

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

Floor Debate
May 21, 2009

[LB9 LB35 LB35A LB63 LB63A LB81 LB97 LB134 LB160 LB218 LB218A LB237A
LB237 LB246 LB246A LB285 LB405 LB420 LB424 LB425 LB464A LB464 LB503
LB531 LB532 LB533 LB537 LB540 LB542 LB555 LB562 LB587 LB598 LB603A LB603
LB604 LB622 LB626 LB627 LB631 LB658 LB671 LB671A LB675 LR114 LR139 LR149
LR163 LR173 LR195 LR199 LR201 LR219 LR238]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighty-third day of the One Hundred First Legislature, First Session. Our chaplain for today is Chaplain Oledia Bell, Lieutenant Colonel, United States Air Force, Deputy Wing Chaplain, Offutt Air Force Base, Offutt, Nebraska, Senator Price's district. Please rise.

CHAPLAIN BELL: (Prayer offered.)

SPEAKER FLOOD: Thank you, Lieutenant Colonel. I call to order the eighty-third day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present this morning, Mr. President.

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

ASSISTANT CLERK: I have no corrections this morning.

SPEAKER FLOOD: Thank you. Are there any messages, reports, or announcements?

ASSISTANT CLERK: Mr. President, bills presented to the Governor, the ones that were read on Final Reading yesterday, LB531, LB533, LB537, LB540, LB562, LB587, LB598, LB604, LB627, LB631. A report has been received in our office from the Department of Revenue. A communication from the Secretary of State. And a series of name adds to various resolutions. (Re LR114, LR139, LR149, LR163, LR195, LR199, LR201, LR219, LR238, and LR173.) That's all that I have at this time. (Legislative Journal pages 1669-1670.) [LB531 LB533 LB537 LB540 LB562 LB587 LB598 LB604 LB627 LB631 LR114 LR139 LR149 LR163 LR195 LR199 LR201 LR219 LR238 LR173]

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to the first item on the agenda, Select File, consideration of LB218A. Mr. Clerk. [LB218A]

ASSISTANT CLERK: Mr. President, on LB218A there are E&R amendments. (ER8131, Legislative Journal page 1430.) [LB218A]

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

Floor Debate
May 21, 2009

SPEAKER FLOOD: Senator Nordquist for a motion. [LB218A]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB218A. [LB218A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB218A]

ASSISTANT CLERK: Mr. President, Senator Cornett had AM1453, but we have a note to withdraw that amendment. [LB218A]

SPEAKER FLOOD: The amendment is withdrawn. [LB218A]

ASSISTANT CLERK: Senator Cornett would move to indefinitely postpone LB218A. [LB218A]

SPEAKER FLOOD: Senator Cornett, you're recognized to open on your motion. [LB218A]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. Let me clarify what LB218A is and what the amendment I just withdrew was because I've heard a lot of confusion, particularly among the new senators in the body on what we can and we can't do as a legislative body. We make the rules. It is very disheartening that there are a number of people in here that do not or have not had the will to study legislative history. You can gut an A bill. You can turn an A bill into whatever you want with an amendment, if the political will is there to do that. I've heard arguments about gutting this bill and adding an amendment onto it. Oh, we don't do that kind of thing in there. Yes, ladies and gentlemen, we do. I've heard, oh, we don't put things on a bill that isn't germane. Yes, ladies and gentlemen, we do. Last night I sat in here and I listened to Senator White and Senator Fischer. And for the first time this session, except for Senator Friend, I actually heard what we do in here. This is politics, ladies and gentlemen, this isn't hand holding and singing kumbaya. Sometimes it's not nice. Sometimes it's not pretty. Sometimes we make one another very angry. But at the end of the day, that is part of a process by how we make better laws in this state. Always cooperating isn't good policy. By always sitting down and saying, oh, we'll work together, that doesn't necessarily mean we are going to come up with a better bill or a better law for the state. Sometimes you have to fight. Sometimes you have to disagree. And I commend Speaker Flood for probably the most easy session that I have had this year out of the last five. We have gotten things passed very easily and without argument and without angst. But, like Senator Friend, by this week I am truly missing Senator Chambers. I have heard things this year that I've sat back and I've gotten irritated for a moment, and then I've shaken my head. I've heard we don't amend committee amendments. Why don't we amend committee amendments? I've seen Senator

Floor Debate
May 21, 2009

Chambers put 25 amendments on a bill. I've seen them put 25 amendments on a committee amendment. I've seen bills hijacked, I've hijacked bills. We don't have to play nice. I made an agreement to IPP LB218A or the...LB218A and withdraw the amendment. Let me explain what the amendment did. We have a program in the state of Nebraska for charitable endowments for a tax credit. I worked on it last year, I worked on it this year. This year I knew we didn't have the money for what we were trying to accomplish. So in committee we sunset...we extended the sunset and passed it out with a unanimous vote because all we were doing, and not expanding the program. Because all we were doing was extending that sunset one year, no one in this body wanted to prioritize it because it wasn't a big enough bill. Well, here we are, ladies and gentlemen, this morning. The charitable endowment credit is dead, it sunsets December. Now I have made commitments to everyone that I'm going to work on rewriting it because now, ladies and gentlemen, we don't have a tax credit as of the end of this year for charitable endowments to get this bill passed and rewritten. But I'm telling you I was accused last night, and God...God love this, who would be wrong...be upset about being accused of being too nice this year. And the person that accused me of being too nice this year is Senator White. And he's right, I have been. Senator White can tell you exactly how nasty I can get. Just ask him about his property tax credit three years ago. I'm not going to be nice next year on this bill. I'm not going to play fair. If I have to suspend the rules of germaneness, I'm going to. If I have to gut a bill, I'm going to gut a bill. If I have to hijack your bill, I'm going to do it. It's time for us to be legislators. Senator Fischer was exactly correct last night when she said it's time we've had these kinds of discussions. And trust me, I don't want to make enemies in here. I really like all of you. But sometimes we are not going to agree. That doesn't mean we can't be...go home at the end of the day and be friends. I've made my agreements on this bill. I urge you to support the IPP motion at this time. But I also promise you I will be back with a charitable endowment credit. Thank you. [LB218A]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening on Senator Cornett's motion to IPP LB218A. Senator Janssen, you're recognized. [LB218A]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. Entirely did not intend to get up and speak. I do, of course, support Senator Cornett in what she wants to do with her LB218A. I have no problem with that. I do have a problem, I guess. I thought about this last night as I was sitting here, and it came up again this morning, and I keep hearing this over and over during the last few days. All of a sudden we got some big, bad, tough, tough, tough senators on this floor, big and bad, we should look out. Heck, some even got 150 days more experience than me. Bow down. Wow, please tell me the war stories. Let's have a record vote of who can say, I served with Ernie Chambers the most times, therefore I'm more experienced than the rest of you. Always hear about, I'm leading the new people. I haven't talked to you. Tell me. We're leading the new people, especially the new people have questions. Okay, maybe they do. I

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

Floor Debate
May 21, 2009

don't know. Haven't seen it. I've asked a few questions. I don't think it's the blind out there. There was a couple of bills yesterday, I knew where I stood on them. Do I need to get up and say it over and over and over and over and over and over and over...I can keep going on this again because, apparently, it means more if you say it over and over and we're big and we're bad and we're tough. I watched veteran senators on this floor yesterday getting mad at each other. Hit their button really hard. It's my turn to talk. I watched them go back and forth. It was an argument. It happened right here. Should have probably happened under the balcony, but we got to look like little kids in front of everybody, for the tens of people that may have been watching on TV at 8:00 p.m. last night. Got closer to 9:00. Somebody said to me, well, you don't know late, Senator Janssen, this isn't late. Well, excuse me, I didn't think we could go past midnight. So it is pretty late for a legislative day. I think it is. We want to talk about who's willing to work late or we want to get out of here at a certain time. I don't care when we get out of here. I just hate to work for the sake of working a lot of times. And when you go back and forth on an issue...one senator yesterday acted like they were blindsided by LB675. Can't believe it was up, I worked on an amendment to get this thing done, I wanted to get it out right away. I think it was day 82 yesterday. We're told we're going to be done early and you got blindsided by something. Huh? It was just a shock to me. So I know there's a lot of tough talk coming around all of a sudden of what we should or shouldn't do, how we should or shouldn't do it. If you want to talk to me about it, that's fine. It's just something I wanted to probably get off my chest. I apologize for using this LB218A, but I do support that. If you want to be big and bad and tough, I can be big and bad and tough and we can sit up and I can take you time. We can talk. I can hit the button several times. If I want to argue with a colleague back and forth, I suppose I can do it on the mike and say the same thing over and over and over and over again and be happy to do it. Thank you, Mr. President. [LB218A LB675]

SPEAKER FLOOD: Thank you, Senator Janssen. Senator Pahls, you're recognized. [LB218A]

SENATOR PAHLS: Good morning. I'm not...I'm big but I'm not bad. (Laughter) But I will tell you one thing. When I made a comment last night about the...taxing the attorneys, there was an attorney who was listening last night and I got a call or I talked to the person this morning. And he thought it was humorous. (Laughter) As...you know, I didn't realize, I think we have 10 attorneys on this floor, 10 out of 49. That's a pretty good percentage when you think of in the state of Nebraska there are that many and they're that well represented on the floor. But I'm not fighting against attorneys at all. I'm going to go to Senator Cornett a little bit. She says we ought to be tough. Well, I haven't been tough enough on the sales tax exemptions. I haven't been tough enough. I've been playing within the sandbox. That's the reason why I said I wasn't going to make any attempt at all to stop any of the exemption bills this year, trying to lay the groundwork for next year. But the reason why we're talking about being tough is I have to talk to the good Senator, if you can recall, brought a bill up, I was willing to gut it and let the

Floor Debate
May 21, 2009

Revenue Committee use it next year. It would be right up there, one of the first ones. But, no, they didn't want to do that. My goodness, that would give Senator Pahls maybe a break. He might be able to get something going. But no, they wouldn't do that. Maybe it's because I'm too nice a guy. But I'm also just going to let you know, because you know where I'm going on this and I promise you I was not planning to step up on this again because I notice after awhile you can push a little bit too hard. But I have heard, not from a senator, but I'm going to be placated on some of these interim studies. We're going to sort of play around and next year sort of come out and nothing will happen. Well, I'm going to challenge the Revenue Committee to help me bring something forth to this floor next year that would have some merit. I understand my bills this year sort of shocked some people because, my goodness, we would take a look at exemptions. We would sunset them. I didn't say we'd take them away, but my goodness, we scared everybody, especially the other side of the glass. They were too proud to say there were 40-some organizations willing to come down on the mean Senator Pahls. So what I'm trying to say is right now I'm again trying to lay some groundwork so when we're talking about sales tax exemptions next year it will not catch anybody by surprise. It will not catch the Revenue Committee because I hope they will help me bring a bill that will be good for the state of Nebraska. I have been to three meetings this morning. One meeting one of the individuals came up to me, he says, I heard about this tax exemption. He said, I had no idea, because he was what I call a person who just works. He said, I had no idea of all these tax exemptions. He said, I had no idea, you were talking about \$3 billion. I said, yeah, that's almost our budget for one year. He said, I can't believe it, you mean there's a possibility that we could do away with property tax? I said, yes. And income tax? I said, yes. I said we can't do away with all of them but we could probably take a look at those. But my goodness, we scared everybody because we're taking a look at this. And I said, we've already had two commissions, '88 the Syracuse Commission, and two years ago a commission that I happened to sit on and a couple of others here sat on. We came up with some ideas. And some of those have been...are part of the law right now. Again, I'm just using this opportunity... [LB218A]

SPEAKER FLOOD: One minute. [LB218A]

SENATOR PAHLS: ...I'm using this opportunity to make sure people know that I'm not trying to play games, I'm not trying to go behind the door. But I'm hoping the Revenue Committee will work with me. Because I'm telling you right now three bills that have hit the floor on tax exemption are members of the Revenue Committee, and one was a member of the Appropriations Committee. So I'm asking you to help me next year bring something that we could get a number of people supporting it, and the Governor would support it. I have to be honest with you, on some of these tax exemptions I was hoping the Governor would have vetoed them, very frank with you. So again, this is nice guy, Senator Pahls, signing off. Thank you. [LB218A]

SPEAKER FLOOD: Thank you, Senator. Senator Karpisek, you're recognized.

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

Floor Debate
May 21, 2009

[LB218A]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I didn't intend to stand on this either but Senator Janssen riled me up. Thank you, Senator Janssen. I did just want to say I do support Senator Cornett's promise to bring this back next year. I was going to prioritize this bill and I felt that it did not come out of committee as big a bill as it should have been. It's very important. I wish we could do it now. I will do what she wishes, but it is very, very important. I wish things would have worked out better. Senator Pahls, I think you're absolutely on the right track. And I'm sorry to say that because that will probably take some support off for you. But he has dubbed me Butch Cassidy and he is the Sunset Kid. (Laughter) And we will look at these things. As far as being nice this year, I don't think I have been, maybe a little bit, but not so much, Speaker doesn't think so. But, yes, we can all walk away and we can all laugh about it later. But, yeah, we need to be passionate. I am glad that I got to spend two years with Senator Chambers, because yes, Senator Janssen, it is a different world than it was. I miss the tongue lashings that I got, (laugh) not really, from Senator Chambers. But it did make me learn. And it's hard to believe but I did learn, probably not enough. Senator Friend probably tried to be the bad guy this year and it didn't work always. But he did stand up and he tried to slow things down. He tried to make his voice heard and I appreciate that too. I've had people say, boy, I bet that Senator Friend, you don't like him, do you. Sorry, Senator Friend, yes I do. It's all a part of this, but we do get passionate. And it is okay to disagree. I agree with Senator Janssen to stand up and get into a contest on the floor of who can call what, what, and that's ridiculous. Get under the balcony. Really, I just wanted to stand up and say that I do support Senator Cornett. I don't want to cast this vote to IPP this bill, but I guess if that's what she wants to do I will. We've still got a little bit to go here, folks. And I know we're all getting a little bit tired of each other. Kind of reminds me of football practice, you get tired of hitting your team, it's time to go play another team. But I think we've done a good job this year. I think we got a lot of good things done. We've tackled some tough issues. The Speaker has done a good job getting things up and I appreciate that. But don't be scared to stand up and say what you think about something. You know I will and I hope you do too. Thank you, Mr. President. [LB218A]

SPEAKER FLOOD: Thank you, Senator Karpisek. Senator Pirsch, you're recognized. [LB218A]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Cornett would yield to a question or two. [LB218A]

SPEAKER FLOOD: Senator Cornett, will you yield to a question, please? [LB218A]

SENATOR CORNETT: Sure, Senator Pirsch. [LB218A]

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

Floor Debate
May 21, 2009

SENATOR PIRSCH: Very good. And LB218A, LB218 deals with three separate instances of state aid to counties, correct? [LB218A LB218]

SENATOR CORNETT: Yes. [LB218A]

SENATOR PIRSCH: Okay. And this is a motion to IPP that. I'm trying to see how this bears then and if you could explain. I'm trying to wrap my arms around what you're trying to do here. LB405, that's what you're talking about when you're saying extending the sunset for Nebraska charitable tax credits to 2015, is that correct? [LB218A LB405]

SENATOR CORNETT: Yes. [LB218A]

SENATOR PIRSCH: Okay. And could you explain then how...what you're doing with this IPP motion on LB218 then? [LB218A LB218]

SENATOR CORNETT: LB218A is a completely separate bill from LB218 now. LB218 is on Final Reading. This is the A bill that accompanied it. It became superfluous when we delayed the implementation of the county aid program for two years. I gutted the A bill on General File, had it follow to Select File to ensure that I didn't have a cost come up on LB218. There will be no costs on LB218, therefore I put an amendment on the gutted bill for LB405. [LB218A LB218 LB405]

SENATOR PIRSCH: I see. Okay. [LB218A]

SENATOR CORNETT: They have nothing to do with one another. [LB218A]

SENATOR PIRSCH: Okay, very good. So LB218A you were just using as an empty shell, a vehicle if you will, to use to bring LB405, the...what I had mentioned before, into being, correct? [LB218A LB405]

SENATOR CORNETT: LB405 is in being and is on General File, yes. [LB218A LB405]

SENATOR PIRSCH: Okay, very good. And if you could give me some background. Why are you not proceeding then with LB405 or at least the concept behind that today...I'm sorry, this session for a vote? [LB218A LB405]

SENATOR CORNETT: There has been a lot of confusion over whether there was going to be a fiscal note or not on the bill. Part of it is a consideration for the questions we've had on the fiscal note that I would like to have resolved 100 percent. There is also reasons that there were members of the body and of my committee that did not feel comfortable with suspending the rules of germane. And I think that that will probably be something that comes with time. And we have suspended the rules of germane twice this year alone, and that's what I would have had to have done on this bill to adopt it.

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

Floor Debate
May 21, 2009

[LB218A]

SENATOR PIRSCH: Very good. Do you think, I mean, do you sense then, is the reason you're not going forward is that there isn't the votes here for this bill at this time?

[LB218A]

SENATOR CORNETT: Senator Pirsch, I don't honestly know. But I was...it was...I don't honestly know if the votes are here or not, Senator Pirsch. I made an agreement and I will stand by my agreement not to bring this bill to the floor this year. [LB218A]

SENATOR PIRSCH: Was the agreement part and parcel of having it released from committee? [LB218A]

SENATOR CORNETT: I'm sorry, what? [LB218A]

SENATOR PIRSCH: You said you made an agreement. You're in favor of the bill but you made an agreement not to bring it forward. I'm wondering...I mean, what was the other part of the agreement? [LB218A]

SENATOR CORNETT: Frankly, time left in session, frankly, the financial situations that we are in as a state, and the fact that the bill...the underlying law has some flaws in it that need to be resolved... [LB218A]

SPEAKER FLOOD: One minute. [LB218A]

SENATOR CORNETT: ...on their own, and I don't believe that we could do that in this bill. [LB218A]

SENATOR PIRSCH: Okay. [LB218A]

SENATOR CORNETT: And if we are going to move forward with the community endowment, we need to fix all of the underlying flaws in that bill. [LB218A]

SENATOR PIRSCH: Okay, very good. Thanks for explaining that. I'd just like to make a brief comment, too, on what Senator Janssen, I guess, I wasn't going to mention of that but with regard to civility and how we go about addressing the issues here. I think that's really important. I think we have done a better job this year of staying issue-focused. In the past, we have had ad hominem personal attacks that only detracted from people addressing the issues for themselves. And so I think that the good days are now and not in past sessions. And so I applaud those who have come here this year and think you have done a great job in staying focused on the issues. And again, you know, I don't want to go back and I'm not going to let it...let us go back to... [LB218A]

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

Floor Debate
May 21, 2009

SPEAKER FLOOD: Time, Senator. [LB218A]

SENATOR PIRSCH: ...those days. Thank you. [LB218A]

SPEAKER FLOOD: Thank you, Senator Pirsch. Senator Friend, you're recognized. [LB218A]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I think we can go ahead and indefinitely postpone this bill. I don't know if anybody cares what I think about this. But I mean, I understand Senator Cornett's passion. I wanted to make a couple of points in regard to, I guess, a little bit about what Senator Pirsch said, the civility. I wanted to lay this out for you, not because I think you'd find it funny but because you'd find it really appropriate. This year I think I've proven to you that if you don't look at me and see passion, you look at me and see jerk. Okay? And that's okay. Loud jerk. That's all right because that's sometimes what I feel like I am. Let me give you an example, a couple of years ago, actually it was longer than that. I think Erdman sat over here. I mean, some of you know what that type of environment was like. I think Erdman was over here, I was I think where Senator Nelson was, and Kermit Brashear was walking up the aisle. And I was working on a bill and we were late in the session, I mean it was 86th day or something. So we're all in a really good mood, right? And Kermit said, Senator Friend, I've done the imitation before better probably, but I'm going to try to do it. Senator Friend, how long is it going to take to get this bill where you need it to go? And I go, I don't know, Kermit, I don't have a bleep crystal ball. Okay? So then his face kind of turned red and he walked away. And he came back and he said, you've got...(laugh), I think this is what he said, I was kind of fired up. You've got exactly 60 minutes. And I go, and Erdman is doing his thing, and he says, Kermit, Kermit, and they go over in the corner and they're yelling at each other. And he comes back over and I go, do I still have 60 minutes, Phil? And he goes, probably less. (Laughter) All right, thanks a lot, Phil. I don't know if anybody remembers these things. Here's the thing, I've yelled at every...I mean you guys have...things happen out here and you have to understand. I don't mean to offend Senator Janssen, it's not like a wise old sage here. I'm telling you it happens every time. You're going to be here eight years. And in the 90-day session, on day 84, you're going to be going, I sure would like to take Friend's trac, you know, throat and his Adam's apple and pop it out. (Laughter) It's just the way things work, I'm sorry, it is. What's going to happen here in a little while, and it can continue to cause a little bit of angst because we have a bunch of A bills up here and I was...I got a chance to talk to Appropriations Chair a little bit earlier. And everybody is on edge. Like I said, I understand that. We're going to make our votes on these Final Reading bills. We're going to make our votes on these A bills. We appropriate money, the Governor is going to look at this stuff, decisions are going to be made, and then we might be able to make another decision after that. I know it's weird coming from a person like me, but don't worry about it. We're here to manage our constituents needs, you all know that. And I think, personally, I've never said this, but I think this Legislature

Floor Debate
May 21, 2009

has done a pretty good job managing its constituents needs. I've told you before and I was going to say this last night but I was in the penalty box, for good reason,...
[LB218A]

SPEAKER FLOOD: One minute. [LB218A]

SENATOR FRIEND: ...I'm not a teammate with any of you guys. I've been on teams. I was a competitive athlete. I loved it. I'm a competitive person. None of you are my teammates. I'm here for 33,000 people and I manage it that way. Doesn't mean that I don't agree with every one of you on occasion. I don't defend this body because you're my team, I defend this body because it might have a decent idea. And I think we've had some pretty darn good, decent ideas this session. And I'm pretty proud of the...not myself, but I'm pretty proud of the way we've approached business in here. So I've enjoyed it. I don't think when I'm done here I will ever regret what I've done or the time that I spent here, that includes yelling at Senator Chambers, or Senator White, or Senator Lathrop, or Pirsch, or whoever. I mean it's part of the game. And... [LB218A]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Time, Senator. [LB218A]

SENATOR FRIEND: Thank you, Mr. President. [LB218A]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator White, you're recognized.
[LB218A]

SENATOR WHITE: Thank you, Mr. President. I've enjoyed being yelled at. I do want to talk about this bill for a minute. And I oppose the IPP motion and let me explain why. We are at a truly climactic moment with regard to the passing of wealth from one generation to another. If you look at any of the studies, if you look at the wealth in the hands of older Nebraskans in the form of land, in the form of investments and you realize how much that wealth will be moving from one set of hands to another generation in the next ten years, you will recognize that a tax credit at this moment in time to encourage Nebraskans to remember their local communities, to fund the places often where they made their money is very important. It's very timely and, yes, it hurts our short-term financial picture, it does. But what it will do is put community activities, put in pools, put in parks, put in endowed and better schools, better hospitals for our communities throughout the state, particularly our rural communities. And so what Senator Cornett is giving up on here by IPPing this isn't her bill. It's really about whether or not we're going to invest in the future of Nebraska, particularly rural areas, whether we are going to try to help shape how that money that is transferred, how it is transferred and to where it goes. So it's more than a bill, it's more than a number, and it's much more than an ego, one senator's ego, whether you want to call her tough, or

