

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

Floor Debate
May 06, 2009

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SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for this, the seventy-third day of the One Hundred First Legislature, First Session. Our chaplain for the day is Pastor Darrell Anderson from Shepherd of the Hills Lutheran Church, Omaha, Nebraska, Senator White's district. Please rise. []

PASTOR ANDERSON: (Prayer offered.) []

SENATOR LANGEMEIER: Thank you. I call to order the seventy-third day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any corrections for the Journal? []

CLERK: I have no corrections. []

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements? []

CLERK: One item, Mr. President: Enrollment and Review reports LB198A as correctly engrossed. (Legislative Journal page 1317.) [LB198A]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. One announcement to today's consent calendar: At the request of three senators, LB571 will be withdrawn off of consent calendar. Mr. Clerk, first item, LB432. Excuse me, back to the top, LB288A. [LB288A]

CLERK: LB288A, Mr. President, on General File, offered by Senator Gay. (Read title.)

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[LB288A]

SENATOR LANGEMEIER: Senator Gay, you are recognized to open on LB288A.
[LB288A]

SENATOR GAY: Thank you, Mr. President. This is a fiscal note on LB288 which was a committee bill. All this is, is a transfer from the Human Services Cash Fund to the state Medicaid Fraud Control Unit Cash Fund. This is being done to...just to make sure there's money in the state Medicaid Fraud Control Unit Cash Fund. Thank you, Mr. President. [LB288A LB288]

SENATOR LANGEMEIER: Thank you, Senator Gay. You've heard the opening on LB288A. The floor is now open for discussion. Seeing no lights on. Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is, shall LB288A advance to E&R? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB288A]

CLERK: 31 ayes, 0 nays, Mr. President, on the motion to advance LB288A. [LB288A]

SENATOR LANGEMEIER: LB288A does advance. Mr. Clerk, Select File consent calendar. [LB288A]

CLERK: Mr. President, LB432, first bill. Senator Nordquist, I have Enrollment and Review amendments first of all. (ER8070, Legislative Journal page 1076.) [LB432]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB432]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB432.
[LB432]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB432]

CLERK: Mr. President, Senator Nelson, I have AM501 with a note you want to withdraw that particular amendment. [LB432]

SENATOR LANGEMEIER: Seeing no objections, it is withdrawn. [LB432]

CLERK: Mr. President, Senator Nelson would move to amend with AM1218.
(Legislative Journal page 1318.) [LB432]

SENATOR LANGEMEIER: Senator Nelson, you are recognized to open on AM1218.
[LB432]

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SENATOR NELSON: Thank you, Mr. President, members of the body. AM1218 is substituted for former amendment AM501 and clarifies the disclosure requirement for finders under the unclaimed property statute and removes the finders' fee cap, for property not yet presumed abandoned, from LB432. The current statute does not address disclosure requirements for finders who return unclaimed property to individuals before that property has been presumed abandoned. AM1218 would require that finders disclose to the holders of unclaimed property the nature, location, and value of the property, as well as notice of when the property will be turned over to the State Treasurer, if that information is known, and that the State Treasurer will return the property free of charge when the State Treasurer actually has possession of the property. The finders' fee cap for property not yet presumed abandoned does not currently exist in statute. The green copy of LB432 would have placed a cap on such property. I encourage your adoption of AM1218 and look forward to answering any questions that you may have. Thank you, Mr. President. [LB432]

SENATOR LANGEMEIER: Thank you, Senator Nelson. You have heard the opening on AM1218 offered to LB432. The floor is now open for discussion. Seeing no lights on, Senator Nelson, you're recognized to close. Senator Nelson waives closing. The question before the body is, shall AM1218 be adopted to LB432? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB432]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Nelson's amendment. [LB432]

SENATOR LANGEMEIER: AM1218 is adopted. Mr. Clerk. [LB432]

CLERK: Senator Nordquist, I have nothing further on the bill. [LB432]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB432]

SENATOR NORDQUIST: Mr. President, I move LB432 to E&R for engrossing. [LB432]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it, LB432 does advance. Mr. Clerk. [LB432]

CLERK: LB137, Senator, I have Enrollment and Review amendments first of all. (ER8068, Legislative Journal page 1078.) [LB137]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB137]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB137.

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[LB137]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. They are adopted. [LB137]

CLERK: I have nothing further on LB137, Senator. [LB137]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB137]

SENATOR NORDQUIST: Mr. President, I move LB137 to E&R for engrossing. [LB137]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. LB137 does advance. Mr. Clerk. [LB137]

CLERK: Mr. President, LB152. Senator, I have no amendments to the bill. [LB152]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB152]

SENATOR NORDQUIST: Mr. President, I move LB152 to E&R for engrossing. [LB152]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB152 does advance. Mr. Clerk. [LB152]

CLERK: LB302, Senator, I have no amendments to the bill. [LB302]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB302]

SENATOR NORDQUIST: Mr. President, I move LB302 to E&R for engrossing. [LB302]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB302 does advance. Mr. Clerk. [LB302]

CLERK: LB299, Senator, again I have no amendments at this time. [LB299]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB299]

SENATOR NORDQUIST: Mr. President, I move LB299 to E&R for engrossing. [LB299]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB299 does advance. Mr. Clerk. [LB299]

CLERK: Mr. President, LB343. Senator, I have E&R amendments. (ER8069, Legislative Journal page 1078.) [LB343]

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SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB343]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB343. [LB343]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. Mr. Clerk. [LB343]

CLERK: I have nothing further on LB343, Senator. [LB343]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB343]

SENATOR NORDQUIST: Mr. President, I move LB343 to E&R for engrossing. [LB343]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB343 does advance. Mr. Clerk. [LB343]

CLERK: Mr. President, LB84, no Enrollment and Review. Senator McGill would move to amend with AM269. (Legislative Journal page 1051.) [LB84]

SENATOR LANGEMEIER: Senator McGill, you are recognized to open on AM269. [LB84]

SENATOR MCGILL: Thank you, Mr. President, members of the body. If you remember, LB84 removes the sunset provision for the Women's Health Initiative and Women's Health Advisory Council. This amendment is really a cleanup amendment because right now in the statutes it requires that the executive director of the Nebraska Commission on the Status of Women or his or her designee be appointed to the council. Well, we got rid of the Women's Commission and so we need to take that out of statute. This amendment does that. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator McGill. You have heard the opening on AM269 offered to LB84. The floor is open for discussion. Seeing no lights on, Senator McGill, you're recognized to close. Senator McGill waives closing. The question before the body is, shall AM269 be adopted to LB84? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB84]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator McGill's amendment. [LB84]

SENATOR LANGEMEIER: AM269 is adopted. Mr. Clerk. [LB84]

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CLERK: I have nothing further on the bill, Senator. [LB84]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB84]

SENATOR NORDQUIST: Mr. President, I move LB84 to E&R for engrossing. [LB84]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB84 does advance. Mr. Clerk. [LB84]

CLERK: Mr. President, LB394. Senator, I have no amendments to the bill. [LB394]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB394]

SENATOR NORDQUIST: Mr. President, I move LB394 to E&R for engrossing. [LB394]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. LB394 does advance. Mr. Clerk. [LB394]

CLERK: LB131, Senator, I have Enrollment and Review amendments. (ER8075, Legislative Journal page 1126.) [LB131]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB131]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB131. [LB131]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB131]

CLERK: I have nothing further on the LB131, Senator. [LB131]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB131]

SENATOR NORDQUIST: Mr. President, I move LB131 to E&R for engrossing. [LB131]

SENATOR LANGEMEIER: Thank you. You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB131 does advance. Mr. Clerk. [LB131]

CLERK: LB133, Senator, I have no amendments to the bill. [LB133]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB133]

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SENATOR NORDQUIST: Mr. President, I move LB133 to E&R for engrossing. [LB133]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB133 does advance. Mr. Clerk. [LB133]

CLERK: LB113, Senator, I do have Enrollment and Review amendments. (ER8071, Legislative Journal page 1126.) [LB113]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB113]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB113. [LB113]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB113]

CLERK: I have nothing further on LB113, Senator. [LB113]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB113]

SENATOR NORDQUIST: Mr. President, I move LB113 to E&R for engrossing. [LB113]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB113 does advance. Mr. Clerk. [LB113]

CLERK: LB163, Senator, I have no amendments to the bill. [LB163]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB163]

SENATOR NORDQUIST: Mr. President, I move LB163 to E&R for engrossing. [LB163]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. LB163 does advance. Mr. Clerk. [LB163]

CLERK: LB434, Senator, I have no amendments to the bill. [LB434]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB434]

SENATOR NORDQUIST: Mr. President, I move LB434 to E&R for engrossing. [LB434]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it, LB434 does advance. Mr. Clerk. [LB434]

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CLERK: LB348, Senator, I do have Enrollment and Review amendments. (ER8072, Legislative Journal page 1126.) [LB348]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB348]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB348. [LB348]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB348]

CLERK: I have nothing further on that bill, Senator. [LB348]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB348]

SENATOR NORDQUIST: Mr. President, I move LB348 to E&R for engrossing. [LB348]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB348 does advance. Mr. Clerk. [LB348]

CLERK: LB540, I have no amendments to the bill, Senator. [LB540]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB540]

SENATOR NORDQUIST: Mr. President, I move LB540 to E&R for engrossing. [LB540]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB540 does advance. Mr. Clerk. [LB540]

CLERK: LB528, Senator, I do have Enrollment and Review amendments. (ER8073, Legislative Journal page 1127.) [LB528]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB528]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB528. [LB528]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB528]

CLERK: I have nothing further on LB528, Senator. [LB528]

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SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB528]

SENATOR NORDQUIST: Mr. President, I move LB528 to E&R for engrossing. [LB528]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB528 does advance. Mr. Clerk. [LB528]

CLERK: LB450, Senator, I have no amendments to the bill. [LB450]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB450]

SENATOR NORDQUIST: Mr. President, I move LB450 to E&R for engrossing. [LB450]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB450 does advance. Mr. Clerk. [LB450]

CLERK: LB274, Senator, I have no amendments to the bill. [LB274]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB274]

SENATOR NORDQUIST: Mr. President, I move LB274 to E&R for engrossing. [LB274]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. LB274 does advance. Mr. Clerk. [LB274]

CLERK: LB339, Senator, I have no amendments to the bill. [LB339]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB339]

SENATOR NORDQUIST: Mr. President, I move LB339 to E&R for engrossing. [LB339]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB339 does advance. Mr. Clerk. [LB339]

CLERK: LB412, Senator, I have no amendments to the bill. [LB412]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB412]

SENATOR NORDQUIST: Mr. President, I move LB412 to E&R for engrossing. [LB412]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB412 does advance. Mr. Clerk. [LB412]

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CLERK: LB27, I do have Enrollment and Review amendments, Senator. (ER8074, Legislative Journal page 1127.) [LB27]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB27]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB27. [LB27]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB27]

CLERK: I have nothing further to LB27, Senator. [LB27]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB27]

SENATOR NORDQUIST: Mr. President, I move LB27 to E&R for engrossing. [LB27]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB27 does advance. Mr. Clerk. [LB27]

CLERK: LB27A, Senator, there are E&R amendments pending. (ER8089, Legislative Journal page 1142.) [LB27A]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB27A]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB27A. [LB27A]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it. They are adopted. [LB27A]

CLERK: I have nothing further pending to LB27A. [LB27A]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB27A]

SENATOR NORDQUIST: Mr. President, I move LB27A to E&R for engrossing. [LB27A]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB27A does advance. Mr. Clerk. [LB27A]

CLERK: LB175, Senator, I have no amendments to the bill. [LB175]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB175]

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SENATOR NORDQUIST: Mr. President, I move LB175 to E&R for engrossing. [LB175]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB175 does advance. Mr. Clerk. [LB175]

CLERK: Mr. President, next bill LB129, no Enrollment and Review. Senator Dubas would move to amend with AM1102. (Legislative Journal page 1128.) [LB129]

SENATOR LANGEMEIER: Senator Dubas, you are recognized to open on AM1102. [LB129]

SENATOR DUBAS: Thank you, Mr. President, members of the body. This is just a technical amendment that was a little bit more than what E&R could handle. It strikes some language that basically was redundant and clarifies that particular section. So no changes to the bill, just a technical cleanup amendment. Appreciate the body's support. [LB129]

SENATOR LANGEMEIER: Thank you, Senator Dubas. You have heard the opening on AM1102 offered to LB129. The floor is now open for discussion. Seeing no lights on, Senator Dubas, you are recognized to close. Senator Dubas waives closing. The question before the body is, shall AM1102 be adopted to LB129? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB129]

CLERK: 36 ayes, 0 nays on adoption of Senator Dubas' amendment. [LB129]

SENATOR LANGEMEIER: AM1102 is adopted. [LB129]

CLERK: I have nothing further on the bill, Mr. President. [LB129]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB129]

SENATOR NORDQUIST: Mr. President, I move LB129 to E&R for engrossing. [LB129]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. Those opposed say nay. The ayes have it. LB129 does advance. Speaker Flood for an announcement. [LB129]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. A quick note on scheduling. I do not intend to go late this evening. We could work as late as 6:00 p.m. There will be no evening meal in the Capitol. Again, we can work as late as 6:00 p.m. this evening but I do not intend to go beyond that at this point. Thank you, Mr.

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President. []

SENATOR LANGEMEIER: Thank you, Speaker Flood. (Doctor of the day introduced.) Returning to Select File consent calendar, Mr. Clerk, LB208. [LB208]

CLERK: Mr. President, Senator Nordquist, LB208, I have no amendments to the bill. [LB208]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB208]

SENATOR NORDQUIST: Mr. President, I move LB208 to E&R for engrossing. [LB208]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB208 does advance. Mr. Clerk. [LB208]

CLERK: LB94, there are Enrollment and Review amendments. (ER8076, Legislative Journal page 1127.) [LB94]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB94]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB94. [LB94]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB94]

CLERK: I have nothing further on LB94, Senator. [LB94]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB94]

SENATOR NORDQUIST: Mr. President, I move LB94 to E&R for engrossing. [LB94]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB94 does advance. Mr. Clerk. [LB94]

CLERK: LB389, Senator, I do have Enrollment and Review amendments. (ER8077, Legislative Journal page 1131.) [LB389]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB389]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB389. [LB389]

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SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB389]

CLERK: I have nothing further on the bill. [LB389]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB389]

SENATOR NORDQUIST: Mr. President, I move LB389 to E&R for engrossing. [LB389]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB389 does advance. Mr. Clerk. [LB389]

CLERK: LB209, Senator, I have no amendments to the bill. [LB209]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB209]

SENATOR NORDQUIST: Mr. President, I move LB209 to E&R for engrossing. [LB209]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB209 does advance. Mr. Clerk. [LB209]

CLERK: LB422, Senator, I have no amendments to the bill. [LB422]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB422]

SENATOR NORDQUIST: Mr. President, I move LB422 to E&R for engrossing. [LB422]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB422 does advance. Mr. Clerk. [LB422]

CLERK: LB488, Senator, I have no amendments to the bill. [LB488]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB488]

SENATOR NORDQUIST: Mr. President, I move LB488 to E&R for engrossing. [LB488]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB488 does advance. Mr. Clerk. [LB488]

CLERK: LB501, Senator, I do have Enrollment and Review amendments. (ER8081,

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Legislative Journal page 1132.) [LB501]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB501]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB501. [LB501]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it. They are adopted. [LB501]

CLERK: I have nothing further on LB501, Senator. [LB501]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB501]

SENATOR NORDQUIST: Mr. President, I move LB501 to E&R for engrossing. [LB501]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB501 does advance. Mr. Clerk. [LB501]

CLERK: LB60, I have no amendments to the bill, Senator. [LB60]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB60]

SENATOR NORDQUIST: Mr. President, I move LB60 to E&R for engrossing. [LB60]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB60 does advance. Mr. Clerk. [LB60]

CLERK: LB278, Senator, I have no amendments to the bill. [LB278]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB278]

SENATOR NORDQUIST: Mr. President, I move LB278 to E&R for engrossing. [LB278]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB278 does advance. Mr. Clerk. [LB278]

CLERK: LB447, Senator, there are E&R amendments. (ER8082, Legislative Journal page 1132.) [LB447]

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SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB447]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB447. [LB447]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it. They are adopted. [LB447]

CLERK: I have nothing further on LB447. [LB447]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB447]

SENATOR NORDQUIST: Mr. President, I move LB447 to E&R for engrossing. [LB447]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB447 does advance. Mr. Clerk. [LB447]

CLERK: Mr. President, LB531, no E&R. Senator Sullivan would move to amend with AM1175. (Legislative Journal page 1165.) [LB531]

SENATOR LANGEMEIER: Senator Sullivan, you are recognized to open on AM1175. [LB531]

SENATOR SULLIVAN: Mr. President and members of the body, AM1175 represents a compromise between those who worked on the original legislation that set the farmers and ranchers net worth at \$200,000 and those who think the net worth is too low. The amendment sets the net worth at \$350,000, halfway between what it is now and what it would be if LB531 passed without this amendment. I believe \$350,000 is a reasonable compromise and a reasonable increase. I encourage you to support this amendment. Thank you. [LB531]

SENATOR LANGEMEIER: Thank you, Senator Sullivan. You have heard the opening on AM1175 offered to LB531. The floor is now open for discussion. Seeing no lights on, Senator Sullivan, you're recognized to close. Senator Sullivan waives closing. The question before the body is, shall AM1175 be adopted to LB531? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB531]

CLERK: 37 ayes, 0 nays on adoption of Senator Sullivan's amendment. [LB531]

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SENATOR LANGEMEIER: AM1175 is adopted. [LB531]

CLERK: I have nothing further on the bill, Mr. President. [LB531]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB531]

SENATOR NORDQUIST: Mr. President, I move LB531 to E&R for engrossing. [LB531]

SENATOR LANGEMEIER: Members, you've heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB531 does advance. Mr. Clerk. [LB531]

CLERK: LB445, no E&R. Senator Haar would move to amend, AM1318. (Legislative Journal page 1321.) [LB445]

SENATOR LANGEMEIER: Senator Haar, you are recognized to open on AM1318. [LB445]

SENATOR HAAR: Mr. President, members of the body, I have some questions for Senator Fulton. [LB445]

SENATOR LANGEMEIER: Senator Fulton, would you yield? [LB445]

SENATOR FULTON: Yes. [LB445]

SENATOR HAAR: Okay. I was told that this bill is called Wesely's law and, originated, Don Wesely was thinking that this is a way to maybe for small employers to get insurance for their employees. And I talked to a number of people. I know there were no testifiers and so on. I'm just wondering sort of where you're coming from on this bill and the purpose of it. [LB445]

SENATOR FULTON: Uh-huh. Sure, thanks, Senator Haar. Actually, I'm glad. We were rolling right along here. I'm glad to be able to address this. I don't know that it was called Wesely's law, but if it wasn't it ought to have been because, indeed, it was 1991 and at that time Senator Wesely brought the bill. I don't know if this...if his intention was for this to be available to small employers but that's not what this bill does. Basically, what the bill back in 1991 and what existing statute does is it provides for mandate-less insurance policies, health insurance policies to individuals who are uninsured. And there's a further specification in the law that says those individuals also have to be below 185 percent of poverty. We...I have been researching ways to be able to help those who are uninsured and this was one that we ran across. And we noticed that the number of people who are uninsured that are over 200 percent of poverty actually is about 40 percent. Forty percent of those uninsured actually make a fair living. So what

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we have done with this bill is we have removed the income restriction. That's really all the bill does. It makes these mandate-less...I guess we call them bare-bones policy available to those Nebraskans who are uninsured. So that's ultimately what it does. It's not for small employers. It's not anything specific for company policies or whatnot. This is available for people who don't have health insurance. [LB445]

SENATOR HAAR: Okay. Well, I even chatted with the insurance companies a little bit and they didn't see them using this. And I was just wondering if...one person called it sort of a hollow insurance policy. So, but you see potential for it, I guess. [LB445]

SENATOR FULTON: I do. I...how do I say it. There aren't a whole lot...what I understand is that there aren't a lot of people utilizing these policies now. And I'll offer my theory as to why that's the case. Individuals who are at less than 185 percent of poverty probably qualify for government sponsored health insurance already. And that...in the existing statute, those who already have health insurance, government or otherwise, aren't eligible for these bare-bones policies. So there aren't a whole lot of people utilizing this statute now. And so we looked at it and I figure if an individual doesn't have health insurance, whether he's at 185 percent or not, we should make these available. And I just want to reiterate, this is for those who don't have any health insurance now. [LB445]

SENATOR HAAR: Okay. My only concern would be that people would buy this insurance looking at it as cheaper health insurance and then really not have much in the way of health insurance. [LB445]

SENATOR FULTON: Well, that potential exists. But bear in mind the only people who could purchase these policies are people who are not insured now. And that really is the intention of the bill. This is not going to...I talked with Senator Gloor on the committee about this. And the committee talked about this also. This is not...this is no silver bullet. This isn't going to solve the problem. But it will allow those who are uninsured to have another option. So if indeed someone were to choose a policy and if this policy...these bare-bones policies are considered to be lesser policies, that's logically, if a person has no insurance at all, wouldn't it be better to give them some choice? And that's really what the law seeks to do and the bill also. [LB445]

SENATOR HAAR: Okay. Well, kind of getting those questions on the record, I would like to withdraw my amendment then. [LB445]

SENATOR LANGEMEIER: Seeing no objections, AM1318 is withdrawn. [LB445]

CLERK: I have nothing further on the bill, Mr. President. [LB445]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB445]

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SENATOR NORDQUIST: Mr. President, I move LB445 to E&R for engrossing. [LB445]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB445 does advance. Mr. Clerk. [LB445]

CLERK: Mr. President, LB498. Senator, I do have Enrollment and Review amendments first of all. (ER8080, Legislative Journal page 1133.) [LB498]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB498]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB498. [LB498]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes barely have it, they are adopted. Mr. Clerk. [LB498]

CLERK: Mr. President, I now have...Senator Coash, I have two amendments; the first, AM1095, with a note you want to withdraw. [LB498]

SENATOR LANGEMEIER: Seeing no objection, it is withdrawn. [LB498]

CLERK: Mr. President, Senator Coash would move to amend with AM1131. (Legislative Journal page 1225.) [LB498]

SENATOR LANGEMEIER: Senator Coash, you are recognized to open on AM1131. [LB498]

SENATOR COASH: Thank you, Mr. President, members of the body. Briefly, just a little bit of education. This bill has to do with adding two trustees to the Wyuka Cemetery here in Lincoln. Wyuka is kind of a unique entity in that the trustees are appointed by the Governor, confirmed by the Legislature. However, currently trustees do not fall under rules of the Nebraska Accountability and Disclosure Commission. For that reason, a trustee could have a financial interest in another competing interest and subsequently vote as a trustee on the Wyuka board. This amendment simply puts into statute that members of the Wyuka trustees must disclose any financial interest they may have, put it in writing, submit it into the public record and abstain from voting. Wyuka is a gem here in Lincoln. Recently, the Auditor pointed out some problems and this amendment is an attempt to bring back some transparency into the operation of Wyuka. Because it doesn't fall under...again because the trustees don't fall under the Accountability and Disclosure, the amendment was drafted after what county board

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members are required to do in regard to disclosing financial interests. With that, I would appreciate your support of AM1131. Thank you, Mr. President. [LB498]

SENATOR LANGEMEIER: Thank you, Senator Coash. You have heard the opening on AM1131 offered to LB498. The floor is open for discussion. Senator Fulton, you're recognized. [LB498]

SENATOR FULTON: Thank you, Mr. President, members of the body. I think it's appropriate to let folks know that Senator Coash actually worked with me on this amendment and he communicated with me and he's communicated with other Lincoln senators. And I'm okay and in favor of AM1131. Thank you, Mr. President. [LB498]

SENATOR LANGEMEIER: Thank you, Senator Fulton. The floor is open. There are no other lights on. Senator Coash, you're recognized to close on AM1131. Senator Coash waives closing. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB498]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Coash's amendment. [LB498]

SENATOR LANGEMEIER: AM1131 is adopted. [LB498]

CLERK: I have nothing further on the bill, Mr. President. [LB498]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB498]

SENATOR NORDQUIST: Mr. President, I move LB498 to E&R for engrossing. [LB498]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB498 does advance. Mr. Clerk. [LB498]

CLERK: Mr. President, LB604. I do have E&R amendments, Senator. (ER8085, Legislative Journal page 1133.) [LB604]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB604]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB604. [LB604]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB604]

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CLERK: I have nothing further on the bill, Senator. [LB604]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB604]

SENATOR NORDQUIST: Mr. President, I move LB604 to E&R for engrossing. [LB604]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. LB604 does advance. Mr. Clerk. [LB604]

CLERK: LB446, Senator, there are E&R amendments. (ER8079, Legislative Journal page 1133.) [LB446]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB446]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB446. [LB446]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB446]

CLERK: I have nothing further on LB446, Senator. [LB446]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB446]

SENATOR NORDQUIST: Mr. President, I move LB446 to E&R for engrossing. [LB446]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB446 does advance. Mr. Clerk. [LB446]

CLERK: LB372, Senator, I have no amendments to the bill. [LB372]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB372]

SENATOR NORDQUIST: Mr. President, I move LB372 to E&R for engrossing. [LB372]

SENATOR LANGEMEIER: You have heard the motion for the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB372 does advance. Mr. Clerk. [LB372]

CLERK: LB500, Senator, I have no amendments to the bill. [LB500]

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SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB500]

SENATOR NORDQUIST: Mr. President, I move LB500 to E&R for engrossing. [LB500]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB500 does advance. Mr. Clerk. [LB500]

CLERK: LB627, Senator, there are E&R amendments. (ER8078, Legislative Journal page 1133.) [LB627]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB627]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB627. [LB627]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. Mr. Clerk. [LB627]

CLERK: I have nothing further on LB627, Senator. [LB627]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB627]

SENATOR NORDQUIST: Mr. President, I move LB627 to E&R for engrossing. [LB627]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB627 does advance. Mr. Clerk. [LB627]

CLERK: LB587, Senator, I have no amendments to the bill. [LB587]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB587]

SENATOR NORDQUIST: Mr. President, I move LB587 to E&R for engrossing. [LB587]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB587 does advance. Mr. Clerk. [LB587]

CLERK: LB122, I do have E&R amendments first of all, Senator. (ER8084, Legislative Journal page 1133.) [LB122]

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SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB122]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB122. [LB122]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB122]

CLERK: Senator Coash would move to amend with AM1151. (Legislative Journal page 1322.) [LB122]

SENATOR LANGEMEIER: Senator Coash, you are recognized to open on AM1151. [LB122]

SENATOR COASH: Thank you, Mr. President and members of the body. During the discussion of LB122, just to review, this bill changes terminology related to the child abuse registry. There was some concern brought during debate that members who this...Nebraskans who this law may affect may not be made aware of these changes. Although it doesn't affect their status, it does change how it's...the terminology. After consulting with the Department of Health and Human Services, they have a process by which they notify the public. They put it in the paper anytime they...just as they change regulations. There is no cost to this. They publicize these regularly and it can be absorbed into that. I think this takes care of part of the concerns brought through in the debate last time. And I would appreciate your advancement of AM1151. Thank you, Mr. President. [LB122]

SENATOR LANGEMEIER: Thank you, Senator Coash. You have heard the opening on AM1151 offered to LB122. The floor is now open for discussion. Senator Howard, you are recognized. [LB122]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I had talked with Senator Coash regarding this amendment for the reason that I feel it's important when we go back and do something retroactively that we notify or make a good faith attempt to notify those people who will be affected by this. And Senator Coash has been more than willing to look at this issue and has developed this amendment. I think this gives people the opportunity to have this information, if they choose to act on it. It's entirely up to them. But there will be a number that they can contact to receive additional information. I would strongly suggest that this information be published in a typically read newspaper here in the state of Nebraska and not restricted to something that would be more prone to be read by people in the legal field. And I appreciate the support for this amendment. Thank you. [LB122]

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SENATOR LANGEMEIER: Thank you, Senator Howard. Seeing no other lights on, Senator Coash, you are recognized to close. Senator Coash waives closing. The question before the body is, shall AM1151 be adopted to LB122? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB122]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Coash's amendment. [LB122]

SENATOR LANGEMEIER: AM1151 is adopted. [LB122]

CLERK: I have nothing further on the bill, Mr. President. [LB122]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB122]

SENATOR NORDQUIST: Mr. President, I move LB122 to E&R for engrossing. [LB122]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it, LB122 does advance. Mr. Clerk. [LB122]

CLERK: LB533, Senator, I do have E&R amendments. (ER8087, Legislative Journal page 1141.) [LB533]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB533]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB533. [LB533]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB533]

CLERK: I have nothing further on LB533. [LB533]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB533]

SENATOR NORDQUIST: Mr. President, I move LB533 to E&R for engrossing. [LB533]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it, LB533 does advance. Mr. Clerk. [LB533]

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CLERK: LB524, Senator, I have no amendments to the bill. [LB524]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB524]

SENATOR NORDQUIST: Mr. President, I move LB524 to E&R for engrossing. [LB524]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it, LB524 does advance. Mr. Clerk. [LB524]

CLERK: LB562, Senator, there are E&R amendments. (ER8086, Legislative Journal page 1141.) [LB562]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB562]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB562. [LB562]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB562]

CLERK: I have nothing further on LB562. [LB562]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB562]

SENATOR NORDQUIST: Mr. President, I move LB562 to E&R for engrossing. [LB562]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. LB562 does advance. Mr. Clerk. [LB562]

CLERK: LB360, Senator, there are no amendments to the bill. [LB360]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB360]

SENATOR NORDQUIST: Mr. President, I move LB360 to E&R for engrossing. [LB360]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it, LB360 does advance. Mr. Clerk. [LB360]

CLERK: LB441, Senator, there are E&R amendments first of all. (ER8090, Legislative Journal page 1141.) [LB441]

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SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB441]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB441. [LB441]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB441]

CLERK: I have nothing further on LB441, Senator. [LB441]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB441]

SENATOR NORDQUIST: Mr. President, I move LB441 to E&R for engrossing. [LB441]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it, LB441 does advance. Mr. Clerk. [LB441]

CLERK: LB537, Senator, I have no amendments to the bill. [LB537]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB537]

SENATOR NORDQUIST: Mr. President, I move LB537 to E&R for engrossing. [LB537]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it, LB537 does advance. Mr. Clerk. [LB537]

CLERK: LB631, Senator, I have E&R amendments. (ER8088, Legislative Journal page 1141.) [LB631]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB631]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB631. [LB631]

SENATOR LANGEMEIER: Senator Nordquist has...you've heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB631]

CLERK: I have nothing further on LB631. [LB631]

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SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB631]

SENATOR NORDQUIST: Mr. President, I move LB631 to E&R for engrossing. [LB631]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it, LB631 does advance. Mr. Clerk. [LB631]

CLERK: LB598, Senator, I have E&R amendments first of all. (ER8093, Legislative Journal page 1141.) [LB598]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB598]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB598. [LB598]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB598]

CLERK: Senator Ashford would move to amend with AM954. (Legislative Journal page 1093.) [LB598]

SENATOR LANGEMEIER: Senator Ashford, you are recognized to open on AM954. [LB598]

SENATOR ASHFORD: Thank you, Mr. President. LB598 creates a fund in the victims...the victims compensation fund to receive donations on behalf of victims of Von Maur-type incidents. It was suggested by Bill Drafters that we do make two very technical changes. One is to clarify that the money would be used for victim's compensation, number one. And number two, the amendment provides that broader language referring to the Internal Revenue Code so that if there is a change in the particular sections of the code dealing with this fund that it would not be necessary for the Legislature to amend the statute to reflect the changes in federal law. And that would be the extent of the amendment. Thank you. [LB598]

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the opening on AM954 offered to LB598. The floor is now open for discussion. Seeing no lights on, Senator Ashford, you are recognized to close. Senator Ashford waives closing. The question before the body is, shall AM954 be adopted to LB598? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB598]

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CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB598]

SENATOR LANGEMEIER: AM954 is adopted. [LB598]

CLERK: I have nothing further on the bill, Mr. President. [LB598]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB598]

SENATOR NORDQUIST: Mr. President, I move LB598 to E&R for engrossing. [LB598]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB598 does advance. Mr. Clerk. [LB598]

CLERK: LB238, Senator, I have no amendments to the bill. [LB238]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB238]

SENATOR NORDQUIST: Mr. President, I move LB238 to E&R for engrossing. [LB238]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it, LB238 does advance. Mr. Clerk. [LB238]

CLERK: LB294, Senator, I have no amendments to the bill. [LB294]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB294]

SENATOR NORDQUIST: Mr. President, I move LB294 to E&R for engrossing. [LB294]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB294 does advance. Mr. Clerk. [LB294]

CLERK: Mr. President, LB347, I have no amendments to the bill. [LB347]

SENATOR LANGEMEIER: LB...Senator Nordquist for a motion. [LB347]

SENATOR NORDQUIST: Mr. President, I move LB347 to E&R for engrossing. [LB347]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those

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in favor say aye. All those opposed say nay. The ayes have it. LB347 does advance. Continuing on with today's agenda, we move on to General File, 2009 Speaker priority bills, LB626. [LB347 LB626]

CLERK: Mr. President, LB626, a bill by Senator Karpisek. (Read title.) The bill was introduced on January 21 of this year, at that time referred to the Government, Military and Veterans Affairs Committee. It was advanced to General File. There are committee amendments. (AM972, Legislative Journal page 984.) [LB626]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Karpisek, you are recognized to open on LB626. [LB626]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. The purpose of LB626 is to amend the Nebraska Political Accountability and Disclosure Act to expressly state certain permissible uses as well as prohibited uses of public resources, personnel or property by a public official or public employee. LB626 was introduced in response to an August 8, 2008, decision of the Nebraska Accountability and Disclosure Commission. The decision relates to a complaint filed against a public official alleging a misuse of public resources. The complaint was filed in February 2007 before the August 8, 2008, decision of the commission. Public officials and employees, as well as the statewide organizations that represent them, had a relatively clear understanding of prohibited and permissible uses of public resources under the Nebraska Political Accountability and Disclosure Act. The Legislature needs to address the confusion caused by the decision of the commission to give clear direction to public officials and public employees, as well as the Nebraska Accountability and Disclosure Commission itself. When a complaint is filed against a public official or public employee alleging a violation of Section 49-14,101.01 or Section 49-14,101.02, the public official or public employee that can afford to do so will likely retain legal counsel to defend themselves which must be at their own expense. Sometimes defending your reputation against these allegations costs tens of thousands of dollars, even when the allegation involves a de minimis or incidental use of public resources. This was clearly the case in the August 8, 2008, decision of the commission involving Michael Nolan who was the city administrator of Norfolk when the complaint was filed in February of 2007. With only a few exceptions, LB626 with committee amendments will expressly codify certain uses of public resources by a public official or public employee that have been commonly accepted as permissible or prohibited by many attorneys for school districts, counties, municipalities, and other government agencies subject to the Nebraska Political Accountability and Disclosure Act. For example, with the committee amendment, Section 2(1) of LB626 would provide that any use of public resources by a public official or public employee which is incidental or de minimis shall not constitute a violation of Section 49-14,101.01 or .02. In addition, Section 2 would exempt from the Political Accountability, Disclosure Act an employment contract, a collective bargaining agreement or a written agreement or policy with a provision regarding the use of

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personnel, resources or property which is approved by a government body. LB626 would also amend Section 49-14,101.01 by including provisions from Section 81-1120.27 to expressly provide that a public official or public employee may use a telephone, cell phone, electronic handheld device or computer under the control of a government body to communicate unexpected schedule changes or essential personal business to a child, teacher, doctor, day-care center, babysitter or family member. This communication must be kept to a minimum and not interfere with the conduct of the public business. As provided in the committee amendment, a public official or public employee shall be responsible for payment or reimbursement of charges that directly result from any such communication. This type of communication has been authorized for years for certain state employees. LB626 would also amend Section 49-14,101.02 to the use of public resources when qualifying, supporting or opposing ballot questions. With the committee amendment, a public official or public employee under the direct supervision of a public official is not prohibited from making use of public resources in expressing his or her opinion regarding a ballot question or from communicating that opinion. However, the public official or public employee is not authorized to utilize mass mailings or other mass communications at public expense for the purpose of qualifying, supporting or opposing a ballot question. Finally, LB626 with the amendment would also amend Section 49-14,101.02 to expressly provide that this section does not prohibit a public official, public employee or government body from making use of public resources in preparing, presenting or disseminating information demonstrating the consequences of the passage or defeat of a ballot question, resolution or ordinance. A public official, public employee or government body is not authorized by this section to utilize mass mailings or other mass communications at public expense for the purpose of qualifying, supporting or opposing a ballot question. In conclusion, it is important for the Legislature to pass LB626 this session to provide clear direction to our public officials and public employees, as well as the Nebraska Accountability and Disclosure Commission. I will be glad to try to answer any questions I can. I know this bill entails a lot of different points. As was stated, there is a committee amendment and I will also have an amendment coming after that. Thank you, Mr. President. [LB626]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. (Visitors introduced.) As the committee clerk has stated...excuse me, as the Clerk has stated, there are committee amendments offered from the Government, Military and Veterans Affairs Committee. Senator Avery, as Chairman of that committee, you're recognized to open on the committee amendment. [LB626]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. You have on your desk a handout prepared by my committee staff that summarizes many of the key points in this amendment. The amendment is complex, so if you will bear with me I'm going to go through it point by point. Some of that may overlap with what Senator Karpisek has already told you, but since it is a complex bill it's probably not a bad thing if we emphasize some things that have already been mentioned. The amendment

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strikes the original sections of the bill and replaces them with the following provisions. I'm going to go through a total of ten of these. With the committee amendment, any use of public resources by a public official or a public employee that is incidental or de minimis will not constitute a violation of the sections of the Accountability and Disclosure Act dealing with personal financial gain or use of public resources. Also, language providing that unintentional violations of these sections would not constitute a violation, that is eliminated. We felt that was too broad of an exception. The incidental and de minimis language is similar to the original version of LB626. The purpose of these provisions is to apply a commonsense approach to a situation in which a public resource is used, but it is small or it is inconsequential use, such as sending a personal e-mail. Although using public resources are used to send e-mails, the cost to the public is negligible. If we go to Black's Law Dictionary we find a definition of de minimis that says that the law does not care for or take notice of very small or trifling matters. Those are de minimis. Another way to put that is to say they are unworthy of the law's attention. Incidental is defined as depending upon or appertaining to something else as primary, something incidental to the main purpose. Senator Karpisek mentioned the case of Michael Nolan. Up until last summer, public officials were generally advised that a safe harbor existed with respect to these provisions. They were told that if the use of public resources was incidental, the commission, that is the Accountability and Disclosure Commission, would not pursue action. In fact, that position had been validated in, I think it was, Opinion 166 by the commission. And this was what the League of Municipalities and others used in advising and educating public officials about the use of public resources. That changed, however, in the matter of Michael Nolan, a decision last summer. In that opinion, the A&D Commission determined that it was...there is no incidental or de minimis exception to the public resource statutes noted before. As a result, Mr. Nolan was fined \$1,000 and also incurred additional thousands of dollars in legal fees for sending one ballot-related e-mail from his personal computer and personal e-mail account after ordinary working hours. The public resources used happened to be a city server through which the e-mail was transmitted. Again, this was one e-mail sent after 7:00 p.m. in the evening from a personal computer and a personal e-mail address. That, we thought, was excessive and this seeks to rectify that. Also, the amendment deals with the use of resources, including vehicles. A resource of government, including a vehicle, will not be considered a public resource and personal use will not be prohibited if the use for personal purposes is part of the public official or the public employee's compensation provided by a government body, and the personal use of the resource is reported as compensation...excuse me, as compensation in accordance with the Internal Revenue Code and that taxes are paid on this compensation. An example of that would be a director of OPPD who has a government vehicle as part of his compensation and contract. If authorized by the contract or policy, the resource may be used whether or not the public official or public employee is engaged in the duties of his/her public office or public employment. This language is consistent with the practice of many public entities already. This section simply codifies the practice, and I think that is probably a good thing. Also, relating to the use of

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vehicles for government purposes, the amendment allows the use of a government vehicle to travel to a designated location or the home of a public official or public employee when the primary purpose of the travel serves a government purpose and the use is pursuant to a written policy approved by the government body. An example of this occurs when a law enforcement personnel or law enforcement officer drives their cruiser to the home of another law enforcement officer who will be taking the next shift. In smaller communities this allows for a more efficient and effective transfer of law enforcement vehicles. Fourth item deals with union's use of public resources. Pursuant to a collective bargaining agreement, a public facility may be used by a bargaining unit to meet, but the bargaining unit is not authorized to use public resources for the purpose of campaigning for or against the nomination or election of a candidate or the passage or defeat of a ballot question. Again, by way of illustration, this section allows a union to meet in a school, but the union would not be allowed to use the school's copiers or computers. The NSEA, from time to time, meets in schools. That would allow that to be legal. Number five deals with the use of electronic devices. This one you will find interesting since many of us are violating the law right now. A public official or public employee is not prohibited from using his or her personal cell phone, handheld devices or computers to access wireless networks while access is provided to the public by a government body. This provision is designed to allow, for example, state senators to use their Blackberrys in their offices, in the Senate Lounge, in the telephone areas here on the floor. Under current interpretation of current law, senators are only allowed to use their cell phones in public areas, such as the Rotunda or the cafeteria. So that is something that we need to clarify, and I do appreciate the Clerk's help in bringing this to our attention. Number six deals with the use of public resources for family matters and emergencies. Unless otherwise restricted by another agreement or contract, a public official or employee may use a telephone or a computer under the control of a government body for e-mails and calls in certain circumstances, such as calling a teacher, a doctor or a family member. The communication will be kept to a minimum and not interfere with public business. A public official or... [LB626]

SENATOR NANTKES PRESIDING []

SENATOR NANTKES: Senator Avery, one minute. [LB626]

SENATOR AVERY: One minute. [LB626]

SENATOR NANTKES: Yes. [LB626]

SENATOR AVERY: Thank you, Madam President. [LB626]

SENATOR NANTKES: You're welcome. [LB626]

SENATOR AVERY: A public official or a public employee shall be responsible for

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reimbursement of charges that directly result from this communication. This language is similar to another current section of law allowing...applying to state officials and employees. It extends these exemptions to all public officials and employees, not just to state officials and employees. That's a necessary change. Since I am running out of time, Madam President, I will stop there and I will ask for someone to yield me some time to complete my presentation. Thank you. [LB626]

SENATOR NANTKES: Thank you, Senator Avery. Mr. Clerk. [LB626]

CLERK: Madam President, I do have amendments to the committee amendments. Senator Price, I had one from you, but I have a note you want to withdraw, Senator. [LB626]

SENATOR PRICE: Yes, sir. [LB626]

CLERK: Madam President, Senator Karpisek would move to amend the committee amendments with AM1256. (Legislative Journal page 1266.) [LB626]

SENATOR NANTKES: As the Clerk stated, there are amendments from the committee. Senator Karpisek, as Chair of the committee, you are recognized to open on the amendments. Oh, correction, this is an amendment proposed by Senator Karpisek. Senator Avery had just concluded opening, as Chair of the Government, Military and Veterans Affairs Committee, on the committee amendments. [LB626]

SENATOR KARPISEK: Thank you, Madam President, and I would take the promotion, but we better...Senator Avery is helping me. My amendment is exactly what Senator Price's amendment was, and I thank him for pulling his amendment. At the time he filed his amendment I would call it a hostile amendment that took out that section that I will talk about. However, in negotiations I have conceded that to move the bill I will make it a friendly amendment. So I could have just said I agree with his amendment, but since it's my bill I felt it was the best to put the amendment on and that way Senator Price isn't hostile to me anymore on this bill. This amendment would take out, "This section does not prohibit an individual holding elective office from using public resources to express or communicate his or her opinion regarding a ballot question affecting the government body for which the individual holds the elective office." What this part of the bill was trying to do was to say that an elected official could give their opinion after a ballot question was on the ballot. They can still do this if they are at, we'll say, a Rotary Club meeting or if they're not in a publicly owned building. They can still give their opinion if they are asked. The reason for this is I felt that it was a little tacky that you can plant someone in the audience to ask you the question, and then you can answer it. This would have just let them give their opinion without the question being asked. It was a point of contention within the committee and within other members of the body and the lobby, so I have agreed to pull this. I think there is much more in the bill. Although this

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was a very vital part, I thought, the rest of the bill is more important than this part, that I would like to move the rest of the bill and take this out. This has taken a lot of the opposition away. We may still hear some, but anyone that had been opposed, Frank Daley was opposed to this part of it, so I think with taking this out that Frank is happier. I don't know if there will be any other discussion on this. If there is, I'd be glad to answer any questions. Thank you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Karpisek. (Visitors introduced.) Continuing on with discussion on the amendment, Senator Friend, you are recognized. [LB626]

SENATOR FRIEND: Thank you, Madam President and members of the Legislature. This is a...I took a glance at this last night and I should have taken more than a glance. This is a pretty heavy bill. AM1256 to AM972, I don't have a problem with that, not that you care, but I'm going to point this out. I don't have a problem with that at all. As a matter of fact, I agree with Senator Karpisek's assessment. Members of the Legislature, I have questions and I guess I would address those...if Senator Avery would be so kind to yield to some questions, Madam President. [LB626]

SENATOR NANTKES: Senator Avery, will you yield to Senator Friend? [LB626]

SENATOR AVERY: I will. [LB626]

SENATOR FRIEND: Thank you, Madam President, and thank you, Senator Avery. Senator Avery, it was alluded to in not only Senator Karpisek's opening and then some of the discussion that he's had on his amendment and also you, if I might add, did a pretty good job of explaining a couple circumstances that were I guess the...I wouldn't say the impetus for this bill but led to the thought process behind this bill. Would that be fair enough? [LB626]

SENATOR AVERY: That is. [LB626]

SENATOR FRIEND: I'd like to go a little more in depth with that. Can you...particularly on page 2 of this amendment, AM972...and again reiterating that AM1256, I agree with that thought process. Let's go to the committee amendment, if you will. On page 2, subsection (2), and it would be in Section 3, it's my understanding, too, that Frank Daley and the Nebraska Accountability and Disclosure Commission have made, I guess, a recommendation that they were concerned about the written policy approved by a government body. And so what we're talking about is lines 6 and 7. Do you see where I'm at, Senator Avery? [LB626]

SENATOR AVERY: I do. [LB626]

SENATOR FRIEND: Is there a...I mean, could that actually be removed? I guess I'll just

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get right to that point. [LB626]

SENATOR AVERY: Well, anything can be amended, but I would argue against it because I think it's important. [LB626]

SENATOR FRIEND: Let me ask a question in a different way. And I wasn't trying to...this isn't a gotcha moment. Because of the recommendation, because it's come to my attention that I guess Accountability and Disclosure had some concerns with...maybe some concerns with that particular language, does it affect that section in an adverse way, in your opinion, if we actually remove that language? [LB626]

SENATOR AVERY: Well, I think it's important to have it there in order to clarify and codify what is essentially current practice. And we did go over this in great detail with Mr. Daley and he helped us work out the language here, so I don't think he's opposed to that. [LB626]

SENATOR FRIEND: Okay. [LB626]

SENATOR AVERY: He was opposed to the section (7), though, that we are now in the amendment that was just introduced. [LB626]

SENATOR FRIEND: Right. And that had come to my attention too. Thank you, Senator Avery. If you would still yield. I'm sorry, Madam President, if he would still yield. [LB626]

SENATOR NANTKES: Senator Avery, will you continue to yield? [LB626]

SENATOR AVERY: I'm still here. I'm ready to answer. [LB626]

SENATOR NANTKES: Senator Friend, you have one minute. [LB626]

SENATOR FRIEND: Thank you. Thank you, Madam President. Senator Avery, why...give me an example or an analogy, if you will, in regard to the ballot initiative thought process. I mean, are we...we have a lot of situations out there with folks maybe from the university, from a lot of our municipalities. We've dealt with those. You and I have dealt with those in the past. Give me an analogy other than Mr. Nolan's that you could think of that would be a perfect example of a problem that drove this mind-set with that ballot initiative language. [LB626]

SENATOR AVERY: Well, are you talking about the de minimis and incidental portion or are you talking about the amendment that Senator Karpisek just introduced? Because there's a different answer if you are. [LB626]

SENATOR FRIEND: Well, I think we're going to run out of time. We can talk a little later,

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too, if we need to on that. [LB626]

SENATOR AVERY: But I can give you a good example of a ballot issue situation. Right now the way the law is written, the mayor of Lincoln cannot use... [LB626]

SENATOR NANTKES: Time, Senators. [LB626]

SENATOR FRIEND: (Laugh) Thanks, Bill. [LB626]

SENATOR NANTKES: Senator Pirsch, you're recognized to speak. [LB626]

SENATOR PIRSCH: Thank you, Madam President, members of the body. For the benefit of the body I would yield my time to Senator Friend should he desire to continue his conversation with Chairman Avery. [LB626]

SENATOR NANTKES: Senator Friend, will you yield? [LB626]

SENATOR FRIEND: Yes, I will. And then I also will...I think Senator Avery was going to give Madam President an example, maybe a Lincoln example, so I would actually ask him. [LB626]

SENATOR NANTKES: Senator Avery, will you yield? [LB626]

SENATOR AVERY: I will. [LB626]

SENATOR NANTKES: Please continue. [LB626]

SENATOR AVERY: Thank you, Senator Pirsch and Senator Friend. The example I was going to give you deals with a situation where let's say the arena that Lincoln is planning to build is going to have to go on the ballot and be approved by the voters before that can happen. And prior to the time that the issue actually goes on the ballot, the mayor can use public resources to prepare materials to show the impact on the economy of Lincoln, can use the staff people to prepare speeches before the Kiwanis Club or whatever, but once it's on the ballot, for all practical purposes, that activity has to cease. And one of the things that we were trying to do in section (7) of the amendment was to loosen that up a bit so that public officials could advocate on behalf of ballot issues that affect their governmental body. We have an interpretation, though, from Mr. Daley that does indicate that the mayor can do a lot more than previously was thought. So this amendment that Senator Karpisek has now satisfies the commission and the committee. [LB626]

SENATOR FRIEND: Yes, thank you, Senator Avery. And that was my question because the whole section was not eliminated with Senator Karpisek's amendment. Can

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we...back to the...well, let me go through this. I don't want to harangue Senator Avery with a tremendous amount of questions. I know that there are others in this body that want to speak and I think that there's enough time. If Senator Pirsch had some questions, too, I'll give the time back to him in a second. But here's my...I wouldn't even call it a fear, here's my thought process. If you go to (2) of the committee amendment in Section 3, which would be on page 2 at the top of the page: "For purposes of sections 49-14,101.01 and 49-14,101.02, a resource of government, including a vehicle, shall not be considered a public resource and personal use shall not be prohibited if," and then it goes through, you know, the pieces, the use of the resource that Senator Avery pointed out, the use of the resource for...there's compensation associated with it. Here is, for lack of a better way to describe it, my fear: Does that particular compensation become a piece of private property of that employee? Because there is a significant difference. Okay? And, look, I'm not trying to nitpick here. What I'm saying is if I worked for a company, a government entity or whatever and they said, we're going to give you this company car, it's part of your compensation, this language is laid out in a manner which deals with that. But the problem is when you're talking about a public entity, it's still taxpayer money. And we all know, all 49 of us know that the taxpayers look at it differently than I would when I'm sitting in the middle of a corporation saying I've got...let me give an example. There's four other employees around me that don't get a company car. I get a company car. They don't have the same feeling toward that that a taxpayer has with an OPPD or an NPPD or I don't know, I'm not picking on them, of an employee of a government entity driving a car around. The angst in the... [LB626]

SENATOR NANTKES: Senator, one minute. [LB626]

SENATOR FRIEND: Thank you, Madam President. The fear and the angst and the attitude is not there. So I'm just saying I know that there's been care and caution taken by this committee to deal with this in a language format, but here is a significant key to this type of language. There is a difference between handing somebody something and saying it's part of your compensation or handing them that and saying it's your private property now, you own it. Now, somebody correct me if I am wrong, but if the government handed somebody something and said it's your private property now, you own it, I don't think the taxpayers are going to have as much of an issue with it. If you say it's part of your compensation, the taxpayer is going to say, well, you know what, I don't care, we still own that vehicle. So, look, I'm not trying to cause problems and, again, I'm not trying to nitpick. What I'm saying is there are...and that's just one aspect to this, there are key items in all of the changes here that I think need to be pointed out. And there are changes that are being made... [LB626]

SENATOR NANTKES: Senator, your time has expired. Thank you. [LB626]

SENATOR FRIEND: Thank you, Madam President. [LB626]

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SENATOR NANTKES: Senator Harms, you're recognized. [LB626]

SENATOR HARMS: Thank you, Madam President, colleagues. Senator Avery, would you yield for a couple of questions, please? [LB626]

SENATOR NANTKES: Senator Avery, will you yield to Senator Harms? [LB626]

SENATOR AVERY: I will. [LB626]

SENATOR HARMS: Senator Avery, as I look at the committee statement on LB626, could you share with me what Frank Daley's concerns were from the Accountability and Disclosure Office in regard to this legislation? What was his concerns when he came before you? [LB626]

SENATOR AVERY: It was mostly in section (7) of the amendment, committee amendment. Committee amendment is AM972. In section (7), which we are now considering an amendment to that, he was mostly concerned with the allowing elected officials to use public resources to campaign for or against a ballot question. Our intent was to allow public officials, for example, the president of the university or the mayor of Lincoln or the mayor of Omaha, to use what I would consider incidental use of public resources--having your staff research an issue, prepare comments before you go give a speech in which you advocate for the ballot issue. And the commission had trouble with that. Frank Daley could not get happy with what we were trying to do. That is the reason why the Karpisek amendment is up there now. [LB626]

SENATOR HARMS: Thank you. I know that when I was just finishing up my previous life and I filed for this office, I think I had three or four months left and had filed for the office, was going to take early leave, while I was in my office I would get phone calls from people, when I had announced that I was going to run for office, that wanted to discuss that. I lived in fear with that on the basis that I can't carry this conversation on. I would get e-mails through the process that I could not control. I would open up the e-mail to see what it was and there was someone wanting to talk to me about an issue that...about election. So there are some issues that you cannot control and I lived in fear with that until I got out of there, because I was afraid that somewhere along the line someone would ask for a review, and rightfully so. But there are some issues that you just can't control. You're caught in it. You can't get out of it. You're nice, you're careful, you're professional. But I open all my e-mails and a lot of times there's no title on it, you don't have any idea what the person wants to talk about, and all of a sudden you're into a conversation. Senator Avery, I don't know how you handle those issues and I don't know what's the best process to do. I'm assuming that the Accountability and Disclosure folks and Daley would be understanding. There are some times you're put in a position that it's difficult to address, so that's some of my concerns that I have. I also would like to know, just for a second, if Senator Janssen would yield to just one question. [LB626]

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SENATOR NANTKES: Senator Janssen, will you yield? [LB626]

SENATOR JANSSEN: Yes. [LB626]

SENATOR HARMS: Thank you very much, Senator. I notice that you and Price and Sullivan voted no in regard to this legislation. Would you share with me what your concerns were and whether those have been corrected? [LB626]

SENATOR JANSSEN: Certainly. Of course, anything that comes with Senator Karpisek's name on it, we want to give it a second look. So that aside, we...and I'm going to speak to this here in a second and I promised I wouldn't rail against it so I don't want to. But I like the one aspect of it. What you're talking about, the de minimis part, if that was it, I think in my opinion that thing comes out 8-0, it's done. It might even be on consent calendar. When you started to throw the public official thing in there, that's when it got real murky for everybody. Well, I shouldn't say that. For me it did and I felt that those that voted with me... [LB626]

SENATOR NANTKES: Senators, one minute. [LB626]

SENATOR JANSSEN: I can continue on, if you'd like. That's where it got murky with us. We kept using the Rotary Club deal. If I go to the Rotary Club to talk about a bond issue, as a city councilman, which I was before, can I do this? Well, for awhile it was yes, and then it was no, as we were reading this bill, and we kept going back and forth. I just asked Senator Karpisek today, where are we at on that? I actually got a yes and a no today. So, yes, you can under this amendment but, no, you can't. Well, if you do it, if it's before here, well, what change is in that? I felt in the end we were just making a law that was clearing up a law that was clear as mud and is still clear as mud, so. [LB626]

SENATOR HARMS: Thank you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Harms. Senator Karpisek, you are recognized. [LB626]

SENATOR KARPISEK: Thank you, Madam President. Could I ask Senator Avery a question, please? [LB626]

SENATOR NANTKES: Senator Avery, will you yield? [LB626]

SENATOR AVERY: I will. [LB626]

SENATOR KARPISEK: Senator Avery, could you please finish on your amendment? [LB626]

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SENATOR AVERY: Yes, thank you, Senator Karpisek. I did have a couple more points to make. The amendment allows a public employee, under the direct supervision of a public official, to respond to specific questions as to his or her opinion on a ballot question or to provide information in response to requests for information. Currently, only public officials are allowed to respond to specific questions regarding ballot questions. This allows a public official to ask a staff member to prepare a response to an inquiry. I would like also to address section (7) in the amendment. We are taking out, if we pass the Karpisek amendment, we are taking out lines 15, 16, 17, 18, and 19, or parts of those. But what remains in section (7) is important because section (7) does not prohibit, in the normal course of a public official's duties, the direct supervision of a public employee, from using public resources to research and prepare materials to assist the government body for which the public official is trying to determine the impact of a ballot issue on that government body. Also, there is a prohibition in section (7) that does not allow a public official or elected official from using mass communication on behalf of or against a ballot question. That would involve mass mailings, TV spots and things of that sort. Also included in the amendment that I didn't get to is the use of the official title. Under this amendment, a public official or a public employee is not prohibited from identifying himself or herself by his or her official title. That's new language and it is currently not allowed. And finally, the definition of a ballot question: The committee amendment defines ballot question to mean any question that is submitted or intended to be submitted to a vote, including initiatives, referendums, recalls, or votes on judicial retention. Ballot question also means any question that has been submitted to a vote as a result of legislative action or adoption of a resolution by a political subdivision to place an issue on the ballot. This language clarifies the distinction between issues appearing on the ballot by way of initiative and referendum, and issues appearing on the ballot by way of action of a legislative body, such as this body or a city council. In the situation where a legislative body puts an issue on the ballot, the restrictions in the Accountability and Disclosure Act are not triggered until after a legislative body decides to put the issue on the ballot. In the initiative and referendum process, the restrictions that apply are triggered when the petition is qualified; that is, when they have enough signatures gathered. I want to emphasize one thing. We worked very carefully with all the interested parties in drafting this amendment. The League of Municipalities was involved, the city of Lincoln was involved, the Accountability and Disclosure Commission was involved, and they all agreed to the amendment that you have before you except for that portion that Senator Karpisek is trying to take out with AM1256. We worked very hard on this. The University of Nebraska was brought in on it. [LB626]

SENATOR NANTKES: Senator, one minute. [LB626]

SENATOR AVERY: The Nebraska Municipal Power Pool was involved, the Nebraska Public Power District. We had only one opponent in the committee testify against this in

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the hearing and that was Frank Daley and that...we've satisfied his objections with the Karpisek amendment and the committee amendment. If you pass the Karpisek amendment to the committee amendment, I think everybody is going to be fairly happy. Thank you. [LB626]

SENATOR NANTKES: Thank you, Senator Avery. Senator Karpisek waives the remainder of his time. With that, Senator Lautenbaugh, you are recognized. [LB626]

SENATOR LAUTENBAUGH: Thank you, Madam President, members of the body. Let me state at the outset that I believe what happened to Mike Nolan was wrong. It was a ridiculous thing to do. I believe the legal expense that Jim Vokal went through up in Omaha was ridiculous. He should not have had to incur that. And a lot of this is what I would describe as just ticky-tacky nonsense that we're trying to play gotcha with our elected officials and our public officials. But I stand in opposition to this bill and let me say why, because I think the rules that apply to public officials in office should be as arbitrary, irrational, and as absurd as the rules that apply to us when we're candidates. Until the whole thing gets addressed, I don't think we should address it at the margins. I had a bill this session that's sitting in Government Committee that would have thrown out the Campaign Finance Act. Why? Why would I do that? Well, let me tell you the story of the yacht makers. A couple decades back in Congress we were going to punish the rich, soak the rich by putting a luxury tax on yacht makers. So what was the effect? The rich all bought their yachts overseas and all the good, blue-collar people who made yachts in the United States lost their jobs. We got them. Good job. Well, a few years back we passed the Campaign Finance Act because we're going to get big money out of politics, enough is enough, this has to stop. Well, look where we are now? Last year in the cycle I could raise \$89,000, half of that from PACs and businesses. Independent expenditure groups could raise as much as they wanted from whoever they wanted and spend as much as they wanted without control, without regulation, just a little bit of reporting, and all bets were off. So we've not forced money out of politics. All we've done is forced money underground where we can't control it, where no one is responsible, no candidate is responsible for what's said, it's just out there. And we're talking about wealthy donors, we're talking about business donors, we're talking about labor donors, we're talking about PAC donors. All of them know what the new rules are. Set up one of these independent expenditure groups, you can do and say whatever you want, and we can't constitutionally regulate their speech. So my bill said throw out the Campaign Finance Act; let us raise what we want from whoever we want, disclose it instantaneously so everyone knows who's backing us and that's the best we can possibly do. Because when we try to tinker with things like this, we shoot ourselves in the foot, just like we did with the yacht makers, just like we're doing with ourselves. We are unilaterally disarming ourselves and not putting any regulations, because constitutionally we can't, on the business groups...I'm sorry, not the business groups, the independent expenditure groups that are out there. And this isn't a particularly partisan phenomenon; it works both ways. But we need the courage in this body, I

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believe, to say enough is enough. What happened to Mike Nolan is wrong. It's also wrong to tell me that I can raise \$44,500 from PACs and corporations but an independent expenditure group can raise \$150,000 from whoever they want and spend it however they want, and I can't match that and you can't match that, in all likelihood. We need to have the courage to say what we did was wrong. What we did to Mike Nolan was wrong, what we did to Jim Vokal was wrong. The rules that say that we aren't supposed to be able to use the same public wireless that the public uses for free, we're not supposed to access that because we're senators, that's foolish. That's absurd. This bill is meant to address some of those absurdities. [LB626]

SENATOR NANTKES: Senator, one minute. [LB626]

SENATOR LAUTENBAUGH: But there is a lot more that we need to do. I may have told Bill that I wouldn't...I'm sorry, Senator Avery that I wouldn't try to bring my campaign finance repeal bill as an amendment to any bill this session. I don't know if I told him that or not. I hope I didn't tell him that. But I think we need to address it and I don't know that we'll have the stomach to do it in an election year because that's an issue that's easily demagogued--look at those guys down there, they want to be able to raise as much as they want. No. What we want is that much-touted level playing field, the phrase that drives Senator Karpisek crazy when it's misused. What we want is a level playing field, and I think this bill doesn't go far enough and I think we've got a lot more work to do and I think we need to stand up and say just because Common Cause said something was a good idea doesn't mean it was a good idea. We need to revisit it. We need to throw it out. We need to start over. And until that day, I guess I have to oppose this bill as not going far enough. [LB626]

SENATOR NANTKES: Time. Thank you, Senator Lautenbaugh. Senator Sullivan, you are recognized. [LB626]

SENATOR SULLIVAN: Thank you, Madam President and members of the body. I appreciate all the hard work that Senator Avery has led in terms of crafting this amendment. I sit on the Government Committee and, as you will probably notice in the committee statement, I voted against bringing this bill out, mostly from a philosophical standpoint, because I really do believe that public officials are held to a higher standard. You know, maybe we don't think it's fair but that's the reality of it, and I think our actions, whatever we do, we need to think twice before we take them because...taking into consideration the impression that it will give to the public. Because the fact is perception is nine-tenths of reality. We have to be ever mindful of our positions. And it occurs to me, I appreciate Senator Janssen's comments about are we really solving the problem, it gets confusing, we get yes/no answers in delving into this, and if we look at the current rules and regulations with the Accountability and Disclosure Commission, it occurs to me that perhaps if we have questions we should ask before we act. And had we done that, perhaps some of these situations would have never happened. So with

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that, Senator Avery, do you need me to yield? Do you have any other issues you want to raise with the amendment? [LB626]

SENATOR NANTKES: Senator Avery. [LB626]

SENATOR AVERY: I would have like to have a little time. [LB626]

SENATOR SULLIVAN: Thank you very much. [LB626]

SENATOR NANTKES: Thank you, Senator Sullivan. Senator Avery, you have 3 minutes and 35 seconds remaining. [LB626]

SENATOR AVERY: Thank you, Madam Chair, and thank you, Senator Sullivan. For a moment there I thought Senator Lautenbaugh and I were going to be on the same side of this issue. He does, however, admit that it's a good bill but he doesn't like it because it doesn't address something else that he doesn't like and that, seems to me, to be not particularly a persuasive argument and maybe not even a logical one. This is a good bill. It codifies a lot of things, and particularly relating to the use of public vehicles, codifies current practice. And it makes it clear to officeholders and public officials what they can and cannot do. It also, I think, clears up some things that we need cleared up, particularly relating to the use of electronic devices in this building. Most of us are currently in violation of the law when we use our cell phones in our office, when we use our personal computers in the Senate Lounge. There are only a few places in the building where you can use your cell phone and your personal computer. We need to clear that up. The law needs to be brought into the twenty-first century and I think that the--and I agree with Senator Lautenbaugh on this--the case involving Mr. Nolan was ridiculous. This bill addresses that. The case involving Mr. Vokal up in Omaha, that also is addressed in this bill. This bill does not go as far as I wanted it to. We worked for a long, long time on section (7). At one point, I thought we had agreement but eventually we did not. I think the deal fell apart, in large part, because the Accountability and Disclosure Commission simply could not accept the language that Senator Karpisek is seeking to take out in his amendment to the committee amendment. But still, keep in mind that there are important provisions even yet in section (7), particularly relating to a prohibition on the use of mass mailings, mass duplication, and mass communication at public expense. That is not allowed, it's not authorized, and I think that needs to be in law. So take a look at the handout that I gave you. The handout summarizes... [LB626]

SENATOR NANTKES: One minute. [LB626]

SENATOR AVERY: ...important elements of this amendment. The handout does not, however, include the Karpisek amendment, but with that amendment I think that you can...you'll find that we have pretty broad agreement across the board with the interested parties. Thank you, Madam President. [LB626]

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SENATOR NANTKES: Thank you, Senator Avery. Senator Janssen, you are recognized. [LB626]

SENATOR JANSSEN: Thank you, Madam President, members of the body. I thought you said Senator Hansen, so that was the little stutter there. As I spoke earlier, the de minimis part of this bill is a great part of this bill. It's ticky-tack (sic), and I think that's what...I think that's actually what Senator Lautenbaugh was discussing when he said that he thinks that is a common sense part of it. I do think that's common sense. The other side was the clear as mud side. I'm still not clear on that, but that might just be a me thing. I don't think so though. We sat in committee for a long time and we went back and forth and Senator Price and I are usually on board for most issues and we were even finding ourselves at where are we at on this, where you at? And so I guess I'd say if you don't understand this bill maybe you shouldn't vote for it (laugh) but...and I don't think it would have many. Could I get Senator Lautenbaugh to yield for a question? [LB626]

SENATOR NANTKES: Senator Lautenbaugh, will you yield? [LB626]

SENATOR LAUTENBAUGH: Yes, I will. [LB626]

SENATOR JANSSEN: Actually, I have a couple questions. The first one, though, I want to get back to what you were talking about and could you explain a little bit better? I had the gist of it, but I wanted to get back to talking about Councilman Vokal and that. You talked about that story. Can you bring us up to speed on just...because that was insane and I want to hear more for the story, more for the benefit of the tens of people that might be listening on TV. [LB626]

SENATOR LAUTENBAUGH: As memory serves, if memory serves, he was...they went after him for having a picture or video of himself taken sitting behind his desk and the question came down to whether or not he was using, as in consuming, a public asset by doing that. And honestly, I faced the same question a few years ago the first time I was sworn in. I had a picture of myself and my family up there behind the podium that I was going to send out as a Christmas card and was advised, well, unless everyone in the world has access to that same shot, you might be using a public resource that no one else can use. So I think we missed Christmas cards that year as a result but, you know, it might have been other causes. Who knows? [LB626]

SENATOR JANSSEN: Senator Lautenbaugh, and just one last thing: Did you say that this is a good bill? [LB626]

SENATOR LAUTENBAUGH: That wasn't my intent. (Laughter) [LB626]

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SENATOR JANSSEN: (Laugh) Okay, because I didn't hear that as well and I just wanted to... [LB626]

SENATOR LAUTENBAUGH: I don't think I said that, no. [LB626]

SENATOR JANSSEN: ...follow up on that. I can't give you a bad reason not to vote for this bill; I can't give you a good reason to vote for this bill, either side, other than the de minimis. I guess I can give you one good reason to vote for it, the de minimis. If I was going to find a bad one, I'd say it's just...it's too difficult. I still don't think it does...or clears anything up. Before, as a city councilman, I could go to the Rotary Club and I could speak on an issue. I could campaign on an issue. I just couldn't use any stuff from city hall, bring it with me and have it there. I could, and Price is shaking his head no. This is what we went through in committee. I can go ask somebody else in committee and they'll say, yeah, you could. For awhile, I thought I was in the wrong. Then they said, no, you were okay; Councilman Janssen, that would have been okay, but now it's not. And it's really not clearing anything up. If I'm missing something I apologize to Senator Karpisek, but that's the reason I voted against this. Said I wouldn't rail against it. I think I kind of did, so I apologize. If I have any time left, I'll yield it to Senator Karpisek so he can yield back...or rail on me. [LB626]

SENATOR NANTKES: Thank you, Senator Janssen. Senator Karpisek, you have a minute, 30. [LB626]

SENATOR KARPISEK: Even? [LB626]

SENATOR NANTKES: 1:24 now. [LB626]

SENATOR KARPISEK: (Laugh) Thank you, Madam Chair. Thank you, Senator Janssen. We did go back and forth on this in committee and I think that is the reason for this bill, is to get it figured out what we can and cannot do. Most of the things that are in this bill are taken from what we as senators can do. [LB626]

SENATOR NANTKES: One minute. [LB626]

SENATOR KARPISEK: Thank you, Madam President. Yes, we still don't always know, as we throw these things back and forth, is it or isn't it. I think if we get into it and sit down and really figure it out, as Accountability and Disclosure will, and get some things codified so we don't have so many people, organizations, candidates, everyone tiptoeing around, not knowing for sure whether they're in bounds or out of bounds. I would say that everyone is trying to stay in bounds and you know if you're really out. But I think some of this is just a judgment call by the Accountability and Disclosure board, and I'm not railing on them but it's...most of these things are not codified in law and, as we work through this, I think we can get it codified and make their job easier. Thank

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you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Karpisek. Senator Fulton, you are recognized. [LB626]

SENATOR FULTON: Thank you, Madam President, members of the body. First, I'd like to say that I do stand in favor of AM1256. I think I've got my brain wrapped around that anyway. Still have some questions with regard to the bill. But first, there was something that Senator Harms touched on that I had some experience with a couple years back. When we receive e-mails and we respond to individuals, we don't know often what's inside those e-mails. And I had a good talk with folks up in Accountability and Disclosure and I'd recommend to other senators, if you have a question on that, to do the same. The gist of what I'm getting is you can't control the actions of another. I also was the subject of, I guess you'd call it, a political...I don't know if it was a political attack but that's how I felt about it, about utilizing public resources in my campaign, which turned out not to be true. Accountability and Disclosure took a look at it and said, you know, the charges are baseless. But regardless, there's a lot of question and I think that a bill that would come forward that would provide some clarity would be useful. I think it would serve a good purpose. I'm hopeful that's what this bill does, but I still have questions. So to that end, I'd like to...see, AM972, I would like to ask Senator Avery if he would yield to a question. [LB626]

SENATOR NANTKES: Senator Avery, will you yield? [LB626]

SENATOR AVERY: I will. [LB626]

SENATOR FULTON: Thank you, Senator. On the...and I'm actually not on AM1256. This is the committee amendment, AM972, page 2, subsection (3), and that's in line 13. Okay? Okay. "Use of a government vehicle by a public official or public employee to travel to a designated location"--I guess the upshot of my question is who decides--it's line 16, I'll begin in line 15--"when the primary purpose of the travel serves a government purpose and the use is pursuant to a written policy approved by a government body." Who decides whether the primary purpose of the travel serves a government purpose? [LB626]

SENATOR AVERY: In my opinion it would be...I can give you an example, would probably be better. [LB626]

SENATOR FULTON: Yeah, that would...yeah, that would help. [LB626]

SENATOR AVERY: This involves mostly police officers in small communities, when you have a shift change. The policy would be set by the chief. The policy would have to be in writing that you can use the vehicle to go to a person's home to pick them up, to

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exchange the vehicle for public purposes. [LB626]

SENATOR FULTON: Okay. So the...well, maybe I could answer the question in this way. If in line 16, the next to the last word in that line is "and," I'm not a lawyer so maybe I should be asking a lawyer, "and the use is pursuant to a written policy approved by a government body." So it wouldn't just be that in someone's judgment the primary purpose is for...the primary purpose for the travel serves a government purpose. It would also have to have been explicated in written policy. Is that correct? [LB626]

SENATOR AVERY: That's correct. That is correct, has to involve both. [LB626]

SENATOR FULTON: Okay. [LB626]

SENATOR AVERY: That's pretty tight. [LB626]

SENATOR FULTON: Okay. Light bulb. Thank you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Fulton and Senator Avery. Senator Price, you are recognized. [LB626]

SENATOR PRICE: Thank you, Madam President, members of the body. Sitting on the committee, I voted no. Sitting on the committee, much like the monicker given to me on the basketball court, I was a rock--I wasn't going to move on something. And I appreciate Senator Karpisek and everybody working with me on this. I would like to say that, while it may be a hostile amendment, I was pretty clear all the way along what I was doing, but also I would offer up that I do have an understanding of hostile and I will tell you that was nowhere near hostile and I hope never ever. A couple of things I wanted to bring up, you know, we're kind of on a long journey and all those journeys start with the first steps. While we wish to create perfect policy and while we wanted to make sweeping changes here and there, we have to start. We're doing that here where we're...we've made a really good effort here. Senator Janssen has even said, you know, with the part on de minimis use, that's good. We're working through the part of whether or not people can do things at different times and with government resources on a ballot initiative and we're working through that and I think this is a good thing. And for Mr. Vokal and Mr. Nolan, I submit that they were painted into a corner. The law is a law, is a law, is a law. Matter of fact, later on we'll be listening to bills that will provide discretion or latitude to a judge or a jury on sentencing guidelines and it's because we wrote something in that said it's either/or. So, again, we're moving to give discretion. We're moving to provide allowances. But I do still have a question to ask and I would like to see if Senator Avery would yield to a question. [LB626]

SENATOR NANTKES: Senator Avery, will you yield? [LB626]

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SENATOR AVERY: I will. [LB626]

SENATOR PRICE: Thank you very much, Senator Avery, and thank you for your leadership here through these waters. My question is, when we talk about mass communication, I still want to...I would still like to hear on the mike when we talk about the Internet, using the Internet as a means of mass communication. Because in today's age we find so much more is done on the Internet and we know if we're pushing a lot of information, we're pushing video, we're streaming video, things of that nature, well, then you're going to use a lot of bandwidth and that costs money and you need the resources. So what is your opinion on the aspect of using the Internet as it relates to being a mass communication device or method? [LB626]

SENATOR AVERY: I think it would have to meet the de minimis test before it could be legal and I don't know of a situation where using the Internet for mass communication would meet that test. [LB626]

SENATOR PRICE: All right. Thank you very much, Senator Avery. I think that may be an opportunity when we come back to...and as I've raised that question up maybe some of our outstanding citizens will weigh in on this and provide input, but again, to me, de minimis would be if I go out to the Internet and I Google something to find some information, or I go and I read the local paper real quick to find something out. I don't know de minimis would say I'm providing a certain amount of bandwidth, running streaming video with surveys and everything, because that's also a capability of the Internet. I mean so there's a lot of dollars involved, particularly if you were talking a statewide initiative. That would definitely create a lot of opportunity for people to go to the Internet and use things and you can push things out through the Internet. So again, I really believe that... [LB626]

SENATOR NANTKES: Senator Price, one minute. [LB626]

SENATOR PRICE: Thank you, Madam President. I really believe it's an important question as we move forward to...as, again, we're trying to bring something forward and work and get healthy, get whole, but also we need to make sure that we take into consideration what will become a future methodology of communication more and more, as we see it now with our circulations of papers down so much. The Internet is important, it is powerful. We want to make sure that when we consider de minimis and the Internet we've defined that. Thank you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Price. Senator Hansen, you are recognized. [LB626]

SENATOR HANSEN: Thank you, Madam President, members of the Legislature. First of all, to AM1256 of Senator Karpisek's, I agree that this should be stricken and

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especially on line 17, where it says "his or her opinion." And I would even go up further, if it was up to me, in Section 5 on subsection (7) where it talks about in the normal course of his or her duties, and a public official or public employees. Last Monday was a day off. I had the opportunity to have a town hall meeting in Wallace, Nebraska, to the school and to the town. Two questions were asked, similar questions, and the question was, how does the Unicameral system work; how do you view the Unicameral system? I told them that we are one part of the system. Since in 1937, when we went to a one-house system, we are one part of the Legislature; the other part are the people. Those kids, those seniors clear down to kindergartners that were at that town hall meeting, is the other house. The other house uses the ballot initiative to do...to change things that we do wrong. They, if they view that we've done something wrong, they use the ballot initiative to get attention to that and put it on the ballot for everybody to vote on. Right or wrong, that's the way it is. We are a two-house government still but those kids, those students at Wallace, Nebraska, if they don't grow up to participate in this, in this process, they're not being the other house. I think for having a public employee or an elected official to take part in that process and the ballot process and give his or her opinion of it is wrong. If they invite a senator to discuss both sides of it or to give input, I think that's fine. I don't think we need to give our opinion of that. We've done our opinion on the floor. Now it's time for the other house of the Legislature. I do agree with Senator Karpisek's amendment. I think we might talk about even going further later, but at this time, Senator Lautenbaugh, if he would need some time, I'd yield to Senator Lautenbaugh. [LB626]

SENATOR NANTKES: Senator...thank you, Senator Hansen. Senator Lautenbaugh, 2 minutes 36 seconds remain. [LB626]

SENATOR LAUTENBAUGH: Thank you, Madam President, and thank you, Senator Hansen. I am veering back into my digression, but it might become more and more relevant as amendments come and go. We did have a hearing on my bill, as I indicated, and everyone who spoke and I believe...I don't want to put words in their mouths, but everybody on the committee agreed there was a problem with independent expenditure groups and the unregulated money that goes to them. Everyone also agreed we can't regulate the money and probably not even the content of what they do, what they say, what they raise constitutionally. It would be unconstitutional. And a wise man told me once that every time we don't like something we just say it's unconstitutional, but I think everyone agreed that this would be unconstitutional. But the response I got was my solution was wrong, and my solution was full, quick disclosure of everything that is raised from every source on-line, so we all know who's supporting who and where it comes from. And if opponents want to attack the source of your funds, that's fine. They should be able to. If you want to attack the source of their funds, that's fine. They should be able to. We should be able to. But this underground system of campaign financing and the complete lack of accountability and responsibility is just a scandal and it's wrong, and we're allowing it to continue. And again, as I said, I don't know that we're

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going to have the fortitude to address it next year, an election year. [LB626]

SENATOR NANTKES: Senator, one minute. [LB626]

SENATOR LAUTENBAUGH: Thank you, Madam Chair. And I don't want to see this consigned to the realm of the interim study, for a variety of reasons. I think this is an important issue and it's one we're all very familiar with. I got a letter last week...a couple weeks back saying, wait, you raised \$48 more than your limit, over what you can raise from corporations and PACs. We then pointed out, no, there was a \$100 error, I was really \$52 under. In the meantime, another contributor had to disclose that the money they gave me was individual money but it came with a letter from some corporate group so we'd erroneously counted it as corporate but it was individual, so now we have to re-report it and we're really--you do the math--\$442 under the limit now. My mistake. Well, someone's mistake. This is absurd. It's absurd that we spend time dealing with this. It's absurd that I have to spend time talking about this and spend all your time as well. [LB626]

SENATOR NANTKES: Senator Lautenbaugh, time. [LB626]

SENATOR LAUTENBAUGH: Thank you. [LB626]

SENATOR NANTKES: (Visitors introduced.) Thank you, Senator Lautenbaugh. Senator Haar, you are recognized. [LB626]

SENATOR HAAR: (Microphone malfunction) Madam President, Madam President, members of the body. The first amendment is so pesky and I think it will always be that way. I, too, have real trouble with the independent expenditure groups. If you look at what I spent and what my opponent spent and what the independent expenditure group spent, it was probably a half a million dollars for my race. And one of the quirky things, I abided and my opponent did not abide and, as a result, I got more money which I used for radio, and without his money I probably couldn't have won the race and so on. But anyway, I still do support campaign finance law. I think we just have to keep tweaking it. And all of us want to do the right thing, obviously. I have some questions for various members. I'd like to go back to, I guess, ask Bill...or Senator Avery some questions, please. [LB626]

SENATOR NANTKES: Senator Avery, will you yield to Senator Haar? [LB626]

SENATOR AVERY: Yes, Madam President, I will. [LB626]

SENATOR HAAR: Okay. Well, I stand in support of LB626. Have we answered Senator Harms's question? If you open an e-mail inadvertently or read an e-mail or something that has political significance instead of business, is that taken care of? [LB626]

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SENATOR AVERY: I think that would be de minimis and incidental use. [LB626]

SENATOR HAAR: Okay. And then section (7), the thing that Senator Janssen brought up, is that clear to you at all? Can somebody speak their opinion, you know, once an issue is on the ballot, so on? [LB626]

SENATOR AVERY: The current interpretation from the Accountability and Disclosure Commission has relaxed, I think, that rule so that you can respond to questions, you can go to a Rotary Club, you can use the materials that have been prepared by your staff prior to the issue going on the ballot, you can respond to...you can express your opinion in response to a question. So you're not completely limited from working on behalf of an issue that's on the ballot, but there are restrictions as to what you can do and we try to lay them out here as clearly as we can. [LB626]

SENATOR HAAR: Okay. Talk to me a little bit more then about that thing. Before an issue is on the ballot, I could have my staff prepare something and I could use that, but after it's on the ballot I can't? [LB626]

SENATOR AVERY: You can use it, but you couldn't...you couldn't say to your staff, all right, now...we're not talking about your staff. Let's say you're the mayor of a city that has an important ballot issue that affects that governmental body. You could use materials that were prepared prior to the issue getting on the ballot. Once it's on the ballot, though, you could not assign additional work to your staff to prepare materials for your use in working on behalf of that issue. [LB626]

SENATOR HAAR: Okay. Thank you. [LB626]

SENATOR AVERY: That's with this amendment. [LB626]

SENATOR HAAR: Okay. I would yield the rest of my time to Senator Avery, if he wishes it. [LB626]

SENATOR NANTKES: Senator Avery, 1 minute 28 seconds. [LB626]

SENATOR AVERY: Thank you, Senator Haar. I think it's important for us to understand that what we're trying to do is clarify. We're not trying to make it more difficult. We're trying to make it easier for people to understand what is permissible and what is not. And I think it's really important for us to know that right now virtually all 49 of us in this body probably are violating current law in the use of our cell phones. [LB626]

SENATOR NANTKES: One minute. [LB626]

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SENATOR AVERY: I admit to it and I think that we need to clarify that. It is a different world we live in with the current electronic communications we have available, and to have to run out to the Rotunda every time you want to use the cell phone doesn't seem to make any sense. You ought to be able to go to the telephone booth here and do that without violating current law. You ought to be able to use your personal computer in the Senate Lounge, if you wish, without violating current law. When you're accessing the server here in the...the wireless server here in the body or in the building, that should not be a violation of law if you're not...if you're not engaging in mass communication to influence a ballot issue. I think that this is good legislation. It was carefully drafted. We worked very hard on it. We had everybody in agreement, at least except for this section that Senator Karpisek is trying to take out. [LB626]

SENATOR NANTKES: Senator Avery, time. [LB626]

SENATOR AVERY: Thank you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Avery. Thank you, Senator Haar. Senator Friend, you are recognized. [LB626]

SENATOR FRIEND: Thank you, Madam...thank you Madam President and members of the Legislature. There's been interesting segues relating to this bill, most particularly from my standpoint, from Senator Lautenbaugh. I would love nothing more than to blow away CFLA. I think Senator Avery probably knows how I feel about that and others in this body do too. Full disclosure by candidates in the state and a transparent system, to me, would be the best way to go and so if we're going to divert, you know, this conversation in that direction, I'd love to, you know, take time to discuss that and talk about how our Campaign Finance Limitation Act is, in my view, and I've said this before, that particularly is totally dysfunctional. That being said, I would reiterate my support for AM1256. That amendment needs to be adopted, probably pretty soon. Let me be clear about my current attitude or...it's been awhile since I've spoken but let me make sure that I've at least put on the record my current attitude relating to this legislation. I don't think there's any doubt that the Government Committee identified problems that should be addressed. Fair enough. I think that they have been addressed for the most part in this bill as we go through it. I think most people out on the floor would concur with that thought. The problem...the problem boils down, and I was harping on this earlier, to me, I don't even know if it's a problem, Section 3(2) on page 2. Maybe it's simply dealt with. I don't really know. For the purposes of Section 49-14, 101.01 and .02, a resource of government, including a vehicle, shall not be considered a public resource and personal use shall not be prohibited if it's a public official's compensation and if it's reported to the IRS as such. Here's my issue, I guess, if I have one. The rest of this bill is very specific and lays out instances of cell phone usage and everything else. In that first paragraph in subsection (2), a resource of government--I just got a chance to talk to Senator Avery and Senator Karpisek about this--what happens if I make 1,000 copies of a brochure? Is

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my next step to try to make sure that the government is somehow compensating me for that and then I'm able to report that to the IRS? Look, I can't really follow this that well, not in that particular subsection. And maybe I'm making...maybe this is a mountain out of a molehill. I don't think so. We have to be very careful. We know this now. All the time we have to be very careful about how something in here...we think something in here is going to be interpreted. If we mean to say in subsection (2) that the...that a vehicle shall not be considered a public resource and personal use shall not be prohibited, if the use of that resource or personal purposes is part of a public official's compensation, then let's say that. Let's not say a government...let's not say "a resource of government." That's all I'm trying to point out. Because here's why. How many businesses or how many... [LB626]

SENATOR COASH PRESIDING []

SENATOR COASH: One minute. [LB626]

SENATOR FRIEND: ...how many sources...thank you, Mr. President. How many sources of...how many jobs or entities are you going to have where you have a resource that you have to report as compensation other than a vehicle? They're going to hire me. By the way, you get a company car. You have a 401(k) but that's not really a source of my compensation, is it? It's part of my...I'm using my compensation to fund it. It's a benefit. Again, maybe a mountain out of a molehill, but we've got to be really careful. "A resource of government," I don't know. Would I be fine with this bill if that little piece was stricken? Maybe not. But everything else in here seems to be pretty specific. Subsection (2)... [LB626]

SENATOR NANTKES PRESIDING []

SENATOR NANTKES: Senator Friend, time. [LB626]

SENATOR FRIEND: ...seems to be pretty general. Thank you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Friend. Senator Wallman, you are recognized to proceed. [LB626]

SENATOR WALLMAN: Question. [LB626]

SENATOR NANTKES: Members, the question has been called. Do I see five hands? I do. The question, members, is shall debate cease? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB626]

CLERK: 27 ayes, 8 nays to cease debate. [LB626]

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SENATOR NANTKES: Debate does cease. Senator Karpisek, you are recognized to close. [LB626]

SENATOR KARPISEK: Thank you, Madam President, members of the body. As I have been speaking to members of the body, I think this amendment is very important to the body. Again, this takes out...I'll just read what we're taking out: "This section does not prohibit an individual holding elective office from using public resources to express or communicate his or her opinion regarding a ballot question affecting the government body for which the individual holds the elective office." So now we are, by taking that out, we are saying that when an issue is on the ballot the elected official cannot go and give their opinion at a publicly owned building. I do think that this is important. Again, this was the compromise. This was the Price amendment that he pulled, that I put in as a part of a compromise that we made, and I would appreciate that you would vote for AM1256. Thank you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Karpisek. Members, the question before the body is, shall AM1256 be adopted to AM972? All those in favor please vote aye; all those opposed, nay. Members, have all voted...have all those who voted who care to? Record please, Mr. Clerk. [LB626]

CLERK: 42 ayes, 0 nays on adoption of the amendment to the amendment. [LB626]

SENATOR NANTKES: Thank you. With that, the amendment to the amendment has been adopted. With that, we'll proceed back to the committee amendment. We will continue with discussion. Senator Gloor, you are recognized. Senator Gloor has waived his time. Senator Karpisek, you are recognized. [LB626]

SENATOR KARPISEK: Thank you, Madam President. Thank you for passing that amendment. I do still believe that the whole bill, especially with the amendments, does clear up to a point a lot of the things that we don't know. Again, Senator Janssen made a good point saying, well, we don't know how this one will be or how that one will be. Again, that is up to the Accountability and Disclosure and I think, by putting some of this into statute, it will give them a better working understanding of how to apply these rules. As we have said, the Nolan case was a little different, I guess, and what has brought this. But a lot of things have come to light out of this and, again, as we said in committee, we asked about a lot of these things: well, how would it affect this; how would it affect that. We don't know. Again, sometimes you know if someone is out of bounds. I don't think anyone means to be out of bounds and, if they do, they need to be slapped over the hand hard, maybe more than slapped. This isn't trying to get around those things. I absolutely agree with Senator Lautenbaugh that there is a lot of things that we need to look at farther than this. I feel that these are the smaller things, the de minimis use, that we are just trying to codify that will make it easier for all of us and the

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Accountability and Disclosure to know what rules we're within. With that, Madam President, I'd like to yield the rest of my time to Senator Wallman. [LB626]

SENATOR NANTKES: Thank you, Senator Karpisek. Senator Wallman, you are recognized, 3 minutes 12 seconds remaining. [LB626]

SENATOR WALLMAN: Thank you, Madam President, Senator Karpisek. I, too, am bothered about all the rules and regulations and my good friend Senator Wightman used to tell me for every one we pass we ought to get rid of two. So are we overregulated in here? Can we regulate morals and values? We can set penalties, but we cannot regulate morals. So I would hope we would get something simple so we don't have to have an attorney on our campaign trail. And appreciate Senator...good friend Senator Karpisek's passion on this and Senator Avery, but am I apprehensive about a bill expanding different authorities and Accountability and Disclosure? Sure. I'm about transparency. Thank you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Wallman and Senator Karpisek. Senator Pankonin, you are recognized. [LB626]

SENATOR PANKONIN: Thank you, Madam President, members of the body. I just want to speak briefly here this morning on this bill and, of course, we have an amendment in front of us. I want to thank Senator Karpisek and the Government Committee for tackling this issue and trying to clarify sometimes these murky rules. I've been...had the good fortune to be involved in local government before my service here as a school board member, city council person, and mayor of a small community of a little over 1,000 population, and dealt with some of these issues and questions. And I just wanted to...I went back to my office to get a list and I got it down here some time this year and it's 13 pages and it lists all the communities of Nebraska. It starts with a community of 2, but I...the first community I have of South Bend at 93 population does have a village board and a village government. This list goes...there's about 40-some communities on each page. It goes to page 13, with Omaha being the largest. We go to page 10 of these communities before we hit a community larger than 1,000 and most of...so we've got about 8 pages times 40-some of communities that have village boards or second-class city governments that these issues all apply to. And an example on the vehicle is in our community, and I think many others, there's maintenance people, city supervisors, administrators that have a vehicle. I don't know that it's considered compensation so much but in the middle of the night, when the waste water plant is not working, they don't want...you know, you want them to have a vehicle to go fix or that water leak and all the things that come up in the day-to-day things of running these smaller communities, point being the more we can clarify it, these are folks that serve on these village boards and city councils for even less compensation than we get here, in most cases, and we appreciate their service. We need to clarify as much as we can what they can do, in good faith, and can't. I talked to League of Municipality officials

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here shortly just previous and we need to make an effort again, if this bill passes and it becomes law, to educate folks on the proper use of these situations. Before I spoke today, I did take my cell phone back to the office. It's going to stay there. If I get a message, I'll go retrieve it and talk in the lobby, I guess, or outside, not knowing that going to the corner this morning to answer a cell phone would probably not be in good form. So this just shows that, as Senator Lautenbaugh and others have talked, this is maybe a start of an effort to make things clear and easier. And we also have to remember all these officials in these smaller communities, page after page of them from 300, 400, 500 population that we're so appreciative that they serve and try to do the best they can, and if we can make it clearer and easier, less murky, I applaud that. And I thank the Government Committee and Senator Karpisek for their work in this area. Thank you. [LB626]

SENATOR NANTKES: Thank you, Senator Pankonin. Senator Lautenbaugh, you are recognized to proceed. [LB626]

SENATOR LAUTENBAUGH: Thank you, Madam President, members of the body. Yes, Senator Pankonin, if you used your phone in here you broke the law apparently. You're a one-man crime wave because I've seen you do it before, so. I may have too. (Laughter) Let me respond to some of the other things that were said today regarding my digression here. We heard someone say, yeah, there are problems with the CFA but we need to keep tweaking it. In the committee hearing I was told, yeah, you've identified problems but your solution is wrong. That leads to an obvious question: So what is the solution? My solution, again, is to take the limits off contributions and require immediate disclosure so we all know what we're doing. And I would surmise that since these independent expenditure groups really didn't arise until we put limits on ourselves, that it only makes sense that once we take the limits away these independent groups will melt away. The incentive to do what they're doing goes away. They might as well dial direct, contribute to the candidates of their choices and then the candidate is at least responsible for what happens. There are so many peculiarities under the existing law it's not even funny. By January 2, I think, this year, I was told I had to elect whether or not I wanted to abide or not abide by the spending limits for the 2010 election, which I have to run again in because of the way I came to be here, every two years. I'm like a Congressman without the paycheck. So I'll be on the ballot again in 2010, so I had to elect in January whether or not I was going to abide and say how much I was going to spend, my best guess, in 2010, even though I don't know a lot of things about 2010 at this point, obviously. That makes no sense. The limits we have in the CFLA apply across the state regardless. Well, I would surmise that Senator Loudon's campaign was a lot different than my campaign and a lot different than Senator Stuthman's campaign. Radio: How many of you use radio? It's a very effective tool. Everyone concedes that. (Laugh) Some agree more than others. To quote Pappy O'Daniel from Oh Brother, Where Art Thou?, we ate one at a time and we're mass communicating when we use radio. It's a great tool. You can't use radio in my race. It's foolish. The rates are too high.

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The market that we're in, the rates are too high and you're reaching people well beyond your district. In an urban area, radio is foolish in a legislative race. That changes what you do. That changes your cost structure. But the limit in Sidney is exactly the same as the limit in Blair. That makes no sense, but we do it. And if you suggest that we change it, well, your solution is wrong. Well, I would suggest that if you think my solution is wrong, then you tell me what the solution is with the given that we cannot constitutionally regulate the independent expenditure groups on what they say or how much they raise. So you tell me what the solution is to this problem and don't come here and say we can tweak it around the edges still. That's not specific and I don't think it gets to it. I suppose you could respond to me, you haven't even filed your amendment yet, why are you talking about this, and that would be fair but, you know, the time will come. I'm glad we're having this discussion. I don't know how many of you share my passion for this, but at least it's something we're all very familiar with, for better or for worse, and it is a broken system. It was a good intention gone awry. And I think I've made similar arguments this year that a lot of times when you try to do things that specifically limit freedoms that you shouldn't be messing with in the first place, you have unintended consequences. [LB626]

SENATOR NANTKES: One minute. [LB626]

SENATOR LAUTENBAUGH: And nowhere...thank you, Madam President, and thank you, Senator Nelson. I didn't want us to get to lunch today without thanking Senator Nelson, so there you go. You have unintended consequences and in this area, in the area of campaign finance reform and campaign finance limitations, the unintended consequences come with a vengeance. No one can look at what we're currently doing and say, oh, this is better than what we used to do. And people even came before the Government Committee and said, well, we were trying to get money out of politics, big money out of politics. Well, let's not unfurl the mission accomplished banner just yet because, from where I'm sitting, it's still there. It's just underground and used in a lot of despicable ways more often than not. That's why I'm bringing this up and that's why I'm belaboring this point. Thank you. [LB626]

SENATOR NANTKES: Senator Lautenbaugh, thank you for your heartfelt comments. Senator Dierks, you are recognized. (Laughter) [LB626]

SENATOR DIERKS: Thank you, Madam President. I have a few heartfelt comments as well. I wonder, is Senator Avery still on the floor? I'd like to ask Senator Avery a question, if I could. [LB626]

SENATOR NANTKES: Senator Avery, will you yield to Senator Dierks? [LB626]

SENATOR AVERY: I will. [LB626]

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SENATOR DIERKS: Senator Avery, I recall back in 1986, when I was first running for this seat, meeting with a group called Common Cause and they were pretty adamant about this issue we're talking about. I wonder if you could give us some sort of a genesis of how the Accountability Commission became formed and who was behind that, if you could, please. [LB626]

SENATOR AVERY: The Accountability and Disclosure Commission was formed in the late 1970s. It was part of what at the time was called sunshine laws. It was designed to bring more disclosure, openness and transparency to the legislative process and to the political process, more generally. It wasn't just aimed at the Legislature. Senator...or Governor Exon was in office at that time, signed it into law. I believe it was an idea that was brought forward by Common Cause, which was in its infancy at the time. But I think it's worth mentioning that LB626 is not about campaign finance. This is about other kinds of issues. It's about the use of public resources for political purposes and it is not...and it's about the use of private resources in this building, for example. It's not about campaign finance. That's a classic look-over-there strategy. You don't want to talk about this; let's talk about something else. We can have that debate. This is not the time for that debate. [LB626]

SENATOR DIERKS: Thank you. I wasn't interested in a debate either but I just wondered how this all came about. Because when Senator Hansen was talking a little bit ago about the second house, I wondered if there was some kind of a proposition put before the people to vote on whether they wanted this or if this just became a bill that was introduced by some legislator on behalf of Common Cause. [LB626]

SENATOR AVERY: Common Cause was not involved in this legislation at all. They did not appear at the hearing to testify and I don't even know what their position is on it. [LB626]

SENATOR DIERKS: No, I don't mean... [LB626]

SENATOR AVERY: But I can tell you that in the seventies when the sunshine law was first passed, it was...originally it started out as an initiative and the Legislature acted before the initiative could be completed. [LB626]

SENATOR DIERKS: Okay. That's what I wanted. And anyway, I want to thank you and your committee for your efforts here. I think that it's necessary that we do visit this issue and make sure that we're all up to snuff on the rules and regs that are involved here. Would like to make another comment, too, at Senator Hansen mentioned, when he was talking about the second house and talking to these children in his community or at a meeting in his community where children were present and explaining that these are the people that are going to be our future. And when he talks about the second house, I'm forced to remind you all that our second house has done several initiative petitions

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and... [LB626]

SENATOR NANTKES: Senator Dierks, one minute. [LB626]

SENATOR DIERKS: Thank you. And one of them was one called Initiative 300, which was put in law and was challenged by a group of lobbyists over the years and finally they got a court that found in their favor and it was thrown out...it was thrown out. We can't use it anymore. I brought an amendment a year ago or two years ago to bring this back as a part of what I thought our second house asked for. I was not successful. Our Legislature didn't support me on that. I made it a priority bill but we didn't get it anyplace. I brought it again this year and I haven't really pursued it that much because I don't think that the support is here. So I question sometimes... [LB626]

SENATOR NANTKES: Senator Dierks, time. [LB626]

SENATOR DIERKS: Thank you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Dierks and Senator Avery. Mr. Clerk for an amendment. [LB626]

CLERK: Madam President, Senator Lautenbaugh would move to amend the committee amendments with AM1322. (Legislative Journal page 1324.) [LB626]

SENATOR NANTKES: Senator Lautenbaugh, you are recognized to open on your amendment. [LB626]

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. The amendment is basically what I've been talking about for the last hour and a half. It does away with the Campaign Finance Limitation Act, replaces it with full disclosure, starting in 2010, of any contribution over \$50. I think this has the virtue of being transparent, honest, aboveboard, fair, enforceable, reliable, and not simply a trap for the unwary. This may not be the ideal way to bring this, far from it probably some of you are thinking, but if not now, when? When would this be better? You can just see what's going to happen next year as we're trying to run campaigns, a lot of us, and the pressure from beyond the glass becomes overwhelming and people start hitting you on this topic. I don't know that we're going to have the will to do what's right. And let me again explain what I mean by that. The will to do what's right, in my mind, is a will to say, look, regardless of the pressure from outside, regardless of the hand wringing we're going to hear from Common Cause and affiliated groups, this is the right thing to do. The thing we did before is broken. It's broken and it's made our campaigns a lot of times sewers of anonymous mailings, despicable attacks, and it's turning the public off. When I used to be an election commissioner, people used to ask me, what are you going to do to increase turnout? And I used to say, well, actually, that's not my job as

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election commissioner; I'm just supposed to make sure you have ballots at the polling place should you decide to show up and vote. And that wasn't my job, but I used to say back then, not ever imagining this day would come, I used to say back then, what we need to do is pay our public officials, whether you're talking about senators, school board members, who knows what. We don't make it possible for most people to serve in these positions and when you don't have people able to afford to serve, they don't run. And when they don't run, there aren't contested primaries. And when there aren't contested primaries, people don't show up and vote. Why vote when you're not really deciding very much? And then we wring our hands and say, oh my gosh, turnout is down, leaving aside the fact that since we're registering ever more people to vote, as a percentage it's going to go down even though it's the same people voting, largely still, and the same numbers historically. But there has arguably been some drop-off. And just as surely as we don't have a lot of contested races, as a result we don't inspire a lot of interest. I would submit that we are also turning people off with the nature of our campaigns and the things that are said. Lincoln just had a campaign that ended yesterday and there was a lot not to admire about those races. There was a lot not to admire about those mailings. We've all been there. We've all seen it. And what we've done, I believe, is we've given sanction to that kind of thing. We've conceded the field to independent groups and faceless people running campaigns for groups that aren't affiliated with candidates, so no one is responsible. When something horrible is said about you, you can't go to your opponent most of the time and say, how could you do that, because the answer is he did not or she did not. The answer is it's an independent expenditure group going after you. And who are they? And how long does it take to explain it? And how long does it take to find out? We had a race in Omaha not too long ago where the group sprang into being about a week before the election and did a mailing. It was all legal. There's nothing wrong with it. None of the voters, since there weren't any forms that were required to be filed by the time the election rolled around, none of the voters had any way of knowing who was in that group but they abided by the law. There's nothing we can say about it other than it's despicable and it's wrong. But they abided by the law, so there's nothing we can say about it. That is the system we have wrought. That is what we have now. And if we're looking for someone to blame, look to the left and look to the right, or maybe call up your predecessors, because we are where we are because of what we did and what they did and what we may be refusing to undo. And I would submit to you that until someone comes along with a better system, we should not continue to labor under an obviously broken and flawed system. It is wrong what we do. It is wrong how we run elections and we are turning people off, and understandably so. They don't know who to believe. They don't know where the message is coming from. They don't like what they're hearing. But sometimes it's easier just not to vote; say, a plague on both their houses, a plague on all their houses, stay away. In my mind, this is something we can do at least to make a nod towards reality and to bring some sort of fairness and openness back to a system that has gone far, far away. I bring this amendment seriously and I don't bring this just to chew up part of the day. We had a good debate, I believe, in the Government

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Committee on this bill that is now this amendment. And again, I keep coming back to the same things. People said appreciatively, well, you've identified a problem, it's simply awful, but your solution is wrong. And, well, what is your solution? We'll get back to you on that. And I'm waiting. And I would submit to you that there is no solution beyond what I've proposed. If we cannot regulate who contributes to independent expenditure groups, if we can't regulate the content of their ads, how do we address this? How do we address this? And again, as I alluded to earlier, these groups didn't arise until we put limits on ourselves in previous Legislatures. We forced the money to go underground. It's still there. It hasn't changed except that it's gotten worse and the attacks have gotten more vicious, but it's not coming from any individual anymore. It doesn't seem unreasonable to surmise that if we take the limits off and replace it with a regime of full and swift disclosure that the groups will go away, that the reason for them will go away. I would submit that when we passed the original legislation, we were trying to do something that we should not have been doing. We were messing with the marketplace of ideas. We were messing with free speech, and that's always ill-advised, always ill-advised. And now we are where we are with groups out there, I would submit not just influencing the process, a lot of times driving the process beyond our control, beyond the control of the individual candidates and with no responsibility. And if someone else has a better idea as to how to address this particular problem, I'm all ears. I'm willing to listen. But I defy any of you to stand and tell me that this is not a problem, that this system is not broken and that our current campaigns are often despicable. And I shouldn't say it that way. They're not our campaigns anymore. And that's why I bring this. We've got a problem and I think it's time we face up to the solution, look it straight in the eye and say this is the right thing to do. And if you catch heat for it...there wasn't a lot of opposition. I think it was Common Cause and the League of Women Voters came to the hearing and spoke against this, but once again, they were noticeably short on solutions as well and I think everyone conceded the problem. So you may take a little heat for this but it's the right thing to do. [LB626]

SENATOR NANTKES: Senator Lautenbaugh, one minute. [LB626]

SENATOR LAUTENBAUGH: Thank you, Madam President. [LB626]

SENATOR NANTKES: Thank you, Senator Lautenbaugh. (Visitors introduced.) Senator Fulton, you are recognized. [LB626]

SENATOR FULTON: Thank you, Madam President, members of the body. I actually had my light on before AM1322 was introduced. AM1322 brings up some interesting points, I think not least of which was expressed yesterday. In Lincoln, we had city elections and there were less than 20 percent of those registered voters that turned out to vote. So I wonder if the tenor of modern day politics hasn't turned a lot of people off. I suspect that it probably has and we need to do something about that. So to that end, I am speaking on AM1322, but originally my intention was to get some clarification into

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the record on AM972. To that end, would Senator Avery yield to a question? [LB626]

SENATOR NANTKES: Senator Avery, will you yield to a question from Senator Fulton? [LB626]

SENATOR AVERY: I will, Madam President. [LB626]

SENATOR FULTON: Senator, this is page 2 of the committee amendment, AM972, Senator Friend had touched on this, "a resource of government." So we're in line 2, "a resource of government, including a vehicle." Could you outline or could you express what you would define as resources of government outside "including a vehicle"? So when we say "a resource of government," it's somewhat open-ended. Could you give me an idea of what you believe "resource of government" would represent? [LB626]

SENATOR AVERY: I can give you a good example. It might be a part of a public employee's compensation that they be provided with a cell phone. It might be part of a contract for a public employee that the cell phone be provided, and that's probably the best example. [LB626]

SENATOR FULTON: Okay. Would, for instance, the example that Senator Friend brought forward, you know, making a number of copies, do you believe that would fall under the category of a resource of government? [LB626]

SENATOR AVERY: Well, certainly 1,000 copies of anything could be a resource of government but I doubt that that would be part of a compensation contract for a public employee. And the ability to use a public copier to make those copies to advance an issue would be covered in section (7) and restricted under mass communication restrictions. [LB626]

SENATOR FULTON: Okay. Can you envision any other? So when we're talking about a resource of government, for purposes of subsection (2), the...oh, let's see, sub part (a) here in (2), part (a), they also have to be expressed within an employee's compensation. So those resources of government that could be utilized: telephone, e-mail, Internet, those fall under the category of mass communication as envisioned in section (7). Is that correct, in your opinion? [LB626]

SENATOR AVERY: It could, depending on how you would use the e-mail. If you're doing a, you know, 100 or so batch e-mail trying to influence a ballot issue, yes, that would be restricted under Section 5(7). [LB626]

SENATOR FULTON: Okay. Okay, thank you, Senator Avery. Thank you, Madam President. [LB626]

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SENATOR NANTKES: Thank you, Senator Fulton and Senator Avery. Senator Wallman, you are recognized. [LB626]

SENATOR WALLMAN: Thank you, Madam President, members of the body. Resources: Is Senator Wightman in the body here? I'd like to ask him a question. [LB626]

SENATOR NANTKES: Senator Wightman, will you yield to a question from Senator Wallman? [LB626]

SENATOR WIGHTMAN: Certainly. [LB626]

SENATOR WALLMAN: Thank you, Senator Wightman, resources. If I get a car in a government job, and that's part of my job, whether I'm a patrolman...not a patrolman but a county official, is that considered part of my salary package? [LB626]

SENATOR WIGHTMAN: Well, I think it can be. [LB626]

SENATOR WALLMAN: And if such... [LB626]

SENATOR WIGHTMAN: What are you going to use it for? [LB626]

SENATOR WALLMAN: If it's on weekends or something like that, if I use that car. Like I had a constituent tell me at the Hillcrest Country Club there was a Department of Roads car there Sunday. Now does everybody in Department of Roads have a car at their disposal, part of their package you think? [LB626]

SENATOR WIGHTMAN: Well, I think the committee amendment talks about if it's part of your compensation package and you're allowed to use it, that you can use it for other than governmental purposes. However, I don't think that changes the role with regard to the Internal Revenue Service and maybe the Nebraska Department of Revenue. It probably is additional income. Just as if they paid you another \$1,000 a year, you'd report that. You probably owe on the use of that vehicle as well. However, I suspect it's not often reported. [LB626]

SENATOR WALLMAN: Thank you, Senator. And members of the body, I hear complaints about vehicle use, you know, whether it be the university or Department of Roads. That has nothing to do with campaigning. So I really have trouble with this disclosure thing. Most of us are good and honest. The ones that aren't are going to find ways around it, I think. We can make laws and more laws and try to make it simpler, but here we're getting in, like Senator Janssen would say, we're starting to get a little muddy again. And if we get in the river, we can get muddy. So I'd like to ask Senator Karpisek a question. [LB626]

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SENATOR NANTKES: Senator Karpisek, will you yield to a question? [LB626]

SENATOR WALLMAN: I guess he's not here. [LB626]

SENATOR KARPISEK: Yes, I will. [LB626]

SENATOR WALLMAN: Thank you, Senator Karpisek. Are you passionate about this bill? Do you think it will actually help a candidate, a new candidate especially? [LB626]

SENATOR KARPISEK: Yes. Yeah, it would a lot. And I am passionate about it, yes. [LB626]

SENATOR WALLMAN: Well, thank you. If anybody is a newbie senator running and they have to deal with campaign issues, you can't even hardly take your picture by a state park. They might realize it's a campaign thing, funded by the state or something. So I think we went way overboard on this disclosure thing, like Senator Lautenbaugh says. Simple is not always better but we keep adding amendments, we tweak it here, we tweak it there. Education Department has found out it's hard to keep tweaking things, people get upset. And we are discouraging people from running, folks, I think. If I had to do what I knew...if I had known what I had to do when I ran in my campaign, I'm not sure I would have run for the Legislature. That was the toughest part. And Frank Daley is a wonderful person and also the commissioners. They help you out. But why should we have to have that? Ordinary citizen now almost feels scared to run. So if this bill helps that any, and Senator Karpisek seems to think it will. And, Senator Avery, do you think it will...would you yield? [LB626]

SENATOR NANTKES: Senator Avery, will you yield? Senator Wallman, you have one minute remaining. [LB626]

SENATOR AVERY: I will yield, but I would request that the question be rephrased because I was...or repeated because I was engaged in conversation. [LB626]

SENATOR WALLMAN: Do you think this makes it easier for a new candidate, so-called newbie, to run for the Legislature? [LB626]

SENATOR AVERY: I don't think this bill addresses candidates at all. This addresses public officials and elected officials. It's not related to candidates. The amendment that is currently up there does relate to candidates, but I would point out that that amendment was a bill that the committee did not advance. The bill needs a lot of work before it could be made law. This is not a responsible way to be making law. [LB626]

SENATOR WALLMAN: Thank you. Thank you, Madam President. [LB626]

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SENATOR NANTKES: Thank you, Senator Avery and Senator Wallman. Mr. Clerk, do you have any messages, reports, or announcements? [LB626]

CLERK: I do, Madam President. The Education Committee, chaired by Senator Adams, reports LB228 as indefinitely postponed. Senator Lautenbaugh, an amendment to be printed to LB542; Senator Stuthman, LB288. (Legislative Journal page 1324.) [LB228 LB542 LB288]

And a priority motion: Senator Langemeier would move to recess the body until 1:30 p.m. []

SENATOR NANTKES: Members, you've heard the motion to adjourn made by Senator Langemeier. Those in favor...recess. The Chair stands corrected. Members, you have heard the motion made by Senator Langemeier to recess for lunch. All those in favor please signify by saying aye. Those opposed please signify by saying nay. The motion has advanced. Thank you. []

RECESS []

SENATOR FRIEND PRESIDING []

SENATOR FRIEND: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. (Visitors introduced.) Mr. Clerk, please record. []

ASSISTANT CLERK: There is a quorum present, Mr. President. []

SENATOR FRIEND: Thank you, Mr. Clerk. Any items for the record? []

ASSISTANT CLERK: Mr. President, I do. Your Committee on... []

SENATOR FRIEND: (Gavel) []

ASSISTANT CLERK: Your Committee on Enrollment and Review reports LB112, LB288, LB288A, LB16, LB16A, LB241, LB97A, LB246A, LB342A, LB633A, LB671A, LB311, LB312, LB313, LB314, LB315, LB316, LB318, LB456, LB414, LB414A, LB629, and LB628 to Select File, some with E&R amendments. That all that I have at this time. (Legislative Journal pages 1325-1336.) [LB112 LB288 LB288A LB16 LB16A LB241 LB97A LB246A LB342A LB633A LB671A LB311 LB312 LB313 LB314 LB315 LB316 LB318 LB456 LB414 LB414A LB629 LB628]

SENATOR FRIEND: Thank you, Mr. Clerk. We will proceed to the first item on the

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afternoon's agenda. Mr. Clerk. []

ASSISTANT CLERK: Mr. President, under consideration was LB626. When we recessed for lunch, under consideration was AM1322 offered by Senator Lautenbaugh. (Legislative Journal page 1324.) [LB626]

SENATOR FRIEND: Members of the Legislature, we will continue in the order that we left off on AM1322 to the Government, Military and Veterans Affairs Committee amendment. Senator Gloor, you are recognized. [LB626]

SENATOR GLOOR: Thank you, Mr. President. I, too, was queued up before Senator Lautenbaugh's amendment. However, I can speak, I think, somewhat to that also in my comments. In the discussion earlier today, Senator Harms was talking about his personal experience campaigning, the difficulty of staying squeaky clean as relates to appropriate public officials and staying clean with A&D. I had a similar experience after I announced my campaign, although this was an issue of my not being a public official or an elected official. Obviously, I had A&D issues as a candidate. But my organization was a not-for-profit organization and as a result of that had to remain squeaky clean in order not to endanger its not-for-profit status with the IRS. And this was an issue. And if you think A&D is tough to deal with, wait until you deal with the IRS and your not-for-profit status for a multimillion dollar organization. It got to the point where, because so many people had my phone number, for obvious reasons, I would get phone calls seven days a week, morning, noon, and night on issues of importance to the hospital. I, at times, could not tell, when a phone rang, whether it was somebody who wanted to visit with me about hospital issues or whether it was somebody willing to volunteer their time for the campaign, no way to know that and no way to stay completely clean on that, nor is there any way to stop the obvious conversation of, here's my issue with the hospital, how's the campaign going, and how are the wife and kids. And so you roll in the campaign, and you roll in business, and you roll in personal issues. And I found myself eventually saying, I'm just going to pay for my phone myself. Even though it's used almost entirely by my institution for institutional business, I'll pay for it myself and then I won't have to worry about it. So I listened to this and I have some keen interest in it. I also recognize the fact that it may not be just unique to me with a not-for-profit. But if you were to take a superintendent, and I've tried to ask these questions in the back of the room, a superintendent with an important bond issue that they wish to have passed, does that superintendent make a phone call to the editor of the newspaper to set up an interview to talk about this bond issue? Can they do that? Should they not use their paid for by the institution phone to make this phone call? Can they use a public phone? Can they go home at night, can they call the editor at home at the editor's home? What if they bump into them at the golf course? What if it's a private golf course versus a public golf course? Is it okay to discuss at a public golf course rather than a private golf course? All of this seems to be a bit of nitpicking, although serious enough for us to want to talk about this here. I have some experience with

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nitpicking, whether it's Medicare, whether it's Medicaid, whether it's ADA, whether it's the Department of Labor, whether it's insurance companies. There's no host of people who wanted to take a shot at nitpicking my organization. And I know that nitpicking can quickly blossom into serious, serious concerns. I've struggled with what and how I feel about this particular bill. In fact, I waived off speaking earlier and had a chance to sort of consolidate my feelings on this issue. I get tired of tiptoeing around minefields with snowshoes on, which is what you're faced with sometimes. And although I may not think LB626 is a cure-all, this is not a neat, clean proposition we're involved in here. And anytime we can wash our face and get a little bit of that uncomfortableness (laugh) done with and washed down the drain, I think it is a step in the right direction. This isn't a perfect bit of legislation but it helps a small bit and, therefore, I find myself in support of both the amendment, AM972, as well as LB626. Small step, right direction. AM1322, I think,... [LB626]

SENATOR FRIEND: One minute. [LB626]

SENATOR GLOOR: ...makes...thank you, Mr. President, makes some sense to me. And I would thank Senator Lautenbaugh for his bravery in bringing this issue up. But I'm not sure that it is particularly exactly germane to what we are talking about here. Because of that I find myself not yet ready to embrace AM1322, primarily because I hope it doesn't detract from us being able to take the small steps forward we must under AM972 and LB626. Thank you for this opportunity to visit. I would finish by way of saying I am learning a lot about this operation day by day. I can't yet get my mind around the fact why we're talking about this for almost the same length of time we talked about the state budget. And I'm sure by the time I finish my first term in the Legislature I will have a better appreciation for what all goes into that. My goodness, how we like to talk about subjects we all have a specific opinion on. [LB626]

SENATOR FRIEND: Time. [LB626]

SENATOR GLOOR: Thank you, Mr. President. [LB626]

SENATOR FRIEND: Thank you, Senator Gloor. Senator Pahls, you are recognized. [LB626]

SENATOR PAHLS: Good afternoon, Mr. President, members of the body. I want to thank Senator Lautenbaugh for bringing his amendment to the floor. This reminds me of a couple years ago when we had Senator Beutler and Senator Brashear discuss this topic. It took a long time and a lot of us learned a lot from that. And it made me come to the point of almost questioning some of the things that we were talking about today. And I just want to show you if we can somehow get a handle of all of these groups that are putting money into the state of Nebraska, also within and outside of the state of Nebraska, I think that would be beneficial to all of us. Because I can tell you right now

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some of you, I can tell by your votes, you're going to have an outside agency or group by the name of Sam Adams come in and try to get you disengaged from this body. It's a fact of life. Some of you, this past election, you may have received some of their money. When I was deciding to run again they sat down and met with me. And they talked and they were pretty clear of what their expectations were. One of the things they had against me was I voted for incentives for the business world. They said, no, no, that's not good. I said, jiminy Christmas, that's not what I hear outside. They say, we are strictly for, basically we're going after tax cuts. That's not the reason why I went after tax exemptions. But that was their concern. So I'm telling you right now they're out there watching. And somehow if we can find some way to control this or at least make it more evident I think it would be very helpful. I was fortunate that they could not find somebody at that time to run against me but they did try because some of the individuals who they contacted did contact me. So I do think that this is an area that we need to discuss and talk a little bit more about. And I do support Senator Lautenbaugh's idea. And I would like to give him the rest of my time. [LB626]

SENATOR FRIEND: Sorry, Senator Pahls, who did you yield to? [LB626]

SENATOR PAHLS: Senator Lautenbaugh. [LB626]

SENATOR FRIEND: Thank you. Senator Lautenbaugh, you have 2 minutes 45 seconds. [LB626]

SENATOR LAUTENBAUGH: Thank you, Senator Pahls and thank you, Mr. President. I want to be very clear about what this does. We heard conversations about cleanliness and keeping the process clean. I would submit to you that there is nothing cleaner and clearer than what my amendment proposes. Any contribution over \$50 you disclose within five days, that's it. This isn't a license to cheat. This isn't a license to steal. This makes it easy for honest people to be honest and it makes it just as difficult for dishonest people to be dishonest. We're disclosing everything. And for everybody who used to write a \$249 check so they'd stay off the list, you're being disclosed now, too, under my amendment. This is disclosure, this is transparency, this is openness. This is the thing that we supposedly admire and strive towards and we'll be discussing again on other bills as we go forward. This is not allowing anyone to get away with anything. Quite the contrary, this is stopping people from getting away with what they're getting away with now under our admittedly flawed system. And let me underline that point again, admittedly flawed. I'm waiting for any one of you to stand up and say what we have now, well, nothing is ideal; I'm waiting for you to say it's good, just good is all I'm shooting for. What we have is indefensible, it's a scandal that we allow independent expenditure groups to call the tune and run their own shadow campaigns underground and say what they want about our opponents, about us, about whoever. It's despicable that we allow this to continue and that's why I bring this today. There is no way we can defend the status quo. And as I said before to again say you're right, the status quo is

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awful but your solution is wrong, that really puts the burden on you to tell me what the solution is, keeping in mind we cannot regulate the independent expenditure groups, constitutionally, directly. [LB626]

SENATOR FRIEND: Thirty seconds. [LB626]

SENATOR LAUTENBAUGH: So what do we do? Thank you, Mr. President. What do we do? Senator Sullivan looked away when I asked that question, for some reason, I don't know why. But what are we supposed to do here? I proposed the only solution I can see, the only solution I can see here is to take off the limits, take off the gloves, disclose everything that we get, \$50 and up, and call it good. [LB626]

SENATOR FRIEND: Time. [LB626]

SENATOR LAUTENBAUGH: Thank you. [LB626]

SENATOR FRIEND: Thank you, Senator Lautenbaugh and Senator Pahls. Senators wishing to speak are Louden, Dubas, Haar, Avery, Karpisek, Rogert, Langemeier, and others. Senator Louden, you are recognized. [LB626]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As Senator Lautenbaugh said, he'd wondered if anybody was going to talk about the system we have now, whether it's good or not. Well, I can say one thing about the system we have now is what's good about it is the Accountability people will help you when you have problems up there because I've...we've always run our own campaign, so I've run across many problems and I've never been refused help from Frank Daley and his crew up there. They've done quite well. The problem I see, and I can't support LB638 or this amendment, whatever this amendment is now, AM1322, whatever, which was originally LB638. I think the amendment is 41 pages, the bill is 46 pages. But some of the things that I found with having to do this when you do it yourselves in these areas where we don't get enough money and enough interest to hire a full-time accounting person to handle this would be your daily filings for one thing. This is something that's a little bit hard to do when you're out in some of the rural areas to get all of this in. Also, this \$50, you have to report \$50 or more, well, all of that money that you take in now has to be reported. You just don't have to report who gave you any if it was under \$250. Every bit of...every cent you get you have to report, as far as I know. You can't get by and not report any of it; it's just that you don't have to say who it was. And if you have to start reporting every \$50 donation and everything, that's going to be a ton of paperwork and it would be a ton of filing. And to me it runs into work that really isn't necessary. Now if you're talking about a Governor's race or some of these larger races, perhaps (laugh) what would you say, the university chancellor races, that's where usually the big bucks are spent, but that's one thing. But when you talk about a lot of these legislative races out there that some of them are spending less than \$20,000, some of them are less,

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one of the problems I see with some of that, if you spend less than \$5,000 you don't have to report anything. And the reason that was put in there is so that these county offices in some of these counties, they don't have to file all of this stuff if they don't spend that amount of money. And it doesn't make that much difference anyway. And the way I read this amendment, this would take in all offices. So every county clerk and county commissioner or anybody else, county sheriff or all, whatever they were taking in, why, they would have to report it, from \$50 on up. So I think it's a real problem. Now I realize that there's some work that could be done on this. And I agree with Senator Lautenbaugh that it's a long ways from perfect, and there's some work that I would like to see done on it. But I don't think this amendment at the present time is the one to do it. That was introduced as a bill. And evidently the committee didn't advance that bill for whatever reason. Whether there needed to be an interim study on it or what I don't know. But, yes, there needs to be some work done. There needs to be something gone over. In fact, I think when Senator Brashear was here he introduced legislation many a time to deal with the lid on how much you could spend and various ways of getting around that or what can be done. And whether that's good or bad, I'm not the one to decide on that because I never had to go to that high a lid anyway and I don't intend to, that's for sure. But I think there are things where we have to take into consideration the smaller political races all out through the whole state of Nebraska. There's many of these local races that don't spend, some of them don't spend 300 bucks. So you have to take that into consideration. When you pass... [LB626 LB638]

SENATOR FRIEND: One minute. [LB626]

SENATOR LOUDEN: ...legislation you got to be careful that you don't interfere on that because those are races that are run by a few people. They don't have a large committee, they don't spend a lot of money on all kinds of advertisements, probably something in the local paper, on the local radio and that's about the size of it. Out in western Nebraska we don't have a television station that's local, so nobody usually spends much money on television for campaigning. So I can't support the amendment. I do support the bill that the committee brought forward and the amendment, AM972. Thank you, Mr. President. [LB626]

SENATOR FRIEND: Thank you, Senator Louden. Senator Dubas, you are recognized. [LB626]

SENATOR DUBAS: Thank you, Mr. President, members of the body. This is a very worthwhile discussion that we're having today. If we haven't been through it, we will be through it again very shortly, depending on where you're at in the cycle. It's extremely costly to run a campaign. And it is an additional heavy undertaking to raise money while you are campaigning for an office, and it's especially so if you are new to the position you're running for. If you're relatively unknown, you're working very hard just to get name recognition and get out and meet people. And so you add that extra burden of

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needing to raise substantial dollars and it is...it does become extremely difficult, especially if you run the types of campaigns like Senator Louden just talked about. My campaign was myself and my husband and my Mom and that was it. And so we were a really family-run campaign. Towards the end of my first campaign for office negative mailers started to be sent out about me and about my opponent. None of them were paid by either of us but all of them were attributed to each of us. I also began to receive calls from some of the voters who were asking me to either stop calling them or to stop sending them the mailers. And while I tried to explain that I had nothing to do with it, they did not understand this process. They didn't understand. It's like, well, this is about you and about your campaign, so you surely have some knowledge or some understanding of what's going on. So I think that campaign strategies and tactics oftentimes on purpose try to confuse and disengage voters. It becomes less and less about the candidates and the issues and more and more about one-upmanship and partisanship. As I said in my opening, this is a very important discussion. Senator Lautenbaugh has recognized a problem and he's putting a solution out there. Whether the solution is the viable one or not remains to be seen, but I think it's the beginning of again another search for that balance of how do we run campaigns, how do we run open and transparent campaigns and get our message out to our voters. It certainly does, this discussion certainly does highlight the fact that voters are very often disenfranchised and frustrated by the whole process. And that's why they just don't see it worth their time or effort to go out and vote. Now maybe it's something just as simple as kind of a truth in advertising, that if you're going to put out a mailer or make a phone call or whatever it is that you're going to do, up front you say who paid for this, who endorsed it, who supported it. So if you say this ad was not endorsed for, supported or paid for by the candidate, hopefully, that can maybe get the message out to the voters of who the underlying support is for that particular piece of advertising. It's an easy problem to identify. And as with most things we discover on the floor of the Legislature, it's not so easy to solve. But I think we need to continue to raise these issues, talk about them in the public, try to educate and inform our constituents and voters in general about the process, and just continue to get out there knocking on those doors, introducing yourselves to your, hopefully, future constituents. And, hopefully, they will base their decision on that personal contact or that firsthand knowledge. Thank you.
[LB626]

SENATOR FRIEND: Thank you, Senator Dubas. Senator Haar, you're recognized.
[LB626]

SENATOR HAAR: Mr. President, members of the body, on the issue of negative campaigning, just having gone through a campaign, it's very distressing to see what comes in the mail and what's said over the phone in terms of lies and misrepresentations. But I don't see that AM1322 has anything to do with solving that problem. In the first place, I think we're being told an error of logic. And thank goodness for Google and the Internet. But one of the false...one of the errors of logic is called

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false cause, and it assumes that two events that are...that happen together in time or space have cause and effect. And we've been told that when Accountability and Disclosure came in, all of a sudden we started having negative campaigning. Even if that were true, it's not necessary that the two are connected, that one causes...that Accountability and Disclosure has caused negative campaigning. In fact, also going out to Google and looking at a complete history of dirty politics, there's a historian who has written a book called Anything for a Vote: Dirty Tricks, Cheap Shots and October Surprises, and he's asked in there whether campaigning has gotten...and I hate dirty campaigning, I hate the mudslinging. But he's asked whether this is something brand new. And he says, I think the mudslinging definitely is still a big part of our election process, but it's less broad and vulgar. For instance, there is less aimed at other people's physical attributes. The nineteenth century was very big on that. In the election of 1800, one of the dirtiest in American history, the venomous hack writer, James Callendar, who was hired by Thomas Jefferson, assailed then President John Adams as a "repulsive pedant and a hideous hermaphroditical character," whatever that means. (Laughter) Later in the nineteenth century, Martin Van Buren was accused of wearing women's corsets. (Laughter) And actually, I wasn't accused of any (laughter) in all the campaign stuff that came out I wasn't accused, I wasn't accused of that. James Buchanan, who had a congenital condition that caused his head to tilt to the left, was accused of having unsuccessfully tried to hang himself. (Laughter) And, I guess, what I'm saying is dirty politics is nothing new. I hate it as much as anybody. I wish there were a solution to it and we need to look at those kinds of things, especially with electronic media where you have recorded phone calls and all that sort of thing. But dirty campaigning in legislative races, in state races did not start with Accountability and Disclosure, and by doing away with Accountability and Disclosure is not going to do away with dirty campaigning, as far as I can see. Thank you very much. [LB626]

SENATOR FRIEND: Thank you, Senator Haar. Senator Avery, you are recognized. [LB626]

SENATOR AVERY: Thank you, Mr. President. I know it won't surprise Senator Lautenbaugh to know that I don't like this amendment. It's bad on a number of counts, let me just point out some of them. First of all, the Government Committee had an extensive public hearing on this bill. We also had an extensive Executive Session discussion about it. During the public hearing there were no proponents of the bill. As I recall, the committee was split in the Exec Session on whether to advance the bill. We could not get a majority on it. Part of the reason was that the committee felt that there was a lot of work that needed to be done on the bill before it was in the shape it needed to be to come before this body. Some of those are the reporting requirements. I agree that we ought to have reporting and I have always supported openness and accountability in government. But in some cases this bill would require that every expenditure and contribution be reported within five days and in some cases the next business day. This would require an almost daily reporting of campaign statements

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because every time a committee made an expenditure or received a contribution, a campaign statement would have to be filed. Also, late filing fees would apply to each...transactions that were late, and a lot of them would in all likelihood be. There was a bill last year that tried to do something similar to this that did not get out of committee. And unlike last year's bill, this amendment, which is in fact LB638 that Senator Lautenbaugh introduced, unlike this, the amendment doesn't eliminate campaign statements. So the assumption is that the entire campaign statement would need to be filed every time there was an expenditure or a contribution. These are some of the details that need to be worked out in this bill before it is ready for a vote. Also, you need to know that there is a fiscal impact. I believe it would require the Accountability and Disclosure Commission to spend over \$315,000 to provide for electronic filing of statements and reports beginning January 1, 2010. We just went through a bloody fight on the budget yesterday, and I heard many people say that we can't afford many of the things that we want to do. This is one of them. I would also point out that I believe that this does not solve the problem that Senator Lautenbaugh has rightly identified, and that is the problem of independent committees and independent expenditures. But he knows, and he has said so on the mike, that we can't fix that here. That is a problem that the Supreme Court has said that we cannot restrict the amount of money they can spend, what they can receive in contributions, and what they can say in those independent expenditures and independent ads. This is not the way to fix the problem. What this does is create another problem because it eliminates any limits on special interest contributions to candidates. I don't think we want to do that. If you think the Campaign Finance Limitation Act is flawed and needs to be redone, then let's do it in an orderly and rational and proper manner. This is not the way to do it in a backdoor manner that is not well-thought-out. Special interest money would not be controlled. We'd have a firestorm come down on our heads from the public, I believe, if we were to enact this amendment. So I would urge you to look very seriously at this. If you don't... [LB626 LB638]

SENATOR FRIEND: One minute. [LB626]

SENATOR AVERY: ...think that we ought to reject it on its merits, at least you ought to respect the committee work that would need to be done on this bill before it's ready. With that, I would ask you to vote no on AM1322. Thank you. [LB626]

SENATOR FRIEND: Thank you, Senator Avery. Senator Karpisek, you're recognized. [LB626]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I did support Senator Lautenbaugh's bill that has now become AM1322. And although I do think that it does need some work, I am open to listen to it. However, I do not think that this is the way to do it and I would appreciate, if you do not think this is the way to do it, to not vote for it. And with that, I would yield my time to Senator Lautenbaugh. [LB626]

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SENATOR FRIEND: Senator Lautenbaugh, 4 minutes and 20 seconds. [LB626]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And thank you, Senator Karpisek. Once again, I feel like there's a fundamental misunderstanding about what we have here, a failure to communicate, as you might say. This bill does not do away with Accountability and Disclosure. You still report everything to Accountability and Disclosure. When I stood up here before, I never said the advent of Accountability and Disclosure is what caused the independent expenditure groups. What I said is when we put the limits on the contributions that candidates can receive, but there's still the same pool of money out there, obviously that's what has given rise to the independent expenditure groups. So it's all well and good to talk about the fallacy of the false cause, but sometimes there is an obvious cause and effect. And when you've got a pool of money willing to be spent on campaigns and you limit the amount that can go to candidates, it doesn't just evaporate, it doesn't just go away. With regard to Senator Loudon's concerns, it was not my intent to ensnare smaller races in this to the extent they aren't already subject to reporting requirements. If you ask me what was your intent in bringing this bill, this amendment, I would say, my intent was to take off the gloves so that the money would flow back into the campaigns where there's accountability rather than underground now in the shadows as it is allowed to work in our current system. We've heard that there needs to be work on this. Accountability and Disclosure is going to electronic reporting now. We're all going to have to be ready to do that at some point. I say why not now? We do have what I think is a crisis in campaign funding in that we allow the things that have happened in the last election to go on with the underground money and the faceless independent expenditure groups. Once again, you heard Chairman Avery say, the problem is there but we need a solution. You heard Senator Haar talk about maybe regulating the message. People can still talk about you and say bad things. We cannot regulate the message. That is free speech. People are free to say anything they want about you within a few limits, and you're free to stand up and call them a liar if they are. I'm not talking about regulating content. That's the absolute wrong and un-American way to go. How much time do I have, Mr. President? [LB626]

SENATOR FRIEND: Two minutes. [LB626]

SENATOR LAUTENBAUGH: Thank you. That's the absolute wrong way to go. We cannot constitutionally limit content. I'm talking about taking the gloves off so the process is at least open and honest as to who's paying what to whom, who's funding whose campaign, and where the filth is coming from to the extent it comes. Now we aren't going to take a beating in the public for this unless people choose to demagogue this issue and say, oh, you want to free up the special interests. We're all special interests, be honest about it. You've got the AARP, you've got the teachers, you've got the State Chamber, everyone is a special interest. We all have interests, we all have lobbyists representing our interests out there. That's a fact of American life and voters

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are generally adults and understand that. That is until an independent expenditure group gets ahold of it and says whatever they want. [LB626]

SENATOR FRIEND: One minute. [LB626]

SENATOR LAUTENBAUGH: I'm happy that Senator Avery sees merit in this. And I'm happy to work with him between General and Select to improve this amendment so we can address what everyone concedes to be a problem. I'll be happy to work with him on this between General and Select. As such, it's my intent at this time to pull this amendment and reoffer it on Select, and I'd ask leave to do the same. [LB626]

SENATOR FRIEND: Thank you, Senator Lautenbaugh. Without objection, so ordered. Back to the committee amendment discussion, AM972. There are members wishing to speak. Senator Rogert, you're recognized. (Legislative Journal page 984.) [LB626]

SENATOR ROBERT: Thank you, Mr. President. Well, that was fun. Saved by the bell, though. Darn it. I obviously support that amendment. I had a couple of bills this year that would have taken little steps to do what Scott did in one giant leap. But just as a reminder for the body, we are back to the committee amendments. All the silliness is gone. This is a good bill and a good amendment. The committee amendment takes care of a lot of concerns that some of the folks had. Senator Karpisek has good intentions with this bill. He's trying to clarify a few things, bring us...and with the committee amendment it brings us into the twenty-first century in terms of technology and what we can use, and what we can't use, and where we can use it, where we can't. And I encourage everybody to support this bill. Thank you, Mr. President. [LB626]

SENATOR FRIEND: Thank you, Senator Rogert. Senator Langemeier, you're recognized. [LB626]

SENATOR LANGEMEIER: Question. [LB626]

SENATOR FRIEND: Members of the Legislature, the question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor please vote aye; all those opposed vote nay. Have all voted who wish? Record please, Mr. Clerk. [LB626]

CLERK: 31 ayes, 3 nays to cease debate, Mr. President. [LB626]

SENATOR FRIEND: Members, debate does cease. Senator Avery, you are recognized to close on AM972. [LB626]

SENATOR AVERY: Thank you, Mr. President, colleagues. AM972 is the bill. I believe you should vote green on this because it does some things that we need to have done

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in defining and codifying and clarifying current law with respect to the use of public resources for campaign purposes and for personal purposes. We've thoroughly discussed it. I appreciate the discussion. I urge your support. Thank you. [LB626]

SENATOR FRIEND: Thank you, Senator Avery. Members, you have heard the closing on the amendment. The question is, shall the Government, Military and Veterans Affairs Committee amendments be adopted? All those in favor please vote aye; all those opposed vote nay. Have all voted who wish to? Record please, Mr. Clerk. [LB626]

CLERK: 35 ayes, 6 nays, Mr. President, on the adoption of committee amendments. [LB626]

SENATOR FRIEND: Committee amendments are adopted. [LB626]

CLERK: I have nothing further on the bill, Mr. President. [LB626]

SENATOR FRIEND: Back to discussion, members of the Legislature, on LB626. Any other senators wishing to speak? Senator Karpisek, there are no other senators wishing to speak. You are recognized to close on LB626. [LB626]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Since the committee amendment now became the bill, I would appreciate another green vote. I appreciate the discussion we had, although a lot of the discussion actually swirled away from the bill into other parts of government that we do need to talk about. And I would be more than happy if we would visit some of those issues that have come up through the day. Again, I appreciate all of those discussions. However, I would like you to vote green on this bill as it stands now. Thank you, Mr. President. [LB626]

SENATOR FRIEND: Thank you, Senator Karpisek. Members, you have heard the closing on LB626. The question is, shall LB626 advance to E&R Initial? All those in favor please vote aye; all those opposed vote nay. Have all voted who wish to? Record please, Mr. Clerk. [LB626]

CLERK: 32 ayes, 4 nays, Mr. President, on the advancement of LB626. [LB626]

SENATOR FRIEND: LB626 does advance. Next item, Mr. Clerk. [LB626]

CLERK: Mr. President, LB263 is a bill by Senator Rogert relating to agriculture. (Read title.) Introduced on January 14, referred to the Agriculture Committee, the bill was advanced to General File. I do have committee amendments. (AM354, Legislative Journal page 747.) [LB263]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Rogert, as introducer of LB263, you

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are recognized to open. [LB263]

SENATOR ROBERT: Thank you, Mr. President, members of the body. LB263 is a bill to provide that Nebraska law prevail regarding the use of seed and fertilizer in the state. However, LB263 does not encroach upon any city or county zoning authority. In 1993, Nebraska adopted the Nebraska Pesticide Act, a provision which included the states...which states that state law prevails as to the use, sale, distribution, and the like for pesticides sold in Nebraska. This law would simply add seed and fertilizer to this type of state preemption without the disruption of any local zoning authority. The rationale behind this type of legislation is primarily for labeling requirements unique to the seed and fertilizer industry. When each political subdivision creates their own requirements, it becomes burdensome in the form of operational costs and confusion in an attempt to comply with each of the entity's unique regulations. This undermines the goal of uniformity and competitive business and does not provide a commensurate benefit, therefore, resulting in the restriction of sales in the state. Generally, the enforcement of localized laws may be difficult, due to the complexity of the industry. State seed and fertilizer officials are highly trained in the science and nuances of seed and fertilizer, which local officials may lack the background to effectively and consistently enforce those laws which may be unique in comparison to other localities or unique to the industries. Eighteen states to date have adopted preemption legislation addressing seed labeling standardization, and Kansas and Iowa both provide a state preemption in the jurisdiction of this seed law, also North Dakota, Oklahoma, Idaho, many other Midwestern states. Thirteen states have adopted fertilizer preemption states (sic) and several are considering legislation of this type this year. In recent years, seed and fertilizer production and marketing have been consistently conducted on an interstate basis, and farmers often farm across multiple townships, towns, and counties and across political subdivisions, often even times across state borders. Having consistent legislation statewide would eliminate confusion possibilities for farmers and for those who sell seed and fertilizer and for the manufacturers who must comply with rigid labeling laws. But LB263 does not preempt or otherwise limit the authority of any city or county to adopt and enforce zoning regulations. With the expansion of technology and specialization in farming, it is crucial to have uniformity across the board in our state and in the hands of state expertise. Most of the fertilizer we used in the state, other than manure, is manufactured in other states or other countries and is imported in large volumes to Nebraska, which makes it difficult to deal with all the different labeling, shipping, and distribution laws that could be scattered throughout the state. Local city councils or county boards do not have the financial resources or the scientific expertise to make sound judgments in the regulation of seeds and fertilizers. Therefore, it's appropriate to have Nebraska Department of Ag provide consistent regulation across the board and under the authority of state law. However, I once again want to remind you that this doesn't take away local control to cities and counties because they can still adopt zoning and enforce those zoning ordinances. In recent reports on the agricultural economy in the state, it stated that corporations and

