRESIDENT SHEEHY PRESIDING

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PRESIDENT SHEEHY: One minute. [LB346]

SENATOR STUTHMAN: ...you know, the fact is, you know, we don't have any services for that type of a situation; you know, maybe you can call back in a month, maybe we'll develop some services. Or the fact is that the only place that you can get these services are 400 miles away. That we don't want to happen. So I think this is something that we've got to take a serious look at. We have to work out a lot of the financial part of it, in my opinion, and we're in a tough situation at the present time with the economic arena that we are in. But the fact is, it's something that we need to address and hopefully we can do this, but I want to make sure that the programs that are successful at the present time don't have to give up some of their funding just to fund another hot line. Thank you, Lieutenant Governor. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Ashford, you're recognized. [LB346]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. Before I make my few points I'm going to make, I want to talk about Senator Stuthman's contribution because it was significant. I recall last fall, not to mix metaphors, but I was doing the immigration study across the state and I was in my...in North Platte, I think. I had just gotten back from a run, chased by a deer, and I'm sitting in front of my television watching NBC morning news and there is Arnie Stuthman on NBC morning news, right in front of me on the national news program. And what was significant about what Senator Stuthman said when asked on a live interview, which was scary to start with, I can't imagine being live on NBC, Senator Stuthman, but basically the question was asked, aren't you embarrassed to be from Nebraska because of the safe haven law? And Senator Stuthman said, absolutely not; said, absolutely not, we're going to use this as an opportunity to make things better in our state. So I congratulate Senator Stuthman, first of all, for his facile ability to respond to tough questioning by the national media and also for his commitment to this issue. Senator Stuthman was at all the task force meetings. He was a major...played a major role in this and he's an important part of this effort. Let me tell you why we have another bill out there in addition to what Senator Dubas said. We, in the Judiciary Committee obviously, had jurisdiction over the...well, not obviously, we had jurisdiction over the safe haven bill and the bill that was put out, and Senator...Speaker Flood came to me at the...last fall when we changed the law back to the infant safe haven concept and said, could we do something to have a task force to address this issue? And I said of course, you know, of course we can. And Senator McGill agreed to be the Chair of that task force and I also thank you, Senator Pankonin, for your comments but, quite frankly, you played a major role because of your personal interest and your involvement, and then, of course, Senator Dubas, who really just threw herself into this issue, as did Senator McGill. But let me tell you what the problem is that we see and have seen in the Judiciary Committee. Last year in LB1014, this

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body passed, as part of LB1014, the pretrial conferences in juvenile court to try to...a bill to try to avoid or reduce the state wards that we all know about, and we have heard that there has been a significant reduction or at least a reduction in state wards and that bill had something to do with that, I'm sure not all to do with it but it had something to do with it, and as a result we have some excess dollars available to go into behavioral mental health. I'm going to pass around today, hopefully so you can have it over the weekend, the results of the task force that was...that occurred this last fall, and I really commend you all to read it. This was a unique kind of a legislative event. It was not a public hearing. It was a task force that Senator McGill suggested. We sat back and listened to the major providers in this state talk about the needs out there and what was really important, and these are not necessarily providers that work generally every day in collaboration so what we were seeking was convergence--where do we...what are the issues that we all agree on. [LB346]

PRESIDENT SHEEHY: One minute. [LB346]

SENATOR ASHFORD: And certainly Senator Howard's ideas are part of that and Senator Gay's ideas are part of that, but without Senator Dubas' behavioral mental health piece, at least half or more than half of the recommendations in this task force will not be carried on and that is a significant issue and a significant problem. When insurance runs out, people, families have nowhere to go. They have nowhere to go. It is a significant issue in our state and it can be addressed partially by Senator Gay and Senator Howard's bill, but we must have Senator Dubas' bill to fill out the picture. I hope Senator Dubas' bill will come up next in the queue so that we can carry on with Senator Dubas' bill right after Senator Gay's bill. Taken together, we will really have accomplished something; taken separately, it doesn't do it. [LB346]

PRESIDENT SHEEHY: Time, Senator. [LB346]

SENATOR ASHFORD: So thank you, Mr. Lieutenant Governor. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Howard, you're recognized. [LB346]

SENATOR HOWARD: It's hard to...thank you, Mr. President. It's hard to follow Senator Ashford when he gets on a roll, but I have to tell you I really appreciate this discussion. This is long overdue. Children should be our priority. We have a lot of priorities. Certainly the budget is going to be coming up as a big priority. But this is a time we can all stand up for children and I think that's a big part of why we're all here. I want to make it very clear that in order for the hot line to be effective and to help parents who call, it's critical that services be available in the region where they live. Also the hot line itself will be contracted through a bidding process and all providers are encouraged to be involved and offer their services. This will give us the best that is available. Frankly, I'm

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not a fan of putting funds into building services when we have services, effective services that we can utilize, already in place. I agree with Senator Hadley that, again, it's critical and it's so important to families that these services be available as close to the area where they live. Realistically, a family cannot access services in Omaha as they are needed when they live in Kearney. We want a family to stay together, to stay intact, to work together to keep the child in that home. And keep in mind, keep in mind that this bill is not the total solution but a substantial beginning. I see the information that will be learned regarding not only what services are available but what services are not available will help us build for the future. I believe that economic times are going to be better. I believe we're going to have more opportunities in the future. And I believe that we are all now making that commitment to build, on this bill, on these services that we put in place, towards the future so that we can effectively help families, help them keep their children in the home where they want to be, where it's most effective to work on the family problems. This is our opportunity to do that. Thank you, Mr. President, and I return my time to the Chair. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Campbell, you're recognized. [LB346]

SENATOR CAMPBELL: Thank you, Mr. President. There cannot be, nor should there be, any short answer to what we learned from the safe haven situation this past summer. I believe that LB346 is the right starting point. It provides the hot line, navigators, and post help which are so necessary. But I would hope that all my colleagues would keep in mind the complexity of the issues facing the families not only identified in safe haven but countless others across the state, the needs of families for not only behavioral health services but for child welfare services. Both of these are intertwined. Many families we saw this summer have long been in the system, which should tell us that we need to continue to look for the depth of the problem, not just at the surface. We will be called upon to creatively use the resources we now have, to creatively develop services where we see gaps, and we have to earnestly know that the dollars that we can bring forward today will pay off in the generations to come. I would certainly urge all of us to think that now is not the hour to flinch from the investment of dollars that we will have to make. Thank you. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator White, you're recognized. [LB346]

SENATOR WHITE: Thank you, Mr. President. I support the intent of LB346 and the motion AM546. However, I am concerned that in making a good start as a body we will accept that we've completed the race. Empty promises are actually worse than doing nothing. If we set up a hot line and a person answers the phone and said...and the message is, my 14-year-old son is outside in the car, in the driveway, threatening to kill himself; he's been using drugs and smoking pot; I need to get him help, what do I do?

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And they say, well, you know, call this number. There's some drug treatment programs. And you do and then three days later you get in and then you find out, eight months later you might be able to get him a slot in a three-day hospital plan to try to get him off the drugs. That's more cruel than it is helpful. What concerns me is that, as politicians in tight fiscal times, what we're going to really do is create, with a good start, just good political cover. Senator Hadley made a wonderful point. We can pay them now or we can pay them later, and it will be so much more expensive to pay it later. What happens to these children who are psychologically troubled is in the end they go to the prison system, jails, juvenile detention, wherever. We break up families, they create crimes, we use the police in our jails as a grease trap. And we say to ourselves, well, that's just all the money we have and we're saving money now by not properly funding not just the hot line but the services to which it needs to be connected. We don't save money. We just transfer it to a different portion of the political books that the public will mull or support. If we tell them we need more money for jails, that's politically popular for tough on crime. If that's more expensive than doing what we should do, which is intervening with mental health assistance early, well, that's more difficult politically. But it's better for the victim, it's better for their families, it's better for the criminal justice system, and it's better for our society. I had urged this body to look at Senator Gay's bill as a companion to Senator Dubas' bill; that to do the one without the other is to do nothing, nothing except give us a political excuse for not doing anything. The safe haven bill, to me, was never a failure. To me, the safe haven bill showed us how badly we had failed in other areas. And, Senator Stuthman, I was proud of you on MSNBC like Senator Ashford. The safe haven bill was proof, not that Nebraska had failed but the dismal, callous failure of all the states around us. That their citizens were so desperate, so underserved, so spurned, so scorned that they would drive across the country to try to get their children help says a lot more about those states than they do about us. What they said about us is we at least still have the decency to try to look at the problem honestly and try to answer it. Now could we solve it for those people? No, we could not. I, personally, would have amended the safe... [LB346]

PRESIDENT SHEEHY: One minute. [LB346]

SENATOR WHITE: ...safe haven bill to say that you cannot pass the first available hospital or it's not an emergency. In other words, if you go by one hospital that's open, it's not an emergency. If you're coming in from other states, it's not an emergency. That would have solved a lot of the problems of other people dumping critically, seriously ill children here because their own states don't have the political courage to deal with the real problem. I think we should take the safe haven as what it was--an honest revelation of the abysmal state of our mental health, and we should tie Senator Gay's bill to Senator Dubas' bill and not create political cover but, instead, create a meaningful solution, because Senator Hadley is right. Pay me now or pay me later. Give them mental health now or provide prisons later, but deal with it we will. Thank you, Mr. President. [LB346]