Floor Debate
May 21, 2009

hard, or not and it's not personalities for me. And I'm a person of great passion, too, but it is the ideas. And I have to say, Senator Janssen, we passed a \$6 billion budget through Select File with almost no debate. It was shameful. You cannot spend that much money, that much of the public's money without a debate. I was stuck on the phone talking to a constituent when it went through. By the time I got back to the floor, 25 minutes, it was gone. We spent one day on General File. And if you look at it, I probably had to talk about 90 percent of the time. Now what did we put in that? Did I waste your time? Did I waste the public's time? Well, maybe I wasted your time. But I would tell you our duty is to not disagree under the balcony. Our duty is to disagree here on the floor with thought and passion. That it is our duty so that the public hears what we're disagreeing about. They don't hear that under the balcony. And I would tell you, if you don't bring passion and concern and character, however you express it, whether you're as reserved and quiet as Senator Gloor or as volatile and outgoing as Senator Friend, you better bring passion. Because if you don't bring passion, then really you're in the wrong business. You really aren't serving your constituents. How you express it is everybody's individual method. But if you don't care enough to get upset when an idea that you believe is firmly in the public's best interest is being overturned, then you're not doing your job. And I would say this, I am deeply concerned about term limits, I opposed them and you don't know what you got until it's gone. But much of the legislators tactics, the legislation's tactics, how you get things done... [LB218A]

PRESIDENT SHEEHY: One minute. [LB218A]

SENATOR WHITE: ...isn't okay, are the votes there, yes, no. It's really about things like Senator Chambers was a master of pushing the clock. He pushed it every day, and then he pushed it to the end of the session so he could control the bills that would go through. If you don't have time to debate them, you don't get them. He killed a lot of bills by obstructionist tactics. And that's because he was in the minority and he was passionate enough to do it. Now do I accept Senator Chambers on all levels? I frequently disagreed with him. But he was a master at using the rules, and the power that he had, given one man often alone in a minority. And that was good for the state to watch that. Ultimately the state tired of it. And to be honest with you, terms limits I think were passed because of Senator Chambers alone, which is an incredible testament. So what I would urge the body is, first of all, on this bill I'm voting against indefinitely postponing it because it costs us too much, too much. We need that charitable investment... [LB218A]

PRESIDENT SHEEHY: Time. [LB218A]

SENATOR WHITE: Thank you. [LB218A]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Schilz, you're recognized. [LB218A]

Floor Debate
May 21, 2009

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I wanted to stand up and talk a little bit about not so much LB218A but the amendment that Senator Cornett was going to put on there for exactly what Senator White was talking about. And once again, seems that we're on the same side here. I serve on Keith County...two days in a row, I don't know...(laughter). But anyway, I serve on the Keith County Community Foundation. And Senator White is correct, we're seeing...we are in the midst of the largest transfer of wealth that the world has ever seen. Okay, let's think about that for a second. It's huge. Lots of money, guys. And then let's look at where Nebraska is. Nebraska, rural Nebraska is losing population. That means...I mean, the people are moving out of state. So when the folks that are here get old enough, they need something to do with that money. Are we going to let it go out of state and let those folks use that out there? I think that this amendment is extremely important. I think that...I think that it makes sense for us to think about the long-term rather than just the short-term. And, you know, Senator White is correct. These endowments do help keep our smaller communities whole. I understand the fiscal restraints that we're under. I understand...I think I understand where Senator Cornett is coming from. But it's disappointing to me to see that this one piece of legislation is not going to get through. Thank you very much. [LB218A]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Other members wishing to speak on the motion to indefinitely postpone, Senator Pirsch, followed by Senator Campbell. Senator Pirsch, you're recognized. [LB218A]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. You know, I wish we would have had at least the opportunity to discuss it. And though perhaps, you know, certain statements were made by committees and whatnot, you know, my indication, my...you know, I was contacted. And the source said that since its inception two years ago that this particular charitable tax credit had generated \$6.5 million in planned gifts to the permanent endowments of Nebraska nonprofits for only \$210,000 in state tax credits. And so, you know, that intrigues me. And I wish we had had debate on this bill this year. Being that as it may and I know that's off the table now, just a few words about the other conversation that's going on here with regards to how we go about our jobs. And I think it's important not to confuse due diligence and excitement and emotion and passion with civility. And we can go about achieving all the objectives that we hope to and passionately fight for the ideals that we believe in, and yet we don't have to resort to personal attacks. And that's where the line should be drawn and that's where I do draw...I'm going to draw the line. And in past years, we have not done that as a body. And statements like, you like to see children raped, personal statements to senators, that's where...those kind of statements are out of bounds and they have gone on in past years. And if you are excited and passionate and loud, you know, God bless you. Keep going about, that's why you're here. But we are not about the business, we are focused on ideas and we are not about personal attacks, and that's where I draw

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

Floor Debate
May 21, 2009

the line. And going forward in the future I hope we're all mindful of that. And I know it's sometimes easy to get caught up in the emotion of the moment and to resort to that. But I think we should all be mindful of that. I do think that those who have come here this year new to the Legislature have done an excellent job of staying issue-focused. And it's true, we do need to be...I mean I think we have to be careful about the way we go about our due diligence. There are a lot of important weighty bills here that do require time. We should never...we should do that. And we should spend time on important matters. But again, my concern is that you not lose your cool to the extent that you distract from the arguments by engaging in personal attacks. And so thank you very much, Mr. President. [LB218A]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. (Visitors introduced.) Continuing with floor discussion on the motion for indefinitely postponement of LB218A, members requesting to speak, Senator Campbell, followed by Senator Karpisek. Senator Campbell. [LB218A]

SENATOR CAMPBELL: Thank you, Mr. President. When we all turn out the lights and put our gadgets away for the last time I will return to what is my...I fondly call my day job, and that is working with a children's foundation. For a number of years, I've had the privilege of working with citizens from across the state in an effort called Endow Nebraska, which originally put into play what you would have heard about in Senator Cornett's amendment. I, too, share Senator White's concern that we are not taking this up. This is an incredible piece of legislation for Nebraska's future. And I pledge to work with Senator Cornett and send, at least to all of my freshmen colleagues who may not have seen the original legislation, some information about what this is doing in our state. I work with donors and Nebraskans every day in my job. It's the most gratifying piece of what I do each day. They want to help the future generations. So please do not dismiss this idea just because we are not taking it up today. And I appreciate Senator Cornett's perseverance to keep this issue in front of us. Thank you, Mr. President. [LB218A]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Karpisek, you're recognized. There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB218A]

CLERK: 33 ayes, 4 nays to cease debate, Mr. President. [LB218A]

PRESIDENT SHEEHY: Debate does cease. Senator Cornett, you're recognized to close on your motion to indefinitely postpone. [LB218A]

SENATOR CORNETT: Thank you, Mr. President. Good morning everyone. I know that I said things this morning to get a few of you riled up, even a lot of you riled up. That was kind of the point. I do wish to have this bill IPPed. And I do make a commitment to work

Floor Debate
May 21, 2009

with the interested parties and with the senators that are interested in the community and charitable endowment fund. It will be coming back next year. And there's already a bill on General File that addresses the issues in regards to the sunsets. But I want to thank all of you for indulging me this morning. It truly has been an interesting year compared to some of the other years. And I know Senator Janssen got up and said that, oh, veteran senators and heavyweights, we're in here and we think we know so much more because we worked under Ernie Chambers. No, not really. I was sitting here last night rereading the rule book. There isn't anybody in this body that has the same amount of knowledge that some of the people that were term-limited had. If people are saying that some of us are the big heavyweights in here now, they should have worked with Landis, Beutler, DiAnna Schimek, Kermit Brashear. When you got done with them, you knew your arm had been twisted. We sometimes have to disagree. We can't work out everything under the balcony nor should we. It's part of the process. How is the public supposed to know where we stand or how we've reached a conclusion? Where's the transparency in working out everything under the balcony? Where's the legislative record? Where's the legislative intent working it out off the floor? I am certainly not saying we can't compromise and come to agreements and work on bills off the floor. Senator Stuthman and I worked on a bill this year that was his priority that way. We both had basically the same idea, we compromised, the bill got passed. Compromise is one thing, capitulation is another. So back to the IPP motion. I urge the body to support the IPP motion and thank you. [LB218A]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You have heard the closing. The question before the body is on the motion to indefinitely postpone LB218A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB218A]

CLERK: 28 ayes, 13 nays on the motion to indefinitely postpone, Mr. President. [LB218A]

PRESIDENT SHEEHY: The motion to indefinitely postpone is adopted. Mr. Clerk, do you have anything further? [LB218A]

CLERK: I have some items, Mr. President, if I might. Agriculture Committee, two confirmation reports, signed by Senator Carlson as Chair. And I have the report of the Reference Committee with respect to interim study resolutions. That's all that I have, Mr. President. (Legislative Journal pages 1670-1682.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Mr. Clerk, we will now move to the items for Final Reading. Members should return to their seats in preparation for Final Reading. (Visitors introduced.) Mr. Clerk, the first bill is LB9. [LB9]

CLERK: (Read LB9 on Final Reading.) [LB9]

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

Floor Debate
May 21, 2009

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB9 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB9]

CLERK: (Record vote read, Legislative Journal page 1682.) 44 ayes, 3 nays, 2 excused and not voting, Mr. President. [LB9]

PRESIDENT SHEEHY: LB9 passes with the emergency clause attached. We will now proceed to LB63. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB9 LB63]

CLERK: 44 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB63]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB63]

CLERK: (Read title of LB63.) [LB63]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB63 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB63]

CLERK: (Record vote read, Legislative Journal pages 1683-1684.) 43 ayes, 4 nays, 2 excused and not voting, Mr. President. [LB63]

PRESIDENT SHEEHY: LB63 passes with the emergency clause attached. We will now proceed to LB63A. [LB63 LB63A]

CLERK: (Read LB63A on Final Reading.) [LB63A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB63A pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB63A]

CLERK: (Record vote read, Legislative Journal pages 1684-1685.) 43 ayes, 4 nays, 2 excused and not voting, Mr. President. [LB63A]

PRESIDENT SHEEHY: LB63A passes with the emergency clause attached. We will now proceed to LB237. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB63A LB237]

CLERK: 42 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB237]

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

Floor Debate
May 21, 2009

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB237]

CLERK: (Read title of LB237.) [LB237]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB237 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB237]

CLERK: (Record vote read, Legislative Journal pages 1685-1686.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB237]

PRESIDENT SHEEHY: LB237 passes. We will now proceed to LB237A. [LB237 LB237A]

CLERK: (Read LB237A on Final Reading.) [LB237A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB237A pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB237A]

CLERK: (Record vote read, Legislative Journal page 1686.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB237A]

PRESIDENT SHEEHY: LB237A passes. We will now proceed to LB246. [LB237A LB246]

CLERK: (Read LB246 on Final Reading.) [LB246]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB246 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB246]

CLERK: (Record vote read, Legislative Journal page 1687.) 37 ayes, 5 nays, 5 present and not voting, 2 excused and not voting, Mr. President. [LB246]

PRESIDENT SHEEHY: LB246 passes. We will now proceed to LB246A. [LB246 LB246A]

CLERK: (Read LB246A on Final Reading.) [LB246A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB246A pass? All those in favor vote yea; opposed, nay.

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

Floor Debate
May 21, 2009

Please record, Mr. Clerk. [LB246A]

CLERK: (Record vote read, Legislative Journal pages 1687-1688.) 33 ayes, 10 nays, 4 present and not voting, 2 excused and not voting, Mr. President. [LB246A]

PRESIDENT SHEEHY: LB246A passes. We will now proceed to LB420. [LB246A LB420]

CLERK: (Read LB420 on Final Reading.) [LB420]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB420 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB420]

CLERK: (Record vote read, Legislative Journal page 1688.) 42 ayes, 0 nays, 5 present and not voting, 2 excused and not voting, Mr. President. [LB420]

PRESIDENT SHEEHY: LB420 passes with the emergency clause attached. We will now proceed to LB464. [LB420 LB464]

CLERK: (Read LB464 on Final Reading.) [LB464]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB464 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB464]

CLERK: (Record vote read, Legislative Journal page 1689.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB464]

PRESIDENT SHEEHY: LB464 passes. We will now proceed to LB464A. [LB464 LB464A]

CLERK: (Read LB464A on Final Reading.) [LB464A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB464A pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB464A]

CLERK: (Read record vote, Legislative Journal pages 1689-1690.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB464A]

PRESIDENT SHEEHY: LB464A passes. We will now move to LB555. [LB464A LB555]

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

Floor Debate
May 21, 2009

CLERK: (Read LB555 on Final Reading.) [LB555]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB555 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB555]

CLERK: (Record vote read, Legislative Journal pages 1690-1691.) 40 ayes, 4 nays, 3 present and not voting, 2 excused and not voting, Mr. President. [LB555]

PRESIDENT SHEEHY: LB555 passes. We will now proceed to LB603. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB555 LB603]

ASSISTANT CLERK: 42 ayes, 2 nays to dispense with the at-large reading. [LB603]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB603]

ASSISTANT CLERK: (Read title of LB603.) [LB603]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB603 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB603]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1691.) Vote is 45 ayes, 2 nays, 2 excused and not voting. [LB603]

PRESIDENT SHEEHY: LB603 passes with the emergency clause attached. We will now proceed to LB603A. [LB603 LB603A]

ASSISTANT CLERK: (Read LB603A on Final Reading.) [LB603A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB603A pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB603A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1692.) Vote is 45 ayes, 2 nays, 2 excused and not voting, Mr. President. [LB603A]

PRESIDENT SHEEHY: LB603A passes. We will now proceed to LB671. [LB603A LB671]

ASSISTANT CLERK: (Read LB671 on Final Reading.) [LB671]

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

Floor Debate
May 21, 2009

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB671 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB671]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1693.) Vote is 47 ayes, 0 nays, 2 excused and not voting. [LB671]

PRESIDENT SHEEHY: LB671 passes. We will now proceed to LB671A. [LB671 LB671A]

ASSISTANT CLERK: (Read LB671A on Final Reading.) [LB671A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB671A pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB671A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1693-1694.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB671A]

PRESIDENT SHEEHY: LB671A passes. Speaker Flood, you're recognized for an announcement. [LB671A]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. A couple of quick updates here. I did have a chance to talk with each one of you in regard to the sine die adjournment of the session. Based upon my personal conversations with each of you, it is my intention at this time to prepare for an adjournment on May 29, the eighty-seventh day, which is a week from tomorrow. This will be three days earlier than the 90-day maximum number of days for the session. And I believe we can leave here provided we get our work done. I want to reiterate to you, I'm going to do everything in my power to ensure there are no pocket vetoes. I'm going to work with individual senators on the concerns that they have. And we will work through the remainder of the bills. There are some bills that need to be taken care of. On Tuesday we will debate LB36 and LB622. I'm imagining both of those will take some time. Times will vary next week, so please watch very carefully. We will go into session, you know, you're not going to see it under your agenda as to the time because we're going to determine that at the end of each session day. So listen very carefully to the adjournment motion at the end of each day to determine what time we're going to be in. Finally, my best hope today is that we get through LB658. You'll see that Senator Friend, from his committee, has sent a bill to the floor on General File. To get this thing moving through the process, I'd like to at least get to it today and see if it's resolvable. If we can resolve LB658, I don't see us staying for LB622. We will be working through the lunch hour. Again, I

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

Floor Debate
May 21, 2009

appreciate your willingness to stay last night, get the work done. Let's see how far we can get today and then finish the rest of our prioritized work next week. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB9, LB63, LB63A, LB237, LB237A, LB246, LB246A, LB420, LB464, LB464A, LB555, LB603, LB603A, LB671, and LB671A. Mr. Clerk, we will move to the first item under Select File, LB285. [LB9 LB63 LB63A LB237 LB237A LB246 LB246A LB420 LB464 LB464A LB555 LB603 LB603A LB671 LB671A LB285]

CLERK: LB285, Senator Nordquist, I have Enrollment and Review amendments. (ER8103, Legislative Journal page 1260.) [LB285]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for an amendment. [LB285]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB285. [LB285]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed nay. They are adopted. [LB285]

CLERK: Senator Lautenbaugh would move to amend, AM1465. (Legislative Journal page 1661.) [LB285]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on AM1465. [LB285]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This amendment is the result of a collaboration by Senator Pirsch's office, my office, the County Attorneys Association, the Criminal Defense Attorneys Association, the Attorney General's Office, and the Nebraska State Patrol. AM1465 does three things. It harmonizes the overlaps between LB97 and LB285, it provides a definition of sexual penetration or sexual contact, it provides guidance as to what information constitutes remote communication identifiers and addresses as required by the bill. The Bill Drafters have provided a white copy so you can see how the two bills will come together in their final form and become the bill. This is why the amendment is 50 pages rather than 4 or 5. It harmonizes and blends this bill, LB285, which addresses the Sex Offender Registration Act with LB97, which was signed by the Governor yesterday. One area of particular note was the addition of enticement by electronic communication devices as a registrable offense. Both bills added the offense to the registration. However, LB97 made it effective with an emergency clause and LB285 makes it

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

Floor Debate
May 21, 2009

effective after January 1, 2010. This amendment will make the offense registrable January 1, 2010, and addresses the desires of the Judiciary Committee that the new registrable offenses not be effective until January 1, 2010. It provides clarification and harmonizes the definition of certain terms used in the statute. The bill requires registrants to provide information regarding the Internet and remote communications devices...device identifiers, excuse me, and addresses in order to be compliant with the federal Adam Walsh Act. During discussions of the bill, the question was raised as to what requires...what that requires or means in reality. This amendment provides guidance to the registrants as to what that information consists of. The altered language assists the registrant and the person collecting the information to ensure the proper information is being collected. I'd urge your adoption of the amendment. I'd be happy to answer any questions. I thank Senator Pirsch and his office and all other parties involved for working with us on this. [LB285 LB97]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the opening of AM1465 to LB285. Mr. Clerk, you have an amendment to the amendment. [LB285]

CLERK: Mr. President, Senator Lautenbaugh would move to amend his amendment with AM1496. (Legislative Journal page 1694.) [LB285]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on your amendment to amendment, AM1496. [LB285]

SENATOR LAUTENBAUGH: Briefly put, AM1496, it was brought to us by Bill Drafters to correct some drafting errors in the larger amendment I just opened on. It is merely of a technical nature. [LB285]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the opening of the amendment to the amendment, AM1496. Members requesting to speak, Senator Pirsch, you're recognized. [LB285]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. This is a friendly amendment. It is merely harmonizing the two independent sex offender registration bills, this one and Senator Lautenbaugh's, and technical language tweaks. And so on these two amendments I...they are friendly amendments and I'd urge their adoption. Thank you. [LB285]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Seeing no additional requests to speak, Senator Lautenbaugh, you're recognized to close. [LB285]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I believe this is an important amendment that harmonizes these two bills. And I urge your support. Thank you. [LB285]

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

Floor Debate
May 21, 2009

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the closing. The question before the body is on the adoption of the amendment to the amendment, AM1496 to AM1465. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB285]

CLERK: 29 ayes, 0 nays on adoption of the amendment to the amendment. [LB285]

PRESIDENT SHEEHY: AM1496 is adopted. We will now return to floor discussion on AM1465. Seeing no requests to speak, Senator Lautenbaugh, you're recognized to close. [LB285]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And the close I previous gave was, albeit short, was meant for the actual amendment not the technical amendment. So I'll stand on my prior comments. Thank you. [LB285]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the closing. The question before the body is on the adoption of AM1465 to LB285. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB285]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Lautenbaugh's amendment. [LB285]

PRESIDENT SHEEHY: AM1465 is adopted. [LB285]

CLERK: I have nothing further on the bill, Mr. President. [LB285]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB285]

SENATOR NORDQUIST: Mr. President, I move LB285 to E&R for engrossing. [LB285]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB285 advances. We will now proceed to LB542. [LB285 LB542]

CLERK: First of all, Mr. President, I have Enrollment and Review amendments. (ER8130, Legislative Journal page 1430.) [LB542]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB542]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB542. [LB542]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments.

Floor Debate
May 21, 2009

All those in favor say aye. Opposed, nay. They are adopted. [LB542]

CLERK: Mr. President, I have amendments to the bill. I also have a priority motion. Senator Karpisek would move to bracket the bill until May 29, 2009. [LB542]

PRESIDENT SHEEHY: Senator Karpisek, you're recognized to open on your motion to bracket until May 29, 2009. [LB542]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I was so glad how we ended last night, talking about letting people work things out over the interim and come back or I'll fix it for them. I think I remember the Speaker saying that. I really appreciated that because that's how I feel on this one. I also appreciated, this morning, the discussion about we've been too nice and I said I wasn't. Well, I'm not going to be nice on this one either, and I apologize to Senator Campbell because I really respect her and I think how can you not like Senator Campbell. I think that she has been saddled with a bad bill and I don't say that it's a bad bill but not everyone will come to the table and work with her. That's my problem with this bill. We've talked about this thing and we've talked about it and we've talked about it, and we've said it's probably the most lobbied bill that we've had this year. We've heard so much about it. I think the whole body is confused on what it is. I did quite a bit of listening and research. I think I finally get it, maybe. Maybe not. I think this bill needs to be worked on over the interim. I think that Senator Campbell has taken the lead on this and I...I don't want to speak for, she can later, but I bet that she would be willing to work with the parties involved. I would be willing to work with the parties involved but I will not sit down with a one-sided conversation. Why did I bring this amendment? There's three groups involved in this fight. There's the assistants, dental assistants, whose bill this about. Their association does not support the bill. There's the dental hygienists; their association does not support the bill. There's the Board of Dentistry who does support the bill because they're going to make the rules. Talking with most dentists, or at least two in my district, really don't support the bill. I have passed out a sheet that talks about HHS practitioners with a scope of practice or definition of practice in statute. There's 30 on there. If you quickly look through who all has their scope of practice in definition of practice in statute, the dentists are in there, the dental hygienists are in there. I don't understand why we would not put the dental assistants in there or leave them as they are right now. I would think that we would work toward putting the assistants' scope of practice in statute, if we want to do anything. I don't want to hurt the rural dentists that can train their assistants. I don't have a problem with that. I don't want them to be short on assistants. But when you look through this list and all these people that have their scope of practice in statute: an athletic trainer, speech pathology assistant. If you look through on an assistant, a pharmacy technician, a physical therapy assistant, veterinarians, psychologists. I'll be honest with you, there's a few on here that I don't even know what they are. I can make a pretty good guess but I don't even know. Cosmetologists. I don't disagree that we need to sit down and figure something out. I don't think this bill is where we need to go.