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associations rated Iowa and Kansas high in competitiveness primarily because of their less stringent legislative restrictions on agribusiness. Both those states have preemption laws and the jurisdiction of the seed and fertilizer industry. In this report, it was also stated that it's obvious to predict that business may relocate to other states or nations with friendlier business climate. That's why I believe that this law should...this bill should be adopted, it's apparent, and wise for us to consider this type of legislation because surrounding states are doing it. The business climate for agriculture is evolving and we need to be consistent with those changes in order to keep up and thrive and grow on a global basis. This kind of legislation breeds an entrepreneurial spirit and will attract greater ag technology and future ag technology into the state. According to this report, in the next ten years and beyond there are megatrends that will continue to go, to move along. Those include the increase in specialization, specialized farms in agribusiness, consolidation of agribusinesses, increase of worldwide meat and value-added food products, preservation of low prices, changes in energy sources to benefit grain production, the opening of markets through electronic commerce, and, importantly, the influence of biotechnology. Biotechnology will continue to transform agriculture and if Nebraska fully embraces that technology advances currently underway, particularly in the field of biotech, it may find itself in the enviable position as a strong champion in one of the most important and sought after sectors of business in the next 20 years. In light of those considerations, biotech in the future may provide a few benefits that may include better quality in texture, taste and nutritional elements; crops that are resistant from drought; increased quality in yield in those crops; increase to disease or cancer-fighting nutrients; prevention of nutrient runoff into streams; and the reduction of synthetic pesticide use and those that contaminate ground water. Those benefits may exceed the concerns, but this bill is not necessarily about GMOs or even biotechnology, but, rather, it's about ensuring better access to efficiency standards for farmers, manufacturers, and businesses on a state and national level by putting us in fair competition level with the evolving agricultural economy, and it's about border-to-border uniformity in terms of these laws. Management of the trade, selling, distribution, and labeling of seed and fertilizer would be appropriately placed in the hands of science professionals where the products can be properly tested and studied for safety, and label products according to these conclusions. And with the growth of biotechnology, states will need to be more actively involved in managing the care and distribution and labeling, as well as the study and testing of these products. LB263 is a law that would allow state preemption for only seed and fertilizer in addition to what...the pesticide preemption that we currently have on our statutes. There is a provision in the bill that states, once again, about the city and county authority to adopt zoning regulations. The committee amendment addresses one further concern by the NRDs. And with that, I'll ask you for your consideration and advancement of LB263, and I'll yield at this time, Mr. President. Thank you. [LB263]

SENATOR FRIEND: Thank you, Senator Rogert. As the Clerk stated, there are amendments from the Agriculture Committee. Senator Carlson, as Chair of the

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committee, you are recognized to open on those amendments. [LB263]

SENATOR CARLSON: Mr. President and members of the Legislature. [LB263]

SENATOR FRIEND: (Gavel) [LB263]

SENATOR CARLSON: Thank you, Mr. President. The committee amendment makes two changes to the underlying bill. AM354, first of all, the amendment makes a technical revision of the breadth of state preemption of local seed regulation defined in Section 1 of the bill. The second portion of the amendment expressly excludes NRD enforcement of the Nebraska Groundwater Management and Protection Act from the preemption defined in Section 3 of the bill. The Fertilizer and Soil Conditioner Act currently operates as a truth in labeling act to assure that label disclosure and claims of product content and qualities are truthful and accurate. It's unlikely regulation on the use of fertilizer applications under the Groundwater Protection Act would conflict with state regulation under the Fertilizer and Soil Conditioners Act law presently or under any foreseeable future regulation. However, express exclusion of NRD regulation of the application of fertilizers to protect ground water would not be in conflict with the purposes of the bill, and the committee amendment attempts to remove any ambiguity whether the bill would restrict NRD activities under their authorities to protect water quality. The bill was heard on Tuesday, February 10, in the Agriculture Committee. The committee voted the bill to advance to the floor on a 7 to 1 vote, with 1 member being present, not voting. I would ask for your support of AM354 to LB263. Thank you, Mr. President. [LB263]

SENATOR FRIEND: Thank you, Senator Carlson. Members, you've heard the opening on AM354, the Agriculture Committee amendments. There are senators wishing to speak. Senator Dubas, you are recognized. [LB263]

SENATOR DUBAS: Thank you, Mr. President. As a member of the Ag Committee, this bill came before us. As a former planning...county planning and zoning board member, it especially piqued my interest when it talked about preempting of local control. I read the bill multiple times, I went back and read the current statute, and I just never could quite grasp what this bill was trying to do. I even abstained on my vote to advance it from committee because I still didn't really feel like I fully understood where we were going with this bill. And after a great deal of question asking and reading and research, I think I have a better handle on it but I would like to ask Senator Rogert if he would yield to some questions to further clarify the issue for me. [LB263]

SENATOR FRIEND: Senator Rogert, will you yield to questions? [LB263]

SENATOR ROBERT: Absolutely. [LB263]

SENATOR DUBAS: Thank you, Senator Rogert. If we're looking in Section 1,

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particularly lines 1 through 5, does the state currently have any statutes dealing with seed regulation, registration, labeling, sales, anything along that line? [LB263]

SENATOR ROBERT: Not other than what's in this bill, no. [LB263]

SENATOR DUBAS: Okay. So then as long as there are no current state statutes or regulations in place, does that mean that local subdivisions have the ability to continue to regulate? [LB263]

SENATOR ROBERT: Yeah, as long as they're not in conflict with what would be in the state law, which right now is virtually nothing. [LB263]

SENATOR DUBAS: Okay. So again, Section 1, the remainder of that section, are there any state statutes currently that control the storage, transportation, distribution, notification of use, planting or cultivation of seeds in relation to Nebraska seed laws? [LB263]

SENATOR ROBERT: Not at this time. [LB263]

SENATOR DUBAS: Okay. So then it would be again correct to say that a local political subdivision, such as a county or a city zoning board, would be able to adopt regulations and enforce those zoning regulations. [LB263]

SENATOR ROBERT: Yes. [LB263]

SENATOR DUBAS: And then I would assume that the same would hold true for Section 3 of this bill? [LB263]

SENATOR ROBERT: On the fertilizer side? [LB263]

SENATOR DUBAS: Yes. [LB263]

SENATOR ROBERT: Yeah. And actually there are...there are some local zoning regulations determining where you can use some type of liquid manure fertilizers, and you can still do that. So the only thing that would be in here that says if we ever decided at some point that we were going to allow some type of manufactured fertilizer anywhere, that a local just couldn't go around us. But there's none of that in the books right now. [LB263]

SENATOR DUBAS: Okay. So as long as the state is silent on any of these issues, local zoning or local subdivisions, political subdivisions have the ability and the authority to establish any regulations they would be able to pass. [LB263]

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SENATOR ROBERT: Yeah, anything that would be within their scope of power and constitutional, absolutely. [LB263]

SENATOR DUBAS: So I believe you stated this in your opening, but I guess I'd just like you to further clarify, why is it that we need this bill? What was your rationale for introducing this bill? [LB263]

SENATOR ROBERT: Well, there have been some instances in some other states where a few...ultimately, my goal is to make sure that we have border-to-border uniformity when it comes to seed and fertilizer laws, just as we have in pesticide laws, saying that because farmers are so expansive anymore, going across different localities, and also probably more importantly our local retailers, such as, you know,... [LB263]

SENATOR FRIEND: One minute. [LB263]

SENATOR ROBERT: ...for example, Central Valley Ag in my area is a co-op that has 53 locations. For them to have ten different county regulations on what...where they can apply what, what seed can be planted in those spots would be very, very, almost impossible to use. So what we're saying is let's just keep it uniform. Right now we don't have a reason to put anything in the books because there isn't anything going on, but I think it gives us the power in the future, if we need to, to look at those issues and go, are those things that should be zoned for, but to make sure that we're fairly uniform. [LB263]

SENATOR DUBAS: So again, as long as there are no state statutes, which we apparently have none dealing with these particular seed issues, local jurisdictions would prevail. [LB263]

SENATOR ROBERT: Yep, absolutely. [LB263]

SENATOR DUBAS: Thank you. [LB263]

SENATOR FRIEND: Thank you, Senator Dubas and Senator Rogert. (Visitors introduced.) Back to discussion on AM354, the Agriculture Committee amendments. Senator Dierks, you are recognized. [LB263]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. I, too, am a member of the Ag Committee and was one of the votes for bringing it out of committee, LB263. I have some questions, though, I wanted to ask. I noticed in the committee amendments there's something to the effect that this legislation does not affect zoning laws that are already in place, and I wanted to just reassure that in my own mind by visiting with Senator Rogert about that, if I could. [LB263]

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SENATOR FRIEND: Senator Rogert, will you yield to a question? [LB263]

SENATOR ROBERT: Yes. [LB263]

SENATOR DIERKS: Senator Rogert, I noticed in the amendment, the language in one part of the amendment is that there's nothing in this legislation that would counter or have an effect on zoning laws that are in place right now. Is that right? [LB263]

SENATOR ROBERT: That is correct. [LB263]

SENATOR DIERKS: I've always been forever an advocate of local control and I wonder sometimes about taking away the possibility of some of that local control by state legislation, so I'm kind of torn here right now. But I wanted to mention something to the body about something that happened yesterday. I was disappointed by this lawsuit by Monsanto seeking to block DuPont and Pioneer from offering their Optimum GAT trait in soybeans when stacked with Monsanto's Roundup Ready trait. Monsanto is the dominant company in the biotech seed industry, controlling some 90 percent of the market. The company uses various devices to stifle emerging technologies that might compete with its near monopoly status and this lawsuit is just the most recent example. The result of Monsanto's practices is that farmers are denied the choice of the best technologies that they need to be competitive and profitable, and have to pay too much for the patented seed they plant. I have concerns when I see that we're taking away or lessening the effect of local control when I see what's happening at the national level with the giant seed company. I need to have some reassurances that we're not going to go down that road. Thank you, Mr. President. [LB263]

SENATOR FRIEND: Thank you, Senator Dierks. Senator Wightman, you are recognized. [LB263]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. If I might, I would like to visit a little bit with Senator Rogert with regard to some of the contents of... [LB263]

SENATOR FRIEND: Senator Rogert, will you yield to a question? [LB263]

SENATOR ROBERT: Surely. [LB263]

SENATOR WIGHTMAN: Senator Rogert, we had quite a bit of debate earlier this year about the...this session about the power of counties to pass laws, and we gave them some powers to pass resolutions that might have the effect of a law. What have the counties done that would regulate the use of seeds or fertilizers, if you can tell me? [LB263]

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SENATOR ROBERT: In Nebraska or elsewhere? [LB263]

SENATOR WIGHTMAN: Up to now, yes. [LB263]

SENATOR ROBERT: In Nebraska, nothing. [LB263]

SENATOR WIGHTMAN: But there has been some of this in other states? [LB263]

SENATOR ROBERT: Yes. [LB263]

SENATOR WIGHTMAN: And on the use of fertilizers, I guess I particularly see where there might be some fertilizer used that would be offensive enough and include manure perhaps. [LB263]

SENATOR ROBERT: Well, and if I...I'll direct you to the bill and this really only deals with manufactured fertilizers, which would be, for the most part, nitrogen, phosphorous, potassium, and a few micronutrients. All those other types of fertilizers, that would be liquid manure, that may have an odor of some type, this bill doesn't deal with that and it would still allow local localities to regulate the use. Many towns say you can't spray liquid manure within so many miles of town, just for... [LB263]

SENATOR WIGHTMAN: So a city would still have the availability of ordinance or something (inaudible). [LB263]

SENATOR ROBERT: Inside their ETJ they could do that, yes, uh-huh. [LB263]

SENATOR WIGHTMAN: Okay. Well, generally, I am supportive of both LB263 and AM354. I did want to know what restrictions might be placed upon a city with regard to its zoning jurisdiction and I'm satisfied with that, that as long as we aren't trying to prohibit a city from regulating within its zoning jurisdiction if there are offensive smells, which certainly can happen even from the use of manures. I know that such issues have arisen with regard to using sludge from hog operations and dumping it close to residential properties, that that can be a problem. So I guess as long as that is not included, again, it's like a lot of laws we're passing that there's some question, without any exercise of jurisdiction by counties or cities up to this date, as to how badly we really need this. But if it is happening in other states, and it may well be, I think we're better off with state laws and I think they should preempt local jurisdictions as far as the type of labeling, registration of seeds and fertilizers both. So I will support both the amendment and the underlying bill. Thank you, Mr. President. [LB263]

SENATOR FRIEND: Thank you, Senator Wightman. Senator Haar, you are recognized. [LB263]

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SENATOR HAAR: Mr. President, members of the group, I have some questions for Senator Rogert. [LB263]

SENATOR FRIEND: Senator Rogert, will you yield to some questions? [LB263]

SENATOR ROGERT: Yes. [LB263]

SENATOR HAAR: Could you tell me a little bit more about the Nebraska Seed Law, since this talks about preempting that? [LB263]

SENATOR ROGERT: Senator Haar, can you repeat that? It's kind of... [LB263]

SENATOR HAAR: Yes. Could you just tell me what the Nebraska Seed Law entails? [LB263]

SENATOR ROGERT: Actually, I don't have that. Really, there is a section of statute called the Nebraska Seed Law but, for the most part, the bill here is the biggest thing of it and there is nothing right at the moment that's prohibiting anything from being grown in the state today. You can grow basically whatever you want wherever you want it. [LB263]

SENATOR HAAR: Okay. So I'm a little bit stumped then. If there really is no seed law as such, why do you think that we need this now? [LB263]

SENATOR ROGERT: Well, I think that is the best policy, is that we have no restrictions necessarily on what you can grow, when you can grow it, where you want to grow it. [LB263]

SENATOR HAAR: Okay. Now the language in this talks about on page 2, let's see, page 2, line 11, "seeds that are in addition to or in conflict with the Nebraska Seed Law." So since the Nebraska Seed Law really has nothing in it right now, we're saying that local subdivisions couldn't do anything to do a storage, transportation, distribution, notification, planning, or cultivation of seeds because that would be in addition to what doesn't exist right now. I'm just confused over this. [LB263]

SENATOR ROGERT: Yeah, I think that's basically the intent, saying...I don't know that the zoning...I don't know that it's...in conversations that I've had with NACO folks and folks at League of Municipalities and their legal counsel, they really question whether there is an ability to zone against what somebody can grow. But I suppose they could adopt some sort of ordinance that would...I'm not sure how...how the scope of their power works as a county or in terms of this particular function. But the intent of the bill is to say if we're not prohibiting or anything in the state, then you shouldn't necessarily

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prohibit anything as well. [LB263]

SENATOR HAAR: Okay. I guess with that, if Senator Dubas would like some more time, I'd yield my time to her. [LB263]

SENATOR FRIEND: Senator Dubas, there is 2 minutes if you would like it. [LB263]

SENATOR DUBAS: Yes, I would. Thank you. As I stated earlier, my confusion in not being able to fully understand this bill and I think a few other senators have stood up and expressed that same confusion, so I think we need to really be clear for the record what the intent of this bill is and where it's going. And right now, to my understanding, we don't have any problems in the state, we don't have any counties...would Senator Rogert yield to a question? [LB263]

SENATOR FRIEND: Senator Rogert, will you yield to a question? [LB263]

SENATOR ROGERT: Yes. [LB263]

SENATOR DUBAS: So to my understanding, we do not have any counties right now in the state who have tried to enact any zoning regulations to put some restrictions or prohibitions on seed or chemicals or fertilizers. [LB263]

SENATOR ROGERT: Not to my knowledge, yes. [LB263]

SENATOR DUBAS: And so is this bill an anticipation of some potential something coming down the road? Is it just trying to be prepared to address these things? [LB263]

SENATOR ROGERT: Yes. [LB263]

SENATOR DUBAS: So the likelihood of counties in...so if a county, for whatever reason, did decide to enact some kind of a zoning regulation right now dealing with a seed label, saying, okay, our seed labels have to be...all seed labels have to be red, white and blue, then that would...that would maybe trigger something... [LB263]

SENATOR FRIEND: Thirty seconds. [LB263]

SENATOR DUBAS: ...at the state level saying, no, all seed labels have to be uniform and state this kind of information. Would that be correct? [LB263]

SENATOR ROGERT: It would put the power, yes, it would put the power in the hands of us through basically the specialists at the Department of Ag. [LB263]

SENATOR DUBAS: Okay. So again, I just want to reemphasize the fact that while the

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language in the bill might sound like it's preempting local control and authority... [LB263]

SENATOR FRIEND: Time. [LB263]

SENATOR DUBAS: Thank you. [LB263]

SENATOR FRIEND: Thank you, Senator Dubas and Senator Rogert. Senator Sullivan, you are recognized. [LB263]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. I, too, am trying to sort out the details of this legislation, trying to figure out what the consequences, both intended and unintended, might be and, therefore, I would wonder if Senator Rogert would yield for a couple questions. [LB263]

SENATOR FRIEND: Senator Rogert, will you yield? [LB263]

SENATOR ROBERT: Yes. [LB263]

SENATOR SULLIVAN: Just to clarify again, do you know if there have been any instances where a local political subdivision has passed an ordinance that either regulates commercial fertilizer or soil conditioners? [LB263]

SENATOR ROBERT: Not manufactured, no. [LB263]

SENATOR SULLIVAN: And nor have they ever passed an ordinance regulating seeds? [LB263]

SENATOR ROBERT: Not to my knowledge. [LB263]

SENATOR SULLIVAN: In the larger picture, I'm trying to figure out what implications this has for an organic farmer that might be impacted by, I guess specifically...well, first of all, what's your idea of the implications for an organic farmer getting started? Because you mentioned some of the entrepreneurial advantages of this legislation, would this have any impact on an organic farmer? [LB263]

SENATOR ROBERT: Well, not necessarily, but if there are folks out there that are concerned that this will eliminate an organic farmer, the exact same concern could be the elimination...excuse me, because that's why this is here. Some locality might want to say we're not going to allow anybody to have an organic farm in the middle of our county. That's pretty prohibitive, so if that would happen then we could come here and say, no, wait a minute, you guys can't, you can't rule out that type of farming practice. So in my opinion, this is as much of a protection for them as anybody else. [LB263]

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SENATOR SULLIVAN: From a practical, everyday matter, would this bill have any effect on elevators that sometimes store corn on piles on the ground during harvest? [LB263]

SENATOR ROBERT: I'm sorry, will you repeat that? [LB263]

SENATOR SULLIVAN: Do you think that this bill would have any effect on elevators that sometimes store corn on piles on the ground during harvest? [LB263]

SENATOR ROBERT: No. [LB263]

SENATOR SULLIVAN: And then I'm also wondering if you...I'm not totally familiar with this but I can remember about ten years ago that StarLink corn was a problem here in this state and it had to do partially with the pollen drift of that corn drifting onto fields that were not StarLink corn. [LB263]

SENATOR ROBERT: Yeah, I can address that. That was... [LB263]

SENATOR SULLIVAN: Okay. [LB263]

SENATOR ROBERT: ...one of the bigger nightmares of my life. I was working for the company that owned that trait at the time that that happened. That was a mistake by the EPA. What they were doing at the time is they were allowing conditional use permits to produce that type of grain containing that trait before it was approved for consumption in the markets we sell to. It did not receive its approval and, thus, we learned right away how--this would have been about ten years ago or not quite--we learned how far pollen can travel. This was in kind of the dawn of the biotech and the genetically modified crops and it can travel a long ways. Pollen can travel for miles. So at that time they were allowing the production of some of this grain before it became approved. It did not become approved, and then it was showing up in tests at elevators all across the country where they were testing the grain and the trait was showing up. So that was a problem that they got into. So that really wouldn't necessarily have anything to do with this because that was a federal guideline that they were allowing to... [LB263]

SENATOR SULLIVAN: Except it did have local, state, and federal implications and results. So I guess my question is, in light of what you're proposing in this legislation, obviously it has some local, state, and federal implications. I'm just trying to figure out if you feel that there's any relationship between that circumstance and what you're proposing. [LB263]

SENATOR ROBERT: Not at all. [LB263]

SENATOR FRIEND: One minute. [LB263]

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SENATOR ROBERT: No, not at all. [LB263]

SENATOR SULLIVAN: Thank you. [LB263]

SENATOR FRIEND: Thank you, Senator Sullivan and Senator Robert. Senator Dubas, you're recognized. [LB263]

SENATOR DUBAS: Thank you, Mr. President. If I could continue my discussion with Senator Robert. [LB263]

SENATOR FRIEND: Senator Robert, will you yield? [LB263]

SENATOR ROBERT: Yes. [LB263]

SENATOR DUBAS: You know, I'm going to sound like a broken record here, I know, but I do want to be very clear in the record what we are talking about. As a former zoning board member, you know, we value our local control highly. And so any time we see language like "provide that state law preempts local law," it tends to make a lot of people nervous. And so I just want to be very clear and forthcoming about what it is we're trying to do here. So again, I'm going to be repetitive, but a county right now has the ability to establish anything within their legally prescribed guidelines to establish rules and regs for land use in their counties, correct? [LB263]

SENATOR ROBERT: Yes. [LB263]

SENATOR DUBAS: And until or unless we see it's causing a problem statewide for commerce or our ability to carry on our business, unless the state enacts a specific law dealing with that, those county or local jurisdiction's laws will continue to be in effect. [LB263]

SENATOR ROBERT: Right. And if I could just...I'll clarify a statement I made earlier when I said there really isn't anything in the Seed Law. There are some things in the Seed Law but they, at the present time, deal with when you get a...say, you get a pallet of corn on your farm. It's...we have statutes that state what has to be in those bags, like the quality, the contents, the germination labeling, the intent of use labeling like would be on any type of...because there are some pesticides that are on those products. So there are a few things in there, but there's nothing at the time that prohibits the growth of any of those. [LB263]

SENATOR DUBAS: Okay, so there is...so we have uniform labeling laws in existence... [LB263]

SENATOR ROBERT: Yes. [LB263]

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SENATOR DUBAS: ...but we can't have countywide...or if a county wanted to charge additional fees, they wouldn't be able to do that either, to my understanding, correct? [LB263]

SENATOR ROBERT: Yes. [LB263]

SENATOR DUBAS: Okay. So again, you know, the purpose for this bill, the way I'm understanding it is we see and we know and understand what's happening around the country and we're just wanting this bill in place just in case that becomes a problem in Nebraska? [LB263]

SENATOR ROBERT: Yes. [LB263]

SENATOR DUBAS: Thank you, Senator Robert. [LB263]

SENATOR ROBERT: Thank you. [LB263]

SENATOR FRIEND: Thank you, Senator Dubas and Senator Robert. Senator Nelson, you are recognized. [LB263]

SENATOR NELSON: Thank you, Mr. President, members of the body. Would Senator Robert entertain a few questions, please? [LB263]

SENATOR ROBERT: Yes, absolutely. [LB263]

SENATOR FRIEND: Senator Robert. [LB263]

SENATOR NELSON: Thank you, Mr. President. Senator, I would be remiss if I didn't state that I've had several e-mails and I wonder if we're maybe skirting around another issue here and this is regarding genetically modified seed. I don't know much about that but people that write to me do have some issues with that. My understanding is that the use and sale of those seeds is perhaps prohibited or restricted in other countries besides the United States. Could you educate me just a little bit on what genetically modified seed is and what the concern is on the part of some people? [LB263]

SENATOR ROBERT: Sure. Absolutely. There are some restrictions for human consumption on genetically modified products. Europe has some...they actually...anything that we export for human consumption to Europe generally cannot contain a GMO by-product in it. An example of a genetically modified crop would be Roundup Ready soybeans or such as Bt corn, which is either herbicide resistant, you could spray a nonselective herbicide across the top of it, thus, killing all the weeds and not the plant, the crop; or for insect protection, when an insect takes a bite out of that

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plant it has a bacteria in it that enters the gut of the insect and, thus, kills it. So that's mainly what we're using most of our genetically modified crops for. [LB263]

SENATOR NELSON: So is the use of that prohibited in the United States in any way? [LB263]

SENATOR ROBERT: No. [LB263]

SENATOR NELSON: Could a state prohibit that if they wanted to, the sale and... [LB263]

SENATOR ROBERT: Yeah, I can't answer that. [LB263]

SENATOR NELSON: I'm sorry? [LB263]

SENATOR ROBERT: I can't answer that. I don't...probably not. [LB263]

SENATOR NELSON: Or... [LB263]

SENATOR ROBERT: I'm not saying that we couldn't but I would assume that there's probably a federal preemption that goes along with that. [LB263]

SENATOR NELSON: Well, how does the state of Nebraska get involved? We have the Nebraska Seed Law but I think you've stated we don't know much about it or what it does. Is there a regulatory body here in the state of Nebraska that controls? [LB263]

SENATOR ROBERT: Department of Ag. [LB263]

SENATOR NELSON: Sorry? [LB263]

SENATOR ROBERT: The Department of Agriculture. [LB263]

SENATOR NELSON: The Department of Agriculture. [LB263]

SENATOR ROBERT: Yes. [LB263]

SENATOR NELSON: Are they...do they get involved with the labeling here in Nebraska or is that a federal law? [LB263]

SENATOR ROBERT: It would be both. Some of it would be federal but we also have...we also have qualifications on anything that comes into the state of what it contains in the bag. [LB263]

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SENATOR NELSON: So if there were going to be...if there presently...if there's presently nothing in our Nebraska Seed Law now about genetically modified, GM, let's say GM--that's a lot easier to pronounce, I guess,... [LB263]

SENATOR ROBERT: Yeah. [LB263]

SENATOR NELSON: ...GM--certainly our Department of Agriculture could impose some rules and regulations or even prohibitions? [LB263]

SENATOR ROBERT: Absolutely. And on that note, that's why I think this legislation is important because those guys are the experts. It's pretty evident to me that a county board member or a city council member probably has no jurisdiction or expertise in these types of areas in terms of what they should be regulating and that's why the experts of the state and the folks here who have access to those experts should control that legislation. [LB263]

SENATOR NELSON: So what we're establishing here is that if and when it becomes necessary to have regulations in this GM area, the expertise rests in the Department of Agriculture and they should be the ones who should make these decisions and they ought not to be superseded by local entities. [LB263]

SENATOR ROBERT: Correct. [LB263]

SENATOR NELSON: Is that correct? All right. GMCs have great potential here in Nebraska as far as production and increased production. Is that correct? [LB263]

SENATOR ROBERT: Yes, they are making extreme impacts today. [LB263]

SENATOR NELSON: So it's probably in our best interest, if there's a determination that nothing is wrong with the GM and it can be planted, that it's going to be good for agriculture here in the state of Nebraska. Is that correct? [LB263]

SENATOR ROBERT: I would agree, absolutely. [LB263]

SENATOR NELSON: All right. Thank you very much, Senator. [LB263]

SENATOR ROBERT: Thank you. [LB263]

SENATOR NELSON: Thank you, Mr. President. [LB263]

SENATOR FRIEND: Thank you, Senator Nelson and Senator Robert. Senator Christensen, you are recognized. [LB263]

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SENATOR CHRISTENSEN: Thank you, Mr. President. I'll be short and sweet here but, you know, this right here will protect not only organic farmers but also protects regular farmers from regulations that the county could put on. They might come in and prohibit organic farming. You know, this is setting it up in a state process and I think that's a better place to have this set up. And then in some earlier comments I heard elevators mentioned in this and I just wanted to make sure this was clear, that elevators handle grain. They don't handle seed. If we're talking about the elevator part of it that's buying grain, sending it out to feedlots and things, got to make sure that we understand if you're dealing with a GMO that can't be fed, it can have some effects that direction. But when we're just talking about this legislation here, we're not affecting elevators, as they're handling the grain, the result of the planted crop. They're not handling that seed. Now if they're in the seed business, that's a different direction. I don't want to confuse it. But generally, when you think elevators, you're thinking of handling the commercial crop afterwards and that is grain. That is not seed. Thank you. [LB263]

SENATOR FRIEND: Thank you, Senator Christensen. Senator Haar, you are recognized. [LB263]

SENATOR HAAR: Mr. President, members of the body, I, too, have gotten some e-mails on this; otherwise, I obviously wouldn't be asking questions and so on. When I came to the Legislature--those who are on the Ag Committee know really exactly what I'm talking about--I took a bill from somebody and introduced it within the last two hours before the deadline and it really came to bite me and embarrass me, frankly. And that was from a national group. And according to the e-mail...and here's where I'd like to ask Senator Rogert a question, if I could. [LB263]

SENATOR FRIEND: Senator Rogert, will you yield? [LB263]

SENATOR ROGERT: Yes, sir. [LB263]

SENATOR HAAR: I just have to ask you this question. The e-mail says that there's a lot of uniformity in the language in the bills that are going around the country on this. Is this from a particular group that's pushing this or where did this bill come from? [LB263]

SENATOR ROGERT: The Nebraska Agribusiness Association asked me to bring this. [LB263]

SENATOR HAAR: I'm sorry, I couldn't hear that. [LB263]

SENATOR ROGERT: Nebraska Agribusiness Association. [LB263]

SENATOR HAAR: Okay. Do you know, is this sort of part of a national movement or...to introduce these kinds of bills? [LB263]

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SENATOR ROBERT: Well, no, but I know there are other states that have this very similar language. [LB263]

SENATOR HAAR: Okay. Well, the other thing is just one of the things that's amused me in the Legislature is the way we use local control in just about every way we want to use it. And in some cases we say local control means, way at the bottom, counties and cities, and sometimes local control means NRDs and so on and so forth, and we seem to use local control to suit our argument, not as a principle so much. And so I am kind of fascinated by the taking away of local control from counties and towns and cities in this one. And Senator Carlson, I think, will know what I meant by that bill I introduced in the Ag Committee. Thank you very much. [LB263]

SENATOR FRIEND: Thank you, Senator Haar and Senator Rogert. Senator Louden, you are recognized. [LB263]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Rogert yield for questions, if he would, please? [LB263]

SENATOR FRIEND: Senator Rogert, will you yield? [LB263]

SENATOR ROBERT: Yes, I will. [LB263]

SENATOR LOUDEN: As I looked this bill over and I go back to the days when we were doing livestock friendly counties, now is this something to do with seed production and selling of seeds for counties and this have something to work on the same order as livestock friendly counties where you're trying to set it up so that a county can't put the kibosh to some kind of a seed, perhaps whether they were growing the seeds or whether they were selling them or something like that? Does that have anything to do with that? [LB263]

SENATOR ROBERT: Not necessarily, Senator Louden. [LB263]

SENATOR LOUDEN: What do you mean by not necessarily? [LB263]

SENATOR ROBERT: Well, you asked...(laugh) I'm not sure I understood the difference between your two questions. [LB263]

SENATOR LOUDEN: Okay. [LB263]

SENATOR ROBERT: You said one or the other and they seem to be the same to me. [LB263]

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SENATOR LOUDEN: Okay. Now whenever seed, like alfalfa seed, is sold and everything, it's supposed to be...you're...that's the business you're in, what is the percentage? Is it like 99 percent pure seed or what is the percentage, or 97 percent pure seed that has to be in that alfalfa sack? [LB263]

SENATOR ROBERT: Well, I don't think there's any regulation exactly about what has to be in there, but there has to be a label on there that says exactly what is in there. [LB263]

SENATOR LOUDEN: Okay. Then there are no regulations, whether it's state or otherwise, on some of the other kind of seed that could be perhaps mixed in like noxious weeds or anything like that. Is that correct? [LB263]

SENATOR ROBERT: Well, as long as you say what's in the bag, you can buy whatever you want. I mean as long...you could...you could sell... [LB263]

SENATOR LOUDEN: Okay. Now if a county put in a regulation that if you were going to sell a sack of alfalfa seed and it had to be 99 percent pure alfalfa seed with no more than .5 percent marijuana seed or something like that in there, could they go ahead and do that or would the state regulations preempt it? [LB263]

SENATOR ROBERT: If it was in conflict with the state regulations, that may be preempted with this bill, yes. [LB263]

SENATOR LOUDEN: Did your... [LB263]

SENATOR ROBERT: I'm not sure the county has authority to make that ordinance (inaudible). [LB263]

SENATOR LOUDEN: Okay. But you're telling me they don't...the state doesn't have any regulations now so then a county could put some kind of a regulation on the quality of seed that would be planted in that county. Is that right? [LB263]

SENATOR ROBERT: If you have...if that's within your scope of power as a county, I suppose you could. I don't know that you have that power to do that, though. [LB263]

SENATOR LOUDEN: Well, then what are we doing? I mean, then I guess what are we doing with this bill then if we're not setting it up so that counties can set up those regulations if they so desire? If there aren't any regulations out there now, then why...then will this bill allow them to set up those regulations? [LB263]

SENATOR ROBERT: Well, I think it gives us the power to come back and say if there are counties willy-nilly doing...everybody is doing a different thing, then we need to

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address that with this bill and say this is going to be the statewide law. [LB263]

SENATOR LOUDEN: Because as I mentioned alfalfa seed, but you could get to your grass seed or get into a town and if there was some different kinds of seeds mixed up in with your grass seed that people were planting or something like that, and that's what I'm wondering if this has anything to do with that. And if it doesn't, then I was wondering what the bill does? If you could give me any kind of an explanation, I'd appreciate it. [LB263]

SENATOR ROBERT: Well, I think, once again, it's saying that if we're going to start adopting ordinances across counties that are...we got 93 different ordinances and it's causing major problems for farmers and for retailers in terms of what they're using, how they're being able to apply it, how they're able to store it, then we have the ability with this bill to say we're going to put the folks at the Department of Ag and us in charge and say this is the way we're going to do it. [LB263]

SENATOR FRIEND: One minute. [LB263]

SENATOR LOUDEN: Okay. Thank you, Senator Rogert. But as the way I understand it, at the present time there aren't that many regulations on what can be done, so I'm wondering are we...will this bill allow your local either cities or counties to go ahead and set up some rules and regulations. I guess that's my concern at the present time. I don't know if it's all that bad of a deal, but I know it can happen in the future that when some of this seed is sold there could be other stuff in that seed that you certainly didn't want spread around the town or county or something like that. They spend...the weed district spent a lot of money getting rid of some of it and so consequently they...can they set up qualifications on the seed. And thank you, Mr. President. [LB263]

SENATOR FRIEND: Thank you, Senator Louden and Senator Rogert. Senator Sullivan, you are recognized. [LB263]

SENATOR SULLIVAN: Thank you very much, Mr. President and members of the body. Senator Rogert, I wonder if you would yield for a few more questions? [LB263]

SENATOR FRIEND: Senator Rogert, will you yield? [LB263]

SENATOR ROBERT: Yes, sir. [LB263]

SENATOR SULLIVAN: I'm still trying to figure out with my small mind what the consequences, intended and unintended, are of this proposed legislation. First of all, would you define for me what preemptive legislation is? [LB263]

SENATOR ROBERT: Preemptive legislation in terms of state preemption would say

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that if there is a local...a lower ordinance or law that is in conflict with ours, we win.
[LB263]

SENATOR SULLIVAN: Okay. And in the process of this legislation, are we actually trying to protect someone or something? [LB263]

SENATOR ROBERT: I don't know if...both sides, in my opinion, Senator Sullivan, we're trying to protect. We're trying to create a uniform, border to border...we're an agricultural state and we're trying to say that we are going to be border-to-border uniform when it comes to...just like we did with pesticides about 15 years ago, we're adding fertilizer and seeds to that. Wyoming to Iowa, South Dakota to Kansas, we're going to have the same laws when it comes to seed and fertilizer applications. That's the main intention for the law, for the bill. [LB263]

SENATOR SULLIVAN: Do you know if in Nebraska or even any of these neighboring states that you just mentioned, have there been concerns expressed at the county level that they've been possibly considering introducing some ordinances that you might be concerned about with this legislation? [LB263]

SENATOR ROBERT: Not in our neighboring states, but in some states across the country I've heard...yes. [LB263]

SENATOR SULLIVAN: Can you give me some examples of those? [LB263]

SENATOR ROBERT: I know California has had some troubles. And I can't give you specific examples right off the top of my head. I can find those for you at a later day. But I know that they've had some issues with localities prohibiting the use of certain seeds which basically will put people out of business because they're sitting right in the middle of a county that just decided they didn't want to allow grapes, for example. I don't know the exact example, but I can find you those. [LB263]

SENATOR SULLIVAN: Getting back to the earlier conversation that you and I had about the StarLink situation, do you think this legislation in any way would impact circumstances relating to pollen drift, whether it has to do with it impacting an individual farmer being as a result of pollen drifting onto his or her crop and vice versa? We've already heard of Monsanto suing farmers where they have found to have Monsanto seed in their crop, but it wasn't that it was anything that had to do with their actions, but that it was a result of pollen drift. So, again, I'm wondering does this legislation in any way impact situations such as that? [LB263]

SENATOR ROBERT: I don't necessarily see how it would, but I guess I can't quite envision the...that's a pretty broad parameter and I suppose that there could be something that would fall into the scope of this bill, but just thinking of it right at the

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moment I can't see how it would. [LB263]

SENATOR SULLIVAN: Well, I guess that's why I'm concerned about this because we're creating potentially legislation for something we think might happen. And in so doing I'm concerned that we might restrict or create some problems in the process that really don't exist now. So that's why I'm just a little concerned about this. [LB263]

SENATOR FRIEND: Thank you, Senator Sullivan and Senator Rogert. Senator Wightman, you are recognized. [LB263]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I know there's been a lot of discussion on this and why this is necessary or if it's necessary. I think one of the things that probably brings this to light is that today we have a lot of large farmers. I don't consider them corporate farmers. They're family farmers. They may farm in two or three counties. They're located in the corner of one county. They may farm in two other counties. I can certainly see where they could desire legislation such as this that they can look at one state law and determine whether there's any regulations with regard to the use of these seeds or fertilizers or whatever it might be. And I think that does justify the passage of this legislation so that they can rely upon state law. I know we can always look behind it and see if some company such as Monsanto or someone else is trying to get their foot in the door. But I think uniformity across the state with regard to seeds and fertilizer is important, and particularly when we have people with large farm operations. And as to why foreign countries a lot of times have not let us use genetically modified crops in the sale, now certainly there may be reasons because they're not tested, but I suspect a good many of these cases are protectionism. They are trying to protect their own farmers. We are producing larger yields, have more corn for sale, perhaps producing at a lower price. And I do think protectionism has an awful lot to do and they're responding to the lobbies of their farm organizations within their countries. So I would urge support of AM354 and LB263, again. Thank you, Mr. President. [LB263]

SENATOR FRIEND: Thank you, Senator Wightman. Senator Lathrop, you're recognized. [LB263]

SENATOR LATHROP: Thank you, Mr. President. I rise in support of the amendment and the underlying bill. And as I listen to the discussion, it reminded me of a class I took in law school. It was about the constitution. And when the framers of the constitution looked at this similar problem, that is how things pass from one locale to the next, they put in a commerce clause. And basically what the commerce clause does, is supposed to do in the constitution, is to give the federal government the authority to regulate how things happen, how commerce happens from one state to the next. And this is not unlike that situation in this respect. If we have every municipality, every county, everybody across the state deciding what belongs on a bag of seed or fertilizer, then we

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won't have any uniformity, the consumer won't have anything to rely upon, and all we're doing very simply is saying this is the kind of a situation where we need one authority on what goes on the bag. One authority, it seems like very commonsensical, but it's also a practical problem. And I think the bill effectively addresses that by suggesting that if we have a uniform indication of what should be on the bag...this isn't unlike what the FDA does. I just think that it makes good sense and we can't leave this up to local communities to decide how these will be marketed or what kind of information is required or what will be on the bags. And the bill deserves our support, as does the amendment. Thank you. [LB263]

SENATOR FRIEND: Thank you, Senator Lathrop. Senator Langemeier, you're recognized. [LB263]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in support of AM354 and LB263 for a couple of reasons. Practicality, as a farm manager in the body, as my tenants are using seed corn across the state, we from time to time have extra bags of corn in Gosper County. We got to move it to Burt County and move it around depending on where it will grow the best. As we look at those tags and trying to determine, ooh, I got some extra bags but I can only use them in Burt County, I got to get a recertified bag that will go in Colfax County, and the practicality of it is you need a statewide policy for what you're going to label it and what type of products you're going to have within your state. The technology continuously changes. And as we as a body can look at that and the Department of Ag can look at that over time to come as that development continues to change, I think it's very important that we as a state make a state stand that said this is the products we're going to have in the state. I'd encourage the body to adopt AM354 and LB263. Thank you. [LB263]

SENATOR FRIEND: Thank you, Senator Langemeier. Seeing no other senators wishing to speak, Senator Carlson, you are recognized to close on AM354. [LB263]

SENATOR CARLSON: Mr. President and members of the Legislature, thank you for the discussion on this bill. I would remind the body that in January, Senator Dubas and I went to an ag conference in California. And at that conference it was brought up several times that the challenge for us in the next 20 years in agriculture is feeding the world. And in order to do that in Nebraska we need to double our production in the next 20 years. This is a great opportunity for agriculture in Nebraska. It's also a great challenge. It's a challenge because we need to double our production on less water. And so we have companies like Monsanto and other big companies that work in genetically modified seeds to try and bring about something that will allow this to happen. And I don't think that that's a bad thing. I don't think we can feed the world any other way. Now, LB263, in my opinion, does not hamper, it does not limit, it does not hurt organic farming. And I've heard the term "unintended consequences." I think we're taking a proactive stance, a proactive step, and we're trying to prevent some unintended

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consequences. In Nebraska we don't want a county in zoning agriculture to make a rule that says every acre in this county has got to be planted with genetically modified seed. We don't want that. We don't want a county in Nebraska in agricultural zoning to make a ruling that every acre in the county...no acre in the county could be planted to genetically modified seed. That would be an unintended consequence we don't want to happen. And if we're going to feed the world, double our production, if any one county opted for something like that to prevent this type of planting we could drop easily a quarter of a million acres out of production. We can't afford to do that. In the interest of feeding the world, I believe it is important that county laws not be able to trump state seed law. I would ask for your support on AM354 and the underlying bill, LB263. Thank you. [LB263]

SENATOR FRIEND: Thank you, Senator Carlson. Members of the Legislature, you have heard the closing on the committee amendments. The question is, shall the committee amendment to LB263 be adopted? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish to vote? Record please, Mr. Clerk. [LB263]

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB263]

SENATOR FRIEND: The committee amendments are adopted. Back to discussion of the underlying bill, LB263. Are there any senators wishing to speak? Seeing none, Senator Rogert, you are recognized to close on LB263. [LB263]

SENATOR ROBERT: Thank you, Mr. President, members of the body. Thank you for the questions and the discussion. As we were going through I found the actual Seed Law section of the statutes. And as I'm looking through it, it talks about the director and the powers and the duties. And then it talks about labeling requirements and quality requirements and those types of situations, nothing necessarily on what you can and cannot plant anywhere. So that...I appreciate the comments from Senator Carlson, Senator Langemeier, Senator Lathrop in terms of uniformity. And that's our goal here. If somebody produces a bag of seed and there's 26 different labeling requirements in the state of Nebraska, how can you possibly sell it here? And if you get fertilizer that comes and you got to have ten different blend requirements and labels and however you can transport it, you can't get through the state and you can't get around to do it. And those are the types of things that we want to protect against to make sure our farmers in our state have the best access to the best products that they can get. We can still have local ordinances in terms of weight limits on roads and crossing bridges with certain things, those won't be a problem. But I appreciate the committee amendment on the addition of the protections for the NRDs because water quality is very much a concern. We don't want to get fertilizer into the wrong spots and too close to streams and that's good, too. So with that, I will stop mumbling along here and I'll ask for your support of

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LB263 on to Select File. Thank you, Mr. President. [LB263]

SENATOR FRIEND: Thank you, Senator Rogert. Members of the Legislature, you have heard the closing on LB263. The question is, shall LB263 advance to E&R Initial? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish? Record please, Mr. Clerk. [LB263]

CLERK: 35 ayes, 2 nays, Mr. President, on the motion to advance the bill. [LB263]

SENATOR FRIEND: Thank you, Mr. Clerk. LB263 does advance. Next item. [LB263]

CLERK: Mr. President, I have an announcement first of all, if I may. Appropriations Committee will have a meeting at 3:30; Appropriations Committee at 3:30 in Room 1003. Mr. President, LB392, a bill by Senator Adams. (Read title.) Introduced on January 16, referred to the Education Committee, advanced to General File. There are committee amendments, Mr. President. (AM1079, Legislative Journal page 1042.) [LB392]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Adams, you are recognized to open as the introducer of LB392. You're recognized to open now. [LB392]

SENATOR ADAMS: Thank you, Mr. President, members of the body. LB392 is a compilation of work that the 11 superintendents within the learning community have done during the interim. And though most of this, as I describe it to you, I hope that I can convey to you is technical in nature, they are things that the 11 superintendents believed that we needed to do to smooth the road towards implementation of the learning community. And admittedly, many of these things, well, the things that are in the underlying bill came from the superintendents. And there is an amendment coming with some other technical changes that come now from the new learning community coordinating council that has been in effect since January 1. Let me first of all outline the four things that in the bill. The first one is to have a primary election next time around. There were a lot of people that ran for office and the superintendents felt that it may be more expeditious and smoother to have a primary election in the districts. The other part is for focus schools. Now in the underlying bill what the language is, is that a new focus school that gets started within the learning community would be able to access the new school adjustment. And I'm going to tell you right now that one of the amendments that will be forthcoming on this will be to delete this section altogether. This sections needs a lot more work and financially we need to be very careful how we proceed here. So there will be an amendment coming from me which will simply delete this section altogether on focus schools and the new school adjustment. Part (c) in the learning community language under LB641, one of the critical components was the creation of elementary learning centers. What the 11 superintendents are, in effect, asking for is some extra time, another year, actually not a whole year but 11 months. In

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reality the way that the bill reads right now, I think that by July 1 these elementary learning centers were supposed to be on their way to operation. And that's just simply too much to ask. And they're such a critical component to the success of the learning community that I think and I believe the committee thought that allowing another 11 months to properly place them, to organize them and get them running was a prudent thing to do. And then finally, the last portion of this, we have on the board there are 18 members, 12 of whom are elected, and the other 6 are appointed by the school boards within each one of the subdistrict councils and achievement councils, and they're appointed and they serve. So we, in effect, have three people serving on the learning community council from each one of the six districts. In addition to that, what we had already done was to say that in the creation of this, if we had a school district within one of the councils that has no representation, elected or appointed, they could have a nonvoting member on the learning community coordinating council. What LB392 would do would be to allow that nonvoting member that's already on the council to also participate as a nonvoting member on the subcouncil or the achievement subcouncil activities, whether it's planning the elementary learning centers, whether it's working on diversity plans, whatever it may be. They won't have a vote but because their school district has territory in the district, in the subcouncil district and they're unrepresented, this would give them someone on that council. That's the essence of the bill. So there are four parts, one will be deleted out if the amendment passes and we have amendments to follow. Thank you, Mr. President. [LB392]

SENATOR FRIEND: Thank you, Senator Adams. Mr. Clerk, first amendment. Sorry, Senator Adams. As the Clerk stated earlier, there are committee amendments. As Chair of the Education Committee, you are recognized to open on the committee amendments. [LB392]

SENATOR ADAMS: Thank you, Mr. President. On the committee amendment there are two things. (A) We were going to allow the new school adjustment to be used for focus schools. But what we did in the amendment was delay that implementation until the next biennium. And again I repeat, before we're all done here this afternoon, I have an amendment coming forward which will delete this section completely. There won't be new school adjustment going to focus schools, delayed or otherwise, not now. The other part of this amendment is critical. We take a portion of LB391 that was introduced and roll it in here. And what's critical about it is this, one of the things that I heard loud and clear from the superintendents was that in the language under LB641 there was some confusion as to whether or not the common levy proceeds were to conduit through the learning community council or go directly to the school districts. This clears it up. The learning community council may set the common levy, but the proceeds will go, if you pass this amendment to LB392, the proceeds will go directly from the county treasurer to the respective school districts. And the learning community council itself will not have its hands on the money. That, in effect, is the amendment, Mr. President. [LB392 LB391]

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SENATOR FRIEND: Thank you, Senator Adams. Members of the Legislature, there are members wishing to speak to AM... [LB392]

CLERK: Mr. President, amendments to the amendments now. Senator Adams would move to amend with AM1303. (Legislative Journal page 1313.) [LB392]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Adams, you are recognized to open on AM1303. [LB392]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, what AM1303 does is to further clarify what I just described to you that the common levy proceeds will go from the county treasurer directly to the school districts that are members of the learning community. What AM1303 does is to go just a little bit further and say that, in effect, if a school district fails to file the required budget documents, just like any other school district, then it is the county treasurer, not the learning community, that will withhold funds until those documents are properly filed, and there are required annual financial reports that need to be filed, just like with other school districts. And what this amendment would do is simply say that it is the county treasurer that will withhold monies for those school districts until those forms are properly filed. So it merely harmonizes to what other school districts are doing in the state and goes along with what we tried to do in the committee amendment. Thank you, Mr. President. [LB392]

SENATOR FRIEND: Thank you, Senator Adams. Members of the Legislature, you have now heard the opening on AM1303, Senator Adams' amendment to the committee amendments. There are senators wishing to speak. Senator Price, you are recognized. [LB392]

SENATOR PRICE: Thank you, Mr. President and members of the body. I rise, as usual when we talk about learning community, to call out issues that I have with the entire concept. We earlier spent a great amount of time on LB545, the education funding bill. And the question there was, how are we going to pay all the things that need to be paid or would like to be paid currently before we lump on top of that the learning community needs, where \$30 million more go up into the learning community needs? And the paper was running, not too long ago, you know that they just hired a CEO for the learning community, \$100,000-plus for the CEO of the learning community. I read that as yet another superintendent of superintendents. Hundreds of thousands of dollars are going to the learning community. And we were concerned here over funding what we already had to fund. So, of course, I have questions. And I would like to ask if Senator Adams would yield to a question or two. [LB392 LB545]

SENATOR FRIEND: Senator Adams, will you yield to a question? [LB392]

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SENATOR ADAMS: I will. [LB392]

SENATOR PRICE: Thank you very much, Senator Adams. I want a point of clarification. When...in your amendments we're saying that tax dollars raised in one county will go back to that county and not to the other county? [LB392]

SENATOR ADAMS: What we're saying is that the common levy proceeds will be distributed through the county treasurer, as prescribed in LB641, directly back to the school districts. [LB392]

SENATOR PRICE: Okay. And I don't mean to be painstaking, I want to make sure. Common levy taxes raised in Sarpy County will go to school districts in Sarpy County? [LB392]

SENATOR ADAMS: And Douglas County. [LB392]

SENATOR PRICE: Okay, they go, ladies and gentlemen, you just heard it, that's that redistribution thing that I have such heartache with. And I don't want to harangue Senator Adams. He inherited this, I suspect. But again, common levy, nice words but that really means money moving around there. Senator Adams, again another question. What about auditing? Currently school districts are audited, correct? [LB392]

SENATOR ADAMS: Yes. [LB392]

SENATOR PRICE: Is the learning community going to be audited? [LB392]

SENATOR ADAMS: Sure. [LB392]

SENATOR PRICE: Okay, because I wasn't there...they'll have a similar auditing thing, okay, great. That helps out some more there. Now this common levy money is going to build the focus school or the learning centers, correct, some of it, perhaps? [LB392]

SENATOR ADAMS: The common levy is...there is...there's a special levy for the elementary learning centers that is also a common levy, yes. [LB392]

SENATOR PRICE: Okay, thank you very much there, Senator Adams. I'm just going to harangue on this for a moment. Okay, folks, now let's build a little picture. Okay? We've created the learning community to help those who need help and that's a good thing. We've said within this construct to help we're going to use a socioeconomic indices to say to whom will go what. And if the "to whom's" don't have, then we move them to the "what's." Some people in the seventies called it busing but we're not going to call it that. We're going to be moving people around based on socioeconomic requirement of 35 percent, those students who meet the socioeconomic threshold by free and/or reduced

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lunches. Now we're going to build learning centers, elementary learning centers in these economically depressed areas... [LB392]

SENATOR CARLSON PRESIDING []

SENATOR CARLSON: One minute. [LB392]

SENATOR PRICE: ...but the students, thank you, Mr. President, but the students may well be going to another school district. So who is the recipient of the newly built, tax dollar funded learning center? The children that moved or are bused each day to another school district or the ones who are coming back voluntarily, mind you, from the other schools to make room for that, when they opt in, opt out, move in, move out? So I would like to offer and may consider offering an amendment that says, if we build a learning center, those students living within the...I would say jurisdiction of that learning center will no longer have a priority placement because they can go to the learning center to help with the education. Kind of makes sense, doesn't it? We build a special school to help learning, then the students who need it can get the learning right there where they live instead of being the odd child out in another area. [LB392]

SENATOR CARLSON: Time. [LB392]

SENATOR PRICE: Thank you, Mr. President. [LB392]

SENATOR CARLSON: Thank you, Senator Price and Senator Adams. Senator Pahls, you're recognized. [LB392]

SENATOR PAHLS: Thank you, Mr. Chairman, members of the body. I'm going to try to direct my questions to each of the amendments. So I do have one for the first one that you talked about, Senator Adams. It's my understanding people of knowledge did develop this bill last year or in the previous couple of years, I should say. And the money went directly to the learning community council, it's my understanding. Now you want that money to go to the schools. I'm just curious why we are moving from the learning community council to the schools, if I'm interpreting that question. If I could... [LB392]

SENATOR CARLSON: Senator Adams, will you yield? [LB392]

SENATOR ADAMS: It was my understanding, Senator Pahls, that what we had originally intended was for it to go to the schools. But I think that the schools had some question about interpreting it that way. The learning community council was to set the levy. I don't know that they were to also gather in the funds. [LB392]

SENATOR PAHLS: Okay, that...I was just curious if we were at one time going to

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actually send the money in that direction. But I can see now why you said that probably wasn't the intent. Thank you. [LB392]

SENATOR CARLSON: Thank you, Senator Pahls and Senator Adams. Those wishing to speak, Senators Pirsch, Wallman, and Price. Senator Pirsch, you're recognized. [LB392]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Adams might yield just to kind of give some background information about the learning community that those of you who did not serve in this body at the time that it was implemented may find informative. [LB392]

SENATOR CARLSON: Senator Adams, would you yield? [LB392]

SENATOR ADAMS: I will. [LB392]

SENATOR PIRSCH: Okay. And the primary, I guess, result of the bill that was passed was the creation of two new entities, correct, focus schools and elementary learning centers? Is that the effect of the bill? [LB392]

SENATOR ADAMS: Of which bill? Are you referring to this bill right now? [LB392]

SENATOR PIRSCH: And I'm sorry, not this bill. But I'm...just kind of background information for those senators...because... [LB392]

SENATOR ADAMS: Well, I think that LB641 was broader, Senator, than just creation of elementary learning centers. I think it was also a sharing so that we would not have the disparities, potentially, in school districts that we were seeing. [LB392]

SENATOR PIRSCH: Very good. That's true, the sharing of resources was a concept through it. And just for background information, because now we're talking about, with this bill, changing certain aspects of that original bill that went through, LB641, which was in years past. Focus schools, just again the concept underlying that is a school district could create or propose to the learning community the creation of a focus school within their jurisdiction. The benefit accruing to that school district would be that half or 50 percent of the building funds would then come from learning community, correct, and in the use of that building? And as a result of that infusion of funds the hosting school district would be required to, as far as enrollment, accept any students from...well, actually it's not...there would be actually a preference given, correct, to certain students of...certain students, correct? Is that correct? [LB392]

SENATOR ADAMS: That's right. And yet on a broader basis, conceptually it's to have a certain percentage of that school open to any student within the learning community.

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[LB392]

SENATOR PIRSCH: Okay. And then with respect to the elementary learning centers, and again I mention this just as background to...for the benefit of those members who are not here, the elementary learning centers, and actually that's a little bit...if you could just speak to their role, their purpose and what they were created for. [LB392]

SENATOR ADAMS: Actually, and I will give it a shot. Senator Ashford, that was really one of his key ideas in this. He could probably speak to it better than I. [LB392]

SENATOR PIRSCH: Very good. I'll ask Senator Ashford then if he would stand and just give again with respect to elementary learning centers, and I know this is a concept that Senator Ashford conceptualized, if he could speak to what an elementary learning center is as part of the...which was included in the learning community. [LB392]

SENATOR CARLSON: Senator Ashford. [LB392]

SENATOR ASHFORD: Thank you, Mr. President. The concept, Senator Pirsch, is that we would create three or four learning...of these centers that would be located in areas where there is high concentrations of poverty. They are not to be classrooms necessarily but they are resource centers. They're a place where students and their parents, guardians, whomever can go to access... [LB392]

SENATOR CARLSON: One minute. [LB392]

SENATOR ASHFORD: ...services, support, mentoring help, tutoring, those sorts of things. It's not designed to be another school building, however. [LB392]

SENATOR PIRSCH: Okay. And who is...and I appreciate that. Who is the eligible class of individuals? And you said it's parents, guardians. Does it include individuals who don't...I mean, just any member in the community? [LB392]

SENATOR ASHFORD: And that's a good question. The way it's set up is for free and reduced lunch children would have access to the elementary learning centers. That's how it's written now. [LB392]

SENATOR PIRSCH: But would parents, guardians and other adults have the access to this as well? [LB392]

SENATOR ASHFORD: Yes, yes. [LB392]

SENATOR PIRSCH: There's no limitation, anyone who walks in has access to those services? [LB392]

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SENATOR ASHFORD: Yes, correct. [LB392]

SENATOR PIRSCH: What, I guess, that...where do the... [LB392]

SENATOR ASHFORD: Well, they'd have access to talk to somebody about what services are available actually. [LB392]

SENATOR PIRSCH: Okay. What...and I know we're going to run out of time here but I'll ask you in a different question. [LB392]

SENATOR CARLSON: Time. Thank you, Senator Pirsch, Senator Adams and Senator Ashford. Those still wishing to speak, Senators Wallman, Price, Pirsch, and Ashford. Senator Wallman, you're recognized. [LB392]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Learning centers, aren't we...schools learning centers? I would like to ask Senator Adams a question, if I may. [LB392]

SENATOR CARLSON: Senator Adams, would you yield? [LB392]

SENATOR ADAMS: Yes. [LB392]

SENATOR WALLMAN: Senator Adams, in regards to revenue from this learning community, is there a huge amount of revenue laying around or something or is it being spent as you get it or can you answer me? [LB392]

SENATOR ADAMS: I guess, I'm not sure what you're asking, Senator Wallman. Well, the sources of revenue to run the learning community, besides the common levy, the state has made an appropriation to the learning community coordinating council as well. [LB392]

SENATOR WALLMAN: And is there a large amount of money in that fund as of now? [LB392]

SENATOR ADAMS: I think it's \$1 million. [LB392]

SENATOR WALLMAN: Okay. I guess, I hope this thing works out. You know I'm for children. And our schools should all be learning communities. So thank you, Mr. President. [LB392]

SENATOR CARLSON: Thank you, Senator Wallman and Senator Adams. Senator Price, you're recognized. [LB392]

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SENATOR PRICE: Thank you, Mr. President and members of the body. I would like to know if Senator Adams would yield to a question. [LB392]

SENATOR CARLSON: Senator Adams, would you yield? [LB392]

SENATOR ADAMS: Certainly. [LB392]

SENATOR PRICE: Thank you, Senator Adams, again. Picking up where we left off, where Senator Pirsch was talking, I guess basically any member of the community can go in and access or ask for the services that could be provided. We didn't really get down who would we get provided. But let me ask more to a point here, does a learning center or does the learning community have an objective identified in statute? [LB392]

SENATOR ADAMS: I think that it does. Now I don't have the statute here in front of me but, yes. And certainly as a committee we had objectives in mind when we worked and created this language. [LB392]

SENATOR PRICE: Great. Would there be a performance standard or goal that is measured called out, like increase graduation, like No Child Left Behind, like increased graduation? [LB392]

SENATOR ADAMS: Yes, yes. Yes, one of the things specifically that I can recall having long discussions on in committee was the assessment process. And, of course, last year we went...we moved from a local assessment to a statewide assessment. That will be used, and actually we have encouraged, if I recall right, it's been awhile, but we even encouraged the learning community to go into the kindergarten and prekindergarten to begin to do some assessment so we can see how students are doing. [LB392]

SENATOR PRICE: Great, great. Now that we've established there's an assessment criteria, when and if those aren't met, what do we do? [LB392]

SENATOR ADAMS: I don't have an answer for you. We could ask that question of any school district. [LB392]

SENATOR PRICE: Right. Well, I'm...I'll let you know in good faith and transparency, I'll be offering amendments along the way to sunset this whole concept. If we haven't gotten better in a period of time, after spending all the tax dollars, if we're not getting better why should...I mean there should be some performance standard that should be met that we can do. Otherwise, as we were talking about earlier on LB545, I'm sure, and as Senator Wallman said, there are opportunities for monies to be spent within the education system already. But thank you very much, Senator Adams. I was wondering, would Senator Ashford yield to a question? [LB392 LB545]

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SENATOR CARLSON: Senator Ashford, would you yield? [LB392]

SENATOR ASHFORD: Yes. [LB392]

SENATOR PRICE: Thank you very much, Senator Ashford. Let me ask a question. In an elementary learning center, when a family member comes in and they've been approved to receive services, rumor mill would have it that services could include clothing. Is this a true or a nontrue (inaudible)? [LB392]

SENATOR ASHFORD: It could include anything. I mean, but the learning community would not be providing the services. The services would be available outside of the learning community itself. And the funding for those would be the normal funding sources for those kinds of nonprofit services, if it were a nonprofit. If it was governmental it could be those services. Here's the point. The reason we did this, the reason that we did this is we had a high rate of students, primarily, in the, you know, eighth, ninth grade, basically not going anywhere after that, not completing, not going beyond ninth grade. There were issues in the elementary years where most of it rooted in poverty and issues related to poverty that need to be addressed. And there need to...there needs to be focus because we're paying so much more for those children to fail later. So it could be any kind of laundry list of services you can imagine. And we put that list in the statute. [LB392]

SENATOR CARLSON: One minute. [LB392]

SENATOR ASHFORD: But it is designed to have a laser-like focus on those kids that traditionally have been failing in the system. And to assess them, Senator Adams was right, we put in a new assessment tool to do that. [LB392]

SENATOR PRICE: Well, thank you, Senator Adams (sic). And I agree. And we've been listening to studies this year presented to us, talked to the linkage of poverty to health problems. So I don't stand in argument thereof. But I am concerned that what started out now as nonprofits become a publicly funded scenario. I don't know that people who are currently publicly funding this will be there in five years or will be there in ten years. And that will then become another facet of public education. Thank you, Mr. President. [LB392]

SENATOR CARLSON: Thank you, Senator Price, Senator Adams, and Senator Ashford. Senator Ashford, you are recognized. [LB392]

SENATOR ASHFORD: Yeah, let me just expand a little on...Senator Price is making some excellent points. And Senator Pirsch is going back and giving everybody some context on this, which is very critical. Here's the situation, the situation in Omaha was

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dire, is dire, continues to be dire with poverty children. I think what happened in Omaha with the creation of the learning community, at least as it relates to the 140, I guess what it is, 35,000 children, 37,000 free and reduced lunch children was that we didn't have a plan or a scheme and that the failure, the failures that resulted from that not having a scheme or a unified, collaborative way to deal with those poverty children, no matter where they exist in the 11-school district area, whether it's Sarpy or Douglas County, was going to continue unless we had that focus. What has in fact happened, and this happens a lot, and my experience in the Legislature is even though we get knocked around a lot, Senator Price, in our role as legislators, what really happens is sometimes, whether it's a nonprofit community or the business community, in all of our cities across the state, in all our communities, they somewhat wait for the Legislature to make a move. What...they may kick us around and not really want to hear from us or whatever it is. But they kind of wait for us to kind of develop that platform, that way forward. And I can think of lots of examples of that. The Qwest Center in Omaha probably never would have happened had Dave Landis not come up with a scheme to fund the Qwest Center. Literally, I don't think it would have happened. So even though we kind of get kicked around, they look to us for leadership. Whether we made the perfect model here with the learning community, I don't know, I'm not an expert in education. But I do know that what it was and has become is a catalyst for change. And it's a catalyst for change that may take 10 years or 20 years. I don't know if Bright Futures will be there in ten years, I would be amazed if they weren't. I mean it's possible that they could go away but they certainly don't look like they're going away now. And money, the people with the ability to make significant contributions in our community in Omaha are making those contributions. We are a generous community. We're a generous state. And that money is being spent and it's being spent on the right thing. I guess in conclusion I'd say this, in talking to experts on this across the country, and there are people that are writing papers and books about the learning community, nothing like this has ever been done in the history of education in our country. We are, for a state that seems to be, it's suggest by the national media on safe haven, these, oh Nebraska, it's a backwater, no it's not at all. We are a state that takes its problems head-on and tackles them and solves them. And we have done something here with the learning community that in the end will be great. It's going to be...there are going to be hurdles, there are going to be issues between Sarpy and Douglas County that exist today that we're going to have to get over somehow and figure out a way to work together. But we are one people with one problem to deal with, and that's educational opportunity for kids in poverty. I believe we'll get there. And the amendments we're talking about today are technical little amendments. What I hope does not happen, and I guess my message to the outside world would be, let's not get bogged down in technicalities, let's not get bogged down in minutiae. Let's always think of the greater vision, the greater good. And I think if we do that we will succeed, we will succeed and not fight the little battles. We can, you know, over a beer or lunch we can talk about the little battles, but it's the big vision that matters. So I have great, great confidence we're going to get there. [LB392]

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SENATOR CARLSON: One minute. [LB392]

SENATOR ASHFORD: With that, I don't know, Senator Pirsch is gone, but he had some questions. With that I would just relinquish the rest of my time, Mr. President. [LB392]

SENATOR CARLSON: Thank you, Senator Ashford. Those still wishing to speak, Senators Council and Price. Senator Council, you're recognized. [LB392]

SENATOR COUNCIL: Yes, thank you, Mr. President. I've been listening to the debate thus far and had elected to remain out of the debate and just listening to the discussion. But I felt compelled to interject at this point in time to provide some clarity and some perspective. I mean, we must understand that the learning community council is just being established. In fact, I just attended the first meeting of the subcouncil for the district that I live in a couple of weeks ago. And it was the first opportunity for the residents of that area to meet with their subcouncil representatives and to gain some understanding as to exactly what the learning community council was designed to accomplish. And when we talk about these elementary learning centers, for those who were not in this body when the bill was passed or did not follow this body's debate of the bill before it was passed, would not have been aware of the real serious issues and questions that were raised with regard to local control and local involvement. And speaking of local control and local involvement, not in the traditional school board sense or the traditional city council sense but getting that control and that involvement down to the lowest possible level in the community, and that level being that of the parents and the children so that they could be involved in designing the best instructional programs to meet the needs identified by the parents in that particular subcouncil district. And if you look at the statute, when it speaks to the elementary learning community and the subcouncil and the elementary learning centers, the legislation speaks specifically to what it was designed to achieve, that it's designed to improve achievement and is designed to accomplish that in part through the development of elementary learning centers. And in developing the plan for the learning centers the statute specifically provides for obtaining input from the community. And if the community, in providing that input, identifies services that they believe are necessary to be provided to these elementary youngsters to better prepare them for academic rigor then that is what the subcouncil is supposed to respond to and try to accomplish through the elementary learning centers. And it was designed in mind that a lot of these services that these children would need to be academically successful wouldn't necessarily be in the form of what we consider to be traditional instructional support, that would need...it would go beyond instructional support. It would go into tutorial programs. It would go into providing additional assistance. And, yes, Senator Price, in some instances it may require at least referrals and making available means to assist those children with clothing, working collaboratively to deal with some of the mobility issues and the transportation issues. [LB392]

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SENATOR CARLSON: One minute. [LB392]

SENATOR COUNCIL: Some of you may have read the distressing article in the Sunday World-Herald about the young man who missed so many days of school. You probably missed one of the underlying themes there was the fact that his mother moved 25 times. And a lot of that was in large measure due to eviction, and eviction is the result of lack of income in many instances. And so these elementary learning centers, one of their objectives is to identify the express needs of the children to be served in that subcouncil and to then develop collaboratively the services and the service providers to accomplish that. So I rise in support of both the amendments and the underlying bill and would urge my colleagues to vote to advance. [LB392]

SENATOR CARLSON: Thank you, Senator Council. Senator Price, you're recognized. [LB392]

SENATOR PRICE: Thank you, Mr. President, members of the body. I really tried to tell myself I wouldn't get worked up and I've done a pretty good job, and questions I have yet (laugh) remaining and more are forming. Senator Adams, would you yield to a quick question? [LB392]

SENATOR CARLSON: Senator Adams, would you yield? [LB392]

SENATOR ADAMS: Yes. [LB392]

SENATOR PRICE: Senator Adams, thank you very much, sir. A question I have is those issues, the amendments that we're debating today, did all the amendments in what we're debating have an opportunity to have a public hearing? [LB392]

SENATOR ADAMS: Yes, yes. [LB392]

SENATOR PRICE: Thank you very much. Also, I'd like to say to Senator Ashford, thank you. You know, Senator Ashford is a guy who...well, I would say altruistic, you know? He's looking far out, he always has great intentions. Even on the basketball court, you know, he was putting out rainbows. And me, I'm more of a guy who plods and toils in the soil. So, I guess, betwixt the two of us, we've got a good spectrum there going on. And maybe I'll trip over the roots a little too much here in my efforts. I'd also like to call out, when Senator Adams was talking about the amendment, to get back to being germane, talking about the amendments about nonvoting members, as you look at this learning community there will be small communities like south Sarpy, and Springfield will never have enough people, if every single man, woman and child voted, to outweigh the rest of that district that includes...that wraps all the way around Omaha. So the people in Springfield will never have a vote. And they did throw a nice bone. They said

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on the subcommittee we'll take your input, but you will not get to vote, sorry. Now if you really work hard and you campaign hard, you may pull it off, you never know. But just get used to it, you will never have a vote. Okay. Everybody is okay with that, though. We'll see if the courts are later on, I suspect. And the next thing for the body, as we were talking about LB545, and we haven't talked about it very much, wait until the transportation costs hit. Thirty-five percent of the students, now we are talking in the extreme here, okay, but when you want to move up to 35 percent or a large percentage, what I would consider a large percentage of students all the way around the learning community, if somebody is living way up north or way down south or east or west and opt into a school, you're going to transport them to and fro, to and fro. My understanding, I could be...I'll stand corrected if it's wrong, you'll transport the family to and fro, and to and fro to sporting events, concerts. And I'm not saying that that's wrong. I mean, if we've allowed the child to go to the school, and we've said they should go to school and it's good for them to go to there, but get ready for the cost of doing this. What if there's only five students way out in Elkhorn going to go way over into the eastern part of Omaha, back and forth, back and forth? There go your transportation costs. So members of the body, as we go along over this, over the next months and years, keep an eye to it so I don't have to say an I told you so. Thank you very much, Mr. President. [LB392 LB545]

SENATOR CARLSON: Thank you, Senator Price and Senator Adams. Senator Pahls, you are recognized. [LB392]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Senator Council piqued my interest when she was referring to an article that was in the World-Herald this past week. It dealt with young individuals not making it to school. I want to show you how I view that and how the relationship is to show accountability, which I spoke to a couple of days ago on the education bill. What has happened in the past, if a child is dismissed from school they spend a day or two outside of school. Now I did read in the paper that, right now anyway, OPS is changing their philosophy on that. We are going to find a different path for that individual. If you take a look at the number of days that students are gone from school, that has a major impact on their future success. And when we talk about accountability, this is how we would hold the districts and the learning community accountable--show us what you're doing and show us the improvement. That's why I'm not saying just continue every year, add additional money, but we should hold people to the fire, feet to the fire. It's that simple. And I think if we take a look at schools overall, we can see some significant things that we could be taking a look at, very concrete, other than just student achievement. That is paramount, that is important of course. But there are other ways, other things that we should be taking a look at to see how we're getting to that achievement, to see how we are reducing the dropout rate. It starts in some of those small steps. So when we talk about accountability, I don't think it's that hard to do. I think the information is there. We need to collect it and work with it. I wasn't going to talk about this but we keep hearing about

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these focus schools, learning centers, things like this. I would like to ask Senator Adams a question, if possible. [LB392]

SENATOR CARLSON: Senator Adams, would you yield? [LB392]

SENATOR ADAMS: Yes. [LB392]

SENATOR PAHLS: Senator Adams, are you familiar with the school that's in Westside right now, that Westside, Elkhorn and OPS went together to develop? [LB392]

SENATOR ADAMS: I am. [LB392]

SENATOR PAHLS: Is...does that have some of the attributes of a focus school or something similar to that? [LB392]

SENATOR ADAMS: It does. [LB392]

SENATOR PAHLS: And I thank you for that because I've not been there. But this tells me one thing. This school, which three districts--Westside, Elkhorn and Omaha--came together, they came together before the learning community was actually formed. So it goes to show you the potential out there is there. It's sad to say that we need something like a learning center to get this to happen. But I'm also saying is, how much more time do they really need, do the districts really need to say, hey, for us to have these other schools, I do see that we need to give, since they are in the embryonic state, we do need to give them more time. But I think we should again hold them fast to the rule. But again, like I say, three districts came together and I think they had a waiting list for students to get in there. So the potential is unbelievable. And I'm counting on the school districts, of course, to continue with that same...in that same direction. But again for the citizens of the learning community area if they see that true evaluation is going on, accountability is taken into its place where it should be, I think that this would bring about change much faster than we are hoping. Thank you. [LB392]

SENATOR CARLSON: Thank you, Senator Pahls and Senator Adams. Those still wishing to speak, Senator Friend, and Senator Ashford. Senator Friend, you're recognized. [LB392]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I didn't plan on speaking to this issue but I think it's important that some historical perspective is put out here. Senator Pirsch addressed that a little bit earlier. I railed, I don't know, it was a couple of days ago, maybe it was yesterday, I railed off and rambled on a little bit about OPS and how they were divided into three districts a few years back. And Senator Price, you know, in all fairness, I mean he acts a little put out, you know, by the learning community. Frankly, I'm not going to sit here and shed a whole lot of tears for him or

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anybody else. There are proverbial scars on this wall over this issue, all over the wall. Frankly, Senator Price, cry me a river. I don't...I've heard it all, okay? Let me give you a little historical perspective as to how we got here now and how we're trying to repair something that still might be fundamentally broken. OPS was out in front a few years ago, we all remember it, saying one city, one school district, we're it, we need to go out and we need to take what is ours. And we can all sit in here and say, you know what, OPS is being a bully and they were being mean, but they had a point of view and they had a point of view based on our law, on our statutory requirements, the things that we in this Legislature created. Then discussions within this Legislature turned into a situation more or less that said, you know what, OPS is out of line, OPS isn't doing things right. I'm paraphrasing. A lot of folks in this Legislature considered it in many ways a hostile takeover of places like Millard and whoever else they could get their hands on at that particular time, who happened to fall within Omaha city limits. Then a bill dealing with restructuring was hijacked, no other way to describe it. The bill was...I was here, I came in the doors, the bill was hijacked. That's where the proverbial scars start flying around. And OPS was then divided into three districts. And you got a conservative Republican like me saying, no, not going to happen, I'm going to defend a district and I don't agree with hardly any of the things that they do educationally, I'm going to defend them. And you know why? Because I believe that it violated...what happened on that particular day or that evening violated the Fourteenth Amendment, the due process clause. I believe that it did. So you want to stir up and dredge up history? Let's dredge it up because I was here and I didn't like it. And I said, let's kill that bill and it didn't get killed. So we came back and few people were here to witness it. We came back the next year and created a learning community. And guess what they had because they created this? They had all the Omaha senators right where they wanted them. You know why? Because you had an Omaha senator right here saying, hey, you're violating the Fourteenth Amendment, the due process cause, you're violating it and I have to back you now to support this learning community. That's why we are where we are. And Senator Adams and the Education Committee are doing the best that they possibly can to make something, chicken salad, out of you know what. That's what it is. [LB392]

SENATOR CARLSON: One minute. [LB392]

SENATOR FRIEND: I can guarantee you that there are people living down in Senator Gay's area and Senator Price's area and other areas in Sarpy County, and there are people that live outside, up in Bennington and out in Millard and everywhere else, I know this, I can guarantee it, and they don't like the situation. But it was a group effort, folks. They helped, they all helped. So I do get a little fired up because it brings back some fond memories. I know you don't think they're fond but if Senator Price feels a little bit angry, I can rewind the tape really quickly and easily and I can reopen wounds too. Here's the point, all of this is irrelevant. What we're trying to do is fix things that we think we can fix right now. You want to blow away the learning community, you give it

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your best shot, give it a try. [LB392]

SENATOR CARLSON: Time. [LB392]

SENATOR FRIEND: Thank you, Mr. President. [LB392]

SENATOR CARLSON: Thank you, Senator Friend. Speaker Flood, you're recognized for an announcement. [LB392]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. Good afternoon, Senator Mello. (Laugh) Quick couple of announcements today: Looking at tomorrow, we're going to start with Final Reading in the morning. We're going to work on some Select File prior to lunch. We will take up the Select File budget bills at 1:30 tomorrow, followed by some General File. It's important to remember that in the rules, the rules state that the budget has to be passed on Final Reading before the eightieth day. And as we continue in our process I've been advised by the Appropriations Committee that they are in a position to take up the budget tomorrow at 1:30. Tomorrow is a day that has been designated as a late night. I would be prepared to stay late tomorrow evening if necessary. Secondly, LB545 is the school K-12 TEEOSA school funding bill. As I committed to you last week, that will not be scheduled this week. I also told you that you would have the numbers 24 hours in advance of that bill being scheduled. It is my understanding, in talking to Senator Adams, that we will have the numbers for you, at the latest, sometime Friday. I hope to send you home for the weekend with the numbers and take LB545 up on Monday. Obviously, that bill could take some time. As part of that, it's important to note that the budget will move on Select File, conceivably, prior to LB545 moving on Select File. For that reason, I have asked Senator Adams, in consultation with Senator Heidemann, to prepared an A bill to LB545. It's in shell form right now. It's going to be introduced in a few minutes here and it's going to show up on the agenda most likely tomorrow or Friday. That is only to allow the Legislature to make changes after the Legislature resolves what it wants to do on the underlying LB545 on Tuesday, so that in the event that LB545 is scheduled on Final Reading after the budget package, the Legislature has a way to make those numbers work. I want to be very clear, the introduction of LB545A is not in any way intended to short-circuit the process. It is only being used as a vehicle to accommodate the Legislature's will after the Legislature, on Select File, determines the direction we want to go on school funding. So when you see that on the agenda, I'm simply going to be putting it there to catch it up from General to Select File. And it will be on the agenda either tomorrow or Friday. Finally, in regard to this evening, it is my intention to adjourn sometime prior to 6:00 p.m., 6:00 p.m. at the latest. I would hope that we would be able to move this bill that we're currently working on so that we could spend some time later today on Senator Lathrop's bill as it relates to wind. Thank you, Mr. President.

SENATOR CARLSON: Thank you, Speaker Flood. Back to discussion of AM1303.

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Senator Ashford, you're recognized. [LB392]

SENATOR ASHFORD: Question. [LB392]

SENATOR CARLSON: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB392]

ASSISTANT CLERK: 28 ayes, 1 nay to cease debate, Mr. President. [LB392]

SENATOR CARLSON: Debate does cease. Senator Adams, you're recognized to close on AM1303. [LB392]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, what AM1303 does is to complement the committee amendment. Now in the committee amendment what we are in effect doing is saying that the levy proceeds of the common levy will go to the county treasurer. The county treasurer will then distribute those directly to the school districts. What AM1303 does is to further harmonize language to say that if the schools within the learning community haven't filed their proper financial reports or their budget documents, the county treasurer, not the learning community, will hold the property tax until those documents are properly filed. Thank you, Mr. President. [LB392]

SENATOR CARLSON: Thank you, Senator Adams. You've heard the closing on AM1303. The question is, shall the amendment to the committee amendment to LB392 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB392]

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of the amendment to the committee amendment, Mr. President. [LB392]

SENATOR CARLSON: The amendment is adopted. We return to discussion on AM...Mr. Clerk. [LB392]

ASSISTANT CLERK: Mr. President, I do have a second amendment to the committee amendment. Senator Adams would offer AM1324. (Legislative Journal page 1337.) [LB392]

SENATOR CARLSON: Senator Adams, you're recognized to open. [LB392]

SENATOR ADAMS: Thank you, Mr. President. This particular amendment and, Senator Price, this addresses one of your earlier questions, January 1 the learning community coordinating council formed. And once they got organized and got to looking at things, they brought to us some suggested changes as well. However, the bill had already

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cleared committee, had cleared committee with a committee amendment. And as I looked at their suggestions I had a concern. It was rather lengthy. And some of their suggestions for changes in the statute now, I personally believe and I think that the...all right, of all of these amendments I guess I have the wrong one. Is this...I believe this is the amendment then that deletes the focus schools from getting the new school adjustment. I got to keep track of all of these amendments. I'm sorry. This amendment very simply deletes from the bill and from the committee amendment the language that says that the new focus schools would be eligible for new school adjustment. Sorry about that. Thank you, Mr. President. [LB392]

SENATOR CARLSON: Thank you, Senator Adams. You've heard the opening on AM1324. Are there senators wishing to speak? Senator Nelson, you are recognized. [LB392]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to ask a question of Senator Adams. [LB392]

SENATOR CARLSON: Senator Adams, would you yield? [LB392]

SENATOR ADAMS: Yes. [LB392]

SENATOR NELSON: Senator, I was here when you did your overall opening and then got called into committee for 20 minutes and so I missed some of this. But would you just very briefly...this affects us here as far as focus schools. Are you just delaying this implementation of the focus school, is that what it is? [LB392]

SENATOR ADAMS: No, what we're doing is this. In the underlying bill the request on the part of the superintendents was that we consider for a new focus school that is created letting them be eligible for the new school adjustment. The committee then decided that not during this biennium and, therefore, delayed it to the second. In consultation with the superintendents, I think it would be better if we delay it altogether for right now so that we get a better handle on how the whole focus schools will evolve in the learning community before we make them eligible for any new school adjustments. So this particular amendment would just simply delete that out of the bill altogether. [LB392]

SENATOR NELSON: It strikes it indefinitely then until... [LB392]

SENATOR ADAMS: For right now, that's right. [LB392]

SENATOR NELSON: All right, thank you. I would support that, Mr. President. Thank you, Senator. [LB392]

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SENATOR CARLSON: Thank you, Senator Nelson and Senator Adams. Are there other senators wishing to speak? Seeing none, Senator Adams, you are recognized to close on AM1324. Senator Adams waives closing. The question is, shall AM1324 be adopted? All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB392]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of Senator Adams' amendment to the committee amendments. [LB392]

SENATOR CARLSON: The amendment is adopted. We return now to discussion of AM1079. Are there senators wishing to speak? Seeing none, Senator Adams, you're recognized to close on AM1079. [LB392]

SENATOR ADAMS: Thank you, Mr. President. What this amendment now does, you have just deleted out of it half of the committee amendment which was to allow the focus schools to get the new school adjustment. That's gone. Instead what this does is to now say that the proceeds of the common levy, the levy set by the learning community coordinating council, will be distributed from the county treasurer directly to the school districts. Thank you, Mr. President. [LB392]

SENATOR CARLSON: Thank you, Senator Adams. You've heard the closing on AM1079 to LB392. The question is, shall the committee amendment be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB392]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of the committee amendments as amended. [LB392]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk for an amendment. [LB392]

ASSISTANT CLERK: Mr. President, Senator Nordquist would offer AM1296. (Legislative Journal page 1307.) [LB392]

SENATOR CARLSON: Senator Nordquist, you're recognized to open on your amendment. [LB392]

SENATOR NORDQUIST: Thank you, Mr. President and members. I'd like to thank Senator Adams for allowing me to run this amendment on here and for his support of this. Basically, AM1296 will allow school districts to use checks or other instruments drawn upon bank depository funds in the state. Right now they're required to make payments by warrant. For those of you that are not familiar, a warrant is an order to the treasurer of a political subdivision to make a payment. Before that payment is made it must be confirmed against a register, basically a list of all those payments written. It's basically an extra verification step. It takes a day, a day and a half of extra processing

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and school districts would like to see this changed. This statute requiring warrants (inaudible) payment was put in place in 1930 when school districts would receive basically two big lump sums of money every year. And they would have the list to know, you know, what order payments should be going out in case there was...in case there was not enough revenue coming in at the time. So this amendment was offered, essentially as a bill, LB221, that I offered, 5 votes out of committee, 0 no votes with 3 absent. I'd appreciate your support of the amendment. Thank you. [LB392 LB221]

SENATOR CARLSON: Thank you, Senator Nordquist. You've heard the opening on AM1296. Senators wishing to speak, Senator Adams, you're recognized. [LB392]

SENATOR ADAMS: Thank you, Mr. President. Very quickly, I personally endorse this and I believe that the committee does too. And what we wanted to be sure that we did is to offer this to all school districts, and that's what this language would do. Thank you, Mr. President. [LB392]

SENATOR CARLSON: Thank you, Senator Adams. Are there other senators wishing to speak? Seeing none, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question is, shall AM1296 be adopted? All in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB392]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of Senator Nordquist's amendment, Mr. President. [LB392]

SENATOR CARLSON: AM1296 is adopted. Mr. Clerk. [LB392]

ASSISTANT CLERK: Senator Adams would offer AM1300. (Legislative Journal page 1308.) [LB392]

SENATOR CARLSON: Senator Adams, you're recognized to open on AM1300. [LB392]

SENATOR ADAMS: Thank you, Mr. President. Now I have the right amendment. As I was mentioning to Senator Price raised the question about how much of what we're doing had a public hearing, the underlying bill and all that we have discussed thus far has had a public hearing. This that I'm about to offer, this particular amendment was...had a lot more to it. The learning community coordinating council went into effect January 1. They have started their work. And they have brought to us, brought to me and to the Education Committee, some changes in language that they would like to see. The list of things they'd like to see changed was rather lengthy. However, I believed and I think that the committee agreed with me that some of the things they were asking for were far too substantive to allow them to be amended at this point without a hearing. And so what I'm offering now in AM1300 are technical changes that I believe don't require a hearing, they harmonize language and, in essence, what they do is this. The

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learning community coordinating council is a new political subdivision and, because of that, what we're doing in this amendment is taking that particular political subdivision and placing them in the statute along with others doing some key things. For instance, number one, the coordinating council treasurer, we'll require a bond for them; number two, the learning community coordinating council will fall under the Political Subdivisions Tort Claims Act, just like a county board, other school districts, municipalities; number three, the learning community coordinating council will also fall under the local Government Miscellaneous Expenditures Act. It's been a bad afternoon so far, hasn't it? And we're also going to change the language from "election districts" and we're going to instead call them what they are, "subcouncil districts." And then finally, the learning community would be exempt from sales and use tax like other political subdivisions are. That's the essence of AM1300, Mr. President. Thank you. [LB392]

SENATOR CARLSON: Thank you, Senator Adams. You've heard the opening on AM1300. Are there senators wishing to speak? None. Senator Adams, you're recognized to close. Senator Adams waives closing. The question is, shall AM1300 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB392]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB392]

SENATOR CARLSON: AM1300 is adopted. We return to discussion of LB392. Are there senators wishing to speak? Seeing none, Senator Adams, you're recognized to close. [LB392]

SENATOR ADAMS: Thank you, Mr. President. Let me try if I can, body, to summarize all that's just occurred. And I don't hold out a whole lot of faith that I'll get that correct this afternoon, but here we go. First of all, what we have done here is to say that there will be primary elections for the learning community coordinating council. We have amended and deleted out the section of the bill that would have said that new focus schools would qualify for new school adjustment; we haven't delayed it, we've simply deleted it out. We are giving the learning community coordinating council an extra 11 months to plan for and create the elementary learning centers. We are saying to the nonvoting members of the learning community coordinating council, you can also participate in the achievement subcouncils in carrying out statutory obligations. What we have said is again the common levy proceeds collected by the county treasurer and will be distributed back to the individual school districts by the county treasurer as well. We have harmonized language dealing with budget preparation and financial status, saying that the learning community coordinating council will not be the holder of the funds until those reports are properly filed, instead the county treasurers will be. And then we have also just taken in the last amendment and folded into the bill language that says that the learning community coordinating council is a political subdivision and, therefore, under

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the Tort Claims Act, under the Miscellaneous Expenditures Act, will be treated as a political subdivision. The treasurer will have to be bonded and they will be exempt from sales and use tax. Thank you, Mr. President. [LB392]

SENATOR CARLSON: Thank you, Senator Adams. You've heard the closing on the advancement of LB392 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Are there other senators wishing to vote? Record, Mr. Clerk. [LB392]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB392]

SENATOR CARLSON: LB392 advances. Items for the record, Mr. Clerk? [LB392]

CLERK: Mr. President, thank you. New A bill. (Read LB545A by title for the first time.) Amendments to be printed: Senator Price to LB532; Senator Heidemann to LB311, LB315, and LB316. That's all that I had, Mr. President. (Legislative Journal pages 1338-1345.) [LB545A LB532 LB311 LB315 LB316]

SENATOR CARLSON: Thank you, Mr. Clerk. Next item. []

CLERK: LB561 is a bill by Senator Lathrop. (Read title.) The bill was introduced on January 21, referred to the Natural Resources Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM1210, Legislative Journal page 1224.) [LB561]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Lathrop, you're recognized to open on LB561. [LB561]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. Looks like this is going to be the last thing we get done today, so hopefully we'll get it moved before we adjourn. LB561 is a very simple yet very important bill to wind development, the development of wind energy in the state of Nebraska. I'd begin with a little background. As you all know, we're a public power state. That means that all of our electrical utilities are owned by public political subdivisions. In my case OPPD provides the electricity to my home in Omaha, and you all have somebody that's public power providing that to you. To ensure that Nebraska stays a public power state we have in place in the law a requirement that public utilities can eminent domain, or take by the power of eminent domain, any power generating facilities. That was done to ensure that we remain a public power state. That's a great idea. It's worked well for our state and has provided us with an opportunity to have low-cost electricity. The development of wind energy, however, requires developers to come in and partner with these very same public power districts. The problem is that if we don't provide an exception for the eminent domain power of these very utilities, nobody will come in and develop wind energy in the state of Nebraska, that's because they fear that as soon as they develop

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these wind projects they will be eminent "domained" according to statute. The bill very simply says that public power may, they're not required to, they may enter into contracts wherein they waive their right to eminent domain. I think you probably see the logic of this. All we're doing is telling public utilities or those who would partner with public utilities to develop wind energy in this state that if you enter into an agreement with the power district, the power district waives its right to eminent domain that project. Then the investors and those involved in the development can be assured that their investment is safe and won't be the object of eminent domain. It really is that simple. Wind energy has the potential in this state that has been relatively untapped. It is an important tool for us for a lot of reasons. First, we have...we're the sixth best location for wind...the development of wind energy, but we remain low in the order of those who have actually taken the initiative, states that have taken the initiative to develop wind energy, this eminent domain piece being one of the larger barriers. Ultimately, ultimately, wind energy stands to be the equivalent of coal coming out of Wyoming. If we do this right and develop the wind energy potential in this state, it can become an export commodity, not a commodity, but an export product from the state of Nebraska that we send out to other states and make money on it, just as Wyoming does with its coal and other states do that mine and tax things before they send them out of state. I am very pleased and proud to be involved in LB561 and the development of wind energy in the state. This is a very important component and I would encourage your support of LB561. Thank you, Mr. President. [LB561]

SENATOR CARLSON: Thank you, Senator Lathrop. Mr. Clerk for an amendment. [LB561]

CLERK: Mr. President, Natural Resources offers AM1210. [LB561]

SENATOR CARLSON: Senator Langemeier, as Chair of the Natural Resources Committee, you're recognized to open on your amendment. [LB561]

SENATOR LANGEMEIER: Mr. President, members of the body, AM1210 was LB471 that was heard within the Natural Resources Committee and introduced by Senator Fulton. It advanced from the committee 7 for, none against and 1 absent. And since that time, the one absent, Senator Fischer, has added her name as a cosponsor to LB561 on this issue. At this time, since Senator Fulton did introduce LB471, I'll turn it over to him to explain his bill. And I'd yield him my time and then my light is on, I'll come back and do some more. Thank you. [LB561 LB471]

SENATOR CARLSON: Thank you, Senator Langemeier. Senator Fulton, you're recognized. [LB561]

SENATOR FULTON: Thank you, Mr. President. Thank you, Senator Langemeier. Indeed, this was a bill that I introduced earlier. It was LB471 and it did enjoy the support

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of the committee with no opposition. AM1210 eliminates a statutory hurdle to the development of renewable power generation in Nebraska. Section 70-1014 requires electric generation applicants to pass a least-cost test standard in order to gain approval by the Power Review Board. AM1210 amends 70-1014.01 to change this standard only in cases where the application is for a facility that will use renewable energy sources to generate more than 10,000 kilowatts of electricity. The Power Review Board shall approve such applications so long as, one, the total production from all renewable projects of the applicant does not exceed 10 percent of the producer's total energy sales; and two, the applicant's governing body has afforded its ratepayers with a public forum to comment on the application. Subsection (3) within AM1210 also allows C-BED projects to apply to the board and receive approval so long as the purchaser utility holds a public hearing for its ratepayers and the power generated by the C-BED project is sold exclusively to the purchaser utility for a period of 20 years. LB471 does not amend the least-cost standard for any application above this 10 percent threshold. AM1210, the committee amendment, represents a collaborative attempt to enable additional renewable power generation in Nebraska while preserving the integrity of Nebraska's public power system. Basically, what has happened in the course of our public power experience as a state, the Power Review Board needs to approve projects based on a least-cost scenario. And as of yet, renewable energy does not compete on a least-cost scenario. I suspect, from an engineering as well as from a financial or investment standpoint, that's going to change over time. But in order for it to change over time we have to take that first step, and we can't do that so long as we have a least-cost scenario applied to these projects. So this is a...this would allow for projects which may not otherwise meet that least-cost scenario or meet that least-cost standard to at least get started. And we limit the scope of these projects to smaller projects. And we also limit the scope based on a percentage of the overall energy portfolio of that producer. So I...this is...I'm very happy that the committee, I'm very thankful to the committee for making this bill a committee amendment. It's entirely appropriate that it go on LB561 because I think, taken in its entirety, this amendment and the bill will be an important first step for Nebraska to be able to participate as it should in the renewable energy revolution that I think is part of our future. So with that, I ask for your approval of AM1210. Thank you to Senator Langemeier. And if it's possible to give the time back, if he would take it, I'd do that, Mr. President. [LB561 LB471]

SENATOR CARLSON: Thank you, Senator Fulton. Senator Langemeier, 6 minutes. [LB561]

SENATOR LANGEMEIER: Thank you, Senator Fulton. First of all, I'd like to thank Senator Lathrop and Senator Fulton for bringing these two bills. And I also want to talk a little bit. I would like to thank Senator Lathrop for his patience on LB561 as we talked about an amendment. Many of you have heard about it. It's kind of better known as the Tenaska amendment. You see that it's filed on your laptop. You'll see in Chamber Viewer it was filed. It was filed earlier this year because we had a hearing on it. It was a

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new idea brought to the committee as a hurdle to wind development in Nebraska, and so we filed it early on. We scheduled it. We had a hearing. And you're going to see, as the committee chose not to advance it as part of this packet...package, excuse me, so you'll see a motion to withdraw on there. So we are going to withdraw that at this time. That amendment is not part of this. I know you have heard a lot of discussion on that amendment. And I look forward to having more discussion on it because I think it is a hurdle. But at this point, as the Natural Resources Committee starts to look at wind development with LR83 that we're going to do an interim study over the summer to further look into the obstacles and potential for wind across Nebraska, we think LB561 and now AM1210 are two hurdles that we can take out of the way right now to help the development of wind across Nebraska. So with that, I would ask for your support on AM1210 as well as LB561. Thank you. [LB561 LR83]

SENATOR CARLSON: Thank you, Senator Langemeier. You've heard the opening on AM1210 to LB561. The floor is open for debate. Senators wishing to speak, Senator Haar, you are recognized. [LB561]

SENATOR HAAR: Mr. President, members of the body, I support public power. And, Senator Nelson, I'm excited about or (laugh) enthusiastic about LB561 and the two parts to it. As we've heard before, I believe that these two elements dealing with eminent domain and then Senator Fulton's part to this send an important message that Nebraska is serious about developing wind energy for export. As we've said many times, we'll say it once again, Nebraska is number 6 in wind potential, but we're somewhere down in the number 20s for...in terms of developing that wind potential. Iowa, that's number ten in wind potential, is number two in developing its wind potential. So we have a race with our neighbor next door and I think we can come out very well. The task force that will be...or, I guess, the resolution that has been presented that would establish a study by the Natural Resources Committee is going to be a very important step. And you'll see a report on that by December 1. And again, a very enticing idea, just as every trainload of...every ton of coal that comes out of Wyoming helps to pay the property tax for Wyoming homeowners. I believe that at some point in the future those people in California and New York who buy our wind energy will be paying our property taxes. So I really urge everyone to vote for LB561. Thank you. [LB561]

SENATOR CARLSON: Thank you, Senator Haar. Are there other senators wishing to speak? Seeing none, Senator Langemeier, you're recognized to...Senator Dierks, you're recognized. [LB561]

SENATOR DIERKS: Thank you, Mr. President. I'm not too sure about this amendment of Senator Fulton. I think probably it's all right. I've tried to decipher what it does to the C-BED process that we've had. Maybe I should ask Senator Fulton a question about that. [LB561]

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SENATOR CARLSON: Senator Fulton, would you yield? [LB561]

SENATOR FULTON: Yes. [LB561]

SENATOR DIERKS: You indicate in this amendment that the power should be sold exclusively to the power industry, the power company for 20 years. Is that right? [LB561]

SENATOR FULTON: Right, correct. [LB561]

SENATOR DIERKS: Does that include other power generators as well or is that just C-BED? [LB561]

SENATOR FULTON: That's particularly for C-BEDs, and that's in the amendment. It's on page 2, line 27. It's (3) and that pertains to C-BED specifically. [LB561]

SENATOR DIERKS: Okay. Thank you. Mr. President, I want to take the opportunity to visit a little bit about the bill proper. I'm sure Senator Lathrop knows that I don't support this legislation. I felt that it was somewhat of an affront to the C-BED legislation we got passed two years ago. I fail to see the need for urgency here. It looks to me like, with the study that's going to be made by the Natural Resources Committee this summer, that this could very well be a part of that study. And I would recommend that as a good policy for our legislative body, to remand this to a study of the Natural Resources Committee. Thank you, Mr. Chairman. [LB561]

SENATOR KARPISEK PRESIDING []

SENATOR KARPISEK: Thank you, Senator Dierks. Senator Carlson, you are next and you are recognized. [LB561]

SENATOR CARLSON: Mr. President and members of the Legislature, I'm a little surprised that there aren't more senators weighing in on this bill. And I do want to make a comment or two before we come to a vote on it. I am very supportive of public power. Of course, I'm on the Natural Resources Committee. The amendment that Senator Langemeier referred to that was not voted out of committee, I was one of four members of that committee that didn't vote to bring the Tenaska amendment out. I did that because I felt that the introduction of that amendment was rather ill-timed. I didn't think that it related well enough to LB561 that perhaps it should have. I thought that it was a little bit too quick. And certainly that amendment did change how C-BED would be treated. Now I support public power in Nebraska so strongly because of our rates. The fact that we have very low rates on power is one of the most important factors in the state of Nebraska for economic development and bringing in new business. And I'm

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concerned that we not lose that. I listened to a speaker the other day and several others in this body listened to that speaker, a young man. I think he was a little bit green behind the ears. I think he was perhaps new in his position. And he kept referring to California is doing this and California is doing that. It was all I could do to sit there and not speak because I really wanted to say, young man, look at the power rates in California. California is broke. Nebraska has a cash reserve. Why do we want to be like California? But I'm not against wind energy. I want to promote wind energy. But I want wind energy to come into the state of Nebraska and be economical. I'm not convinced of global warming. I'm not convinced that it's necessary to try and make coal-fired generation expensive so that it looks like that other forms of power generation can compete with it. But I think that the introduction of LB561 to allow companies from the outside, this is free enterprise, come in and negotiate with our power companies in Nebraska is a decent step. Now I voted against that amendment because it changed...it would change significantly, I believe, the situation for C-BEDs. But I'm going to be looking at C-BEDs in the next year. We need some more C-BED projects in the state of Nebraska so that we can provide the wind energy that I believe is needed. And I'm going to be looking at that because if we don't see progress in that area then I would probably no longer be against that amendment. So I was a little surprised that more people didn't want to speak on this today. And I saw this as maybe the last opportunity that I can speak on it. [LB561]

SENATOR KARPISEK: One minute. [LB561]

SENATOR CARLSON: It would be wonderful if we can develop wind energy in Nebraska and export that power at a high price, at the same time provide our people in the state of Nebraska with energy at a low price. That would be the best of all worlds. But let's look very closely at those things that increase the price of our current power just so that we can generate another form of power. But let's do things that put Nebraska in a position to be competitive, put Nebraska in a position to generate income for our citizens, and let's keep the low power rates that we have. Thank you, Mr. President. [LB561]

SENATOR KARPISEK: Thank you, Senator Carlson. Those wishing to speak are Senators Wallman, Dubas, Stuthman, Harms, Schilz, and Loudon, and Dierks. Senator Wallman, you are next and you are recognized. [LB561]

SENATOR WALLMAN: Thank you, Mr. President. Members of the body, we, too, like Senator Dierks and Senator Carlson, have said we have to be very careful that we don't sell the farm to private development and do away with public power. Trust me, it can happen. And I'm a proponent of public power. It's given us cheap rates through the years. And they are at a disadvantage when it comes to using tax credits or carbon credits, I mean, which private developers can use. And if we...somehow if we can change legislation to make it so public power companies could use that, they could

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compete with anybody and we could have a lot more wind development by public power companies. As it is now, they are at a disadvantage. And also with net metering we have to figure out a way to pay for our transmission line. That's a biggie. Iowa has higher power rates. I have a brother that lives in Minnesota, they have lots of wind energy, a daughter that lives in Iowa, have lots of wind energy, but their rates are higher. So, yes, those farmers are making good money on their windmills. I've talked to some, some of them put them up by themselves and sell to Iowa Public Power, put up by farmers. That's millions of dollars and they're getting paid for it in less than ten years. Now that's economic development, folks. That's...they can't hardly spend their money fast enough and that's good, pickups, cars, combines, tractors because they get money off of windmills. I should say wind turbines, I'm sorry, Mr. President. And I know that Senator Karpisek has went to these energy conferences and wind rights, all this encompasses...there's a lot of stuff in this thing. And I appreciate Senator Carlson's comments. We are a public power state, and we better keep it that way if we want cheap rates. And we should try to help them and they should try to help us. It's a two-way street, it's a partnership. The Legislature controls lots of things, maybe we shouldn't, but we have to protect what we think is near and dear to our hears. And I'd yield the rest of my time to Senator Dierks. [LB561]

SENATOR KARPISEK: Senator Dierks, you're yielded 2 minutes and 15 seconds. [LB561]

SENATOR DIERKS: Thank you, Mr. President. I just want to, without acting smart, tell Senator Carlson that the best of both worlds would be if we could keep the profits that are generated by wind energy in Nebraska in Nebraska. And that's what C-BED does. If we allow corporate America to come in and harvest this energy, corporate America will take the profits out of the state. If we can keep the energy harvested by Nebraska people, the money stays in Nebraska. It's as simple as that. Thank you, Mr. President. [LB561]

SENATOR KARPISEK: Thank you, Senators Dierks and Wallman. Senator Dubas, you are recognized. [LB561]

SENATOR DUBAS: Thank you, Mr. President, members of the body. George Norris was a visionary. He created the Unicameral and he created public power. And who would have known at that time where that would take our state. We are looked at nationwide as an incredible example of government and of power providing. We have, as been stated, among the lowest costs in the nation. Our electricity is among the most reliable in the nation. We really are a prime example to the rest of the states across the nation. And so it is important that we don't ever do anything that undermines that incredible vision that George Norris had so many years ago. By the same token, we have the opportunity now to be visionaries. We have the opportunity to expand how we produce energy and to reap incredible economic benefits from a new vision, a vision

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that does not undermine what we have in place already but that expands and enhances what is in place and what is serving us so well. There are so many people who have been blazing this trail ahead of us, Senator Dierks is one of those leaders. They've worked long and hard to get us to even consider looking at what alternative forms of energy and what wind energy could provide for the state. You know, just in the short amount of time that I've been down here, the first year down here there was just a couple senators who were talking about wind energy and what can we do for wind energy. This year we had, I should have taken a count, I don't remember right off the top of my head, but we had far more bills related to renewable energy than we've had in recent times and it's because people are getting on board. People are getting it. People are seeing what renewable energy, especially wind energy, can do for the state. We're looking at what's going on in states around us. So many of my constituents and people come up to me and say, look what Iowa is doing, look what Minnesota is doing, look what...why aren't we, why aren't we, you know, let's get moving. Well, we do need to approach this with caution. We do need to be careful. Because we're public power we don't have the opportunities that other states do, as Senator Wallman said, to take advantage of the tax credits and some other things. But we can still make progress. We can still move forward. We just have to do it in a little bit...a different fashion and, again, never wanting to undermine what public power has brought to this state. We have incredible opportunities. Senator Lathrop's bill and the amendment, which was Senator Fulton's bill, are one of those things that were borne from public power. Public power was given the right of eminent domain so that we could get the public power structure put in place. So for them to give up that very important component of their structure is...it's a pretty big step and I think, with the language being permissive, it's not one that's going to just have a domino effect. It will be slow, it will be cautious, it will be examined on a case-by-case basis. But yet it is an important thing that we are going to have to put in place if we are going to move renewable energy forward. There will be little to no development if there's always that potential for public power to come in and invoke eminent domain on any project. [LB561]

SENATOR KARPISEK: One minute. [LB561]

SENATOR DUBAS: There's not going to be anybody who's going to be willing to put their financial resources on the line with that very real possibility of happening. So I think we have to be cautious and careful and guarded of our public power process, but to keep in mind the vision that George Norris had and for us to have that same vision to take Nebraska into the twenty-first century and beyond, to encourage economic development, to revitalize especially our rural areas. I think the potential for rural Nebraska is beyond measure, beyond any of our expectations right now. So I'm excited about the bills that have been introduced this year and the potential that they have for us. I'm looking forward to the interim study and looking at the big picture and creating that plan that we so desperately need to promote and develop renewable energy for the state of Nebraska. Thank you. [LB561]

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SENATOR KARPISEK: Thank you, Senator Dubas. Those senators wishing to speak are Senators Stuthman, Harms, Schilz, Louden, Haar, Lautenbaugh, and others. Senator Stuthman, you're recognized. [LB561]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I initially wasn't going to get engaged in the discussion. But in some of the comments I thought I would weigh in on it a little bit. I am supportive of wind energy, as I had stated earlier on one of the bills, only to a point. I think wind energy can be overdone. And why do I say this? Is the fact that we get too many windmills, too much supply and nowhere to go with it. And it won't lower the cost of energy. But the fact is I think a lot of these wind energy plants may go under some day. But the thing about it is I think the fact that, you know, we're thinking about maybe we could export our energy, you know, to California or to other states, other states that could use it, I think there is a good possibility for that. But the issue with energy, with electricity is, you know, how are you going to get that to the other states. You know, there's going to have to be transmission lines built, which will be a large cost. Transmission lines are very expensive. And I think in the state of Nebraska, you know, we have the public power and I hope that we never see it be changed because it is reasonable. It doesn't cost very much here in the state of Nebraska, you know, for energy and what we can get done with energy. That is because we have the public power. But I think with a lot of wind energy projects, you know, initially going into position, yes, there is the possibility of transporting it to other states, but those would be fairly close around if there is a need for that. But I think, you know, it's so far in the future as to when we would ever transmit, you know, wind energy, electricity, you know, to states far away, I think that's down the road quite a ways. So I'm going to continue to listen to the discussion. I'm just never real excited about wind energy. I think there is a need for it. But I'm a little bit more interested in methane digesters, energy that can be created from a by-product that we have. So with that, thank you, Mr. President. [LB561]

SENATOR KARPISEK: Thank you, Senator Stuthman. Senator Harms, you are recognized. [LB561]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of LB561 as well as the amendment, AM1210. The one thing I...we have a great opportunity here to be a part of a movement for this great state to get into energy. Wind energy is a great opportunity for us and we can't be frightened of the future. We have to get outside of the box and be willing to take a risk to move ourselves forward. I really don't see in anyway or form, maybe I don't understand it, but I don't see it hurting Nebraska. If anything, it's going to help its tax base. If anything it's going to give us jobs, people are going to have the opportunity to be in it. Community colleges are already putting together curriculums for training for people who want to work with the wind and wind farms. It's here and we're moving forward. And I think we have to be aggressive in

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this legislative body. If we think in terms of being afraid to make that step forward, then it doesn't help us at all. Planning is always, in some way, frightening to some people, but you got to be willing to take the risk, we've got to be willing to move forward and be a part of this movement. Now where I live in western Nebraska they have a huge wind farm being planned in Banner County. It's an outside investor, investment that wants to come in and help put this together. But we won't be tied with the issue about transporting the power a long distance, because we can go to the western grid and transfer that out. Now the other part of Nebraska, that's where our issue is going to be. Transporting energy can be expensive. In fact, the last that data I looked at said it could be up to...to fix it for Nebraska it could be \$500 million. That's huge. But with the proper planning and the proper process put into place, by coming together in partnerships with public and private and federal we can do this. We have to be creative with this and have to have the energy to do this because this is our future. Energy is our opportunity to move this great state forward for jobs and opportunities. So I hope that you'll keep that in mind as we put this together. Eminent domain is a big issue here for us. Eminent domain is one of the issues that will kill energy development in Nebraska, wind energy, and I don't think we want that to happen. We have a great opportunity here. And I hope I can encourage you to think about this and take the step forward to move ourselves into the future. I would like if Senator Lathrop would just yield for a question. [LB561]

SENATOR KARPISEK: Senator yea...Lathrop, would you yield? (Laughter) [LB561]

SENATOR LATHROP: Yes, I...yea...will. [LB561]

SENATOR HARMS: Are you sure about that, Mr. President? Okay. Senator Lathrop, when you were talking about the public power districts entering into an agreement, could you explain what the agreement is, and is there any room in there where they're going to weasel out on us and put barriers in there so we can't accomplish this? [LB561]

SENATOR LATHROP: No. In fact, the idea here is that public power can look at a project and nothing about this is mandatory, it is permissive. And that's important because we're not making public power do a single thing. And public power, as I understand it, is behind this because it is an opportunity for them and they view it as an opportunity. So we're not diminishing or jeopardizing public power, just giving them an opportunity to work with those who can develop and have the expertise in developing wind energy to make these projects work. If they don't make sense, you know, public power will never enter into those agreements. [LB561]

SENATOR HARMS: Senator Lathrop, in your review of this bill, in your preparation for it, do you see anything at all in there that would cause us to be...have any fear for raising...it would raise the cost of our public power, electricity in Nebraska, or do you think it will be competitive enough that it will continue to keep it low? [LB561]

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SENATOR KARPISEK: One minute. [LB561]

SENATOR LATHROP: I expect that it will continue to be low. And understand, those people that sit on the boards have to make that judgment and say, you know what, it is good for us to have wind in our energy portfolio, this makes sense, this project works, let's go ahead and enter into it. If it doesn't, the boards of the various public utilities do not need to enter into or are not mandated to enter into these kind of agreements. [LB561]

SENATOR HARMS: Well, thank you, Senator Lathrop. I would urge you to support this. I think it's an opportunity for us. It is one major barrier that we can get put to the side, open the door. We can always stop this anytime we want. This is an opportunity for us to move forward and make sure that we're on the cutting edge. Thank you, Mr. President. [LB561]

SENATOR KARPISEK: Thank you, Senators Harms and Lathrop. Senator Schilz, you're next and you are recognized. [LB561]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I've sat here and listened to the debate. And we talk about being ready for what's coming up in the future. And Senator Harms stole a little bit of my thunder. I'm from western Nebraska. We have opportunities all over out there for wind energy development. We don't have the transmission. Do I believe in public power? Absolutely. Do I believe that public power has got some hurdles to get over when it comes to planning for the future and contingencies that could happen? I think that's the case. I think that's why it's vitally important that we, as a Legislature, work together with public power to help in that planning process. In my district you can look just to the south, over the border into Colorado, and you can watch exactly where that border is because those wind towers are lined up right against the Colorado-Nebraska border, one after another. There's about 400 of them right now and they're moving east. And so by this time next year we'll probably see windmills there all over from Julesburg to "Pete's," Colorado, is basically what it is. And so what we're seeing is all the windmills are surrounding Nebraska west, but we're not getting any of the development in Nebraska. And this bill addresses some of those issues. I would tell my colleagues in here that we also need to remember that we need to take and look at the future and, like Senator Harms said, not be afraid of taking the future on and moving forward. We can't live in the past. We have to understand that in order to get this development within our state we have to have people that want to come here and build it. I don't know where the money is going to come from in the state of Nebraska to do all of these projects. The project that Senator Harms talked about is over \$1 billion. Okay? There's a company that wants to come to Nebraska and spend \$1 billion in Banner County. And what are we doing? We're saying let's wait, let's study it? Guys, that's 20 jobs in Banner County. If my figures are correct, that's \$116 million that if we set things up right they'll be able to use in their community

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for their schools to lower property tax. Isn't that what we've all been talking about here for the last 20, 30 days, the last 10 years, 20 years, how do we lower property taxes? Development, guys, it's no simpler than that. We shouldn't be afraid of corporations. Corporations are good things in this country. Corporations are good things in the world. They bring all sorts of advancements that we should be happy about and be thankful for. So with that, I throw my support strongly behind this bill, strongly behind the amendment. And I thank Senator Lathrop for bringing it up. [LB561]

SENATOR KARPISEK: Thank you, Senator Schilz. Those senators wishing to speak are Senators Louden, Haar, Lautenbaugh, and Fulton. Senator Louden, you are next, you are recognized. [LB561]

SENATOR LOUDEN: Thank you, Mr. President and members. As I look at this bill and the amendment that goes with it, AM1210, to me there's three different issues here. The first issue is letting public power districts waive their power of eminent domain. That's something that needs to be done and I agree with that and I think that's a good idea. That's been some of the sticking points that they've told us over the years on starting these wind energy products. I don't know why, because most generally if somebody wanted to build a wind farm I don't think that Nebraska Public Power was going to take them over by eminent domain because it would cost them too much to operate the thing anyway. You just as well let somebody else do it. So I never did believe in that argument. But anyway, with this bill that Senator Lathrop brought forward, LB561, that part would take care of that. The other part is this amendment, AM1210. And my understanding, that was LB471. And there's some issues there that I kind of wonder about on it. One of them was mostly that if an electrical entity wanted to go in and do some wind energy, biomass or renewable energy type deal, they had to have a public hearing with their patrons and to give them a chance for input on whether or not they wanted to do that if it was going to be more than 10 percent of their output. And, I guess, that's all right. What it amounts to is you're going to ask the ratepayers, do you want to pay more for your electricity than what you have been paying? Because if you go into renewable energy, chances are you're going to pay more for it than what you did. The other part, the third part would be the C-BED part. And I have a kind of a concern about that because the way I read that thing, that some of these C-BEDs would have to sell their power to a Nebraska utility for a period of 20 years, and I'm wondering if that's really what you want to do if that takes some of their options away from them. So I have a problem with that amendment here. But to address what has been mentioned, that they want to build a wind farm in Banner County, there's nothing to stop them from building a wind farm in Banner County. They can go build a wind farm anywhere they want to. There's nothing in Nebraska that says you can't do it. The question is, how are you going to transmit your power? If you want to build a transmission line with it you can go ahead and do that. Therein lies the problem. Most of these wind farms want to use existing transmission lines in order to transmit the power that they generate. And when you talk about Colorado, let me tell you, go over to

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Colorado and pay your light bill and see what it is over there because they can develop wind energy over there because your power is so much higher priced. You have Xcel that's generating most of the power there. And what they don't generate with the wind, they have natural gas-fired generators to do that. We're having a problem in western Nebraska because we're mixed up with Tri-State Generation and they're using the same rates for western Nebraska as what they're charging the people in Colorado. And my kilowatt hour starts at 10 cents a kilowatt and that's before anything else. Over here in Lincoln my kilowatt starts at around 6 cents an hour. So the rates are already higher priced out west. So when you talk about generating and comparing to Colorado, it's like Senator Carlson said, why are we talking about California, so it's altogether a different system over there. I do have a problem with AM1210. I question whether that is necessary. There's some things in there that I'm really concerned about that we could be getting into something, putting some kind of a...I guess, a tailgate on these C-BED projects when you... [LB561 LB471]

SENATOR KARPISEK: One minute. [LB561]

SENATOR LOUDEN: ...put in statute that they have to sell their power for a term of at least 20 years and if they wanted to get mixed up with a Nebraska utility. So I have a concern like that because at the present time, if you have your transmission, that is the whole key to the deal. At one of the conferences I was here at a year ago, I asked the guy, I said, what's the easiest to do, build railroads and haul the coal to a generation plant or build a transmission line? He said, haul the coal, it's cheaper, easier to do, and you don't have any line loss that way. So there's things that have to be taken care of. I always have supported wind energy, but we have to be very careful on what we do about it. It isn't the panacea that's going to take care of all of it. It's just another type of energy and there are other ways to do it rather than wind energy. Thank you, Mr. President. [LB561]

SENATOR KARPISEK: Thank you, Senator Louden. Senator Haar, you are recognized. [LB561]

SENATOR HAAR: Mr. President, members of the body, in terms of who would have to...it really doesn't have much to do with meeting with the ratepayers. It has to do with the Power Review Board. LB471 simply gives a way for utilities to generate this electricity without going to the Power Review Board for approval. Again, I support LB561 and AM1210. The other issue that I guess is going to come up now on Select File, the Tenaska amendment, I do not support that for the same reasons that Senator Carlson does not support it. But I guess we'll talk about that and you're going to be lobbied on that in the future. I think this has great potential for rural economic development in Nebraska, especially keeping the C-BED model intact. And at the press conference where we announced the interim study, one of the reporters asked, he said, isn't doing a study a step backwards in this process? And my response to that is it's a

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step forward. Because the purpose of this study is to look at the roadblocks, the other roadblocks and the other challenges that face us when we really develop wind energy. And this is things like how do taxes get distributed, how do we site transmission lines when they go through a community. And we have to answer those questions rather quickly because it looks like there is going to be substantial funding coming down from the federal government for building a super transmission grid around the United States. But we've got to have some planning done, otherwise we're going to...instead of having the opportunity to do our own planning, I think we're going to have...we're going to be told how to do this. And so I see the study, the interim study that's coming up, I hope the interim study will take up the Tenaska amendment and look at it thoroughly, get some positive answers to that and the many other issues that we think have to be addressed to make wind energy. So I urge your support. This is a great step forward, I think, for the state of Nebraska. [LB561 LB471]

SENATOR KARPISEK: Thank you, Senator Haar. Senator Lautenbaugh, you're recognized. Senator Lautenbaugh waives. Senator Fulton, you are recognized. [LB561]

SENATOR FULTON: Thank you, Mr. President. I'll be brief. I actually had my light on just in case there was a need to respond. I...you know, my background, so okay, engineer, I get that. We've had some jokes about that. Okay, sure. My...what I actually did, I designed what are called heat-recovery steam generators. That's why I have an interest in this. And for a time I worked in public power. I worked at a nuclear plant near my hometown. So that's where my interest is in this. I can tell you that we do...lest one believes that the bill and the amendment are going to be a silver bullet, no, we still face significant challenges. And the challenges really have to do with the transmission of that which we can produce. Okay? So that...we, just to be clear about that. But if we are going to make any headway at all with regard to renewable energy, we have to address the least-cost statute and least-cost standard. And we do that in this amendment by giving a permission, providing the permissive authority to the public power districts and electric systems and whatnot, but generally it's public power districts, providing them the permissive authority to pursue these projects. And that's really what we're doing with AM1210. So I really think this is a step forward for Nebraska, this is a collaboration where people from different political stripes, different ideological bents can come together. And I hope that you'll support AM1210 and I ask for your support. Thank you, Mr. President. [LB561]

SENATOR KARPISEK: Thank you, Senator Fulton. Seeing no other senators wishing to speak, Senator Langemeier, you are recognized to close on committee amendment, AM1210. [LB561]

SENATOR LANGEMEIER: Mr. President, members of the body, thank you. I would ask for the adoption of AM1210 to LB561. These are two hurdles that would help put us on the way to develop wind energy at a little more rapid pace in Nebraska. Again, these

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aren't mandates, these are giving them permissive language to allow both the Power Review Board to do some things as well as allowing Nebraska public power, when they see fit, in LB561 to waive their right of eminent domain. Again, they aren't mandates, they're just tools in the toolbox to allow wind development if all parties involved think that that is the right thing at the right day. With that, I'd ask for your support of AM1210. Thank you. [LB561]

SENATOR KARPISEK: Thank you, Senator Langemeier. You have heard the closing on the committee amendment, AM1210. The question is, shall the committee amendment to LB561 be adopted? All those in favor vote yea; all those opposed vote nay. Please record, Mr. Clerk. [LB561]

CLERK: 38 ayes, 1 nay, Mr. President, on the advancement or, excuse me, the adoption of committee amendments. [LB561]

SENATOR KARPISEK: The amendment is adopted. Discussion on the advancement of LB561 to E&R Initial? [LB561]

CLERK: Senator Langemeier, excuse me, Mr. President, just...did I understand you wish to withdraw AM769 then, Senator, or...? [LB561]

SENATOR LANGEMEIER: Yes. [LB561]

CLERK: Okay. I have nothing further on the bill, Mr. President. Thank you. [LB561]

SENATOR KARPISEK: Okay. Seeing no lights on to discuss LB561, Senator Lathrop, you are recognized to close. [LB561]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good discussion. I think we need to recognize that we have a lot of natural resources in this state and one that is virtually untapped is wind. It doesn't cost us anything. All we have to do is put these turbines up in the air and catch it. And we can start generating electricity and have an export product to send to other states. This is a very important step, a very important step in the development of wind energy. It also tells those who develop wind energy that we're open for business. And I would...I appreciate your comments, your support of the last amendment, and would encourage you to support LB561. Thank you. [LB561]

SENATOR KARPISEK: Thank you, Senator Lathrop. You have heard the closing on the advancement of LB561 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Has everyone voted who wishes to? Record, Mr. Clerk. [LB561]

CLERK: 37 ayes, 2 nays, Mr. President, on the advancement of LB561. [LB561]

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SENATOR KARPISEK: The bill advances. Mr. Clerk, are there any items for the record? [LB561]

CLERK: Mr. President, before we proceed, I do. I have an amendment by Senator Pirsch to LB671 to be printed; Senator Council to LB503; Senator Cornett to LB218A. That's all that I have, Mr. President. (Legislative Journal page 1346.) [LB671 LB503 LB218A]

SENATOR KARPISEK: Next bill, Mr. Clerk. []

CLERK: Mr. President, LB542 is a bill by Senator Campbell. (Read title.) Introduced on January 21, referred to the Health and Human Services Committee. The bill was advanced to General File, Mr. President. [LB542]

SENATOR KARPISEK: Senator Campbell, you are recognized to open on LB542. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. I am sure that a great number of you have asked yourself in the last week, what is Senator Campbell thinking? (Laughter) I know that you have received a lot of e-mails and a lot of phone calls and a lot of discussion, and you're saying exactly what is LB542. I hope in the course of the discussion, and I think the Speaker wants to just open the discussion today and then have an opportunity for you to address a number of questions that you have. Let's first talk about what LB542 is and why I chose to introduce it. I chose to introduce it because at this point we are at a standstill. We have a stalemate, we're between a rock and a hard place, choose whatever phrase you would like. The Department of Health and Human Services is responsible at this point in time for looking at the rules and regulations with regard to dental assistants. And this practice had been in place for a number of years. In fact, our research would take us back to 1985. It was in November of 2007 that forced a different look at how the Board of Dentistry, as it recommends to the Board of Health and to the director of health for the department, it called into question a very important aspect. What it called into question was whether the department, through its review process, had statutory authority to put education and training in place for dental assistants. And, colleagues, if you would use your gadgets and go to LB542 and particularly begin looking at the Campbell amendment, because the Campbell amendment will replace the gist of LB542. The point there is to give the authority for education and training to the duties of dental assistants. I chose to introduce this bill because at this point the Legislature should give the authority to someone. We have a process, we have departments that we have used to put into place how we look at duties of dental assistants. The Board of Dentistry and the department can list the duties, but they have no statutory authority to look at education and training. The bill is very direct in what it's asking of us the Legislature to do. It is

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complicated by the fact of a very long history of how we approach this. I want to take a step back for just a minute for you, my colleagues, and for some of you, you'll be very familiar with this. We have a process in place in the state that says if you want to be licensed, credentialed, get a credential, either license or registration, you would go through what is called a 407 process. The dental assistants, in what our research would tell us in history, have tried twice to go through that process to be licensed. In both cases they failed to reach that. The most recent time that they failed to reach that was this past late fall. And it was in January that the final letter came out from the department saying, we do not have...the department felt and the Board of Dentistry and the Board of Health felt that they had not met the criteria. So as you are looking at the information that you are being given, I think to some extent one has to keep in mind the fact that we do have a 407 process which does lay out a scope of practice, it will license someone, it will give them credentials. The Board of Dentistry and the department stood in place, basically, and waited for that process to end. At the end of that process we still had the question, who has the authority to put education and training to the duties of dental assistants? A number of you have said, well, why don't we do an interim study of this. I think that's a valid question. But what I would say to you is that in the end we can do all the discussion we can on the duties of dental assistants and whether they should be licensed or whether they should have certain other credentials. But right now we do not have anything in place that sets that education and training. It is a public health issue. We the Legislature have to say we are granting to the department, through its process, professional process, the ability to put education and training and maybe not to all the duties but to some of the duties. It is very important, I think, that we realize that we do have a process of the 407, we also have a professional board that oversees all dental activities, just as we have boards that would oversee the field of optometry. We ask professional boards to come forward and we ask them to give us their best information to regulate through rules and regs their profession. The department has that responsibility. The focus of LB542 is on dental assistants; it is not on hygienists. We've been asked, are you going to deregulate all the hygienists? Will they lose their license? Will they...this is not about dental hygienists. It's about dental assistants, their duties and the ability of the department to have the statutory authority on education and training. This bill is about the department and the dental board having the tools to regulate the dentists in the state. A number of you have said to me, well, but this is about the duties of the hygienists and this is about the duties of the dental assistants. It is about the ability to put in place those rules and regs and education and training that regulate the dentists. The dentists ultimately have the responsibility and the liability for not only the dental assistants but the dental hygienists. And in our process of 407 review of agencies we, the Legislature, have said we want the person who has the greatest responsibility and the liability to be accountable. And unless we are willing to back up the ability to have duties with education and training, we will fail to regulate or provide those tools. The diversity of dental... [LB542]

SENATOR KARPISEK: One minute. [LB542]

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SENATOR CAMPBELL: ...practices across the state is taken into account by the Boards of Dentistry. I would hope that as we start the discussion on LB542 we keep a focus on what the bill is asking, and that is the authority to put education and training to the duties. I look forward to your questions. Thank you, Mr. President. [LB542]

SENATOR KARPISEK: Thank you, Senator Campbell. Mr. Clerk, do you have any amendments to the bill? [LB542]

CLERK: Mr. President, the first amendment to the bill, Senator Campbell, AM1224. (Legislative Journal page 1246.) [LB542]

SENATOR KARPISEK: Senator Campbell, you are recognized to open on AM1224. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. As I indicated to the body, the Campbell amendment really becomes LB542. And the amendment was brought forward after three sessions in which I had joint meetings between the dentists, the dental assistants and the dental hygienists. Then yesterday I had one more opportunity to meet with the dental assistants and the dental hygienists. So we have had some time to look at this. What the amendment sets in place is it does give that statutory authority but it also sets some parameters of what may be in the duties. And that's important, colleagues, as you look at that amendment. It talks about basic qualifications, education, training, and competency assessment. Those are all factors that may go into listing of a duty. For instance, some of the duties that are listed right now in the rules and regs do not require education and training; there are two major ones that do. And we need the authority to continue to put that education there. The two pieces of material that you have in front of you I just want to review for you real quickly. You have a listing of the sequence of what has transpired and, I think, I've fairly well gone over the 407 review for you and how we're all standing in place because of the AG's Opinion in November. On the flip side of that you have just a basic chart. Right now the Board of Dentistry and the department can lay out the duties. They need LB542 in order to match that with education and training. The other piece of material that you've been given is a letter from Dr. Schaeffer which was shared with the Health and Human Services Committee when we heard the original bill. And I think Dr. Schaeffer lays out pretty clearly that we are at a standstill. We need the authority to move forward. I think it's critical for all of us to understand that as the Legislature has progressed over the years it has put into place professional boards to advise the department and us and the Legislature has put into place a process. Unless we are willing to continue to rely on those professionals and to rely on the department and the process we've put into place, we, the Legislature, will become the arbiters of what should be in a list of duties. Colleagues, I do not think that is where we want to go. I think we want to stand very firm in saying our job is to give the authority to the department and to the board that has the

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responsibility for regulating its profession. Thank you, Mr. President. [LB542]

SENATOR KARPISEK: Thank you, Senator Campbell. Those wishing to speak are Senators Janssen, Gloor, and Stuthman. Senator Janssen, you are next, you are recognized. [LB542]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I, like many of you, have gotten several e-mails on this. And Senator Campbell did a good job of at least bringing me up to speed in her opening on both her amendment and the bill of where they're at on that. Obviously, I was pulled out to the Rotunda, like many of you today, and talked about this from hygienists. So I do have some questions on this. And for awhile it was brought up to me, well, why don't we have an interim study on this to look at this. And a lot of times that's code for, hey, let's push it back another year and figure it out. And I understand that. And sometimes that's the easier thing to do, especially at 5:37. But the question is...I have and I was hoping maybe Senator Gay was still here. But if Senator Campbell would yield to some questions for me. [LB542]

SENATOR KARPISEK: Senator Campbell, will you yield? [LB542]

SENATOR CAMPBELL: Yes, absolutely. [LB542]

SENATOR JANSSEN: Senator Campbell, is there currently, maybe you covered this, a dental assistants...now, do they have schooling that they go to or could I get hired to work in a dental office and acquire the knowledge to get this? [LB542]

SENATOR CAMPBELL: Across the state, Senator, you're going to see perhaps a variety. You're going to see some dental assistants who have gone through courses specifically for that, some who have taken some on-line courses, and others who have been trained by the dentist that they are associated with. The dentists now can provide that on-the-job training for the duties that they are...that are laid out through the department. So, Senator Janssen, you would see a variety. But there is not one course that is required at this point of every dental assistant. [LB542]

SENATOR JANSSEN: And if you wouldn't mind, I have a few questions additionally. [LB542]

SENATOR CAMPBELL: Oh, absolutely, that's fine. [LB542]

SENATOR JANSSEN: Okay, so they're not required a license. Is your...is LB542, in it, requiring any sort of licensure then? Is that... [LB542]

SENATOR CAMPBELL: No. LB542 tries to keep in place the process that we have established previously that we would allow the duties and responsibilities, duties mainly,

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of dental assistants to be put forward by rules and regs from the Board of Dentistry through the department. It does not require licensure, it does not require one basic course. [LB542]

SENATOR JANSSEN: Okay. That's good to hear because I've opposed several different licensing things. I think we can go down the proverbial slippery slope on licensing for a lot of things here. Was one of the reasons for introducing this bill...and I think the dentists, I know at least the ones in my district are supporters of this bill. One of the things they said there was a liability out there to the dentist. Is that correct? [LB542]

SENATOR CAMPBELL: You know, Senator, if I were a dentist across the state, and thankfully I am not for all of you because I probably wouldn't be a very good one, but I think that they see without the ability to have education and training in place that that probably does open a liability for them. But ultimately the dentist is responsible for the people who work in his office. [LB542]

SENATOR JANSSEN: That was my...you kind of touched on that in the opening. And I just wasn't certain if they were bringing this for a liability issue that they maybe had seen out there. And if that was the case, you further answered my question that, well, in many cases dentists are the ones that are training these assistants. But also in some of these cases would it be...and I really don't know these answers. (Laugh) A lot of times people ask these questions, they know the answers, they're trying to see if you know. I don't know. Do the hygienists... [LB542]

SENATOR KARPISEK: One minute. [LB542]

SENATOR JANSSEN: ...teach the assistants in some cases, as well, these procedures? [LB542]

SENATOR CAMPBELL: Would you repeat that, Senator Janssen? [LB542]

SENATOR JANSSEN: Well, you had said earlier that the dentist in many offices will teach an assistant how to do these procedures. And my other question was would...do hygienists once in a while then also teach the assistants these procedures? [LB542]

SENATOR CAMPBELL: You know, Senator, I'm going to answer I do not know that. In the course of our research we've not come upon that. The dentist has the ultimate responsibility to make sure that the dental assistant is trained, that's a critical feature. Did I answer...I'm sorry, I just don't know the answer (inaudible). [LB542]

SENATOR JANSSEN: No, that's something that I'll have a question that I'm worried about. Maybe the hygienists are teaching them these procedures and maybe that's why

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they're getting worried. I'm trying to get at the root of why the hygienists are concerned and they feel a fear of their job, and they certainly do, and that's...I'm wondering if that's possibly what it is. So thank you very much for answering my questions, I appreciate it. [LB542]

SENATOR CAMPBELL: You're welcome. [LB542]

SENATOR KARPISEK: Thank you, Senators Janssen and Campbell. Senator Gloor, you are recognized. [LB542]

SENATOR GLOOR: Thank you, Mr. President, members of the body. First of all, I want to thank Senator Campbell for having miles and miles and miles of patience on this issue. She has worked, she has more patience and has worked harder on this issue than anyone should have to on a bill. And I want the body to know that she deserves special recognition for the time and effort she's put into it. And that deserves not an interim study but it deserves us making a decision on this. Most of us in this body, if I can coin a phrase, are long enough in the tooth, pardon me this late hour, but long enough in the tooth so that we will have been cared for by a dentist and their dental assistant, probably not a dental hygienist, that's a relatively new profession that has been out there, relatively new, obviously, being a relative term, but relatively new profession, very honorable, very important profession. I'm going to bring some of my real world experience in healthcare to bear on this. I'm going to say today what I am likely to respond in e-mails. And I along with everybody else have gotten plenty. And I suppose because it's a late hour and not a lot of people are paying attention, I'll have to repeat two or three more times on this discussion. But my career as a healthcare executive, including being a human resources director for a period of time, gave me a wealth of experience in the risks of having paraprofessionals whose job responsibilities and education are not well defined. And it's not a very good scenario. It's a frightening scenario. If the Board of Dentistry can't discipline dentists who use poor judgment in the use of dental assistants, we need to give the board the tools, the laws in order to do so. That's part of what we'll accomplish. And by the way, I'm supportive of AM1224 and LB542. I know and I will give the hygienists high marks for doing a wonderful job of getting their issues out in front. I know you've all been contacted. I know that they share a very, very deep concern that I've heard before and that is that inferior trained individuals will now be loosed on the dental industry, and hygienists, well-trained, hardworking hygienists will lose their stature and ultimately their jobs. I can assure you, based upon years and years of experience in this very arena, that that's not going to happen. There will not be starving hygienists out there. Doctors worry about nurse practitioners. Nurse practitioners worry about PAs, PAs worry about RNs, RNs worry about LPNs, LPNs worry about assistants. Everybody worries that somebody is going to do a little more that will drive them out of business. And we have shortages in all of those areas. Respiratory therapists and physical therapists worry about physical therapy assistants; physical therapy aides, speech therapists. Attorneys probably worry about

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paralegals, and the paralegals probably worry about legal assistants. And I would imagine that Senator Adams can tell us that teachers worry about paraprofessionals in teaching who worry about teacher's aides. We all have this common theme of where we are in the order of things comes under assault from somebody below. But nobody seems to be driven out of business. I have yet to see, in all my years in healthcare with this argument, where anybody has lost their job. If anything, a rising tide lifts all ships. When you bring somebody in at the lower end of the spectrum, it frees that person to do more. I have to tell you, I've been healthcare long enough to tell you I started when RNs were expected to give bed baths because only an RN could give a bed bath. An RN would be able to pick up on the start of bed sores, would know how to move limbs appropriately to wash them. No one expects RNs to give bed baths anymore. And the nurses now do... [LB542]

SENATOR KARPISEK: One minute. [LB542]

SENATOR GLOOR: Thank you, Mr. President. Now the nurses do things that doctors, 30 or 40 years ago, felt only they should be able to do. It's the nature of things. There is an appropriate role for dental assistants, it will not undermine dental hygienists with what they can do. And the dental hygienists have not driven dentists out of business or shorten up what they can do. We have shortages in all these areas. We have to be careful that we don't limit the practice of dentistry in our rural areas. All of this can be settled very neatly and cleanly, I believe, with the approval of AM1224 and LB542. I will repeat this, I'm sure, two or three more times before it settles in. But thank you very much for the time, Mr. President. [LB542]

SENATOR KARPISEK: Thank you, Senator Gloor. Those wishing to speak are Senators Stuthman, Lautenbaugh, Fischer, Harms, and Campbell. Senator Stuthman, you're recognized. [LB542]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I have a real interest in this bill and I want to thank Senator Campbell for bringing it. I have some concerns also with this. I do realize, you know, that and I really respect the dentists, the dental assistants and the dental hygienists. But in visiting with those individual groups, I don't feel they're totally in agreement yet with what we have before us right now. I think we should try to get them to come to an agreement as to what is needed so that everyone, you know, in that profession, you know, can work. I was very interested in the fact that the duties, you know, for dental assistants, you know, are spelled out and the training for that. I do support that part of it because I think, you know, it does give the dentist, you know, that wants to have a dental assistant perform a practice, you know, that there's training that goes with it. I, you know, I'm very interested in that. But I haven't really got the sense from both of the organizations that this affects that they're in total agreement with it at the present time. You know, I don't know whether an interim study or something during this summer or the fall would help, you know, take care of

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this. Sometimes, you know, when we get it to the floor maybe they do decide that maybe they can agree upon something. So I'm going to listen to the debate. I think we've got more work to do on this yet. But I think we've come a long way. We've finally got the people starting to decide to talk. But I really respect the fact of what these individual groups do for the health of the people in the state of Nebraska. So with that, I'm going to continue, like I said, to listen to the debate. I don't know whether I can support it at the present time but I'm going to be looking at that. So thank you, Mr. President. [LB542]

SENATOR KARPISEK: Thank you, Senator Stuthman. Senator Fischer, you are next and you are recognized. [LB542]

SENATOR FISCHER: Thank you, Mr. President and members. I don't know yet, Senator Campbell, if I can thank you for bringing this bill. We've all received, as you said, a number of e-mails and we've received calls from constituents and people in the profession at large. I'm getting mixed messages from everybody on this bill. So I don't know where I am. I have heard from dentists in my district, some support it, some don't. And the dentists who support this bill are telling me this is going to be great for rural Nebraska because they're going to be able to train dental assistants in their office. We have a shortage of dentists, we have a shortage of hygienists, and we have a shortage of dental assistants. So I have a few dentists who are saying this bill will be great because I'll be able to take some local people, I will be able to train them in my office, they don't have to travel anyplace for courses. I don't see this in this bill and I haven't heard it from anyone down here and I haven't heard it on the floor. So if anyone...if any of you interpret it that way, I would be happy if you would say that on the mike for my constituents to also hear as to why they should be supporting this bill. I've heard from other dentists who are concerned about it because they see more regulation. They see that the Board of Dentistry is going to require their dental assistants or people who may be able to come into their offices and become assistants, require them to travel and take a course. Earlier today I had a conversation with someone saying this bill would certainly help community colleges because those colleges would be able to offer these courses that they felt were going to be required for dental assistants to take. So you see my quandary here. I have dentists who think that they're going to be able to teach these assistants in their own office, they're not going to have to travel, in my case, to either Norfolk, North Platte, Scottsbluff, to a community college in order to be able to become an assistant and perform certain duties. So I have questions on that. And hopefully as we continue this discussion someone will be able to clarify that so I can clarify it to the dentists in my legislative district. Secondly, if my dentists are able to do training and education in their office, who monitors them? Who monitors my dentist who's going to train to make sure that they're doing this correctly? And we all know that they...all our dentists are going to be doing the training and education correctly if they are allowed to do so, of course. I would assume the comment will be, well, the Board of Dentistry is going to make a recommendation because that's what's in the bill. The Board of

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Dentistry makes the recommendation to the department that then sets the rules and regs. But my problem with this is... [LB542]

SENATOR KARPISEK: One minute. [LB542]

SENATOR FISCHER: ...that I have people contacting me saying, oh no, we're going to be able to do this, and we're going to be able to do this, and we're going to be able to do this, and boy, this is going to be great for rural Nebraska. That's what dentists are telling me. I don't see that. I know Senator Campbell said that diversity across the state is taken into consideration on how this is going to be handled. I don't see that yet. I haven't heard that yet. My dentists haven't heard that yet and they're split on this. I'll get into the hygienists and the assistant part later. Thank you, Mr. President. [LB542]

SENATOR KARPISEK: Thank you, Senator Fischer. Mr. Clerk, are there any items on your desk? [LB542]

CLERK: Mr. President, I have no items. I do have a priority motion. Senator Flood would move to adjourn the body until Thursday morning, May 7, at 9:00 a.m. []

SENATOR KARPISEK: Members of the body, you have heard the closing or the motion to adjourn until 9:00 a.m. tomorrow morning, May 7. Everyone in favor say aye. Opposed, nay. We are adjourned. []