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PRESIDENT SHEEHY: Thank you, Senator White. Additional members requesting to speak on AM546 are Senator Gloor, followed by Senator Dubas, Senator Pirsch, and Senator Sullivan. Senator Gloor, you're recognized. [LB346]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I rise in support of AM546 and LB346. A member of the Health and Human Services Committee, I've enjoyed both the debate and the discussion that we've had around a number of children's and adolescents' behavioral health issues. But I also want to emphasize what Senator White has pointed out and that is we have a lot of interest and enthusiasm on this issue but it seems to be sporadic or it seems to be built in around specific bills that are being discussed without an underlying sense of urgency, and that bothers me greatly. And in the meantime, as Senator Hadley has pointed out, we have programs that used to provide a vital service to central Nebraska and to this state which are being discontinued. With crisis, and we have a problem and we get distracted, I would go back to--and we as a body are guilty of this ourselves--I go back to Senator Rogert's LB261, which was the machine-readable driver's license, which had as its underlying premise an opportunity to stop underage buying of liquor and drinking, which is an epidemic in this state. And in an instant, in any instant we were not talking about adolescent behavioral issues, addictive behaviors with adolescents. We were talking about personal privacy issues, which are important and should be discussed. But I could tell from the whole tenor of the discussion that we had forgotten we were dealing with an adolescent behavioral health issue. We don't have the attention span or the commitment to this issue yet. We need to. It's not a top-of-the-mind issue yet, in spite of the pain that we have gone through to talk about this issue. Whether it's this bill, whether it's Senator Dubas' LB356, we need to get our act together. We need to be thinking about what scope of services we want to commit and the kind of dollars we want to try and find to address this problem, and we need to do it all the time, not just when a bill comes up. And we need to think about each individual bill that comes before us and whether it has some application or it has some impact on child adolescent behavioral issues and health services in this state. Thank you. [LB346 LB261 LB356]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Dubas, you're recognized. [LB346]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor, members of the body. I'd like to take this discussion maybe a little bit of a different direction and talk about the fiscal note. The Legislative Fiscal Office serves us, the senators. They present to us a fiscal note in as objective of a manner as possible, laying out what the costs of that particular bill or issue will be. Now many of us might not always agree with the fiscal note that comes to our attention, but that's their job. They work for us. They give us the information. And my experience with the Fiscal Office has always been very positive. I go to them with questions. They're more than happy to sit down and walk me through

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the process and help me understand things better. So the fact that we might not always agree on their conclusions is probably neither here nor there. It's the fact that they are there to provide us as much information as they are physically able to do and that they are very willing to cooperate and work with us to get us that information. But part of the process of them giving us that information is they go to the particular agency that will be involved with that bill asking them what are the costs, what would it take for you to implement that, and that agency then, in turn, lays those costs out to them and then that's something that the Fiscal Office takes into account as they begin their process. We have separate branches of government. The Legislature has their Fiscal Office to do the work for our branch. The administration has theirs to put together the information that they need. Separate, very important that these are separate branches. And I would encourage the body, especially the new senators. You know, we get the white fiscal note but go and get a copy of the pink fiscal note because that has what the agency is outlining. That has all of the information and how the agency is coming to the conclusion with the financial information that they want taken into account. So I would really encourage you to read that. All too often I know I, myself, am guilty. I just look at that bottom line and, oh, that's what it's going to cost and I don't go any farther than that. As I went through the pink copy of the fiscal note, I began to have some questions because I saw some things in the fiscal note that I had not in my short tenure being here. So I went to the Fiscal Office and I said, would you walk me through this and help me understand it. And the part of the note that I was questioning was there was something in there that was basically proposing how this...how LB346 was going to be funded and it was through a reallocation of funds. They were taking into account some bills that are still in committee. One bill I think has already been IPPed, so they were looking at taking information from bills that haven't even come to the floor for debate. They're looking at reallocation of unexpended funds from, like, the Omaha Tribe. There's just...there's a list of like nine different things that they're laying out where they can extract funds from or reallocate funds, and that, to my understanding, is just not something that historically has happened in the past. It's the agency's responsibility to give the Fiscal Office information on to what it would cost to implement those programs, but not necessarily where that money should come from. That's our job. That's what we talk about on the floor of the Legislature. We're always looking for pots of money that we can fund our particular bill. That's what we work out in the process of the legislative debate. That's not necessarily any particular agency's job to say let's go here and take money from here or let's look at things that might be coming down the road and seeing where we can get that money from. So I think... [LB346]

PRESIDENT SHEEHY: One minute. [LB346]

SENATOR DUBAS: ...the process is very important here. And, again, we all know that we've gotten some whopper of fiscal notes, agencies saying this is how much it would cost, but my experience has never been an agency who's come in and said, yeah, it's going to cost you this much money but let me tell you where you can find that money.