Floor Debate
May 21, 2009

Again, I don't think that the parties have come and sat down, and I don't mean the assistants or the hygienists; I mean the Board of Dentistry. And I feel that this is a heavyhanded, we know what we're doing. I had an orthodontist here to say do you think you are competent enough to make statute, to put the scope of practice in statute? I may not but this body is and we do it on all these other things. What kind of thinking is that? Senator, are you competent enough to make a scope of practice? Come on. The hygienists are worried that these assistants are going to cut into a little bit of their niche; I don't blame them. We don't...nobody knows. Some of this is just too far-reaching. The dentists will get to decide what the assistants do. I don't bring this bracket motion easily. I have two amendments behind it. I had them up first. There's some pretty heavy amendments, and I know that the dentists do not like those but I plan on going through with this bracket motion, and if it doesn't go, we'll stay here and we'll go through at least those two amendments and more. That's not a threat; it's a promise. The more I've gotten into this the more upset I've gotten with it. Again, I think Senator Campbell has tried. And again we'll let her talk for herself; I don't mean to put words in her mouth. But I appreciate what she has tried to do on this bill. I don't feel the body understands this bill; I don't think that we do. I'm going to try to help by passing some of these things out, talking about scope of practice, talking about statute. I think they need to sit down over the interim and bring us a bill. Again, the same thing that we did last night. I guess it will be up to the body to see how we play this, whether we're going to stay here a long time or whether we can knock off early. But I do promise you I'm not going away. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You have heard the motion to bracket LB542 until May 29 of '09. Members requesting to speak: Senator Gloor, followed by Senator Stuthman and Senator Campbell. Senator Gloor, you're recognized. [LB542]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I stand in opposition to the bracket motion. I don't think it's going to be any easier next year. I know Senator Karpisek's former football coach. He was talking about strapping on his pads a little earlier. And I believe Senator Karpisek, if he didn't get involved in and should we head in that direction, if he were to be involved in helping reconcile this, would be so frustrated after about three or four months of it that he would have his shoulder pads on and be blocking people out of the way, because I don't think it's going to be any easier. The only thing that I could see perhaps happening is that the dentists would become more and more united behind the Board of Dentistry. We had a discussion last night, yesterday afternoon and last night, about issues around the judiciary and taking leadership from the Supreme Court Justice. I believe this falls, in a general way, along the same category. We have leadership trying to be provided by the Board of Dentistry and they're asking for tools to be able to accomplish that, and it is as simple as that for me. There are important issues that have been brought up. There are important issues that have been shared by people who have lobbied it. I have tried to

Floor Debate
May 21, 2009

approach this humorously, at times; but candidly, it isn't funny anymore. We have a board of serious, dedicated individuals who serve on the Board of Dentistry and they're saying, give us the tools and we can handle this. And we have people who are worried about their careers; we have people who are worried about control. We have people who are worried about, they say, their patients, and I think they are. But we have a body in this state who has that as its primary responsibility, and they have come to us saying, we can handle this if we are given the tools. And I have to support them in that, just as I supported the Supreme Court Justice last night, just as I would support anybody who was trying to take a leadership role and found themselves not as equipped as necessary to accomplish that. We may not be competent to make these decisions in the eyes of some individuals, but certainly we have organization out there that is competent to make those decisions and I'm going to support them. And I am going to support them by voting against the bracket motion and voting for LB542. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Stuthman, you're recognized. [LB542]

SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. I do support the bracket motion. I'm going to tell you some of the reasons why I do support that. I feel that there is not an agreement between the dental hygienists and the dentists and the dental assistants. I really think that that group, those groups should get together and try to come up with something. And I respect the fact that, you know, there is possibly a need of a scope of practice and an education that goes with that for the dental assistants, but are we ready to legislate and put into statute, you know, what type of education is needed for the dental assistants? I really think a dental assistant is an individual that assists the dentists, hands them the tools, does the sterilizing, cleans up, just the minor things. It is what it is. It's a dental assistant. And I think there's a job description and there's a scope of practice for the dental hygienist and that's spelled out and they go for...they have an education for that. They spend money and time and resources to attain a certificate to become a dental hygienist, and I respect those people; I truly do. There is a place for them. There is a need for them. But the thing that I fear is that there's going to be possibly some education set up for certain practices that a dental assistant can do, and it may tend to lead, in my opinion, towards performing some of those practices that, in my opinion, should be done by a dental hygienist. And these dental assistants will have to go to some education but it will not be near the schooling and education that is performed for the dental hygienists. That is one of my concerns. Another concern that I have is that the dentists are not all in agreement with this. There's quite a number of dentists that I visited with that state that, you know, we are okay with what we have now; we're getting along; it's working. So should we try to change, you know, something as a legislative body, put into statute where it is working in the majority of areas? And if it isn't working, why can't we get some agreement between the dentists, the dental hygienists, and the dental assistants, you know, as to

Floor Debate
May 21, 2009

what they could agree upon? Yes, I've been told that it's real hard to get those groups together and to agree upon something. That may be true but I don't think it is our duty to force something down onto an organization or organizations as to what they should be doing and what they shouldn't be doing and how one group may be able to perform some practices with a small amount of education that will tend to take practice away from someone else that has had years of education to perform those practices. [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR STUTHMAN: That is where I'm at on this, and I really think, you know, I do support the bracket motion because I think there's...there can be an agreement. And if they can't get to an agreement, why should we, as a legislative body, put into statute what we think they should be doing? I've always felt that a dental assistant was an individual that just assisted, and I think that's very true, and if the dentist wants that person to do maybe a little bit more, in my opinion that's up to the dentist. It's the dentist that's liable. If something happens, it's the dentist that's liable because it's his liability insurance. It's under him; it's under his direction. There are other ones on this list that Senator Karpisek put out, and I'll just go right... [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR STUTHMAN: Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Campbell, you're recognized. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. We can wait one day, we can wait one month, we can wait six months. This isn't going to get to the fundamental question before the Legislature. Fellow colleagues, the question before you is not--is not--whether you support the dentists or the hygienists or the assistants. We, the Legislature, have to answer the fundamental question that's posed in LB542 and that is, do we give the authority to the department and its advisory board to set education and training for dental assistants? That's the question. Over the course of time, the Legislature gave authority to the Health Department and to the medical director to provide oversight of health professions through rules and regs. The director puts together an advisory board, the Board of Dentistry, which is made up of dentists, dental hygienists, members of the public, and members of the faculty of dental schools, and says to that board, please put together the rules and regs for the dental profession; and if they need education and training, put those also. And over a period of time both the department and the director felt that they had the statutory authority to not only put in rules and regs the duties, but that they had the authority to put education with it. And lo and behold, when the last set of rules and regs went through the AG process, the Attorney General said, stop, you do not have the statutory authority to put education in

Floor Debate
May 21, 2009

place; you have the authority to put duties, but you don't have that. And so LB542 came into being to say to the Legislature: We don't have that statutory authority, we thought we did; we can put duties together but if we're going to put education and training, we need that. Members of the Legislature, please, please do not get bound up in I'm for the hygienists, I'm for the dental assistants, I'm for the dentists. I spent four months on this issue. I started out believing that, wow, this is just...this is a simple question before the Legislature and surely all these groups would be in agreement. I take great umbrage--great umbrage--with the conversation that's drifting back to me, saying well, you know, Senator Campbell just met with those groups. I met with those groups. I met will all three of them together, twice, and then separately, and then with the head of the Board of Dentistry, talked to the medical director. Folks, the time has been put in to hear these. But in the end I said this question is not a question of... [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR CAMPBELL: ...getting three groups to agree. It is question before the Legislature. I will come back to make some additional comments, but keep the central focus here of what you're being asked to do. I can give you song and verse of who I've met with over the time, and I truly hope that the groups I've met with will not take it to so slight and say, well, never met with us, never cared about our position. That's not true. But in the end it's the responsibility before us. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Members requesting to speak on the motion to bracket is: Senator Karpisek, followed by Senator Dierks, Senator Wallman, Senator Gloor, Senator Gay, Senator Stuthman, and Senator Campbell. Senator Karpisek, you're recognized. [LB542]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I hope that Senator Campbell didn't take what I said as her not coming to the table and trying to get them together. She has met with all of them together twice. That doesn't cut it because we all have people on us, telling us they don't like this bill--the assistants, the hygienists, and at least half of the dentists. I will remind you that this is a Speaker priority bill. Speaker priority bills, as I understand it, need to be worked out to get on the docket. My Speaker priority bill, I gave in. I put an amendment on my own bill that I didn't like but I negotiated it. It moved. I did that because it was a Speaker priority bill. If it would have been my bill I wouldn't have budged, but I did. I don't think that the Board of Dentistry has come to this table and talked to the other two groups and agreed. They haven't. They all sat down but obviously they didn't walk away in agreement. It is up to this body to decide and that's why I have a bracket motion up, because when they can decide then we can say good, move along. Again I want you to look at the list of people that are in statute. Senator Gloor, would you respond to some question, please? [LB542]

PRESIDENT SHEEHY: Senator Gloor, would you yield to Senator Karpisek? [LB542]

Floor Debate
May 21, 2009

SENATOR GLOOR: Gladly, yes. [LB542]

SENATOR KARPISEK: Thank you, Senator Gloor. This isn't too much hard questioning, I hope. Dental hygienists are in scope of practice in statute. Would you agree that they should be? Or should we take them out, too, and let the Board of Dentistry decide their training and everything? [LB542]

SENATOR GLOOR: Again, I trust the Board of Dentistry enough so that I believe they're in there for good reasons and so I think having them there does make sense, yes. [LB542]

SENATOR KARPISEK: So then why don't you think that the dental assistants should be in there? [LB542]

SENATOR GLOOR: Because my years of experience, Senator Karpisek, have me knowledgeable about a whole host of people who get involved in providing a variety of health services that aren't technical enough so that it requires that degree of oversight, supervision, or regulation I guess would be the best term to use. In my own hospital alone, if you were to put together a list of people who might fit under dental assistants in terms of their same general levels of responsibilities, you would have a list at least this long, I believe, and yet they aren't regulated. And I think it's because their impact on the system is small enough that we don't feel it necessary to bog the system down with that listing. [LB542]

SENATOR KARPISEK: Okay. Thank you, Senator Gloor. I disagree with you but I thought I'd let you put that in. I don't...these people are working in your mouth. What they do doesn't really matter; they sterilize their stuff; it's good enough. We'll let the Board of Dentistry do it. Why don't LPNs...hearing aid fitter? I'm sure that's not a real easy job but I'll bet you that if you sit around for a year or two and watch, you could probably learn how to fit hearing aids. Maybe not. But it's in statute. The reason that this stuff is in statute... [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: ...is because--thank you, Mr. President--we want to make sure that it's being done. We have things like the Board of Dentistry to make sure that they are putting in practice what we have in statute. In my opinion, this bill is absolutely upside down. They are deciding what we are going to put in statute. No, folks. We make the statute; they make sure that it's implemented in the correct way. It doesn't say how they're going to sterilize equipment in any of these bills or how they're going to do it, but that they will do. I think it is hard to get these people together and isn't that something? Because when I got to the dentist I bet you that all three of them are around me. They're

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

Floor Debate
May 21, 2009

working... [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Mr. Clerk, you have items for the record. [LB542]

CLERK: I do, Mr. President. Enrollment and Review reports LB35, LB35A, and LB675 as correctly engrossed. The Committee on Retirement Systems, chaired by Senator Pankonin, reports LB81, LB424, LB425 indefinitely postponed. I also have a Retirement Systems confirmation report; a motion to be printed with respect to LB134. And bills read on Final Reading were presented to the Governor at 11:00 this morning, Mr. President. (Re LB9, LB63, LB63A, LB237, LB237A, LB246, LB246A, LB420, LB464, LB464A, LB555, LB603, LB603A, LB671, and LB671A.) That's all that I have. (Legislative Journal pages 1695-1696.) [LB35 LB35A LB675 LB81 LB424 LB425 LB134 LB9 LB63 LB63A LB237 LB237A LB246 LB246A LB420 LB464 LB464A LB555 LB603 LB603A LB671 LB671A]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Dierks, you're recognized. [LB542]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. At this point I stand in support of Senator Karpisek's bracket motion. I have been getting so many conflicting reports from dental practitioners in my neck of the woods. From my district I had no one support the issue, but from the close-by districts I've had two. But the dentists that...and some of these dentists started talking to me a year ago from my district, not wanting this to take place. And the other thing that's happened is that the letter that came from the Department of Health I think is confusing. I see places in there where it says okay and other places where it says not okay. And until we can get that sort of thing straightened out I don't think I'm going to be able to support the legislation. So with that I support Senator Karpisek's bracket motion. Thank you. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Wallman, you're recognized. [LB542]

SENATOR WALLMAN: Mr. President and members of the body, this is one of the few times I will have to disagree with Senator Karpisek. I'm against this bracket motion and I'll give you a few reasons why. Very, very seldom will you get three people, three groups of people completely...we talked about compromise. Folks, when you're at the bottom of the post how can you compromise? And you're up here, one, two, three steps, however you want to put it, you will not get a compromise out of the people at the top.

Floor Debate
May 21, 2009

And does that...I go to my dentist. He hasn't said anything one way or the other on this. And but the dental hygienists and assistants, they all help me out. And I hate to go to the dentist. I'll be honest, and my wife always sets it up on my birthday so I don't forget. (Laughter) And so I support Senator Campbell's amendment and I would hope you would also. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Gloor, you're recognized. [LB542]

SENATOR GLOOR: Thank you, Mr. President. Well, here's my story. While this debate has been going on, I got a notice that it's time to have my teeth cleaned. (Laughter) I've very suspicious. I got 18 of them as a matter of fact. (Laughter) Not true. I want to thank Senator Campbell for her patience and continuing to try very diligently to bring this forward and to educate the body on what it is versus what it isn't. I'm beginning to feel like we're in mud on this issue and I also want to thank Senator Karpisek again for his willingness to volunteer, if the bracket motion goes through, to bring parties together. I think both the way he's respected in this body as well as his tenaciousness and fervor, if he comes back next year and tells you what I believe he will tell, I think it will go a long way towards getting this issue resolved. And I hate people who said I told you so, so I'm going to say today, for the record, I told you so when we talk about this again next year. That way I don't have to say it next year but I will have said it as a lead-in this year. I don't think anything is going to change. I don't think it will be that much easier. Maybe there will be more of a consensus with other individuals who have, as a result of discussions with their dentists or their hygienists or assistant, will see this in a different light, but it will not be any easier next year. It will be the same issue. I think we will make the decision to support Senator Campbell's LB542. But if it becomes easier for people to reconcile that they're going to do that next year, and I don't believe it will be that much smoother but I think that's the decision we will ultimately make, so be it. I do appreciate the body's patience on this. I appreciate Senator Karpisek giving me an opportunity to point out what's been a frustration for me and that is there are hosts after hosts after hosts of individuals who could fit into that category of assistance in some capacity, and the state's review board, the 407 process and common sense has not had them on a list. And trust me, the list across the state of Nebraska, not just in acute care facilities, would be pages and pages long if we wanted to go down that path. I don't believe we do. Again my thanks to the body. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Gay, you're recognized. [LB542]

SENATOR GAY: Thank you, Mr. President. I oppose the bracket motion and just wanted to talk a little bit back to LB542. When Senator Council was talking about the Attorney General's Opinion, is all we're doing is going back and doing something in statute what we've been doing for years. Somebody has to take control over education

Floor Debate
May 21, 2009

and training. That's what this is. It's getting very confusing on, well, we should do this, we should do that, and outside influences are telling what they want. That's not the case. I believe Senator Campbell has worked hard. She's tried to pull people together. This is just one of those issues you can't pull everybody together on this particular issue. There's going to be other issues they need to work on, as well, and we had amendments earlier on General File to change the scope of practice and this and that not relating to the bill. The bill, when you look at the statement of intent, it's still correct. "As a result of a disciplinary proceeding...in 2006, the Department..." basically "...determined that there were no duties or training for dental assistants in rules and regulations." So all we're saying is who does that? For years they've been doing this. So we're confusing the situation. This is a fairly simple bill. The dentists say here's what you do. Remember, dental assistants are under the dentist. If they do something wrong, it's on the dentist. The hygienists are involved in doing things; they have their own scope of practice. Dental assistants work directly under the dentists as well, and what they do, the dentist is held liable. So the dentists have an interest in what their training is and what their doing. To me that's just flat-out common sense. So we're making this more than it is, I believe. Had we not had the Attorney General Opinion here saying, oh, by the way, you don't have this, we wouldn't even be here. So Senator Campbell picked up the ball and said, all right, let's go take care of it; let's take care of it. And that's what we're doing. I think these other issues, when we sit down and say, well, let's work it out, let's work it out, absolutely there's going to be a lot more issues when we're here and when we're gone, whatever. That's just the nature of the beast, that people are going to argue, and I wouldn't say complain, but you know. I'm under, in my business we're under...I have regulations. I have education, I have certain requirements we have to meet. They're set and we do them, but the same way here. So I think we're confusing the issue. It's a fairly simple bill and we're getting all these outside influences, but we need to take some leadership and get something done here, and I don't think bracketing this will help. I think what's been done has been done. We can disagree on how much but, you know, it's just somewhat very difficult to bring everybody together on these issues. But when it all boils down to it, it's about training requirements here. Let's not make it anything else. That's what it is and they should have...the board should have a say in what's done. There's hygienists on the board, there's dentists on the board, there's professors on the board. They know what needs to be done. Let them do their job. We're here arguing. I don't think any of us can call ourselves experts in the dental field I don't think. I don't see any dentists in the body. Actually there's not many people in the body right now. But it is an important issue and we need to get it resolved. I don't think bracketing it...just kind of kicks it down the road. We've been doing that too much. I think we need to make a decision one way or another. Let's vote it up or down. Let's decide where we're at. I'm in favor of the bill; opposed to this bracket motion. I think we need to just stand up, cut all this outside clutter, and get this done. I trust Senator Campbell did a good job trying to bring people together. You've heard Senator Gloor talk about it. He's been in the profession a long time. You're going to get e-mails and you're going to get differences of opinion on every bill. This just happens to be you're

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

Floor Debate
May 21, 2009

getting a little more. When it's all said and done, your colleagues have been working on this. [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR GAY: I think it's time to move forward. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Stuthman, you're recognized. [LB542]

SENATOR STUTHMAN: Question. [LB542]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Senator Stuthman. [LB542]

SENATOR STUTHMAN: Request a call of the house. [LB542]

PRESIDENT SHEEHY: There has been a request for the call of the house. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB542]

CLERK: 28 ayes, 0 nays, Mr. President, to place the house under call. [LB542]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel, please step from the floor. Senators, please record your presence. The house is under call. Senator Heidemann, Senator Lathrop, Senator White, the house is under call. Senator, all members are present or accounted for. Members, the question before the body is on shall debate cease on the bracket motion? Senator Stuthman, how would you like to proceed? [LB542]

SENATOR STUTHMAN: I would accept call-in votes. [LB542]

PRESIDENT SHEEHY: Senator Stuthman will accept call-in. Please proceed. [LB542]

CLERK: Senator Heidemann voting yes. Senator Nordquist voting yes. Senator Flood voting yes. Senator Harms voting yes. Senator Louden voting yes. Senator Pahls voting yes. Senator Ashford voting yes. Senator Mello voting yes. [LB542]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB542]

CLERK: 26 ayes, 6 nays to cease debate, Mr. President. [LB542]

Floor Debate
May 21, 2009

PRESIDENT SHEEHY: Debate does cease. Senator Karpisek, you're recognized to close on your bracket motion. [LB542]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I thought that we would have a quick vote here. And I meant it: If this doesn't go through, we will be here for quite some time yet today. We've heard...Senator Gay said that he has to take tests. He's got to keep his licenses up. They're in statute. We just talked off the mike real quick. They're in statute. That's why you have to do that. We have the dental hygienists are in statute. Why if the...why wouldn't we just say, well, the dentists go ahead then and you be in charge of them also? We also heard...I think Senator Gay said, well, the dentist is liable for the assistant. They're also liable for the hygienists that work in their clinic, so why would that be in there? Again, all of these on your list of 30 we wouldn't need...we don't know more about any of these things than we do about dental assistants. But we, as a body, have made the rules for the boards to uphold. Nurses. Could doctors train nurses? I'm sure the doctors would assume so. Now I miss Senator Johnson on that one because he would have been great to ask. The dentists are in this. Folks, Senator Gloor may be right that if we come back in a year nothing will have changed; neither will my stance. If they can't sit down and sit across a table from each other and act like reasonable adults, then I'll do the same thing again. I think this has gotten to be a power struggle and it's not all the dentists. I don't want the dentists out there saying that I'm picking on them. I think it's the Board of Dentistry. I know that we've gotten into this situation, Senator Gay and I quickly talked about that and it's kind of a crazy deal how it worked out. We need to sit down and talk things out. I've heard a couple of you say, well, you know, that just doesn't always happen. My goodness, people, how many times do we say that? How many times did the Speaker come over to you and say, get this worked out or it's not coming back up on the agenda? I've heard it, not too long ago on a Speaker priority bill that I amended against my wishes, but I did it and got it moved. And this, by the way, is a Speaker priority bill if anybody didn't remember that. Please, let's leave this alone. Come back next year. I will sit down, if they want to sit down with me, which they probably won't, and that's fine because I'm just as hardheaded as they appear to be. This is...needs to be in statute. We need to sit down, work it out, try to get everybody together. I think this is trying to push something down. When the hygienists and the assistants who this is about don't like this, that tells you something. That tells you that they don't like it. Please vote for the bracket motion. We can move this. We'll be out of here a lot sooner. I'll be a lot happier and I think a lot of you will be, too, because I know you're confused on this bill; I know you are. And that doesn't mean that I'm not confused on all the other bills, but this one is confusing. We've heard so many different sides to this thing. [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. Senator Dierks said, my goodness, I've heard more different sides to this. This isn't an octagon. I don't even know how

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

Floor Debate
May 21, 2009

many sides it has. They can't come together. We hear so many conflicting stories. Again, Senator Campbell, I think has tried. I know she'll try more. Hey, if they can't get together, well, then that's the way it goes. Mr. President, are we still...the house under call? [LB542]

PRESIDENT SHEEHY: Yes, it is, Senator Karpisek. [LB542]

SENATOR KARPISEK: Thank you, Mr. President, and I will close. Thank you. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You have heard the closing. The question before the body... [LB542]

SENATOR CAMPBELL: Call vote. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Campbell. You have heard the closing on the motion to bracket LB542 until May 29, 2009. There's been a request for a roll call vote. Mr. Clerk, please proceed. [LB542]

CLERK: (Roll call vote taken, Legislative Journal pages 1696-1697.) 12 ayes, 27 nays, Mr. President, on the motion to bracket. [LB542]

PRESIDENT SHEEHY: The motion to bracket is not adopted. The call is raised. [LB542]

CLERK: Mr. President, the next amendment I have to the bill: Senator Karpisek, AM1430. (Legislative Journal page 1607.) [LB542]

PRESIDENT SHEEHY: Senator Karpisek, you're recognized to open on AM1430 to LB542. [LB542]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Sit right back and you'll hear a tale. What is it, a four-hour tour? That's what we're going to do. Thank you. Senator Avery threatened this awhile back and I think Friend said, let's see if he can do it. (Laughter) Let's see if I can do it. This might be a little bit of fun. I'm Gilligan, I think. I don't know which one I'm going to be but I'll probably be the Skipper. But we will do this. I can't believe, after I talked to most of you, that vote. Maybe I should have done reverse order. I don't know. (Laughter) My goodness, everybody...yeah, boy am I confused, I don't know what's going on with this; all right, yeah, let's just set...hell-o. (Laughter) All right, I better get serious now, but I am a little bit miffed and I've always wondered if I could do this, too, so I'm a little bit wondering myself. Senator Gloor does know Superintendent/Coach Joel who was my football coach for my first two years of high school. And if you ever see him, you may want to kick him in the shin because he's a big part of why I am this way. (Laughter) He's mean. He was mean. He took me as a 120-pound freshman and put me in, a bull in the ring with the seniors. Bull in the ring is

Floor Debate
May 21, 2009

one guy in the middle and they call out a number and you spin around until that guy comes at you and you hit each other. Well, the seniors don't come right away. They forget their number until you turn they back, and they come and they run you over from behind--230 pounds. Probably somebody like Senator Price would do something like that. (Laughter) So anyway, if Coach Joel is watching, that would just be great, because you did it, Coach. This amendment was the amendment that I thought I voted for when Senator Campbell's amendment came up. It says "shall." They shall report. Strikes the may; says "shall." I really thought that that was what it was. When I saw this amendment the first time and to see if I could take it, I thought, well no, that's what it says. No, I was wrong. It's a "may"; they "may" do this. This amendment says they shall. If this is such a great idea, then they're going to do it. The next amendment I have up, just for your information, will be one that the dentists, since they are supervising these assistants, will have to be on premise and not be doing other things while they're assistants are learning under the hygienists. Let's just focus on this right now. They "shall" do all of these things that Senator Campbell put in her amendment. I think that's fair. I'll tell you, the dentists don't like it. I had these amendments up before I had the bracket motion up. They didn't like these so I said, I'll tell you what, I'll put the bracket motion up; if that passes we won't even have to worry about it. Well, it didn't pass so now we're going to worry about it. Now we're getting to the dentists that were against that last bill are probably a little bit nervous right now. I thought by all the talk, the e-mail, all those things that we said this is the most convoluted bill, we're getting lobbied on each side of this thing, that we would have walked away from it. But you didn't want to. When this bill first came up--I meant to bring that up earlier--when the bill was on General File, I was in the penalty box so I didn't speak on it. And I didn't know enough about it so speak on it but I did vote no. I don't know why...I don't understand why we just want to give the dentists this free range to decide this. Again, why don't we do it for the hygienists then? I don't know if you people realize but we have assistants, believe it or not, doing some things that maybe that they shouldn't be doing--bending wire on braces. If any of you would have been listening when people were here, one of the hygienists from my district was here with her son and was showing you his braces. He told you who's been adjusting his braces. It hasn't been the dentists until mom finally got mad and said something. They've been here. They've been here through this whole debate trying to tell you that this isn't going to work. But you didn't listen to that. I don't know. Going to believe the Board of Dentistry. I have nothing against them other than they're trying to just take control of this. I think it's too much. They can implement all these things but we, as the Legislature, should give them the rules. We do it on all these other things, folks. Why is it different all of a sudden? I don't know. Anyway, I will be glad to listen in. I will talk to the Speaker, see how long we're going to go. No lunch, Captain Lunch-hunters. I hope you had a big breakfast. Thank you, Mr. President.
[LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You have heard the opening of AM1430 to LB542. (Visitors introduced.) Members requesting to speak on AM1430 are

Floor Debate
May 21, 2009

Senator Campbell, followed by Senator Karpisek, Senator Nelson, Senator Gloor, Senator Lautenbaugh, Senator Langemeier, and others. Senator Campbell, you're recognized. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President, and I thank my colleagues for keeping a very close focus on what LB542 is really all about. I want to make one comment because I was ready to speak and then we went to the question on the bracket. The list that has been provided to you in great part, I believe, are people who are licensed or registered or certified. That means that they have gone through a 407 process. A 407 process is established by the department. The Legislature set it all up to say we don't really know who should be licensed or certified or registered, so we set up this process. It was LB407 but now it's known as the 407 Review. For my colleagues' benefit, as late as January the dental assistants went through the 407 process and they failed. A separate committee has established a technical committee apart from the Board of Dentistry to review the application and they failed it on two of four points, and the director failed it on four of four points. So it's not as if the dental assistants have not had an opportunity to try to be licensed, and in many cases that 407 process then generates what is in statute. The amendment before you, I rise in opposition to it because the difference between that they "may" include those and "shall" are a great difference here. Again, our focus here as a body is on authorizing the department and its advisory board to set forth the rules and regulations. In that deliberation it is critical that the Board of Dentistry and the director have to weigh the balances here of a large practice/small practice, urban practice/rural practice. Part of the points why they may--and it was very specifically put in as may--to allow that flexibility across the state of Nebraska, whether you're a small practice or a rural practice, or large. There are just some times in which not every duty has to have an education and training, and it was that premise, that flexibility to be able to look at that all across the state of Nebraska, of why may was very purposely put in. And so I would oppose AM1430. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Nelson, you're recognized. [LB542]

SENATOR NELSON: Thank you, Mr. President, members of the body. I was gratified to see that the bracket motion was defeated. I was in queue before the question was called on that and I was hopeful that we would keep on working on this today because we need to dispose of this today. We have various parties with various interests. Senator Campbell has worked hard. There's still no agreement. I didn't see any reason in putting this off. This is not a difficult bill. This is about five lines with a few words. All this bill does is add some language that wasn't there before, which put the authority of the Board of Dentistry here in question. They were operating under the premise that they had the authority. No one objected. They were getting along fine until there was a lawsuit that involved some malpractice, and then this lack of authority was put up as a defense and the Attorney General agreed. So what do we do know? I don't think it's

Floor Debate
May 21, 2009

difficult at all. We put it in there. We let the board provide for training and not "shall" but "may." I oppose this motion. Let's give the board some flexibility. We don't have to be here a long time today. I don't think it's that difficult. Let's go ahead and vote this present amendment down and then move on to the next amendment. I will lend the rest of my time to Senator Campbell if she would care to use it. [LB542]

PRESIDENT SHEEHY: Senator Campbell, you're yielded 3 minutes 25 seconds. [LB542]

SENATOR CAMPBELL: Thank you very much, Mr. President, and thank you, Senator Nelson. I just want all of you to realize that, you know, we've been using a lot of football analogy this morning and I'm not really qualified...obviously I didn't play football; I love college football. But I do want to explain one thing, that as the Legislature, through the years, has designated the department to determine the rules and regs and that education, and they've used their advisory boards to do this, the department and their advisory boards have become the referees. They are required, in public hearings and putting out documents for every part of that profession to look at it. So the person with the black-and-white shirt and the whistle here is the department and its boards. And it's important that that be in place, that we keep that in place and that we authorize the department and the boards to do that. We do not want to be in a position of refereeing every mental...every mental health practitioner, on and on and on. I want you to know that if you want to see the future, I received an e-mail several days ago from one of the medical professions not related to the dentists, who are not licensed, registered, or certified. And they said, oh, Senator Campbell, we saw in the paper where you sponsored this and we're ready; we're ready to go; we have our whole scope of practice, we have the education. Will you introduce this bill? Folks, we don't want to go down that road. We want to stay very focused on the people that we have authorized to oversee the health professions. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Gloor, you're recognized. [LB542]

SENATOR GLOOR: Question. [LB542]

SENATOR KARPISEK: Objection. [LB542]

PRESIDENT SHEEHY: The Chair rules that there has not been enough discussion on this amendment. Senator Lautenbaugh, you're recognized. Senator Lautenbaugh. Senator Langemeier, you're recognized. Senator Langemeier. Senator Coash, you're recognized. [LB542]

SENATOR COASH: Thank you, Mr. President, members of the body. When the bracket motion originally came up, I was pretty glad because I wanted to see this go away. But if

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

Floor Debate
May 21, 2009

this comes back next year I'll just blow my top. I hit my button because I want to see Senator Karpisek go with this a little bit so I'm going to give him the rest of my time, in a second. But I did...something Senator Gay said earlier I wrote down because it made a lot of sense, Senator Gay, and I want to make sure that I heard you correctly. You said all we're doing with LB542 as it is, is putting in statute what we've already been doing. If it's not broke, why are we trying to fix it? Well, I guess there's two groups that think it's broken, but...if we've been doing it for years, what's the problem? With that, I'll yield the balance of my time to Senator Karpisek. [LB542]

PRESIDENT SHEEHY: Senator Karpisek, you're yielded 4 minutes. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. Thank you, Senator Coash. Members, this is a filibuster and I would think...we haven't been into one maybe too much this year, but trying to call the question out from under is not good practice. It is not good practice, so I hope that that doesn't happen again. But it can, I guess. I'll object and we'll go on that. We have been doing this for a long time but I don't think that this puts in what we have been doing, folks. I don't think it does that. Once again, why do we even have anything in statute? Why do we do that? This is a simple bill, Senator Nelson, and it's simple to me that it's not right. Senator Nelson, would you yield, please? [LB542]

PRESIDENT SHEEHY: Senator Nelson, would you yield to Senator Karpisek? [LB542]

SENATOR NELSON: I will. [LB542]

SENATOR KARPISEK: Thank you, Senator Nelson. You are an attorney, correct? [LB542]

SENATOR NELSON: That's right. [LB542]

SENATOR KARPISEK: And do you have to take any classes or keep your license up to keep that license? [LB542]

SENATOR NELSON: Not at the present time, but in another year or two I will be required to take some continuing education. [LB542]

SENATOR KARPISEK: And who says that you need to do that? [LB542]

SENATOR NELSON: The Chief of our Supreme Court. The Supreme Court has decided that that's the route to go. [LB542]

SENATOR KARPISEK: And is that in statute? [LB542]

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

Floor Debate
May 21, 2009

SENATOR NELSON: No, I do not believe that's in statute. I think it's a little bit on the same thing we have here with the Board of Dentistry, that the Supreme Court will set those rules and those guidelines and that necessity for training--continuing legal education. [LB542]

SENATOR KARPISEK: And you said they shall set those, correct? [LB542]

SENATOR NELSON: No. I don't think that...if I...I didn't intend to say that. They may. I don't think it's mandatory so far as I know, and it's been a subject of controversy for years and years. [LB542]

SENATOR KARPISEK: (Laugh) Well...and I can see why. You have to go to a school to do...to be an attorney, right? [LB542]

SENATOR NELSON: You have to go through a rigorous regime of legal training before you get your acceptance by the bar. [LB542]

SENATOR KARPISEK: Why? Why can't the Supreme Court just say, oh, Senator Nelson, you look like a bright guy; I'll train you here and we'll cut you loose. [LB542]

SENATOR NELSON: They used to do it that way... [LB542]

SENATOR KARPISEK: They used to. [LB542]

SENATOR NELSON: ...and you used to be an apprentice to lawyers and then take the bar on the basis of what you learned on the job. [LB542]

SENATOR KARPISEK: And I think you made a huge statement when you said they used to. [LB542]

SENATOR NELSON: That's correct. [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: Probably wasn't a bright idea. Thank you, Mr. President. [LB542]

SENATOR NELSON: Well, we had some excellent lawyers. Maybe we had better lawyers years ago (laugh) than we do now. [LB542]

SENATOR KARPISEK: Well, luckily I haven't really needed one for awhile, so (laugh). [LB542]

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

Floor Debate
May 21, 2009

SENATOR NELSON: You're going to need one somebody probably. [LB542]

SENATOR KARPISEK: (Laugh) I'm sure that I will. I may need one by the time I'm done today. Thank you, Senator Nelson. [LB542]

SENATOR NELSON: Thank you. [LB542]

SENATOR KARPISEK: That didn't go quite as well as I had anticipated. I should have picked on someone else. (Laughter) Senator Pirsch probably would have been a better...(laughter). You still just can't do something and have somebody decide. We set the rules, folks. We've got nurses. We've got all these people. And once again, if you "may" do these things, well maybe; maybe you can and maybe you don't have to, we'll decide. When are the going to decide? This year, next year, two weeks from now when they meet? I don't know. [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Members requesting to speak on AM1430 to LB542: Senator Dierks, followed by Senator Haar, Senator Campbell, Senator Fulton, Senator Karpisek, Senator Loudon, and others. Senator Dierks, you're recognized. [LB542]

SENATOR DIERKS: Thank you, Mr. President. I was interested in Senator Karpisek's football experience. I had somewhat the same experience when I was in freshmen in high school. I had a coach--we called him Catfish, and I'm not sure where he got it--but we had 45 kids out for football in a small school. And about halfway through the preseason workouts, why the coach made a remark; he says, I haven't seen any broken legs out here yet, and that afternoon a kid broke his arm. So it got kind of tough at our place too. One of the things that...I mean, as I look through this list of professions that are represented, I see several glaring omissions. So I mean it isn't total, it isn't complete. There are other...we have veterinary technicians, for instance, that are not listed on there. We have...there are different phases of medical practice that are not listed in there. And I think that if there were some opportunity for a study to take place this summer and we didn't jump into this right now, I think that would be the best thing, because I'm still getting phone calls from dentists that say the leadership has changed, and with that change we have this problem; we didn't have that sort of a problem with the former leadership of the dental association. And they're telling me that they don't want to have someone else dictate what they think that their dental assistants need to know because they're able to do that now themselves. My dentist has, I think, I'm not even sure anymore but I think three dental assistants, and there are also three dental hygienists in that practice, and they are all very capable and they're all very efficient and

Floor Debate
May 21, 2009

they all do a very fine job and I'm pleased with the treatment I get there all the time, so I have no problem with the way that the dental assistants are working in the practice that I go to. My dentist does have a problem with this legislation and so do his hygienists. And it isn't just my dentist. I have had it from another dentist in the same town and another dentist in the next town up. It's just they do not want this legislation. So I've got...I'm torn. I understand what Senator Gloor is saying and I understand what Senator Campbell is saying, but when we don't even have agreement among the profession itself it seems to me like we're being a little bit...well, I don't think greedy is the word but I think we're being self-serving to think that we can satisfy everybody until we get them all at the table and make sure that this is...that they're going to be unified in what they want. With that, I think I'll turn this...I give the rest of my time, Mr. President, to Senator Karpisek. [LB542]

PRESIDENT SHEEHY: Senator Karpisek, you're yielded...Senator Karpisek you're being yielded about 1 minute 30 seconds. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. Thank you, Senator Dierks. I really appreciate Senator Dierks standing up and talking about this, since he is a veterinarian. I don't want to beat that in but he understands. I think that if he would be against this, I could really, really appreciate that. But folks, this is just about being careful, doing what we say and saying what we do. Make sure that we have it... [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: Thank you, Mr. President...that we have it the way we want it. I am filing floor amendments. I haven't talked to the Speaker yet to see how late we're going to go. I don't think that we need to go through all this. We didn't have to. I just don't think it's a good idea, folks. It's as simple as that. We're conflicted. People are not coming to the table. That's my number one gripe about this bill. They...Senator Campbell met with them all twice. Heck, we know we can't meet with anyone twice to get a bill resolved, and I'm not blaming her--not in the least. [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Haar, you're recognized. [LB542]

SENATOR HAAR: Mr. President, members of the body, I have two choices. One would be to continue my discussion with Senator Gloor about the prostate gland, but I think I'll probably yield the rest of my time to Senator Campbell, if she wants it. [LB542]

Floor Debate
May 21, 2009

PRESIDENT SHEEHY: Senator Campbell, you're yielded 4 minutes, 45 seconds, and then you'll be next in the queue. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President and thank you, Senator Haar. I, too, would appreciate that we are spared that continued conversation. A couple of comments that I want to make as we are going along here. Senator Coash specifically asked, well, if it's not broken...the question here is not that the system is broken because both the department and its advisory board proceeded on, as Senator Gloor said, for a number of years knowing and feeling confident that they could set the duties and that they also could put education and training with them. But an Attorney General's Opinion said, ahh, don't have the statutory authority on that training and education. And I think where the department and for its advisory board, and I would have to say for all three of the groups I think, in my discussions with them, they would all agree that education and training is important. I think the point of this amendment, however, is to say it shall be on every duty and everything. Part of what Senator Dierks is talking about, across the state, is weighing and keeping a good balance in that small practice or that rural practice and a larger practice. And so it's important to keep that flexibility in mind. Senator Karpisek, I would agree with you that it's probably not good enough that I would only meet with the group two times. I would heartily concur with that. I met with all of the groups, the associations, let's put it that way, of the dentists, the hygienists, and the dental assistants. And yes, that's true, I brought them all together two times. And then I met with the association president and their lobbyist of each of the associations separately. At the dental assistants request, actually, they wanted to meet and discuss with several members of the Board of Dentistry. But then either I or my staff, we met with members of the Board of Dentistry, we met with and talked with people from the Board of Health, we met with individual dentists. We then went back and talked to the lobbyist who represented all these associations a number of times. We tried to float every draft that came our way to all of the associations. I don't know how many meetings is good enough because in the end it's not the number of meetings. The focus and question to this body is, do we continue to give the authority on education and training? And I realize you're going, she said that, but that's what this bill is about. And at some point that's what this body is called upon to say. The other part of that is if you say, well, no, I don't want to give the authority to that...to the department and to its advisory board. Then we have to be prepared to say, we're going to take that authority and we're going to hear every possible field in the health profession here. [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR CAMPBELL: That is exactly why the Legislature set up the whole system of the department and its advisory board having rules and regs and why it set up the 407 process so that people in a profession who are qualified to oversee that profession can make that judgment. I'm sure for all the attorneys sitting in this body they would at least want their profession to oversee in the rules and regs of anything that govern them. I

Floor Debate
May 21, 2009

might feel qualified to do that as a teacher in dealing with issues for education. But the Legislature realized that it needed to rely on its citizens to step forward and help on these advisory boards and give direction to its professions. [LB542]

PRESIDENT SHEEHY: Senator Campbell, you may continue on your time. [LB542]

SENATOR CAMPBELL: I think it's extremely important for the body to know that the rules and regs with regard to dental assistants was pretty much ready to go. And it was then held in place, the update of them, until the dental assistants could go through the 407 process. When that process failed and they did not have the authority on education and training because of the Attorney General, that is what prompted the introduction of LB542. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Fulton. Senator Fulton waives. Members requesting to speak on AM1430 to LB542, Senator Karpisek, followed by Senator Loudon, Senator Fischer, Senator Langemeier, Senator Coash, and others. Senator Karpisek. [LB542]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Senator Campbell is right, how many is the right amount? The right amount is when they can agree if it's one meeting or ten. They need to sit...they, you know, there is no middle ground here, I don't see any. They don't agree. They don't like it. This is shoving something down someone's throat again. And I think you all know how much I like that, not at all. Why would we have the Board of Dentistry be the ones that set all this? We won't have any supervision at all as a Legislature. My next amendments may be to strike all the statutes on all these other assistants and things. That may be a great idea because, heaven knows, doctors know more about some of these physical therapists, that sort of thing than I do. I don't know, I guess I'll stick around and somebody can say why they wouldn't or would think that's a good idea. The 407 process, I'll get into that later. Once again, I want to say I am not trying to beat Senator Campbell over the head with this. I feel that she took on a bill that isn't a good bill. I think she's trying to help and I think it was more than she bargained for. I think that...I would have thought, heck, it is, it's a simple bill, they can sit down and we'll get this worked out, it will be no big deal. It is a big deal. When you have all the hygienists, all the assistants and a lot of the dentists not liking the bill, that is a big deal. I know that all you senators have gotten a lot of e-mail and phone calls and talked to your local people on this. I don't think you're listening, are you? Nah, Board of Dentistry knows more than my local dentist does. I don't believe that. I'll listen to my local dentist, I'll listen to my local hygienists that were here that talked to you if you took time to go talk to them. The second house, they're here, they're outside, they're ready to talk to you, they did. I hope they're still e-mailing. I haven't pulled my e-mail up because I'm running, trying to get floor amendments onto this. This isn't that tough, it just isn't. And I think if we say we'll be in the same spot next year so why not do it now, I think that is a really poor reason, stubborn, hardheaded, no

Floor Debate
May 21, 2009

better than everyone else. So let's just let them go ahead. What is different on this than last night? Is it because last night it was 9:00 and we decided, yeah, let's let them work it out, that's right. Speaker Flood got up and he got up and he got excited and he got a little bit passionate. [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. I liked it. Did you see how all the lights changed color when he did that? What is different about that than this? I'd like to hear that too. It's the same idea, they wouldn't get together. And Speaker Flood didn't like it and he said he'll take care of it himself if somebody else doesn't. What's the difference? Zero, it's just because you don't think that we can do what we already do with all these other practices. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Louden, you're recognized. [LB542]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I stated I think on General File with this bill, it looks like to me it's much ado about nothing. When you go back to the green copy or the statute, that 38-1136, and it says, "The Department with the recommendation of the board shall adopt and promulgate rules and regulations governing the performance of duties by licensed dental hygienists and dental assistants." Now that's been in statute, that's already there. So what did...what was added to it really? About all that was added with the new language was that they may adopt and promulgate rules and regulations providing for education, preparation, and training for dental assistants. Well, before when they were having the rules they certainly was doing the training. So I don't know where we ever got started on with all of these amendments and the bill that we've come up with. They had to bring out an amendment because they weren't satisfied with the green copy. And we put "which may include basic qualifications" in there instead of just "for training dental assistants to perform such duties." So when you get to looking at this thing, I really don't know what it's all about. I don't see where we're doing anything. I always think of the guy that got his pickup stuck, and somebody come along and said, were you stuck this bad when you started or did you work at it awhile? And that's about what we've done with this bill. It was...the statutes was in pretty good shape. But after we worked at it awhile, I think we're probably pretty well stuck on the thing. As Senator Karpisek has mentioned he wants to take this thing and filibuster, if he has to. And it's not because he's a bad Czech, it's just because I think he feels that way about it, that this is legislation that isn't necessary, probably isn't of any value to anybody and, as he's mentioned, nobody is agreeing on the thing. I've talked to the president of the Dental Association. He thought it was a good idea. Go down the road 35 miles, talk to somebody and they tell you it's not a good idea. So you can't even get people within the same community that are involved in these issues that do this for a living, this type of work and can agree on what

Floor Debate
May 21, 2009

should or shouldn't be done. I think probably the best amendment we had on this thing was to bracket the thing and go back and see if they wanted to get together with it. But that's history now. So now we're stuck with going after the thing and seeing if we can make something of it. I don't know where you're going to go to make it any worse. The only way you can improve the thing is to scratch the whole outfit. If you drop the whole thing then you go back to the original...what's in statutes in the 38-1136, which goes on to say that, it was already in there that "The department with the recommendation of the board will perform the duties of licensed dental hygienists and dental assistants." That's what was in the original statute, nice, simple, easy to understand and there it was in front of you. Now we're playing around with the thing. I guess it's...what is it, when they said it before, if it isn't broke why fix it, and that's what we're doing here. It's...if...
[LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR LOUDEN: ...if you...thank you, Mr. President. If you fix on it now, why it will be broke from my estimation. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Fischer, you're recognized. [LB542]

SENATOR FISCHER: Thank you, Mr. President and members. I really don't want to take on the job here of being a teacher but I think we need something explained. This is a full-fledged filibuster that Senator Karpisek has announced as a filibuster; it's the first one that's been announced this year. In a case like that, past practice has always been that you aren't going to be calling the question. A filibuster is there and in the past has been honored to protect the rights of the minority. At one point or another in this body each and every one of us will be in the position of being with the minority on an issue. You know, it used to be that you would sit there and, you know, the rules say full and fair debate. So on General File, you know, when I was first here you'd go eight hours and that was kind of the unwritten rule, full and fair debate. And you don't have to debate the issue. This year and I think it's been very unique in that we've always, I think, debated the issue on each and every bill, each and every amendment we've addressed the issue. That wasn't the case when some of our former members were here. So I think we've had good debate because we've addressed the issue. Filibusters, you just need to stand up and talk, take up the time. So on General File, in the past, it's usually been about eight hours. And then you have to...the bill sponsor would file a cloture motion. We saw that with the state aid to schools bill. Senator Adams did that after 14 hours. We allowed, we as a group allowed a longer discussion on that state aid to school bill. It wasn't just 8 hours, it was 14. Usually on Select File then go maybe five hours, full and fair debate, and then the bill sponsor files a cloture motion. But I am hopeful that members will not leave. I am hopeful that members will realize their duty is to this body, their duty is to the senators who they have made commitments to on this issue and they

Floor Debate
May 21, 2009

will remain, they won't leave for lunch, they won't leave for home. You know, I have a five and a half hour drive. I guess I'm going home tomorrow morning. Because it's our duty as elected representatives to stay here and do our job. And it just so happens that part of that job is dealing with a filibuster. So as Senator Karpisek said, I guess we all better get ready for that four-hour tour here and settle in, relax a little bit, don't get too antsy. And I would ask that you do respect the past policies, the past traditions, the past protections for the minority interests in the state in honoring those policies, in honoring those traditions, and in showing a respect... [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR FISCHER: ...for all members of the body during this process. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Senator Langemeier, you're recognized. [LB542]

SENATOR LANGEMEIER: Mr. President, members of the body, hasn't this been an interesting day. As I read through LB542 it's about as simple a bill as they come. So to understand it shouldn't be hard. And what they're trying to do shouldn't be hard. But my complaint with this whole process is as we sat in Natural Resources this year we started out with a bill that had been before us four to five years. We took people from the far opponents to the big supporters and we brought them together. We spent the time, we worked on it. We dealt with the Tenaska amendment just the other day. Senator "Cap" Dierks and I were so polar opposite when we started that, and as we discussed it and figured out at the end of the day our goals were the same before it was over, we got to a result. And we did that time after time after time. Here we have the dentists who, let's think about this not as dentists and hygienists, not "hygienest" by the way, and assistants out there, they work together. Let's think of this as an employer basis. The dentists hire them to work for them. This is a group that has to work together on a daily basis. And you're telling me that the employer and the employees that work together on a daily basis can't come together and work this out. I just find that so hard to believe. The other thing I can't figure out is there's no effort to try and make them work together. We bring a bill, we ask for a Speaker priority, which should be a pretty calm bill, but yet there's no effort by anybody to work together other than to lobby us. I thought LB160, before I had gotten to this, was the bill I got lobbied on the most this year and by some pretty heavy-hitters, to quote some terminology used earlier. But now I have...I got a dentist from my district called me, said, Chris, LB542 is a good bill. He says, but I think redesigning the state flag to some other color and some other logo would take precedence. I thought that was interesting. I didn't know how to take that comment. As you can tell I've had the hygienists call and say they don't like it. I've had the assistants call and tell me they don't like it. And yet I think they're going to work every day and working with that same dentist. I think that's continuing to happen. I just...it just boggles

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

Floor Debate
May 21, 2009

my mind how simple this is that they can't get together and figure this out and make a plan. And so that's why I have the opposition or the concerns I have on LB542. It's not because this is that hard to understand. I mean, it's 37 words, one big sentence. We've dealt with tougher things in this body, whether it's the death penalty to wind energy and everything in between, we've dealt with bigger things than this. And so this is not tough legislation to understand. It's the process that I have a problem with, and not our process but the process outside the glass, that these groups cannot...they can stand out there but yet they can't talk to each other. And so I think they need to get it worked out and bring it back next year. And I don't know that a scope of work is necessary, but I think they can sit down and understand this and come to some positive conclusion. And, Mr. President, I would yield the rest of my time to Senator Karpisek. [LB542 LB160]

PRESIDENT SHEEHY: Senator Karpisek, you're being yielded 1 minutes 20 seconds. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. Thank you, Senator Langemeier. The state flag redesigning might take more precedence. Well, that might have brought up a whole new issue that we can talk about with the license plates. We've heard about all the complaining about how we pick them. Maybe we could get into that next year, that would be fun, redesign the state flag. [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. Again, I had LB626, Speaker priority bill. Senator Avery and the Government Committee worked on that thing for three days a week for a month or a month and a half, over and over and over until we finally got it hammered out where even the committee could agree to get five votes to get it out on the floor. I changed it on the floor to what I didn't want to get it to move. The minority of the committee got their way because I gave in on it. We worked on it. We were so tired of it the staff in the Government Committee could scream, I'm sure. The mayor's office, the university,... [LB542 LB626]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR KARPISEK: ...NPPD...thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Coash, you're recognized. [LB542]

SENATOR COASH: Thank you, Mr. President, members of the body. I just...if LB542 without the amendment passes, I'm just not sure it's going to be the end of the world. I yield the rest of my time to Senator Karpisek. [LB542]

Floor Debate
May 21, 2009

PRESIDENT SHEEHY: Senator Karpisek, you're yielded 4 minutes 40 seconds.
[LB542]

SENATOR KARPISEK: Thank you, Mr. President. Thank you, Senator Coash. Who else worked on LB626? I said the city of Lincoln, the university, the state colleges, the Governor's Office was involved, Accountability and Disclosure was very involved. We worked on that thing for that long. I didn't think it was ever going to come out. The Speaker made it a Speaker priority bill. In hindsight I think he wished he wouldn't. That was the one that Senator Lautenbaugh tried to hijack, if you recall that. I'm not trying to hijack this, I'm trying to kill it. I'm not even trying to kill it. I tried to just let it sleep for the summer and come back next year and see where we've gotten on it. There is no...no one is trying to talk because, you know why they're not trying to talk now, Senator Langemeier, because they don't want to talk. If they would have wanted to, they would have come to an agreement before now. But they've got their heels dug in. They're right, that's it, we're going to do this. I hope Senator Chambers is watching somewhere and he can tell me how bad I did later. But the backbone, this floor needs to stand up for something, stand firm, say, yeah, you don't like how we did that, we're a body, we try to stick together as much as we can. We try not to get personal, it's tough, we try not to. But we do things as a body. We're elected to come here to represent our constituents' views. And if that doesn't fly very well with some people, tough. That's what we're here to do. If you don't like something, I can't believe that this is really the first real filibuster, I don't know maybe on school aid we had one. All year we've moved things along, we've worked together, we've come together. I've got a couple of senators saying, hey, how about this, would this work, will that work? That's great, thank you, I appreciate that. But I'm not in that position to bargain. I tried to just lay this over. I'm going to look here pretty soon on how many of the senators that didn't vote to bracket it have left. Time is ticking away and everybody wants to go. And if they got to go, they're not going to be here to vote for cloture. I think Senator Chambers would say, tick, tick, tick, tick. I can't believe I talk about him as much as I do on the floor. (Laugh) But we will wait, we'll wait this out. If somebody does have some ideas, I'd be more than happy to listen to them. I've got two more amendments, I've got an IPP drawn up that... [LB542 LB626]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: ...thank you, Mr. President, that I can drop. I've got a reconsideration motion ready if we do vote on something. So I think I've got my ducks in a row here. You may not agree with me but I think I'm ready to go. I think I'm going. The clock isn't moving as fast as I wish it would. And I'd like to get out of here. I'd like to get an early start to the weekend. We had that opportunity and I don't know where everybody's spines went on that one. But I thought that we had that. I thought that we'd sit down, tell them, bring us something. Once again, what is different between this and last night? I still haven't heard anyone answer that. Thank you, Mr. President. [LB542]

Floor Debate
May 21, 2009

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Members requesting to speak on AM1430 to LB542, Senator Stuthman, followed by Senator Carlson, Senator White, Senator Friend, Senator Rogert, Senator Campbell, and others. Senator Stuthman, you're recognized. [LB542]

SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. I want to talk to you a little bit about the process that took place in Health and Human Services. I have served on the Health and Human Services Committee for seven years, the longest serving member of that committee. Here we have a bill that we're debating. And we are trying to get the groups together to talk. But now we're going to force them and tell them what to do. I want to talk a little bit about one of my bills that I had in Health and Human Services Committee, it was the licensed nurse practitioners bill. This was a bill that would hopefully try to change the agreement that the licensed nurse practitioner has with the physician. I think they should have an agreement, a working agreement. What we have in the rural areas is we have physicians that are probably 70, 80 miles away from small communities. But there's an individual in those small communities that has a licensed nurse practitioner that would like to practice. But this individual can't get an agreement with the physician to practice there. What we have attempted to do was to try to get an agreement with them. Now in the committee process the committee...I tried to get this bill out. The committee has said, no, we're not moving this bill out until the nurse practitioners and the physicians get together and make an agreement. How did the vote go to move this bill out of committee? I will tell you how the vote went. There was one yes, one no, and the balance were not voting. The reason for that was they said let's let those groups get together and make an agreement and then come back to us and we will work. So we held it in committee. What are we doing here now on this bill? We've moved it out. We're saying, well, we can't get the groups together, they won't get together, so we're going to tell them what to do. And I would also like to remind you of the fact that as it came out of committee there was only five that supported this bill coming out of committee, and two were present and not voting, they were myself and Senator Pankonin. I want to talk a little bit more about an e-mail that I received from an individual that was by one of the community colleges. And this individual, and I'm going to read, you know, what he had written me. He says, I get a list...and this was a dentist that opens his office to people that have an interest in being a dental assistant, a dental hygienist or any interest in dentistry and he opens his offices up and allows them to shadow him. And I will read you part of this. I get a listing each year of the candidates that will be graduating from this program, it's a dental assistant program at the community college. This year they only have three dental assisting students on the list. Now I think... [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR STUTHMAN: ...I think that that is a...I think that's a real issue. And he also states in there that...he says, this small class concerns me considering that the dental

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

Floor Debate
May 21, 2009

assisting educators may have been attempting to amend this bill to justify their existence. And that could be very true. The fact that they want to have education requirements set up so that there can be education for these educators, these dental assistant educators to do and I think that's very possible. I think this is a bill, this is a bill that I felt we should have allowed them to come up with an agreement and work it out amongst themselves. This is no different, in my opinion, than my licensed nurse practitioner bill when I couldn't get it out of committee, same committee... [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR STUTHMAN: Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Carlson, you're recognized. [LB542]

SENATOR CARLSON: Mr. President, members of the Legislature, I see that Senator Karpisek is involved in conversation. I don't want to disturb him, so I would like to engage in a little conversation with Senator White, if he would yield. [LB542]

PRESIDENT SHEEHY: Senator White, would you yield to Senator Carlson? [LB542]

SENATOR WHITE: I certainly will. [LB542]

SENATOR CARLSON: Senator White, let's suppose that you and I have been assigned the responsibility as a committee of two... [LB542]

SENATOR WHITE: Okay. [LB542]

SENATOR CARLSON: ...in the Legislature to review and come up with...now I've lost my terminology, statute...scope of practice of administrative assistants in the Legislature. [LB542]

SENATOR WHITE: Yes. [LB542]

SENATOR CARLSON: Who would you think we ought to talk to first about that? [LB542]

SENATOR WHITE: The administrative assistants, see what they're actually doing. [LB542]

SENATOR CARLSON: Okay. Then where would we go? [LB542]

SENATOR WHITE: Then I'd go to the senators, see what they'd like them to do.

Floor Debate
May 21, 2009

[LB542]

SENATOR CARLSON: Okay, would we be concerned or talk to the legislative aides?
[LB542]

SENATOR WHITE: Sure, to see what's being pushed down to the administrative assistants, talk to the legislative aides who...what level of supervision they do, understand how the offices are actually being organized and run. You don't want to regulate from a theory. You want to at least understand the industry first and look for the practices. And then look to see if there are problems in the practices to see if you need to regulate at all. [LB542]

SENATOR CARLSON: Okay. So we've started with the people directly involved and their scope of work, their scope of assignment. We've brought in the others that work with them on a close basis, certainly we can't leave out the senator, the employer.
[LB542]

SENATOR WHITE: Correct. [LB542]

SENATOR CARLSON: And then where would we go? [LB542]

SENATOR WHITE: Well, one of the things I'd look at is other states to see what...how they... [LB542]

SENATOR CARLSON: Well, let's get down...in doing what we've done so far we've kind of come to a conclusion we know what we want. [LB542]

SENATOR WHITE: Okay. [LB542]

SENATOR CARLSON: You and I know what we want because we're the, in a sense we're the employer. [LB542]

SENATOR WHITE: Fair enough. [LB542]

SENATOR CARLSON: But it's not really up to us, is it? [LB542]

SENATOR WHITE: No. [LB542]

SENATOR CARLSON: Where do we...who has the final say in what we've come up with in terms of duties and scope of practice? [LB542]

SENATOR WHITE: Well, the senators collectively in this Legislature. [LB542]

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

Floor Debate
May 21, 2009

SENATOR CARLSON: Would you say the Executive Committee? [LB542]

SENATOR WHITE: Oh, they have a say, certainly, they can issue rules and regulations governing how we treat our employees and what we use, certainly. [LB542]

SENATOR CARLSON: Okay. Now I don't know if that's a parallel example or not. But we start with the dental assistant. [LB542]

SENATOR WHITE: I think that's (inaudible). [LB542]

SENATOR CARLSON: We've got dental hygienists that are involved because they work together. [LB542]

CENTAUR WHITE: Yeah. [LB542]

SENATOR CARLSON: We've got the dentist himself who is the employer. [LB542]

SENATOR WHITE: Yes, sir. [LB542]

SENATOR CARLSON: But then we've really got the Board of Dentistry that is over the whole thing. [LB542]

SENATOR WHITE: Yeah, they tell the employer what the basic rules are and it's...the dentist has to enforce them. And if the dentist fails to, then the dentist answers to them. [LB542]

SENATOR CARLSON: So the final authority would be with the Executive Committee in the Legislature, I think... [LB542]

SENATOR WHITE: I would... [LB542]

SENATOR CARLSON: ...that it would be with the Board of Dentistry. [LB542]

SENATOR WHITE: Yeah, I think that's right. I mean, the Executive Committee will set the basic rules. Obviously, if we violate them, you know, then there is our own internal systems,... [LB542]

SENATOR CARLSON: Okay. [LB542]

SENATOR WHITE: ...as is there is in the Dentistry Board. [LB542]

SENATOR CARLSON: Thank you, Senator White. That was a good discussion. You and I have just solved the problem and maybe we'll get appointed to be a committee of

Floor Debate
May 21, 2009

two for future endeavors. Thank you. [LB542]

SENATOR WHITE: (Inaudible)...committee of four and we could be putting at the moment. [LB542]

SENATOR CARLSON: (Laugh) Excellent suggestion, I agree. And the Lieutenant Governor would probably like to join us. Thank you. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator White, you're recognized. [LB542]

SENATOR WHITE: Thank you, Mr. President. You know, it's interesting, I'm kind of sad to see that many of the freshmen senators aren't here because I think Senator Karpisek picked the wrong sports metaphor. It's his filibuster, he can pick whatever metaphor he wants, but I always preferred the metaphor of The Sweet Science, if there are any devotees of boxing here. Debate is kind of like a slugfest. Think, you know, Frazier versus Ali, first fight, people trying to persuade and knockout, to come to a conclusion quickly and decide the issue definitively. Somebody is left standing, they prevail on the bill. But a filibuster is a lot more like a later Mohammad Ali fight, it's a lot more like a rope-a-dope. And, you know, one can really ask yourself who your friend is. I saw Senator Coash get it pretty quick. He didn't, supporting this bill, give time to Senator Campbell, he gave it back to Senator Karpisek to see if he could punch himself out. That was nice. It was like somebody got it. I wish Senator Janssen was here. (Laughter) And he would have a chance to weigh in on about that because that was part of the maneuvers and it was extremely well done. And so I didn't know, as I don't really have a dog in this fight, I really don't one way or another, and I say that because Michael Vick got out of jail yesterday. (Laughter) But I didn't know whether I should give time to Senator Campbell or give time to Senator Karpisek. But instead I thought, well, I would just get up, kind of make an observation. If Senator Janssen was here we'd engage in a little dialogue on whether or not this rope-a-dope should occur under the balcony or out here on the floor. But he's a no-show, so in the boxing world that's a walkover victory. (Laughter) You know, I mean, but, you know, you got to show up when the bell rings or you're not in the game. So anyway with that, I won't yield my time to anybody. I'm just going to watch out how the rest of the fight plays out. [LB542]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Friend, you're recognized. [LB542]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. It becomes a race against the clock and it also becomes a practical matter of who can be here to finish the job, to do the job. And what I mean by that is filibusters don't have to take 8 hours, filibusters don't have to take 12 hours, 15 hours. It's a simple matter of practical strategy at a particular time. We were here until 9:00 last night. We're here this morning,

Floor Debate
May 21, 2009

folks are tired, some are off the floor, some are wherever. And now it's not as much of a clock issue, it's a manpower issue, which is fun to watch. I voted for the bracket motion. I don't know how I expect this whole thing...I don't know yet how I expect this whole thing to turn out. But I voted for the bracket motion for two really fundamental reasons. By the way, I preface this whole thing with the filibuster and the strategy, the filibuster because I first was critical, if you're going to filibuster something try it on General File, don't do it on Select, you don't have enough time. But then it occurred to me it doesn't really matter. People state checking out or doing whatever, I mean the game is in your hands again. So big deal, whatever, I mean, I...you know, you...strategy changes. A filibuster is a filibuster. But let me get to the two points or the two reasons I voted for the bracket. Nobody in here is antidentist, nobody "antidenti", does that...what...(laughter). Nobody here is antihygienist or dental assistant, you know that's clear. But I voted for the bracket motion because, let me give you a little bit of an analogy, it's sort of an analogy. I've got a bill that comes up right after this. And you think, well, Friend, shut up, you'll get to your bill on General File; we're late to the game with that committee priority. But we're late to the game for a reason. We're late to the game with that committee priority because when we had the hearing we had people show up in opposition to that bill. And they said, there are some huge problems with this thought process. So staff and I and others worked pretty hard to bring these parties together. And now, to the best of our knowledge, LB658, which is the bill up right after this, is on General File because we did the work. It's late to the game. It's on General File this afternoon or whenever we get to it because we put in the time. My staff put in the time, the Urban Affairs Committee put in the time. This bill came out with a vicious triangle and nobody is seeing eye to eye. I'm not criticizing Health and Human Services Committee. Sometimes you do that because you know that's how you're going to have to get from point A to point B. You're going to have to force the issue. It's not a criticism. What I'm telling you is though I think under these circumstances we should have seen this type of thing coming, it was bound to happen, absolutely guaranteed to happen. I just pushed my light again. I've got a bill that I actually care about up after this. I don't know if we're going to get to it, I don't care. I say that a lot, don't I? I don't care. There's a lot of people and I've met a lot of influential people that do care about that bill. But this... [LB542 LB658]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR FRIEND: Thank you, Mr. President. But LB542 is significant public policy. And people will say, well, it's only three lines; the hygienists are making a big deal out of nothing. Really? Are they? They showed up in opposition to the bill, they think it has an impact on their scope of practice. If they're wrong, I got to be honest with you, other than the fact that people are saying that they're wrong, I haven't heard a really good legitimate reason or an answer to the fact that they are wrong out here yet. You may never hear me say this again. Senator Karpisek is right, this bill is not ready for prime time. A recommit motion would work too. This bill was not ready for prime time. I don't

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

Floor Debate
May 21, 2009

think we should be out here doing it. I said that on General File, I'm saying it on Select. The bracket motion was a good idea. I say these folks need to get down to a table somewhere and straighten... [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR FRIEND: ...this stuff out. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Rogert, you're recognized. [LB542]

SENATOR ROBERT: Thank you, Mr. President. Now who in the world would have thought the first filibuster in the year would have been run by Karpisek? (Laugh) Not me, but I'm pretty proud of him. This is kind of fun. After a 12-hour day yesterday, here we are again battling over something that we've been battling on, basically, since the beginning of the session. Mr. President, would Senator Friend yield to a question for me, please. [LB542]

PRESIDENT SHEEHY: Senator Friend, would you yield to Senator Rogert? Senator Friend, would you yield to Senator Rogert? [LB542]

SENATOR FRIEND: Yes. [LB542]

SENATOR ROBERT: For the record, Senator Friend, how many votes does it take to invoke cloture? [LB542]

SENATOR FRIEND: 33. [LB542]

SENATOR ROBERT: I just checked and there's 14 out. I don't think Senator Karpisek is going to vote for cloture. And I don't think Senator Fischer is going to vote for cloture. [LB542]

SENATOR FRIEND: Are you asking me whether I'm voting for cloture? [LB542]

SENATOR ROBERT: No, I'm asking if you can do the math. [LB542]

SENATOR FRIEND: Because I can talk a long time about that. [LB542]

SENATOR ROBERT: I'm just asking if you can do math like I can. (Laughter) I don't think we've got enough votes here. [LB542]

SENATOR FRIEND: Yeah, I'm not...I never really was tremendous at math. But yeah, that's an issue. [LB542]

Floor Debate
May 21, 2009

SENATOR ROBERT: Thank you, Senator Friend. Conflict, compromise, that's what we do. It's annoying sometimes but it's our job. If everybody got along and they could come to an agreement, they wouldn't need us and they wouldn't come here. That's the whole point. We are here to put...set things in statutes, but a lot of times we get asked to settle some crazy conflict, and that's what we're trying to do today. We did it before, we did it on bonding, we've done it on Senator Flood's bill. We've done it on Senator Gay's bill this morning on the safe haven stuff, settling conflict. I've never heard the word "antidenti" but that's a new word for the day and I suppose for throwing out words of the day that's a pretty good one. If we don't, you know, if we don't get this settled up today I don't...this bill is going to die. And it's going to die because everybody went home because there aren't enough votes to shut down the debate. And that's okay. Speaker probably...he won't schedule it again because we'll get stuck on it and that's fine. It's kind of a funny, funny circumstance. Senator Karpisek, would you like any time? [LB542]

SENATOR KARPISEK: No. [LB542]

SENATOR ROBERT: Folks, today is...it's getting late. It's towards the end of the session, we're all tired, we want to go home. That's okay. Senator Fischer has got to drive five and a half hours, she'll go tomorrow. I got to do laundry, I'll do it tomorrow, no big deal. But that's what we're here to do. We're going to filibuster this sucker right until we get ready to go home and it's kind of fun. It's kind of annoying but we get to keep the lobby out there and it's about 105 degrees in the Rotunda today, and that's kind of fun. (Laughter) So with that, Mr. President, I yield my time. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Robert. Were you yielding your time? No. Continuing, members...Mr. Clerk, do you have items for the record? [LB542]

CLERK: I do, Mr. President. A reminder, the Business and Labor Committee has a confirmation hearing at 1:00 today in Room 2102; Business and Labor at 1:00. And some items. Exec Board communication regarding appointments to the Legislature's Planning Committee. Senator Dierks wants to have a meeting of the State Tribal Relations Committee on Tuesday. And Senator Lathrop would like to print an amendment to LB622. That's all that I have, Mr. President. (Legislative Journal pages 1697-1699.) [LB622]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Continuing with floor discussion of AM1430 to LB542, members requesting to speak, Senator Campbell, followed by Senator Karpisek, Senator Gloor, Senator Langemeier, Senator Haar, and others. Senator Campbell, you're recognized. Senator Campbell waives. Senator Karpisek, you're recognized. [LB542]

Floor Debate
May 21, 2009

SENATOR KARPISEK: Thank you, Mr. President, members of the body. We are talking with Senator Campbell and Senator Gay about maybe a later implementation date, sometime in 2010. Not real sure about that yet. I'm thinking about recommitting it to committee also, maybe force...somehow to force these sides to all come together, keep hearing that they won't. Well, I also told the Speaker and Senator Campbell, looks like I got the wheel pretty tight. I don't think there's enough votes for cloture, unless a lot of people start coming back, I guess. So we'll talk awhile longer. I don't think that we're going (clears throat), excuse me, we're going to negotiate quite yet. A later implementation date is okay, I guess. It's about the same thing as the bracket would have been, but the body didn't want to do that by quite a large amount, that weighs into this too. I still think that if they could just sit down, talk some of this out, we wouldn't be here doing this. I don't blame Senator Campbell at all and I don't blame myself because sometimes you have to stand up and tell somebody, come on guys, work this out. I just don't...I don't like the bill. I don't like the idea. I don't like that they couldn't sit down and talk some of this stuff out. The 407 process, I'm told that about half the time they go with what they say, half the time they don't. Again, I still haven't heard anyone say what the difference is between last night and right now. What's the difference in these bills? The sides wouldn't come together last night. So we're going to force them to or somebody will do something about it and take control of it themselves. That wasn't exactly easy last night either, but like I said, when the Speaker got up and got a little heated, kind of like your mom or your dad coming in and really yelling at you to tell you to do something. Then we did it. I still would like to hear what the difference is between that. Senator Gay tells me that this is not a scope of practice issue. He knows a lot more about these things than I do, but I think that it is a scope of practice issue to some point, what can they do, what can they not do. The dental hygienists are worried that the assistants are going to have more authority than they do because they had to go take classes. Senator Campbell does have some of the things that came out that they would have to...their rules and regs. That's fine, we'll see how that goes. I still don't know why, why the dental assistants are different than a lot of the professions that are in statute... [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: ...now. Thank you, Mr. President. I don't see the difference on some of it. I realize that we can't have every last person that does anything to be in statute. But somewhere or another you have to get a license, you have to have a food handlers license, you have to have a cosmetology license, all these things you need to have a license. I don't know...some of those things on that list seem not near as threatening to public health as this...these assistants could be. And I'm not beating on them. So we'll keep going. I'd like to hear what's different about this than the list I gave you. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Gloor, you're

Floor Debate
May 21, 2009

recognized. [LB542]

SENATOR GLOOR: Thank you, Mr. President. Well, we're four hours into our...or two hours into the four-hour tour that Senator Karpisek, the self-described "Skipper" has led us on. And given Senator White's earlier description of me today as quiet and reserved, I guess that makes me either "The Professor" or "Mary Ann," (laughter) I'm not sure which. Senator Karpisek talked about Superintendent Joel in the Grand Island school systems, who I think, if he felt his name was going to come up this year, it would have been as relates to school funding. But Superintendent Joel took me aside when I was elected and said, you will run into Senator Karpisek and I had him as a student, and you need to know two things about him--one is he is one of the most intelligent people I know, the other is he can be very hardheaded about things, both of which have proven to be true. But he also told me that if I needed help handling him, to remind him, and I have done this he will admit, that he still owes Superintendent Joel two government papers. (Laughter) And those papers are due by 5:00 this afternoon or they're going to pull your diploma, I believe, from high school, Senator Karpisek. So tick, tick, tick on this initiative. I don't want to make light of this discussion. And those individuals watching should know that we do take this dialogue in seriousness. We joke a little bit. This has been a week of very, very serious deliberation--death penalty discussions, not too many days ago abortion. And even Shakespeare understood the wisdom of putting a degree of levity in after a very, very tense time. So I think this fills that niche. But it is still a very appropriate measure. And everyone arguing this point has public health in mind. Everyone sees it a little differently. The individuals who have been trying to feed us information are concerned about a number of things including public health. So this is an important issue and worth spending some time on and probably worth the filibuster to move this forward. But I would ask the body, please, whatever comes out of this do not put this in a position where we are spelling out scope of practice, rules and regulations for a position that is really a paraprofessional position. As I said earlier in testimony, there are dozens and dozens of jobs in this state that would fit into that category. And we do not want to become a body that tries to forego the 407 process and spell out specific job duties for paraprofessionals in the healthcare industry. Senator Campbell already told us the chilling news that she's been contacted by a group that thinks it would be great if she were take ahold of this issue for them next year. We don't want to find ourselves in that...well, there are not enough hours in the day, not enough days that we meet where we can adequately fulfill that role. That would be my caution to this body, that is not a solution, that is getting us in deep, deep trouble. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Continuing with discussion on AM1430, members requesting to speak, Senator Langemeier, followed by Senator Coash, Senator Price, Senator Stuthman, Senator Friend, and Senator Campbell. Senator Langemeier, you're recognized. [LB542]

Floor Debate
May 21, 2009

SENATOR LANGEMEIER: Mr. President, thank you. And members of the body, as people slowly check out here, we got to keep an eye and make sure 25 don't disappear...we remain with 25 so we don't run short before this is over. Senator Carlson asked Senator White a few questions a little bit ago. And they went through the process of how you negotiate. It was a perfect example. In 5 minutes they showed you how you negotiate, how you get it started, who you talk to, and the key to all that was you talk to everybody. You don't stand at opposite ends of the room and...or phone your conversations in. You get in the same room and you talk about it. And until they do, I think we should just keep talking. LB542, I know they want a vote up or down, we'll take it or leave it. But I think we just talk about it and, heck, if it keeps us here next week, what the heck. I think we just continue to talk about LB542. And again, my argument is not about the language, I mean, it's pretty simple and I understand where they're going with that. But why you can't take something this simple and negotiate it out, that's what we're here for, that's what our job is, and it either needs to be done on a committee level or a sponsor level. Give you examples, I had introduced LB503, which is a gun range bill. It took me three years. But when we started that, I mean, everybody under the sun came in and testified against it. And as we worked on that and worked on it and worked on it, we finally brought everybody on board. At the end of the day we didn't have anybody in opposition to it. And that was...there was a lot of stuff in there. And I just...again, I just don't understand how this can't be negotiated. Obviously, it's a lack of trying. It needs to be negotiated by the dentists, the hygienists, and the assistants. And at this point I'm going to chastise the hygienists in this round of debate because they're not coming forward telling any discussion of what they wanted in this bill if this bill was going to go forward. They just want it stopped. Let's bracket it, let's kill it, they haven't offered anything in a positive frame of reference to say, this is what we could put in it and what we could live with. Until they step up to the plate, the dentists step up to the plate to listen to them, we'll just spend some time on it. And with that, thank you, Mr. President. [LB542 LB503]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Coash, you're recognized. [LB542]

SENATOR COASH: Thank you, Mr. President, members of the body. I yield my time to Senator Karpisek. [LB542]

PRESIDENT SHEEHY: Senator Karpisek, you're yielded 4 minutes 50 seconds. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. Thank you, Senator Coash. We're still talking about pushing back the implementation date. And I still don't know exactly how I feel about that yet. I still wonder...I don't wonder, the two senators on the committee that didn't vote to send it out, I think the reason or I've been told sent it out so it would force everybody to get together to talk. Didn't happen again. We're talking, the

Floor Debate
May 21, 2009

senators here. I don't know if anybody outside the glass is talking, trying to negotiate. I think they know who's who out there. I don't think so. Superintendent Joel, I think I only owed him one paper. Interest maybe is two now. I see him around the Capitol once in awhile and we just laugh at ourselves. Who would have thought about 25 years ago that either one of us would be in the Capitol, one being a senator, and one being a superintendent of a huge school. (Laugh) It's really comical. But he's a great guy, I owe him a lot, but he is tenacious. That's why he's gotten to where he is. You want to talk about somebody that won't take any guff, wow. Senator Campbell is talking. I don't think that we've broken down any of our friendship. It's not personal. I wish this bill was carried by other people, that would be a little more fun. We'll keep talking. I still don't know about an implementation date that's farther along because so then what? So they still won't talk, they still won't decide anything more, so we're just in the same spot that we are now. They need to get together over the interim, my feeling, and talk. They need to talk it out. If they need a senator, if they need a professional mediator I know one that has their license. That might be what it takes. But I don't know that we'll get people to that table. Again, we have dentists very split on this bill, very split. That's why I don't think that we need to push this through. (Laugh) I don't know. And tick, tick, tick, yes, there's quite a few people checked out. I don't know if they're really gone. But I don't think that we have the cloture votes. I think we're about two hours in so we might have about two or three more to go or I may throw an IPP up and see where our votes are now. I've got that drawn up. That may come here in a little bit. I may try to send it back to the committee or we could bracket to a different date. [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. Maybe we should do that, bracket it until the 2010 date. Maybe we'll talk about that. Some senator said, well, what do you want out of this? Where can we meet in the middle? I don't know other than this just going away and having them sit down and bring us something. Of course, they're not going to agree 100 percent. And none of us get our whole way in here. How many of you have passed a bill off the green copy that hasn't changed? Not very many bills. And if it was close to what you started with, congratulations because it's not easy to get that through. We all negotiate. We'll keep talking about it and see where we go. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Price, you're recognized. [LB542]

SENATOR PRICE: Thank you, Mr. President and members of the body. Wow, my first filibuster. I just...I couldn't just sit down and not jump in the fray. And as such, with a couple quick notes I think I can take up 5 minutes. So here's a go. I find it ironic that we had an analogy of boxing and we're talking about teeth. Talk about two antithetical subjects--boxing and teeth. To Senator Karpisek, bull in a ring, you "betcha." Man, I

Floor Debate
May 21, 2009

loved that. There was nothing better. And I'd rather be in the middle because I got to clobber those poor son of guns when they came in there. I beat the pulp out of them. It was great. So, yeah, I did like the bull in the ring. To the analogy of the four-hour cruise there, Senator Gloor, I don't know, I'm thinking Gilligan. We talked about...I'm going through my points quickly here. We talked about long days, about last night being a long night. And since everybody in here pretty much, well I say everybody in here is an adult. I'm sure all the adults here have had long days. And we could talk about long days. I had a couple of long days, exciting days. And some of them were so long and so exciting and action-packed that I slept for about 14 of the action-packed hours because it was all getting ready to get on the aircraft from that rapid leaving the aircraft and then it was, you know, doing the mission. But there are some long days there. So I'm ready to hunker down and have some fun here. We'll go as long as we're...I think we can go to midnight, so whatever, 11:59, thank you very much, Senator Cook. I really could care less. I'm just going to go home to my family, it will be all good. But now we talked about working together on the bills. And there he goes. Senator Friend, I think he is an epitome of what we can do when disparate groups get together. On LB532 we had a lot of groups who weren't real happy with each other. And somehow or another we were able to work together and get everything done. And that was actually because of great staff work, nothing that I did but all the parties who were interested. And I think that's the key here, if the party is interested in getting something done. Sounds like maybe there isn't a party that's too interested. I don't know. But we're going to talk more about it. And fighting, we talked a little bit about fighting here. Well, you know, a long time ago in a far, far away...well, you know, a long time ago I used to work in night clubs and I wasn't the bartender. And every once in awhile you'd have an altercation or something happened. And I have to be honest with you, we didn't play rope-a-dope, and we didn't box, and we didn't, you know, take time to enjoy the moment. As far as I was concerned the quicker I could neutralize the problem the better off. But obviously, that's not what we do here. So I don't really think it's really fighting here, you know. I don't think that's the proper moniker to put on this. We're not fighting. We're gumming something to death, you know. It's like trying to punch through wet tissue paper, you know. This isn't fighting. But Senator Karpisek has avowed that we're going to stand and we're going to talk and we're going to talk and then we're going to talk some more. And in a roomful of politicians, I suspect that shouldn't be too difficult. And I'm actually starting to enjoy this. At first I thought we had better things to do and other things. But this is part of the process. And being my first filibuster I just had to get involved with it, you know. When we were talking about other things... [LB542 LB532]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR PRICE: ...thank you. When we were talking about other subject matter in the week, some would say of greater substance, even then I still didn't weigh in on it because I knew what my position was. But here we are on our first filibuster and it's interesting to be a participant. You would think that there would be something of greater

Floor Debate
May 21, 2009

gravity involved in this effort. But I guarantee you to the people actually involved, to Senator Campbell, this is very, very much an impact for her. And it's her bill. And I think like all of us when we take on a bill and we sponsor a bill we take ownership of it, hopefully, you take ownership of it. And it matters what happens. And I hope that everybody else will check back in who's in the building shortly and we can move this forward one way or another or move our body forward one way or another. And I just... [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR PRICE: ...appreciate having the opportunity. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Price. Senator Stuthman, you're recognized. [LB542]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I want to talk a little bit more about one of the reasons that I did not support moving this out of committee. And I want to go over the issue of the fact of the proponents. There were the Nebraska Board of Dentistry, Nebraska Board of Dentistry, Nebraska Dental Association, and the State Board of Health, there was four, two of which were the Board of Dentistry. Now in the opposition there were six--the Nebraska Dental Hygienists Association, Dental Hygienists Association, Dental Hygienists Association, Nebraska Dental Assistants Association, Dental Assistants National Board, and the Nebraska Dental Assistants Association. So there were three dental hygienists, three dental assistants that were in opposition to this bill. I felt in the hearing that there was a disagreement and they couldn't get together. Some are thinking here that the fact is it's just the dental hygienists that don't want this. Well, in my conversations with dentists some of the dentists don't even want it. And according to the testimony in the hearing, the dental assistants were in opposition of this. But we moved it out. It got moved out. We thought, we're going to tell them what to do. (Clears throat) Excuse me. But I think the fact is when I see the opposition, the proponents and the opponents are in total disagreement, we have three parties here--hygienists, the Dental Board, the dentists, dental assistants. And there's not a one of them in agreement with anything. So why wouldn't we want them to hopefully sit down and try to come up with an agreement if they can. If they can't, so be it. Because I...with the conversations I've had with dentists, they say, we can get along with what's going on right now. And that's the concern that I have. There are other dentists that call and say, we have got to have this bill, we have got to have this bill and others say we don't. So why should we as a legislative body carry the big torch and say this is what you've got to do, these are the education requirements that you have to have if you're going to be a dental assistant and you're going to be an assistant to the dentist, you have to have these...this educational requirement. Maybe it's just a short educational requirement to perform a duty, but that

Floor Debate
May 21, 2009

duty may be the same duty that is performed by a dental hygienist and it moves into their area and their scope of practice with only a little education. I don't think that's right for the dental hygienists that have gone to school to learn to be a dental hygienist. I just truly feel that we're trying to accomplish something that if we sat down and established something and vote on something, we're going to be back. They're going to say, well, this don't work, this don't work. Now... [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR STUTHMAN: ...we're going to have the problem. And I think in my opinion there's going to be one of the three groups, either the dentists, dental assistants, or the dental hygienists coming back next year or the next year saying, this absolutely don't work, what you have put into statute is not workable, it's hurting our business, we need to get that changed. So why can't we just take a little more time, allow them to get together. And if they never can get together, so be it. It's under the responsibility of the dentist, it's under his liability for the care of the patient. And the dental hygienist, I'm sure they have insurance also and they carry liability insurance or they work under the dentist. [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR STUTHMAN: Thank you, Mr. Lieutenant Governor. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. (Visitors introduced.) Continuing with floor discussion on AM1430 to LB542, Senator Friend, followed by Senator Campbell, Senator Lautenbaugh, Senator Dubas, Senator Howard, and others. Senator Friend. [LB542]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I'm going to...I think I understand, this is a little scary, I think I understand what Senator Stuthman was saying and I think I agree with it. He pointed out some things on the committee statement where you've got, you know, the proponents and the opponents out there, the Nebraska State Board of Health, Nebraska Dental Association, Nebraska Board of Dentistry in proponent fashion on this bill, and then, you know, a group of opponents, the Nebraska Dental Hygienists, the Dental Assistant National Board, Incorporated, the Nebraska Dental Assistants Association. The bill that comes up after this, if anybody actually has the patience to hang around for it, is the bill I was talking about earlier. And I'm going to jump ahead, if you will. Bear with me. There were two proponents, two opponents and the Nebraska Public Service Commission came in a neutral capacity because they said we see some issues here. It took us...it took us a month and a half to...with a lot of staff's work. Remember what I said earlier? I mean when senators do things it's the staff that gets bogged down because they're the ones that have to fix the problems that we create. Well, I created a problem with LB658 and my staff ended up

Floor Debate
May 21, 2009

having to fix it. They got all the feedback from all of the opponents that they could, the neutral testimony. I was in an almost an hour long meeting with the Public Service Commission to talk about LB658 and to talk about the ramifications. The consequences of the original bill, the original LB658, and what would happen if that bill passed, and then what we would need from some sort of amendment, I guess, to make it more amiable, but also the opponents. A lot of e-mails flying back and forth, and a committee counsel who busted his hump (laugh) getting the committee together and trying to explain this thing. Now again, I'm not bashing anybody for what happened with LB542. What I'm saying is sometimes you can bring these bills out here and you can come to a logical conclusion based on the facts that you've been given. Even if there's opposition you can come to a logical conclusion that the bill should pass. Let me give you an example. Senator Adams did it, took him 14 hours, I still think that there was opposition after he got done, but we got from point A to point B. There is no possible way, I don't think, that he could have come out of committee with full agreement. But I got to tell you I'm kind of wondering whether this stuff on LB542 could have been dealt with before we got to the floor and started dancing on it. How much time do I have, Mr. President?
[LB542 LB658]

PRESIDENT SHEEHY: One minute 35 seconds. [LB542]

SENATOR FRIEND: Let me finish up with this. Why...I was a little disappointed with the bracket motion too. And it's not because, oh boy, I wanted to see a bill killed. I mean I can't swing a stick in here without hitting somebody that likes Senator Campbell, we all do. And you don't enjoy...because that could be painful, the bracket motion and a kill motion on a bill like this could be painful to her. Nobody wants to see that. Certainly nobody wants to see that happen to committee members who made the decision to move this out. But a bracket motion would have given time, a bracket motion to a certain date would have given time to work on this. I think that's appropriate. An IPP motion is more drastic, isn't it? Or if this bill didn't have enough votes to advance, it's pretty much dead. What are we trying to accomplish? What do we want the end game to be? Get folks to the table? Just pass a bill and force something down people's throat? We probably ought to start asking those questions. Thanks, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Campbell, you're recognized. Senator Campbell waives. Additional members requesting to speak, Senator Lautenbaugh, followed by Senator Dubas, Senator Howard, Senator Gay, Senator Fischer, and Senator Langemeier. Senator Lautenbaugh, you're recognized.
[LB542]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Loudon would yield to a question? [LB542]

PRESIDENT SHEEHY: Senator Loudon, would you yield to Senator Lautenbaugh?

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

Floor Debate
May 21, 2009

[LB542]

SENATOR LOUDEN: Yes, I would. [LB542]

SENATOR LAUTENBAUGH: Thank you, Senator Louden. Now we had a conversation off the mike earlier about the next bill, did we not? [LB542]

SENATOR LOUDEN: Yes, Senator Friend's bill would be coming up, what is it, LB658 or whatever it is. [LB542 LB658]

SENATOR LAUTENBAUGH: I think you told me you read that cover to cover, is that correct? [LB542]

SENATOR LOUDEN: I read his amendment. [LB542]

SENATOR LAUTENBAUGH: Okay. Did that substitute the bill? [LB542]

SENATOR LOUDEN: Yeah. [LB542]

SENATOR LAUTENBAUGH: Okay. Is it a good bill? [LB542]

SENATOR LOUDEN: Well, I think it is. [LB542]

SENATOR LAUTENBAUGH: What's it do, just for the benefit of the body. [LB542]

SENATOR LOUDEN: If you wish to go...pardon? [LB542]

SENATOR LAUTENBAUGH: What's it going to do just for the benefit of the body? [LB542]

SENATOR LOUDEN: Well, mostly it has some adjustment for the gas companies over here so that they can go in and probably raise their rates a little bit in order to improve if they have some cost overrides or if they have some cost of moving pipes or something like that is mostly what it does rather than going to the full-blown Public Service Commission to get authority to raise their rates to pay for that. [LB542]

SENATOR LAUTENBAUGH: So it's kind of an efficiency thing? [LB542]

SENATOR LOUDEN: Yeah, it's something that they probably, like anything else, if they were running into what would you say, extra expense to take care of some government mandates such as if there was a highway built and they had to move the pipe, somebody has got to pay for it. This would give them a way to probably increase their revenue so that they could pay for that sort of thing. [LB542]

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

Floor Debate
May 21, 2009

SENATOR LAUTENBAUGH: Okay, thank you, Senator Louden. Have a good weekend. Senator Friend, would you yield to a question? [LB542]

PRESIDENT SHEEHY: Senator Friend, would you yield to Senator Lautenbaugh? [LB542]

SENATOR FRIEND: Yes, I will. [LB542]

SENATOR LAUTENBAUGH: Thank you, Senator Friend. You just heard Senator Louden discussing your bill as amended, is that correct? [LB542]

SENATOR FRIEND: He was...is it correct what he said or is it...did I hear it? [LB542]

SENATOR LAUTENBAUGH: The latter, did you hear it? [LB542]

SENATOR FRIEND: Yes, I heard his comments. [LB542]

SENATOR LAUTENBAUGH: Was it correct? [LB542]

SENATOR FRIEND: He was pretty close. And it's pretty clear to me that he actually read the amendment. [LB542]

SENATOR LAUTENBAUGH: Oh, I had no doubt. And it sounds like he's in favor of it. [LB542]

SENATOR FRIEND: I'm going to try to work to see that he is. I don't know that for sure. [LB542]

SENATOR LAUTENBAUGH: What does the bill do in your words as amended. [LB542]

SENATOR FRIEND: How much time do we have? (Laugh) [LB542]

PRESIDENT SHEEHY: Two minutes 30 seconds. [LB542]

SENATOR FRIEND: I was planning on using 10 minutes to explain that here eventually. But in a nutshell, we are trying to create an interim rate review type of scenario for infrastructure changes mostly in our rural communities for jurisdictional utilities. [LB542]

SENATOR LAUTENBAUGH: Okay. Thank you, Senator... [LB542]

SENATOR FRIEND: Eventually, when we get to it, maybe. [LB542]

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

Floor Debate
May 21, 2009

SENATOR LAUTENBAUGH: Great. Would Senator Sullivan yield? [LB542]

PRESIDENT SHEEHY: Senator Sullivan, would you yield to Senator Lautenbaugh? [LB542]

SENATOR SULLIVAN: Yes, I will. [LB542]

SENATOR SULLIVAN: Thank you, Senator Sullivan. Do you have big plans for the summer? [LB542]

SENATOR SULLIVAN: Yes, as a matter of fact, I do. [LB542]

SENATOR LAUTENBAUGH: Oh, what are you going to do? [LB542]

SENATOR SULLIVAN: Well, I sum it up in an acronym that I came up with called POOCR, Plan for the next session, Organize my life and my home, let's see, POOCR, what was the C? (Laughter) Plan...oh, Clean, Clean my house, and Read. [LB542]

SENATOR LAUTENBAUGH: Oh, okay. You're going to look back fondly on this session, aren't you? [LB542]

SENATOR SULLIVAN: Without a doubt. [LB542]

SENATOR LAUTENBAUGH: And our chats will be a high point in an otherwise... [LB542]

SENATOR SULLIVAN: Yeah, maybe, maybe, maybe. (Laugh) [LB542]

SENATOR LAUTENBAUGH: ...stellar session. Yeah. [LB542]

SENATOR SULLIVAN: On a scale of one to ten, don't ask me. [LB542]

SENATOR LAUTENBAUGH: (Laugh) Thank you. How much time do I have, Mr. President? [LB542]

SENATOR LAUTENBAUGH: One minute 15 seconds. [LB542]

SENATOR LAUTENBAUGH: Will Senator Janssen yield? [LB542]

PRESIDENT SHEEHY: Senator Janssen, would you yield to Senator Lautenbaugh? [LB542]

SENATOR JANSSEN: Absolutely. [LB542]

Floor Debate
May 21, 2009

SENATOR LAUTENBAUGH: Senator, despite your remarks of this morning, you'll concede that I do have another year under my belt than you. Is that correct? [LB542]

SENATOR JANSSEN: Negative. I would concede that you had days of experience more than me. The only people that have years of experience in this body, I think, well Senator Friend has been here probably over 350-some days, Senator Dierks I'm certain has been here for what I would call years. I see Arnie over there, of course. It seems like it's been 100 years, listening to him speak today. (Laughter) He's got years of experience. Let's go to, of course, "Cap," Senator Dierks--years of experience. Right behind me, I believe, Senator Fischer, years of experience. Am I missing anybody that has years? But...my neighbor, office mate, Senator Pahls has got years of experience--or year. Senator Howard right here, year experience. Now the years, you get into multiple years then you would have to be getting into Senator Dierks and Senator Ashford for years of experience. So you do have, I believe, a 60-day head start. [LB542]

SENATOR LAUTENBAUGH: Well, there's interim studies and whatnot, you know, as you know, so... [LB542]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Lautenbaugh. Senator Dubas, you're recognized. [LB542]

SENATOR DUBAS: Thank you, Mr. President, members of the body. As I stated when we discussed this bill on General File, this is one of the more difficult issues to sift through because the people that are involved and the people that I am hearing from, I have no reason to not trust the information that they're giving me. These are professionals, very experienced in their field, understand their jobs and what they're supposed to be doing. And so, you know, as legislators we get a lot of information. And at the end of the day we're supposed to be able to sift through that information and try to determine what's going to serve the greater good and make a decision based on that. And it's just been very, very difficult for me to sift through all this information and make a decision that will favor one particular profession over another that at the end of the day will serve the greater good. I'm not viewing this as an emergency situation. So if this bill doesn't get passed this year I don't think it brings dentistry or the ability of dentists and hygienists and assistants to a standstill. They'll continue to, I think, take care of their patients. I have received an e-mail from one dental hygienist been in the profession awhile, certainly understands. I think she's a part of the professional hygienists organization who said...who she's tell me very, very willing to come to the table and sit down and talk and try to work this through. And I think, just because of the vast amount of uncertainties that are being expressed on the floor today, this needs to go back to the people that it will impact the most. These people need to come to the table. They need to sit down. They need to work out what their differences are. When something comes

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

Floor Debate
May 21, 2009

out of committee that still has this much question or concern that again raises another flag for me. So I just think it's...it would behoove these three particular professions to come together and try to work things out. That again at the end of the day will serve the greater good. I hope that they are able to do that. And with that, I would yield the remainder of my time to Senator Karpisek. [LB542]

PRESIDENT SHEEHY: Senator Karpisek, you're yielded 2 minutes 35 seconds. [LB542]

SENATOR KARPISEK: Thank you, Mr. President and thank you, Senator Dubas. We've been talking and trying to work this out so I missed a little bit of Senator Lautenbaugh's cross-examination. I'll have to get the record on that. We're trying to negotiate, pushing the date out on this to October of 2010. I don't think that that gets my position any closer to where I want to be. I don't, I don't think that that helps because I don't know that anyone will come to the table and work on this. Senator Gay has said they will, that he will work on them. I absolutely know that he means that. I don't know that he will be able to get them to come to the table and then once...if I agree to this implementation date, it's in at that time. I could come back next year and fight it again. I don't know why, though, after we're to this point that I would agree to that. I think we've put the time in already this far, I'd like to see the vote up or down, and we can move on. [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. If there's votes for cloture, then we'll move on. But I think there would still be a lot of work that needs to be done before the bill went into effect. There's just too many people involved in this bill that don't like it. That's my whole problem with it. When enough people don't like a bill, I don't think that we should go through with it. This isn't a moral issue like the death penalty, and abortion, and all those things. We've talked about it. There's not a lot of compromise. Senator Campbell and I have said, you know, what do you want, what can we do. It is, it's not a difficult bill. There's not a lot we can do. Either it happens or it doesn't happen. It is what it is. So right now, I would just... [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Howard, you're recognized. [LB542]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I am one of the members of the Health Committee that voted for this bill to advance, but at the time that I voted for it to advance it was my understanding that the bill would be on General

Floor Debate
May 21, 2009

File and there would be ongoing discussion to resolve these "conflictual" issues. What I didn't anticipate and I had no way of knowing at that time was that this bill would become a Speaker priority and thus get the opportunity to be heard and to advance. I can well remember during the four years I've been, now the fifth year I've been on the Health Committee, many, many times when there's been scope of practice disputes, one that stands out in my mind was with the perfusionists, I hope I'm saying that correctly, but there was just a vast area of disagreement and it took a substantial amount of time to get those people to sit down and talk together and reach some agreements. I, for one, would have no knowledge about the accurate scope of practice for perfusionists and was very grateful that they worked among themselves. I feel much the same way about this bill as there is still work to be done on this and there's still the opportunity to have that, the people that have the most invested in this to have ongoing discussion. I thank Senator Karpisek for drawing attention to this and kind of putting, let's just say an opportunity out there for people to work together. It's really much better than our trying to become experts in every field that we're presented with. I'm going to offer Senator Karpisek the remainder of my time so he can finish the thought that he was into when he had to discontinue. [LB542]

PRESIDENT SHEEHY: Senator Karpisek, you're yielded 3 minutes 5 seconds. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. And thank you, Senator Howard, and thank you for telling us a little bit of your experience in the committee. I really appreciate that. I think by what Senator Howard just said, again goes to the point that I talked about that we're confused on this issue. Senator Stuthman and Senator Pankonin didn't vote it out on the floor because I think they felt a little bit pulled on it too and not, not real sure that this was the way to go. I was saying before, I think we're just going to keep going here and see where we go. Again, I appreciate Senator Campbell and Senator Gay trying to find some middle ground but I don't know where there is middle ground on this. It either happens or it doesn't happen. About the only middle ground we found is when it would happen. But I don't know that that really helps anything out. The people that I've talked to that have voted with me on this don't think that that really gets us there either. So I don't think that I will take that agreement. I want to reiterate, I can't say it enough, this is not personal, Senator Campbell. She kind of...she took...didn't like it that I said I wished it was somebody else because she's tough. She is tough and she's a very good person. I told her I just kind of have to pretend that it's your husband doing this. (Laughter) Because I don't know if...we won't put a plug in for him, but it's a little easier for me that way. We'll keep talking. The Speaker has been involved with us. I appreciate that. We'll keep talking about it. I think I'm pretty well...got my heels dug in now. We've gone this far. I threatened a filibuster. I think I better see it through. [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. I try to do what I say, say what I do.

Floor Debate
May 21, 2009

It's not always easy but it gets you...it's a lot easier in the end. People have asked, why are you digging in so hard on this? Again, I've got dental hygienists in my district that have been here through almost all this debate. I've listened to them. I've e-mailed them. That's why I'm doing it. It's for my hygienists that have been so involved in this fight. Maybe it wasn't a fight. I guess it is now. That's why. And I think there's parts of this bill, I think we need some education. But I think we need to set it out and tell them how it should be or see how it is and approve it, not just give all the authority over. [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Gay, you're recognized. [LB542]

SENATOR GAY: Thank you, Mr. President. I was listening to Senator Dubas and I think, just what I hear of the body, I think she kind of hit the nail on the head. We need to do something but we're not so sure where we're at, at this point. And I would agree to that. There's discussion...I commend Senator Karpisek and Senator Campbell. They're trying to find some kind of an agreement maybe, and I just threw that in that, you know, we move down the road. I'm not a huge advocate of moving things down the road. I am an advocate of good public policy and I think that could be done by doing that. If we move it and we say we need...I think we can agree, we need some training on when we allow people to do their practice on a...just for public health policy that's probably a good thing. I think we...it's just in the details though. But we would then have them move it forward. It would be on Final Reading and I would say, doesn't get scheduled. We'd be working something out. Now that's not up to me, of course. It's up to the Speaker and those people who would be engaged in that debate. You'd then have the whole summer to work on it, so I think it's a little bit of both people. We got something and we'd say as a legislative body we're going to take some leadership and move forward. Yeah, we want your input. And it's a difficult situation. It probably would take the summer. It would probably take more time but we would be moving down that road. In fairness to Senator Karpisek, his views and those people would be engaged in this debate. Then you still have a choice then on Final if your not happy, but we'd all gather information. So that was the idea and it's sitting there. We'll see what happens. I commend Senator Karpisek. He's absolutely right. You know, if you've got some problems with something, do what you need to do. I commend him. I do think again, I don't know if you say, oh, there's no budgeting here. I think there is somewhat. It's just where we're at. I think we've had a lot of discussion. We're getting off base a little bit on this and we've had a lot of outside influences. When it's all said and done, I have complete confidence that others could be engaged in this and we'd get something done. Senator Langemeier is right. You can bring opposites together. It takes time but along that way though, we are moving forward and that helped. So there's a certain point of what our actions...or speak

Floor Debate
May 21, 2009

louder than words a little bit. I think we all want some kind of closure to this. We'd all agree on 80 percent of these issues. It's the other 20 percent that we need to discuss. So that would be...I would hope maybe we can still continue to discuss that. It's probably not...not everybody is happy with that. That's the whole art of compromise in my mind is that you know what, I don't get everything I want and neither does the other side, so. But I think for the rest of us that want to move forward and get good public policy, that would be the way to do it. So we'll see what happens. I hope they continue to visit and see where we're at. But no problem, we'll stay and work this out in one way or another and that's the way it is. But I do want to commend them for working together. I think they are talking and we'll see what happens. And I know at the end of the day, we'll do the right thing here. But I throw that out there really for the rest of us. I'm kind of waiting to see where we're going to be with this but if there's any input on that idea, love to hear it. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Gay. Members requesting to speak on AM1430 to LB542 are Senator Fischer, followed by Senator Lautenbaugh, Senator Hansen, Senator Pahls, and Senator Langemeier. Senator Fischer, you're recognized. [LB542]

SENATOR FISCHER: Thank you, Mr. President and members. I appreciate the clarification that we had today from Senator Stuthman and from Senator Howard on the committee process in which this bill was advanced. We heard that from Senator Pankonin on General File. He did not vote to advance the bill and he explained his vote and his understanding that the bill would remain on General File. I don't know if I...it's up to Senator Karpisek, but I don't know if I'd be in favor of advancing a bill to Final Reading with the understanding that there's going to be work done on it. I would think possibly Select File would be a place to leave this bill, and especially taking into consideration what at least three committee members have told us on the floor that it was their understanding the bill was going to stay on General File. Also I'm conflicted on this bill, too, and I've said that in previous debate on the bill. Half of my dentists are in favor of the bill, the other half aren't. I have a unique situation that the half that are in favor happen to be our very good friends. The hygienists are solidly against the bill and I've heard from a few dental assistants who are against the bill. There's confusion out there. I think, I think this confusion on the bill, the debate we're having, the press this is getting, isn't doing much for the dental profession at this point. We see the infighting going on, we don't know why. We just know that there's infighting going on and it seems to be a turf battle. I have hygienists who have contacted me who, of course, they work with dentists, and it's really put them in a difficult situation. They're working with people who may or may not support the bill. They're working with people who their association has taken a very, very strong stance on this bill, so now they're in this awkward position. We're halfway through or about halfway through the filibuster here depending on just how long we're going to go. I know many of you went for lunch. Welcome back. And at this point I see Senator Cornett is in her seat as she has been. Mr. President, would

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

Floor Debate
May 21, 2009

Senator Cornett yield to some questions? [LB542]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Fischer? [LB542]

SENATOR CORNETT: Yes, I will. [LB542]

SENATOR FISCHER: Kind of off the topic here, Senator Cornett. It was brought up in debate just a few minutes ago by Senator Lautenbaugh and Senator Janssen about talking about years of experience in here. You and I came in in the same class five years ago and the conversation was on days, how many days of experience do you have. Senator Cornett, how many days of experience do you have? Do you just work 60 days or 90 days this session? [LB542]

SENATOR CORNETT: Thank God you specified that, because I was trying to do the multiplication of 365 days a year times five years. I have pretty much dedicated myself to this job almost seven days a week for five years. [LB542]

SENATOR FISCHER: Thank you, Senator Cornett. Senator Nantkes and I had that same discussion back here. Mr. President, would Senator Nantkes yield? [LB542]

PRESIDENT SHEEHY: Senator Nantkes, would you yield to Senator Fischer? [LB542]

SENATOR NANTKES: Yes, of course. [LB542]

SENATOR FISCHER: Senator Nantkes, are you as hardworking as Senator Cornett? Do you work every day as a state senator representing the people in your district? [LB542]

SENATOR NANTKES: I, of course, would aspire to be, but I do work on legislative business... [LB542]

PRESIDENT SHEEHY: One minute. [LB542]

SENATOR NANTKES: ...each and every day, yes, whether we're in session or not. So I think that the days allocation is probably misrepresentative. [LB542]

SENATOR FISCHER: Thank you, Senator Nantkes. Senator Lautenbaugh, would you yield to a question? [LB542]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Fischer? [LB542]

SENATOR LAUTENBAUGH: Yes, I will. [LB542]

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

Floor Debate
May 21, 2009

SENATOR FISCHER: You know, Senator Lautenbaugh, you're kind of the new guy in here but now you have more new guys in here that are newer than you. Can you tell me how many days you figure you work on legislative business every year? [LB542]

SENATOR LAUTENBAUGH: 217. (Laughter) [LB542]

SENATOR FISCHER: I love those attorneys. They keep track of billable hours, don't they? (Laughter) Thank you, Senator Lautenbaugh. I think the point that we're trying to make after that earlier exchange was, and the people in our district know this too, that state senators work many, many days outside of this session. We travel our district, we attend meetings, we attend hearings, anything that I'm invited to I go to. [LB542]

PRESIDENT SHEEHY: Time, Senator. [LB542]

SENATOR FISCHER: Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Senator Lautenbaugh, you're recognized. [LB542]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Fischer would yield to a question. [LB542]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Lautenbaugh? [LB542]

SENATOR FISCHER: I would be happy to. [LB542]

SENATOR LAUTENBAUGH: Thank you, Senator Fischer. I never heard you give an estimate of how many days you spend every year or does it depend on the year? [LB542]

SENATOR FISCHER: No, I'd say I work on legislative business every day if you count reading and responding to e-mail every day because I do that on Sundays also. [LB542]

SENATOR LAUTENBAUGH: And yeah, this is your second term in the Legislature, is it not? [LB542]

SENATOR FISCHER: Correct. [LB542]

SENATOR LAUTENBAUGH: And you held elective office before that didn't you? [LB542]

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

Floor Debate
May 21, 2009

SENATOR FISCHER: Yes, I did. [LB542]

SENATOR LAUTENBAUGH: And what was that? [LB542]

SENATOR FISCHER: I was on a school board. [LB542]

SENATOR LAUTENBAUGH: How many years did you do that? [LB542]

SENATOR FISCHER: Almost 20. [LB542]

SENATOR LAUTENBAUGH: So compared to, say Senator Janssen, your experience is pretty extensive, wouldn't you say? [LB542]

SENATOR FISCHER: Compared to Senator Janssen I have a lot of, I have a lot of years I'm not even counting being a Senator or a school board member. [LB542]

SENATOR LAUTENBAUGH: But he did have an uncle who was a Senator. [LB542]

SENATOR FISCHER: That's correct. That's correct. I had the privilege to serve with Senator Janssen's uncle. [LB542]

SENATOR LAUTENBAUGH: Yeah, me too, because I was here before Charlie. Do you think that gives him any particular leg up on the rest of us that he had a family member who was a senator? [LB542]

SENATOR FISCHER: In my experience with Senator Janssen, I really would rather not answer that question. (Laugh) I think Senator Janssen does a good job and I'm sure that his uncle, our former state Senator Ray Janssen, has good conversations with our current Senator Janssen as our current Senator Janssen would also have good conversations with his uncle. [LB542]

SENATOR LAUTENBAUGH: Thank you, Senator Fischer. I wonder if Senator White would yield. [LB542]

PRESIDENT SHEEHY: Senator White, would you yield to Senator Lautenbaugh? [LB542]

SENATOR WHITE: I'd certainly love to jump into what had been kind of an interfamily feud, but go ahead. (Laughter) [LB542]

SENATOR LAUTENBAUGH: Senator White, how long have you been in the Legislature? [LB542]

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

Floor Debate
May 21, 2009

SENATOR WHITE: Subjectively or objectively. Subjectively, a lifetime. Objectively, this is my third session. [LB542]

SENATOR LAUTENBAUGH: What do you consider your greatest accomplishment so far? [LB542]

SENATOR WHITE: Well, let's see. I've sat down at the end of the bench with you and not thrown anything in your way. (Laughter) [LB542]

SENATOR LAUTENBAUGH: We're both accomplished at that. [LB542]

SENATOR WHITE: Yes. [LB542]

SENATOR LAUTENBAUGH: Anything else? [LB542]

SENATOR WHITE: Not really, no. No, no, you know, just a couple of things. Worked up some stuff. Passed a few good bills. [LB542]

SENATOR LAUTENBAUGH: Okay. [LB542]

SENATOR WHITE: Helped...hopefully helped some kids get better educations, things like that. [LB542]

SENATOR LAUTENBAUGH: Okay. Thank you. Now Senator Dubas looks busy. Oh, now she's making eye contact. (Laughter) I wonder if Senator McGill would yield. [LB542]

PRESIDENT SHEEHY: Senator McGill, would you yield to Senator Lautenbaugh? [LB542]

SENATOR MCGILL: I will, Senator Lautenbaugh. [LB542]

SENATOR LAUTENBAUGH: Senator McGill, where are you in all of this? [LB542]

SENATOR MCGILL: In terms of how long I've been here? [LB542]

SENATOR LAUTENBAUGH: No, I was veering back towards the bill, so. [LB542]

SENATOR MCGILL: Oh, the bill. I personally, as far as LB542 is concerned, do think that we need to be setting some sort of standards. I'm not 100 percent comfortable with the Board of Dentistry being the ones making the decisions and it not being in statute, but I do feel like moving in that direction and at least advancing this bill for now. I'm not sure I want to see it on Final Reading this year. [LB542]

Floor Debate
May 21, 2009

SENATOR LAUTENBAUGH: Okay. Well, it sounds like someone has a deal for you. I'll yield the rest of my time for Senator Karpisek. [LB542]

PRESIDENT SHEEHY: Senator Karpisek, you're yielded 1 minute 20 seconds. Senator Karpisek waives his time. Senator Hansen, you're recognized. [LB542]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. When I did serve on HHS Committee for two years, the scope of practice issues were difficult and it did take time. It certainly did and to have two groups on either side of an issue that didn't come together, coming to the Legislature was not a good option. I really didn't think it was. In this case, Senator Campbell says that they need the bill and that's where I stand. I will vote for the bill. Senator Karpisek, these next few statements are for you. I don't need you to yield to an answer but I would appreciate a compromise because I need to go to the condo to floss. I did have a bite of lunch and I do have a three and a half hour drive ahead of me. That's just the driving time and I have a date tonight. I have a date with a young lady that promises me a 14-ounce New York strip steak, Senator Karpisek, 14-ounce wood fire grilled steak with a loaded baked potato, small side salad, and a glass of Merlot. This is with my bride of 42 years. I have a date tonight. I really do. I just want to let you know that even if there is snow on the roof, there's fire in the furnace. (Laughter) This has been a week of compromise. We've compromised over things that are, that are this...probably this significant. I've compromised for four decades with my bride. Senator Gay, said we're moving up the road or down the road with this issue if we can get a compromise. I've been in the middle of the road before. Almost got ran over. Not a good place to be. So I appreciate your filibuster on this if you so desire, but I am for the bill. And if we continue the dialogue, I do have some questions for Senator Price about global warming and cap and trade, but we won't go there right now, but thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Pahls, you're recognized. [LB542]

SENATOR PAHLS: Thank you, Mr. President and members of the body. I would like to yield some of my time to Senator Campbell. [LB542]

PRESIDENT SHEEHY: Senator Campbell, you're yielded 4 minutes 50 seconds. [LB542]

SENATOR CAMPBELL: I won't take that long. Colleagues, I would like to thank all of you who came up and said, I'm here, you've got my vote, how can I help you, and so forth. But we have reached a point at which I put two different ideas for a compromise and in both of those situations the compromise was not accepted. And so I feel that a message is being sent to me and certainly being very respectful of all of your time and

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

Floor Debate
May 21, 2009

all of your plans for the weekend, there will be a IPP motion from me. And with that, I'll yield the rest of the time to Senator Karpisek. [LB542]

PRESIDENT SHEEHY: Senator Karpisek, you're yielded 4 minutes. Oh, sorry, you cannot yield, Senator. [LB542]

SENATOR CAMPBELL: Oh, I'm sorry. [LB542]

PRESIDENT SHEEHY: Senator Pahls. [LB542]

SENATOR PAHLS: Thank you, Mr. President. I'd like to yield my time to Senator Karpisek. [LB542]

PRESIDENT SHEEHY: Senator Karpisek, you're yielded 3 minutes 45 seconds. [LB542]

SENATOR KARPISEK: Thank you, Mr. President. Thank you, Senator Pahls and thank you, Senator Campbell. I would like to pull, withdraw all of my pending amendments at this time, Mr. President. And I do appreciate the body working through this, and I appreciate Senator Campbell's hard work, and we will work on this again because I'm sure it will be back. Thank you, Mr. President. [LB542]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Mr. Clerk there has been a request to withdraw amendments. [LB542]

ASSISTANT CLERK: Mr. President, the next motion I have, Senator Campbell would move to indefinitely postpone LB542. Senator, I understand it's your wish at this time to lay the bill over. [LB542]

SENATOR CAMPBELL: Next session. [LB542]

PRESIDENT SHEEHY: LB542 is laid over until next session. Mr. Clerk, we'll move to the first item under General File, LB658. [LB542 LB658]

ASSISTANT CLERK: LB658, Mr. President, is a bill by Senator Friend. (Read title.) Introduced on January 21, referred to Urban Affairs, advanced to General File. There are committee amendments, Mr. President. (AM1487, Legislative Journal page 1660.) [LB658]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Friend, you're recognized to open on LB658. [LB658]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I will work

Floor Debate
May 21, 2009

quickly, if that is possible. This bill is late to the game. I understand that. We talked about it briefly on the previous bill because I think people were actually a little bit curious after I brought it up. Committee asked the other day, do we have to do something like this? LB658, is it really necessary? The answer to that question is always, almost always, not...no, but it is important. Let me explain it. The bill proposes to amend the State Natural Gas Regulation Act to create a new process that would allow natural gas rates to be adjusted between general rate reviews, to allow jurisdictional utilities or investor-owned natural gas providers to recover the cost related to eligible infrastructure replacements. Those type of replacements undertaken to comply with state or federal safety requirements or that result from relocations resulting from construction, bridge movement, stuff like that. A highway, road, a street, a public highway, or a public work by the United States. The intent of this bill is to permit a jurisdictional utility to recover eligible costs of certain infrastructure replacement projects without the necessity of pursuing a full-blown rate case. Full-blown rate cases, remember as a Legislature, are time consuming. They're expensive. And ratepayers usually suffer from sticker shock when they see them. Now, I'm going to quit there. The committee amendment replaces this bill because as I actually mentioned on the previous bill, we had opponents to this measure. We also had neutral testimony from the Public Service Commission, a Public Service Commission that hears those rate cases. I'm going to quit right here, and I'm going to address it on the opening to the committee amendment. Thank you, Mr. President. [LB658]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Friend. As the Clerk has stated, there is a committee amendment offered to LB658 from the Urban Affairs Committee. Senator Friend, as Chairman of that committee, you're recognized to open on the committee amendments. [LB658]

SENATOR FRIEND: Okay. Thank you, Mr. President and members of the Legislature. At the risk of boring you to tears, this is not as exciting as hygienists and dentists and dental assistants. But bear with me, because it's pretty important and we're talking about infrastructure, mostly in rural, urban and rural communities in outstate Nebraska. The committee amendment is a white copy and it makes several changes to the original bill. The first pieces in Section 2 are definitions. We change a few definitions. We're talking about changing all references to natural gas public utilities to jurisdictional utilities. That makes it more appropriate in terms of the way the State Natural Gas Regulation Act is, describes those entities. Section 3 is where we start changing things significantly. This is a section which sets out the process whereby a jurisdictional utility establishes its rates by negotiations with the city that represent more than 50 percent of the ratepayers being served by that utility in the state, only Northwestern Public Service at this time. This section is no longer necessary since the committee amendments establish a separate process found in the new Section 6 of this bill. A series of new

Floor Debate
May 21, 2009

requirements is added to the bill for information, which must be filed with the commission at the time the petition is filed. A list of eligible projects, a description of the projects, the location of the projects, the purpose of the projects, the date construction began and ended, the total expenses for each project at the time of the completion, and the extent to which expenses are eligible for inclusion in the calculation of the infrastructure system replacement cost and recovery charge. The process for review by the Public Service Commission of the application for an infrastructure system replacement cost recovery charge has been revised in here to better reflect the actual practice of the commission when reviewing rate filings. A report on the petition and supporting documentation is prepared by the public advocate and presented at the hearing before the commission. The public advocate serves as a trial staff for the Public Service Commission at the hearing, one of the principle duties of the advocate under the State Natural Gas Regulation Act, by the way. Commission staff and consultants are not required to testify, although they may do so if the commission wishes. The commission reviews the application after the hearing and with staff assistant crafts an order approving, modifying, or denying the infrastructure system replacement cost recovery charge request. Members of the Legislature, this is important because the PSC is not being removed from the process. The ratepayers in this state are still going to have a say in the interim review. That's what the Public Service Commission is for. That's what will continue to happen. The commission final order would take effect within 90 days instead of 120 days after the petition is filed. Confidentiality provisions are removed from subsection (4) of Section 5 because they were rendered unnecessary by the addition of the new Section 6. Now, finally, Section 6 is added to establish the procedure for applying for the infrastructure system replacement cost recovery charge by utilities, that in most recent general rate proceeding pursued rate adjustment by the municipal negotiation. The process for applying for the cost recovery charge would mirror the process for general rate filing for such a utility. We're streamlining the process. This is not normally the way it is for a full-blown rate review. Finally...lost my place. Okay. An abbreviated time line for consideration is set out and authority is provided for the utility to initiate a contested proceeding before the PSC if the cities and the utilities cannot reach agreement. In general, the infrastructure system replacement cost recovery charge ends with the implementation of the new, of new general rates following a general rate filing and review. The statute mandating that the process would resolve all remaining issues and reconcile costs. Members of the Legislature, this is it. We have...we still have a general rate review. They're expensive, \$2 million, \$3 million, \$4 million, \$5 million at a crack. They take a long time. Rate reviewers are getting or ratepayers are getting sticker shock, simply put. If it takes six years to get a rate review, you're going to have rates increase anywhere from 8 to 12 to 15 percent. How would you like to be a ratepayer and have to see that? Now, I could go on. I don't know if folks have questions about this. I would imagine that you do. I'd be happy to answer them. If I've left anything out, I will include it the next time I get a chance to speak. Thank you, Mr. President. [LB658]

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

Floor Debate
May 21, 2009

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Friend. You have heard the opening of the Urban Affairs AM1487 to LB658. Members requesting to speak are Senator Rogert, followed by Senator Louden and Senator Price. Senator Rogert, you're recognized. [LB658]

SENATOR ROGERT: Thank you, Mr. President. Members, good afternoon. We're looking at the end of the day. I want to talk just a little bit about LB685 and AM1487. It doesn't affect a lot of the people in this room at all. If you're a municipal utility and you're served by that, it doesn't really necessarily have anything to do with your district. What it does affect is rural Nebraska where we have folks like Black Hills in our district supplying us our natural gas. What this does, in my opinion, is it allows for further development of gas supply and for better maintenance of the pipeline out in the rural parts of the state. If there's an expensive procedure that needs to be tackled, and the gas company decides that we need to get a rate increased beforehand to get it start to pay for it, it could be five years down the road before they even get to it, if they even decide to tackle the project. What this does is it allows them to come to the PSC and say, we've got a project we want to do, we've got some maintenance we need to do, we've got an application for some more gas from a big company that wants to come into the area, we want to start bumping the rates up to pay for it rather than five years from now tacking the 20 percent increase on and trying to recover the cost from the stuff that we've been working on, if we even worked on it. This is a rural Nebraska economic development thing. This is a rural Nebraska pipeline issue which is important to most of you in one way or the other. So I rise in support of this, and I yield the rest of my time to Senator Friend if he wants to continue to explain some stuff. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Friend, you're yielded 3 minutes. [LB658]

SENATOR FRIEND: Okay. Thank you, Mr. President and thank you, Senator Rogert. Members of the Legislature, just for full disclosure I actually think that I misspoke a bit. There aren't a whole lot of full-blown rate cases that reached the point of \$4 million or \$5 million. A high cost rate case could be \$2 million. Okay. But when you have a full-blown rate review, that cost gets transferred over to the ratepayer. Where else is it going to go? So I want to straighten that out. Mr. President, I don't have anything else at this point. I do have my light on later if people would like to continue to discuss. Thank you. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Louden, you're recognized. Senator Louden. [LB658]

SENATOR LOUDEN: Yes. As I've looked this over, as Senator Rogert mentioned, this

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

Floor Debate
May 21, 2009

does affect rural areas quite a little where we have pipelines out in our areas. Also most of those pipelines run along highways and there are times when, if we're lucky, we get an expressway built, why, there will be some pipelines that may have to be built and this is kind of ways that they probably have to recovering some of that cost. Would Senator Friend yield for questions? [LB658]

PRESIDENT SHEEHY: Senator Friend, would you yield to Senator Louden? [LB658]

SENATOR FRIEND: Yes, I will. [LB658]

SENATOR LOUDEN: As I've looked this over, I think it's in Section 4, that if they, if the Public Service Commission grants these, I call it cost overruns or rates for cost overruns, that's actually only for a term of not more than five years, is that correct? Is there...there's a sunset clause or a term limit, is that what that is in Section 4, 60 months, I think? [LB658]

SENATOR FRIEND: Let me grab it. [LB658]

SENATOR LOUDEN: Anyway, while... [LB658]

SENATOR FRIEND: I actually, yes. [LB658]

SENATOR LOUDEN: Yeah. [LB658]

SENATOR FRIEND: Actually, the legal counsel had actually told me that that is the case. [LB658]

SENATOR LOUDEN: Yeah. That's what I thought that was. So it isn't something that they can raise the rates and they'll run on forever. [LB658]

SENATOR FRIEND: That's correct. [LB658]

SENATOR LOUDEN: And then, when they do raise those rates, do I understand that those rates for some of the things that can be considered it would be as local, state and federal taxes to be...can be included in there in order to raise their income besides the depreciation or is that all part of the rate increase? Can they use that as a rate increase also? [LB658]

SENATOR FRIEND: So in other words what you're asking is, if they're getting taxed at a higher rate can they... [LB658]

SENATOR LOUDEN: Well, if it's a...if it's an investor-owned they're going to be paying some state tax, city tax, federal tax. I mean, they're going to be paying taxes. Is that part

Floor Debate
May 21, 2009

of their...can that be used as part of their rate increase? [LB658]

SENATOR FRIEND: Not with...that's not the intent of this bill and that's not what we're doing with this bill. So directly related to this amendment, no. [LB658]

SENATOR LOUDEN: I know, but...okay. What I...then that, where that's stated in there, then that isn't part of the intent of the amendment that these outfits if they wanted to raise their rates they could also include some of their depreciation as their costs in order to justify raising their rates. [LB658]

SENATOR FRIEND: I would qualify...I would say no, but I would qualify it by...what page is that on again, Senator Louden? [LB658]

SENATOR LOUDEN: It's on my machine there so and I don't have... [LB658]

SENATOR FRIEND: Okay. [LB658]

SENATOR LOUDEN: ...there was 25 pages thing and I didn't copy it off from the copier. I just copied the last few pages. One other question then, but also in there the rate can increase more than, is it 50 cents a month for house, for residential household? What does that mean in there in your amendment in there? I think that gets, oh... [LB658]

SENATOR FRIEND: Yeah, it's a ceiling. That's exactly right, it's a ceiling. [LB658]

SENATOR LOUDEN: Yeah, that's a ceiling. [LB658]

SENATOR FRIEND: We're capping, yeah. [LB658]

SENATOR LOUDEN: Yeah. Okay. [LB658]

SENATOR FRIEND: In an interim rate review. [LB658]

SENATOR LOUDEN: Yeah. One other question before I run out of time. I think it's in the...on the very last page in subtitle (17) there, I guess, and it's underlined, "Information exchanged between a jurisdictional utility and a city pursuant to Section 6 of this act." That means that there's what, privileged information that they don't, that these investor-owned utilities probably wouldn't want put out for public knowledge or public use or what is that? [LB658]

SENATOR FRIEND: Only certain jurisdictional utilities. Under the State Natural Gas Regulation Act there is more confidentiality allowed when a city is contractually working with the utility. [LB658]

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

Floor Debate
May 21, 2009

PRESIDENT SHEEHY: One minute. [LB658]

SENATOR FRIEND: The State Natural Gas Regulation Act allows for that to a degree. They're not preserving records at a PSC level when it comes to a situation like that, when a city has a contract with a jurisdictional utility. So in the past, a city...when a city is negotiating with the jurisdictional utility, there are some confidentiality pieces to that that are part of the agreements that... [LB658]

SENATOR LOUDEN: Okay. And so that is in the amendment if one of these investor-owned utilities wanted... [LB658]

SENATOR FRIEND: Yeah. [LB658]

SENATOR LOUDEN: ...to have a rate increase, there is some confidential information that they could use that wouldn't necessarily be public knowledge, is that correct? [LB658]

SENATOR FRIEND: Ones that make a contractual arrangement with that particular city, yeah, that say natural...and that's existing law. What we're adding in there is carrying forward and trying to mirror existing law. [LB658]

SENATOR LOUDEN: Okay. Thank you. [LB658]

SENATOR FRIEND: We had to put that in there into the interim rate bill, if you will. [LB658]

PRESIDENT SHEEHY: Time, Senator. [LB658]

SENATOR LOUDEN: Thank you, Mr. President. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Price, you're recognized. [LB658]

SENATOR PRICE: Thank you, Mr. President, members of the body. I was wondering would Senator Friend yield to a question? [LB658]

PRESIDENT SHEEHY: Senator Friend, would you yield to Senator Price? [LB658]

SENATOR FRIEND: Yes, I will. [LB658]

SENATOR PRICE: Thank you, Senator Friend. Real quick, did I understand you to say that one of the, one of the things for us to consider in this was the sticker shock, rate increases after a period of time, then you would have a sticker shock? [LB658]

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

Floor Debate
May 21, 2009

SENATOR FRIEND: Yeah, I think so. I think it's something to consider. We heard that during testimony and when I talked to people during the interim, that's one of the reasons that...I think that that's one of the reasons from an esoteric standpoint that the bill is necessary. Ratepayers don't like to be hit with a 12, 15 percent rate increase. And sometimes if there are infrastructure changes that require that, that's what a jurisdictional utility is going to end up having to do after a full-blown rate case. [LB658]

SENATOR PRICE: All right, great. Thank you very much, Senator Friend. I'm glad to hear that from the Chairman of Urban Affairs. And to borrow some lines from Senator Pahls, we want to go basically on a little trip here. If everybody has been paying attention to the news here of late, we've noticed that the city of Omaha has a shortfall, a projected shortfall of money. And two out of the three ways which they can raise that revenue, they're going to have to come to us to raise their taxes on their people to pay this shortfall. Now, I bring up again--I brought it up before, I'll bring it up again--they currently have the ability to raise the funds they need to avoid the sticker shock if they would just apply their assessment practices the same way other counties do. I have been corresponding with people with e-mail as I'm trying to help them work through this problem so that they don't have to tax their citizens anymore. They just need to tax all of them the same way. See, when you only tax approximately...or you assess only 25 percent of your properties, and you only do it every five years, they'll constantly tell us they're up against their levy lids. All right. So then they're going to have us come here and ask us to raise that levy lid, but there are homes in Omaha that don't get taxed at the same interval and the same manner as others. There are homes that haven't had an assessment increase in six years. That's private residences. Now, how about your commercial properties? So for the body, we just heard from the Chairman of the Urban Affairs that was important. I mean, I tell you, it would be sticker shock if you have, you know, a \$500,000 home and you haven't had a rate increase in six years--and there are those homes--and all of a sudden you get that, boy, that's going to be some sticker shock. So we've already heard justification that they should be doing it differently because of sticker shock. So when they come to us next year and say, dear legislator, please authorize us to stick it to the citizens a little bit more to pay for this shortfall, near half billion dollar projected shortfall, I want to make sure I say projected because it hasn't actually come to fruition yet. You know how that is with government money. They'll all up in arms over something that may happen, maybe "shoulda," "woulda," "coulda." Now I stand in support of this bill for the very same reason I just said and articulated that Douglas County should be paying the same way the rest of these counties do in general, and they shouldn't constantly go to all the other counties and the other people in the state to help pay their bills, because they won't pay. [LB658]

PRESIDENT SHEEHY: One minute. [LB658]

SENATOR PRICE: Thank you, Mr. President. Because they refuse to pay. Now, Mr.

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

Floor Debate
May 21, 2009

Roger Morrissey was down here testifying LB418, and the reason is, I don't have enough people. Well, if the projection that some people provided me of up to \$400 million are true, I'm sure you can afford to buy another person to work in the assessor's office, and the rest of the state won't have to constantly give up money like they did with the state aid bill. If you're tired of state aid money leaving rural Nebraska and greater Nebraska, western Nebraska, just have them to pay the same way that everybody else does, not pay more. I do not advocate they pay more. Let's not lift their lids. Let's not make them pay more taxes. Let's make them pay across the board uniformly. Thank you, Mr. President. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Price. Members requesting to speak on the Urban Affairs Committee amendment, AM1487, Senator Haar, followed by Senator Louden and Senator Friend. Senator Haar, you're recognized. [LB658]

SENATOR HAAR: Mr. President and members of the body. We seem to be talking about all kinds of things here today. I wonder if I could enter into a bit of a conversation with Senator Carlson. [LB658]

PRESIDENT SHEEHY: Senator Carlson. Senator Carlson has checked out. [LB658]

SENATOR HAAR: He's sitting back there. I'm sorry, Senator Hansen. [LB658]

PRESIDENT SHEEHY: Senator Hansen, would you yield to Senator Haar? (Laugh) [LB658]

SENATOR HAAR: It's been a long day, Senator Hansen. Jesus. (Laughter) [LB658]

SENATOR HANSEN: Yes. [LB658]

SENATOR HAAR: I'm sorry, I'm sorry. (Laughter) [LB658]

SENATOR HANSEN: I'm checked out too. [LB658]

SENATOR HAAR: I think at one point you mentioned something about snow on the roof and global warming and I just had to say to you, I think if there's global warming there's going to be less snow on the roof, and I don't know about anything else, so. (Laughter) [LB658]

SENATOR HANSEN: Thank you. I just had to stand up for us white-haired guys. [LB658]

SENATOR HAAR: Okay. Thank you. Sorry, again. It's getting to be a long day. [LB658]

Floor Debate
May 21, 2009

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Louden, you're recognized. [LB658]

SENATOR LOUDEN: Yes, thank you, Mr. President and members. As we run out of time before I had dialogue with Senator Friend. I also wanted to mention that when you're working with gas companies and utility companies, it is a hard job and it does take a lot of time and he's very fortunate to get that bill in and get it in one session because I've been down that road before even as being a member of a Rural Electric Association and also being on Natural Resources Committee. One thing that this bill probably doesn't affect any of your city-owned utilities that are around, the gas companies such as, I think Hastings has one, different ones have some. This is mostly for your investor-owned such as your Black Hills and your SourceGas. And of course, the SourceGas is the one that has a lot of the pipeline out in western Nebraska. So I certainly wanted to thank Senator Friend and his staff for working with this and bringing it forwards. And it probably will give these investor-owner gas companies ways to recoup some of the losses that can be quite large when they have to move a lot of lines nowadays because when those lines were put in a lot of them in western Nebraska are laying on top of the ground. You can drive along Highway 20 and you can watch the pipeline for years. It's laying right out there on top of the ground. If you wanted to go over there with a torch, why you could probably cut a hole in it or if you were good enough at it, you could probably weld your own faucet on there and tap into it. There's all kinds of ways, so. Back some nearly 45 years ago when those were put in, the things were different then. Nowadays, everything has to be covered and buried. But that's what we have out in the western Nebraska. In fact the gas line that runs from Chadron to Crawford goes across country and it goes right down a country roads and across farm ground and the whole bit. And that's the way it was done then with cattle tramping over it and everything else, so. With that, I want to certainly appreciate what Senator Friend have and I'm certainly, have my support for LB658 with the amendment on to it. Thank you, Mr. President. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Louden. Speaker Flood, you're recognized for an announcement. [LB658]

SPEAKER FLOOD: Thank you, Mr. President and thank everybody here for their hard work this week. We are going to start up...obviously, we're going to resolve this bill here today, hopefully. We're going to start up on Tuesday morning at 9:00 a.m. instead of 10:00 a.m., and the main reason I'm doing that is to avoid going super late on Monday. So we will start at 9:00 a.m. on Tuesday as opposed to 10:00 a.m. We'll put that out in an e-mail to your offices, but when you hear the adjournment motion, that's what we'll say. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Senator Nelson, you're recognized. [LB658]

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

Floor Debate
May 21, 2009

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to ask a few questions of Senator Friend. [LB658]

PRESIDENT SHEEHY: Senator Friend, would you yield to Senator Nelson? [LB658]

SENATOR FRIEND: Yes, I will. [LB658]

SENATOR NELSON: Senator, I have to confess that I'm not very conversant with this area and I've been reading through the committee statement and the amendments. And is this basically a...providing for an abbreviated rate hearing and at an earlier date and time for the utility companies, is that one of the goals? [LB658]

SENATOR FRIEND: I think it can be. I think that that's a pretty decent way to phrase it. We're looking for more rapid response, not...rapid response time and giving these jurisdictional utilities, jurisdictional utilities the ability to move a little quicker when they need to effect those changes. So not to be too long winded, but yeah, I think you've phrased it halfway decently. [LB658]

SENATOR NELSON: So that they can recoup their costs by rate increases that are approved by the commission? [LB658]

SENATOR FRIEND: Right. Especially, especially when they run into something that they were either mandated to do or they were unexpected costs that were thrust upon them, not just mandates but unexpected costs. Somebody...something collapses, something is destroyed for some reason. These things are unanticipated. These things are unanticipated costs and a lot of times between rate reviews, it gets difficult. [LB658]

SENATOR NELSON: And it's by doing this sort of what you might term interim rate adjustment that avoids the overall sticker shock that the ratepayers experience later on, is that it? [LB658]

SENATOR FRIEND: That was part of it from my standpoint. But the other thing is obviously, too, that I think it makes the whole business more efficient. I think it helps in regard to economic development. I mean, we're...we have difficulty, you know, in areas of the state being able to expand our natural gas, our natural gas reach. And I think it helps them in that manner as well. I mean, I think it makes more efficient in that manner. [LB658]

SENATOR NELSON: I notice that there were opponents at the hearing where...did the amendments satisfy their objections? Are there still...is there still opposition to this? [LB658]

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

Floor Debate
May 21, 2009

SENATOR FRIEND: I've talked...when we sat down in the Executive Session the other day, I talked to my committee counsel and or at least before that, and I was able to communicate to my committee that I think we satisfied all of the opposition testimony and all of their concerns. Now, not everybody is extremely pleased, but I don't think we have any total opposition. Can I give you an example of that? [LB658]

SENATOR NELSON: Yeah, what was the main objection? [LB658]

SENATOR FRIEND: Well there was...let me give you an example. In the original bill, we were removing, (laugh) more or less removing the public advocate from the process with an interim rate review. Well, the amendment puts him back in. [LB658]

SENATOR NELSON: Okay. [LB658]

SENATOR FRIEND: So that's a perfect example. [LB658]

SENATOR NELSON: That took care of Mr. Cox. What about the Nebraska Municipal Power Pool? [LB658]

SENATOR FRIEND: Well, I think that they were worried about some of the same things. I don't have the...without having the testimony in front of me, but I think one of the concerns that they had was for the ratepayer. I mean, making sure that the ratepayer wasn't getting, you know, the wool yanked over his or her eyes with an interim rate. Not distrusts of a jurisdictional utility necessarily, but making sure the ratepayer was protected. [LB658]

SENATOR NELSON: But the ratepayers would get the same notice basically of the hearing even though it...I mean, they could come in and contest or object, could they not? [LB658]

SENATOR FRIEND: Yeah. Yes, except for the situation that we were talking about with a private contract between a city and a particular jurisdictional utility. [LB658]

PRESIDENT SHEEHY: One minute. [LB658]

SENATOR NELSON: All right, that...thank you, Senator Friend. [LB658]

SENATOR FRIEND: Sure. [LB658]

SENATOR NELSON: That answers my questions, clears this up for me a little bit, and thank you, Mr. President. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Seeing no additional requests to

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

Floor Debate
May 21, 2009

speaking, Senator Friend you're recognized to close on the Urban Affairs Committee AM1487. [LB658]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Briefly, this not an MUD...has nothing to do with MUD, has nothing to do with municipal utilities in this state. These are jurisdictional investor-owned utilities who appear before the Public Service Commission during rate reviews to affect rate changes for infrastructure. Members of the Legislature, I think that there's an economic development impact to this bill. I think that it can expand the reach of natural gas. If you go west of Highway 81, and I know that we can do better. And I think that this will give us an opportunity to do better. It streamlines the process a bit. I think we desperately need that. And the bottom line is, if I didn't think that this would help ratepayers, I hope you understand, I don't think I'd be doing it. I think it gives ratepayers a better understanding in the long run and that's where I stand. Members of the Legislature, I'd ask for the adoption of AM1487 and the advancement of LB658. Thank you, Mr. President. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Friend. You have heard the closing. The question before the body is on the adoption of the Urban Affairs Committee AM1487 to LB658. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB658]

ASSISTANT CLERK: 31 ayes, 0 nays, on the adoption of committee amendments. [LB658]

PRESIDENT SHEEHY: AM1487 is adopted. We will now return to floor discussion on LB658. Member requesting to speak, Senator Pirsch, you're recognized. Senator Pirsch waives. Seeing no additional requests to speak, Senator Friend, you're recognized to close on LB658. [LB658]

SENATOR FRIEND: Thank you. And finally, members of the Legislature, one of the concerns always is, as it's been brought up, is transparency. You're still moving out in front of the Public Service Commission to get that approval. The public is not...the wool is not being yanked over anybody's eyes and I think it eventually and ostensibly helps the ratepayer. I think that that's what this bill can be seen as. I'd ask for its advancement. Thank you, Mr. President. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Friend. You have heard the closing. The question before the body is on the advancement of LB658. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB658]

ASSISTANT CLERK: 34 ayes, 0 nays, on the advancement of the bill, Mr. President. [LB658]

PRESIDENT SHEEHY: LB658 advances. Mr. Clerk, do you have items for the record?

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

Floor Debate
May 21, 2009

[LB658]

ASSISTANT CLERK: Mr. President, I only have a priority motion, that being to adjourn until Tuesday, May 26, 2009, at 9:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Tuesday, May 26, 2009, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned.