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Floor Debate  
May 11, 2009

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[LB63A LB122 LB155 LB160 LB224 LB238 LB288A LB294 LB311 LB312 LB313 LB314 LB315 LB316 LB318 LB347 LB358 LB360 LB372 LB414A LB414 LB440 LB441 LB446 LB456 LB500 LB503 LB524 LB533 LB537 LB542 LB545A LB545 LB561 LB562 LB568 LB587 LB598 LB604 LB627 LB628 LB629 LB631 LB633 LB633A LR105 LR113 LR114 LR115]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventy-sixth day of the One Hundred First Legislature, First Session. Our chaplain for today is Pastor Perry Gauthier, Capitol Ministries here in Lincoln. He's a guest today of Senator Christensen. Please rise.

PASTOR GAUTHIER: (Prayer offered.)

SPEAKER FLOOD: Thank you, Pastor. I call to order the seventy-sixth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, at this time I have neither messages, reports, nor announcements.

SPEAKER FLOOD: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR105. We will now proceed to the first item on the agenda, Select File, Speaker's major proposal. LB545. Mr. Clerk. [LR105 LB545]

CLERK: Mr. President, first of all, Senator Nordquist, I have Enrollment and Review amendments. (ER8108, Legislative Journal page 1289.) [LB545]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB545]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB545. [LB545]

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SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB545]

CLERK: Mr. President, this next amendment I have, Senator Louden, AM1172. Senator, I have a note that you would like to withdraw and substitute AM1347. [LB545]

SENATOR LOUDEN: Yes, that is correct. [LB545]

SPEAKER FLOOD: No objections? So ordered. [LB545]

CLERK: AM1347, Senator. (Legislative Journal page 1385.) [LB545]

SPEAKER FLOOD: Senator Louden, you're recognized to open on AM1347. [LB545]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. AM1347, an amendment to LB545, is a simple amendment to allow school districts that have reached their budget limits to exclude those limits to open an elementary site in the district. I want to thank the Education Committee, Senator Adams and the Education Committee, and Tammy, legal counsel, for helping us work out this amendment. And what I would go on to say is for the last 50 years the Legislature has been passing laws to close elementary schools. For the most part, it has been successful and we are now bussing children long distances in rural areas. In some rural areas in the Sandhills and other parts of Nebraska, it is common for there to be 40 or more miles between elementary schools. If we want to have people move to and work in these areas of our state, we must have a school system to accommodate them. This amendment would allow a school board to open an elementary site if perhaps they were at the maximum budget level. This is a very simple amendment. It doesn't mandate anything and perhaps some young school beginners wouldn't have to ride a bus or be transported for hours on end. I don't think any of us would like the idea of a five- or six-year-old having to ride a bus for sometimes three hours everyday on a school bus. And I would thank the members for their consideration and I'd ask for a vote for AM1347 and I would also give the rest of my time to Senator Adams. [LB545]

SPEAKER FLOOD: Senator Adams, you have 8 minutes 51 seconds. [LB545]

SENATOR ADAMS: Thank you, Mr. President, Senator Louden. Senator Louden has correctly and articulately explained what the amendment does. I'll come at it from a slightly different direction. The essence of this amendment, it doesn't cost the state money. What we are, in effect, doing is saying those school districts that have remote elementary attendance centers--and there is a criterion for that in statute. We put it there last year in LB988. This gives those school districts that want to try to keep them open the opportunity to spend the money--their money. It exempts them from the spending lid, not the levy lid but from the spending lid, both equalized and

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nonequalized. If it's an equalized district, there's already an allowance in the aid formula that gives them a sum of money for maintaining that elementary attendance center. This gives them the authority to spend that money. If they are nonequalized district, they may, in effect, have the wealth but lack the ability to spend the money to keep one of these elementary sites open if it meets the criterion of a remote elementary attendance center. This would give them that authority. It doesn't increase levies. It doesn't cost the state. It's an opportunity for those school districts who have elementary attendance centers that meet the qualification as remote elementary attendance centers, to spend the money if they so choose. It still goes back to local control and what the school boards want to do. If they decide even under these circumstances they don't want to open those up, that's their business. We've just given them a little extra shoulder room. Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Adams. Members, you've heard the opening on AM1347. (Visitors introduced.) There are no other lights on. Senator Loudon, you are recognized to close on AM1347. Senator Loudon waives his opportunity. Members, the question is, shall AM1347 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB545]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Loudon's amendment. [LB545]

SPEAKER FLOOD: AM1347 is adopted. Mr. Clerk. [LB545]

CLERK: Mr. President, Senator Adams has AM1327. Senator, I have a note that you would like to withdraw AM1327 and offer as a substitute thereto AM1370. (Legislative Journal page 1404.) [LB545]

SENATOR ADAMS: That's correct. [LB545]

SPEAKER FLOOD: Without objection, so ordered. [LB545]

CLERK: AM1370, Senator. [LB545]

SPEAKER FLOOD: Senator Adams, you're recognized to open on AM1370. [LB545]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, what AM1370 does as we prepared for this day, we make some technical changes and some adjustments actually in two basic categories. One is in the compromised language that we came up with as we moved from General to Select, and then also some technical language regarding bonds. Let me, first of all, talk about the technical language. The qualified academy bonds, I don't want to go into detail on those; you probably don't want me to. But they have to do with bonds that...for poverty schools and poverty

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communities. We already have federal language, and what we're doing here in this amendment is making sure that our state language harmonizes with federal language on the use of these bonds by school districts. The other thing that we're doing, in the committee amendment that we had on General File, we had included a reference to Build America bonds and we didn't need to have that there so we're pulling that language back out. Again, it's technical so that it harmonizes with federal. Now the more substantive part, if you recall when we moved this compromise we said on the averaging adjustment that we would have to take a look as we modeled the numbers to see what we have to do with the number of formula students that we would multiply times the difference between statewide average and school district average. We were at 75 percent. What this amendment will do is take us to 100 percent of the formula students that will be accounted for, and in so doing, that uses the \$234 million that we have in stabilization money. The other thing that we're going to do is, as we accept the stabilization dollars from the fed, there's an accounting mechanism. And what we do in this amendment, we have language that says to school districts, in effect, that your superintendent and your school board president will be responsible for getting the forms from the Department of Education and signing off on those forms and handing them into the Governor before they will be eligible for the stabilization money. So it's an accountability factor. It is required by the feds and this is the way that we'll handle it. The other correction is in the modeled numbers we have, we did find a minor error in learning community schools, and we're going to adjust that by postponing for one year the way that we calculate the resource side on learning community and we should be okay with that. That way it will coincide with the numbers that you see in front of you. That's the amendment, Mr. President. Thank you. [LB545]

SPEAKER FLOOD: Thank you, Senator Adams. Senator Price, you are recognized. [LB545]

SENATOR PRICE: Thank you, Mr. President and members of the body. I was wondering, would Senator Adams yield to a question? [LB545]

SENATOR ADAMS: Yes. [LB545]

SPEAKER FLOOD: Senator Adams, will you yield to question? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR PRICE: Thank you, Senator Adams. On page 2, line 24, we lay out the criterion of a public hearing. It says after having a public hearing. My understanding...I would like a clarification. Is this just one public hearing? [LB545]

SENATOR ADAMS: I believe that's right. [LB545]

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SENATOR PRICE: One public hearing. Thank you. Also when we get...and you talk about it a little bit there, but the second question I have on page 3, line 2, we talk about bonds to repay the American Recovery Act, the stimulus dollars. Is that a correct statement? [LB545]

SENATOR ADAMS: Those are bonds, not the actual stimulus dollars. Those are bonds that school boards can apply for through the federal government. [LB545]

SENATOR PRICE: Okay. So what is the relationship, the linkage between the stimulus money and the bonds? [LB545]

SENATOR ADAMS: I don't know that there really is a connection between the two. It's just...you know, we have two separate things that we're talking about. One is the stimulus money that goes in as aid stabilization. That's totally separate. And then there are bond programs coming down from the federal government, as well, and we're harmonizing our language to accommodate the federal language on those bond programs. [LB545]

SENATOR PRICE: And Senator Adams, I don't have it right with me but in that same section what we really see is we're saying bonds that were allowed according...it seems to say bonds that were allowed according to the Reinvestment Act, so it looks as if that Reinvestment Act is driving things. So I still see that there's a direct linkage yet, and if there isn't a direct linkage, why do we have it in the statute? [LB545]

SENATOR ADAMS: Well, the linkage, I would expect, is the American Recovery Act is the umbrella under which all of these different buckets of stimulus money are couched. [LB545]

SENATOR PRICE: So back to my first question, there is some...I mean, if we were getting a bond that's let out and we're repaying a bond, and the directives are coming from the Reinvestment Act, it seems fairly likely that that's a reinvestment repay in some way or another. I mean, maybe in a complicated way it isn't, but when I see the language there that says Reinvestment Act and that we're going to be repaying it and doing it according to them, it just seems more of a direct causal relationship than meets the eye. [LB545]

SENATOR ADAMS: I think I understand where you're going, but recognize that the \$234 million that we're putting into our formula is a totally separate program than these bond programs that are out there. [LB545]

SENATOR PRICE: Thank you, Senator Adams. The one question I would leave you with is how much would this...how much of this language would be harmed in this bill, in this amendment, how much would be harmed if you just struck everything that had to do

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with the Reinvestment Act? I mean, if they're not together, if they're not together let's cleave them apart if it's not what they are. [LB545]

SENATOR ADAMS: Well, I guess the best answer to the question is these various bond programs are authorized under the American Recovery Act. [LB545]

SENATOR PRICE: Okay. Thank you very much, Senator Adams. Members of the body, I just bring that up because we're told on one hand it's not something but that's how it is, and I was just trying to determine a little bit better, and as we're all pouring over these amendments and making sure that we have our talking points, I'm hopeful that each member will do their due diligence and reading on this to see exactly...because I'm not sure, more bond payments for education, you know, on the property tax owners. And as Senator Pahls has been bringing up on a regular basis... [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR PRICE: Thank you, Mr. President. Property taxes, being the sole source, practically, of repaying everything, it's the burden on the public is a little bit much, and I think that we owe it to our constituents to make sure we understand how much we're allowing them to be tapped on for these bonds. Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Price. Senator Hadley, you're recognized. [LB545]

SENATOR HADLEY: Mr. President, thank you, members of the body. Senator Adams, I guess I have to admit that I'm probably not very good with financial numbers and such as that, but I'm finding this very confusing now. Are we on that option C that you put out? Is that what we're talking about at this point in time? [LB545]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Hadley? [LB545]

SENATOR ADAMS: I will, and the answer is yes. [LB545]

SENATOR HADLEY: Senator Adams, would you yield for another question? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR HADLEY: Would you just give us a little background of why we're at this option C? Kind of what's happened in the past couple of weeks, why we had to get to the option C? [LB545]

SENATOR ADAMS: Well, I suppose in its simplest form I could tell you that we had to

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move a bill which will accommodate \$234 million--that's what we have in state aid--so that we can fold together a budget. [LB545]

SENATOR HADLEY: Okay. And so there was people opposed to the last bill so we had to move it. Okay, thank you, Senator Adams. I appreciate that. It seems to me now that when we're talking...I guess I assume we're past the point of moralizing that we should spend more money and whether or not we're doing the right thing for education in the state of Nebraska. We're not talking about increasing the pie at this point in time. We're talking about dividing up the pie at this point in time. That's what we're trying to do when we honestly get down to it. It has nothing to do with increasing the pie now. It's how we're going to divide the pie. And there were a group of people that didn't like how we were going to divide the pie last time so they came back, and came back with another compromise that divides the pie differently. I'm not very...as I said, I'm not very good with numbers so I went back and I looked at this. We're changing how we divide the pie quite radically. The sheet C-3 that Senator Adams was nice enough to hand out, I did a little just raw examination of it. Sixty-one school districts in the state are going to get more money under plan C than they did under plan B, which was a plan we talked about last time. One hundred and thirty-two school districts in this state are going to get less money than the plan we talked about a couple of weeks ago--132. Two times...twice as many are going to get less than the 61 who are getting more. Fifty-four school districts are basically harmless. I thought it was interesting that guess...I know it doesn't shock you but guess who gets the increases? It's the big districts. Those districts that get more than \$200,000 increase from B to C, Hastings, Papillion, Gretna, Omaha, Lincoln, Elkhorn get more than a \$200,000 increase because we changing from B to C. One district gets less by more than \$200,000 and that's Kearney, Nebraska. So again we're not talking about expanding the pie. We're just talking about who gets which part of the pie. And I would say if we wanted to play this game we could come up with probably 50 different amendments to this formula and we could do that until every one of us figured out which one of those 50 gave us the most money. But I find it interesting that we sat last week with an Appropriations Committee and we praised them to the height because of what they had done. They had worked together. They had come out with a bill; got to the floor; we supported it. The Education Committee... [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR HADLEY: ...sits and works on a bill, a way to divide up the pie. It comes out of their committee 6-1-1. Instead of saying great job, what did we do? We get up and talk against it, right, because our share of the pie isn't good enough. Our share of the pie isn't big enough so what they did isn't good. So I will be talking a lot today about why I think that if we want to we can go ahead and come up with a different way to split up the pie again until everybody is happy. I don't know how you do that but that's what we're talking about. Make no bones about it, we're talking about the size of your slice of the pie today. Thank you, Mr. President. [LB545]

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SPEAKER FLOOD: Thank you, Senator Hadley. Senator Fischer. Senator Fischer is followed by Senator Heidemann, Pirsch, Price, Nordquist, Christensen, Harms, and others. Senator Fischer, you are recognized. [LB545]

SENATOR FISCHER: Thank you, Mr. President and members. I'd like to thank Senator Hadley for his comments and also for his handout. I have 21 school districts in my legislative district, and I have a binder that I have every year that I'm down here and it's showing the same figures that Senator Hadley has passed out to all of you. What I find especially interesting every year when I have my staff put this together--and you can access this at the Department of Education for your districts--is you look at the receipts and the expenditures for each district. And what we talk about in here, as Senator Hadley mentioned, is we're dividing the pie and we're switching how the Education Committee divided it. When you look at the receipts for your districts, and I would encourage you to do so, you'll see that the state average for the 2006-2007 school year, which is the most current year on that Web site, shows that the state average for the local receipts is 52.82 percent. Most of my school districts are countywide school districts. I don't know where you want them to go. They're already countywide. I don't know how you think that we're going to save money doing something else with those districts but I guess I've come to the conclusion you're just basically pushing those districts out of your mind. If you look at Blaine County, the percent that comes from local property taxes is 63.69 percent--well above the state average. If you look at Brown...or Cherry County, my home school district of Valentine, the receipts...it's 47 percent, which is below the state average. When you look at Custer County, receipts are 68 percent from local for the Anselmo-Merna school district. For the Arnold school district, 66 percent, and I could go on. I'd like to thank Senator Adams, first of all, for his work on this. He's doing his job as Education Chair. He's trying to find a compromise. He's trying to find a solution with a bill that's going to fit within this budget of \$234 million. But where's the accountability? Senator Pahls is smiling. Where's the accountability? Most of the small districts in this state don't have a lobbyist in the Rotunda. Most of the small districts in this state do not have a lot of administration. Most of the small districts in this state don't have a business manager whose sole purpose, in many cases, is to work on the state aid formula to figure out how they can get more money. I point out to you, Grand Island school district in Hall County, they were opposed on General File. They hired a lobbyist and she is out in the Rotunda, very happy that they're getting more money. I would ask Grand Island: Under this plan you're getting \$123,000 more; what did you pay the lobbyist? Where is the accountability... [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR FISCHER: ...to our taxpayers? Also in Hall County, Wood River is losing \$25,000, Doniphan is losing \$25,000. Where is the accountability for taxpayers? We need, in this state, to look at the root causes of problems with education and not

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continue to throw money when solutions haven't been found by school districts. We need to look at the needs of all the children in this state and not say, well, there's \$21,000 behind each student in this school district. When we base a state aid formula on the premise that property is wealth, that's what happens, because valuations in rural Nebraska continue to rise and we will see a decrease in valuations, I have been told, in Douglas County, Sarpy, and Lancaster. [LB545]

SPEAKER FLOOD: Time, Senator. [LB545]

SENATOR FISCHER: Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Fischer. Senator Heidemann, you're recognized. [LB545]

SENATOR HEIDEMANN: Thank you, Mr. Speaker, fellow members of the body. It must be getting late in the legislative session; we're talking about state aid to education. Once again, I think I've been...this is my fifth year and this is what we do late in the session, and unfortunately I don't think it's always the best way to bring good policy forth, because we always, kind of like a funnel, you're getting down to the narrow part and sometimes we do things real late that we come back and we talk about later. And I think somewhat we're talking about things that happened in LB998 that we're dealing with this year. And if I would ask Senator Adams a few questions? [LB545]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Heidemann? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR HEIDEMANN: We're back here talking about state aid to education. We passed LB988 last year, which was supposed to give us a new direction about how we was going to get money to schools. One of the parts of LB988 was the system averaging adjustment, which we had never had before, is that correct? [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR HEIDEMANN: And what was the projected cost of the system averaging adjustment in LB988? [LB545]

SENATOR ADAMS: You've got me there, Senator. I don't remember the number. I bet you do. [LB545]

SENATOR HEIDEMANN: I think it was \$40 million. What was the costs of the system averaging adjustment under Model A? [LB545]

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SENATOR ADAMS: I...you've got me again. I don't have...I've come unprepared for those questions today. [LB545]

SENATOR HEIDEMANN: I believe--I hope my numbers are correct--but it was \$80 million. And my thought to you...my thought or my question to you would be when you see that kind of growth in something that you had just put into place and you realize that LB988, as we had...as it passed, was going to cost that much more money, where would you go back and look to try to save more money if you had to save money? [LB545]

SENATOR ADAMS: You're setting me up. (Laughter) [LB545]

SENATOR HEIDEMANN: No, I'm not really. I'm trying to prove...no, I don't want to prove a point, but get a point out there that LB545, as introduced, was still the right thing to do. What would you say to that statement? [LB545]

SENATOR ADAMS: Well, Senator, LB545, as it was originally introduced back three months ago, I thought was pretty good policy, but maybe the budget you had in mind back three months ago you thought was pretty good policy too. But in the meantime we've moved and now we're at a different point. And frankly, the compromise in terms of the long-term growth of state aid, I think probably makes better statewide appropriations sense than what we had originally in LB545. [LB545]

SENATOR HEIDEMANN: To me, and I don't know...I guess you would have to wait and see how it played out, but LB545, as introduced...and I would...it was said by Senator Fischer, you've done a lot of work this year and I want to commend you for that. I want to commend your committee for taking on some very...a very tough issue. [LB545]

SENATOR ADAMS: Thank you. [LB545]

SENATOR HEIDEMANN: And I think your committee presented something to the floor that what was very good, and there was discussion on that. That didn't go and I'm disappointed about that. I'm a little bit concerned about the direction that we are probably going to head with as LB545 unfolds, but as you see 5...and I think we're working underneath the Model C now, and we're going to save a little bit of money here to make this all work and to unfold, how much money will be saved by tweaking the assisting averaging adjustment in the year '09-10? [LB545]

SENATOR ADAMS: You tell me, Senator. [LB545]

SENATOR HEIDEMANN: I've got a feeling...and Tammy can nod if I'm right. [LB545]

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SPEAKER FLOOD: One minute. [LB545]

SENATOR HEIDEMANN: We will not save any money in '09-10. And how much money will we save in the cost growth factor which will affect all schools? [LB545]

SENATOR ADAMS: When we...again, we're scrambling for the money. But you're right, when we lowered that cost growth factor by .5 percent, we've gone clear across the board with every school. [LB545]

SENATOR HEIDEMANN: So the system averaging adjustment which costs us twice as money, from \$40 million to \$80 million, they will not suffer anything, but all schools that didn't take advantage and get advantage of the system averaging adjustment will suffer. Is that correct? [LB545]

SENATOR ADAMS: Well, not necessarily. When we lowered the cost growth factor, every school in their basic funding has a reduction in basic funding. [LB545]

SENATOR HEIDEMANN: Except for the 26 schools that are taking advantage of the system averaging adjustment will be held whole. The rest of them will actually lose money. [LB545]

SPEAKER FLOOD: Time. Thank you, gentlemen. Senator Pirsch, you are recognized. [LB545]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I'm going to...it seems like the conversation thus far has gone on to an issue that Senator Hadley has raised with respect to the plan C. I'm going to take your attention away from that discussion and, at this point in time, address an issue that has come to me, I guess, as a question, as we discuss this particular amendment, AM1370. It seems as though what we're...and this is my understanding. I wonder if Senator Adams or someone who serves on the Education Committee might disabuse me of my notion if it is incorrect, but apparently under the American Recovery and Reinvestment Act, the federal act, ARRA, they allow for not just certain untethered monies falling to the states, but certain tethered monies and other types of programs. Among these are these bond programs: the Qualified Zone Academy Bonds which is the subject of this amendment; Qualified Energy Conservation Bonds; Qualified School Construction Bonds; Build America Bonds. There may be other bonds. What this essentially means, as I understand it, and if you could help me, those on the committee, the federal government is coming into the school districts and saying, you can borrow money from us in this stimulus package and you can essentially, just like the NRD issue that we have, you can levy a bond and, in a sense, mortgage your future revenues. And so I wonder if that, Senator Adams, is that...if you would yield for a question? [LB545]

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SENATOR STUTHMAN PRESIDING

SENATOR STUTHMAN: Senator Adams, would you yield to a question from Senator Pirsch? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR PIRSCH: Is that a correct understanding or am I off in some way? [LB545]

SENATOR ADAMS: You're going to have to repeat your understanding, Senator Pirsch. [LB545]

SENATOR PIRSCH: Oh, I'm sorry. [LB545]

SENATOR ADAMS: I was talking to my staff. [LB545]

SENATOR PIRSCH: Just to sum it up, American Recovery and Reinvestment Act creates these bond opportunities for local school districts: Qualified Zone Academy Bonds, Qualified Energy Conservation Bonds, Qualified School Construction Bonds, Build American Bonds. We're only talking about one in the amendment. But overall, these four bonds are embedded in other legislation, right, that's embedded in the underlying bill? Is that right, LB545? [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR PIRSCH: Okay. And with respect to these bonds, this is giving school districts...the federal government is saying, we'll give you money now and you can borrow against that and levy a bond, so your future revenues...kind of borrow against your future revenues, correct? [LB545]

SENATOR ADAMS: Well, there's several different bond programs, and some of them the federal government is paying the interest. Some of the bond programs is a proportion of principal. But generally what you're saying, that's correct. [LB545]

SENATOR PIRSCH: Right. And that's a key point, I think, because some of these the federal government is saying, in so granting you these funds we'll give certain breaks to the investors who pay, right, the school districts who raise the money for the school districts, the bond holders,... [LB545]

SENATOR ADAMS: Right. [LB545]

SENATOR PIRSCH: ...so that it's essentially a subsidized bond, correct? And in that sense, as opposed to a traditional loan, it would be more affordable for the school

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districts than the traditional type of bond levy, correct? [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR PIRSCH: Okay. And so that's what I'm trying to get a sense of is a breakdown...are we...have we author...in the underlying act, LB545, each and every bond program that would be allowable by the American Recovery and Reinvestment Act, to the extent that school districts want to participate? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR PIRSCH: Okay. And if that is...I guess if you could comment on that. Do you think there's any long-term economic repercussions of that? This is a one-time kind of stimulus package. Is the...I mean, first... [LB545]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: One minute. [LB545]

SENATOR PIRSCH: First of all--and this is kind of a complex issue and so we only have a minute left--but are any of the bonds...I mean, is this the total universe of the bonds that I mentioned, those four bonds--Qualified Zone Academy Bonds, Qualified Energy Conservation Bonds, Qualified School Construction Bonds, and Build America Bonds--is that, those four types of bonds, is that the total universe of bonds that are created for local school districts under the American Recovery and Reinvestment Act? [LB545]

SENATOR ADAMS: I believe that's right. [LB545]

SENATOR PIRSCH: Okay. Good. Well, that helps narrow the universe then. And do you know...and I'll have to come back, obviously--I'll push my light--to kind of get a little bit more in depth, but I am interested in discovering more of the subsidized nature of some of these. If these...if the federal government is taking on a chunk of that, I'd be interested in that, and what ramifications are there because of the short-term nature of the stimulus bill? So I'll turn back the rest of my time, and thank you. [LB545]

SPEAKER FLOOD: Thank you, Senator Pirsch. (Visitors introduced.) Returning to discussion, Senator Price, you are now recognized. [LB545]

SENATOR PRICE: Thank you, Mr. President, members of the body. In perusing this amendment I found interesting reading and would like to share it with you, please. On page 9, starting on line 19, I read this, comma, "or for an American Recovery and Reinvestment Act of 2009 purpose, the board may borrow money, establish a sinking

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fund"--how do you like that naming convention--"establish a sinking fund and issue bonds and other evidences of indebtedness of the district,"--it goes on and on and on, and then it says in line 24, "payable from an irrevocable pledge." How do you like that to be in the same paragraph: a sinking fund and an irrevocable pledge. I'm not trying to qualify it. I just think that when you name things there's a portent there and I wanted to call it out to you that we'll be going ahead and do an irrevocable pledges or indebtedness on taxpayers to establish a sinking fund--their words, not mine. And with that, Mr. President, I would yield the rest of my time to Senator Hadley if he would like it. [LB545]

SPEAKER FLOOD: Senator Hadley, you have 3 minutes 51 seconds. [LB545]

SENATOR HADLEY: Thank you, Mr. President, members of the body. I did give you a handout and I called it "A Tale of Two Cities." And I picked two cities, basically two school districts, for a good reason. It's kind of the best of times and the worst of times. And I picked Omaha and Kearney because Omaha is the biggest winner under the C program that we have out here, and obviously Kearney is, by far and away, the...it doubles the next one in loss under level C. And what I did is part, I think, of what we as a Legislature need to be involved with, is accountability. Do we just put out a billion dollars in state aid? Do we send it out to the school districts and say, spend it the way you want to? Is that how we do it? How many of you know how your school district is spending their money? Because they're spending a lot of the money you're dealing with, that you're sending out there. And so "A Tale of Two Cities," I looked at how two different school districts, one that prospers under C and one that doesn't prosper under C, are spending their money. And the first one is instruction. Senator Pahls...may I ask Senator Pahls if he'll yield to a question? [LB545]

SPEAKER FLOOD: Senator Pahls, will you yield to a question from Senator Hadley? [LB545]

SENATOR PAHLS: Yes, I will. This...I almost feel like I'm back at a hearing that I had earlier with the Education Committee. [LB545]

SENATOR HADLEY: Senator Pahls, is the percentage of the total budget spent on instruction important in the overall education of children? [LB545]

SENATOR PAHLS: Yes. Yes, it is. [LB545]

SENATOR HADLEY: The more you spend, would you say, the better educated the students become? [LB545]

SENATOR PAHLS: No. No, no. I do not think that money is the answer. I think it is an important factor. But as I've taken a look, which apparently you have right now because

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you are concerned about how certain districts are spending their money, I've done that for several years. I did that several years ago when we had...we were fighting the urban education issue so I did delve into that, and I did bring a bill in front of the Education Committee this year, hoping that we would start taking a look at how we were spending money, and part of that dealt with instruction. [LB545]

SENATOR HADLEY: Thank you, Senator Pahls. I looked at instruction. I looked at Omaha versus the state. And Omaha is such a big part of the state aid and the state education, I pulled Omaha out to get a true state average without Omaha. The state, without Omaha, spends 61 percent out of every dollar on instruction. [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR HADLEY: And that is also the national average. Sixty-one percent is spent nationwide on instruction. Omaha spends 52 percent on instruction. If Omaha were to spend the same amount of money on instruction as the rest of the state would, we'd have to give them another \$40 million to get them up to the 61 percent. I think when we give school districts money, we should have accountability. So the question I would ask the Omaha lobby: Why are you only spending 52 percent of your school dollars on instruction? Later I'm going to talk about why you spend so much on general administration; why you spend so much on the total board of education. And we're going to give more money, and I don't mean to pick on Omaha, but they're... [LB545]

SPEAKER FLOOD: Time. [LB545]

SENATOR HADLEY: ...the ones that are gaining the most. Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Hadley. Senator Nordquist, you're recognized. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise today in support of moving LB545 on here. I know Senator Hadley made a couple comments earlier about, you know, why are we, you know, questioning the Education Committee, not the Appropriations Committee? You know, I think it's anyone's right to question any bills that come before us, including the budget, and the fact that we moved the budget last week on Select File to Final Reading in less than ten minutes makes me think there weren't a lot of questions about it. But if you have questions, stand up and make your case. But I just wanted to clarify or make a point on kind of the change and how this money has shifted around, and I'll yield my time, when I'm done here, to Senator Adams to make any more clarifications or he can use it however he sees fit. But essentially, when LB545 came to the floor the first time, the bill assumed a 2 percent contribution rate increase for employees, and then the school districts would then, by statute, they

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match 101 percent. Well, after working on the Retirement Committee and figuring out what our plan actually needed, the Retirement Committee came to the conclusion that we only need a 1 percent rate increase and then the school districts match the 101 percent, so that freed up a significant amount of money. So most...and I confirmed this with the Education Committee, that roughly the reductions you're seeing on the sheet for most of these school districts is the amount of money that the school districts never would have seen anyway because the state would have taken that for the retirement plan. So, in essence, most of these districts are being held harmless, that that money is then going...it would have been taken out and gone to our teachers retirement plan, but because the actuaries showed us that we don't need that kind of contribution at this time, we were able to take that money and work on LB545 with it. So with that, Mr. President, I will yield the rest of my time to Senator Adams. [LB545]

SPEAKER FLOOD: Senator Adams, you have 3 minutes 4 seconds. [LB545]

SENATOR ADAMS: Thank you, Senator Nordquist. I guess what I would say is that, generally speaking, that was the logic that we used as we worked into this compromise. What we have done, in effect, with the compromise amendment is to reduce the needs. We've reduced the needs by .5 percent which translates really, in effect, to a full percent in terms of that retirement obligation. So as we reduce the needs across the board, that is to all 254 school districts, to all of them. And had we not had that reduction in needs, it might be tougher to control the growth in TEEOSA in the out-years as we look at years three and four. This became a mechanism for doing that and a mechanism for compromise. Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Adams. (Visitors introduced.) Continuing with discussion on AM1370 to LB545, Senator Christensen, you are recognized. [LB545]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator White yield to a question, please? [LB545]

SPEAKER FLOOD: Senator White, will you yield to a question from Senator Christensen? [LB545]

SENATOR WHITE: Certainly. [LB545]

SENATOR CHRISTENSEN: Senator White, did OPS file a lawsuit two to three years ago against the state of Nebraska? [LB545]

SENATOR WHITE: I don't know whether it was OPS itself or citizens associated with OPS or a combination. [LB545]

SENATOR CHRISTENSEN: Thank you. Did we change the TEEOSA or the school

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education budget to accommodate them? [LB545]

SENATOR WHITE: Well, I think, Senator, what we did is we changed it so that we wouldn't lose a federal lawsuit and really get popped for a lot of money. We changed it because what we were doing was unconstitutional. [LB545]

SENATOR CHRISTENSEN: But where did we shift that money from? [LB545]

SENATOR WHITE: Well, actually what we did, Senator, is we looked at money that went to rural areas--and let me give you an example of how it was on a tax basis and spending basis. If you have a \$100,000 farm and you're valued at 75 percent and, as many of these districts are, your tax rate is 80 mills, you pay \$600 on a farm that could produce income for you. If you have the same \$100,000 piece of property in Omaha, you're taxed at 100 percent value at 1.05 mills, so you're paying \$1,050 in taxes. And despite that, in many of the rural areas before this we were spending over three times as much per student than we were in people in Grand Island, in Omaha, and other inner city areas. So, yes, money got shifted, but one could say that in a state obligation when you're spending three times as much, on average, for a county that's being taxed at almost 60 percent of what Omaha is, all we did is shift barely enough to keep some federal judge from really handing out head to us. [LB545]

SENATOR CHRISTENSEN: Senator White, did the rural homes get billed at the same rate as the city homes? [LB545]

SENATOR WHITE: The rural home does but the ag land does not, and here is what is fundamentally interesting about that. Ag land can produce income; a home doesn't. And so the argument had been, before, that it's unfair; we're suffering in the agricultural industry. Well, a couple of things have happened. One, corn prices have gone up, and also ag land has gone up. So the resources available in the rural areas to the rural school districts are much higher. At the same time in Omaha, housing prices have dropped, and so the resources there are lower. So, yes, we are shifting money from one area to another. And I think Senator Nordquist made a great point. First of all, this bill does not take money out of the operating accounts of almost all of those school districts. Retirement money that would have been credited to them under this formula is just not needed, and we have taken that money, because of the hard work of Senator Adams and the Retirement Committee, and moved it to try to close the gap in funding between Omaha and Grand Island and other school districts, and rural school districts. We're trying to equalize available resources to those students. So while money has moved, there's no question, but we can argue, and I'd be happy to argue with you, that really the system is so fundamentally flawed that both the taxation and the expenditures are out of whack even yet. But this is better than it was. [LB545]

SENATOR CHRISTENSEN: Senator White, if you use your land as an asset to raise

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money, that becomes your income to live on. And we are taxing it for providing to our schools. Do we tax your income to provide for our schools? [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR WHITE: You betcha. Where do you think you're getting the state aid? It's coming from state income tax. But also not all land is your livelihood. Many of this land, as I've pointed out to you over and over again, are owned by people like Ted Turner and other people and it's simply passive investors, and they're driving young people off the land in rural areas and they don't...that's just passive income to them any more than the stock is--you know, investing in a stock. [LB545]

SENATOR CHRISTENSEN: But a farmer pays on his income; he pays on his land. A wage earner pays only on his income. Farmers are hit twice. [LB545]

SENATOR WHITE: No. The wage earner also pays on his home and other land he may own. If he manages to scrape together some money and buy a portion of a strip mall or something, a small...an extra house or any kind of investment, he pays on that too. Senator, that's just flat wrong. [LB545]

SENATOR CHRISTENSEN: But the farmer pays on his home too. [LB545]

SENATOR WHITE: Farmers do not pay taxes twice any more than any wage earner does. [LB545]

SENATOR CHRISTENSEN: A farmer pays on his home, pays on his income, pays on that land. He gets hit (inaudible). [LB545]

SENATOR WHITE: And a wage earner... [LB545]

SPEAKER FLOOD: Time, Senators. Thank you, gentlemen. Senator Harms, you are recognized. [LB545]

SENATOR HARMS: Thank you, Mr. President, colleagues. I've listened to this debate now for several days when we got into this issue. I have some concerns about this recent adjustment after having the opportunity this weekend to visit with a few people. My concerns are the fact that what we're debating here is fine but I don't hear anyone talking about the quality education and the fact that when you look through this printout that we have, the money was actually...most of the money was actually moved from rural America to urban America to satisfy that particular debate. And I'm concerned about how much money is being moved. I'm concerned about the other side, beside the fact is that we may have some difficulties in providing quality education; that we may have some difficulties in providing education that's equal to our richer school districts.

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And I don't think that's right, I don't think it's fair, and I don't think it's appropriate. We have a responsibility in here to make sure that our schools hopefully are treated equally, that our kids and our children in these school districts are receiving equal access to quality education. This formula is so complex, there's so many moving parts in this formula, that it's really difficult for us to get our hands on to understand why it declines, why it drops, what takes place. Take the averaging and move it from 75 percent to 100 percent. You don't know what it's going to do until they run those numbers, and I'm not being critical of the Education Committee. I think Senator Adams and the people on the Education Committee have done a great job. What I'm saying to you is that I think we have some concerns and some issues that we're going to have to continue to address. Let me give you a couple...just one example. This is not in my district but it's right next to my district. I graduated from this high school, and that's Morrill Public Schools. They're going to lose over \$200,000. I can tell you now that that little school cannot deal with a loss of \$200,000. Another school district that's just north of me...by the way, these are in another senator's district, and that's Alliance and they're going to lose over \$300,000, and I have watched, for the last four or five years or eight years, that that school district has struggled tremendously about how to balance its educational delivery system, provide quality--they've released staff previously. I don't know how they're going to be able to do this. So what's fair and what's equitable? What's right for rural America many times is not right for urban America. And I have a concern about this because we have to educate all of our children across the state of Nebraska, and the last thing I want to have happen is that they come out not having the right skills, not being able to compete in a changing world global economy and have the right set of skills. I think that's going to be an issue for us. I think we're going to find that issue very soon, in the near future, and I don't know what the answer to this is. And I applaud Senator Adams for what he's done to try to find a compromise and I'm not being critical of that compromise. I'm just telling you that it is an issue that I have concerns about. I represent rural Nebraska. I come out of that particular environment. I graduated from that environment and I understand it. And I'm here to tell you, this is an issue for us, and I will fight to the end if I think that we're going to lose the quality education, that our children will not be competitive, and that our children will not have equal access to quality education. [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR HARMS: And that's the question I want you to think about. I think we made some adjustments here which are fine, but where did the money come from? Where did the money go? These smaller districts are being hurt. Unless you give them flexibility on the property tax side to make up some of that difference, I don't know what they're going to do. I don't think they can survive. I don't think they can provide what's necessary for these children in the future. They already have difficulty dealing with technology. They already have difficulties dealing with sciences and math, calculus, the kinds of things that kids ought to have and have access to, foreign languages. It shouldn't be where

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you live or whether you can get this kinds of services and this kind of education, but this is the way this is going to end up. Mark my word, unless we look at this and review this formula in the future and see if we can understand some of these moving parts, I'm here to tell you we have a problem here. And the people that I've spoken to in rural Nebraska... [LB545]

SPEAKER FLOOD: Time, Senator. [LB545]

SENATOR HARMS: Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Harms. In the queue we have Senators Hadley, Dubas, Gloor, Fischer, Utter, Council, Karpisek, Pirsch, Friend, and others. Senator Hadley, you are recognized. [LB545]

SENATOR HADLEY: Thank you, Mr. President, members of the body. Again, I'm not trying to pick on Omaha--maybe a little. I am trying to get what we're spending money for and what school districts are spending for. Senator Pahls, would you yield to a question? [LB545]

SPEAKER FLOOD: Senator Pahls, will you yield to a question from Senator Hadley? [LB545]

SENATOR PAHLS: Yes, I will. [LB545]

SENATOR HADLEY: Senator Pahls, as a principal you dealt with the items that were on the second sheet that I handed out as far as where expenditures go to. Could you tell us...just give us a kind of a short summary of what some of those items are? For example, all instruction and such as that. [LB545]

SENATOR PAHLS: Yes, I will, and if I take too much of my time I will give you some of mine. [LB545]

SENATOR HADLEY: Okay. [LB545]

SENATOR PAHLS: Because this is an issue that is dear to my heart and, like I say, I did have a bill similar to some of the things I'm going to propose today. But we have basically eight categories that the schools must report to the state department on how they're spending their money. Now if they're not reporting them in the right categories, then there's something wrong because they are...that's how they're supposed to report. Now I want to make it clear, all instruction...that includes there are several subsets to that. It deals with regular instruction, dealing with programs with limited English, poverty instruction, early childhood, and special ed. Then there's another one called support services for pupils, and that deals with the guidance, health, psychological, safety,

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etcetera. There are...just let me list them: all instruction, support systems for pupils, support systems for staff, central administration, office of the principal, maintenance and operation, and federal, and then there's the all-inclusive other. And what it does, each one of these districts are supposed to report the monies that they are spending in those categories, and that caused me, several years ago, to be a little bit concerned on how the school districts were spending in those categories. Because if they're reporting it correctly, if they...let's say there's an area called support services for pupils. They all should be reporting the same ways they are spending money. And if you take a look at that and you can if you pull up the Education's Web site and look for the report card, you can see how the schools are reporting that in your particular district. I did see Senator Fischer, when she was looking through, she had done that. And my concern in the past was we ought to be taking a look at--and I use the word direct instruction and not all instruction because I wanted to see maybe we need to merge some of those, because a certain percentage of those dollars should be going to that classroom, and that was my concern. But I'm telling you, when I was at that hearing you would think that I was the enemy because, jiminy Christmas, I was questioning some of these districts. And I think we need to be more clear about what we're doing, and I'm for the word accountability, and I will talk to that later on. And I thank you, Senator, and I will back off to let you have the remainder of your time. I promise I will give you some of mine. [LB545]

SENATOR HADLEY: Okay. Thank you, Senator Pahls. I appreciate that. Again, I think it's our duty as a Legislature to look at where districts are spending the money. We're sending, what, almost a billion dollars or somewhat of the state's funds out to the school districts. Do we have any right...would we send a billion dollars to any other agency? We sat here and criticized the Beatrice Development Center up and down and up and down because we were going to have to send them with \$15 million, \$20 million, \$30 million? Here we're talking about a billion dollars that we're going to send out. Now another area that I'm going to talk about next is central administration. If you don't spend money on teaching, you spend it on central administration. I will guarantee you there isn't a teacher or a person who's taught in this body or been involved in either... [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR HADLEY: ...K-12 education or a higher education that doesn't say, if they were a teacher, that we spend too much money on administration. I've heard that all the time around here. I've heard in our state government, we spend too much money on administration. So when you look at school districts and you compare what different school districts are spending on administration versus instruction, that sends...that tells you where their priorities are. And if you'll look at this--I'm going to talk about it the next time--as to what the differences are, some of our school districts, on what they spend. And remember this, the larger you get there should be economies of scale. Every school district needs a superintendent, whether it's Omaha or the very smallest one

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needs a superintendent. So costs like that basically are the same, relatively speaking. And I tried not... [LB545]

SPEAKER FLOOD: Time, Senator. [LB545]

SENATOR HADLEY: Thank you. [LB545]

SPEAKER FLOOD: Thank you, Senator Hadley. Senator Dubas, you're recognized. [LB545]

SENATOR DUBAS: Thank you, Mr. Speaker, members of the body. When we were discussing state aid the first time around, while I didn't necessarily agree with the position that many of my colleagues were taking from the urban districts, I understood what they were doing. They were fighting for their districts and that's what we're here for. I also made the comment that if the shoe were on the other foot I would be standing up and doing the same thing. Well, today the shoe is on the other foot and I am standing up to defend my districts. Over and over and over again, rural districts, in my estimation, have been asked to do more and more. They've been asked to prove their efficiency, they've been asked to consolidate, they've been asked to do any number of things to try to even the playing field or whatever term that you want to do. You know, in LB988, rural school districts took a hit. They did it and they lived with it. They've done things to try to minimize class size. They have consolidated districts. They have consolidated administration. They've done a lot of the things that Senator Hadley was just referring to, to try to make themselves more efficient, to try to continue to keep the students' needs first and foremost. And they understood, the first time around, while it wasn't necessarily a direct loss in state aid, they just weren't going to get as much as they had originally anticipated. That was the same way across the board. It wasn't necessarily a direct loss. It was just not receiving as much as they had originally thought they were going to. All of my school districts, while they weren't ecstatic about it, understood it, recognized the times, and were like, okay, we can make it work. Then we had the negotiations and the compromise, and several of my school districts took an additional hit. And I believe someone made a comment on the floor earlier about, well, this was money that they never had so it's not really a hit. Well, excuse me, but it is. It is a hit. And we continue to talk about equity and proportional and across the board. One of my districts put together some figures for me comparing Omaha to his particular school district. Omaha is--we're talking about Aurora here--Omaha has a total of 48,075 students. Aurora has 1,287 students. So Omaha is actually over 37 times larger in student enrollment than Aurora. Aurora is anticipated to lose...well, the total loss between Model A and Model C, \$220,888. So if you take that 37 times the \$220,888, you come up with \$8,251,000 comparable loss for Aurora. That's nearly four times the loss that Omaha is going to experience through the Model C--four times the loss. That's a huge impact. Senator Harms mentioned that. Those are huge dollars that are districts are having to come up with. These districts have worked very hard to keep their levies

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down. As I've said, they've done everything that the state has asked them to do and then they continue to get squeezed and expected to put more and more. You know, it's very hard...you know, the superintendent the first time around, like I said they understood where the loss was going to be or the reduction in state aid, and they took it to their board. And like I said, they weren't ecstatic about it but they were willing to make it work. And now we're coming back with these new figures and they're having to go back to their board and say, I'm sorry, we're going to have to take an additional cut in our state aid,... [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR DUBAS: ...an additional loss of resources. Did you say time, Mr. Speaker? [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR DUBAS: Thank you very much. That's a pretty hard sell to board members who have to go out and explain to their patrons why they possibly are going to have to raise their levy or cut services or make other changes to their educational system. Every district has its own unique set of circumstances. Whether it's high poverty in the more urban areas, whether it's declining student enrollment in the rural areas, or transportation, or consolidation, we all have our challenges in educating our students. There should be no one particular school or program that should exert any more demand for needs or demand for resources than any other. This is an issue for the schools in my district. While many of them come out even or with a very minimal loss, they're still very concerned about the direction that we're going with this formula. We've got some huge issues. [LB545]

SPEAKER FLOOD: Time, Senator. [LB545]

SENATOR DUBAS: Thank you very much. [LB545]

SPEAKER FLOOD: Thank you, Senator Dubas. Senator Gloor, you're recognized. [LB545]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I rise in support of AM1370 and would add my appreciation and thanks to both Senator Adams and members of the Education Committee on trying to come up with the perfect formula in an imperfect world. We know it's not a perfect formula. For the benefit of those who may not know, I am also the senator for the Grand Island district that has been referenced. That is the only district that I have within my district, and I would tell you that I have spent far more time talking to the school board members than I have with the lobbyist, and I don't know what the lobbyist gets paid but I know what the school board members

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get paid. They get paid the same amount that any school board member representing any of the districts we're talking about here today get paid. Nothing. And yet they spend hours and hours and hours of time trying to watch out for the education of our children. And sometimes their responsibilities in watching out for the education of their children have to do with watching out, clearly, for the dollars that get spent. I get just a little agitated when we talk about a lack of accountability when it comes to our education dollars, when we have these elected officials who are volunteering their time, who seem to be overlooked as if they don't care about those dollars. They clearly care about those dollars. And if they don't do a good job of it, they're up for election, too. They can be voted out of office. That's not a hard concept to reconcile yourself with. And we can sit here and micromanage and talk about the fact and make an edge around making disparaging comments about their watchfulness, but my experience with my school board members have been these are committed, involved members of the community who spend inordinate amounts of time talking to me and talking to others, and their comments to me about this formula can be related to fourth grade students who sit up in this lobby from my district. And if you've seen some of those, you notice the amount of socioeconomic disparity between them and other student populations that come in here. And if you don't think it's more costly to educate those children, then you haven't been living in the real world or talking to your own school administrators, because it is. And for years and year and years, we overlooked the fact that that was a problem. And the gap between the education we were able to provide to those students in those challenged districts got wider and wider until our predecessors, some of you here as legislators, sat down and said we've got to come up with a formula that closes that gap. And we did. And the next time we met to talk about the budget, we threw a portion of it out the window, which some of us from those districts said, wait a minute, wait a minute, we were trying to close the gap because of the expense involved in educating those students, and now we're throwing that out the window. And we're having a discussion about that and it's not perfect, but for years the Grand Island school district lagged behind in those areas. This formula, when it was arrived at, was a chance to close that gap. And we fought and we're still fighting to try and make sure we don't forget that we were trying to close that gap here and in other districts across the state. I grew up in a community with a small school district and I understand it's not an apples-to-apples comparison and I understand that there are costs in those small districts that don't show up in a neat little formula. This formula is not neat and it is complex. I talked to Senator Adams last week and we had an agreement on something that I would state here very clearly, and that is this isn't a particularly accurate formula because it's complex, which means we have to keep working on it. We can't try and simplify it. It's a complex issue. It's going to be difficult, and coming up with a formula that works is going to be difficult. Debates like this help us winnow through some of those issues, I believe, and get a better handle on what the right changes are. [LB545]

SPEAKER FLOOD: One minute. [LB545]

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SENATOR GLOOR: Thank you, Mr. President. I'll give us credit for talking about it. I'll give us credit for looking at it from a broader scale. I'll give us credit for the fact that we all care about the education of our children. I've haven't heard anybody here whose discussion can't be wrapped around concerns about the education of our children. But there is accountability. It does lie with our school boards. They send us messages. We're all up here speaking on their behalf because they represent the children. I would ask for a vote in favor of AM1370 because, as imperfect as it may be, I think it's a step in the right direction to make sure that all of our children have an equal access to a quality education in this state. Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Gloor. (Visitors introduced.) Continuing with discussion on AM1370 to LB545, Senator Fischer, you are recognized. [LB545]

SENATOR FISCHER: Thank you, Mr. President and members. I would like to thank Senator Gloor for his comments about the school board members. I was a school board member for over 20 years before I was elected to the Legislature, and that is one of the reasons, just one, that I have a deep love and appreciation for all of the children in this state, and I recognize our responsibility as a state in educating those children to the best of our ability. Senator White made some comments about, I believe he was talking about LB988, and when he had his conversation with Senator Christensen, and perhaps I did not understand him correctly, but I would like to say that LB988, last year, had nothing to do with ag land valuation. LB988 did not change that, so if it was unconstitutional, the way we value ag land in this state compared to other valuations, that problem is still there. That wasn't changed under LB988. As with anything that we pass in here, we don't know that until we see a court case. I do know that when we passed LB988, a number of school districts dropped a lawsuit. I believe that was the conversation that was had between Senator Christensen and Senator White on that. When I spoke about accountability before, I certainly did not mean to go after any particular school district or their use of funds. My point was, when a school district receives federal funding for title programs, they have to be accountable for every penny. They have to say where that money goes. We don't require that, as of yet, at the state level in many instances. That's why I think Senator Hadley's comments were very appropriate earlier on when he was speaking about school district expenditures and how those rank up in the state. The state average is 59 percent. That's what districts, on an average, spend for expenditures. I suggest you would look at your districts to see their expenditures and where the money goes. Senator Pahls gave a good explanation of that when he went through it. I realize that the Department of Ed, on their Web site, it's very simplified, and being a school board member, those are the categories that we use when we set up a budget. But you can go to your local school district and you can get a breakdown on what those are and you can make judgments. And I not only challenge my colleagues in here, but I challenge people across the state to take more interest in that. I appreciate Senator Adams' work. Senator Hadley has an amendment which I believe he will not file that would take us back to where we were on General File

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on LB545. Senator Hadley and I had a discussion and we don't support that, but I will say that in my conversations with those of you who have talked to me over the weekend and this morning, I know there are 25 votes to do that. I don't think that that's where we need to go today. [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR FISCHER: I support Senator Adams' work on this. I support what he's trying to do but I've had discussions with Senator Adams this weekend and this morning also, and he's made a commitment to me that we need to look at all of the districts in this state and we need to quit squeezing it out of the smallest districts in the state so a few districts can get an extra \$100,000 or an extra \$4 million. Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Fischer. Senator Utter, you are recognized. [LB545]

SENATOR UTTER: Thank you very much, Mr. President, ladies and gentlemen in the Legislature. I want to thank, first of all, Senator Adams, for all the hard work that he has put in this, and in a little bit I feel a little like he must be thinking, man, I've worked like the devil to get this thing done and now these folks are rising up all over this Chamber and have various complaints. And I think, Senator Adams, that this is in recognition of your good work and hopefully we work through this and work out what is best for the kids of this state. To my good friend, Senator Hadley, I think you're on to something, Senator Hadley. And in a moment I'm going to yield you the balance of my time to continue your discussion because it's valid. To my friend, Senator Gloor, I want to say that I don't think that it's wrong to talk about accountability. I think there are school districts in this state that are run efficiently, that are run economically, and there are school districts in this state that may have bloated administrations and aren't run as efficiently and economically. And I think, as a Legislature who is passing out the funds of the taxpayers of this state, the state is entitled to some accountability and to require accountability at least to the point that we know how much of this money is actually getting to the students and to the classroom. And the final point I want to just mention this morning, and I'm not sure that anybody has mentioned this word but we heard it the other day, and that's the matter of sustainability. And as much work as we have done on this formula and as much hard work as Senator Adams has done, I am still not sure that we have a state aid formula that has a very long life, because I frankly don't think that even the current formula, which has been pared down from the original TEEOSA formula, is actually going to be sustainable over the long run. And with that, I want to yield the balance of my time to Senator Hadley. [LB545]

SPEAKER FLOOD: Senator Hadley, you have 2 minutes 35 seconds. [LB545]

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SENATOR HADLEY: Mr. President, Senator Utter, thank you. Again I want to finish up with my "Tale of Two Cities." I go back and look at central administration. And again, if you don't spend it on classroom instruction, you send it on to central administration. And one number jumped out at me, just right out at me. It's the total board of education. In Kearney, we're spending .35 percent on the board of education. Omaha is spending 1.25 percent of their budget on their board of education. So I called the Department of Education this morning and I said, what in the world would go in to a board of education, because I don't believe the board in Omaha is paid any more than the board in Kearney is paid. It's salaries of the staff of the board of education; it is benefits to the staff board of education; it's purchased services to the board of education. And so I looked at that number, and again I'm not trying to compare absolute numbers. I'm trying to compare percentages of their budget. What is the percentage of their budget that a school district is spending for the different items? What are they spending for instruction versus administration? I think those are crucial numbers, especially when you have school districts that have problems. You want more teachers. [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR HADLEY: And when you pay 1.25 percent of your total budget goes to the board of education, I'm sorry, I just wonder what that is. If there's...you know, if there's an answer why Omaha needs to spend 1.25 percent on their board education, I'd be happy to hear it. Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Hadley. Senator Council, you are recognized. [LB545]

SENATOR COUNCIL: Thank you very much, Mr. President. I waited before hitting my light to listen to all of the debate and the statements that have been made by my colleagues, many of them meritorious, some of them not. When we began the discussion, we began with Senator Hadley's comment that the reason we are here today is because there were concerns by districts that were going to lose under the original bill. That's not disputed. But the bulk of the discussion that's occurring today is on that same basis. You know, everybody here has an interest, I hope, in ensuring the education of all of the children in the state of Nebraska. And certainly any formula, any calculation that's based on the formula that has been developed is going to result in a loss to some and gains to others. All you have to do is look at the Model A calculated state aid. I mean, if we want to avoid this entire discussion, we go back to Model A which is the current law, and then we find \$60 million additional to fund that state aid formula. But we recognized that we weren't going to be able to do that. And I applaud Senator Adams and the committee's work. And I also applaud Senator Adams because he came to the table in good faith with a great deal of integrity in trying to address an issue of fairness and equity. When LB545 was originally introduced, I thought the amendment that I was proposing would be the fairest because it just talked about

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across the board. It didn't deal with the income averaging. And if we want to talk about those kinds of numbers, if Omaha is, you know, being so selfish and not being appreciative of how this affects others under the current state of the law, Omaha would have received a significant increase. Omaha recognized that that could not occur but nor should have Omaha or any of the other districts, and it was only a select few districts, bear the entire brunt of filling that gap between the state aid formula and the stimulus dollars. And we sat down in good faith and we sat down recognizing that regardless of what we did some were going to lose and others were going to win. I trust that all of you have read what Senator Adams distributed because it succinctly sets forth what AM1370 does. And in terms of moving from Model B, which was the committee's original amendment, to Model C, which is set forth in AM1370, it says, the averaging adjustment districts experience an increase between Model B and C due to the changes in the averaging adjustment, but those districts experience a decrease from current law. If you look at...under Model A, many of the districts would have suffered a decrease from current law. Senator Dubas mentioned Aurora. And I would just direct your attention to Aurora. If state aid had been provided to Aurora in accordance with the current formula, Aurora would have lost \$220,000. By moving from Model B to Model C, Aurora is only losing \$52,000. [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR COUNCIL: The same goes with the reference to Alliance by my colleague, Senator Harms. Under Model A, the Alliance schools would have lost \$345,000; that is applying the formula without any amendments. By moving to Model C, which is what is set forth in AM1370, Alliance is held harmless. So when we look at these models and we have to take into consideration what the committee and the leadership of the Chairman was trying to do was to come up with the fairest and most equitable way to distribute \$234 million of stimulus money. Certainly, we're going to have to go back at some point in time and address these accountability issues. And I will come back and address these accountability issues because central administration in some districts is different from central administration in other districts,... [LB545]

SPEAKER FLOOD: Time, Senator. [LB545]

SENATOR COUNCIL: ...despite what the form says. [LB545]

SPEAKER FLOOD: Thank you, Senator Council. Senator Karpisek, you are recognized. [LB545]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Would Senator Adams yield, please? [LB545]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Karpisek?

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[LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR KARPISEK: Thank you, Senator Adams. I just want to ask a little bit on the retirement numbers, because if I understand this correctly this money that is coming back is that extra 1 percent that we didn't have to spend in retirement. Is that correct? [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR KARPISEK: Okay. So, say, in a nonequalized school district I see that the numbers, when they go from A to C, they lose \$40,000. I'm just looking at Tri County real quick, \$25,000, that is mainly because of that 1 percent not going for retirement? [LB545]

SENATOR ADAMS: I'm going to say that primarily yes, because we're dealing not exclusively with equalization aid here but primarily. So yes. But I would tell you...well, you go ahead and ask... [LB545]

SENATOR KARPISEK: No, go ahead. [LB545]

SENATOR ADAMS: Well, the other thing you want to recognize is that we are still providing that retirement aid for the nonequalized schools as well, just half as much because the obligation is half as much. [LB545]

SENATOR KARPISEK: Thank you. You knew my next question. I just wanted to get that on record, make sure that that is the way I understood it. And I do want to thank you for that. That's what we've worked on all along and that's what we have. Thank you, Senator Adams. I don't know how I feel on all this yet. I agree that the committee and especially Senator Adams has put a lot of time in and a lot of thought. As I look through my schools, some do fairly well and some don't do very well at all. I don't know how to go about this. I think I have 13 districts, about half are nonequalized. Of the equalized, I would say half gain and half lose. And some of them are pretty significant numbers. I think Senator Council did a great job of working through this and how to read it. She helped me out as I was kind of fumbling through it. It's not very easy for me to go through. But it's set up in a good way. Again, I don't know, I will keep listening. I do appreciate all the work that has happened. It's just too bad that we have to get into these sort of turf wars because we are concerned about the kids? I've heard that we should have some sort of standard, some sort of maybe testing on where the money goes. I don't know, do we test the kids? How do we do that? I think a lot of this goes back to how much the parents are involved with the kids, how much the community is involved with the kids. Does spending more money help? Does it not help? I don't know

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that it helps as much as we would like to believe it does. It's a huge problem, it's a huge issue, and it's a tough issue. I sure don't want to take money from anyone, but I don't want it taken away from my district either. It gets emotion. We see it, I've got kids in school, I don't want to see them have less opportunity so someone else can have more opportunity. We've got a very diverse state, we've said that many times. One end is not like the other, in fact, you get off I-80 and it's not anything like the I-80 corridor. I will continue to listen and try to keep picking through these numbers. And thank you, Senator Adams. Thank you, Mr. President. [LB545]

SENATOR FRIEND PRESIDING

SENATOR FRIEND: Thank you, Senator Karpisek. (Visitors introduced.) On with discussion of AM1370. Senators wishing to speak are Pirsch, Heidemann, Pahls, Christensen, Haar, Langemeier, and others. Senator Pirsch, you are recognized. [LB545]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. Again, I am going to redirect your attention. I'm not going to be talking about the issue that so many of you have been discussing but again another issue that I think is of equal importance and that is something I hope that you pay attention to as well because I think it is very important for us to at least recognize what we're doing. And it involved the specific amendment at hand, AM1370. The federal government wants to encourage spending to stimulate the economy, and so essentially they're using federal tax revenues to stimulate consumers in some instances to make purchases that the consumers would not otherwise make. For instance, if you buy a brand new car right now and the federal government will essentially chip in \$1,500, I believe, towards the purchase of that car. It helps take a person who would not otherwise ordinarily purchase that car and purchase that car. And similarly, federal governments with regards to consumers in stimulating them if you want to buy a house you can do so and the feds, in some instances, will essentially chip in or pay for \$8,000 of that house. So what we're discussing here today is part and parcel to this bill, though I know that we are as a body probably more fixated on a different aspect of it...is the feds...federal government are trying to encourage local governments in Nebraska and the state government of Nebraska to take on marginal spending projects that we would...that the governments in Nebraska would not ordinarily take on through the American Recovery and Reinvestment Act. Specifically, the federal government is attempting to incentivize the use of additional spending through four bonding programs. As mentioned, the qualified zone, academy bonds, qualified energy conservation bonds, qualified school construction bonds, and the Build American bonds. The federal government wants local governments in Nebraska, the school districts in Nebraska, the state government in Nebraska to take on these additional projects through the issuance of these bonds. Many of these will be large by paying essentially 100 percent of the interest, not the principal, but the interest on the bonds in two of the cases of these four bonds. And in the other two cases of bonds that they're attempting

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to incentivize they will pay a portion of the...not the principal but the interest. And so the four bonds are a little bit different in that regard. The subsidized interest is certainly an incentive. But again, Nebraska schools or other governments issuing the bonds would still pay 100 percent of the principal, 100 percent of the cost of the project if it were to be built today on these marginal projects that they would not otherwise build or spend on and in two of the four cases a portion of the interest as well. So it's not free money. And I raise this issue because I have not heard a whole lot of floor debate. I know Senator Adams did briefly touch upon this during his introduction, I believe, yesterday. But I think that it's important that we do explore and at least consciously discuss what the future ramifications may or may not be with regards to this...following down this path because, again, bonds have to be repaid, they're not free money. [LB545]

SENATOR FRIEND: One minute. [LB545]

SENATOR PIRSCH: And again, it is up to this body because governments, local school districts, etcetera, cannot take advantage of these federal subsidy programs or cannot be involved in these unless we, the Legislature, allow for it, enable it in this bill. I think it's important again the ramifications all...these are...these bonds would not be subject to a vote of the public. They're outside the levy limits because it's a bond. They can issue bonds for 15 years, which would be backed, perhaps, by property tax increases. And they could be repaid by up to 30 years with the Build America bond. And so we have to look at the effect on property tax. In Nebraska it is an issue. We pay more than, household wise, \$3,200 in property taxes in Nebraska annually. You know our neighbors, \$2,800 in Colorado, \$2,400... [LB545]

SENATOR FRIEND: Time. [LB545]

SENATOR PIRSCH: ...South Dakota. Thank you. [LB545]

SENATOR FRIEND: Thank you, Senator Pirsch. Senator Heidemann, you are recognized. [LB545]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I last spoke, I was having a conversation with Senator Adams about how we got to probably where we're at under LB988 and how that, I think, part of the thing that we had to go back and look at was the cost of system averaging adjustment. And eventually, I'm going to try to get Senator Adams on the mike and ask a few questions, if he would have time. But my whole point is when you create a new formula, a new system to give state aid to education and there's an increased cost, just to...back to recap where I was at before, you go back and look about why there was so much increased cost in that one part and maybe try to correct it. If Senator Adams would yield to a question? [LB545]

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SENATOR FRIEND: Senator Adams, will you yield? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR HEIDEMANN: Do you think that we're addressing that increase, that unexpected cost of the system average adjustment under LB545 as we will know it? [LB545]

SENATOR ADAMS: I think we've made a step in that direction, I really do. Now it's still there, it's there in a different configuration, but I think we've taken a step that's saying we just couldn't let it...we could not let it grow the way that it was. [LB545]

SENATOR HEIDEMANN: But we really don't start that in the first year because, I mean, I don't know how you would...you're addressing that in the first year, when actually the averaging adjustment in the first year actually is going to increase in cost by almost \$1 million. [LB545]

SENATOR ADAMS: Right, right. [LB545]

SENATOR HEIDEMANN: I find it kind of curious why we haven't tried to address that sooner. It looks like you're trying to address in the out-years but not sooner. [LB545]

SENATOR ADAMS: Well, it...although, in next year's aid it...that threshold that we create will go into effect. [LB545]

SENATOR HEIDEMANN: All right. I had some other questions. In the matter of time, I'm going to drop down to some bottom ones. Two things concern me with what we're doing. Number one is, and I think everybody agrees with that, is how is this going to affect schools, hopefully not just our own schools but all schools? And I hope that's the direction that this body takes. But I also worry about sustainability, can we sustain what we're doing? Do you think LB545, as will be amended and passed forward, will it be sustainable? [LB545]

SENATOR ADAMS: You asked a key question, Senator. I wish I could stand here right now and say, I've got the crystal ball or your folks in the Fiscal Office have got it all worked out and it will be sustainable. I don't know. I do know that I think that we've taken a step in the direction of making it more sustainable but we are going to have to keep our eye on this. [LB545]

SENATOR HEIDEMANN: Okay. In the '08-09 year, which was...they're already living at in school districts, we show an increase of 9.2 percent. And this is all funds because we normally fund with insurance premium and General Funds. Now we're accounting for ARRA funds. Accounting for the ARRA funds in '09-10, we're looking at an 11.3 percent

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spending increase, this is all funds with the ARRA, in fiscal '09-10. In '10-11, still using the ARRA funds, we're at 5.1 percent. What concerns me, in the third year under this scenario, we are going to show an increase of 8.1 percent in the third year using all funds. That to me is a huge concern. That to me tells me we will be back. Do you... [LB545]

SENATOR ADAMS: There's no question in my mind, regardless of what the percentages tell us, we're going to be back given the revenue picture, the condition of the economy. (Laugh) [LB545]

SENATOR FRIEND: One minute. [LB545]

SENATOR ADAMS: And maybe just the nature of this body with TEEOSA every year, we will be back. [LB545]

SENATOR HEIDEMANN: But don't you think, Senator Adams, that the third year, projected to be an 8.1 percent spending increase, even if revenues did start to come in better, which I hope they do by the '11 and '12 year, that we would still need to look at that, showing that it's going to be an 8.1 percent spending growth? [LB545]

SENATOR ADAMS: I think you're right. We're going to have to continue to look at that. And I believe that the averaging adjustment schools that I've spoken with in regard to this amendment and where we're going, I've made it clear to them that this is something that we're going to have to watch. [LB545]

SENATOR HEIDEMANN: And their response? [LB545]

SENATOR ADAMS: Well, they understand that but... [LB545]

SENATOR HEIDEMANN: But they didn't understand it... [LB545]

SENATOR ADAMS: ...when push comes to shove, when we start moving numbers and rewriting language, that...it may be gloves off. [LB545]

SENATOR HEIDEMANN: But they didn't understand that this year then, evidently. [LB545]

SENATOR ADAMS: I couldn't say to that. [LB545]

SENATOR HEIDEMANN: Thank you. Thank you, Mr. President. [LB545]

SENATOR FRIEND: Time. Thank you, Senator Heidemann and Senator Adams. Senator Christensen, you're recognized. [LB545]

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SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator White yield to some further questions? [LB545]

SENATOR FRIEND: Senator White, will you yield? [LB545]

SENATOR WHITE: Certainly. [LB545]

SENATOR CHRISTENSEN: Back to where we left there, Senator White. How many of your people would actually own additional land? [LB545]

SENATOR WHITE: Who's "my people?" [LB545]

SENATOR CHRISTENSEN: Well, you're representing a district. You was talking about people try to gather money and own addition land that, so. [LB545]

SENATOR WHITE: Sure, quite a few, Senator. They might own a rental home, they might have inherited an old house and rent it out, they might get together with some friends and try to build a small apartment complex or a duplex. A lot of folks own another piece of real estate as part of an overall investment strategy. [LB545]

SENATOR CHRISTENSEN: Well, see, I don't agree, as you previously stated, that farmers don't get hit an additional time. I own an additional house, I pay on it. I pay on my own house. I pay on my land... [LB545]

SENATOR WHITE: And if you get income from your... [LB545]

SENATOR CHRISTENSEN: ...which is my income. [LB545]

SENATOR WHITE: If you get second income on your home, you not only pay a full property tax at a higher rate than the underlying ag land, you also pay income tax on the rent that you do collect as income. [LB545]

SENATOR CHRISTENSEN: That's correct. So we're still in the same boat. We still got one more tax. [LB545]

SENATOR WHITE: No, actually, we're in a...actually, Senator, we're in a different boat. If you look at real estate as an investment class, commercial and homes are taxed at a higher rate than ag, that's just the way it is. Now Senator Fischer said that I've said that's unconstitutional. That's...no, I didn't. What I did say is, the disparity in available funds paid to students when the district is at a levy limit and other districts are spending a lot more per student and they're not a levy limit, that the differential in available money is a real problem. [LB545]

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SENATOR CHRISTENSEN: But when you go to that issue, I shouldn't jump back into that fight, but the fact is you're trying to reward those that are spending up to their limit and penalize those that stay under their limit. [LB545]

SENATOR WHITE: No, Senator, I've focused always on the students. See, it's...I point out the inequities in the tax system just to show how flawed the whole system is. But the focus of this is how much money is available to educate students. And the point is that in Omaha which is at a \$1.05 levy limit, \$1.05, we have half to a third of the available money to educate students compared to many districts that aren't even at their levy limit. The point is not the tax, it's money available to educate the students. And one of the things that people need to remember, and I do feel for rural areas, I mean I grew up in a rural area, and I do want them to get an appropriate education, just like I want the kids in Omaha to get one. But the point you must remember is this, that we have an obligation on a statewide level to give children, students an education. We look at numbers and we're carrying school district to school district. [LB545]

SENATOR CHRISTENSEN: Senator, this is my time. [LB545]

SENATOR WHITE: I'm sorry. I'll get off it, but think of this, per capita student, not school district to school district, student to student. [LB545]

SENATOR CHRISTENSEN: I want to go back to the lawsuit area here. When we settled the lawsuit we changed...was Omaha happy at that time? [LB545]

SENATOR WHITE: You didn't settle it. Omaha and the other people who brought it decided to dismiss it. [LB545]

SENATOR CHRISTENSEN: After we changed the bill and shifted money from the west to the east. [LB545]

SENATOR WHITE: After you changed the bill and we started to balance out the money available to a student in Omaha or Grand Island or other urban inner cities, Lincoln, versus the money available... [LB545]

SENATOR FRIEND: One minute. [LB545]

SENATOR WHITE: ...in rural areas. [LB545]

SENATOR CHRISTENSEN: So the fact is they did drop the lawsuit. That was just 2007, and here we are again, they're unhappy, they're wanting more money. We're seeing that they're not... [LB545]

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SENATOR WHITE: No, a... [LB545]

SENATOR CHRISTENSEN: ...as efficient as they are. And the fact is they're never going to be happy. There's just going to want more and more money... [LB545]

SENATOR WHITE: Actually, Senator, the law as passed is being changed. [LB545]

SENATOR CHRISTENSEN: ...and that's the trouble we have. [LB545]

SENATOR WHITE: That's not accurate. The law that's passed, that they relied on to dismiss those lawsuits, we're changing it today. And they're getting less money and they're still going forward. [LB545]

SENATOR CHRISTENSEN: So it all comes down I don't think they're ever going to be happy. Everybody wants more money, everybody wants to take care of kids, that's not the issue but where it comes from. In a rural area you can live in town, rent a home and you pay for no kids to go to school. It all comes off the rural taxpayer out there. You live in town, you virtually pay none. The landowners pay it all. [LB545]

SENATOR FRIEND: Time. Thank you, Senator Christensen, Senator White. Senator Haar, you're recognized. [LB545]

SENATOR HAAR: Mr. President, members of the body, when I was on the Lincoln City Council somebody called me one day and wanted to talk taxes. And he said his question to me was, why should I pay taxes when I don't have any kids in school? And then I asked him where he got his education. Of course, it was from public schools. So this is all the decisions that we make. We've agreed that equalization is what we want for this state. We're all in this together. Again, if you walk throughout the Capitol Building, all the murals, all the mosaics show one state working together. We've decided equalization is appropriate when it comes to the schools. Unfortunately, there is no perfect definition for equalization. It's what we define it to be. There are...you know, in the TEEOSA formula we define need, what students need. It's what we define it to be. And then we look at resource and we say, here's how we're going to define resource, and then we subtract those two and we get the state aid. And so, I guess, I think the challenge to us is to...to the Education Committee is we need to really understand the formula ourselves and be able to explain it to others. And the body has to grab ahold and decided...I mean, if you want to argue the TEEOSA formula, you've got to understand it and I think you really have to understand it well. You can't just look at the final numbers on the fact sheet. For example, the "Tale of Two Cities" doesn't talk about resource. And if you look, for example, the general levy for Kearney is 95 cents, and for Omaha it's \$1.07, almost \$1.08. And so there are all these factors. It is a complex formula. And I think if we really want to understand this, if we really want to do our duty we're going to have to all understand TEEOSA, we're going to decide if it's how we want

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to decide...define need, it's how we want to define resource because that's what the formula does. And if you want to do anything but just trust all those numbers that get plugged into a computer somewhere, we're going to have to understand it better. And I think that's the challenge to us. It's certainly the challenge to me. And then we, you know, the whole thing came up, how's money getting spent? Well, then the issue of local control comes in. It'd be a simpler system actually if we had just one state school board that mandated property taxes for the whole state, equalize it that way, mandate it all policy, but then we get rid of local control, which is something we all want. And so although we need to talk about accountability, I think we have to go carefully or we're going to get into something that's even more complicated than TEEOSA. Thank you very much. [LB545]

SENATOR FRIEND: Thank you, Senator Haar. Mr. Clerk, items for the record? [LB545]

CLERK: I do, Mr. President, thank you. An amendment by Senator Langemeier to LB503 to be printed. Senator McGill offers LR113 and LR114, both calling for interim studies, both will be referred to the Executive Board. (Legislative Journal pages 1404-1405.) [LB503 LR113 LR114]

And I have a priority motion. Senator Nantkes would move to recess until 1:30 p.m.

SENATOR FRIEND: Members of the Legislature, the motion is to recess until 1:30 p.m. this afternoon. All those in favor please signify by saying aye. All those opposed say nay. We are in recess.

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please return to the Chamber and record your presence. Senators, please return to the Chamber and record your presence. The afternoon session is about to reconvene. Mr. Clerk, please record.

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I do, Mr. President, thank you. Committee on Enrollment and Review reports they've examined and engrossed LB311, LB312, LB313, LB314, LB315, LB316, LB318, LB414, LB414A, LB456, LB628, and LB629, all reported correctly engrossed. New

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resolution, LR115 by Senator Langemeier calling for an interim study; that will be referred to the Executive Board, Mr. President. That's all that I have. (Legislative Journal pages 1405-1407.) [LB311 LB312 LB313 LB314 LB315 LB316 LB318 LB414 LB414A LB456 LB628 LB629 LR115]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now proceed to the first item on this afternoon's agenda, which is a continuation of where we left off this morning, was on AM1370 offered to LB545. When we left the discussion there were a number of lights on. We will continue through those lights. Those senators wishing to speak, we had Senators Wightman, Fulton, Hadley, Sullivan, Harms, Fischer, Council, and others. Senator Wightman, you are recognized. [LB545]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. First of all, if Senator Hadley would yield, I would have a question of him. [LB545]

SENATOR LANGEMEIER: Senator Hadley, would you yield? [LB545]

SENATOR HADLEY: Yes, I would. [LB545]

SENATOR WIGHTMAN: Senator Hadley, before the noon break, I visited with you about some of the information contained in this report card that you had passed out earlier, the two-page sheet. [LB545]

SENATOR HADLEY: Yes. [LB545]

SENATOR WIGHTMAN: And one of them I had was both under receipts and then I'm looking at your "Tale of Two Cities" or tale of two schools or whatever it might be. [LB545]

SENATOR HADLEY: Right. [LB545]

SENATOR WIGHTMAN: We have federal expenses...or federal receipts and then we have federal expenses, and I'm wondering if you can tell me what that item of federal expenses consists of. [LB545]

SENATOR HADLEY: Senator Wightman, I can guess that this is the title programs and such as that, that the federal government gives money for and that they're used for. But to be exact, I really do not know, Senator Wightman. [LB545]

SENATOR WIGHTMAN: Okay. I might ask that question also of Senator Adams. I know he...I talked to him off the mike too. [LB545]

SENATOR LANGEMEIER: Senator Adams, would you yield? [LB545]

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SENATOR ADAMS: Yes, I will. [LB545]

SENATOR WIGHTMAN: With regard to the entry on the report card of Nebraska schools, there is an item both under receipts and expenses of federal...and obviously the federal, I think, would be federal funds that come into that school. Do you know what the federal expense is? Because under Kearney it's listed at 6.55 and under Omaha 12.51, which is a substantial difference. [LB545]

SENATOR ADAMS: I could only speculate for you, I apologize. Over the lunch hour... [LB545]

SENATOR WIGHTMAN: No, that's... [LB545]

SENATOR ADAMS: ...we talked about it but couldn't find anything definitive in the time that we had. A lot of it could very well, and I'm going to speculate, be Title I receipt and Title I expenditures. [LB545]

SENATOR WIGHTMAN: And those Title I receipts are a lot of times based upon need, are they not? [LB545]

SENATOR ADAMS: Yes. They're poverty guidelines. The federal government establishes the guidelines for that. [LB545]

SENATOR WIGHTMAN: And I think I also mentioned to you that Lexington, I happened to get the report card for Lexington, and it shows a little higher percentage than Omaha, like 13.05 for that federal expenditure. So I'm assuming that's right. Thank you, Senator Adams. Thank you, Senator Hadley. I guess I would like to point out that that may very well account for a good share of the difference as far as the all instruction item that Senator Hadley was comparing, in that there's almost a 6 percent difference in federal expenditures and the all instruction is 8 percent lower in the Omaha Public Schools than it is in the Kearney Public Schools, and there's almost a 6 percent difference in that figure on the federal expenditure. So it sounds like they may be getting more federal funds and then expending more federal funds and accounting for it under a different column. I'm assuming some of that may go for instruction but it has to be counted for as expenditure of federal funds, but that's somewhat conjecture on my part. At any rate, that may explain a substantial portion of the difference on how much is being spent for instruction. I do see under Lexington, which we would have probably a higher minority percentage of school enrollment than Omaha, maybe substantially higher but I'm almost sure it's higher, that we do, however, expend 61.64 percent of our total funds for instruction compared to 52 percent for Omaha and only 60 percent for Kearney. So I will applaud Lexington as using a lot of it for instruction purposes. I might ask Senator Pahls a question, if he is there. [LB545]

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SENATOR LANGEMEIER: Senator Pahls, would you yield? [LB545]

SENATOR PAHLS: Yes, I would. [LB545]

SENATOR WIGHTMAN: Senator Pahls, did you hear my discussion with Senator Hadley and Senator Adams? [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR PAHLS: Yes, and could I just read? Under the function "all instruction," there are several subsections to that but it says did not include the expenditures of federal funds in this category, so... [LB545]

SENATOR WIGHTMAN: Under the instructions? [LB545]

SENATOR PAHLS: For the instruction. It's separate. And the ones...the federal funds, there are a number of different title programs, IDEA programs. There's even a subsection dealing with flood control, which is amazing that the county can receive some money. I mean I can't explain that to you, but there are a number of subsections under the federal. So those federal dollars are not included, it is my understanding by reading the information provided from the department's Web site. [LB545]

SENATOR WIGHTMAN: Would it appear likely that when you receive those federal funds, and just looking at the various figures for the different school districts, that if you're receiving the federal funds you may report that federal expenditure under a separate category even though some of it may be paid for instruction? [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR PAHLS: Yes. [LB545]

SENATOR LANGEMEIER: Thank you. [LB545]

SENATOR WIGHTMAN: Time? [LB545]

SENATOR LANGEMEIER: Thank you. [LB545]

SENATOR WIGHTMAN: Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Fulton, you're recognized. [LB545]

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SENATOR FULTON: Thank you, Mr. President, members of the body. Remained somewhat silent during this partly because there are so many of us who wanted to speak, but there was something that Senator Hadley has touched on that I heard a lot about during my campaign and I think is on a lot of people's minds and hopefully is on our minds such that we will be thinking into the future, because this is something that will come back next year and probably the year after that, and that is our state aid formal and how that state aid formula influences the education of our children. Would Senator Hadley yield to a question? [LB545]

SENATOR LANGEMEIER: Senator Hadley, would you yield? [LB545]

SENATOR HADLEY: Yes, I would. [LB545]

SENATOR FULTON: Senator, could you repeat that, the figure, and then clarify that figure with regard to administration expenses in the Omaha Public School System? [LB545]

SENATOR HADLEY: Well, what I did...are you talking about the administration expenses? [LB545]

SENATOR FULTON: Yeah. Right. [LB545]

SENATOR HADLEY: I just broke out the Kearney and the Omaha administration, because that's always a concern. The one that caught my eye was the total board of education. In Omaha, they spend 1.25 percent of their total budget on the board of education. Kearney spends .35 of a percent on their board of education. The raw dollars in Omaha just surprise me, \$5,742,774 on the board of education. And my understanding is these are also paid the same as the Kearney Board of Education--nothing. [LB545]

SENATOR FULTON: Senator, was there...the figure that I was interested in and that I was going to extrapolate on a little bit was this percentage of budget that was utilized within the classroom. [LB545]

SENATOR HADLEY: Yes, and that is the 52 percent that is all instruction in Omaha versus 61.1 percent statewide. [LB545]

SENATOR FULTON: Okay. Thank you, Senator. That's something that...it's...I won't say that it's shocking because I've been here for a few years and there are a few numbers that are really and truly shocking. It's certainly something that should cause us pause though. When I was growing up, I was in a public school and it was a smaller town and I don't want to get into the "back in the olden days" argument, because I'm really not that old, but...well, comparatively maybe I am (laugh), but I remember we had a

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superintendent and we had a principal and most of what our school district did had to do with, of course, there was the building and there was the maintenance of the building, but most of our budget, as I recall, was teachers, and that stands to reason. I introduced a bill this year which would make a certain part of our aid go in to improve the salaries of teachers. Now I understand that we can't really do that too easily through our state aid formula, but it should be a question that we're asking. If what I'm hearing is correct in Omaha, it's our largest school district, half of the monies that are spent up there are going into instruction, which it seems logically then half of the monies that are going in aren't going into instruction. That tells me there's a lot of administration. And I have seen...I haven't studied OPS, I don't represent OPS, but maybe we should study that and study some of our own districts. If \$1 out of every \$2 is going into administration, what does that say about economies of scale? Because that was not the case in smaller districts, at least in the town that I'm from. I know that in Lincoln, we're somewhere around 62-63 percent, I think is the figure that I got earlier, and that's a little better than the national average. But let's contemplate that national average: 61 percent; \$2 out of \$5 going into administration? There's something up with that. There's something off with that. If you don't have teachers, and this is something I said early on,... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR FULTON: ...if you don't have teachers, then the building that you have is nothing more than a building. It's the teachers that make it a school. It sounds to me like we might be top-heavy in administration in some of our districts and I know that we might not be able to get that directly at state aid, but folks should pay attention. As the spending goes, so goes taxation. And I can tell you that our school board meetings seldom have anyone paying attention to the expenditure. We need to somehow hammer this home into the mind of the populace. If you want to see relief on your taxes, then we have to go to that which necessitates those taxes, and that's the spending. Now we're dealing with that through state aid and I'm hearing that a lot of what we're doing is not going directly toward the children. That's a problem. How much time, Mr. President? [LB545]

SENATOR LANGEMEIER: Nine seconds. [LB545]

SENATOR FULTON: Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Hadley, you're recognized. [LB545]

SENATOR HADLEY: Thank you, Mr. President, members of the body. This will be the last time I speak on this. I just wanted to clear up some things that I have heard over the last few hours. I think it's been a great discussion on this. I heard the term fairness and equity in trying to do this. It's interesting, there's a number of us who felt that the plan B

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was fair and equitable. Now there are people that think plan C is fair and equitable. I don't think this is a case of one plan is more fair or more equitable than the other. As I said before, it's the size of the pie that decides whether or not it's fair or equitable. Secondly, we talked about this being a compromise. I looked up "compromise" over the noonhour: a settlement in which each side gives up some demands or make concessions. In plan C, 61 school districts get more money, 132 districts get less money, and 54 are even. Is it a compromise where twice as many school districts get less money than those that get more money? That doesn't quite jive with what the term "compromise" means, at least to me. There's a question about local control, that we should...as a Legislature, what business do we have about where...whether or not the school districts spend the money the way they want to? They're elected. Is that really what you want to do? Do you want to send a billion dollars out and let the school districts just decide how they want to spend it and come in every year and want more? I think that's part of our job, is oversight. Any time we appropriate money we expect there to be accountability for it. We're not doing our jobs for the taxpayers that spend...give us sales tax and income tax money that goes back to school districts unless we do have accountability. Someone came up to me and said, well, Galen, it's basically errors in accounting, you know, that people misclassify things. There's an accounting book that tells people how to classify. Also, if you're going to err, let me liken this to the income tax. If you have a gray area in income tax whether or not you should count something as income or not count it as income, what do you do? You don't count it as income, do you? If you're going to spend a dollar and you have a choice of putting it in central administration or into instruction, where are you going to put it? You're going to put it into instruction, right? Because it makes you look better. Lastly, somebody said, Galen, why are you passionate about this? Because I spent 35 years in education. I'm passionate for every school children...school child in Omaha, Lincoln, Thedford, wherever it might be, to give them the best quality education we can, and we're spending a lot of money for it and I think it's part of our job to hopefully help them spend the money in the right place. Lastly, I will support Senator Adams' amendment. As I said earlier, I have an amendment that would bring us back to B, but I'm not going to throw the body into chaos again. I'm going to support that even though I have deep reservations about it, but I appreciate what Senator Adams has done in trying to work this out and we need to get this going. There's a June 1 certification date that the schools have to work under. I think that is very important so I will vote for this amendment even though it's not real high on my list of things I like. Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Hadley. Senator Sullivan, you're recognized. [LB545]

SENATOR SULLIVAN: Thank you very much, Mr. President and members of the body. I rise in full support of AM1370. We tried as an Education Committee, Senator Adams certainly has tried, and we compromised with the first amendment and I think we compromised with this one. And so many times in this discussion this morning I've

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heard the word "fairness" and I was calling to mind what I would tell my two daughters when they'd say, Mom, life is not fair. They'd say...well, they would say, it's not fair, Mom. And I'd say, life is not fair. It's very hard to be fair in this whole process. And it also occurs to me that we are talking a lot about Model B and comparing it with Model C, and what would our discussion be like if we didn't have \$234 million worth of stimulus monies and if we were trying to look and decide what we were going to do for state aid for schools? I doubt if our discussion at that point would have been as collegial as it has been up to this point. So I think we need to keep that in perspective and always, in the backs of our minds, realize that this state aid formula, to be sure, is a work in progress. We will be back here, I suspect, every year talking about the formula. I also remind all of us though, as I look at what I hope is not going to be too much of a rural and urban discussion, that most of us in this body were not here when, in my estimation, there were some distinct sacrifices made on the part of rural school districts when Class I school districts were taken out of existence and sparse and very sparse were taken out of the formula. So there is a tremendous amount of give and take in this whole formula. At the end of the day, it does not seem to be as fair as we would hope it to be to all parties involved, but we must continue working on it. I've heard the terms "accountability," "fairness," "responsibility." Those are terms that need to apply, yes, to school districts, but they certainly apply to all of us in this body as we deliberate on the appropriate path to take with respect to funding our schools. And I will say that as a member of the Education Committee, even though I spent 12 years on a school board in Cedar Rapids, I don't begin to understand the state aid formula as fully as I need to. And you can be sure that, as a continuing member of the Education Committee, I will delve into that in detail this summer and be able to help all of us understand it more completely as we deliberate it in this body. On another topic that is pertinent to this amendment, Senator Pirsch and I were talking off mike and he was attempting to explain to my feeble mind another dimension of this amendment with respect to, if we approve it, the bonding authority that we will be giving school districts. And at the very least, I think we have the responsibility to try to understand that component of the amendment and give it proper discussion. I don't know if Senator Pirsch is in the body right now, but if he is here and if he would like, I would yield some of my additional time to him. [LB545]

SENATOR LANGEMEIER: Senator Pirsch, 1:35. [LB545]

SENATOR PIRSCH: Thank you very much, Mr. President, members of the body. And thank you very much, Senator Sullivan, for yielding your time. And, yes, I think it's a topic worthy of discussion. I know that...again, I don't mean to beat a dead horse, but there is an incredible, I guess not concern, but an incredible amount of attention that is paid to the issue of the school funding formula and how to divide that up in a fair and equitable manner, and I think we are engaged in a good debate regarding that particular issue, and I think that the debate will help to shape and craft, hopefully, an ending that will be as fair and equitable as we can. But I think at the same time...and, Mr. President,

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how much time do I have? [LB545]

SENATOR LANGEMEIER: Forty seconds. [LB545]

SENATOR PIRSCH: (Laugh) I think that it is, at the same time, that we cannot overlook what I think is an equally important topic which deals with this bonding. We are, in effect, authorizing as the state, because it's required, to give subunits of government in the state bonding authority. And so I want...I think we should investigate, and I haven't formed an opinion whether this is meritorious or not, but I think it certainly requires debate and a look into projections in the figures and how is this going to affect the state of Nebraska, so I would urge you to...and it is the amendment... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR PIRSCH: ...at hand. So thank you very much. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Pirsch and Senator Sullivan. Senator Fischer, you're recognized. [LB545]

SENATOR FISCHER: Thank you, Mr. President and members. I would like to thank Senator Sullivan for her comments. I think they are right on. There's give and take any time we talk about state aid to schools. I observed it for about 25 years and this is the fifth year I've participated in it. We get very defensive of our school districts any time this discussion takes place because we always--and I'm guilty of this, too--we always look at down and to the right. We want to see what that final number is and how it affects our districts. I have a number of school districts. Most of them do fine under this but that's not the point, on my discussion anyway today. My point is we better start looking at policy and we better start soon. Let's move past the down and to the right. Let's start looking at what's needed and what's good for children across the state. I appreciated the discussion that I was able to participate in with Senator Adams and Senator Council and Senator Ashford, because that's what we did. That's exactly what we did. We were talking policy. And, yes, we defended our districts because that's why we're here too. We defended our districts but we were moving past that. And what we need to continue to do in here is move past that, get to the policy discussion, get to what is needed for children, figure out what works. Some districts are able to spend more on instruction for one reason or another. Why is that? More districts have to spend more on administrative costs. Why is that? Let's not give free passes anymore. Let's figure out why districts are spending, how they are spending, and what's working. Which districts have high graduation rates? What are they doing that's right? Which districts have great test scores? What are they doing that's right? No, it's not going to work everywhere. It's not going to work across this state. That's the beauty of this state, is the diversity. Every part of our state has certain needs, but we also should be able to learn from other parts of the state of Nebraska on what works and, for heaven's sake, what doesn't work, and

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we need to start guiding our policy towards that. You don't always need to oil the squeaky wheel. You don't always need to figure out, okay, in order to get this many votes we need to do this on a state aid formula. I'm really thankful to Senator Ashford and Council and Adams because I believe that these are people who care about the children here and are willing to move ahead to policy, and I hope to join with them in that discussion on moving to policy and not politics when it comes to funding our schools. I admire Senator Adams. I thank him for his work on this, and I will support the amendment and the bill. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Those still wishing to speak, we have Senator Council, Campbell, Christensen, Pahls, Pirsch, Wightman, and Avery, and others. Senator Council, you're recognized. [LB545]

SENATOR COUNCIL: Yes, thank you, Mr. President. I want to begin by thanking Senator Hadley and Senator Fischer for expressing their support for LB545, as amended by AM1370. And I'm going to be brief in my comments but I must address an error that was made in Senator Fulton's discussion. If I heard him right, he was criticizing, and if that were the case appropriately criticizing any school district that spent \$1 out of every \$2 on administration or central administration; however, that's not what the data that was presented by Senator Hadley shows. It shows that the Omaha Public Schools spends 7.35 percent of its budget on administration and 52 percent of its budget on instruction. So it's not spending 48 percent of its budget on central administration, it's 7.35 percent, compared to a statewide average of 6 percent. And if you take out OPS, the statewide average is still close to 6 percent. So OPS is not that out of whack when it comes to the central administrative costs. And, like I said, Senator Hadley, I appreciate the comments and the commentary, but I think the body needs to hear facts as well. And before I get to that, Senator Fischer, you're absolutely right, we ought to talk about policy, we ought to talk about the effect of mobility on student achievement, and we ought to compare mobility rates from district to district because if you looked at the World-Herald article a week ago Sunday, one of the problems with that young man who didn't complete his education was that his mother moved 25 times before he completed elementary school. And I don't have to tell the educational professionals in this body what effect constantly moving from one school to another, particularly during elementary grades, what effect that has on a child's ability to perform academically. Now when we look at the board of education, and Senator Hadley, you know, pointed out the numbers and questioned why OPS has such a large number for the board of education, well, I had the pleasure of serving on that board for 11 years, Senator Hadley, with 11 other board members. OPS has the largest board of education in the state--12. As I...if my information is correct, Kearney has a six-member board and associated staff. A 12-member board requires more staff support, more materials, more information. Also included in the office of the board of education as reported to the Department of Education is the cost of district liability insurance, as well as district premiums costs, as well as district legal fees. So...and when we talk about legal fees,

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OPS is self-insured, so when it comes to workers' compensation claims or any of those claims, we can't rely on our insurance company to cover the defense. The district has to cover it. And then just on the central administrative issue alone, I think there are educators in this room who know that central administrative staff includes instructional supervisors. Now of the 3,270 teachers in OPS compared to the 317 in Kearney,... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR COUNCIL: ...of the 3,270 teachers, there is a need to provide extra instructional support from central administrative staff. So we're right. I mean, if we're going to get into this, then we need to do this district by district, program by program, and looking at what the exterior, external, and internal forces are coming to bear on our school districts. I believe that what's reflected in AM1370 is indeed a fair and equitable way to address the issue of the state aid formula for this upcoming biennium with the understanding that the Education Committee intends to look at the formula in detail. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Council. (Visitors introduced.) Returning to discussion on AM1370 offered to LB545, those wishing to speak, we have Senator Campbell, Christensen, Pahls, Pirsch, Wightman, Avery, and others. Senator Campbell, you're recognized. [LB545]

SENATOR CAMPBELL: Thank you, Mr. President. I have several comments and then will have a question for Senator Adams. The comments are that I truly believe that we will continue to be looking at the formula and making changes in it. Senator Heidemann asked that question earlier. I think the answer is a definite yes. The policy questions, though, have to include what factors do we put into the formula and how do we weight them in looking at the school districts across the state. The formula, in and of itself, is how you figure out the money, but the factors truly get to the policy decisions in the state. Second comment really follows Senator Council's comment and that is Senator Fulton's comment earlier with regard to what goes into administration and what goes into instruction. The second page of Senator Hadley's handout today I think is very instructive in terms of what is in instruction and what may be in administration, but there are other factors that go into supporting students: support services, the principal, maintenance and operation. So we cannot just assume that all the rest of it is in administration. I think there are other services that do provide the aid to students. The question that I have, Mr. President, if it would be okay to ask Senator Adams... [LB545]

SENATOR LANGEMEIER: Senator Adams, would you yield? [LB545]

SENATOR ADAMS: Yes. [LB545]

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SENATOR CAMPBELL: Senator Adams, can you just kind of refresh for our memory, I realize that the tax levy must be an important factor in the formula because it's listed on the sheet that you handed out. Can you just give a quick analysis of how that, the tax levy, is figured in the formula? [LB545]

SENATOR ADAMS: Let me try. What we're really concerned about more than anything else in calculation of the formula is what we call local effort rate, which is a tax rate, in effect, that is arbitrarily set by this body in the formula, which is right now \$1. So when we calculate the resource side of the formula to determine how many resources can a school district provide for itself to contribute towards its needs, we're going to base that on \$1 for everybody, and we're weighing that up against their valuation. Now when you look at the tax levy that's listed there, more than anything else it lets folks know which school districts are up against the \$1.05, which ones have room if they need to, and I'm not for a moment putting that on there to say, well, if your levy is low, you ought to be cranking it up. That's a local decision and that's a tough one, to raise taxes. But I wanted people just to be able to see where everybody is at on tax levies, trying to avoid about 254 questions about that topic. [LB545]

SENATOR CAMPBELL: The reason I raise the question is that obviously then in the tax...in the levy that they are putting forth, there are some tax askings that are outside of that levy. So the bond...all bonds would be outside that levy. Do we ever sit down and take a look at if a school has...they're at that levy but then outside of it they have bonds and so forth? Is that amount ever taken into consideration? [LB545]

SENATOR ADAMS: We look just at the General Fund levy. [LB545]

SENATOR CAMPBELL: Because I would assume that there are some school districts in the state that, you know, for the taxpayer, the taxpayer is looking at what they are totally assessed at for their property tax. You may say, well, we're at the levy, we're going to stay within the levy. But then... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR CAMPBELL: ...all this amount is above. And at some point we may want to look at that inside that factor, is my point. Thank you. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Campbell. Senator Christensen, you're recognized. He has checked out. Senator Pahls, you're recognized. [LB545]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I just...since we've been discussing this, I do want to make this clear again. The eight different divisions that we...that the schools report to the Department of Ed are all instruction, support services for pupils, support services for staff, central administration, office of the

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principal, maintenance, and operation, and federal. So each one of those, I'm going to use each one of those categories or what they call functions, it's up to the duty of the schools to report those amounts in those correct functions or categories. So that's the part that I think we ought to make clear. And of course, the administration, central administration, does not take 50-some percent of the budget because you do need to take a look at the rest of them. But does cause us, if nothing else, these questions are causing us to take a look at what's going on. Now I've heard the word "accountability" and almost, when you say the word "accountability," some of the senators act like, ooh, that's wrong. Well, I come from a different perspective. I think...or if you want to use the word "evaluation." I think when you start handing out money to any organizations, after awhile you say, oh, gee, I'd really like to know what you are doing with our money. And I'm just going to use a simple thought to hopefully get that across. All of the schools have to fill out a poverty plan, because last time I was up I talked about a poverty plan, and there are 16 parts to that...or 14 parts to that poverty plan and one deals with evaluation. And I was really, as I read their evaluations, I sort of questioned, so we're going to give school districts these big chunks of money and that's what they are evaluating. And the two largest school districts coming to that would be OPS and the Lincoln Public Schools, one getting over \$30 million, the other getting \$90...or \$9 million, and I think we ought to take a look at how the money is being spent. No, do we go in there and micromanage, tell them what to do? But we ought to see because...and when I read the...and I was...deal with Omaha because theirs is the most detailed, they have lots of good things happening in their school system. I was curious to see the evaluation section of those schools because there's been a past history that the performance is not what it should be. And since Senator Council talked about the newspaper articles, it just had me take a look at the one that was yesterday's, and this is...and I'm just going to read a couple things here: Attendance is only one example of how the Omaha community fails to respond to the dropout problem with each...without urgency. And the superintendent says he admitted that that's what has happened, it has not been the best in the past, but with new resources and more attention, he expects to see more significant results within 48 months. That's because the freshmen at that time will be seniors. Well, see, to me, he set a target date, 48 months. And a lot of times you'd say, gee, that's a long period of time, but we're taking a look at an issue that will take some length of time to see whether it's working or not. But see then a little later on, this is the reason why somewhere that should be plastered, our goal is in 48 months, etcetera, etcetera, so we can see what that is. That's what I'm looking for or hopefully the Education Committee would be looking for, because a paragraph following: But it's not the first time Omahans have heard bold promises about their schools. In 1999, when OPS shifted to neighborhood schools, lower class sizes, and added programs, Mackiel and others spoke of the potential for dramatic change. Well, that was in...about ten years ago. And we need to continue increasing money, I agree, if it's needed, but I think somewhere along the line we need to be able to say this money,... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

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SENATOR PAHLS: ...this is what we're getting. [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR PAHLS: Thank you. Is it that hard? Because in a quote in the paper, in 48 months we are going to see a change, and I believe that, I truly do. I think we should make some of our...those statements so bold in the field of education so bold that people will understand. And if you don't make it, tell them why. Because, to be honest with you, one of the simplest things that I would take a look at, if I were looking at early childhood programs, I would see how they're working with fine motor control. You know, we know that by third and fourth grade that's probably as much as important as causing kids to sit down and memorize the multiplication facts. We know that for a fact. I would like to take a look at seeing, not personally but like to have somebody take a look and see in their programs are they attuned to that. That would be for (inaudible), they say, yes, we're doing that, and that's why our math scores, our reading scores are improving, because we're doing some of those things. I think there are programs out there that are successful that we need to keep... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR PAHLS: Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Wightman, you're recognized. Not seeing Senator Wightman. Senator Pankonin, you're recognized. [LB545]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I briefly want to say why I'm supporting Senator Adams' amendments to LB545 today. You have heard reference during the debate to why we have the extra dollars to work with, because the Retirement Committee went from 2 percent to 1 percent increases in the education employee-employer contribution rates. Now was that done because it was more fair? Well, possibly. I think it did help beginning teachers and did help some districts, so that was part of the criteria. Was this done because it was the correct policy? My first thought that...favored the 2 percent contribution because of knowing that if we attacked a financial problem earlier and more aggressively it might help us down the road. But I really don't know that for sure. You'll have to...we'll have to look back after 18 months and see what the financial markets will do. So in my opinion, the Retirement Committee came to this conclusion because it was a compromise that took into account the political reality of the committee and affected parties and still moved ahead towards making progress on the retirement plan shortfall for education. It was politics and the best possible policy. I look at Senator Adams' amendments the same way. It's not the original position of the committee, but a plan that takes into account the

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political reality and tries to move ahead the educational goals of the committee. Fair is oftentimes subjective and that has been stated here today. Good policy can be judged many, many ways. This plan is what Senator Adams and the Education Committee could do under the political and financial boundaries that they faced. Senator Adams was in a box and has tried to find a workable solution. It may not be perfect, and I know we will continue to evaluate these issues in the years ahead as we have every year I've been here, but I'm supporting AM1370 and LB545, and I thank Senator Adams personally for all the hard work he's done this year on this educational policy and the work of the committee. Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. Senator Heidemann, you're recognized. [LB545]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. It appears that we're kind of finding a direction and that's okay. We've had good discussion and I think there's concern. I think people probably have picked up that I am definitely concerned about a direction that we're going, but I think we do need to find a direction as a Legislature. And I think it's been indicated that we have a lot of work to do yet on state aid to education. There's no doubt about that in my mind. This might get us to a point that we're going to be able to move forward this year, but we will be back and I think it's important that we remember that. I think a lot of people are positioning themselves probably for not right now but for down the road. And I was wondering if Senator Adams would yield to a couple of questions. [LB545]

SENATOR LANGEMEIER: Senator Adams, would you yield? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR HEIDEMANN: Would you agree with what I just have stated on the mike? [LB545]

SENATOR ADAMS: Right on the mark I believe you are. [LB545]

SENATOR HEIDEMANN: Would you agree that under LB988 we now have...we don't have schools with standard, sparse, very sparse, we did away with them and when we did, those schools tended to probably lose? [LB545]

SENATOR ADAMS: The sparse and the very sparse did. [LB545]

SENATOR HEIDEMANN: And under LB545, as we probably are going to move it forward, would you say that they definitely did gain and they probably...would generally probably have lost a little bit more, not much but a little bit more? [LB545]

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SENATOR ADAMS: It's possible. [LB545]

SENATOR HEIDEMANN: And I hope I get a commitment from the Education Committee, from Senator Adams, that when we move forward with this that we look at a good, you know, a general policy across the state and not just one part but across the state. And I'm all with Senator Council and I think that I was in a meeting with her and she indicated the same thing and I give that to her and I appreciate that. And we really need to find out number...a couple of things: what it takes for schools to be able to do what they need to do, and we need to figure out what we can also afford. And somehow we need to take those two components and we need to make it work. And I'm not 100 percent for sure that we did that in LB545 and I, unfortunately, I don't know...fortunately, I probably will support it because I know you've worked hard and it took a long time to get to the point where we're at. But I think you understand by people...listening to people on the mike, Senator Adams, that there are a lot of people that are concerned, wouldn't you say? [LB545]

SENATOR ADAMS: On both sides. [LB545]

SENATOR HEIDEMANN: And I even understand that. And it's been a good debate. I think eventually we're going to move forward here, but there are people concerned. With that, I will give the rest of my time to Senator Wightman. [LB545]

SENATOR LANGEMEIER: Senator Wightman, 1:30. [LB545]

SENATOR WIGHTMAN: Thank you, Senator Heidemann. Thank you, Mr. President. I certainly want to add my thanks to Senator Adams, to the Education Committee. I don't know of anyone in this body that's worked longer hours in an attempt to find a solution than Senator Adams. With that...and I might say that I do intend to support AM1370 and LB545. I do have a couple of questions for Senator Adams, if he would yield. [LB545]

SENATOR LANGEMEIER: Senator Adams, would you yield? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR WIGHTMAN: Senator Adams, as I remember, when you initially explained LB545 and the adjustment that you had made in the committee amendment, one of the things that you took into account was an averaging adjustment. Is that correct? [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR WIGHTMAN: And you passed that on, as I recall, largely to the large schools. You discussed the 26 largest schools, I think, in the state. [LB545]

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SENATOR ADAMS: That's correct. [LB545]

SENATOR WIGHTMAN: And so I am assuming they took the largest adjustment factor. And you, as I recall, you explained that you were looking for a place to find it and those larger schools would, as I recall, you said had some advantage because of their size and so you looked to them primarily. And then you come back and you're looking at making up the difference by a 1 percent drop in retirement, which appeared was not needed. Is that correct,.. [LB545]

SENATOR ADAMS: That's right. [LB545]

SENATOR WIGHTMAN: ...that could be properly funded. It seems to me logical that we pass that back through to the schools that were taking the greatest reduction... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR WIGHTMAN: ...by reason... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR WIGHTMAN: Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Wightman, Senator Heidemann. (Visitors introduced.) Senator Dubas, you're recognized. The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB545]

CLERK: 32 ayes, 1 nay to cease debate. [LB545]

SENATOR LANGEMEIER: The motion to cease debate is successful. Senator Adams, you are recognized to close on AM1370. [LB545]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, I wish I could find a way to summarize all that I've heard, not just today but on General File. Senator Heidemann used a term that I'm going to start with and the term was "balance." This is a balance. It's a balance that probably not everybody in this room is happy with but it's a balance. It's a balance between urban and rural. It's a balance between those schools that get the averaging adjustment and those who do not. It's a balance. It's give and take. May not fit the exact definition of compromise, but the Education Committee was put in a box--Senator Pankonin used that terminology--and we needed to find movement. Here it is. Here it is. In the course of trying to find this very delicate balance, I think there's been some real benefit. You may not have noticed it. One of those

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benefits is the fact that I'm hoping everybody in here, including me, understands TEEOSA a little bit better. Now you may be sitting there saying, impossible, impossible. No, I know you understand it even a little bit better than you did a few weeks ago. More importantly, I don't think there's a person in this room that has been participating and listening that can't walk away saying I'm going to be a little more conscious of the needs in the east, and those in the east saying we need to be a little more conscious of the needs in the west, if you want to divide it that way. We have to be. Senator Fischer hit it right on the head. If we could just talk about policy and forget the number down there in the bottom right-hand corner, boy, couldn't we maybe make better policy? But we can't. It is our nature, it is our obligation to look at how it affects our individual school districts. This doesn't end here. During the interim, I know, the Education Committee knows we have to start looking right away to see what year two is going to bring, what year three is going to bring, and I want to do that in an environment that is not here, not under pressure, so that we can look at good policy down the road and weigh everybody's interests in that as best we can, and that I'll promise you. And, yes, we will be back at this. We will be back at this. You know, if there's an upside besides learning something more about ourselves and more about this formula, we're fighting over having \$234 million. Next time around we may not be. Rather than fighting over the size of the increase, we may be talking about mitigating the decreases for all of us, for all of us. In summary, we are slowing down the growth of all school districts. Because there is less need on the retirement obligation, we've shifted that over to the averaging adjustment. And remember also, and I know I'm reiterating closing... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR ADAMS: ...on a prior amendment, we've also amended that averaging adjustment and we're going to have to watch that, the good and the bad of it. We're going to have to watch it. But we've changed the mechanism for calculation so that we're slowing the growth down. We make room in the language for the various bond programs and, in this particular amendment, we also raise the calculation on the averaging adjustment from 75 percent of students to 100 percent of students. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams. You have heard the closing on AM1370 offered to LB545. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB545]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB545]

SENATOR LANGEMEIER: AM1370 is adopted. Mr. Clerk for a motion. [LB545]

CLERK: Mr. President, Senator Adams, I now have AM1357. (Legislative Journal page

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1384.) [LB545]

SENATOR LANGEMEIER: Senator Adams, you are recognized to open on AM1357. [LB545]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, before you get too alarmed that Adams has another amendment up, this is an easy one. This one is an easy one. It actually only affects two schools in the entire state, both of which are in Senator Christensen's district: Dundy County and Hitchcock. And quite simply, what happened was, in its simplest way to describe it to you, they were in the midst of a reorganization, a unified district breaking apart, another school district moving over to join up with Dundy County. They were in the midst of a reorganization when the certification came out in February a couple of years ago. Then they got reorganized and the check didn't get where it was supposed to go. So we are, in effect, shifting money from one school district to another, I believe for the right reasons. And if Senator Christensen wants to speak to that, I will yield. [LB545]

SENATOR LANGEMEIER: Senator Christensen, 8 minutes. [LB545]

SENATOR CHRISTENSEN: Thank you. Now, I was just going to ask you, everyone, to vote for this. All...Senator Adams explained it very well. It's just the fact that the kids went to one school, the money is headed to another school, and we're just trying to match it up for the kids. It's very simple. Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Christensen and Senator Adams. You have heard the opening on AM1357 offered to LB545. The floor is now open for discussion. Senator Dubas, you're recognized. [LB545]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I will support this amendment. I did just have a few comments that I wanted to make just pertaining to the discussion in general and clear up a little bit of information that I may have stated this morning, wanting to make sure that it's accurate. I had put some figures out there about Aurora specifically and I just wanted to reemphasize to make sure they're accurate. If we look at Omaha's '08-09 calculation versus Model C, they're receiving a 9.175 increase. LB545 to Model C, they're receiving the \$4.24 million increase. Aurora, in the same regards, their '08-09 to Model C is a \$220,888 loss, and they're LB545 compared to Model C is an additional \$52,735 loss, so that's pretty substantial for schools the size in my district. Another school in my district that's going to take a loss, Central City, it's a \$121,641 loss from '08-09 to Model C, and another \$34,282 from LB545 to Model C. So while most of the schools in my district fared okay or were held harmless with the formula, these are two schools that are going to take a pretty substantial loss and I just, for the record, wanted to make sure that I had put the correct figures in my comments. It was stated that we don't want this to be a rural versus urban issue, but unfortunately it

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seems that it is. Schools in my district lobby on their own behalf and I am their voice, and so it is my duty and my obligation to represent the impact of the policies that...or the debate that we have on their schools and their financials, because their superintendent has to convey this information to their board and their board has to go to their patrons, just like we go to our constituents with our decisions. They have to defend or explain what's going on, especially if there's a potential property tax increase on the horizon for them. And I, too, hope that we can move this discussion down the road and get passed, you know, the bottom right-hand corner and actually look at policy that serves all children across the state. All kids are needy. Every student's needs are different, but all kids deserve that quality education and it behooves us to put politics aside and make that the focus of our discussion. Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Council, you're recognized. [LB545]

SENATOR COUNCIL: Thank you, Mr. President. Senator Dubas, would you yield to a question? [LB545]

SENATOR LANGEMEIER: Senator Dubas, would you yield? [LB545]

SENATOR DUBAS: Yes, I will. [LB545]

SENATOR COUNCIL: Okay. I just want to make sure that...I don't want to get into a debate because I did not mean to, did not intend to misstate, and I don't believe I misstated, the effect of the various models on Aurora. But on page 6 of 12, Model A is LB988. So if the Education Committee had come back to this body and just said we're going to fund state aid in accordance with LB988, Aurora would have lost \$168,153. That's correct. [LB545]

SENATOR DUBAS: Correct. [LB545]

SENATOR COUNCIL: And moving from...to Model B, they still would have lost \$168,153. [LB545]

SENATOR DUBAS: Correct. [LB545]

SENATOR COUNCIL: Now moving to Model C, they're only going to lost \$52,735. [LB545]

SENATOR DUBAS: Correct. [LB545]

SENATOR COUNCIL: Okay. I just...because I think the impression was that they were going to lose more money under Model C than they would have lost under Model B, and

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Model B was the Education Committee amendment to the original bill before we went to Model C. So in terms of the effect of going from the committee's original amendment to the amendment that just passed, relative to Aurora, it had no effect. [LB545]

SENATOR DUBAS: Well, I wouldn't say that it had no effect. I was just wanting to make sure that I was comparing all the same numbers that you are comparing this morning. So that's why I went with the original '08-09 calculated aid and compared Omaha, Aurora, Central City. Those were the districts in my...school districts in my area that were losing money. So there's a lot of numbers in here to be comparing and so I just took those particular models, those particular numbers, and that's what I was comparing. [LB545]

SENATOR COUNCIL: Okay. And just to do that, and I don't want to belabor the point, but if you look at page 4 of 12, if the Education Committee had just funded...recommended funding state aid at the level that LB988 requires, Omaha Public Schools would have received an \$11 million increase. [LB545]

SENATOR DUBAS: Correct. [LB545]

SENATOR COUNCIL: With the first model proposed, they would have suffered a \$6 million decrease,... [LB545]

SENATOR DUBAS: Correct. [LB545]

SENATOR COUNCIL: ...which is, in essence, a \$17 million reversal, from \$11 million up to \$6 million down. And then now with moving from Model B to Model C, instead of an \$11 million increase that the current law would have provided for OPS, they get \$4.2 million, correct? [LB545]

SENATOR DUBAS: Correct. [LB545]

SENATOR COUNCIL: Okay. Thank you. No further questions. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Council. Seeing no other lights on, Senator Adams, you are recognized to close on AM1357. Senator Adams waives closing. The question before the body is, shall AM1357 be adopted to LB545? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB545]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB545]

SENATOR LANGEMEIER: AM1357 is adopted. [LB545]

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CLERK: I have nothing further on the bill, Mr. President. [LB545]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB545]

SENATOR NORDQUIST: Mr. President, I move LB545 to E&R for engrossing. [LB545]

SENATOR LANGEMEIER: You have heard the motion on the advancement of LB545. There is lights on. Senator Christensen, you're recognized. [LB545]

SENATOR CHRISTENSEN: Thank you, Mr. President. I just want to talk a little bit further. I missed a lot of the debate this afternoon, another meeting, but quite often the approach that we take is always to grease the squeaky wheel or to throw money at it and, you know, I want to give an example of pioneers crossing this find nation. If they had a squeaky wheel, they stopped and they took care of the problem. They didn't throw money at it. You know, the Legislature has a problem too many times of sometimes throwing money at things instead of finding a solution or finding the problem, or people come to the Legislature looking for money to solve an issue instead of working on fixing the issue. And we've seen that on many different issues here, this year even at the Legislature, and I think the same thing applied to the problems we had in Beatrice that we're seeing with OPS and some of them. I'll give you an example how solutions can be fixed. Several years ago, they tried to kill NCTA. In fact, the Legislature voted to close it. The people revolted. They decided to leave it open. Literally the place about got starved to death. But then along finally they made a personnel change. They brought in a new head of NCTA, Weldon Sleight, who had a vision, who worked with the people and worked with the resources, and you should see a whole new NCTA, Nebraska College of Technical Agriculture in Curtis, Nebraska, right now. Because of his innovation in working with people and having the right management, which he is the right management at that school, you have seen a school that has seen increased enrollment, you have seen dollars coming in from the community, and here's a classic case the way it should work. They found solutions to their problems before they come to the Legislature looking for more money to solve an issue. Yes, NCTA did get an...ask for an appropriation for a building project two years ago. We promised them that if they would get some matching funds, if they would get a dorm put up. Not only did they get...raise money for the dorm and some matching money to what the state has promised them, they turned around, they bought a rest home, remodeled it, put in additional housing beyond the new one that's about to be built. That's what happens when you get the right management in a situation--success. And I think that was part of Senator Hadley's comments this morning. Efficiency hasn't been in Omaha, OPS. In all the situations that we're seeing right now, sometimes it takes a management change. I don't know what the issue necessarily is there. I know they're growing. I know they need money and we're getting it to them. But I think we need to see results, increased graduation rates. We need to see more of the money spent on the education part of it

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that he brought up. [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR CHRISTENSEN: And so that's why I want to bring the point out, sometimes management, management is what changes things, not money. And here is a success story at NCTA if you ever want to see what management can do to a college or a school in turning a place around, because he had vision, he had foresight, he has worked extensively with the community, with the people, and that's what happens when you have the right management in place. Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Christensen. Senator Carlson, you're recognized. [LB545]

SENATOR CARLSON: Mr. President and members of the Legislature, I've not weighed in on this debate today and I just want to say a little bit here before we vote on LB545. With all the talking that we've had, I would hope that before too long it would be a lot more fun and a lot more interesting if instead of talking about dollars in education, instead of talking about how to divide or allocate or spend those dollars, we'd spend some time talking about what's the result of our dollars spent. What's the effectiveness of our dollars spent? How are students responding to our dollars spent across the state? And maybe with the state testing program that is going to be available we can do that and I think in the future that needs to be where some focus is. And with that, appreciate your time and I am in support of LB545. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Seeing no other lights on, you heard the motion offered by Senator Nordquist to advance LB...to send LB545 to E&R for engrossing. All those in favor say aye. All those opposed say nay. The ayes have it. LB545 does advance. Mr. Clerk. [LB545]

CLERK: Mr. President, with respect to LB545A, Senator Nordquist, I have Enrollment and Review amendments first of all. (ER8127, Legislative Journal page 1390.) [LB545A]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB545A]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB545A. [LB545A]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. They are adopted. [LB545A]

CLERK: Senator Adams would move to amend with AM1369. (Legislative Journal pages 1407-1410.) [LB545A]

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SENATOR LANGEMEIER: Senator Adams, you are recognized to open on AM1369. [LB545A]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, if you will recall, last week the A bill got put in. It was a shell. There were no numbers in it. What the amendment now does is to plug the numbers in, based on the various amendments that we have passed and the \$234 million that we have to work with. This folds it all together. Thank you, Mr. President. [LB545A]

SENATOR LANGEMEIER: Thank you, Senator Adams. You have heard the opening on AM1369. The floor is now open for discussion. Seeing no lights on, Senator Adams, you are recognized to close. Senator Adams waives closing. The question before the body is, shall AM1369 be adopted to LB545A? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB545A]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB545A]

SENATOR LANGEMEIER: AM1369 is adopted. [LB545A]

CLERK: I have nothing further on the bill, Mr. President. [LB545A]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB545A]

SENATOR NORDQUIST: Mr. President, I move LB545A to E&R for engrossing. [LB545A]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. LB545A does advance. Speaker Flood, you're recognized for a motion. [LB545A]

SPEAKER FLOOD: Mr. President, members, I'd move to request unanimous consent to expedite LB545 with Bill Drafters so that we can get this bill placed back on Final Reading later today for purposes of parking it there so that it can have a layover day and hopefully roll with the budget later in the week. That would be my motion. [LB545]

SENATOR LANGEMEIER: Thank you, Speaker Flood. Seeing no objections, so ordered. Mr. Clerk. [LB545A]

CLERK: Mr. President, the next bill, LB160 on Select File, I do have Enrollment and Review amendments, Senator Nordquist. (ER8101, Legislative Journal page 1263.) [LB160]

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SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB160]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB160. [LB160]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB160]

CLERK: Mr. President, Senator Lautenbaugh would move to amend by striking the enacting clause. FA35, Senator. (Legislative Journal page 1384.) [LB160]

SENATOR LANGEMEIER: Senator Lautenbaugh, you are recognized to open on FA35. [LB160]

SENATOR LAUTENBAUGH: I would like to withdraw that motion, Mr. President. [LB160]

SENATOR LANGEMEIER: Seeing no objections, it is withdrawn. Mr. Clerk. [LB160]

CLERK: Mr. President, the next amendment I have, Senator Gay, AM1361. (Legislative Journal page 1397.) [LB160]

SENATOR LANGEMEIER: Senator Gay, you are recognized to open on AM1361. [LB160]

SENATOR GAY: Thank you, Mr. President. I just wanted to discuss AM1361. As many of you know, LB160 has been a source of a lot of compromise and we're continuing that even into today. We do have some agreements worked out with those people that had a conflict and I think actually we have most things worked out. You'll hear from other members on that, but let me tell you what the amendment does. AM1361 does not make any substantive changes and is merely meant to clarify what we already adopted. After the bill advanced to Select File, NACO approached me and said they had concerns with the language, allowing counties to basically just veto the dams greater than 20 surface acres. They wanted a process of how that would work. We had worked with Senator White also on this amendment and we're now drafting a change in the word of how this would happen. They wanted more clarification so they worked with the NRD and my staff to come up what is now this amendment. I'd like to thank NACO for coming to me right away when they noticed this and working towards a solution. This clarifies, before an NRD can issue bonds for a project greater than 20 surface acres, it must notify the impacted county or counties of its intent. The affected county or counties will then, and this is where we just worked on this and we're working on language right now to change this amendment, would hold the public hearing. That county board would

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hold a public hearing and have the option to pass the resolution within 90 days stating that it rejects such a project. So they would have an opt out if they do not want this project in their county. That was a key to this whole program. Douglas County is supportive of this and this is a great compromise. I think it allows...it protects not only larger counties but the smaller counties that were affected. So we just came to that agreement just a few minutes ago. If the county does pass such a resolution, the NRD cannot use any of the bond proceeds or any other funds to construct a project and cannot build in that county. So that is the...what this amendment does. There will be other amendments also that I'm going to look here and Senator Lautenbaugh has, and I'll let him explain that. He had worked with us on this and I'm looking forward to discussion on that. But this is a clarification of how a process would work if a county wants to opt out of a reservoir in their county. Thank you, Mr. President. [LB160]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Gay. You've heard the opening on AM1361. Are there any senators wishing to speak? Seeing none, Senator Gay. Excuse me, Senator Gay, you are recognized. [LB160]

SENATOR GAY: Thank you, Mr. President. I would like to speak on this just a little more. And I'd ask Senator Lautenbaugh a question or two. [LB160]

SENATOR CARLSON: Senator Lautenbaugh, would you yield? [LB160]

SENATOR LAUTENBAUGH: Yes, I will. [LB160]

SENATOR GAY: Thank you, Senator Lautenbaugh. What we're really doing here is waiting for Bill Drafters to change a word so... [LB160]

SENATOR LAUTENBAUGH: I understand that. I tried to turn my light on but... [LB160]

SENATOR GAY: ...we could use this time, we could use this time effectively. Thank you. I just wanted to thank you for this morning, working with us on your amendment and how that works. I know you had been discussing this situation closely and if you want to discuss that, I'd be more than happy to answer any questions or... [LB160]

SENATOR LAUTENBAUGH: Thank you, Senator Gay. I'd be happy to discuss it. And this is the end of a long road on a bill that has been very difficult for the parties involved. The amendment that I'm bringing, which I believe you'll find as AM1375 on your gadgets, very simply does two things. In the first instance, it clarifies that any real property acquired by the NRD through the process of eminent domain could only be sold or conveyed to a political subdivision, state agency, or the federal government. This addresses the concern that many had about utilizing eminent domain or the NRDs

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utilizing eminent domain and then transferring the effective property to a private enterprise. Section 2 of the amendment provides that the NRD shall only be allowed to issue bonds for projects that comply with state and federal flood plain management regulations. FEMA requirements are such that for a community to be in the National Flood Insurance Program, they must regulate, at a minimum, to the standards set forth in 44 C.F.R. Part 60.3. So this really will codify a lot of existing requirements anyway. This addresses other concerns that constituents of mine had in Washington and Douglas County and I believe constituents elsewhere, individuals elsewhere shared as well. I appreciate Senator Gay and the NRDs' willingness to work on this. I realize a lot of this is enshrining in statute things that may be found elsewhere or rules that have to apply because of federal requirements and whatnot, but this has been a long road and there have been some, well, I'll call them trust issues by...with all involved in the past on this, not in this body but the parties outside, and I think these are important protections that provide confidence and our ability to go forward on this important issue and provide flood protection efficiently and without a tremendous cost to the taxpayer and a tremendous burden on the affected landowners. Have I taken enough time, Senator Gay, in your opinion? [LB160]

SENATOR GAY: Yeah, I know, it's great. Are we still on my time? How much do I have? [LB160]

SENATOR CARLSON: Senator Gay. [LB160]

SENATOR GAY: How much time do I have? [LB160]

SENATOR CARLSON: Excuse me. You have two minutes. [LB160]

SENATOR GAY: Okay. Thank you. Thank you, Senator Lautenbaugh. Just...I handed out, I handed out a few things here for members to look at and one, and I know Senator McCoy had to check out just for a little while and he will be back, but I did want to take a little bit of time to talk about the work of Senator Nelson and Senator McCoy. Senator Nelson prioritizing this bill is very good, and he's been tremendous to work with and involved in helping bring parties together. Senator McCoy, I handed out an article he wrote. This is a difficult situation for him. He was in some of the affected areas where there was opposition and there still is. I'm not going to mislead anybody but there was some opposition. After working on it with the Natural Resources Committee here and him being a member, he wrote this article. I thought that took some courage to do and it's a good article, but I think, you know, and it all summarizes what happened here, that just shows the work that's been... [LB160]

SENATOR CARLSON: One minute. [LB160]

SENATOR GAY: ...that's been put into the bill. It started out in Senator Langemeier's

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committee with strong opposition and through the process, working our way through the process, we've made some concessions and that's, you know, ultimately what we're doing here today. I wouldn't say they're concessions. They're just taking people's interest and their concerns and melding them together. We still have a very good bill here. The other article I handed out was a opinion piece and the World-Herald has been following this issue and it stays it's workable. And this is workable legislation that I think will go a long ways. Earlier on General File, we had talked about some of the challenges to get to this point over the years and here we are, you know, ready, I hope, to get something done. This is an opportunity for those of you, I know some of you we just won't convince because of the policy, but it will go a long way I think as far as controlling some of the flooding. [LB160]

SENATOR CARLSON: Time. Thank you, Senator Gay and Senator Lautenbaugh. And, Senator Lautenbaugh, you're recognized. [LB160]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. Again, let me reiterate, I do believe this is the end of a very long and difficult road to get this legislation where it needs to be. We have different groups from different counties that have different concerns throughout the NRD. And as you know, the Papio NRD does contain counties running very far north and south of Douglas County, but most of the voters tend to be in Douglas County. So we have provisions in here that protect the smaller counties' rights vis-a-vis the larger counties with more population. Again, we have provisions in the amendment that is coming that we'll be talking about in a little bit that add the FEMA requirements in to make sure that we're limiting additional development as much as possible in the flood plain on a go-forward basis. Really, I think once again I just can't say enough about my appreciation for Senator Gay's efforts in getting this where it needs to be and I'd be happy to yield the remainder of my time to Senator Langemeier. [LB160]

SENATOR CARLSON: Senator Langemeier, 3 minutes and 45 seconds. [LB160]

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. I appreciate that. As if you haven't figured this out, Senator Gay has an amendment to is own amendment that he's waiting to be printed, so that's why we're killing some time here. But, Senator Gay, would you yield to a question? [LB160]

SENATOR CARLSON: Senator Gay, would you yield? [LB160]

SENATOR GAY: Yes, I would. [LB160]

SENATOR LANGEMEIER: I turned my light on to help with this process of taking some time. [LB160]

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SENATOR GAY: You're very helpful. [LB160]

SENATOR LANGEMEIER: But earlier, we adopted AM1005 to LB160 and it talked about here proceeds of a bond issued pursuant to Section 1 of this act shall not be used to fund any project in a city or county located within a watershed in which--I wouldn't read this to you but we're killing time so I'll read it to you--of a metropolitan class which has not agreed to the Inter (sic) Cooperation Act, which is hopefully to be signed in August. I guess I'm curious what your thoughts are with Douglas County saying that they are not going to sign that. We know Washington County isn't going to sign that. Does that make bonding irrelevant within Washington and Douglas County if they won't participate in that act? [LB160]

SENATOR GAY: Well, I think that letter said they would consider that, although just recently, like ten minutes ago, working on this, Douglas County is supportive of this. So I don't think that would happen. One thing I was looking at that earlier, I said, well, how would that affect things anyway? Because, you know, had we had to not work something out, they could have easily done that, pulled out of the watershed agreement. But even if they did, there's a certain point here, local control. We've allowed local control to happen. And if somebody wants to do that, the flexibility that we put in here I think allows for people to do that. When we looked at anything on the zoning jurisdictions and all those, we allowed somebody to have some local control in the future, not just where we're at today but, you know, where are we going to be. Boards change, opinions change. And I think there's flexibility even...in even that. You know, Senator Langemeier, working closely, that I that I think even if Washington County wanted to change or policies change, they can absolutely come back and make this work for them. So I do believe there's an opportunity, that this is...it's tight but it's also flexible, and I think that local control is a key to hopefully getting some of this done. Now will that satisfy everybody on the policy? No. But I do think those people that are working on the issue will be very comfortable with that. So hopefully we won't see that, but if we did I don't think it would be the end all. [LB160]

SENATOR LANGEMEIER: Okay. Thank you. And with that, I would yield my time back to Senator Lautenbaugh. [LB160]

SENATOR CARLSON: Senator Lautenbaugh, 1 minute. [LB160]

SENATOR LAUTENBAUGH: Well, thank you, Senator Langemeier. I'd yield the rest of my time to Senator Gay. (Laughter) [LB160]

SENATOR GAY: That's fine. Thank you, Senator Lautenbaugh. [LB160]

SENATOR CARLSON: Senator Gay, 45 seconds. [LB160]

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SENATOR GAY: I have my light hit anyway. Well, one thing I don't know if I mentioned, Senator Rogert, if he had had that earlier amendment we had, and I think Senator Lautenbaugh's amendment that's coming up would be...would replace that. And it wouldn't replace it. It would actually clarify a little more for some of the people up north. But another handout I gave you was to...it talked about how cities and counties building in the flood plain and what's happened over the 30 years. This was a letter from the director of the natural resources district explaining those issues that had been made, I think some of the issues that were made on the floor as far as zoning and where you could zone, what you couldn't zone, and floodways, flood plains and all that. [LB160]

SENATOR CARLSON: Time. [LB160]

SENATOR GAY: Thank you, Mr. President. [LB160]

SENATOR CARLSON: Thank you to a cluster of senators. Those wishing to speak: Senator Stuthman, Gay, Friend, Rogert, White, Price, and others. Senator Stuthman, you're recognized. [LB160]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to engage in a little conversation with Senator Gay. [LB160]

SENATOR CARLSON: Senator Gay, will you yield? [LB160]

SENATOR GAY: Yes, I would. [LB160]

SENATOR STUTHMAN: Senator Gay, this issue--and I just want to get a couple things on the record and just kind of bring a few things back--as far as NRDs' flood control projects, we're not only dealing with just the Papio one. We're dealing with any of the NRDs in the state of Nebraska? [LB160]

SENATOR GAY: Well, no, this actually on this is for the Papio because... [LB160]

SENATOR STUTHMAN: This bill is only... [LB160]

SENATOR GAY: ...because of the metropolitan class, right. [LB160]

SENATOR STUTHMAN: Only in that. [LB160]

SENATOR GAY: But I think, Senator Stuthman, where you talked about and we had talked about the options of opt outs for the counties, in working with NACO, and being a former county commissioner, that was very important to you, I know. But what happens though, I think some people are saying if you did this now, you're going to do it for everyone. I don't see that happening. I think if ever that would happen, it's a heck of a

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process to go through. I don't think you just, oh yeah, go do what you need to do. So...but this is for the NRD, due mainly to the urbanization of the district and the flooding potential that was there. It's been studied for, I think, the last eight years and it's kind of...it's a very unique situation. So that's why it deals with just the Papio-Missouri. [LB160]

SENATOR STUTHMAN: Okay. Thank you, Senator Gay. Does this have any effect on NRDs in other areas where they want to put up a flood control project or a recreational project? Does the county board have any impact on those projects outside of the Papio one? [LB160]

SENATOR GAY: You know, I'm not that familiar with it in your area. I know we dealt a lot with the Papio on flood plain issues and all that. We were just talking earlier about how the effects of the...sometimes in the ag areas they're doing the smaller retention, but they wouldn't get to the 20 acre. They're smaller ones. And you're much... [LB160]

SENATOR STUTHMAN: Yes. [LB160]

SENATOR GAY: ...more familiar with that. Where the county is involved in that, I don't know exactly. [LB160]

SENATOR STUTHMAN: Well, the reason I asked that, I wanted to have that for discussion since we're trying to utilize a little bit of time right now, is the fact that in my county, under my jurisdiction as of the county board, which is in my district, a recreational dam was put there and I might as well tell you it was the Leigh Dam. And the county board wasn't in total agreement with that Leigh Dam and with the effects on some of the county roads there at that time and I was just...I was just wanting to know and get on the record, you know, does this LB160 have anything to do with a dam that's out there in the rural in the rural areas, and I don't think it does. [LB160]

SENATOR GAY: No. [LB160]

SENATOR STUTHMAN: Because we're really dealing with the one issue in the urban, urban issue. But you know, I think down the road, in my opinion, you know, there's going to be a time, you know, when I think the county boards are going to have to have some jurisdiction over that. Would my comments be correct, Senator Gay? [LB160]

SENATOR GAY: Yes, I think so. [LB160]

SENATOR STUTHMAN: Okay. Thank you. Those were the issues that I had because, you know, we're dealing with...mainly this LB160 is dealing with this one watershed and the urban area and I respect that. But I also do think that, you know, we can learn from this bill as to how it affects the fact of recreational dams being placed throughout the

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state of Nebraska and the flood controls. You know, are they really for flood control or are they for recreation and, you know, is the county board and the residents in the community totally in agreement with that? So thank you, Mr. President. [LB160]

SENATOR CARLSON: Thank you, Senator Stuthman and Senator Gay. Senator Gay, you're recognized. [LB160]

SENATOR GAY: Thank you, Mr. President. I think we have that ready to go and what I discussed earlier was that, so. [LB160]

SENATOR CARLSON: Mr. Clerk for a motion. [LB160]

ASSISTANT CLERK: Senator Gay. Senator Gay, for the record, we've now received AM1382. My understanding is you want to withdraw AM1361 and substitute AM1382 for the first amendment? (Legislative Journal pages 1410-1411.) [LB160]

SENATOR GAY: Yes. [LB160]

SENATOR CARLSON: Any objections? So ordered. Senator Gay, you're recognized to open on your amendment. [LB160]

SENATOR GAY: Thank you, Mr. President. We just talked about it probably much more than we needed, but that amendment just clarifies that if you're going to have what I discussed, but you're going to have this, the county board would have a public hearing, and that was very important to the counties and that's what this new amendment, puts that one word in there. And I'd ask for the adoption of this amendment. Thank you, Mr. President. [LB160]

SENATOR CARLSON: Thank you, Senator Gay. Those wishing to speak: Senators Friend, White, Price, and Nelson. Senator Friend, you're recognized. Senator Friend waives. Senator White, you're recognized. [LB160]

SENATOR WHITE: Thank you, Mr. President. I want to thank Senator Gay and Senator Langemeier. They have been truly exceptional to work with on what had been an incredibly divisive bill. This is a tough one. On the one hand, we have people whose lives and property are literally at risk for flooding. On the other hand, we've had a history of irresponsible development that has not taken proper care of the impact of that development on downstream landowners. And then we have another issue where people who live upstream are being asked to sacrifice property because others develop property below them and made profit on it and yet they're to give up farms that sometimes have been in their family for a century--an extraordinarily difficult balancing act. And I want to thank Senator Gay. He remained a strong supporter of his bill and a hard bargainer but open and, in the end, came up with some additional language on this

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last amendment that have helped some of Douglas County's board members accept this law. So I want to thank them all and I want to announce to the body I will fully support AM1382 and the underlying bill. [LB160]

SENATOR CARLSON: Thank you, Senator White. Senator Nelson, you're recognized. [LB160]

SENATOR NELSON: Thank you, Mr. President, members of the body. All I can do is echo what Senator White said because those are basically the same remarks that I was going to make. I want to thank Senator Gay. This is a very important issue. I, in District 6, the Papio runs two different...Papio Creek beds come down. I can remember well the loss of life and the damage that we had from the earlier flooding. We have protections built into this bill. I certainly support AM1382, which was just proposed, and the underlying bill. I think part of the problem is we've made mistakes in the past. We thought in terms of large dams. We don't find that necessary anymore. In the upper counties, we've taken care of that. We also have not done the proper zoning and regulation that we needed to and we have way too much concrete which drains into the basins and there's nothing much that we can do about that except protect ourselves the best way we can and then look forward with the proper zoning and the proper requirements here as far as future construction is concerned. This has been a long time coming. I want to commend all the parties that have worked together to finally achieve this and I really support what we are doing here. It's my priority bill. Again, let's adopt this amendment and then move forward with the underlying bill and approve LB160. Thank you, Mr. President. [LB160]

SENATOR CARLSON: Thank you, Senator Nelson. Senator Haar, you're recognized. [LB160]

SENATOR HAAR: Mr. President, members of the body, I rise in support of LB160 and the amendment and I want to thank Senator Gay for keeping me well informed. My organizing principle has simple been this, that we can't ask the NRD to do flood control if we tie their hands. In the process, I believe that various people working together have build in safeguards for the residents of the NRD but, again, I believe we have charged them, the NRD, with flood control and we need to give them the tools to do that, and I feel that this LB160 does that. So again, I want to thank the people involved and also Senator McCoy for the excellent article he did in the "Midlands Voices," I think describes those safeguards. So with that, I want to thank you. Bye. [LB160]

SENATOR CARLSON: Thank you, Senator Haar. Senator Price, you're recognized. [LB160]

SENATOR PRICE: Thank you, Mr. President and members of the body. I just wanted to say of all the people I think I've probably railed on this the longest and the hardest, and

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I'd like to express appreciation there to Senator Gay, keeping his cool. It was a long ride in to work this morning but...no, it's great actually and Mr. Winkler and everybody. And early on, when I'd put in an amendment saying that we'd wanted a measured and metered approach to this, that we weren't going to go all out with this, it turns out in their plan that is exactly what they were planning to do and that they provided that plan, and we withdrew the amendment. That's good. I do believe that there will be consternation by some of our citizenry when they see this happen. While we're not increasing a levy or anything like that, I think there will be some concern expressed. We'll all be getting those e-mails. But I wanted to let Senator Gay and the body know that I'm supporting this amendment, supporting this bill, and it is in the area that I represent that I have the most to lose if we don't do something to control flooding. Thank you, Mr. President. [LB160]

SENATOR CARLSON: Thank you, Senator Price. Seeing no more lights, Senator Gay, you're recognized to close on your amendment. [LB160]

SENATOR GAY: Thank you. Very quickly, I appreciate the kind words and please vote for the amendment. I don't want to have a call in. Vote for both amendments because the next one is just as important to a good compromise we've all reached. Thank you, Mr. President. [LB160]

SENATOR CARLSON: Thank you, Senator Gay. You've heard the closing on AM1382. Question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to vote? Record, Mr. Clerk. [LB160]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Gay's amendment. [LB160]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk, for an amendment. [LB160]

CLERK: Mr. President, Senator Lautenbaugh would move to amend with AM1375. (Legislative Journal page 1411.) [LB160]

SENATOR CARLSON: Senator Lautenbaugh, you're recognized to open on your amendment. [LB160]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I believe I, when we were chewing up time a little bit ago, previously basically did my opening on this. Briefly again, it has two components. It clarifies that any real property acquired by the NRD through the process of eminent domain can only be sold or conveyed to a political subdivision, state agency, or the federal government. Conveyance of eminent domain property to private companies or individuals would not be allowed under this

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amendment. Additionally, the NRDs shall only be allowed to issue bonds for projects that comply with state and federal flood plain management requirements or regulations, excuse me, including the FEMA regulations that I previously introduced. I realize, and I'm still getting e-mails on this topic, that apparently even this does not go as far as some would like in restricting this process but I believe there's a point at which...and we are at that point where we have done what we can do and we need to move on from this issue. So I would be happy to answer your questions to the extent you have any, but I believe the amendment is very straight forward and I would appreciate your support. Thank you. [LB160]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. You've heard the opening to AM1375. Those wishing to speak: Senator Dierks and Senator Gay. Senator Dierks, you're recognized. [LB160]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. I'd like to have a little conversation with Senator Gay, if I may, please. [LB160]

SENATOR CARLSON: Senator Gay, would you yield? [LB160]

SENATOR GAY: Yes, I would. [LB160]

SENATOR DIERKS: Senator Gay, I've been trying to read the information you sent out and listen at the same time and I'm afraid I haven't done very well with either. Would you answer a question for me? My concern with the legislation in the first place was that we were allowing NRDs to do this bonding with authority only on the part of a board of directors. Is that still the case? [LB160]

SENATOR GAY: Well, there's a little bit more to it. No, they can do up to 1 cent. Beyond that, they need a public vote. That's the case, so there's a compromise. It's not just go do it. [LB160]

SENATOR DIERKS: So 1 cent they can do with just a majority of the board. [LB160]

SENATOR GAY: Supermajority. [LB160]

SENATOR DIERKS: Two-thirds majority. [LB160]

SENATOR GAY: Yes. [LB160]

SENATOR DIERKS: And 2 cents they go to the public and ask for a vote of their district. [LB160]

SENATOR GAY: Yes. Anything over 1 cent they'd have to have a public vote, yep. I

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mean currently they're assessing the cent that they're going to use. They're assessing that cent on projects. It's just that they...it can't finance the amount of the project they need. It would take I think 45 years or something like this to get that done. And the concern on the flooding could happen, you know, much quicker than that at any time. So that was the compromise, yeah. [LB160]

SENATOR DIERKS: Okay. Thank you. Thank you, Mr. President. [LB160]

SENATOR CARLSON: Thank you, Senator Dierks and Senator Gay. And, Senator Gay, you are recognized. [LB160]

SENATOR GAY: Thank you, Mr. President. Just...I'm not going to be lengthy on this but I did...what Senator Lautenbaugh just did is...tells you that takes some courage. There's been a lot of input. I just want to take this time to thank the committee, the Natural Resources Committee, who had been just...and many of you completely...I wouldn't say overwhelmed but they heard a lot of different sides of this story. And it was a really...it is important that they tuned that out, worked...we worked together on this. What he's doing is at some political risk, I'll say. Senator McCoy, Senator Rogert have all been excellent to work with, and Senator Nelson prioritizing this. None of us looked at this as just, oh, yeah, let's just take care of it. That kind of input gives me a lot of faith in what we do here. We tuned out a lot. We worked together. Senator White just came with something and now what I think we have is...is it absolutely perfect? Nothing we do here is absolutely perfect, as we just discussed on education, aid and those things. But this is a very good bill and I'm not...I'm not saying that because it's my bill. I'm saying that because of all the work and thought that went into this bill. I think the Legislature...it's what I intended when I came here, how this works. So with that being said, support the amendment. Thank you, Mr. President. [LB160]

SENATOR CARLSON: Thank you, Senator Gay. Senator Hansen, you're recognized. [LB160]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Would Senator Lautenbaugh be available for a couple questions? [LB160]

SENATOR CARLSON: Senator Lautenbaugh, will you yield? [LB160]

SENATOR LAUTENBAUGH: Yes, I will. [LB160]

SENATOR HANSEN: Senator Lautenbaugh, the...I guess it's subsection (5) on page...on line 8 of your amendment has to do with cities and counties that have adopted the zoning regulations or ordinances that comply with state and federal flood plain management rules and regulations. Is there a date when those rules were adopted? Are we talking about post-Katrina? Is that part of the discussion that you went through with

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not building in the flood plain? It's only common sense to me but when did those rules get written? [LB160]

SENATOR LAUTENBAUGH: Actually, the current set of rules that I have here, I'm looking for a date on them. They are the ones that current apply and, as we are post-Katrina, I guess the answer would be they are the post-Katrina rules. [LB160]

SENATOR HANSEN: How much difference did that make in the flood plain? I mean from 100 feet to what? [LB160]

SENATOR LAUTENBAUGH: Pre- and post-Katrina? [LB160]

SENATOR HANSEN: Yes. [LB160]

SENATOR LAUTENBAUGH: I have no idea. [LB160]

SENATOR HANSEN: But considerably more. Would that be... [LB160]

SENATOR LAUTENBAUGH: I'm not even comfortable making that representation, Senator. [LB160]

SENATOR HANSEN: Why would we even look at zoning regulations then and flood plain management if we...are...shouldn't we assume that the flood plain has grown? [LB160]

SENATOR LAUTENBAUGH: I think that would be a reasonable assumption. I think the flood plain changes often. [LB160]

SENATOR HANSEN: When we...thank you, Senator Lautenbaugh. When we look at the original inhabitants of the Pappo NRD, which would be the American Native Indian, they didn't ever...they never put their teepees in a flood plain. They always built up on a hill. And that's what...it's only logical to me, Senator Lautenbaugh, that this seems to be the most logical amendment that we've had yet, that you don't make developments in the flood plain, whether it's a new flood plain, the old flood plain, whatever it is. Whatever the feds say a flood plain should be, you don't build any development in there. And I know what I'm coming from, Senator Lautenbaugh, because North Platte, the whole city is in a flood plain with very few exceptions, and we have a lot of trouble with flood plain insurance. We pay flood plain insurance. The people that live in North Platte, most of them pay flood plain insurance, over and over and over, every year, as long as your house has a mortgage on it. And the house will never be covered by flood plain insurance unless that house moves off the foundation, which is going to be the least of your worries if that happens. This is a very logical amendment and I will support it and I do thank Senator Lautenbaugh for throwing a little bit of common sense in here. Thank

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you, Mr. President. [LB160]

SENATOR CARLSON: Thank you, Senator Hansen and Senator Lautenbaugh. There are no other lights. Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives closing. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB160]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Lautenbaugh's amendment. [LB160]

SENATOR CARLSON: AM1375 is adopted. [LB160]

CLERK: I have nothing further on the bill, Mr. President. [LB160]

SENATOR CARLSON: Senator Nordquist. [LB160]

SENATOR NORDQUIST: Mr. President, I move LB160 to E&R for engrossing. [LB160]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay. Motion carried. Mr. Clerk, next item. [LB160]

CLERK: Mr. President, LB633. Senator Nordquist, E&R amendments first of all. (ER8102, Legislative Journal page 1260.) [LB633]

SENATOR CARLSON: Senator Nordquist for a motion. [LB633]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB633. [LB633]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed the same. Motion carries. [LB633]

CLERK: Senator Mello would move to amend, AM1331. (Legislative Journal page 1397.) [LB633]

SENATOR CARLSON: Senator Mello, you are recognized to open on your amendment. [LB633]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. During the General File debate on LB633, there were concerns expressed regarding how best to ensure the grants established by the Neighborhood Development Act would be fairly granted to both neighborhood associations and small communities. After working with

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Senator Christensen, Senator McCoy and Senator White, who prioritized LB633, I've introduced the amendment, AM1331, which states that no more than 50 percent of these funds can be awarded to neighborhood associations and no more than 50 percent can be awarded to small communities. Section 4 of this legislation defines the community improvement groups that would be eligible for grants in the Neighborhood Development Act as neighborhood associations in small communities. A neighborhood association is defined as an organization that is recognized or endorsed by a city, village, or county in which it resides with elected officers that hold regularly scheduled open meetings. A small community is defined as a second-class city or village. AM1331 would ensure that both types of community improvement groups, neighborhood association and second-class cities and villages, would receive grants from this program. I believe AM1331 addresses the concern expressed during the General File debate on LB633 about making sure this legislation equally supports neighborhood associations and small communities, CPACS, the College of Public Affairs and Community Service at the University of Nebraska-Omaha, has a statewide vision. And in conversations with CPACS and the university, they are committed to using the university's extension offices to promote this act. The College of Public Affairs and Community Service has a statewide mission and focus. The school's degrees and community outreach programs administered by CPACS are all focused on improving our communities, both urban and rural. Much of the work done by CPACS involves bringing local, state, and federal government programs together with private and nonprofit organizations to maximize community development. Due to its commitment to community betterment in both urban and rural communities, CPACS is the organization best suited to administer this program. Also during the debate on LB633, I declared my commitment to work with Senator Heidemann and the Fiscal Office to find an appropriate cash fund. After countless hours of research with Senator Heidemann, we have been unable to find an appropriate cash fund and will be requesting General Funds for the Neighborhood Development Act. That request is \$125,000 per year for four years, which then sunsets the bill. I respectfully ask my colleagues to support AM1331 and LB633. [LB633]

SENATOR CARLSON: Thank you, Senator Mello. You've heard the opening on AM1331. The floor is now open for discussion. (Visitors introduced.) Those wishing to speak: Senators Janssen, Howard, and Ashford. Senator Janssen, you are recognized. [LB633]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I'd like to thank Senator Mello for this amendment. I was looking at this bill previous and this amendment. I was really kind of neutral on it, and this amendment has really shifted me and to be for this underlying legislation with this amendment. So I'd like to thank him for that. And also in talking about the statewide reach, I think the appropriate place for this to be is where we have it scheduled to go CPACS. They've done a wonderful job with different programs, and I would just like to reiterate my support that this be, one,

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enacted. I hope there's funds for it, that's a different battle, different day. But I support this and would yield the balance of my time to Senator Mello should he need it. [LB633]

SENATOR CARLSON: Thank you, Senator Janssen. Senator Mello, 4 minutes. [LB633]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Thank you, Senator Janssen, for the support of the bill and the amendment as well as your time. Briefly just so everyone will be receiving a few handouts, shortly after the debate on General File on LB633 there was an editorial put out by the Omaha World-Herald just giving a little bit more background on the College of Public Affairs and Community Service, discussing their statewide reach. And I don't want to belabor the point too much, but also there was an editorial recently done this weekend that discussed their statewide vision as well. So any concerns that anyone might have regarding the College of Public Affairs and Community Service, I'd just like to draw you to these two strong editorials describing their real statewide reach. I was talking with Senator Schilz prior to about the municipal clerk program that CPACS does which helps provide the education necessary for various city and municipal clerks around the state that all work through this program. And obviously some of the larger urban areas don't have that many clerks and so it really does have more of a statewide focus, not just in Omaha or just a Lincoln program so to speak. There's also just another handout that I provided is a little bit on the mission of the College of Public Affairs and Community Service discussing what their mission is through the university as well as a few of their advisory board members to particularly focus on Maxine Moul, who is a member of the Nebraska Community Foundation as well as Don Overman, who is the former mayor of Scottsbluff. With that, I appreciate the time, Senator Janssen, and thank you, Mr. President. [LB633]

SENATOR CARLSON: Thank you, Senator Mello. Senator Howard, you are recognized. [LB633]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I, too, would like to thank Senator Mello for bringing in this bill and for the opportunity to be a cosigner on it. I remember two years ago then Chairman of Health and Human Services asked an individual in my district what was a neighborhood association and simply had no clue as to what this meant. This bill has brought attention not only to the term neighborhood association, but also to the good work that's being done by these neighborhood associations. In District 9, the neighborhood associations are very active. They are vigilant against community crime. They are out in the forefront promoting good community activities. An example of that was this last Saturday when one of my neighborhood associations, the Gifford Park Neighborhood Association, sponsored a gardening event. And it's their annual kind of a kickoff to spring gardening, oh, a gardening activity. And so many people in the Gifford Park neighborhood turn out and participate. Children have plots, families have plots where they raise flowers or vegetables or whatever they're interested in doing, and they all work together. I just am

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so proud of the communities that are participating in this and for the work that they are doing. This gives them another opportunity to further that work and also hopefully gives the senator that I referred to who was Chair of Health and Human Services two years ago the opportunity to better understand the true meaning of neighborhood associations. Thank you. [LB633]

SENATOR CARLSON: Thank you, Senator Howard. Senator Ashford, you are recognized. [LB633]

SENATOR ASHFORD: Thank you, Mr. President. I would also stand in support of Senator Mello's initiative here and the underlying, I assume there's an A bill accompanying this, A bill. I think that I agree with Senator Howard and others and Senator Mello. CPACS has done amazing work. I have worked with CPACS for many years during the years I was in the Legislature before. I can't tell you how many projects we worked on together and the time that was given to some of my requests was extremely helpful and informative. You know, I noticed in I guess the paper was yesterday or maybe it was Saturday a piece by Russell Smith about some of his work with neighborhood groups. And I know in talking to Russ two or three years ago when he started this project going around talking to neighborhood groups gaining information and providing a platform to enable neighborhood groups to work more effectively with government. And without a question CPACS has done work like this for many, many years. I would also add that I think most of the or many of the city clerks of many of the public officials throughout the state have gone through the CPACS master's program. I don't know the number, but it's extensive. It's a service to our state, to the entire state, and I might add I think we should all be proud of CPACS and their national reputation in the issues they work with. Public affairs colleges are many throughout the country, and CPACS at UNO has a national reputation clearly as one of the top institutions of its kind in the country. Again, I appreciate Senator Mello's leadership in bringing this matter and hopefully we can find a way to enable the program to get started in this fiscal year. Thank you, Mr. President. [LB633]

SENATOR CARLSON: Thank you, Senator Ashford. Those still wishing to speak: Senators Pahls and Sullivan. Senator Pahls, you are recognized. [LB633]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I know how the neighborhood centers work. I've had the opportunity to serve on the advisory board, and this is where I say you look in the eyes of the individuals there. They are the grass roots. They work for a few dollars. It's unbelievable the types of things that they accomplish. So again, I do hope we can find the money for this because, like I say, I've been with them looking at what they do, and I know that for their dollar they get more than a dollar's worth of what they do. Thank you. [LB633]

SENATOR CARLSON: Thank you, Senator Pahls. Senator Sullivan, you're recognized.

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[LB633]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. And I might take just a little bit different approach because having lived in a community, the smallest of the small, I'm more interested in how the CPACS will impact and possibly benefit some of the small rural Nebraska communities. And after looking at it and particularly seeing the amendment, I think this bill will offer some opportunities to small communities in rural Nebraska. In addition to that, well, secondly I like the fact that Senator Mello mentioned that as far as getting the information out to rural communities the extension service will be sort of the conduit for that. And I think the extension service has a great model for reaching out to rural Nebraska and to communities and linking up with what they feel are their needs. But the other thing that makes this bill attractive to me is that I always look for opportunities where I think Omaha and greater Nebraska, rural Nebraska can come together and learn a little bit more about each other because I'm always concerned about what appears to be this rural/urban divide. And I think the CPACS projects provide some opportunities for Omaha and rural Nebraska to link up. I think looking at the board of directors, the dean's advisory board, if this bill comes to fruition, I think it would be great if they would have some rural representation on that advisory board as well. So I think this is a good idea. You know, funds are tight in this economy in which we're operating. But I think this is worthy of our attention and I speak in favor so thank you very much. [LB633]

SENATOR CARLSON: Thank you, Senator Sullivan. Senator Nordquist, you're recognized. [LB633]

SENATOR NORDQUIST: Thank you, Mr. President and members. I, too, rise in support of LB633 and in support of CPACS. And I just want to talk about their statewide reach. I, before running for the Legislature, and hopefully this fall I'm working on a master's in public administration at UNO at the CPACS...at the School of Public Affairs, in particular in the public administration field. And, folks, this is a nationally recognized, and Senator Ashford mentioned, nationally recognized school and their rankings are amazing, you know, the top. There are probably a couple hundred schools of public administration around the country, and we're looking at right here in Nebraska the top. Their rankings range anywhere from top ten in city management, seventh in the nation in public finance and budgeting. These are really national experts right here in Nebraska. And let me tell you about some of my classmates that I had working on this master's degree came from all around the state. They have a large on-line presence, but especially in eastern Nebraska people would drive in an hour for night classes. These are people and many of the alumni have gone on to be city managers all across Nebraska, all across the Midwest. This program really does have a statewide reach, and I think that it's the right place to reach out and to put this money, and I commend Senator Mello for his efforts. Thank you, Mr. President. [LB633]

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SENATOR CARLSON: Thank you, Senator Nordquist. Senator Campbell, you're recognized. [LB633]

SENATOR CAMPBELL: Thank you, Mr. President, and I will be brief. I want to thank Senator Mello for AM1331. I had raised some issues earlier on the floor with regard to small and large and urban and rural and how that competition felt. And so it is particularly pleasing to see that the amendment comes forward, and I do support the amendment and the underlying bill. Thank you, Mr. President. [LB633]

SENATOR CARLSON: Thank you, Senator Campbell. Senator Fischer, you're recognized. [LB633]

SENATOR FISCHER: Thank you, Mr. President and members of the body. Would Senator Mello yield to some questions, please? [LB633]

SENATOR CARLSON: Senator Mello, will you yield? [LB633]

SENATOR MELLO: Yes. [LB633]

SENATOR FISCHER: Senator Mello, I apologize if you have already explained this. Do you have a definition of what neighborhood associations are and also a definition of small communities from your amendment? [LB633]

SENATOR MELLO: I do actually. It does say it in the bill that...let me pull it up here one second, Senator Fischer. Section 4 of the legislation defines community improvement groups that would be eligible for the act, and it further goes on to say that a neighborhood association is defined as an organization that's recognized or endorsed by a city, village, or county in which it resides with elected officers that hold regularly scheduled open meetings. A small community is defined as a second-class city or village. [LB633]

SENATOR FISCHER: As I read that on page 2 of the white copy, Senator Mello, I guess I could interpret that, that a neighborhood association could also be an association that is within a village. Would you say that would apply? [LB633]

SENATOR MELLO: Yes. Actually, a part of the debate, Senator Fischer, on General File was even within first...like I think Senator Janssen mentioned it on the General File debate which is if Fremont, which is a first-class city, had a neighborhood association, they could apply through the program as or the village of Gresham if they had a neighborhood association within the village, that could apply as well. [LB633]

SENATOR FISCHER: On a small community, would that apply to a small rural community that is not within a city limit or a village? In my area of the state, there are a

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number of ranch communities and they focus around their country schools, and they have a number of associations when you're 45 to 70 miles from a town the size of Valentine, those communities...in fact, some of those communities even have buildings. Is there anything in this bill at this point that would apply to them? [LB633]

SENATOR MELLO: Senator Fischer, I...from my opening statement on LB633... [LB633]

SENATOR FISCHER: And my apologies for not remembering your entire opening. [LB633]

SENATOR MELLO: No, that's okay. No, that it must...the community improvement group must be a recognized either neighborhood association within a city, village, or county. So if it's a recognized...if it's recognized by the county so to speak, as in a neighborhood association, if it's a small group of homeowners that have a ranching community around a school, I would consider that from the language in the bill, that would equate as a neighborhood association if it's recognized by a city, village, or county. [LB633]

SENATOR FISCHER: How does a county recognize that? Do they need to pass a resolution in order to recognize that that's a neighborhood association? [LB633]

SENATOR MELLO: You know, that's not...I'd be unfamiliar with that, Senator Fischer, because most neighborhood associations are recognized by either the city or the village since it usually has more of that kind of community feel, so to speak. So I can't speak to whether or not a county board would have to recognize that homeowner's association, so to speak, as a separate community improvement organization... [LB633]

SENATOR CARLSON: One minute. [LB633]

SENATOR MELLO: ...that has elected officers that hold public meetings. It would be up to that association and that organization to bring their structure forward if they would like to apply for the grant. [LB633]

SENATOR FISCHER: Would you say, Senator Mello, that...I'm just trying to get this on the record for legislative intent, if a county board would pass a resolution, say, recognizing the Cutcomb Lake Association in Cherry County as being a neighborhood association, would that resolution then help that neighborhood that's 60 miles from Valentine qualify for the programs under this bill? [LB633]

SENATOR MELLO: Well, there's no real programs under the bill, but if they were applying for a competitive... [LB633]

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SENATOR FISCHER: Grants, grants. [LB633]

SENATOR MELLO: ...grant as an association, I believe that resolution from the county board would help strengthen their cause as a neighborhood association as long as they meet the requirements of elected officers and regularly publicly held meetings. [LB633]

SENATOR FISCHER: Okay. [LB633]

SENATOR CARLSON: Time. [LB633]

SENATOR FISCHER: Thank you very much. Thank you, Mr. President. [LB633]

SENATOR CARLSON: Thank you, Senator Fischer and Senator Mello. Senator Howard, you're recognized. [LB633]

SENATOR HOWARD: Thank you, Mr. President, members of the body. In listening to the discussion, this might be helpful information. In Omaha, the neighborhood associations register with the planning department. They have to provide written information regarding boundaries, bylaws, officers, membership, things like that in order to be recognized neighborhood associations. I hope this maybe would answer a question or two regarding what is a neighborhood association. Thank you. [LB633]

SENATOR CARLSON: Thank you, Senator Howard. Seeing no other lights, Senator Mello, you are recognized to close on AM1331. [LB633]

SENATOR MELLO: Thank you, Mr. President and members of the body. AM1331 simply ensures that no more than 50 percent of the grant program per year can go to a second-class city and village or no more than 50 percent of the grant program can go to neighborhood associations. It simply provides some more of the safeguards that Senator Campbell, as she mentioned, was also interested in this concept of Senator Christensen, McCoy, and Senator White. And I would encourage the body to adopt AM1331. Thank you, Mr. President. [LB633]

SENATOR CARLSON: Thank you, Senator Mello. You have heard the closing on the amendment. The question is, shall AM1331 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB633]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Mello's amendment. [LB633]

SENATOR CARLSON: The amendment is adopted. [LB633]

CLERK: Mr. President, Senator Utter has AM1371. (Legislative Journal page 1412.)

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[LB633]

SENATOR CARLSON: Senator Utter, you are recognized to open on your amendment.  
[LB633]

SENATOR UTTER: Thank you very much, Mr. President and ladies and gentlemen of the body. I filed AM1371 primarily to make a point that I think that this program could be administered other places besides Omaha, could actually be administered very capably in Kearney, could be administered in Lincoln. And while I think the CPACS is probably a very good school, I think the point needs to be made that this is something that's going to serve small communities and small areas that maybe it could more effectively be done in the center of the state. But beyond that and with due respect to Senator Mello and his bill, I'm not sure that this is very good legislation at this time. This is going to require an additional \$500,000 of the taxpayers' funds over the next four years at a time in which we are struggling to make ends meet and that we're getting continuing news that is not necessarily good. And I know that Senator Mello in the very beginning said, well, this is another tool in the toolbox to help small communities, frankly, I'm thinking that the toolbox may be overflowing. And I think what we should be doing at this point in time is looking for ways to save tax monies instead of looking for additional ways to spend tax money. I think that this is not an appropriate time for this body to start new programs, even though this one has a sunset on it, and I fully appreciate that and I think that's probably a good thing for all legislation to have some kind of a sunset so that we can review and evaluate the effectiveness of it. But I do believe that there's duplication here, that there are other programs that help small communities, that help communities...community development activities and do those type of things. And certainly when we've got an economy that has an uncertain future at best and certainly maybe declining, I don't think it's advisable for us to start new programs, spend new money when it isn't absolutely necessary to do so. I've said many times that governments do things that are necessary and they do things that are nice. And I'd have to put this measure in the nice area. I don't believe that it's necessary. And certainly when we are looking at a national economy and a state economy that is in the situation that it's in right now, I'm not sure it's an appropriate time to do the things that are nice. I'm fully convinced that we need to scrutinize very carefully the things that we're spending our money on. And I guess I would have to stand here today and say to you that I thought we moved the budget bill through awful fast. I thought that we maybe should have taken more time with it, and I respect highly all of the people on the Appropriations Committee that did our budget bill. But I've got to tell you that both on General File and on Select File that the budget bill I thought moved like it was a thoroughbred on a racetrack. And I'm not...I'm thinking that these are the type of issues that we need to take more time with. Now I recognize that \$125,000 a year is not a lot of money in the scope of things. It is a small amount of money when compared to a \$3 billion-plus budget. But, folks, if we don't start with the little things, we're never going to have the courage to attack the big things. And so with that, while I do not support this

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legislation, will not support this legislation on Final Reading, I withdraw my amendment. [LB633]

SENATOR CARLSON: Thank you, Senator Utter. Are there objections? Hearing none, the amendment is withdrawn. [LB633]

CLERK: I have nothing further on the bill, Mr. President. [LB633]

SENATOR CARLSON: Senator Mello, you are recognized. Senator Pahls, you are recognized. [LB633]

SENATOR PAHLS: Thank you. A few seconds ago, I thought that was Rich Pahls back there where Senator Utter was talking. He says we have to start taking a look at that. And when I stood up and I says, I hope we can find the money for this bill because in reality \$125,000 is not a lot. But I'm just going to ask you to turn over your green sheet and take a look at all the things that we right now tax exemptions that what we have said looks like it's going to happen. You know, it works both ways. We have those people who say we need to do away, we need to give these tax exemptions, yes, because the vote was pretty high. And we have those individuals on the other side say, hey, here are some programs that have merit. And I agree with the senator. We need to take a look at all of these programs and we need to take maybe a relook at the tax exemptions. Some of these to me looks like in this day and age they probably should be vetoed because they will have a major impact. If you take a look, it will be \$5 million is the last line, last column. Now that's a chunk of money, mighty small when you consider \$125,000 on a bill or an activity that could help an awful lot of people. So it works both ways. You can't have it all. Thank you. [LB633]

SENATOR CARLSON: Thank you, Senator Pahls. Seeing no other lights, Senator Nordquist for a motion. [LB633]

SENATOR NORDQUIST: Mr. President, I move LB633 to E&R for engrossing. [LB633]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed the same. The bill is advanced. Mr. Clerk, next item. [LB633]

CLERK: Mr. President, LB633A. Senator Nordquist, I have no amendments to the bill. [LB633A]

SENATOR CARLSON: Senator Nordquist. [LB633A]

SENATOR NORDQUIST: Mr. President, I move LB633A to E&R for engrossing. [LB633A]

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SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, the same. The motion is adopted. The bill is advanced. Next item, Mr. Clerk. [LB633A]

CLERK: Mr. President, LB568. Senator, I have E&R amendments first of all. (ER8105, Legislative Journal page 1274.) [LB568]

SENATOR CARLSON: Senator Nordquist for a motion. [LB568]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB568. [LB568]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed the same. Motion carried. [LB568]

CLERK: Mr. President, the first amendment I have is by Senator Dierks who is excused. [LB568]

SENATOR CARLSON: Senator Dierks is excused. Is there anyone authorized to handle his amendment? Seeing none, we proceed, next amendment. [LB568]

CLERK: Mr. President, Senator Dubas would move to amend, AM1302. (Legislative Journal page 1385.) [LB568]

SENATOR CARLSON: Senator Dubas, you're recognized to open on your amendment. [LB568]

SENATOR DUBAS: Thank you, Mr. President, members of the body. My amendment is fairly simple, kind of a technical cleanup. It was some conflicting language, it's addressed in another part of the bill. So we're basically just seeking to strike that redundant language. So with that, I would appreciate the body's support. [LB568]

SENATOR CARLSON: Are there senators wishing to speak? Seeing none, Senator Dubas, you're recognized. Senator Dubas waives closing. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Are there others wishing to vote? Record, Mr. Clerk. [LB568]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Dubas' amendment. [LB568]

SENATOR CARLSON: The amendment is adopted. [LB568]

CLERK: Mr. President, Senator Karpisek would move to amend with AM1373. (Legislative Journal page 1412.) [LB568]

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SENATOR CARLSON: Senator Karpisek, you're recognized to open on your amendment. [LB568]

SENATOR KARPISEK: Thank you, Mr. President. Members of the body, AM1373 would change the life of the contract on a wind farm from 50 years to 40 years. I still feel that 40 years is quite a long time to put anyone into a contract. I feel that that not only ties you up but your children and possibly your grandchildren. But I think that 40 years is probably the norm across the country. I also realize that for these wind developers to come in we can't have it too short or they might not come if they have to renew every 20 years. If I had my way I would probably shoot for 25 years. However, I've talked to the parties involved and 40 doesn't seem to have a problem. I also want to talk to Senator Dierks's amendment just a little bit. His amendment would have taken the wording from "ten years" down to "five" on if there was not a wind farm constructed in that amount of time it would have nulled and voided the agreement. Upon talking with NPPD, Senator Dierks and myself and Senator Dubas, they gave us some reasons why they would not really like the five years and prefer the ten. I feel ten is too long. I think that a lot of things can happen in ten years. And if people are signed into a bad ten-year contract and nothing happens, they could really miss out over the next five years of that contract. However, NPPD feels that that is the best for them. My last thing that I want to do is stand in the way of NPPD's ability to keep our rates low and to start some more wind power. So that's what Senator Dierks's amendment was going to do. Mine takes it from 50 to 40. And if there are any questions, I'd be glad to answer them. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Karpisek. You've heard the opening on AM1373. Those wishing to speak, Senators Dierks and Hansen. Senator Dierks, you're recognized. [LB568]

SENATOR DIERKS: Thank you, Mr. President. I just wanted to apologize for not being here when my amendment came up. And I do intend to withdraw it when it does come up. We had quite a little conversation in the past week about this issue. And I think we all want somewhat the same thing. I think we want protection for the people who are going to be involved with wind power, protection in their land leasing arrangements and I think maybe we've got what we need with the current legislation. Thank you very much. [LB568]

SENATOR CARLSON: Thank you, Senator Dierks. Senator Hansen, you're recognized. Senator Hansen waives. There are no other lights. Senator Karpisek, you are recognized to close. Senator Karpisek waives closing. Question is, shall AM1373 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB568]

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CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Karpisek's amendment. [LB568]

SENATOR CARLSON: AM1373 is adopted. Mr. Clerk. [LB568]

CLERK: Mr. President, I'm now back to Senator Dierks's amendment, AM1156. [LB568]

SENATOR CARLSON: Senator Dierks, you're recognized to open on your amendment. [LB568]

SENATOR DIERKS: Thank you, Mr. President. You may withdraw that amendment, Mr. Clerk. [LB568]

SENATOR CARLSON: Request is to withdraw. Seeing no opposition, amendment is withdrawn. [LB568]

CLERK: I have nothing further on the bill, Mr. President. [LB568]

SENATOR CARLSON: Senator Nordquist for a motion. [LB568]

SENATOR NORDQUIST: Mr. President, I move LB568 to E&R for engrossing. [LB568]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed the same. LB568 is advanced. Mr. Clerk. Items for the record? [LB568]

CLERK: Mr. President, before we proceed, one item. Senator Gay would like to print an amendment to LB288A. (Legislative Journal page 1413.) [LB288A]

Mr. President, LB542, it's a bill originally offered by Senator Campbell relating to dental assistants. The bill has been discussed on two separate occasions. When the Legislature left the issue Senator Campbell had pending her amendment, AM1224. (Legislative Journal page 1246.) [LB542]

SENATOR CARLSON: Senator Campbell, you're recognized to open on your amendment. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. AM1224 would replace the original bill, LB542. The language that is in the amendment, AM1224, more accurately reflects the language that is used in the rules and regs and I felt that it would be a companion piece to what is already in rules and regs. The major question to the amendment and the bill is, does the department...the Nebraska Board of Health and the Board of Dentistry have the authority to put education and training to a duty of a dental assistant? The department and its two boards thought over a period of years that it had the

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authority to do that. It has the authority to put into rules and regs the duties. But an Attorney General's letter said, you do not have the authority to put education and training. Now there are many people who have said, if we just sat down with the three groups here, we could work this out. And the three groups most often mentioned to me are dentists, hygienists and dental assistants, if we could just referee those three and figure out. That is not the issue here. The issue is that we have designated a referee. The Legislature has put that referee into place through the Board of Health and the Board of Dentistry. In fact, the Board of Dentistry cannot act alone, its recommendations have to go to the Nebraska Board of Health. So the key question here is not are we going to referee between those three groups, but are we going to give the authority to the referee we've designated to include education and training. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Thank you, Senator Campbell. You've heard the opening on AM1224. Senators wishing to speak, Senators Gloor, Gay, Campbell, and Avery. Senator Gloor, you're recognized [LB542]

SENATOR GLOOR: Thank you, Mr. President, members of the body. Well, the lobbying has continued unabated over the weekend. I had a comment from a dentist that I thought was right on the button and I'm going to pass it along, and that would be not for this party so much as to the individuals who purport to be interested in the quality of dental care in our state. I hope you use a fraction of this energy next time the issue of fluoridation comes up. Understanding that that's a difficult issue and a difficult topic, there is no single thing that would save the state a tremendous amount of money when it comes to expenses related to dental care than fluoridation. So for those people who are still listening, involved in lobbying for this issue, remember your approach and your tact, your enthusiasm, and vigor to come after this particular issue and use some of it, if you would please, along the interest of something that can help the entire population from top to bottom, fluoridation. Thank you very much. I would reemphasize what Senator Campbell has said, we're trying to do something that would give the Board of Dentistry some tools. I am concerned that if we do not back them on this we are basically saying, not just as relates to issues of dental assistants but for the issue of education and training that may come before the Board of Dentistry in the future for any profession or any groups of professionals that, I'm sorry, we're not going to allow you to make that decision. It's expected that you bring it to the Legislature to serve in that capacity. We don't want to do that. We don't want to do that. For better, for worse that is the scope of the issue that is put in front of us is that we've got to make a decision along these lines, otherwise we're basically agreeing with the Attorney General, otherwise we are basically saying to the Board of Dentistry, you can't make these decisions for dental assistants, for hygienists, for dentists, or whomever. When it comes to training, education, criteria to practice whatever it is that you may be doing in your area, bring that to the entire Legislature. We're going to serve in that capacity. I don't think we want to do that. Therefore we need to support AM1224 and LB542. Thank you. [LB542]

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SENATOR CARLSON: Thank you, Senator Gloor. Senator Gay, you're recognized. [LB542]

SENATOR GAY: Thank you, Mr. President. I rise in support of the amendment and the bill again, where we left it off. I think there is some misunderstanding here. Senator Harms, when he talked about how we...how education is being delivered now, he's absolutely right. All of this really goes to the point of who is going to take care of that educational component for the assistance. And there's other things at play here. But I can't add a whole lot more to what was just said, so I won't. But Senator Campbell did a great job of explaining the situation here. Take all the outside influences out, and we don't want to do that I know in some cases because that we do rely. And there is a very good grassroots effort on behalf of the hygienists and others who do a great job and I appreciate that. But at some point it all comes down to, you know, someone has to make a difficult decision, someone is not going to be happy. We've tried to bring everyone together. And I know Senator Campbell since early in the session has tried that. Sometimes there's just a situation where we need to make a decision. I think in the interest of public safety and education we make this decision. We allow those that know what needs to be done as far as educational requirements get done. And some of these other situations you're hearing about, I think, are completely different bills. I don't think...they're unfortunately being put on this particular bill, but those issues are separate issues that I think we will deal with on other matters or other bills. So I would encourage you to ask Senator Campbell or anyone any questions on this and make an informed decision. I'm with her on the amendment and the bill. And you've heard from others in the body what their opinions are, so I don't want to dwell on that. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Thank you, Senator Gay. Senator Campbell, you're recognized. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. I wanted to add a little bit to my remarks to give you...to frame a little bit what Senator Gloor and Senator Gay have alluded to. We did some research to try to figure out how many boards in just the healthcare area that we have given some designation to, to oversee their profession. Currently, we have 33 boards that we have asked to oversee, look at rules and regs and make recommendations on what should happen within that profession. I think it's terribly important to understand the process that has been setup by the Legislature. And I would encourage you to keep that in mind because the most important part of this bill has to do with giving one of those boards the authority in education and training. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Thank you, Senator Campbell. Senator Avery, you're recognized. [LB542]

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SENATOR AVERY: Thank you, Mr. President, colleagues. I wondered if Senator Campbell wouldn't mind answering a couple questions and yield. [LB542]

SENATOR CARLSON: Senator Campbell, would you yield? [LB542]

SENATOR CAMPBELL: Absolutely. [LB542]

SENATOR AVERY: I have as you have and probably everybody, head a great deal from constituents on this matter. Does this bill actually place patients at risk? And if so, could you explain what those risks are? [LB542]

SENATOR CAMPBELL: You know, Senator Avery, I think the issue that Senator Gay alluded to in health and safety has to do with the ability of the Board of Dentistry and ultimately the Board of Health to put with certain duties education and training. [LB542]

SENATOR AVERY: And this would involve dentists actually training their dental assistants on-the-job, is that correct? [LB542]

SENATOR CAMPBELL: In some cases, yes, in other cases it might be a one-day course that's offered in different parts of the state or it might be on the Internet. There's a number of ways that that education and training could be provided to dental assistants across the state. [LB542]

SENATOR AVERY: Isn't it true that many states do this as well, on-the-job training, and similar to what we're proposing in this bill? [LB542]

SENATOR CAMPBELL: Senator Avery, on-the-job training has been a part of the dentists responsibility for dental assistants for a number of years. But there are also...I mean, dentists can provide on-the-job training. We also see dentists who have their dental assistants take a course. Some of them take Internet courses. There are a number of ways. But on-the-job training has been a part of the responsibility of dentists through the years in working with dental assistants. [LB542]

SENATOR AVERY: Well, I'm really surprised at the number of e-mails and various communications I've received that tell me the sky is falling if I support this bill. Actually, I've heard from so many people on both sides of the issue I feel a little bit like that Michigan lawmaker who, on a similar bill like this, says some of my friends are for this, some of my friends are against it, I think I'll vote with my friends. That's how I feel. Thank you. [LB542]

SENATOR CARLSON: Thank you, Senator Avery and Senator Campbell. Mr. Clerk, for an amendment. [LB542]

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CLERK: Mr. President, Senator Lautenbaugh would move to amend Senator Campbell's amendment. Senator Lautenbaugh is offering AM1381. [LB542]

SENATOR CARLSON: Senator Lautenbaugh, you're recognized to open on AM1381. [LB542]

SENATOR LAUTENBAUGH: Thank you, Mr. President. At this time I'd like to withdraw that amendment. [LB542]

SENATOR CARLSON: Are there any objections? The amendment is withdrawn. Back to discussion on AM1224. Senator Hansen, you're recognized. [LB542]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Would Senator Campbell stand to a couple of questions, please? [LB542]

SENATOR CARLSON: Senator Campbell, will you yield? [LB542]

SENATOR CAMPBELL: Yes, absolutely. [LB542]

SENATOR HANSEN: Senator Campbell, thank you. I had to print these off side-by-side and then it was very obvious that the difference was mainly that you changed the word from "may" to "shall" on the amendment. Why is there a...why would you make that change from "may" to "shall?" Those are the...that's one of the toughest words we deal with here on the floor. So... [LB542]

SENATOR CAMPBELL: Senator Hansen, that is a great question. When I first looked at the wording, I did have "shall" in there. And after some discussion, listening to all of the groups here, and there's been some e-mails that have said the groups never met. That is not entirely true. We had two sessions with representatives from everybody, and then I had a session separately with the dental assistants and the Board of Dentistry, some representatives, and then I met with the dental hygienists. I changed that in the bill because after my research, Senator Hansen, I found that not every duty of a dental assistant would require education or training. And in the past, as I covered the other day, there have only been two duties that have been given education and training out of about 20. And those are how do you take x-rays and coronal polishing. And I'm sure they both deal more with direct patient care. But not all duties, by any stretch, need to have full education and training. [LB542]

SENATOR HANSEN: Thank you. The second question would be, would those trainings, those parts of that profession, was that being trained by the dentists? Were the dentists doing the on-the-job training to all 20 of those different disciplines or were they just doing the ones that dentists actually needed them to do? [LB542]

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SENATOR CAMPBELL: Could you repeat that, Senator Hansen? [LB542]

SENATOR HANSEN: Well, were the dentists training the dental assistants to the point where they should be trained? Were they doing a good job there or, according to your amendment, there shall be rules and regulations and details promulgated by the board to make sure that they get trained right? Were the dentists training the dental assistants well enough? [LB542]

SENATOR CAMPBELL: Senator Hansen, in my discussion with almost all of the people involved in it I don't think that they have necessarily seen any complaints come to the Board of Dentistry dealing with dentists not providing accurate on-the-job training? I do think there are some specific, like taking x-rays, where they really felt that a specific training needed to be put in place. But to my knowledge there's not been complaints about the dentists who choose to provide on-the-job training. [LB542]

SENATOR HANSEN: So in Senator Avery's question, would patients be at risk now without that training. [LB542]

SENATOR CAMPBELL: I would say for the two that have been designated, Senator Hansen, the dentists, the people who make up the Board of Dentistry and ultimately the department have made the decision that, yes, those two probably do affect public health and safety. But you do want, going into the future, I think Senator Harms directed at that, going into the future you want the Board of Dentistry and ultimately the department to continue to look at the duties and determine those which absolutely need training to protect the public and its health and safety. [LB542]

SENATOR CARLSON: One minute. [LB542]

SENATOR HANSEN: Thank you, Senator Campbell. I do appreciate your concern about training the dental assistants. And I certainly do hope that that training is available through community colleges, online training, whatever training there is because these dental assistants, if they've got a job they don't want to take two years off to go somewhere to do that. They need to learn it on-the-job and over the Internet or some type of e-training. Thank you, Senator Campbell. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Thank you, Senator Hansen and Senator Campbell. Senator Campbell, you are recognized. [LB542]

SENATOR CAMPBELL: I want to follow up a little bit from Senator Hansen's questions and emphasize to the body that part of what we're seeing here in the Board of Dentistry is they are the people who weigh that balance of when training and education needs to be put into place. They also...they are the professionals. They know their own

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profession and what is happening across the state. And hopefully they can balance the dentist and the training that may be needed no matter where that dentist lives in the state. And I think that's critical that we have given to a body of professionals the oversight of that profession and how that training and education comes into place. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Thank you, Senator Campbell. Senator Lautenbaugh, you're recognized. [LB542]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I've kept kind of quiet on this today, but I do have an amendment pending and probably another one to follow after that which are really two sides of the same coin. And what they are designed to do is to deal with the scope of practice issue. The first amendment that we'll be dealing with discusses the activities that an assistant can do. The second amendment that we're discussing or that we will be discussing will deal with keeping the activities of an assistant from encroaching upon the activities of a hygienist. I really believe that's what this is coming down to is whether or not we are using properly trained individuals for some of these really invasive procedures. I remember last week Senator Price went through this with more detail than I'm going to go into about the invasiveness of all of this. And I think it's important that we do have people that are properly trained. And I think this has all the earmarks of a turf war, that much is certain. And that's not an original thought of mine I can guarantee you that. But those are the amendments I do have coming. So we will be, after we get off of this amendment, if it's successful, we'll be discussing them and presumably even if this amendment isn't successful we'll still be discussing those amendments. And I would look forward to your thoughts at that time. Thank you. [LB542]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Those still wishing to speak, Senators Pirsch, Fischer, Karpisek, and Nelson. Senator Pirsch, you're recognized. [LB542]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I am, I guess, intending to start back up or pick back up where I left off. Wonder if Senator Lautenbaugh might yield to a question or two for helping me clarify where we're at? [LB542]

SENATOR CARLSON: Senator Lautenbaugh, will you yield? [LB542]

SENATOR LAUTENBAUGH: Yes, I will. [LB542]

SENATOR PIRSCH: Thank you. And again, Senator Lautenbaugh, I do not serve on the Health and Human Services, so this may be perhaps not as privy to some of the documents as others. But if my understanding is correct, and tell me if I'm wrong, that

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before this bill was brought, before LB542 was brought, the status quo is that this board can in fact set the scope of duties of dental assistants. Is that correct? [LB542]

SENATOR LAUTENBAUGH: Actually, for a lot of the history of this I would probably defer to Senator Campbell. [LB542]

SENATOR PIRSCH: Okay. [LB542]

SENATOR LAUTENBAUGH: But I believe what you just said is correct. [LB542]

SENATOR PIRSCH: Okay. And I'll just go on that assumption. I think I talked to Senator Campbell and she had agreed with that assessment. So then the issue was...that developed the board attempting to regulate not the scope of practice or duties that a dental assistant could do and thereby somehow, you know, the setting of the line between dental assistants and dental hygienists, what one can do, what the other can do and, you know, what they can't do. But the issue that brought, kind of raised this bill, as I understood it, to the legislators attention why Senator Campbell introduced it, had to do not with what you can do but rather training, which has...what you...what kind of training and education you have to have before you can become a dental assistant. Is that your understanding as well, Senator Lautenbaugh? [LB542]

SENATOR LAUTENBAUGH: I do know training is certainly at issue here, yes. [LB542]

SENATOR PIRSCH: Okay. If...so, I guess, I'm trying to struggle and see what it is...if the status quo has been that the board sets the scope of performance and the duties for dental assistants. And the only thing that really was in question this year is the training, which has nothing to do with the activities they perform but what you do before you become that profession, right? I'm trying to see how we are talking so much about scope of performance and duties and to a certain extent why that language of scope of duties and performance was in Senator Campbell's also, another question, why it was in...why that language is in her amendment. Why are we even talking about something that is contentious, scope of duty? If we all agree whatever the status quo was, you know, is fine, then why...and the issue is training, why are we talking about amendments here with scope of duty and why are, I guess, you're bringing forward language about scope of duty as well? Why is that an issue here? [LB542]

SENATOR LAUTENBAUGH: Well, I would just suggest that simply if training was at issue previously, that doesn't preclude other issues. And this does, this seems like a natural and germane chance to set forth scope of duty as well... [LB542]

SENATOR PIRSCH: Okay. [LB542]

SENATOR LAUTENBAUGH: ...with some clarity so that there is some delineation

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between hygienists and assistants. [LB542]

SENATOR PIRSCH: Okay, that's where I wanted to get at is I'm trying to understand. But it's basically, you're saying, the opportunity...had nothing to do with the origination of the bill or the original intent. But you're saying this creates an opportunity that you would like to expand the scope, essentially, of the bill and look into not just the nature of training but also scope of duty. So essentially it's not part of the original bill but something that you were thinking about when the bill was introduced then. Is that correct? [LB542]

SENATOR LAUTENBAUGH: I think it would be overstating the case to say I was thinking about this when this bill was introduced. I'm kind of a late arrival to this process, I'll concede. But I do believe the two, both scope of work and training, go hand in hand. [LB542]

SENATOR PIRSCH: Okay. [LB542]

SENATOR CARLSON: One minute. [LB542]

SENATOR PIRSCH: Very good. So if...right now the board sets the...so you'd like to enlarge the issue from that which was originally set forward, training to include scope of duty, so to speak. And if the...if currently the board is allowed to set that scope, and it sounds like you don't dispute that, how do you want to change it through this amendment? [LB542]

SENATOR LAUTENBAUGH: Basically, by setting forth the scope of duty in statute. [LB542]

SENATOR PIRSCH: Okay. And so not having it set by rule or regulation by the board but rather enshrining it in a higher power of law, the statute, is that what you're saying? [LB542]

SENATOR LAUTENBAUGH: That's what the amendment would do, yes. [LB542]

SENATOR PIRSCH: Okay. That's what I wanted to get... [LB542]

SENATOR CARLSON: Time. [LB542]

SENATOR PIRSCH: Thank you. [LB542]

SENATOR CARLSON: Thank you, Senator Pirsch and Senator Lautenbaugh. Senator Fischer, you're recognized. [LB542]

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SENATOR FISCHER: Thank you, Mr. President and members of the body. I'd like to continue the discussion on the scope of practice that Senator Lautenbaugh and Senator Pirsch had started. It's my understanding that dentists and hygienists have a scope of practice that is defined in statute. Mr. President, would Senator Campbell yield to questions? [LB542]

SENATOR CARLSON: Senator Campbell, would you yield? [LB542]

SENATOR CAMPBELL: Yes, I would, Mr. President. [LB542]

SENATOR FISCHER: Thank you, Senator Campbell. Can you tell me if that is true, Senator Campbell, are the dentists and hygienists...their scope of practice already defined in statute? [LB542]

SENATOR CAMPBELL: Senator Fischer, it would be my understanding that they would be because they are licensed. The dental assistants are not licensed. [LB542]

SENATOR FISCHER: Correct. A problem many of the people that have contacted me have deals with both sides of that licensing. Some are saying that since dentists and dental assistants or dental hygienists have that scope of practice defined in statute, they are licensed, they are liable, they are...because they are licensed, they are I guess, liable for reprimands by the Board of Dentistry. They can have that license pulled. On the other hand, dental assistants are not licensed. There is concern on the scope of practice that it will be expanded and involve more duties than hygienists have gone to school for four years to learn, and therefore the public is at risk. These are all things I'm hearing. And there is no recourse because there is no license for those dentists. So a license isn't going to be yanked by the Board of Dentistry. But yet I have dentists who don't want assistants licensed because they don't want them to have to leave rural communities for training at a community college. Senator Hansen mentioned Mid Plains. Well, that's over two hours from Valentine and that's our closest. So it...that would place a burden. And it just continues to frustrate me with this bill. It continues to confuse me on this bill and I know you have tried to be very forthright and say it's a simple bill but I can't agree with you on that. And I'll give you some time to answer the issues that I have brought up. [LB542]

SENATOR CARLSON: Senator Campbell, 1 minute 40 seconds. [LB542]

SENATOR CAMPBELL: To quickly answer your questions, the dentist is ultimately responsible and liable for not only the dental assistants in his or her office but the hygienist as well. The dentist holds the ultimate liability whether they are licensed, whether they are not licensed, the dentist does that. The second point is that the scope of practice of the dental hygienist is protected in the rules and regs by saying that other dental, they call them auxiliaries, but that's assistants or techs, cannot assume the

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responsibilities... [LB542]

SENATOR CARLSON: One minute. [LB542]

SENATOR CAMPBELL: ...of a dental hygienist. So keep in mind that they are protected. [LB542]

SENATOR FISCHER: Senator Campbell, so if a dental assistant is given expanded duties, and I would like to discuss duties later, but if they're giving expanded duties and they're found to be negligent, what is the recourse then? The dentist is responsible, even if the dentist isn't chair side, isn't in the office, the dentist is responsible, so what happens to the assistant? [LB542]

SENATOR CAMPBELL: The dentist is 100 percent liable and responsible. [LB542]

SENATOR FISCHER: But what would happen to the assistant, and if the dentist has trained this assistant and they are found negligent, and things happen in life, things happen, I realize... [LB542]

SENATOR CARLSON: Time. Thank you, Senators Fischer and Campbell. Those still wishing to speak, Senator Karpisek, Nelson, Council, Pirsch, and others. Senator Karpisek, you are recognized. [LB542]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Would Senator Campbell yield, please? [LB542]

SENATOR CARLSON: Senator Campbell, would you yield. [LB542]

SENATOR CAMPBELL: Yes, Mr. President. [LB542]

SENATOR KARPISEK: Thank you, Senator Campbell. Most of what I was going to ask, Senator Fischer hit on about everyone else in healthcare already...their duties are set in statute and their training, is that correct? [LB542]

SENATOR CAMPBELL: Senator Karpisek, I would have to say that not every health position is covered in statute. I think if Senator Gloor had the chance, he would probably...he keeps reminding me that surgical assistants do not, but their scope of duties are outlined in rules and regs then. [LB542]

SENATOR KARPISEK: Okay. Well, I guess, here's my question. If...why can...can a hygienist fill teeth, can they fill cavities? I don't think they can. [LB542]

SENATOR CAMPBELL: I don't think they can. I'm trying to remember back to what their

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scope of practice is, but I believe, no. [LB542]

SENATOR KARPISEK: Okay. Well, then so my question is, why not? Why can't they get on-the-job training from the dentist to learn how to fill cavities? [LB542]

SENATOR CAMPBELL: Senator Karpisek, the scope of duties and what they can do is not only listed in rules and regs but it's probably listed under their licensure and it would be prohibited. [LB542]

SENATOR KARPISEK: Okay. I think most of the boards that we have deal with continuing education and those sort of things. I don't know that they set scope of practice. I think that's more done by the Legislature. So I guess on that line, would you agree then that maybe we should do this with more like the (laugh) optometry and physicians? I mean, if we're doing this for one, I think, should we do it for more, let more people just get on-the-job training? How about nurses? [LB542]

SENATOR CAMPBELL: Senator Karpisek, an important process that we have not mentioned here because I don't want to cloud the issue more, because I think you're all doing a very good job of defining the issue, is that we do have what's called a 407 process in which people go through if they wish to be licensed or certified or registered. And that 407 process was put into place because the Legislature said, all right, we are not qualified to judge which duty, which scope, which education, which training, and so the process, the 407 review process which was LB407, came into play in the 19...mid-1980s. [LB542]

SENATOR KARPISEK: Okay. Talking with one of the hygienist from my district, her daughter is going to become...go to school to be a CNA, certified nursing assistant. Quickly, I'll tell everyone what that is, if you don't know. Certified nursing assistant also known as nurses aides, orderly patient care technicians, and home health aides work under the supervision of a nurse and provide assistance to patients with daily living tasks. Working closely with patients, CNAs are responsible for basic care services such as bathing, grooming, and feeding patients, assisting nurses with medical equipment, and checking patient vital signs. CNAs give patients important social and emotional support and provide vital information on patient conditions to nurses. Reading through here, you need a high school diploma or GED and you'll need to complete a 6- to 12-week CNA certification program at a community college or medical facility. I guess what I want to get at that by that is to say, if we think that these CNAs that are glorified... [LB542]

SENATOR CARLSON: One minute. [LB542]

SENATOR KARPISEK: ...thank you, Mr. President...bottom wipers in some cases, to take a 6- to 12-week course on how to handle people, I think that these people that

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might be doing something in your mouth need to take something similar. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Thank you, Senator Karpisek and Senator Campbell. Senator Nelson, you're recognized. [LB542]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to address some questions to Senator Campbell. [LB542]

SENATOR CARLSON: Senator Campbell, would you yield? [LB542]

SENATOR CAMPBELL: Yes. [LB542]

SENATOR NELSON: Senator, I'm generally supportive of your amendment and the underlying bill here. I just have a few questions to try and clear some things up. Are dental assistants presently licensed? [LB542]

SENATOR CAMPBELL: No, they are not. [LB542]

SENATOR NELSON: Do they have a scope of practice? [LB542]

SENATOR CAMPBELL: Yes, as outlined in the rules and regs. [LB542]

SENATOR NELSON: All right. But that's not limited by statute, is it? [LB542]

SENATOR CAMPBELL: No, it is not. [LB542]

SENATOR NELSON: Okay. My understanding is that a dental assistant perhaps could begin in high school with no particular training as long as they're trained by the dentist, and they will do the things that the dentist asks them to do that consist of assisting him or her. Is that right? Is correct? [LB542]

SENATOR CAMPBELL: That is correct except for the two duties that require education and training and they also do have an age. They must be 18 years of age and they must have training or education in x-ray, that's one, and the second is coronal polishing. [LB542]

SENATOR NELSON: That for dental assistants? [LB542]

SENATOR CAMPBELL: Yes. [LB542]

SENATOR NELSON: Well, I'm quoting from an article in the World-Herald saying that "dental assistants oppose the bill because they want more requirements including age

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and continued education detailed in statute." They already have some of that then, do they? [LB542]

SENATOR CAMPBELL: They have it in the rules and regs, Senator. [LB542]

SENATOR NELSON: But they want it set out in statute. [LB542]

SENATOR CAMPBELL: Yes, and one of the interesting parts, and I don't want to speak for the dental assistants but they have tried...at our research would show at least two occasions and maybe three, to go through the 407 process to be licensed. Most recently, they went through last fall on the handout that I gave you and they were...they failed to reach that designation. [LB542]

SENATOR NELSON: All right. I think in the amendments, or one amendment at least that's being brought up by Senator Lautenbaugh, it's going to suggest that dental assistants cannot do anything that the dental hygienists currently are empowered to do in the statute, is that correct? [LB542]

SENATOR CAMPBELL: I have heard rumor of that, Senator. [LB542]

SENATOR NELSON: All right. (Laugh) Okay, that answers my questions. Let me say, thank you very much, Senator Campbell. I talked with several dentists over the weekend in Omaha in the district that I represent, and it's their feeling that your bill is a good one, and that the Board of Dentistry as it's presently constituted, it's got a lay representatives, it's got from the assistants, from the hygienists, and from the dentists themselves and that they're all reasonable people. And one dentist in particular feels that training is important for the dental assistants and that some requirements necessarily should be set out. So having said that, I thank you for bringing this bill and I do plan to support it in the form as you have amended it. Thank you, Senator. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Campbell. Those still wishing to speak: Senators Council, Pirsch, Gay, Loudon, and others. Senator Council, you're recognized. [LB542]

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise in support of AM1224 and the underlying bill, and thank Senator Campbell for her effort to try to address all of the concerns and questions that have been raised. And my support for the amendment and the underlying bill kind of goes to a statement that Senator Lautenbaugh made during his remarks. He said that scope of work and training go hand in hand, and under the existing law the Department of Health and Human Services, upon the recommendation of the Board of Dentistry, is already authorized by statute to prescribe the scope of work for dental assistants. The issue is now and has been whether or not as a part of that

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authority to prescribe their duties, they can prescribe the training necessary to perform those duties. And it...as I stated last week when we were discussing this bill, I have grave questions as to why the Attorney General does not believe that the statement, may perform such duties as are prescribed in accordance with rules and regulations adopted and promulgated by the department with the recommendation of the board, does not give the department the authority to set forth the terms and conditions under which dental assistants can perform the duties they prescribe. "In accordance with" suggests that if the department says that in order to perform x duty, you need to have x number of hours of on-the-job training or x number of hours of course work, why that isn't authorized. And there's some statement with regard to what duties are prescribed. Well, my reading of Chapter 38, the state, the Legislature doesn't set out what each and every duty that these healthcare professionals can perform. What they do...what we do is say what they can't do basically and things that they can do under certain circumstances. For example, if you look at 38, Section 1116(7), it says: the performance by a licensed dental hygienist under the supervision of a licensed dentist of the oral--and I'm hoping I'm pronouncing this right--prophylaxis procedure which shall include the scaling and polishing of teeth and such other...such additional procedures as are prescribed in accordance with rules and regulations adopted by the department. So in terms of what duties can be performed by dental hygienists, we already state in statute that their duty, the duties they can perform are prescribed and are promulgated in the rules of the department. That is all that LB542 with the amendment is designed to do...the department already has the authority to prescribe the duties that dental assistants are allowed to perform. And on the issue of licensing, I find it very interesting. I trust that all of my colleagues received the copy of the letter from Joan Schaefer who is the Chief Medical Officer... [LB542]

SENATOR CARLSON: One minute. [LB542]

SENATOR COUNCIL: ...for the department wherein she states: Nebraska Revised Statute 38-1136 currently allows the department upon the recommendation of the board to adopt regulations governing the performance of duties by licensed dental hygienists and dental assistants. Under this authority the board has developed regulations setting out specific duties for dental assistants, including training requirements. However, the Attorney General has not approved these regulations citing that there is no specific authority. The Division of Public Health regards it appropriate to establish education and training requirements for dental assistants in the interest of public protection. Therefore, the division supports this legislation and that's...and it's curious, because one of the requirements for licensure is whether there is ample reason to protect the public. Now, the board said, yes, there's ample reason to protect the public. [LB542]

SENATOR CARLSON: Time. Thank you, Senator Council. Senator Pirsch, you're recognized. [LB542]

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

SENATOR CARLSON: Senator Campbell, would you yield? [LB542]

SENATOR CAMPBELL: Yes. [LB542]

SENATOR PIRSCH: In your original green or green copy, as we call it here, a version of LB542 it said, use...there's a couple of differences between that and what this amendment would do, the amended version. One of which is as Senator I think pointed out, Senator Hansen, the use of the term "shall" and "may" which, and then, but also was changing from the green copy which just used the term "training" and then in the amendment then it said "scope of performance and training." Is that correct? [LB542]

SENATOR CAMPBELL: I believe it says "education and training." Doesn't use the word "scope." [LB542]

SENATOR PIRSCH: Oh, I mean in the...yeah, education and training. Is that in the green copy you're saying? [LB542]

SENATOR CAMPBELL: No, I believe that's in the Campbell amendment. [LB542]

SENATOR PIRSCH: Okay. So there's nothing that deals with scope of performance or job duties in the amended AM1224 then? [LB542]

SENATOR CAMPBELL: No. That is...oh, I'm sorry, Senator Pirsch. [LB542]

SENATOR PIRSCH: Okay. So you were concentrating on training and education in the original and in the amendment. You're focused on that now. It's just Senator Lautenbaugh who has broached the topic of scope of duty, is that right? [LB542]

SENATOR CAMPBELL: That is correct. [LB542]

SENATOR PIRSCH: Okay. That's what I wanted to see. Okay. And I wonder if Senator Lautenbaugh would yield to a question then. [LB542]

SENATOR CARLSON: Senator Lautenbaugh, would you yield? [LB542]

SENATOR LAUTENBAUGH: Yes, I will. [LB542]

SENATOR PIRSCH: And just for edification, your amendment which has not yet been introduced, first of all it is drafted as I can, you know, scan it in the negative, a dental assistant may not undertake the following activities, which I would assume are

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traditionally reserved for dental hygienists. Is that your...is that the way you've drafted it to kind of carve out the scope of practice for the licensed profession of dental hygienists and you're attempting to enshrine that then in statute, is that correct? [LB542]

SENATOR LAUTENBAUGH: Yes. [LB542]

SENATOR PIRSCH: Okay. And is that language then specifically used then, did you derive that language that you have in your amendment from the licensure provisions of law for dental hygienists in statute? [LB542]

SENATOR LAUTENBAUGH: Yes. [LB542]

SENATOR PIRSCH: Okay. So no more and no less then. You're essentially cutting and pasting that into this amendment then, correct? [LB542]

SENATOR LAUTENBAUGH: Yeah, it was not my intent, it is not my intent to change the scope of practice for the hygienists. [LB542]

SENATOR PIRSCH: Oh, no, I know that's true. I'm wondering if the language in the amendment came from the language that's currently in the statute as far as scope of duty for dental hygienists. [LB542]

SENATOR LAUTENBAUGH: Yes. [LB542]

SENATOR PIRSCH: Okay. So then this would be a way to, as you see it, protect the scope of duty as it exists for dental hygienists, then. [LB542]

SENATOR LAUTENBAUGH: Yes. [LB542]

SENATOR PIRSCH: Okay. And currently are there any...with respect to that, obviously...currently under state statute then, that's their scope of duty. Can other employees, say dental assistants or otherwise, engage in certain of those activities or do they engage in certain of those activities that are mentioned within your amendment as being within the scope of practice of dental hygienists? [LB542]

SENATOR LAUTENBAUGH: I believe it is unclear and I believe it is possible. [LB542]

SENATOR PIRSCH: Okay. I appreciate that. Senator Campbell, I wonder if you would yield to a quick question? Senator Campbell, if she would yield. Yeah. [LB542]

SENATOR CARLSON: Senator Campbell, would you yield? [LB542]

SENATOR CAMPBELL: Yes, I do. [LB542]

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SENATOR PIRSCH: And do you have an objection to...have you had a opportunity to look at the language that Senator Lautenbaugh had included in his amendment that's forthcoming? [LB542]

SENATOR CAMPBELL: Yes, I have. [LB542]

SENATOR PIRSCH: Do you have an objection to that...approaching the issue in that manner, injecting the issue of protecting scope of practice for hygienists, would you have an objection with that? [LB542]

SENATOR CAMPBELL: Yes, I would, Senator. [LB542]

SENATOR CARLSON: One minute. [LB542]

SENATOR PIRSCH: Okay. And just briefly, if you can speak to that. [LB542]

SENATOR CAMPBELL: I feel that it is unnecessary because in the rules and regs right now, prohibited services, other dental auxiliaries, meaning techs or dental assistants, cannot perform the same duties. [LB542]

SENATOR PIRSCH: Currently, is it...and if you have an opinion, you've seen some within the scope of practice listed in statute, can dental assistants currently engage in any of those activities? [LB542]

SENATOR CAMPBELL: They should not be. [LB542]

SENATOR PIRSCH: Do you know if they do in fact or, I mean, legally, can they legally, under the rules and regulations? [LB542]

SENATOR CAMPBELL: Can dental assistants do the same thing that dental hygienists do, is that the question? [LB542]

SENATOR PIRSCH: Yeah, yeah, within their scope of practice. [LB542]

SENATOR CAMPBELL: No. [LB542]

SENATOR PIRSCH: Okay. Thank you for that. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Thank you, Senator Pirsch, Senator Campbell, and Senator Lautenbaugh. Those still wishing to speak: Senators Loudon, Campbell, and Coash. Senator Loudon, you're recognized. [LB542]

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SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look this situation over and then we go back to this letter that Senator Campbell handed out here the other day from Attorney General Bruning, and it goes on to state in there that the Attorney General's mentioned that the department staff that they could give a detailed list of duties and I think that's what Senator Council had mentioned. And that was acceptable, but there was insufficient statutory authority for training and educational requirements. And this was mostly what the amendment or the bill does is put in there that there's got to be education, training, and competency assessment. And really that doesn't spell out what that would include. And I maintain that an assistant is a dentist's hired person, their office staff. They're responsible for that staff, they're not only responsible but they're also liable. Their liability insurance everything in there so this is an extension of the dentist work force and whether...and I see not a reason why we have to have this bill really. In areas, in the rural areas, dentists usually get someone that probably has some medical knowledge, maybe they do or don't, but they usually train them themselves and they do whatever is...it takes to help operate the office. As far as the medical work and the dental work, they either do it themselves or they have a dental hygienist or someone else. This isn't something that you're going to have someone trained and they're going to start putting in fillings. I think Senator Karpisek mentioned something about, can a hygienist put in fillings? First of all, you got to have permission to use the drugs to block the fillings or the tooth. You got to know where to do all of that at and that takes quite a lot of training, and that's what we have a dental college sitting up town here for is to do that kind of stuff. So I think we're talking about something that I really don't see that is necessary to start with. It looks like to me this was something that, as near as I can understand that letter, there must have been some type of a hearing where the Department of Health or someone wanted to set up some criteria for duties of a dental assistant and they went ahead and either they had a hearing or something went on. And then the question arose, how much authority did they have after that hearing went on? So I...what I see is this, that this is probably what would you say, much ado about nothing, really, as far as I'm concerned. I can't support the amendment. I don't support the bill. I think this is something where we're infringing on the work force of probably someone in the office that doesn't need to be. When you talk about healthcare people, most of these...many of these people in these healthcare facilities are not trained except on the job. Some of them go to school and as Senator Karpisek, I think, was mentioned, they get this certain license for six weeks or so and that is to help in these healthcare facilities. But many of them, I know, in some of the healthcare facilities in western Nebraska will hire these people for a length of time and train them on the job. They're usually under the supervision of someone else, a nurse or something, there's usually a nurse or someone on duty, but they are under the supervision in some of these assisted living and places like that. So that's what my concern is if we come along with something like this on the dental assistants, then when do we come along with something on some of these assisted living that they have to have some type of training... [LB542]

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SENATOR CARLSON: One minute. [LB542]

SENATOR LOUDEN: ...and healthcare work and perhaps it isn't always necessary. With that, I don't intend to support this amendment nor the bill at the present time. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Thank you, Senator Louden. Senator Coash, you're recognized. [LB542]

SENATOR COASH: Thank you, Mr. President, members of the body. I apologize, I was getting a copy here of something I wanted to read to the body. My good friend, Senator Karpisek, made a comment earlier regarding CNAs, and I felt the need to get up here and set the record straight regarding CNAs. He said they're glorified wipers. Well, they ought to be glorified because they work hard, they perform a vital function. I was just printing out a list of duties that CNAs provide. They take vital signs, help with medical procedures, assist patients entering or leaving their beds, assist patients in walking, answer call lights, make beds, deliver messages, monitor patients and report changes, collect samples, provide patient hygiene, feed patients, and monitor food and liquid intake and output. CNAs provide...they work hard and they provide a vital function. They're absolutely a necessary part of the healthcare system. Healthcare costs are just going through the roof but I would put to the bias, it's not because we pay CNAs near what they're worth and so I wanted to get that on the record. And I wanted to turn over the rest of my time to Senator Karpisek in case he wanted to address that. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Senator Karpisek, 3:30. [LB542]

SENATOR KARPISEK: Thank you, Mr. President and thank you, Senator Coash. And I do apologize if I spoke out of turn. Sometimes I get excited and say the very wrong thing and I knew it as soon as I said it and sat down. And I do appreciate Senator Coash giving me some time to apologize for that. I did not mean to say that they're not needed. They definitely are but I think that anybody in this field, any healthcare field needs to be trained and a scope of practice set out for them. So I've been involved with a lot of elderly healthcare people in nursing homes, especially back home. I know that we can't do it without them and in hospitals. So again, if I offended anyone, I do apologize. They are worth their weight in gold, as all of our healthcare people are, and I wish that they could all get paid more. Thank you, Mr. President and thank you, Senator Coash. [LB542]

SENATOR CARLSON: Thank you, Senator Karpisek and Senator Coash. There are no other lights. Senator Campbell, you are recognized to close on AM1224. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. And I really do want to say I

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appreciate from my colleagues all the phone calls, all the e-mails, all the personal conversations that you have had in the past week. I recognize how difficult that is. I do want to say once again, that the question before the body is clearly to give the authority to the Board of Dentistry and the Board of Health and the medical director to put education in training. Remember that for a period of years, all of those three thought that they had not only the authority to put duties in place which give a scope of practice, but they also thought they could put education in training. They certainly would not have put it to two duties if they didn't think that they had the authority. But the Attorney General's letter called that into question. So the Board of Dentistry members said, would you take a bill that would give us the authority for education in training? Thank you, Mr. President. I would like a call of the house and a roll call, please. [LB542]

SENATOR CARLSON: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB542]

ASSISTANT CLERK: 29 ayes, 0 nays to go under call, Mr. President. [LB542]

SENATOR CARLSON: The house is under call. Senators, please record your presence. Those Senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators White, Pahls, and Fulton, the house is under call. Senator White, the house is under call. Senator Campbell, you asked for roll call vote in regular order? [LB542]

SENATOR CAMPBELL: In regular order. [LB542]

SENATOR CARLSON: So ordered. Mr. Clerk. [LB542]

ASSISTANT CLERK: (Roll call vote read, Legislative Journal pages 1413-1414.) 25 ayes, 1 nay, Mr. President, on the adoption of the amendment. [LB542]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk. The call is raised. [LB542]

ASSISTANT CLERK: Mr. President, the next amendment offered by Senator Lautenbaugh is AM1257. (Legislative Journal page 1324.) [LB542]

SENATOR CARLSON: Senator Lautenbaugh, you're recognized to open on your amendment. [LB542]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. AM1257 is one that I referred to previously. It sets forth the duties of dental assistants, limits the scope of duty. It's set forth and I believe we previously discussed it here. I

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think it's important that we limit the scope and I would ask for your approval. Thank you. [LB542]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. You've heard the opening on AM1257. Senator Campbell, you're recognized. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. As I indicated to the body earlier, I would oppose the amendment, AM1257. The place for scope in practice dealing with the dental assistants in this bill is not at this point in statute. What Senator Lautenbaugh has proposed probably needs its own bill and its own hearing, and it certainly needs to be reviewed as it would be by the Board of Health and by the department. And so, Mr. President, I oppose AM1257. Thank you. [LB542]

SENATOR CARLSON: Thank you, Senator Campbell. Senator Fischer, you're recognized. [LB542]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I stand in support of Senator Lautenbaugh's bill. What we've...at least what I've heard is, this is a disagreement between dentists, between hygienists, between assistants. As I brought up earlier, the scope of practice is in statute for dentists and hygienists. Why not have a scope of practice in for the assistants to define that? That, to me, would put the fears of the hygienists to rest. It would show that the dentists are acting in good faith, and that they are respecting the scope of practice of the hygienists and are respecting the four years of education it takes the hygienists to receive their degree. And remember, they are licensed. So I stand in support of Senator Lautenbaugh's amendment. We have a scope of practice in statute for other professions, and to stand here and say, well, we're not going to do it for the assistants causes me to question this bill, because it would seem reasonable that we're dealing with this profession and why not outline it for all those involved in the profession. Thank you, Mr. President. [LB542]

SENATOR CARLSON: Thank you, Senator Fischer. Those wishing to speak: Senators Council, Gloor, Gay, Sullivan, and Campbell. Senator Council, you're recognized. [LB542]

SENATOR COUNCIL: Thank you, Mr. President. I rise in opposition to AM1257. We're raising a lot of questions here about what LB542 was designed to do and intended to do. And, you know, what is being overlooked is the fact that the department, with the recommendation of the Board of Dentistry, has been prescribing for years the duties to be performed by dental assistants. They've been prescribing those duties for years without objection. And I find it interesting that when the dental assistants sought the licensing, the very licensing that we do prescribe the scope of duties around, we prescribe the duties, the scope of duties around those people who have licenses, who have to go through the Uniform Credentialing Act, and we do set forth those duties. But

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when the dental assistants go to do that, I find it interesting that one of the groups that opposed them going through the licensing that would in turn be the foundation for this body prescribing the scope of duties through the Credentialing Act, which is where we find the dentists and the dental hygienists, the dental hygienists object to the licensing. Now, what we're doing here in this statute is saying, in this bill is saying, okay, if we have deferred to the department with, upon the recommendation of the Board of Dentistry, as to what duties are eligible to be performed by dental assistants, I don't see the need for this amendment. And quite frankly, I'm not comfortable with this amendment. Presumably, the same body that we would expect to set out and prescribe the scope of duties in a licensing situation are the same people, obviously, or hopefully, Senator Lautenbaugh has looked to, to define what duties dental assistants perform. I can't stand here before you and tell you what duties a dental assistant can perform or should perform, but the department, upon the recommendation of the Board of Dentistry, has been doing it for years. The question that came before the department was as a result of an opinion by our Attorney General, which quite frankly is flat wrong. And that's the reason we're here today is because that opinion is flat wrong. If we prescribe, if we authorize the department upon the recommendation of the Board of Dentistry to prescribe duties, and we said that dental assistants can perform these duties that are prescribed in accordance with the rules and regulations promulgated by the department, clearly this body intended that the department could promulgate rules and regulations that outline, if they say, and if you look in the statute as it exists today, it says a dental assistant can perform certain x-rays if they've had certain training. We've authorized and we feel comfortable giving the department and the Board of Dentistry that amount of authority. Here, we've already given them that authority. This has been the language of the law for a number of years as it relates to dental assistants. And in fact, according to a document that I have, it says in 1985, the Nebraska Board of Dentistry answers a survey and sets out the duties that dentists can delegate to dental hygienists and dental assistants, rules and regulations for performance of duties... [LB542]

SENATOR CARLSON: One minute. [LB542]

SENATOR COUNCIL: ...by dental hygienists and other dental auxiliaries are adopted, 1998. So I think it was Senator Loudon who said he opposed the bill because he didn't think it was necessary. I agree with you. The only reason it was necessary is because the Attorney General rendered an opinion that said that they don't have the authority to do exactly what we authorize them to do. So for that reason, I would urge the body to vote against AM1257. It's not for this body to substitute its judgment for a body that we authorize, gave the express authority to, to prescribe duties for dental assistants. [LB542]

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SENATOR ROBERT: Thank you, Senator Council. Senator Gloor, you are next and recognized. [LB542]

SENATOR GLOOR: Thank you, Mr. President. I would ask if Senator Lautenbaugh would yield for a question or two? [LB542]

SENATOR ROBERT: Senator Lautenbaugh, will you yield to a question? [LB542]

SENATOR LAUTENBAUGH: Yes, I will. [LB542]

SENATOR GLOOR: Senator Lautenbaugh, reading through your amendment there is a, impressive from a technical standpoint, list of duties. Would you mind sharing where you got that list or how you derived that particular list? [LB542]

SENATOR LAUTENBAUGH: It came from the hygienists. [LB542]

SENATOR GLOOR: Okay. Let me ask, how would you see, since as is the case with any profession, especially one where there is a change in technology like there would be in dentistry, how would you foresee that list being updated as new procedures came on line that the dental, the hygienists, the dentists themselves, agreed should be changed? How would that occur in your mind? [LB542]

SENATOR LAUTENBAUGH: I would assume it would be the same as when we're updating the hygienists duties. There would have to be an amendment. [LB542]

SENATOR GLOOR: They would come through this body? [LB542]

SENATOR LAUTENBAUGH: Yes. [LB542]

SENATOR GLOOR: Okay. Thank you, Senator Lautenbaugh. I am concerned about AM1257 only because I am concerned that it's going to turn this organization into the Board of Dentistry, the Board of Medicine, the Board of Pharmacy. In my organization we had around 1,300 employees. If you boiled all of those 1,300 employees down in terms of job descriptions, you'd end up with somewhere around 75 to 80, 85 job descriptions, if I recall. And my guess is, again, going back to recollection that maybe, maybe half of those would be covered under a licensure or certification statute of some kind. That means there are a lot of positions in a hospital who do professional type work but who are unlicensed, uncredentialed. I think that's going to turn out to be the case in a lot of health and health related jobs across the state, and I worry that all of a sudden if we take it upon ourselves to make this degree of a specific listing of job duties, that various associations, various professional groups will bypass their particular boards, the Department of Health, and come straight to us, and ask them to specifically spell out in regulation what it is they're going to do. I go back to what Senator Council and Senator

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Campbell have tried to point out and that is, we're not being asked to spell out duties. We're being asked to support the Board of Dentistry with tools, those tools relating to the education around the duties that seem not to be as much in dispute when you look through the history of this topic. It's a difficult and complicated issue and I'm afraid we've gotten so far off track on this we may be headed down a path we don't want to, not just in dentistry but in other areas. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Gloor. Senator Gay, you are next and recognized. [LB542]

SENATOR GAY: Thank you, Mr. President. I'm opposed to the amendment. I think to continue on with Senator Gloor is saying, I think this is going down a slippery slope here. If you read this amendment, there's a lot of things in here. To be honest with you, I have no idea what this means. And I don't know if any of you do. Some of it is kind of obvious but when it comes to radiographics and some of these things, provision to patients of written preoperative and postoperative instructions, there's just things in here that we shouldn't be doing, I think, this way. And the reason why there's scope of practice, the department, through their department, there's a...the board gives a recommendation, the department then decides if that's correct to move on. So there's steps to do this and even though this is being portrayed as they already do this, I don't think this is the way to do it. Maybe we're still on General File. If there's some kind of agreement on Select File, do that. But at this point I can't support this. This is a tough bill, no question. And obviously, you know, how we just voted, but I do believe this one should be...we should not vote for this and then make up our mind on the bill. It is only General File. On Select File maybe there's some more, maybe there's some more common ground out there because I do believe this is more...now we're getting into some serious scope of practice issues and I don't know if that's...this is...well, I know this isn't the way to do that. There's been a 407 reviews have been done and those are very complicated. We asked professionals to sit on those boards. We asked professionals to sit on the Board of Dentistry. And I guess if we're going to do it this way, it worries me why we're asking them to take time out of their very, very busy careers to be on these boards and then we don't want to disregard their recommendations because we speak with them a lot. We rely on the 407 process, too, just for this reason so we don't make the kind of wrong decisions and then come back to regret it. So we ask professionals to serve in that capacity. We'd be undermining the whole process, I think, if we start with this. So I just...I oppose this amendment. I hope we consider...continue on with the bill. It's a tough issue. As I said twice now, very tough issue. These are sometimes the issues where we need to decide the issue and move forward. Let's at least decide now move forward, get some more input, we're coming to the closing days of the session, but maybe there's some more input we...you will get more input either way but I think it's something we should deal with at this point, and please vote against this amendment and for the overall bill. Thank you, Mr. President. [LB542]

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SENATOR ROBERT: Thank you, Senator Gay. Senator Sullivan, you are next and recognized. [LB542]

SENATOR SULLIVAN: Thank you very much, Mr. President and members of the body. I cannot speak in favor of this amendment, AM1257. I really would feel very uncomfortable voting for something that has terminology that I can't even understand. Some of those terms in the amendment are "armamentaria" or whatever. You know, I...we can't be as a body of legislators acting like healthcare professionals, and so I don't think we have any business going down that path. Neither do we need to be micromanaging a profession, which I think again is what we're trying to do with this amendment. The thing that has helped me work through the differences and the discussion of this is the whole idea of licensing. Dental assistants are not licensed. They are under and always are under the direct supervision of a dentist in a dental office. Therefore, I feel comfortable with the Board of Dentistry weighing in with a recommendation to the Department of Health and Human Services in establishing not only the rules, the regulations, but also the training that they are recommending dental assistants should receive. So that's the thought process that I've used in not only not being in favor of AM1257 but in being in favor of LB542 as amended. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Sullivan. Senator Campbell, you are next and recognized. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. And I appreciate the body's patience this afternoon and very thoughtful response to what we are trying to do in LB542. I rise, certainly in opposition, and want to remind the body that the focus of this legislation has been on the Board of Dentistry have the education and training. And we looked at that issue and looked at the Campbell amendment. We're going down a whole different path with AM1257, a path that we, this body, have said over a course of years, this is why we have the 407 review. This is why we put into boards the ability to look at scope of practice. Once we start putting things into legislation such as this, what would hold back any health profession from saying, I don't need the 407 review. I don't need to go to the board. I just need to go to the Legislature. And we will begin to look at bill after bill after bill on scope of practice. That is not what we have intended as a body in the past nor do I think it's in our best interest for the future. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Campbell. Senator Nelson, you are next and recognized. [LB542]

SENATOR NELSON: Thank you, Mr. President, members of the body. I must respectfully rise in opposition to AM1257. Here, I think, Senator Gloor hit the nail on the head. We are burdening ourselves with future changes, future rules, future regulations

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that we don't have any business getting into. These are not licensed people. I would liken it to, in the legal profession, our listing what legal assistants can do, "thou shalt not draft a codicil" for the supervising attorney to look over and approve or "thou shalt not amend a contract." That's just an area that we shouldn't be involved in. I...would Senator Lautenbaugh yield to a question, please? [LB542]

SENATOR ROBERT: Senator Lautenbaugh, will you yield to a question? [LB542]

SENATOR LAUTENBAUGH: Yes, I will. [LB542]

SENATOR NELSON: Senator, what are procedural trays or armamentaria setups? [LB542]

SENATOR LAUTENBAUGH: Those would be the trays with the dental equipment on them. [LB542]

SENATOR NELSON: All right. I'm sure you've been in the dental chair as I have and dentists have different requirements. Is there anything in here that says that the dental assistant shall hand the dentist certain instruments upon instruction or requirement? [LB542]

SENATOR LAUTENBAUGH: I would assume she would or he would hand the instruments to the dentist if the dentist requested. [LB542]

SENATOR NELSON: But if we don't put that in the statute, wouldn't that be a violation? [LB542]

SENATOR LAUTENBAUGH: By handing them over would be a violation? [LB542]

SENATOR NELSON: Well, or the ability to hand instruments. Shouldn't the dentist have to, if it's...if we're going to prescribe precisely what the dental assistants are going to do, I think we're going to have to try and cover everything that we possibly can. And we may not be able to cover it all, and more importantly...thank you, Senator Lautenbaugh. I think as times change and new improvements come along, then we're going to be faced with the same thing. Again, I contend this is an area that the dentists themselves should control as to what their assistants shall do and that that should be regulated through a board of dentists and hygienists and dental assistants who know the practicalities of the situation, and know what rules or practices should be imposed and what should be left alone. So again, I would have to oppose this amendment. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Nelson. Senator Lautenbaugh, you are next and recognized. [LB542]

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SENATOR LAUTENBAUGH: Thank you, Mr. President. This is turning into one of those lovefests that Senator Friend finds so irritating. I thank you, Senator Fischer, for your support of this and hopefully, we can win the rest of you over. For those of you who don't want to vote for something that contains things you don't understand, I hope you abstained on the school aid formula a little bit ago. I probably should have. If this bill is...if this amendment is problematic to you in that it sets forth specific things that the hygienist should do, to coin a phrase, have I got a deal for you. The next amendment simply says that they shall not do things that are within the scope of work of the hygienists. It's very simple. It does not...it's kind of a converse of this if you will, and would permit or prohibit, I guess, encroachment on the areas reserved for the hygienists. So I would prefer...well, I would urge you to support this amendment but if you're unable to do so, hopefully, I will get you on the next one. Thank you. [LB542]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Senator Louden, you're next and recognized. [LB542]

SENATOR LOUDEN: Thank you, Mr. President and members. As I look this over there and some of the Senators have said they don't understand all the language and what the procedures are in Senator Lautenbaugh's amendment, so what I would ask any of you if you can tell me is, since we've passed AM1224 as a bill now, whereabouts in that bill does it say that these duties can't be adopted by the Department of Health? They can be turned around and just kept and implemented as near as I can...my observation. So because we did put a "shall" in there and then also, the question raised by the Attorney General was at that time there was acceptable that they give a detailed list of duties for dental assistants. And that was acceptable but there wasn't any statutory authority for the training and educational requirements. Now that you have adopted AM1224, that's a, that's will be into statutes and there's nothing that I can understand would stop the Department of Health from adopting these rules that Senator Lautenbaugh has outlined here, whether they're in statutes or whether they're not in statutes. It's up to them to...you gave them a free reign now to do whatever they please on that, I guess, because and that would be what a dental assistant has to do if they're going to work in a dentist office and help the dentist, then it is outlined what they can and can't do. They can do that since you've adopted this AM1224. So I think...I guess I always think about that nobody's life, liberty, or property is safe when the Legislature's in session and this sure looks like to me we're getting into somebody's life here. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Louden. Senator Fischer, you're next and recognized. [LB542]

SENATOR FISCHER: Thank you, Mr. President and members. Would Senator Gloor yield to a question, please? [LB542]

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SENATOR ROBERT: Senator Gloor, will you yield to a question from Senator Fischer?  
[LB542]

SENATOR GLOOR: Gladly. [LB542]

SENATOR FISCHER: Senator Gloor, can you tell me how rules and regulations are established, briefly, how they are established now for different professions? [LB542]

SENATOR GLOOR: I cannot. I can assume but I cannot...I've never been part of the process, Senator Fisher, that the department goes through to make that decision.  
[LB542]

SENATOR FISCHER: I received an e-mail and this was a question that a person wanted me to ask because they said, doesn't this occur after scope of practice is determined? But you don't know if that's true or not? [LB542]

SENATOR GLOOR: I do not know if that is true or not, I'm sorry. [LB542]

SENATOR FISCHER: Also, Senator Gloor, earlier...last week when we were having this discussion, you went through a number of, I think you referred to it as the hierarchy within a hospital and where people are on that within the profession, and with the doctors being up there, do you remember that? [LB542]

SENATOR GLOOR: Yes, I do. [LB542]

SENATOR FISCHER: See, I do listen to you. [LB542]

SENATOR GLOOR: I am impressed. (Laugh) [LB542]

SENATOR FISCHER: Oh, great. Okay, so doctors. Are doctors licensed? [LB542]

SENATOR GLOOR: Yes, they are. [LB542]

SENATOR FISCHER: And then who was next? Did we have...do we have RNs or how did you do that? [LB542]

SENATOR GLOOR: I think the scenario I went through and I was just talking about in medicine in general, not necessarily hospitals, but I think I went through the litany of physicians concerned about nurse practitioners or concerned about physicians assistants concerned about our... [LB542]

SENATOR FISCHER: Okay, nurse practitioners. Are they licensed? [LB542]

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SENATOR GLOOR: Yes. Yep, they are all licensed until I go from LPN down to CNA, which was mentioned, and they are certified. But after that and below that you would get into a list of specific jobs that are not licensed or certified. [LB542]

SENATOR FISCHER: For example, what would one of those jobs be? [LB542]

SENATOR GLOOR: You could have a phlebotomist who worked in a lab drawing blood or worked in a nursing home or worked in a healthcare facility. The phlebotomist would just draw blood and other fluids. [LB542]

SENATOR FISCHER: They are not licensed... [LB542]

SENATOR GLOOR: They are not licensed. [LB542]

SENATOR FISCHER: ...is that correct? [LB542]

SENATOR GLOOR: Correct. [LB542]

SENATOR FISCHER: Do they have credentials? [LB542]

SENATOR GLOOR: If they have credentials, those credentials are usually given to them by the organization they work for. [LB542]

SENATOR FISCHER: Okay, thank you, Senator Gloor. [LB542]

SENATOR GLOOR: You're welcome. [LB542]

SENATOR FISCHER: Senator Nelson made the comment that we're burdening ourselves with this amendment. I would respectfully disagree with him. I think it's appropriate and it is an appropriate function of the Legislature to do this. And as I said earlier, I do support it. But I'll be honest with you, I have an ulterior motive in supporting this because I happen to believe if this amendment passes, there's going to be a number of people involved with this bill outside the glass who are going to be upset. And I think that might not be a bad thing because then we can get these groups together and perhaps then we wouldn't have to burden ourselves with this discussion. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Fisher. Senator Price, you are next and recognized. [LB542]

SENATOR PRICE: Thank you, Mr. President, members of the body. I took the time again to go out to that friendly little Internet, as I knock my sippy cup over. And out there

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on the Internet I went ahead and looked at the BLS Web site, and I was looking at all the different...just googled certifications and things of that nature. And were looking at, you know, the things that are within the realm of medical assistance. They may...they might instruct the patients about medications, special diets, prepare and administer medications as directed by a physician, authorize drug refills, telephone prescriptions, draw blood, prepare patient x-rays, take electrocardiograms, remove sutures, change dressing, so they are getting involved in things that are in the medical area. Of course, like I said, under direction. Then I went to another Web site to see, well, who was out there accrediting these programs. If you google it, there's plenty of accreditation programs. And I went to the Dental Assisting National Board, Inc. and there are exams in Nebraska. I was surprised to find that they carry what is required in Nebraska to be a dental assistant. And to legally operate dental x-rays, you must have a dental radiological procedure in the state of Nebraska, must have successfully completed a two-day course. Well, okay, that's not so bad. But then there's some other "ors," and or pass a national Dental Assisting National Board course. They have a national test, okay, an exam, there you go, exam or a community college with dental training. So the reason I bring that up, it just shows to me that there is the ability to get that training here in the state. There's already, I guess, the word would be codified, the option to use a certification for dental assistants here in Nebraska. It's an "or" so they can do this, you know, the training in the office or they could use certification. I'm mindful last week when I got up and somewhat in jest and was talking about the Legislature figuring this out for the groups. And again, not to be a...make light of it, but I'm remembering back when the kids were small and it was always that admonishment, you guys figure it out because you don't want my solution. You know, how many of us remember that, parents remember that and if the "younguns" are out there carrying on and they come to you, one of them come to you crying about one thing and one come carrying on about the other, and you said, do you want me to fix it, and they go, no, dad, that's okay, you're solutions don't work for us. But I'll fix the problem. I'll fix the problem. You just might not like it and I think we're heading down that road right now. I think Senator Fischer said it very well, you know. Earlier in debate here on the floor this year we heard the old term "sauce that's good for the goose is good for the gander." I think we're heading down that road right here. If you want us to fix it, we'll fix it, but I don't think that everybody is going to be happy. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Price. Senator Council, you are next and recognized. [LB542]

SENATOR COUNCIL: Yes, thank you, Mr. President. Again, reviewing the AM1257, first Senator Lautenbaugh would you yield to a question, please? [LB542]

SENATOR ROBERT: Senator Lautenbaugh, will you yield to a question? [LB542]

SENATOR LAUTENBAUGH: Yes, I will. [LB542]

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SENATOR COUNCIL: Was I correct in my understanding that you said that the list of duties that are set forth in AM1247 were provided by the dental hygienists? [LB542]

SENATOR LAUTENBAUGH: Yes, their representative. [LB542]

SENATOR COUNCIL: Do you know who sets...who prescribes the scope of duties for dental hygienists? [LB542]

SENATOR LAUTENBAUGH: They're set forth in statute, so we do, I guess, you would say. [LB542]

SENATOR COUNCIL: Are all dental hygienists duties set forth in statute? [LB542]

SENATOR LAUTENBAUGH: Their scope of duties is set forth that's referenced in the upcoming amendment, so yes, their scope of duties is set forth in statute. I don't know if... [LB542]

SENATOR COUNCIL: Can you point me to the place in the statute where their scope of duties is set forth? [LB542]

SENATOR LAUTENBAUGH: I don't have the next amendment in front of me. The statute is referenced there because that's...I apologize, let me grab it on the monitor here: 38-1131. [LB542]

SENATOR COUNCIL: And do you know how those duties were developed? [LB542]

SENATOR LAUTENBAUGH: I do not. [LB542]

SENATOR COUNCIL: Now, most professionally licensed occupations, would it be fair to say, Senator Lautenbaugh, that it's generally the members of that occupation that set forth and develop what are appropriate rules and guidelines and procedures for that profession to follow? [LB542]

SENATOR LAUTENBAUGH: That would be my supposition. [LB542]

SENATOR COUNCIL: Okay. Was there any input from dentists on AM1257? [LB542]

SENATOR LAUTENBAUGH: I do not know the answer to that. I've heard...well, I've heard from a variety of dentists with a variety of opinions, a variety of hygienists with a variety of opinions, as has everyone else. I don't know whose specific input went into that final product. [LB542]

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SENATOR COUNCIL: Okay. And in 38-1131, it says, "When authorized by and under the general supervision of a licensed dentist, a licensed dental hygienist may perform the following intra and extra oral procedures and functions." And number 14 says, "All of the duties that any dental assistant is authorized to perform." Do you know who sets forth the duties that dental assistants are authorized to perform? [LB542]

SENATOR LAUTENBAUGH: I believe that's not specified in statute now, so it would have to be the agency itself or the...I'm sorry, the...I'm struggling for the word, the Dental Association. [LB542]

SENATOR COUNCIL: Well, the statute currently says that such dental assistants under the supervision of a licensed dentist may perform such duties as are prescribed in accordance with rules and regulations and adopted and promulgated by the department with the recommendation of the board. [LB542]

SENATOR LAUTENBAUGH: Yes. [LB542]

SENATOR COUNCIL: So by way of your amendment, and Senator Louden referred to it, too, with the adoption of the first amendment, I think it was AM1242, we've already stated...we've already moved, advanced an amendment that says that the department with a recommendation of the board shall adopt and promulgate rules and regulations relating to the performance of duties by dental assistants which may include basic qualifications, education... [LB542]

SENATOR ROBERT: One minute. [LB542]

SENATOR COUNCIL: ...training and competency. So when you say in AM1257 after the last two lines, 10 and 11, "after meeting training requirements established by the rules and regulations," what rules and regulations are you referring to? [LB542]

SENATOR LAUTENBAUGH: It would be the same rules and regulations that they promulgate, not us. [LB542]

SENATOR COUNCIL: And so while the board would have the authority under your amendment to promulgate the training, they have no authority to set forth what the duties are? [LB542]

SENATOR LAUTENBAUGH: Not the scope. We'd be putting that in statute. [LB542]

SENATOR COUNCIL: And the statute already says that the department with the recommendation of the board shall adopt and promulgate... [LB542]

SENATOR ROBERT: Time. [LB542]

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SENATOR COUNCIL: ...rules and regulations governing the performance of duties. [LB542]

SENATOR ROBERT: Thank you, Senator Council and Senator Lautenbaugh. Senator Wightman, you are next and recognized. [LB542]

SENATOR WIGHTMAN: Thank you. [LB542]

SENATOR ROBERT: Excuse me, Senator Wightman. Speaker Flood, you're recognized for a floor announcement. [LB542]

SPEAKER FLOOD: Thank you, Mr. President. Thank you, Senator Wightman. Just a quick note here that I am modifying the agenda. Following LB542, we will take up LB545A again for the purpose of returning the bill to...from E&R Final for the purpose of adopting an amendment to add an operative date. This is a belts-and-suspenders change. It's needed to coincide with the budget that will allow us to read everything on the same day. Again, I'm going to be putting LB545A on the agenda after we resolve, one way or the other, LB542. Please make a note on your agenda. It will come up at that time. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Speaker Flood. Senator Wightman, you are now recognized. [LB542]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. If Senator Lautenbaugh would yield, I have a few questions. [LB542]

SENATOR ROBERT: Senator Lautenbaugh, will you yield to a question? [LB542]

SENATOR LAUTENBAUGH: Yes, I will. [LB542]

SENATOR WIGHTMAN: Senator Lautenbaugh, assuming that 1257 were to pass, AM1257, is there any penalty section that says what would happen if a dental assistant performed anything beyond the duties that you specifically list? [LB542]

SENATOR LAUTENBAUGH: It would be the penalties in the existing section. But honestly, as I stand here, I cannot tell you what the penalties would be. [LB542]

SENATOR WIGHTMAN: Would there be penalties if a dentist allowed the dental assistant to perform those duties? [LB542]

SENATOR LAUTENBAUGH: Presumably. [LB542]

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SENATOR WIGHTMAN: I assume the same would be true if AM1257 was not passed and we went to AM1224 which is your next proposed amendment in the event, I assume, that this one fails. Is that correct? [LB542]

SENATOR LAUTENBAUGH: Yes. [LB542]

SENATOR WIGHTMAN: So that there would be penalties. You don't know what those penalties are? [LB542]

SENATOR LAUTENBAUGH: Off the top of my head, no. I mean, they exist in law for other scopes of work in this area. I can't stand here and tell you specifically what they would be or how they would operate. [LB542]

SENATOR WIGHTMAN: Okay. Is the loss of a license of the dentist a possibility? [LB542]

SENATOR LAUTENBAUGH: The best I can give you is, perhaps. [LB542]

SENATOR WIGHTMAN: Okay. (Laugh) Well, I have a lot of problems with AM1257 in which we specifically set out...well, all of the things they can do and it shall be limited to that. And I know it's already been brought up whether they could hand instruments to the dentist. That's not mentioned in there. I suppose we could think of any number of potential actions that could be taken by the dental assistant that aren't covered in there. Do you happen to know, Senator Lautenbaugh, with regard to other areas of medical practice, let's take nurses...licensed practical nurses and registered nurses. Can licensed...excuse me...licensed practical nurses do any of the duties that a registered nurse could do or do you know that? [LB542]

SENATOR LAUTENBAUGH: I honestly don't know that. I know it's our practice to generally set forth scope of work in statute but I can't...I have not compared nurses with other nurses to see what...you know, if there's an overlap in their scope of practice or if one can do the duties of the other. [LB542]

SENATOR WIGHTMAN: It just seems to me. Thank you, Senator Lautenbaugh. It just seems to me that we would be setting a dangerous precedent with AM1257 in which we specifically limit the exact duties that a dental assistant could do. I think we're subjecting the dental assistant and perhaps the dentist under which she would practice her trade to penalties, possible loss of licenses. It just seems to me that that is not a good solution to what we're looking at here. I think the same would be true, except it's stated in the negative rather than the positive, with regard to AM1224, which I have no doubt will follow this. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Wightman. Senator Dierks, you are next and

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recognized. [LB542]

SENATOR DIERKS: Thank you, Mr. President, members of the body. I just wanted to offer a comment to the question that Senator Fischer had about a scope of practice and who sets up the rules and regulations. In the field of medicine and veterinary medicine, dentistry, those healthcare professions that we're very all aware of, the requirements to practice, of course, are established by a board of examiners in each state. But they usually go along with whatever the colleges, these professionals attend. And the colleges know what the course work is that's required. But the rules and regulations after the scope of practice changes we put in place, those rules and regulations are put together by the Department of Health which includes the board of examiners for those particular professions. I have difficulties with this amendment that Senator Lautenbaugh has because I think that it could be limiting and I don't think we need limiting factors. I think the professions themselves would say something is left out. And I'm not sure that we need this anyway. I think that this can be done by the department after these people are licensed or credentialed or whatever is going to happen to them. I just want to remind you a little bit about something that happened after 9/11. The nation became involved with Homeland Security. We had an appointment to the Homeland Security office here in this...in our administration. And it was his job to bring...and it was the Lieutenant Governor. As a matter of fact, I think that the Lieutenant Governor Sheehy continues as the head of our Homeland Security division. We had some hearings over in one of the hearings room and the Department of Agriculture, I was the Chairman of the Department of Agriculture at the time, we sponsored part of the hearing. The Department of Health was there. The Government Committee was there, and we went through a whole litany of problems that we had out there and possibilities that we needed to be careful of. One of them was...had to do with animal exploitation and the possibility of zoonosis being introduced into our animal population. Zoonoses are those diseases that can be transferred from animals to man. Anthrax for instance. TB for instance. Brucellosis is one of those zoonoses. And one of the problems we had was the scarcity of veterinarians who serve in the underserved areas of our state. And we have them. And they're across the nation. And we have an area from Canada to Mexico that's...it's...they just don't have enough veterinarians to serve those areas. It goes from the western part of South and North Dakota, Nebraska, Kansas, and Oklahoma and Texas, and then over into the eastern part of Montana, Wyoming, Colorado. It's just a strip of property out there that's very sparsely populated and veterinarians just don't move there. And one of the problems we've noted in the recent years is veterinary schools are graduating classes of veterinarians that are largely 80 percent, I think in most cases, women. And the women are more involved with, want to be more involved with companion animals. So they, for the most part, they don't take up working with large animals in rural areas. [LB542]

SENATOR ROBERT: One minute. [LB542]

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SENATOR DIERKS: And we have the same problem with the 20 percent of men that are graduating because many of them want to be companion animal veterinarians as well. So we, at that time, it was through a suggestion brought to our committee, this Homeland Securities Committee, that veterinarians be allowed to do work in hospitals during the time...in medical hospitals during the time of extreme emergencies. We could go in and do bandaging and that sort of thing. And I think it was commonly accepted that we were able to do that. We understood circulation. We understood healing, and all this sort of thing. So I'm just offering this as a little bit of information for you today and hope that...if you have any questions, I'd be glad to talk to you about it. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Dierks. Seeing no other lights on, Senator Lautenbaugh, you're recognized to close on AM1257. [LB542]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do have to admit that I believe that there is not sufficient support for this amendment to go forward, so I would like to pull this amendment at this time. [LB542]

SENATOR ROBERT: AM1257 is withdrawn. [LB542]

CLERK: Mr. President, the next amendment I have to the bill, Senator Lautenbaugh, AM1381. (Legislative Journal page 1414.) [LB542]

SENATOR ROBERT: Senator Lautenbaugh, you're recognized to open on AM1381. [LB542]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I hope this amendment is more responsive to the concerns that some of you just expressed about, you know, how are we limiting the scope of practice, where are we setting it forth, that kind of thing. As this amendment demonstrates, in Section 38-1131, the scope of practice for the dental hygienists is set forth in current law. What this amendment says is that a dental assistant shall not do the duties of a general hygienist as set forth in 38-1131. For the record, those duties are as follows: (1) Oral prophylaxis, periodontal scaling, and root planing which includes supragingival and subgingival debridement; (2) Polish all exposed tooth surfaces, including restorations; (3) Conduct and assess preliminary charting, probing, screening examinations, and indexing of dental and periodontal disease, with referral, when appropriate, for a dental diagnosis by a licensed dentist; (4) Brush biopsies; (5) Pulp vitality testing; (6) Gingival curettage; (7) Removal of sutures; (8) Preventive measures, including the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease; (9) Impression for study casts; (10) Application of topical and subgingival agents; (11) Radiographic exposures; (12) Oral health education, including conducting workshops and inservice training sessions on dental health; (13) Application or administration of

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antimicrobial rinses, fluorides, and other anticariogenic agents. That is the scope of work of a dental hygienist as set forth in current law. What this amendment says is that those duties shall not be accomplished by a dental assistant. I hope this addresses some of the concerns that some of you previously voiced about setting forth these things in law. You'll note if you're looking at Section 38-1131, it does say in (14), "All of the duties that any dental assistant is authorized to perform." And that's not included from this amendment, but if you think about it, it only makes sense because we've been talking about an educational and training level for assistants. I think it's conceded that hygienists do arguably, generally have higher certification and training level than assistants. So what this says, is while a hygienist can do the work of an assistant, it would be improper for the assistant to be doing the work of a hygienist as set forth in existing law. That only makes sense just as surely as we would not want to restrict a dentist from doing the work of a hygienist or an assistant as need be. Admittedly, this is setting up a hierarchy of sorts. I believe that hierarchy already exists. This just makes it clear in this bill that we are not trying to set up a scenario where the dentist can assign duties to, I don't want to say untrained, but perhaps lesser trained assistants, that should go to hygienists based upon existing scope of work in existing law, scope of practice, excuse me. So once again, I've listened to the concerns you previously voiced and I believe this amendment addresses those concerns and I would ask for your support for this amendment. Thank you. [LB542]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Members, you have heard the opening to AM1381, the amendments to AM1224. Those wishing to speak: Senators Campbell and Council. Senator Campbell, you are recognized. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. I would tell my colleagues in the body that I also oppose AM1381. We just checked and two of the duties that are listed under the dental hygienists are now practiced with education and training by the dental assistants. One of the things that we must be very careful of, is whether we want to go down the road, and I'll say this again and again, of outlining things. And Senator Sullivan talked about it, do we have the qualifications to judge that? In the rules and regs, once again, I remind the body that in rules and regs other dental auxiliaries, which means techs or dental assistants, are not authorized to perform any of the clinical services which may be performed by a licensed dentist hygienists pursuant to subsections or any of the other clinical services. It is extremely important to remember that the dental, the Board of Dentistry is a very public body as is the Board of Health, and their rules and regs have to go through a very long process. Once again, we are trying to do in statute an amendment that sets such specific they cannot do, when in all reality they have already been granted two...the dental assistants have already been granted two of those. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Campbell. Senator Council, you're next and recognized. [LB542]

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SENATOR COUNCIL: Yes, thank you, Mr. President. Would Senator Lautenbaugh yield to a question, please? [LB542]

SENATOR ROBERT: Senator Lautenbaugh, will you yield to a question? [LB542]

SENATOR LAUTENBAUGH: Yes, I would. [LB542]

SENATOR COUNCIL: Senator Lautenbaugh, there is no copy of AM1381 up on the system. Could you please read the amendment? [LB542]

SENATOR LAUTENBAUGH: I believe it is on the system, but I'd be happy to read it. It's very brief. [LB542]

SENATOR COUNCIL: It's not in here. It's not on my mine. The last one was LB1257. [LB542]

SENATOR LAUTENBAUGH: Okay. Here it is. On page 1, line 8, after the period insert, "Duties listed in subdivisions (1) through (13) of section 38-1131 shall not be performed by dental assistants." That's AM1381. [LB542]

SENATOR COUNCIL: Okay. Do you have LB...excuse me, do you have Section 38-1132 in front of you? Current statute. [LB542]

SENATOR LAUTENBAUGH: Yes, I do. I'm sorry, what was the statute again? [LB542]

SENATOR COUNCIL: 38-1132. [LB542]

SENATOR LAUTENBAUGH: Section 38-1132, I don't but I can. [LB542]

SENATOR COUNCIL: Well, allow me to read it to you. "A licensed dental hygienist may monitor nitrous oxide analgesia under the indirect supervision of a licensed dentist. (2) A licensed dental hygienist may be approved by the department, with the recommendation of the board, to administer local anesthesia under the indirect supervision of a licensed dentist." And the reason I cite that is that 38-1131 does not set forth all of the scope of practice for dental hygienist no more than the current statute sets forth all of the duties that can be performed by dental assistants. In fact, if you look at 38-1133, "The department, with the recommendation of the board, may, by rule and regulation, prescribe functions, procedures, and services in addition to those in Section 38-1131 which may be performed by a licensed dental hygienist under the supervision of a licensed dentist when such additional procedures are educational or related to the oral prophylaxis and intended to attain or maintain optimal oral health." The fact is, by virtue of 38-1133, dental hygienist procedures can be expanded beyond 1131 as it

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currently exists without ever having to come before this body. And for that reason, I urge the body to oppose AM1381, because we can go through the entirety of Chapter 38 and I can assure you that there are other places in Chapter 38 where dental hygienists are allowed to perform certain functions under the supervision of a licensed dentist that are not set forth in 38-1131. And...but the one point that is clear and it's interesting that when I asked a question about subparagraph (14), and it is not covered in AM1381, is that all of the duties that any dental assistant is authorized to perform. Who authorizes them to perform it? The same body that authorizes dental hygienists that may be approved by the department. Section 38-1131 says, "When authorized by and under the general supervision of a licensed dentist...may perform." It doesn't say "shall perform," "may perform," and it's up to the licensed dentist as to who performs what service. In terms of the dental assistants, the current statute says... [LB542]

SENATOR ROBERT: One minute. [LB542]

SENATOR COUNCIL: ...that the department upon recommendation of the board determines what duties that dental assistants perform. I just submit to you that by adopting AM1381, we are not thereby just limiting dental assistants to performing duties that are...or can or may be performed by dental hygienists because there are duties throughout this chapter that may be performed by dental hygienists. And this amendment doesn't solve that problem and the issue of scope of work. What solves the problem is allowing the department, upon the recommendations of the board, to prescribe duties for medical assistants. And for those reasons, I urge that we vote against AM1381. [LB542]

SENATOR ROBERT: Thank you, Senator Council. Senator Hadley, you are next and recognized. [LB542]

SENATOR HADLEY: Mr. President, the few members of the body that are here, I thought school aid formula was complicated. I didn't realize that dental assistants, dental hygienists would be this complicated. Would Senator Campbell, yield to a question? [LB542]

SENATOR ROBERT: Senator Campbell, will you yield to a question? [LB542]

SENATOR CAMPBELL: Yes, Mr. President. [LB542]

SENATOR HADLEY: The lateness of the night probably affects my hearing, did you say there were two duties that dental assistants are now specifically performing that dental hygienists also perform? [LB542]

SENATOR CAMPBELL: There are two duties that are set out with education and training that dental assistants are now doing: the taking of x-rays, which is in statute,

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and coronal polishing. And there's a specific age and the education that a dental assistant needs to have in order to do that. [LB542]

SENATOR HADLEY: Does this lend itself to the fear of the dental hygienists that there could be scope of practice creep by the dental assistants into the dental hygienists area? [LB542]

SENATOR CAMPBELL: The two duties, one has been in place since 1973, and one has been in place since 1997. Now, I would have to say that I think if I were worried about creep and looking back at 1973, that's a long time for something to be in practice and understood by the profession. [LB542]

SENATOR HADLEY: Okay. Thank you. I'm glad to hear that because I thought these were things that might have been just within the last year or two that there was, you know, some definite pattern involved with the dental assistants versus dental hygienists and such as that. Again, I say this has been a lot more than I wanted to know about dental hygienists, dental assistants, scope of practice, and such as that. And the last thing I'd like to say is that I'm going to my dental hygienist in two weeks so there's nothing personal at all about my comments. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Hadley. Senator Campbell, you're next and recognized. Senator Campbell waives. Senator Lautenbaugh, you're next and recognized. [LB542]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do want to be clear. If Senator Campbell is offering a floor amendment, if you will, to take out those two additional duties in this amendment, we can certainly discuss that. But I do want to address some of the points made by Senator Council. The additional duties that she cited in Section 38-1133 are educational or prophylactic. They're preventative educational duties for public health. We're not talking about specific hands-on treatment at that point. I believe the other criticism was that because in 38-1132 there are couple of duties there involving anesthesia that a hygienist can do with the supervision of a dentist, and somehow my amendment is not covering all duties. Well, that is correct, and I don't know if that's a specific criticism. We are limiting, in my amendment, assistants from doing certain enumerated things which are set forth in 38-1131. Is the criticism then that this amendment doesn't limit assistance enough? I suppose we could add in the things in 1132 and 1133, but that really wasn't germane to the concern here regarding the hands-on public safety issue. Once again, I believe this amendment kind of addresses what was said in response to the last amendment which was, you know, why are we putting this in statute? Well, guess what? The scope of responsibilities for the hygienist is already in statute. All we're saying is, do not encroach on these enumerated duties. If it doesn't cover the other educational duties, well, I would argue, well, that means that with proper training presumably an assistant could do that. I'm not

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sure if that's going to happen or if that's what's happening, but that's not covered within my amendment. That's surely true. So I'm having a little trouble crafting a response to the arguments because on the one hand my amendment is too restrictive and we shouldn't be doing it, on the other hand it's not restrictive enough because it doesn't keep the assistants from encroaching on enough duties. I believe the amendment is fine as is. Once again, if someone wanted to discuss an amendment between General and Select that would take out the two duties that are allegedly now done commonly by assistance, I'd be happy to work on that. But I do believe this amendment provides an important protection for the hygienists. If we're not going to set forth a scope of work, and scope of duties for...scope of practice is the phrase I'm looking for and can't seem to remember, scope of practice for assistance, at a minimum I believe we should reference the existing scope of practice for hygienists and say a system shouldn't be doing these things. I believe there's a difference in training. I believe there's a difference in certification. I believe that there are actual safety concerns here, and I would urge you to support this amendment. [LB542]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Senator Campbell, you are next and recognized. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. My final comment on the amendment AM1381 is for the body to keep in mind here that the dental hygienists are already licensed, the dental assistants are not. Dental assistant scope of practice is put into rules and regs. You really do want to consider that the Board of Dentistry and the department create that balance once again for dentists all across the state. Once we start putting this type of an amendment into statute, I do think you are opening the door for a lot of other problems in terms of: Is this too narrow? Does it last forever? How would we expand that? What do we come back if there's certain education and training? I think this amendment severely limits both from the dental hygienist as well as the dental assistance. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Campbell. Seeing no other lights on, Senator Lautenbaugh, you're recognized to close on AM1381. [LB542]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I will waive closing. [LB542]

SENATOR ROBERT: Senator Lautenbaugh? [LB542]

SENATOR LAUTENBAUGH: I would request a call of the house. [LB542]

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

CLERK: 18 ayes, 0 nays, Mr. President, to place the house under call. [LB542]

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SENATOR ROBERT: Members, the house is under call. Will those unauthorized personnel please step from the floor. All members please return to the Chamber and record your presence. The house is under call. Senators Heidemann, Wightman, Dierks, Nordquist, Mello, Schilz, Sullivan, Howard, Pankonin, Hadley, and Carlson please return to the Chamber. The house is under call. Senator Heidemann, please return to the Chamber. The house is under call. Senator Lautenbaugh, all members are present. How would you like to proceed? There has been a request for a roll call vote. Mr. Clerk, please record. [LB542]

CLERK: (Roll call vote take, Legislative Journal pages 1414-1415.) 7 ayes, 18 nays, Mr. President, on the amendment. [LB542]

SENATOR ROBERT: The amendment is not adopted. [LB542]

CLERK: I have nothing further on the bill, Mr. President. [LB542]

SENATOR ROBERT: Returning to discussion on LB542. Are there members wishing to speak? And I raise the call. Seeing no lights on, Senator Campbell, you're recognized to close on LB542. [LB542]

SENATOR CAMPBELL: Thank you, Mr. President. I will be very brief because the hour is late. I want to, once again, thank my colleagues for focusing in on what the intent of LB542 all along has been, to reauthorize the Board of Dentistry and the Health Department to set education and training. Thank you, Mr. President. [LB542]

SENATOR ROBERT: Thank you, Senator Campbell. Members, you have heard the closing to LB542. The question is, shall LB542 advance to E&R initial? [LB542]

SENATOR CAMPBELL: Mr. President, I would like a call of the house and a roll call vote, please. [LB542]

SENATOR ROBERT: Members, there has been a request for a call of the house. All those in favor vote yea; all those opposed vote nay. Please record, Mr. Clerk. [LB542]

CLERK: 34 ayes, 0 nays, Mr. President, to place the house under call. [LB542]

SENATOR ROBERT: Members, the house is under call. Please return to the Chamber and record your presence. All unauthorized personnel please step from the floor. The house is under call. Senators Adams, Ashford, Council, Wightman, please check in. Senator Avery, please check in. Mr. Clerk, there has been a request for a roll call vote. Please call the roll. [LB542]

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CLERK: (Roll call vote taken, Legislative Journal page 1415.) 27 ayes, 4 nays, Mr. President, on the advancement. [LB542]

SENATOR ROBERT: LB542 does advance. Items for the record, Mr. Clerk. And I raise the call. [LB542]

CLERK: Thank you, Mr. President. Before we proceed to the next item, your Committee on Enrollment and Review reports they've examined and engrossed LB122, and find the same correctly engrossed LB238, LB294, LB347, LB360, LB372, LB441, LB446, LB500, LB524, LB533, LB537, LB562, LB587, LB598, LB604, LB627, LB631. Enrollment and Review also reports LB503, LB358, LB155 to Select File. I have appointment letters from the Governor, appointments to the State Employees Retirement Board and the Coordinating Commission. And I have an amendment to be printed by Senator Ashford for LB63A. (Legislative Journal pages 1416-1419.) [LB63A LB122 LB155 LB238 LB294 LB347 LB358 LB360 LB372 LB441 LB446 LB500 LB503 LB524 LB533 LB537 LB562 LB587 LB598 LB604 LB627 LB631]

Mr. President, pursuant to the Speaker's direction, the next motion is with respect to LB545A. The bill is on E&R for engrossment. Senator Adams would move to return LB545A to Select File for a specific amendment, AM1386. [LB545A]

SENATOR ROBERT: Senator Adams, you're recognized to open on the motion to return to Select File for a specific amendment. [LB545A]

SENATOR ADAMS: Thank you, Mr. President. Basically what we're doing is a housekeeping measure. What we need to do is to...on LB545A is to add an operative date. In order to make it clear that the operative date on both LB315, the mainline budget bill, and LB545A are the same operative date. We want to move it back. We would set the operative date to be July 1, 2009. And, again, it is basically a housekeeping chore to make sure that they both have the same operative date. Thank you, Mr. President. [LB545A LB315]

SENATOR ROBERT: Thank you, Senator Adams. Members, you have heard the opening on the motion to return LB545A to Select File for a specific amendment. Are there members wishing to speak? Seeing none, Senator Adams, you're recognized to close on the motion. Senator Adams waives his opportunity. The question before the body is, shall LB545A return to Select File for a specific amendment? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB545A]

CLERK: 30 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB545A]

SENATOR ROBERT: The motion is successful. [LB545A]

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CLERK: AM1386, Mr. President. (Legislative Journal page 1419.) [LB545A]

SENATOR ROBERT: Senator Adams, you're recognized to open on AM1386. This is the actual amendment. [LB545A]

SENATOR ADAMS: Right. And what we have done is then to...it is to change that operative date to July 1, 2009, just as I described previously. Mr. President, thank you. [LB545A]

SENATOR ROBERT: Thank you, Senator Adams. Members, you've heard the opening to AM1386. Are there members wishing to speak? Seeing none, Senator Adams waives closing. The question before the body is, shall AM1386 be adopted on LB545A? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB545A]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB545A]

SENATOR ROBERT: AM1386 is adopted. Senator Nordquist for a motion. [LB545A]

SENATOR NORDQUIST: Mr. President, I move LB545A to E&R for engrossing. [LB545A]

SENATOR ROBERT: Members, you have heard the motion. All those in favor signify by saying aye. Opposed nay. LB545A does advance. [LB545A]

CLERK: Mr. President, I have a request from Speaker Flood to unanimous consent to expedite LB545A. [LB545A]

SENATOR ROBERT: Speaker Flood, you're recognized. [LB545A]

SPEAKER FLOOD: Thank you, Mr. President, members. This is the same as we did earlier today on LB545. This moves the A bill expedited review from the bill drafters upstairs. It's my hope that it comes back yet today and can be placed on Final Reading, not to be taken up on Final Reading, but to sit over its constitutional required one day before it's read again. I would ask for unanimous consent to expedite LB545A. [LB545A]

SENATOR ROBERT: Thank you, Speaker Flood. Members, are there any objections? Seeing none, so ordered. Mr. Clerk, next item on the agenda, Select File. [LB545A]

CLERK: Mr. President, LB224 on Select File. Senator Nordquist, I have Enrollment and Review amendments, first of all. (ER8107, Legislative Journal page 1284.) [LB224]

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SENATOR ROBERT: Senator Nordquist for a motion. [LB224]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB224. [LB224]

SENATOR ROBERT: Members, you've heard the motion. All those in favor signify by saying aye. Opposed, nay. The amendments are adopted. [LB224]

CLERK: Mr. President, Senator Carlson would move to amend. Senator, I have AM1295 in front of me. [LB224]

SENATOR ROBERT: Senator Carlson, you're recognized to open on AM1295. [LB224]

SENATOR CARLSON: Mr. President, I would like to withdraw that amendment. [LB224]

SENATOR ROBERT: AM1295 is withdrawn. [LB224]

CLERK: Mr. President, Senator Carlson would move to amend with AM1365. (Legislative Journal page 1400.) [LB224]

SENATOR ROBERT: Senator Carlson, you're recognized to open on AM1365. [LB224]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. This amendment helps to focus and frame discussion that occurred on General File regarding the committee amendments. As you recall, the committee amendments insert revisions to Section 2-101 by what becomes Section 1 of the bill in its current form. Section 2-101(4) currently states legislative intent that the fair relocated to Fonner Park and that the fair board cooperate with Fonner Park, the city of Grand Island, and any other appropriate entities to devise and execute a site plan of improvements necessary to host the state fair. Section 2-101(4) is coupled with Section 2-113 which provides that the fair shall relocate to Grand Island upon the completion of certain contingencies, including that funds for purpose of carrying out Section 2-101(4) be provided by the city of Grand Island in a cumulative amount of \$8.5 million by July 1, 2009. The committee amendment adopted on General File contains a clarification to Section 2-101 that the plan of improvements to which the contributions of funds by the university and the city of Grand Island could be applied includes necessary relocation of existing improvements at the site to execute the site plan. As explained, as the site plan at Fonner has evolved through a series of planning meetings among the relevant parties, the layout of new buildings has generally shifted westward on the property. New construction will occupy existing park areas in the center part of the grounds that initial thinking intended to preserve. This has shifted parking demands on areas currently occupied by recreational field assets of the community of Grand Island located on Fonner Park not initially

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intended to be effected. Because of the final configuration arrived at, the location of the field as well as parking for participants and fans utilizing the fields will conflict with parking during the fair itself. Additionally, it's increasingly apparent that the fields and parking for athletic events may conflict with other events that will utilize the facilities throughout the year. Thus, this will impose a burden on the city to replace these assets elsewhere in the community and impose an unforeseen additional burden by the community above and beyond its LB1116 commitment in order to accommodate the state fair. As we discussed, a purpose of the committee amendment was to clarify that the expenses incurred to execute the site plan by removing and replacing these recreational assets displaced by the site plan could be counted toward the city's LB1116 financial commitment. AM1365 would insert a companion clarification in the certification provisions of Section 2-113. The amendment would essentially state explicitly what is inferred under the bill as amended by the committee amendment. It was anticipated that a debate would focus on this aspect, and part of the purpose of this amendment is to provide the mechanism to debate the merits of this proposal and for the Legislature to provide a clear resolution of that question in guidance to the city of Grand Island and Department of Administrative Services for the completion of the LB1116 certification process. The second part of the amendment strikes language that's obsolete due to changes in the provisions of the pari-mutuel tax made by the committee amendments. As introduced, LB224 would have created a new fund known as the state fair facility maintenance assistant fund. The original bill contained a companion provision inserted into Section 2-1208.01 that \$30,000 of pari-mutuel tax collections would be directed annually to this fund and that the funds would be expended annually by the Department of Economic Development as grants and aid to the facility hosting the state fair. As revised by the committee amendment, the provisions for pari-mutuel tax directly allow a credit for racing conducted upon premises that host the state fair provided retained funds are used for maintenance of facilities. This replicates the existing exemption from the pari-mutuel racing at State Fair Park provided the fair board utilizes retained funds for maintenance and upkeep. The committee amendment struck the provisions creating the state fair maintenance assistance cash fund which became obsolete with the direct credit. However, the amendment failed to delete the companion language in Section 2-108.01 directing the \$30,000 to the cash fund. The amendment before you strikes this obsolete language that was inadvertently left in the bill. Mr. President, how much time do I have? How much time? [LB224]

SENATOR ROBERT: 5:30. [LB224]

SENATOR CARLSON: Okay. Thank you. I'd like to review a little bit for the body what has taken place up to this point. We go clear back to a year ago and even longer when this move was discussed. And it was determined that \$30 million of additional infusion would be necessary at the existing State Fair Park in order to bring that up to standards necessary to hold a good state fair. If we would have utilized the existing location, State Fair Park, the state was going to provide \$5 million, the State Fair Board \$7 million for a

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total of \$12 million. With \$30 million required, that left it \$18 million short and it wasn't likely that any other group, including the city of Lincoln, was going to come up with that kind of money. So the proposals were presented for other locations. The Lincoln site that was studied involved a shortage of almost \$18 million, even out at 84th Street with the Lancaster Event Center. The Grand Island site with the same dollars, no additional dollars were required. So a difference of about \$18 million. LB1116 stated clearly the State Fair Board shall assist in devising and executing a site plan of improvements. The State Fair Board hired a professional consultant who suggested a general plan for the Fonner Park area. After last year's session when Grand Island, Fonner Park, the State Fair Board met at the site, they realized the consultant's suggested plan was not the best plan for Grand Island. At that time, two things were realized. Rearranging the plan was in order to help Fonner Park with its racing as well as increase the facilities for the state fair. The new plans allowed for a larger, friendlier facility for both Fonner Park and the state fair. The new plan required the relocation of facilities, these ball fields. The ball fields where they're located now are needed for parking, made them unusable for about two months of the year. It would required repair expense after the fair each year and the relocation of these made sense. The State Fair Board met last Friday, unanimously passed a resolution endorsing AM1365. I appreciate your consideration of AM1365, and I'll try to answer questions that you may have. Thank you, Mr. President. [LB224]

SENATOR ROBERT: Thank you, Senator Carlson. Members, you have heard the opening to AM1365 to LB224. Those wishing to speak: Senators Karpisek, White, Hansen, Gloor, and Wightman. Senator Karpisek, you're recognized. [LB224]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I told Senator Carlson that I wouldn't pick on him much on this and I will stick to my word, but if someone really wants to get into a disagreement on this, we'll be here a long time. That's my warning. Senator Carlson, would you please yield to some questions? [LB224]

SENATOR ROBERT: Senator Carlson, will you yield to a question? [LB224]

SENATOR CARLSON: Yes, I would. [LB224]

SENATOR KARPISEK: Senator Carlson, in your opening you stated that the plans last year did not call for those fields to move. [LB224]

SENATOR CARLSON: That's... [LB224]

SENATOR KARPISEK: Did you find something that I haven't seen yet that you stated that or is that just what you think happened? [LB224]

SENATOR CARLSON: Maybe I didn't catch you. Would you restate what you just asked

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me, please? [LB224]

SENATOR KARPISEK: In your opening you said that the initial plans did not call for those fields to move. [LB224]

SENATOR CARLSON: That's true. [LB224]

SENATOR KARPISEK: And where did you find that because last time I said if we have something stating that, I'll be glad to apologize and not bring it up again and I will get out of the way. I haven't seem any of that. Did you find something that did say that? [LB224]

SENATOR CARLSON: Senator Karpisek, that's really through verbal discussions. As I stand here, I guess I can't identify something specific out of LB1116 that would indicate that. I would have something I'd like to suggest out of LB1116 that I think addresses it in general, but not specifically saying ball fields wouldn't have to be moved. [LB224]

SENATOR KARPISEK: Okay. I just wanted to bring that up because Senator Hansen told us last time that he was involved in this and those fields were always going to move. My recollection is that those fields were going to move. So I just want to say if we know for sure that we can say that they were not going to move, fine. If not, let's not say it. You talked about the other places and how much it was going to cost if we would have stayed at State Fair Park. You said that no one else...or there wouldn't have been the money to come up with. I don't agree. I think if we would have given people a chance to come in and maybe put some money towards State Fair Park, we may have come close, maybe not. I don't know. My point there is that Grand Island said they'd pay \$8.5 million and now it's \$7 million. I don't think that it's fair to give them that shot and now we want to move down to \$7 million. Again, I have said I wouldn't say much on this, but I did want to get my point across that I don't think that we're doing the right thing here. I've said it before and I don't want to say it too many more times. However, if I hear things that can't be substantiated, I will say it many more times. I don't think that we should give Grand Island 80 acres of land for \$1 to build new ball fields and let them take \$1.5 million off of what they were going to pay for the fair to move. One and a half million dollars could do a lot of things out at that fair or the Fair Board could have. I don't think this is the way to go. I don't think that that's the way things were set up. In fact, if anything happened I think that we maybe looked at those fields and said, they'd cause too much trouble, let's not even bring it up. I don't know. Again, I don't think that this is fair to the state, the university, or anyone else that's involved because \$1.5 million will not be going to the fair... [LB224]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB224]

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SENATOR KARPISEK: Thank you, Mr. President...it will be going to ball fields. And I have no problem with ball fields. I understand the ball field situation. And I hope they have very nice ball fields. I don't even have a problem with leasing the 80 acres for \$1. I don't have any problem with that at all. However, taking \$1.5 million off the top to move them, I do have a huge problem with. I will listen. I hope not to get involved again. I hope this is my last say on it. I will be listening, though, and I will interject again if I don't like the way this is going. Thank you, Mr. President. [LB224]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator White, you're recognized. [LB224]

SENATOR WHITE: Thank you, Mr. President. I join Senator Karpisek in a general dissatisfaction about how this came about. And I have talked to some of you off the mike, some people who are fiscally proud to claim they're cheap, they're fiscal conservatives who'd vote for this. This was bad management. It was bad planning at our level, terrible planning. There is a site plan that indicated those ball fields were to be part of this, and then we say that was inadvertent. I don't care if they initially planned to be or the State Fair Board just all of a sudden decided they got big eyes and want at them. We're in the middle, allegedly, of this terrible fiscal crisis, and we are. And yet here we are not only moving \$1,500,000, many times the amounts we've been fighting over when I have heard voice after voice crying out for fiscal responsibility, many times that, and we're moving it without a blink. Why? Because it helps rural areas, not urban areas. I don't have a problem helping Grand Island. I don't have a problem helping rural areas. But I do have a problem with a double standard. Now, let's deal with this fact: \$1,500,000 is moving away from preparing a site that was represented to us would be ready. And beyond that, 80 acres of land that the state owns, and it's irrigated corn land, is going to be lost for the next 100 years. I have a problem with that, too, because, again, that is a budgetary hit. Now, one of the things...and I want to thank Senator Carlson who's been more than a gentleman throughout this disagreement. He pointed out that that land is actually only being rented for \$150 an acre. My understanding is irrigated corn land should be rented out for between \$200 and \$250 an acre. That raises a whole nother question. It is true we only lose 12,000 a year in income, but a bigger question is, how come we have not been getting markup price for our land? And how much other irrigated corn land and other land and other assets of the state are we not collecting fair sums for? Now, I have a problem with this because from the inception in this body, if you were here you will recognize that it was the most secretive of negotiations. I mean, it made the appropriations process look like a kindergarten play compared to what was going on here. Literally, the first secret hearing since the Franklin Credit Union child abuse scandals were held over this matter. It then popped out late in the session and was jammed through in a hurry and this is what we get, folks, when we do that. And why? Well, because there were powerful rural interests that wanted it and they thought that was the best way to get it through and steamroll it. Okay. I get it or I've lost a lot of fights to those, but look at the cost to that. Look at the cost to all of us. We

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are now looking at if you accept \$12,500 as fair market value for irrigated corn land and it is not, then you're losing over 100 years not in present value \$1.25 million. I get that. And you're right. Senator Karpisek is right. Recreation for our youth is worth that. But that is a decision that should be made as part of the package in a contemplative fashion, not thrown in last ditch to patch a boat that's leaking and it's brand new, just came out of the docks. And yet how many more of these will be showing up? This is only the state fair side at this point in time. They haven't even begun to break ground. How many other times will they come for additional money that we didn't contemplate because we didn't hold proper hearings because hard questions weren't asked early. And that, on the other side, is the Innovation Park... [LB224]

SENATOR LANGEMEIER: One minute. [LB224]

SENATOR WHITE: ...which is the university's side of this. How much more General Funds will go to that because we didn't plan properly, because we voted for something not knowing the real cost? And, folks, I've been around here long enough now that I actually understand that sometimes these things just honestly happen. And sometimes they're actually cynical. I have seen from the inside senators push bills knowing the real cost won't come clear until later. And I would tell you that's corrosive. I know that we often respect the committee system, and I do because people work hard on it. But part of the thing of a committee system is it must meet the challenge and the acid test of debate. [LB224]

SENATOR LANGEMEIER: Time. [LB224]

SENATOR WHITE: Thank you. [LB224]

SENATOR LANGEMEIER: Thank you, Senator White. Those still wishing to speak, we have Senator Hansen, Gloor, Wightman, Avery, Carlson, and Dubas. Senator Hansen, you're recognized. [LB224]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I would like to ask Senator Carlson a couple of questions if I might. [LB224]

SENATOR LANGEMEIER: Senator Carlson, would you yield? [LB224]

SENATOR CARLSON: Yes. [LB224]

SENATOR HANSEN: Senator Carlson, in your opening you did state that there was a site plan that was approved by everybody involved last year. And that was true. I was a member of the task force and I was in on a few of those late discussions. There was a site plan that was approved by all parties involved. And then in your opening, you said when the State Fair Board got out to Grand Island and on the ground, boots on the

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ground there, they decided that the whole building complex, I assume it was, was going to be moved to the west. Was that just to get it closer to Kearney or closer to North Platte or what was the idea and what was the time frame of that move of the site plan? [LB224]

SENATOR CARLSON: Senator Hansen, I don't really know the set up at Fonner Park. I've been there, but I haven't been there to look at how things are arranged. The State Fair Board fought early that they could have buildings on the south end, and that would be fine and it would allow them to stay in the original area that they planned to stay in, but they found when they got out there that that wasn't going to be a real hardship for Fonner Park horse racing. And one of the big barns that they were going to use and change for the state fair they found out they had to have different stalls and they would have to put those in and take them out at a great expense. And that along with looking at what was there and the three groups, the State Fair Board, the city of Grand Island, and Fonner Park, decided it would be better to move these facilities further west and not encumber that area for the horse barns for horse racing. That's what I've been told that was a big reason in the change. [LB224]

SENATOR HANSEN: Okay. The site plan was changed then sometime after first of December, I think. The last time the task force met, I think we met once in Grand Island and the rest of the meetings, of course, were held centrally in Lincoln. And so that's when the site plan evidently was changed. And then that's when they lost their parking, is that correct? [LB224]

SENATOR CARLSON: The desire to move facilities further west brought about the decision that that's not going to leave enough parking, and so we need to be on those ball fields or move the ball fields. And I certainly understand how moving them is better than parking on them. [LB224]

SENATOR HANSEN: I don't think parking on the soccer fields would be an option because you have...you get your rain I think it would be...it wouldn't work at all. But they did point at the ball fields the day that we met, the task force met in Grand Island and said that would be at least overflow parking. And, you know, if the fair gets big, some day they will probably need that. But I don't know if the ball fields were in immediate danger of being parked on because, you know, nobody knows how big the fair will get some day and hopefully it will continue to grow. Has anyone with the city of Grand Island or the State Fair Park made any use for the parking lot? That's a pretty big area down there. You cover it over with asphalt or rock or something. Is there any other year-round use for a facility like that? [LB224]

SENATOR CARLSON: Well, we've been told that with the event center there that there are more events planned for that, and with these new buildings, it will accommodate bigger events which will require more parking, and so they feel like that area will be

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used certainly much more than just the state fair. [LB224]

SENATOR HANSEN: Okay. That will become the main parking lot then to the south. (Inaudible.) [LB224]

SENATOR LANGEMEIER: One minute. [LB224]

SENATOR CARLSON: They would be coming from the west, I'd say to the west. [LB224]

SENATOR HANSEN: The soccer fields are to the south though, I believe. [LB224]

SENATOR CARLSON: The west, soccer fields to the west. [LB224]

SENATOR HANSEN: Okay. Wherever the soccer fields are would become the main...okay. In some of the handouts that we got last year, they totalled up all the revenue, what Grand Island is going to give, what the Legislature appropriated, and that totaled \$42 million. And then we flip the page over and Senator Avery shared that with me the last time we talked, and the time he won't share it with me, so. But there was an area in there about three-fourths of the way down, and it gave a figure there for parking development. Do you recall what that number might be? [LB224]

SENATOR CARLSON: I don't at all, Senator Hansen. [LB224]

SENATOR HANSEN: I don't either and I was supposed to look up that task force, my book last weekend when I was home and I failed to do that. But there were monies set aside for parking development. And I think someone needs to look that up and find out what that figure was. Thank you, Mr. President. [LB224]

SENATOR LANGEMEIER: Time. [LB224]

SENATOR HANSEN: Thank you, Senator Carlson. [LB224]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Gloor, you're recognized. [LB224]

SENATOR GLOOR: Thank you, Mr. President, members. Let's remember that we're talking about \$1.5 million in real expense to the city of Grand Island to move these fields. There are real dollars involved to the city, a real expense that's going to have to be taken on for the replacement of these fields lost to the expansion of the state fair. I understand Senator Karpisek's passion to try and get some degree of documentation on what was and wasn't agreed to, and a number of people went through transcripts of the hearings that was held last year at this time. No one can find specific reference to

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parking in any of the transcripts of the back and forth that was going on. Of course, that means that the recollections of people who say they heard that aren't anymore valid from those of us who say it was clear that they weren't. What we have are maps that were handed out when we talked about this in General File dated April that clearly showed, at least from the planning that Fonner and the State Fair Board went through, that was an understanding. But we can't find that solid documentation that everybody's talking about either way. I think what happened as Senator Hansen just pointed out is during the driving around, looking at the property, people pointed to different areas and said, and we hope to have parking here and we hope to have a barn over there, etcetera, etcetera. But there is no solid transcript either way. I would imagine somebody pointed it out. I would say that for all the discussion about what's right and what's wrong, there is an awful lot right in this move. This is an institution, the state fair, that's over 100 years old. We're talking about our Nebraska State Fair that's over 100 years old and we're moving it to another city. And we're moving it to another city in a very short period of time with a lot of entities involved and there's a very, very minimal amount of disruption and controversy about this, except maybe in these halls. Here are...and I made a short list sitting down here, of all the people that I know are involved. It's not all inclusive. There are various state agencies including DAS, the veterans departments, there's the State Fair Board, the Fonner board, the city of Grand Island, Hall County, the Grand Island Chamber, a work group made up of Grand Islanders and their state fair committee, the city of Lincoln, the University of Nebraska. There are a variety of other peripheral organizations that had buildings out at the state fair who have been brought along with this. And I haven't included yet the soccer moms and dads that are impacted by the move of the ball fields. All of these people seem to be working and coming up with a degree of comfort level with this move working through their problems with a minimal amount of disruption. And the \$1.5 million is less than 4 percent of the total dollars we're talking about. For this to come together without any hitches would have not been, I don't think, reasonable to expect. For there to be a few questions and issues that have to be worked through, for that to include ball fields to me is something that we should have expected, that there was going to be something in a complex move like this with a lot of entities involved that would eventually raise its head. And the fact that it is just this and that we have worked out a solution for this with a lot of these players involved that won't impact our General Fund this year is somewhat amazing. Remember, it won't affect our General Fund. If somebody right now as a community is interested in stepping forward and coming up with \$7 million, \$8.5 million, \$9 million, \$10 million to move the state fair at this late date I'd like to hear it. But I don't think that's going to happen. The horse is out of the barn, so to speak, to use state fair terms. A decision was made... [LB224]

SENATOR LANGEMEIER: One minute. [LB224]

SENATOR GLOOR: ...last year--thank you, Mr. President--and we were trying to move forward as best we can. A lot of people are involved. A lot of people are moving forward

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in a very positive manner. There are a few small issues that we can reconcile as a result of passing AM1365. Grand Island will be at the dance with \$8.5 million. The \$1.5 million, we need some reconciliation on and we can move forward. Thank you for support on this very, very, very important issue for the State Fair of Nebraska. [LB224]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Those wishing to speak are still Senators Wightman, Avery, Carlson, Dubas, Harms, and Loudon. Senator Wightman, you're recognized. [LB224]

SENATOR WIGHTMAN: Thank you, Mr. President. In light of the hour and the number waiting to speak, I'll try to be brief. I think it's unclear. I think that Senator Gloor pretty much set forth the reasons here that I agree with. Probably \$1.5 million is a lot of money in today's budget, but it's not very much when we look at the overall move from Lincoln to Grand Island. Obviously the number one issue that we discussed last years was freeing up the area for Innovation Park. That was probably the overriding issue as I remember the debate. So I know there's been discussions of the \$1.5 million. There's also been discussion of the 80 acres of land. I think Senator Gloor has left with my understanding was that maybe that land was deeded back 50 or 75 years ago from Grand Island to the state of Nebraska for the Soldiers' and Sailors' Home. If Senator Gloor would yield to a question, I'll see if I can confirm that. [LB224]

SENATOR LANGEMEIER: Senator Gloor, would you yield? [LB224]

SENATOR GLOOR: Yes, I would. [LB224]

SENATOR STUTHMAN: Is that a correct statement that that land that was occupied by the Soldiers' and Sailors' Home that is now apparently there's been an agreement that would be deeded back to Grand Island was originally deeded from the city of Grand Island or from a group in Grand Island to the state for \$1 or very little consideration? [LB224]

SENATOR GLOOR: Thank you, Senator Wightman. Yes, that's a very poignant part of the story that back in the 1880s in order to attract the old Soldiers' and Sailors' Home, which it was called in those days, to the community of Grand Island, the city individual members, community residents, mothers and fathers, went on a fund drive and raised the money to buy the property to give to the state for the sole purpose of building the Soldiers' and Sailors' Home. It's sort of serendipitous that here we are over 100 years later, 120, 125 years later with the opportunity for some of that money to now be used for...and some of that land to now be used for the state fair park move. [LB224]

SENATOR WIGHTMAN: Thank you, Senator Gloor. While, obviously, there's no obligation on the part of the state of Nebraska to deed that land back once you've been given land and that conveyance has been made, there's certainly no obligation unless

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there was something contained in the original deed that it would revert back. But I still think it's a consideration that the state could take into account and probably have taken into account. Senator White argues that the \$150 dollars is insufficient as far as rent that should be \$200 to \$250. I know of a lot of land in the area of Lexington, at least, that's irrigated crop land very similar probably to the land in Grand Island that is being leased for \$150 and acre. I think some of that \$200 and \$250 of corn was maybe at the \$5 to \$6 an acre and there were some rather exorbitant rent agreements entered into at that time. I think you'd be hard pressed to find many \$250 today. I know Senator White, to his credit today, did say that you couldn't multiply the rent times 99 years or 100 years and that would be the value of that land. He did pretty much argue that I think when we previously addressed this bill when he made a statement I think that that would be \$1,200,000. I think the net worth of that or the value of the land either one would probably be in the \$250,000 whether we looked at the present value of \$12,000 or even if it be \$16,000 or we looked at the value of the land itself, probably \$250,000. So to even make any argument that it might be \$1 million or \$1.2 million that is being gifted would be, I think, very excessive. It wouldn't be anywhere near that either on the value of the land or the present value of the lease. And when we take into account that that land was previously given... [LB224]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: One minute. [LB224]

SENATOR WIGHTMAN: ...by the city...thank you, Mr. President...was previously given by the city of Grand Island, I think you can well justify that transfer back. Again, it appears that there was no firm agreement with regard to the use of the soccer fields and the ball fields for a parking area. So it seems to me that certainly the action being proposed is justified and I do support AM1365 and LB224. Thank you, Mr. President. [LB224]

SPEAKER FLOOD: Thank you, Senator Wightman. Senator Avery, you are recognized. [LB224]

SENATOR AVERY: Thank you, Mr. President, colleagues. I think we need to be reminded why we're having this discussion. The state fair...we made the decision last year to move it Grand Island for a very good reason. And that was to make room near the UNL campus for a research campus. This will lead to public/private partnerships. It will foster collaboration and research development in such things as biotechnology, agriculture, nutrition, nanotechnology, other health areas. It is my belief and I think most of the people who have been associated with this program that the research campus will become a vast engine for growth, not only for the university, but for the state as well. What happens in a place like that is it's an incubation place for the generation of new knowledge. And believe me, folks, we are entering a period in this twenty-first century

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where new knowledge is going to be more important every day. The research campus that the university is planning for that land will become a thriving, scientific community where the best minds can come together and help shape the future not only of the university, but the future of this state and the future of the local economy. I can understand why Chancellor Perlman and President Milliken are excited about this. What we're doing is launching the twenty-first century here in the state of Nebraska with a knowledge-based economy. That's the future. We need to be investing in the future. In fact, I would submit to you that Nebraska's future depends on this. This will become tremendous agent for growth. The future of Nebraska depends on our ability to attract and retain the best talent that's out there. This will help us do that. If we turn our back on it, if we try to scuttle this agreement now as I think it appears that some would like to do, it would be a grave mistake. Nebraska already, the University of Nebraska is one of the leading sources of research and development in the state. In fact, it has over \$330 million in new research and development activity annually. I would ask you to keep that in mind. We need this effective catalyst for change. We need an effective catalyst for regional innovation-based research and economic activity. That's what this would do. It will attract the scientists. It will attract the best students, the best researchers, the best faculty. And you'll have that private/public research collaboration that's so important. It must be contiguous to the campus where you can have the close interaction with interns and graduate students and faculty moving back and forth. This is one of the best ideas the state has had in a generation, and I hope we don't lose sight of that and continue to support it. Thank you. [LB224]

SPEAKER FLOOD: Thank you, Senator Avery. Senator Carlson, you are recognized. [LB224]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I want to comment on two things that I know are areas of question or concern with many of you. First, removing those ball fields. It's likely under the current site plan the ball fields would impose an expense and additional planning difficulties. The existence and utilization of the ball fields present an obstacle in the construction phases as well as in the planning and conduct of the fair itself as well as other events throughout the year. It's important to understand that it was never envisioned that the \$42 million of resources made available by LB1116 would be used entirely on buildings. Part of the \$42 million includes soft costs, including other site enhancements. Removing the ball fields even to the point of compensating the city to reestablish them elsewhere would be a desirable expenditure to optimize the site plan. Also, I'd like to read something from the lease of the land that has been requested to relocate these ball fields to. And this is not part of the bill, but I think the lease itself could be interesting. Keep in mind that originally that land was owned by people of Grand Island and they gave it to the state. Now they've asked for a portion of it back. If I gave Senator Adams a section of land and let him have the income off it for years and years and years, and then I went to him and said, Senator Adams, I'd like 80 acres of that back for this reason, I think he'd think

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that was okay. And in the lease itself it says, the state of Nebraska recognizes the importance of recreational facilities to the well-being of the citizens in Nebraska. The state further recognizes the need to facilitate development of new recreational facilities as a result of the implementation of LB1116 related to the move of the Nebraska State Fair from Lincoln, Nebraska, to Grand Island, Nebraska. In recognition thereof, the state agrees to lease the premises to the leasee for \$1 per year. Notwithstanding the foregoing should be the Nebraska State Fair remain in Lincoln, Nebraska, or it be relocated to a city other than Grand Island, the parties agree to negotiate a revised rental rate in good faith for the lease term beginning January 1, 2015. So I think that it makes sense that there would be that kind of an arrangement. It's something for the public good. It's not only for the public good of the people in Grand Island, it's for the public good of everybody in the state of Nebraska that takes part in the state fair. And I think that I would ask you to remember another thing. Because of the economic times and because of the good cooperation between the groups that are involved in this move, and the proposals have come in at lower dollars than anticipated, we're getting more facilities for less money. More facilities that can be a real top-notch, first-class site. And that does include the relocation of these fields. Thank you, Mr. President. [LB224]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Harms, you are recognized. [LB224]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Carlson, would you yield please? [LB224]

SENATOR CARLSON: Yes. [LB224]

SENATOR HARMS: Thank you, Senator Carlson. Senator Carlson, since you've gotten involved in this project, have you had any opportunity to maybe visit with Senator Erdman for any kind of background information to maybe have a little bit better understanding about how things took place? [LB224]

SENATOR CARLSON: I have had a brief visit with him, yes. [LB224]

SENATOR HARMS: Was that helpful for you in regard to the needed background? [LB224]

SENATOR CARLSON: Well, it is helpful to know a little bit more about the history of how things took place and what transpired and, there again, not being present myself I'm simply going by what Senator Erdman and others have told me. But it was helpful, yes. [LB224]

SENATOR HARMS: Senator Carlson, do you know in regard to whether or not there were any secret or closed sessions, and if there were, how many there were? I know

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that Senator White has brought that forward and I have some question about the fact, was that done secretly? Because I remember the media covered all that stuff. It was in the paper constant flow about what was going on and what was taking place. It didn't seem to me, at least from my point of view there was any secret meetings or hidden meetings, so can you help me with that? [LB224]

SENATOR CARLSON: It was my understanding that there was one meeting that took place as the final plans were being put together and that the Ag Committee decided that it would be best to meet in private. And went over those plans and then released them to the public after. Now, again, I wasn't there. I don't know exactly the time frame, but that's how I understand it took place. [LB224]

SENATOR HARMS: Do you know if there are any records and information that shows when they met and whether they were closed and whether they were open or not sessions? [LB224]

SENATOR CARLSON: I think there are, Senator Harms. To be honest with you, I did not look personally into those things because I've picked things up where they were and tried to move ahead with the interested parties and finish the job. [LB224]

SENATOR HARMS: Well, I appreciate what you're doing here. Senator, do you know whether or not Grand Island has looked at the possibilities of looking for some stimulus money? It does create jobs. It does create construction. It does do a lot of good things for the community and the state of Nebraska. Do you know whether they're pursuing anything like that that would be helpful? [LB224]

SENATOR CARLSON: I don't know that the have, and I am confident and they're confident that the \$8.5 million will be there and they'll meet their requirement and go forth with the development of the site. [LB224]

SENATOR HARMS: Well, thank you, Senator Carlson. I do support AM1365 and LB224, and I would ask all of us to support this and move it forward. Thank you, Senator Carlson. [LB224]

SPEAKER FLOOD: Thank you, Senator Harms. Senator Louden, you're recognized. [LB224]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look some of this over and what we've discussed on this State Fair Park and what we're doing with it, I've always supported moving the state fair to Grand Island. Also, as we talk about it, I don't have a problem with that \$1.5 million to use in kind for the city of Grand Island to do that to move their ball parks and use that as part of their in kind usage of part of their \$8.5 million. I guess what I do have a problem with is about the 80

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acres we're talking about that we're going to give them to move their ball fields to. I would like to see a little bit more about that because I remember when we first started on this...moving this state fair to Grand Island and they were going to put in statutes, they're just going to give the university or somebody the whole State Fair Park up here for \$1 or \$2 or whatever and there wasn't any kind of contract or sale agreement. There wasn't any agreement whatsoever made. So before we start talking about we're going to give 80 acres away, I would like to see a little bit more information on that on where it is. Now, Senator Gloor has drawn me a map somewhat to where it is, and I presume it's a piece of ground north of the Chicago...north of the Burlington Northern Railroad track and near a lake out there that was used...it was built for fill for the overpass to go over the railroad tracks in Grand Island. So this is where I think we need more information. Now, if that doesn't have anything to do with advancing this bill, I don't have a problem with it. But if that's part of advancing this bill, I do have a problem with it. I was wondering, is Senator Carlson around? Tom? [LB224]

SPEAKER FLOOD: Senator Carlson, will you yield to a question from Senator Louden? [LB224]

SENATOR CARLSON: My question, Senator Carlson, is does this given this 80 acres or whatever it is of land to Grand Island, is that part of the amendment or is that just a sidebar someplace? That's the part I have the problem with. I don't have a problem with the \$1.5 million for them to use in kind and that sort of thing, but I do have a problem of giving them the money for the ball field. Could you explain to me how that's come about and what that has to do with the price of beans, I guess? [LB224]

SENATOR CARLSON: Well, the Department of Administrative Services has jurisdiction over that land. It's declared excess land by a vacant building and excess land committee. And they are making decisions right now on how that land can be used. [LB224]

SENATOR LOUDEN: How long has that been declared excess land? I mean, if they've owned it for 120 years, how come they just decided here in the last year or so to declare it excess land, I guess? [LB224]

SENATOR CARLSON: I've been told that it's been declared that way for six or seven weeks. [LB224]

SENATOR LOUDEN: Okay. And was there a particular reason why they declared it that after 100-and-some years if they owned it? [LB224]

SENATOR CARLSON: I don't know that and I don't know if Senator Gloor knows that, but let's go back. I think it's important that we go back in the history, people of the city of Grand Island owned that land and gave it to the state. [LB224]

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SENATOR LOUDEN: Well, I have no problem with that. And like you say, that's history. I do know that... [LB224]

SPEAKER FLOOD: One minute. [LB224]

SENATOR LOUDEN: ...where Senator Gloor drew the map, that's out there where that lake is. And that dirt was given to I guess you might say the railroad or somebody, and they built that overpass with the railroad over the Union Pacific Railroad. And that was the reason they ended up with the lake there, and that's the reason the NRD got that lake as a recreation area. That was a kind of a by-product of it, and that is drainage area there. And I have no problem with giving them enough to build a ball field on, but do they need the whole 80 acres to build a ball field on if that is productive farm ground? This is my question that I would wonder that I would like some answers on that part of it. [LB224]

SENATOR CARLSON: Well, it's not a ball field. There are several ball fields because it's ball fields and soccer fields. And so to accommodate a lot of young people. And the cost of it, that was being cash rented at \$158 an... [LB224]

SPEAKER FLOOD: Time, Senator. [LB224]

SENATOR LOUDEN: Thank you, Mr. President. [LB224]

SPEAKER FLOOD: Thank you, Senator Louden, Senator Carlson. Senator Dierks, you are recognized. [LB224]

SENATOR DIERKS: Thank you, Mr. President, Mr. Speaker. I wonder if I could have a little conversation with Senator Carlson. [LB224]

SPEAKER FLOOD: Senator Carlson, will you yield to a question from Senator Dierks? [LB224]

SENATOR CARLSON: Yes, I will. [LB224]

SENATOR DIERKS: I'm going to give you the rest of my time when I get through with this, Senator Carlson. But I just wanted to mention the fact that I was on the Ag Committee the last two years when this whole process was taking place. We had meetings with the group who is making the plans for the structure of the fair grounds. And it didn't matter where it was going to go at that time, they just were making these plans. So we would meet with them individually and we also met with them with the press. So, I mean, it wasn't like we had a bunch of secret stuff going on. We were just gathering information. I think those are the meetings that you're probably talking about.

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Senator Dubas might have a better explanation for it, but I think that's what it was. I should tell you that I support...and I appreciate Senator Karpisek's concerns, but I still think that we support the committee process and the committee has decided that this is the way we want to go. And I'm standing in support of this amendment as well as the legislation. And the rest of the time is yours, Senator Carlson. [LB224]

SENATOR CARLSON: Thank you, Senator Dierks. And for the body, those that are here today, Senator Dierks, Senator Dubas, and Senator Karpisek were on the Ag Committee last year and were in on those meetings and I know were very helpful in the whole process. Senator Loudon, I would finish my statement to you. The rental income off of those 80 acres is about \$12,000. And what does that represent in terms of what kind of an asset would you need to generate \$12,000 a year for the state? And based on to the penny I'd figured out using a 5 percent interest rate it would take \$248,000. That's the amount of money necessary to generate that kind of income. Well, \$248,000 is a pretty good sum of money. But we talk in big figures these days. And I think it's entirely appropriate for the Department of Administrative Services to decide that that land can be leased for \$1 a year for the public good. And that includes not only that area, but it includes the public good that the site at Fonner Park will provide for the state fair. Thank you, Mr. President. [LB224]

SPEAKER FLOOD: Thank you, Senator Carlson. You're time is next. You may continue. [LB224]

SENATOR CARLSON: I'm going to shift gears just a little bit. Some of you that were here last year remember that in our discussion on the state fair I jumped on a radio station in Lincoln because I thought they'd missed the boat on the state fair last year, and I'm going to say they missed it again this year. This is nothing against Senator White. Senator White was interviewed by that station. He was asked to be on there and he had every right to and he should have been on there and gave his views. They market themselves as being fair and balanced. You're fair and balanced if you listen to and incorporate both sides. They didn't do that. They say: We report, you decide. Well, that's true if both sides are presented. That's not been the case. So really we report because you're not capable of deciding. And I think that for them to market to the people of Lincoln, they need to do a better job of incorporating both sides of an issue. Thank you, Mr. President. [LB224]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Hadley, you are next. Senator Hadley waives his opportunity. Senator Dubas, you are recognized. [LB224]

SENATOR DUBAS: Thank you, Mr. Speaker, members of the body. I have been a member of the Ag Committee for the last two years. I caught some of what Senator Dierks said. You know, it's been alluded to that there were secret meetings. We had one meeting where the consultant presented us with the preliminary report. And the reason

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that it was decided to have that be a closed meeting is because we want...it was preliminary, so we wanted to have the opportunity to make requests for changes or additional information or, you know, just before the final report came out, we wanted to make sure that it was going to be as inclusive as possible. The agreement to my recollection was that when the final report was released in a public setting that the press would have the preliminary report, as well as the final report so they could compare the two, they could see what changes, what additions. I believe the final report was about maybe 12 pages longer than the preliminary report. So there was one meeting where it wasn't a hearing. The only people at that meeting were members of the committee and the consultants who did the report. We took no testimony. We had no discussion amongst ourselves. We listened to the report, each of us had the opportunity to raise questions or ask for additional information and that was it. We did spend a lot of time outside of the...before the bill was brought to the floor for discussion because as a committee we recognized just how significant of a decision it was going to be and what it was going to entail to make it happen. And so there was a lot of ground work that was done. The committee chair met with the vested parties pretty frequently trying to work out deals and get the bill...as we all are instructed to do, try to get the bill into the best shape and fashion that you can get it to before you bring it out to the floor. We had lengthy debate and discussion on the floor once it was brought out. Everybody had their opportunity to raise their questions, introduce amendments, or do whatever it is that they wanted to do once it came out to the floor. In my estimation we really took our time. We were very careful about what we put out because we understood just the significance of the decision that we were making and that the individual communities were making, especially Grand Island and Hall County and what they were going to have to come up with and the sacrifices that their communities were going to have to make to make this come to fruition. So as I said, we had lengthy debate and discussion on the floor. It passed with just, I believe, a couple of dissenting votes. So generally strong, strong support if you can get 40-plus votes on a bill, you need to feel pretty successful for what you've been able to do. Since the bill pass there's been ongoing work with the State Fair Board, the community of Grand Island, and the Hall County, the various entities on how do we make this happen. As Senator Gloor said, a project of this magnitude is not going to just sail on down the river without, you know, some need to address some concerns or make some changes to plans. And so I'd just really like to clarify for the record that there were not secret meetings. We had the one private introduction of the preliminary report, and after that the hearings were public and there was plenty of opportunity for input from all of the interested parties. Thank you, Mr. Speaker. [LB224]

SPEAKER FLOOD: Thank you, Senator Dubas. Senator Price. Senator Price waives his opportunity. Senator Louden, you're recognized. [LB224]

SENATOR LOUDEN: Thank you, Mr. President and members. Since I've had some discussion, I've been shown a map of the area and I toured that area last summer

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because the lake that is there, the reason that lake is there is that was dirt fill that was used for the overpass for the Burlington Northern to go over the top of Union Pacific Railroad lines in Grand Island so that they didn't have to stop and wait on each other's trains all the time. And that lake was dug for fill, and then the NRD was able to get that lake and they've made a recreation area around that lake. And at the present time I would like to know who owns the lake, and they're talking about the 80 acres right south of that lake at the present to be given to the city of Grand Island to replace their ball field. Now, I guess the ball fields that they're abdicating, as you would say, on the Fonner Park deal doesn't cover 80 acres that I can see, but yet they are getting the 80 acres over there. So I think there needs to be some negotiation and a little bit better understanding on what we're doing. My understanding is that it isn't in this legislation that we have that they're bringing forward here. And as I said before, I've always supported moving the state fair farther west. Grand Island suits me fine at the present time. Fonner Park is the ideal place for it. I would have liked to have seen some work done on to set up a quarter horse racing track while they're in the process at Fonner Park because I think then we could probably run horse races all summer long and into the fall. But at any rate, I do support the amendment. And as far as the \$1.5 million in kind work, as I said before, I don't have a problem with that. And I don't have a problem with them trading ground for ball fields. If this is the ground that we're talking about, perhaps there should be some negotiation done and to see what we have to offer, and perhaps Grand Island can pony up a little bit more if they were getting more than the amount of land they're trading off. When you say that it was given to the Soldiers' Home 100 years ago, yes, that reason for that is because they were pulling for that Soldiers' and Sailors' Home. I can remember a lot of...in fact, in Ellsworth there where I lived when I was a little kid, there was a Spanish-American War veteran would come out and stay in Ellsworth all summer. And then he'd ride the train back to Grand Island and stay down there in Grand Island all winter long at the Soldiers' Home. And there were several old soldiers that did that when they got old. They'd come out through the summer and rent a room or something in one of them small towns and spend the summer and go back down there. So I'm familiar with that Soldiers' and Sailors' Home for a long time. And that was what it was for. At one time, there was a Soldiers' Home there at Milford at Milford State Trade School. That was originally a Soldiers' Home there because when I went to school there, the dormitory was part of the old Soldiers' and Sailors' Home. So there were those all around the different areas, and Grand Island was fortunate enough to get enough land together so that they did have the cemetery and the whole facility. That was a huge facility for Grand Island at one time. Between the railroad and the Soldiers' and Sailors' Home, that was one of the economic driving factors for Grand Island. So I don't have any problem with some of this, but I do think we do want to be very careful and I think we should have a little bit more written down on how we want to operate this and what should be given and what we're trading off. Thank you, Mr. President. [LB224]

SPEAKER FLOOD: Thank you, Senator Loudon. Senator Price, you are recognized.

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[LB224]

SENATOR PRICE: I call the question. [LB224]

SPEAKER FLOOD: Senator Price, you are the last light on. Do you wish to waive?  
[LB224]

SENATOR PRICE: Yes. Absolutely. [LB224]

SPEAKER FLOOD: Thank you, Senator Price. He waives. There are no other lights on. Senator Carlson, you're recognized to close on AM1365. [LB224]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. It's been an interesting discussion and a lot of opinions expressed. I appreciate that. Appreciate being able to talk to several of you personally and even though we may not be on the same page, there's a mutual respect that I appreciate. I do think that this bill is the right thing. And in my brief experience in working with the groups of Grand Island, State Fair Board, the city of Lincoln, Department of Administrative Services to try and get everything to come together, I've seen a good cooperation. And I believe that if you vote for this bill and we move this through that Grand Island has the opportunity to put on a tremendous, tremendous state fair that everybody in the state can be proud of, can enjoy, and be a real asset for years and years to come. I appreciate your consideration and I ask for your vote on AM1365. Thank you, Mr. President. [LB224]

SPEAKER FLOOD: Thank you, Senator Carlson. Members, you've heard the closing to AM1365. The question before the body...Senator Carlson, for what purpose do you rise? [LB224]

SENATOR CARLSON: I'd like a call of the house, machine vote. [LB224]

SPEAKER FLOOD: A call of the house has been requested. Members, the question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB224]

CLERK: 31 ayes, 0 nays, Mr. President, to place the house under call. [LB224]

SPEAKER FLOOD: The house is under call. All unauthorized personnel please leave the floor. All unexcused members please return to the floor. The house is under call. Senators Howard, thank you for checking in. Senator Mello, Senator Ashford, Senator Avery, please return to the floor and record your presence. Senator Avery, please return to the floor and record your presence. The house is under call. Senator Carlson, all senators are present or otherwise accounted for. You have requested a machine vote. The question before the body is, shall AM1365 be adopted? All those in favor vote aye;

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all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB224]

CLERK: 33 ayes, 2 nays on adoption of the amendment. [LB224]

SPEAKER FLOOD: AM1365 is adopted. [LB224]

CLERK: I have nothing further on the bill. [LB224]

SPEAKER FLOOD: There are no other lights on. Senator Carlson, you are recognized to close on LB224. [LB224]

SENATOR CARLSON: Mr. President, Select File. [LB224]

SPEAKER FLOOD: Point well taken. Senator Carlson, thank you. Senator Nordquist for a motion. [LB224]

SENATOR KARPISEK: Board vote. [LB224]

SENATOR NORDQUIST: Mr. President, I move LB224 to E&R for engrossing. [LB224]

SPEAKER FLOOD: A board vote has been requested. Members, the question is, shall LB224 advance to E&R for engrossing. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB224]

CLERK: 33 ayes, 3 nays, Mr. President, on the advancement of LB224. [LB224]

SPEAKER FLOOD: LB224 advances to E&R for engrossing. I do raise the call. Mr. Clerk, items for the record. [LB224]

CLERK: Mr. President, your committee on Enrollment and Review reports they've examined and engrossed LB545 and LB545A and report those two bills correctly engrossed. Senator Langemeier, a motion with respect to LB561 to be printed. (See also Senator Council filed a motion to LB440.) (Legislative Journal pages 1420-1421.) [LB545 LB545A LB561 LB440]

And I have a priority motion, Mr. President. Senator Council would move to adjourn the body until Tuesday morning, May 12, at 9:00 a.m.

SPEAKER FLOOD: Members, you've heard the motion. All in favor say aye. Those opposed say nay. We are adjourned. (Gavel)