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So it's really important that we protect this process. We have the appropriations process. That's where we can go to make our pitch for helping us find the money. We have the ability to talk about things on the floor. And this amendment, I know this amendment does not reflect this reallocation of fund. This amendment reflects...these are General Fund dollars, but yet these costs that the agencies...or this pot of money that the agency is looking at to fund this program is not reflected in the bill. So I think we really need to protect zealously the fiscal note process and understand that there is the separation of branches of government and... [LB346]

PRESIDENT SHEEHY: Time, Senator. [LB346]

SENATOR DUBAS: ...it's there for a reason. Thank you. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Pirsch, you're recognized. [LB346]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I would just like to thank Senator Gay for bringing forward this bill on behalf of the Governor and for Senator Howard for prioritizing this. I can tell you, as an attorney who does work in the juvenile courts, probably represent a couple hundred kids every year, it is a matter of great importance for the state. And, you know, the three facets of the bill, establishing this hot line, a second facet of having this...services, follow-up services provided for adoption and guardianship, and as well as creating this peer support Navigator system I think are just truly critical type of issues that we should be looking at. And so I do support the concept embedded here and I can tell you, there are approximately 3,600 children who are, I believe, on adoption or guardianship status in the state of Nebraska, and probably about...it's estimated about 20 percent of those kids could...or may need or request postadoption, guardianship services. And so often I see a revolving door where, once currently the system places a child in a guardianship or an adoptive home, and some of these children are quite challenging and so problems ensue and the system has...I think should be looking at these children even after that point in time and making sure, taking commonsense, cost-effective steps to make sure that they do not have to reenter the juvenile court system once they've already achieved that status with a little bit of support. And so on that basis, I do rise to support LB346. Thank you. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Members requesting to speak on AM546 are Senator Sullivan, followed by Senator Price, Senator Harms, and Senator Dubas. Senator Sullivan, you're recognized. [LB346]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. I rise in support of AM546 and the underlying bill, LB346. It's been said that it takes a community to raise a child. I think it takes a whole state and a lot of entities working

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together to make sure that our young citizens have the best possible start in life in the future in this state. So I think this bill and the underlying amendment are a good start in addressing some of these issues, but just like the phone call might be the first step in a process, it also begins what might potentially be a very long conversation. So we shouldn't believe or have the mistaken notion that this is going to solve the problem. It simply begins the conversation. And one thing that occurs to me and I hope that will be considered in this whole process is that there is an opportunity for not only the state to take a bigger role in raising these children and helping at-risk children but there are some opportunities to engage private and nonprofit entities in this whole process. One of our daughters who teaches in the Elkhorn area devotes several hours in the evening to volunteer her time to sit on the other end of a hot line and field phone calls. I don't begin to say that she is qualified to deal with these issues, but my point is that the organization for whom she's volunteering her time has a framework and a desire to help in this area as well. So I think it's important for us to realize that as a state, and that means not only state government but private and nonprofit organizations, have a role in addressing this need as well. Thank you. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. (Visitors introduced.) Resuming floor discussion on AM546, Senator Price, you're recognized. [LB346]

SENATOR PRICE: Thank you, Mr. President, members of the body. I was wondering if Senator Gay would yield to a question. [LB346]

PRESIDENT SHEEHY: Senator Gay, would you yield to questions? [LB346]

SENATOR GAY: Yes, I would. [LB346]

SENATOR PRICE: Senator Gay, first and foremost, I rise in support of the concepts that we're laying out here and I just want to know, when I look at Section 5 of AM546, page 2, line 20, I believe that is, where we talk about postadoptive services, we see there that...I'm wondering how that bridges to the bill we passed earlier in the session, LB91, and where we've set forth a process for postadoptive services of children who (inaudible) subsidize with special needs. And I'm wondering are we creating a "pushmi-pullmi" here, are we overlapping, and could you take a moment to expound on that? [LB346 LB91]

SENATOR GAY: I'll try the best I can. They actually complement each other. That bill, Senator Howard's bill I think you're discussing would...if you had services, you're available for services if you've adopted...or a guardian, those provide extra services that are available federally. What this does is make sure...well, this would actually complement that to make sure that the families knew, oh, by the way, you can address these other services. So that actually complements what we're doing here. I was thinking about bringing that up earlier and that's...that you caught that is very good. But

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it actually complements it, the way I see this, and Senator Howard is actually...that's her bill and she might know more. But it complements it I guess, Senator Price. [LB346]

SENATOR PRICE: Okay. Because when I read that, I looked at that Section 5. It does seem to say it's open to every adoptive situation and I was wondering if we were castigating adoptive services and children in a less than favorable light to say that all of them need these services. I mean, to make it available for those who need it, it seems that they would have been identified in the proceedings leading up to an adoption. And there is a clause or a part in LB91 that says if the condition was preexisting or identified even up to three years after the adoption, and now here in this amendment, and I suspect the underlying bill, it would open up to every adoptive situation. And I didn't know, is that really the intent of what we want to do, to say that all adopted situation may warrant this versus those that warrant may go for this. [LB346 LB91]

SENATOR GAY: Yes. I mean, you know, in a way. The reason why, and I think actually, Senator Price, Senator Howard might, if she wants to hit her light, address this. [LB346]

SENATOR PRICE: If you'd like to do that, that would be fine. [LB346]

SENATOR GAY: Could I yield to her for one minute? [LB346]

SENATOR PRICE: Absolutely, if that's within the realms. [LB346]

PRESIDENT SHEEHY: Yes. [LB346]

SENATOR GAY: Thank you. [LB346]

PRESIDENT SHEEHY: Senator Howard, would you yield to a question? [LB346]

SENATOR HOWARD: Yes, I will. [LB346]

SENATOR PRICE: Senator Howard, did you...I'm thinking that you captured all that. I don't want to take any time from your explaining. Please. [LB346]

SENATOR HOWARD: Thank you, Senator Price, and I want to thank you, too, for being so observant and staying on top of these child welfare issues. Probably the simplest way to explain it to you is that when a child is adopted through the Department of Health and Human Services, there's an adoption agreement that's signed off by these parents, and I've requested that the information regarding the postadoption services be included in black and white on that agreement so those parents know how to access that service, should they need it. This is a completely voluntary service. It's a support service for those families when they run into a time when they need to consult on a child's behavior. [LB346]

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SENATOR PRICE: Okay. So that means we're not mandating that they have to do this. And I saw the "voluntary." I just wanted to make sure. And I didn't want to put a negative... [LB346]

PRESIDENT SHEEHY: One minute. [LB346]

SENATOR PRICE: ...I didn't want to put a negative light on adoption where people would feel that, you know, somehow or another this would be a point of contention for a couple who are considering adoption. So I appreciate that. And, Senator...well, Senator Howard, I'll ask you because you're working on it, you're at the mike already. I also have a question. Early on we talk about the phone bank and my question is, are we working on sizing the phone bank? I mean, it's minutia perhaps, but do we know the volume, the call load that we're looking at so that when we size a bank...because, as we've all stated, you don't want a busy tone, you don't want any of that going on. So has the committee even begun to express that so we know the fiscal note when we're talking about a 5-line, 25-line, what type of switches? That's a question I have. [LB346]

SENATOR HOWARD: Well, I'll attempt to answer that. Keep in mind that the 800 number, the phone bank, is going to be out on an RFP process which... [LB346]

PRESIDENT SHEEHY: Time, Senator. [LB346]

SENATOR PRICE: Okay. Thank you. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Price. Thank you, Senator Howard and Senator Gay. Senator Harms, you're recognized. [LB346]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of AM546 and the underlying bill, LB346. You know, when we went through the safe haven issue, I think we learned a great deal. We learned that we have families that are in crisis. We have...we learned that families are lost in the shuffle. We have learned that families have no idea where to go, when they get in this system they cannot find their way. We have families that just are at a crisis that don't understand what the issues are. They don't have the background or the education or what is the next step for them. It's extremely important, if we're going to make a difference with families in this great state of Nebraska, that we move this bill forward, that we address the issues. I know there are other bills coming forward that will address the issue of the safe haven concern, but that should have been a wake-up call for this Legislature. It should have been a wake-up call for us across the nation. We have an issue in this great state to deal with children and we need to step to the plate, we need to address the issue, and we need to tell the parents we have at least an opportunity to give you a solution to find your way through a system that's dark. You know, it's easy for us to do it because we understand how to go

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through this process, but imagine a family that has two or three children, that a family that is in a crisis that does not even understand how they get through this and they don't feel like they have been given the necessary help. They feel like everything, every avenue they have taken, it's been blocked. We need to open up that channel and we need to clear it so that we can deal with the issues of children. If you don't do it now, we're going to pay extremely high price at the end. The majority of some of these children may very well be in jail or be in prison. And why do we want to allow that to happen? Why don't we put the effort at the front? We might have less people in prison. And so I would urge you to give that some thought. I would urge for you to support this. Let's get it to the next level. If there are issues that we have over the cost, then we ought to address the issue, but we have to find a solution to this problem because it's going to become greater for us in the state. It will be more difficult in the future. We cannot put families to the side. I know we have a financial issue. I know we have a crisis. I see it every day when I go in to the Appropriations Committee. But you know what? It depends on what your priority is. Is our priority families? Is our priority children? Is our priority in helping families that are in crisis? If it's not, it should be. And I'd ask you to support this because I think it's extremely important to move it forward. Thank you, Mr. President. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Harms. Members requesting to speak on the Health and Human Services Committee amendment, AM546, are Senator Dubas, followed by Senator Nordquist, Senator Pirsch, Senator Howard, and others. Senator Dubas, you're recognized, and this is your third time. [LB346]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor and members of the body. I really appreciate this debate and there are a couple of points that I don't want us to lose sight of. Number one, we're talking about children who have diagnosed behavioral health issues. These aren't the kids who are just a little bit out of control or who have parents who don't have the right kind of discipline put in place. These are about children who are dealing with serious behavioral health issues, no different than if they were dealing with a serious medical health issue. In fact, oftentimes they're related. If my child has pneumonia, I'm going to take them to the doctor and I'm going to get help for their physical ailment. If my child has attention deficit, if my child has schizophrenia, if my child has attachments disorder, I'm going to hopefully take them to the place where we can find the help that they need. So please don't get sidetracked by these are just kids who need a little firmer hand of discipline. These are kids that do have a real diagnosed issue and their families are desperately trying to find the help that they need to help their child live a productive life. And most of the children that were dropped off during the safe haven issue were children who had a record of behavioral health...diagnosed behavioral health issues. After the safe haven debate was over, the Omaha World-Herald ran a story and they had actually acquired over 10,000 pages of files dealing with the children who were dropped off and those files just show overwhelmingly parents and children who are in desperate situations, parents who are

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at the end of their rope. And many of them had exhausted every avenue, had used up their private health insurance, had done everything that they could possibly do to find help and their last resort was, well, if you want your child to find help you're going to have to make them a ward of the state. Why is it that a parent should have to relinquish their right to their child? Their parent should be their first line of protection. Their parent should be there every step of the way. And even if that child wasn't physically removed from the home, their parent was still not allowed to participate in their child's recovery. That is so out of the norm of thinking for a parent and child relationship and so hard for children to understand. And I think the safe haven debate and the children who were dropped off also points out the lack of early care and where we end up down the road. And as so many senators have pointed out this morning, it's a pay me now or pay me later process. I mean if you can't relate to it that way, I know on the farm, you know, we operate lots of big equipment and, you know, you might hear a noise, you might hear something grinding and you think, ah, you know, we can make it through this field or I don't have the time to stop. Well, many times if you'd stopped at hearing that first noise and it would have maybe just taken replacing a belt or a bolt or something simple like that, but you keep going and you end up spending hundreds and hundreds of dollars for repairs, and that's the same thing with this issue right here. We could take care of these kids up front and get them the services that they need or we can wait until we're incarcerating them or, you know, much bigger ticket items down the road. Also another issue that came out of not only the task force but the children that were dropped off is the fragmented system of care. You know, it would be like going in for surgery and the doctor removes the tumor and then says, ah, I'm sorry, you're going to have to go somewhere else to get sewn back up. You know, it's got to be a cohesive... [LB346]

PRESIDENT SHEEHY: One minute. [LB346]

SENATOR DUBAS: ...system that will provide the services for these kids. So access to good, structured, organized care is just...it's just an incredibly important part of this. I had a constituent who had the means to provide services for their children, for their child, but ended up with the thought of having to make their child a ward of the state. They did get help for their child. They went out of state to a very well-known program. But as they were doing their exit plan and their aftercare plan the professionals told them Nebraska is at the bottom of the list for providing services, mental health services, for their kids--not something where we want to be. LB1083 addressed adults and we've got processes put in place for adults, but it took nothing into consideration for our children. We're seeing that now. We're paying the price for it now. And I think this is our opportunity to really step up to the plate, to be responsible for what's going on, and to actually make something happen. Thank you. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Dubas. (Visitors introduced.) Senator Nordquist, you're recognized. [LB346]

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SENATOR NORDQUIST: Thank you, Mr. President and members. I rise today in support of the concept behind LB346, but we got to make sure it's not a hot line to nowhere and that's why we need LB356 as a component, to make sure that the services are there, that the services are available. I know we're in tough fiscal times. We have a lot of tough decisions to make. As a member of the Appropriations Committee, we've been making them for several weeks now and we have several weeks to go on that. But we also are going to have...we also have some federal assistance coming in. We're going to get \$227 million in enhanced Medicaid money essentially, essentially to offset General Fund money that we've already...or that would be targeted towards these, towards Medicaid services, towards healthcare services, and I think it's fully appropriate to look at a portion of that \$227 million to direct towards these important services. We certainly have a problem. We can't allow ourselves to be taking money from services that are in place now. We...Senator Dubas mentioned LB1083. What we're doing in our adult behavioral health programs, there's still a lot of missing pieces to that puzzle. One of the bills I introduced this year, LB601, would require the department to apply for Medicaid waivers to pull down federal funds for programs, for services that we provide already but we're not getting the federal funds for. We're leaving nearly \$2 million on the table in federal funds for secure residential services. We're leaving nearly a half a million dollars on the table for subacute services. We need the department to go after those funds. We also...and it goes back to what Senator Hadley said, you know, with the situation that's going on with Richard Young in Kearney, it's...we have a lot of holes in our services and we need to make it a priority and pass both LB346 and LB356 as a comprehensive package. Thank you. [LB346 LB356 LB601]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. (Visitors introduced.) Resuming floor discussion of the Health and Human Services Committee amendment, AM546, Senator Pirsch, you're recognized. [LB346]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I would yield the balance of my time to Senator Price. [LB346]

PRESIDENT SHEEHY: Senator Price, just under 5 minutes. [LB346]

SENATOR PRICE: Thank you, Mr. President. Thank you, Senator Pirsch. Senator Gay, are you ready to reengage? Would you yield to a question? [LB346]

PRESIDENT SHEEHY: Senator Gay, would you yield to questions? [LB346]

SENATOR GAY: Yes, I would. [LB346]

SENATOR PRICE: Thank you very much, Senator Gay. To continue the conversation we were having earlier to talk about the acquisitions portion of this action, I had been asking about sizing the phone bank and I had a question off on the floor and I'll let you

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answer first and then I'd like to address that. But can you tell me about how we're sizing it? You said something about the request for proposal process. [LB346]

SENATOR GAY: Well, what it is, the Department of Administrative Services has a process, of course, and then they'll put it out, a request for proposals. The estimate, and I was looking around for it, Senator Price, but we're talking in the thousands of calls here, not hundreds. I don't have that specifically. I was looking all through my notes. But on the...when we were estimating, I saw it somewhere and I think we're 1,400, 1,800 maybe, don't...but so we're talking a lot of calls. And when we said that, these are staffed by trained, licensed mental health professionals. So it's not like you just call up some volunteer and...they know exactly what to do and services are available immediately. These...you're talking people in suicide crisis type of situations, so that's...the actual number I do not know but it would be staffed by professionals. Those services then, if they're not immediate concern, would be sent to a region, regional provider to get services. The follow-up evaluation component then is what's critical: How long did it take? Were the services good? How far did you have to go? All these will be in the request for proposals when we write those. [LB346]

SENATOR PRICE: Okay, great. And I appreciate that. The reason I'm pushing or the reason I'm asking these questions, Senator Gay, is...and when you mentioned thousands, I don't know if those are thousands of phone calls or what period of time they are. I have a little bit of experience in dealing with service centers and, you know, your time to respond to a call, things like that. And the question is, is that...and we don't need an answer to this, I'm not going to ask you to answer it but just for contemplation there, are we answering 40 calls a day, are we answering most of them at nighttime? The reason I'm asking these questions is there's a cost and everybody is aware of the financial and everybody agrees that we're going to do what's...we're going to do the very best we can here, I suspect. But I don't want to be in a situation where we've used so many of the available funds for the mechanism that we don't have those funds for the services. And vice versa, I don't want to under forecast the requirement to where there is not enough line capacity and the professionals are at the very entry point. And so as we look at those things and then when you talk about the RFP and the type of RFP we use and that DAS uses, to make sure that we have the flexibility in that acquisition process that the state gets the very best it can for the dollars we have and that there's a flexibility in there and there's incentives in there to ensure throughout the period of time...because we all have heard, as I've talked to other members when they call up for their computer help or something. You know, these are...these may be viewed as minutia to members on the floor but it's not a minute thing to someone who picks up that phone and makes a call and if they get a hold or if the system doesn't handle it. Or let's say it's the opposite and we have a system that... [LB346]

PRESIDENT SHEEHY: One minute. [LB346]

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SENATOR PRICE: ...that we bought, the Lamborghini of systems, and we've got dollars tied up into that over a long-term contract that could be used for services. Senator Gay, please, if you have anything to add, go ahead. [LB346]

SENATOR GAY: Yeah, I do. Thank you, Senator Price. I did get that information from staff over here and it was provided during the hearing. We're talking about an estimated 1,800 calls per month. Of those, 360 are estimated would need immediate...would need the Family Navigator system. Total cost first year is \$1.7 million, trained staff professionals, the cost of that. I have it all broken down if you'd like to see it, but \$1.7 million just to run the line, so. [LB346]

SENATOR PRICE: Okay. That's \$1.7 million for the line or the personnel? [LB346]

SENATOR GAY: Everything, the line, the personnel. [LB346]

SENATOR PRICE: Okay, great. And that's when we get down... [LB346]

SENATOR GAY: The actual startup costs, \$33,000; master phone line, \$24,000. It goes on and on. I've got all that here. [LB346]

SENATOR PRICE: Okay, great, because that's where you're going to find out your costs are tied up. You have your personnel costs and you have your equipment costs. [LB346]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Price. Thank you, Senator Gay. Senator Howard. [LB346]

SENATOR HOWARD: Thank you, Mr. President. I call the question. [LB346]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do see a sufficient amount. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Senator Howard. Senator Howard is requesting a call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB346]

CLERK: 25 ayes, 0 nays to place the house under call, Mr. President. [LB346]

PRESIDENT SHEEHY: The motion to place the house under call has...the house is under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Cornett, Senator Lathrop, would you please check in. Senator Haar, Senator Avery, the house is under call. Senator Ashford, would you please check in. Senator Howard, all members are present or accounted for. How

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would you like to move forward? [LB346]

SENATOR HOWARD: Phone-in votes would be fine. [LB346]

PRESIDENT SHEEHY: Call-in votes? [LB346]

SENATOR HOWARD: Call-in votes. [LB346]

PRESIDENT SHEEHY: Mr. Clerk. The motion currently under consideration is on the question to cease debate. Senator Howard will accept call-ins. [LB346]

CLERK: Senator Ashford voting yes. Senator Lautenbaugh voting yes. Senator Nantkes voting yes. Senator Pankonin voting yes. Senator Flood voting yes. Senator Stuthman voting yes. Senator Nelson voting yes, Senator Utter voting yes. [LB346]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB346]

CLERK: 26 ayes, 4 nays, Mr. President, to cease debate. [LB346]

PRESIDENT SHEEHY: Debate does cease. The call is raised. Senator Gay, you're recognized to close on the Health and Human Services Committee amendment, AM546. [LB346]

SENATOR GAY: Thank you, Mr. President. We've had, I think, a very good discussion and I'm ready to proceed. What I've heard is the support of the concept, we need to continue to work on this. Senator Gloor is absolutely correct. These are very technical things, they move on. The concept, where we're at, is important and heard loud and clear on some of the things that need to be done. I would like to thank, though, again the committee that looked into this, the Children in Crisis Task Force. Senator Stuthman, McGill, Ashford, Pankonin, Howard, and Senator Dubas, all those people were instrumental and have all had input into this bill. And like any bill, you find things that need to be corrected and tweaked and we're absolutely committed to doing that. Funding on this bill is essential. I, myself, had a bill to help fund this that I am holding myself because I don't want to do harm to anybody in a vulnerable position, so I myself did that. Committed to working with anybody on this bill. As all things, we're at day 39, things are in flux on the fiscal activity of the Legislature with the Recovery Act and how those funds will be used and utilized, what other bills are out there. So I fully understand that. I'm working with members on other issues, too, that could help in this situation. So that did not go on deaf ears and we're going to work the best we can. The idea of evaluation was so important and the members were so committed to that, that was put in on this amendment that I want you to please consider and support. So as we move on, I would just say, you know, it's a step. Earlier I said it's a step in the right direction, we need to get started. Big picture, big picture, though, Senator Harms, Senator Gloor

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and others I think were all coming together, big picture--where do we want to go, how do we want it to work. But the technicalities of this are through an RFP process it will be done, evaluated and moved on. And I know there are other issues that are going to be coming and we're going to have plenty of debate on those, and I'm looking forward to more debate also on Select File in how we can improve this bill because I get the sense that everyone agrees this is something needs to be done. And I've heard good things today and I will take that, work on it with other committed members, and move forward. Thank you, Mr. President. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the closing. The question before the body is on the adoption of the Health and Human Services Committee amendment, AM546, to LB346. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB346]

CLERK: 38 ayes, 0 nays on adoption of committee amendments. [LB346]

PRESIDENT SHEEHY: AM546 is adopted. Speaker Flood, you're recognized for a message. [LB346]

SPEAKER FLOOD: Thank you, Mr. President, members. Just a quick scheduling note, we will continue on General File. Assuming LB346 does move today, it is my intent to proceed on Monday morning with Senator Pahls's LB327, followed immediately by LB356, introduced and brought to the floor by Senator Dubas, and that would be her priority bill. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Senator Ashford would like for me to announce, earlier today you received a packet that was passed out to you. The packet is actually in reference to LB63 and so he would ask that you maintain that on your desk for reference next week when that bill comes up. Mr. Clerk, do you have items for the record?

CLERK: Mr. President, your Committee on General Affairs reports LB286 to General File, and LB415 as indefinitely postponed. Your Committee on Revenue reports LB447, General File; LB531 on General File. Priority bill designations: Senator Carlson, LB98; Senator Hadley, LB420. New A bill. (Read LB547A by title for the first time.) And that's all that I have now, Mr. President. (Legislative Journal page 668.) [LB286 LB415 LB447 LB531 LB98 LB420 LB547A]

PRESIDENT SHEEHY: We will now return to floor discussion on the advancement of LB346. Seeing no requests to speak, Senator Gay, you're recognized to close. [LB346]

SENATOR GAY: Thank you, Mr. President. For the same reasons and after the Speaker's comments, we will have more discussion when Senator Dubas' bill, of

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course, comes. So, again, I encourage you to support and advance this and working with everyone on the best outcome of this bill. Thank you, Mr. President. [LB346]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the closing. The question before the body is on the advancement of LB346. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB346]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB346]

PRESIDENT SHEEHY: LB346 advances. Mr. Clerk, do you have additional items on your desk? [LB346]

CLERK: I do, Mr. President. Name adds: Senator Haar to LB136; Senator Coash to LB153; Senator Haar, LB346 and LB356. (Legislative Journal page 669.) [LB136 LB153 LB346 LB356]

Priority motion: Senator Carlson would move to adjourn until Monday morning, March 9, at 10:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until March 9 at 10:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned.