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Floor Debate
March 31, 2010

[LB252 LB258 LB411 LB453 LB477 LB507 LB510A LB510 LB563 LB594 LB622 LB630
LB636 LB695 LB696 LB706 LB712 LB713 LB732 LB758 LB759 LB760 LB771 LB779A
LB789 LB792 LB800 LB800A LB801 LB809 LB813 LB829 LB842 LB844 LB849 LB852
LB862 LB865 LB872 LB877 LB884 LB894 LB907 LB908 LB933 LB934 LB945 LB947
LB950 LB978 LB986 LB987 LB993 LB997 LB1002A LB1002 LB1010 LB1014 LB1047
LB1048 LB1055 LB1065 LB1070 LB1071 LB1072 LB1085 LB1094A LB1094 LR411
LR428 LR429 LR532 LR540 LR541]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-second day of the One Hundred First Legislature, Second Session. Our chaplain for today is Pastor Bruce Davis, St. Andrew's United Methodist Church in Omaha, Senator Lautenbaugh's district. Please rise.

PASTOR DAVIS: (Prayer offered.)

SPEAKER FLOOD: Thank you, Pastor. I call to order the fifty-second day of the One Hundred First Legislature, Second 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 any corrections for the Journal?

CLERK: I have no corrections.

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

CLERK: Enrollment and Review reports LB712 and LB1014 to Select File with E&R amendments attached. That's all that I have, Mr. President. (Legislative Journal page 1235.) [LB712 LB1014]

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to the first item on the agenda. Members, we're taking up consent calendar today. Please consult your agenda to better understand the rules that apply. For the benefit of the body, if any three members of the Legislature object to a bill being considered on consent calendar, please advise the Clerk in writing. Such request must be filed with the Clerk prior to the expiration of the 15 minutes of debate at this stage of consideration on the bill to be removed. Upon either the completion of debate or the expiration of 15 minutes, whichever comes first, a vote shall be taken to advance the bill on and on any pending motions or amendments, pursuant to Rule 5, Section 6(d). Any amendment adopted,

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

Floor Debate
March 31, 2010

other than the standing committee amendment, which adds the new subject matter to the bill will result in the bill not being scheduled at the next stage of debate. Mr. Clerk, the first bill on consent calendar is LB411. [LB411]

ASSISTANT CLERK: Mr. President, LB411 was introduced by Senator Giese. (Read title.) Bill was read on January 16 of last year, referred to the General Affairs Committee. That committee placed the bill on General File with no committee amendments. [LB411]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Giese, you are recognized to open on LB411. [LB411]

SENATOR GIESE: Thank you, Mr. Speaker and members of the body. LB411 would update the State Electrical Act to reflect changes in the National Electrical Code and is brought on behalf of the State Electrical Board. Historically, when the National Electrical Code is updated every three years, a bill is passed by the Legislature to update references to these standards in Nebraska statute. In 2008, Senator Engel introduced LB723 which would have updated the State Electrical Act from the 2005 to the 2008 edition of the code. LB411 was introduced last year but did not receive a priority designation and efforts to amend the bill on to other legislation were unsuccessful due to the opposition of the Nebraska Home Builders Association. I am pleased to report that earlier this year the Home Builders switched their position on LB411 from opposed to neutral, thus enabling us to take up the bill as part of the consent calendar. And I would urge for your adoption. [LB411]

SPEAKER FLOOD: Thank you, Senator Giese. (Visitors introduced.) Mr. Clerk. [LB411]

ASSISTANT CLERK: Mr. President, I do have an amendment from Senator Coash, AM666, but I have a note that he wishes to withdraw. [LB411]

SPEAKER FLOOD: Is that the case, Senator? [LB411]

SENATOR COASH: Yes. [LB411]

SPEAKER FLOOD: AM666 is withdrawn. Returning to discussion on LB411, Senator Karpisek, you are recognized. [LB411]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I would just stand in support of LB411, as Chair of the General Affairs Committee and affirm that the Home Builders have switched to neutral, as Senator Giese has said. And I urge your adoption of LB411. Thank you, Mr. President. [LB411]

SPEAKER FLOOD: Thank you, Senator Karpisek. Senator Dubas, you are recognized.

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

Floor Debate
March 31, 2010

[LB411]

SENATOR DUBAS: Thank you, Mr. Speaker. Good morning, members of the body. I, too, rise in strong support of this bill. I've been in regular...have received regular contact from electrical workers in my district who have been very frustrated that, for whatever reason, we couldn't or wouldn't take any action on this. I even had one call me the other day asking, I'm studying for my test, I don't know which I'm supposed to be studying for. So these are people who do very important work and keep us safe in our homes and our businesses and we need to make sure that they're following the codes that they need to follow and so I hope that we can finally advance this bill and get it taken care of for these people. Thank you. [LB411]

SPEAKER FLOOD: Thank you, Senator Dubas. There are no lights on. Senator Giese, you're recognized to close on LB411. Senator Giese waives his opportunity. The question before the body is, shall LB411 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB411]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB411]

SPEAKER FLOOD: LB411 advances to E&R Initial. Mr. Clerk, we now proceed to LB713. [LB411 LB713]

ASSISTANT CLERK: LB713 was introduced by Senator Gloor. (Read title.) Bill was read for the first time January 6 of this year, referred to the Committee on Education. That committee reports the bill to General File with committee amendments attached. (AM1687, Legislative Journal page 447.) [LB713]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Gloor, you're recognized to open on LB713. [LB713]

SENATOR GLOOR: Good morning, Mr. President. Good morning, members. This bill relates to updating the current school health screenings, with which we're all familiar, to bring it in line with current medical practice and with current actual practice when it comes to these screenings. The original bill was passed in 1919 and there has been no substantive update since that period of time, interestingly enough. The Division of Public Health has been working on this issue with the various stakeholders, ultimately came to me, but they stopped because they felt the statute needed to be changed before rules and guidelines could be updated. At the present time, considerable variation exists in Nebraska schools on these screenings regarding the timing of the screenings, the personnel who screen, the grade level screen, screenings performed, and methodologies employed. There currently is also no statewide method, believe it or not,

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

Floor Debate
March 31, 2010

for data gathering or analysis or surveillance, so things like flu outbreaks, measles outbreaks, we do not have the data gathering methodology for that. This bill attempts to address that also. Schools are often unable to meet statutory guidelines for a variety of reasons, and timing is the biggest challenge. It's supposed to be done within the first quarter, but with nurses traveling to different schools, with different school sizes, with the different needs of different schools, with the ratio that continues to increase of the number of students per school nurses required, all of this has made the first quarter problematic. In addition to the unrealistic demands of the statute, and this is very important, current medical practice and the American Academy of Pediatrics' recommendations are age-appropriate screenings at developmentally significant times. It should be done through ages K-4 every year but there can be longer intervals for older students. The schedule, and we're handing out a copy of the schedule so you can see what's recommended, is a minimum, so individual schools can certainly add to this and add additional screenings if they want to. LB713 will direct the department to set the schedule for screenings, again based upon the copy that's here, prescribe what screenings are done, and also get involved in making the health data available. The Family Educational Rights and Privacy Act protects the ownership of the health data of a student and considers it part of their learning and their school record, so we have privacy addressed. There's a committee amendment and a very technical amendment. I'd ask for your support of LB713 and both attachments, and I would be happy to answer any questions. [LB713]

SPEAKER FLOOD: Thank you, Senator Gloor. Members, you've heard the opening on LB713. Mr. Clerk, we have committee amendments. Senator Adams, you are recognized to open on Education Committee amendments, AM1687. [LB713]

SENATOR ADAMS: Thank you, Mr. Speaker. Members, what the committee amendment does is two things. (A) It deletes from the bill language about exceptions for physical examinations, and that's because that language exists elsewhere in statute. It adds to the bill language that says for a health inspection, which is different than a physical examination, for a health inspection the exception would be if the child brings to the school a note from a physician, physician's assistant, nurse practitioner that would say they have recently had a health inspection. That's what the amendment does. Thank you, Mr. Speaker. [LB713]

SPEAKER FLOOD: Thank you, Senator Adams. There is an amendment to the committee amendment. Senator Gloor, you are recognized. (AM1792, Legislative Journal page 505.) [LB713]

SENATOR GLOOR: That amendment, a very technical amendment, specifically provides an opt out of screenings, so we currently have that in statute as relates to sports physicals. If a parent chooses to opt out, they can opt out. [LB713]

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

Floor Debate
March 31, 2010

SPEAKER FLOOD: Thank you, Senator Gloor. Members, you've heard the discussion on AM1792 to AM1687. All those wishing to speak...there are no lights on. Senator Gloor, you're recognized to close on AM1792. Senator Gloor waives his opportunity. The question before the body is, shall AM1792 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB713]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of the amendment to the committee amendments, Mr. President. [LB713]

SPEAKER FLOOD: AM1792 is adopted. We now turn to AM1687. There are no lights on. Senator Adams, you're recognized to close. Senator Adams waives his opportunity. The question before the body is, shall AM1687 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB713]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of committee amendments. [LB713]

SPEAKER FLOOD: Committee amendments are adopted. We now turn to discussion on LB713. Seeing no lights on, Senator Gloor, you're recognized to close. Senator Gloor waives his opportunity. The question before the body is, shall LB713 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB713]

CLERK: 40 ayes, 0 nays on the advancement of the bill. [LB713]

SPEAKER FLOOD: LB713 advances to E&R Initial. Mr. Clerk, LB252. [LB713 LB252]

ASSISTANT CLERK: LB252 was introduced by Senator Cornett. (Read title.) Bill was read for the first time on January 14 of last year, referred to Judiciary, which reports the bill to General File with committee amendments. (AM1761, Legislative Journal page 447.) [LB252]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB252. [LB252]

SENATOR CORNETT: Thank you, Mr. President and members of the body. Pardon me, Mr. Speaker and members of the body. LB252 makes it illegal to knowingly or intentionally possess equipment used in a violation of Section 28-1005, animal fighting. The bill also defines specifically which paraphernalia is illegal to possess in relation to animal fighting and also provides a list of factors a court could use to determine if the paraphernalia is related to animal fighting, such as expert testimony, incriminating

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

Floor Debate
March 31, 2010

statements, and the proximity of the equipment to animals and other such factors.
[LB252]

SPEAKER FLOOD: (Gavel) [LB252]

SENATOR CORNETT: The bill also provide a penalty and the ability to seize property and/or the animal for animal fighting. There are committee amendments. I do want to let the body know that there were no...there was no opposition to this bill at the hearing and thank you very much. [LB252]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening on LB252. There are committee amendments, AM1761. Senator Ashford, you're recognized to open. [LB252]

SENATOR ASHFORD: Thank you, Mr. Speaker. I want to reiterate there was no opposition at the hearing and (laugh) the bill advanced 7 to 0. Thank you for reminding me, Senator Cornett. AM1761 makes the following...I understand why you did, of course, remind me, but AM1761 makes the following changes... [LB252]

SPEAKER FLOOD: (Gavel) [LB252]

SENATOR ASHFORD: ...to LB252. First, AM1761 would strike Section 3 of the bill as the committee determined rules of evidence clearly outline the procedures to be applied in proceedings under this statute. Secondly, it would provide that animal fighting paraphernalia does not include equipment, products, or materials generally used by veterinarians licensed to practice veterinary medicine in this state. And finally, it would change the penalty provisions in Section 2 from a Class IV felony to a Class I misdemeanor. Thank you, Mr. Speaker. [LB252]

SPEAKER FLOOD: Thank you, Senator Ashford. Turning to discussion on AM1761, Senator Hansen, you are recognized. [LB252]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I was wondering if Senator Cornett would yield for a question. [LB252]

SPEAKER FLOOD: Senator Cornett, will you yield to a question from Senator Hansen?
[LB252]

SENATOR CORNETT: Yes. [LB252]

SENATOR HANSEN: Senator Cornett, thank you. We have passed this, in this session, we have passed the Animal Welfare Act, thanks to Senator Fischer and much input on that. I do have a question, though, on this bill. It would be on the amendment, on page

Floor Debate
March 31, 2010

2, and it's a (iii) section and it talks about treadmills, jennies, hot walkers, exercise device consisting of an endless belt on which the animals walks/runs without changing place. I know that the emphasis of this bill is for dogs and cats. I don't know if they have cat fighting for sure but it's...anyway, it's for cats. But we do use this in equine, and equine, and I could ask Senator Dierks, too, but I do know that it's therapy for equine after an injury that they are attached to a walker. It's a propelled, electrically propelled walking machine that will go very slow that you don't have to lead the horse. If you have multiple horses in training and you have one that's hurt, this takes a lot of the...a lot of that exercise time away from that horse. But is this...would this be covered under this bill? [LB252]

SENATOR CORNETT: Senator Hansen, I know what you're referring to. I've ridden horses all my life and trained horses and, no, it specifically is if that type of equipment would be used in relationship to fighting animals and exempts any medical or veterinarian use. [LB252]

SENATOR HANSEN: What about... [LB252]

SENATOR CORNETT: The committee... [LB252]

SENATOR HANSEN: What about something as nonveterinary use? Because these horse trainers do not call a veterinarian every time they need to exercise their horse or even to get permission in the first place for... [LB252]

SENATOR CORNETT: Correct. [LB252]

SENATOR HANSEN: ...therapeutic treatment? [LB252]

SENATOR CORNETT: Sorry. Go ahead. [LB252]

SENATOR HANSEN: That's it. [LB252]

SENATOR CORNETT: Correct. I know what like the horse walkers are. No, they would not be included in this because it has to be in relationship to dogfighting or cockfighting. It would be similar to the drug paraphernalia charge. If you are arrested for drug paraphernalia, you may have something like a car antenna. Now, the possession of a car antenna, in and of itself, is not illegal, but the possession of a car antenna that has been altered to smoke crack cocaine with then becomes an illegal drug paraphernalia. What we were looking at here is specifically the equipment used in relationship to training animals for fighting and you have to meet...and the Judiciary Committee was very diligent in this, have to meet those other requirements for you to be charged with this. [LB252]

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

Floor Debate
March 31, 2010

SENATOR HANSEN: So someone driving by your place where you keep your horses and they see a horse walker would not assume that that is dogfighting paraphernalia? [LB252]

SENATOR CORNETT: No. And there was no opposition to this, including the Farm Bureau. We made sure of that ahead of time. [LB252]

SENATOR HANSEN: Okay. Thank you, Senator Cornett. [LB252]

SPEAKER FLOOD: Thank you, Senator Hansen. Senator Stuthman, you are recognized. [LB252]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I would like to address a question to Senator Cornett. [LB252]

SPEAKER FLOOD: Senator Cornett, would you answer a question from Senator Stuthman? [LB252]

SENATOR CORNETT: Yes. [LB252]

SENATOR STUTHMAN: Thank you, Senator Cornett. In the amendment, as Senator Hansen was talking about, was those walking machines, and I know it states in here in one of it, on line 19 through 22, you know, if it's for the veterinaries or something like that. So you feel that these walkers at racetracks, thoroughbred racetracks that, you know, the individuals, once they get the horses, you know, done with the race they put them...they hook them onto the walkers around, this will not affect that at the present time? [LB252]

SENATOR CORNETT: No, it will not. The Judiciary Committee was very clear in making sure it did not do that. [LB252]

SENATOR STUTHMAN: Also, in some of the dog pounds in some of the places that, you know, raise dogs, well, I guess they call them the puppy mills or anything like that, they do have these treadmills for dogs to walk on, that this does not involve them either? [LB252]

SENATOR CORNETT: It would have to meet the other requirements to be charged with that. You would have to have...you...having a walker, in and of itself, would not be grounds to be charged with this. [LB252]

SENATOR STUTHMAN: Okay. Thank you, Senator Cornett. The biggest concern that I have with this is the fact that, yes, the intent right now is to deal with just the fighting animals, but, in my opinion, it has in this bill, you know, the treadmills and the walkers or

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

Floor Debate
March 31, 2010

anything like that. It also has in this bill, you know, a confined area, you know, where they have the fighting areas and stuff like that. The issue that really concerns me is the fact that once this is in here it would be very easy for Humane U.S. to alter this to include it in to other animals. I'm very proud that we do have the bill, LB865, that we did pass this year but, in my opinion, this is just another issue where, you know, the Humane U.S., Humane Societies, you know, try to get involved and try to get their foot in the door. So I am very, very concerned about this bill. I know, you know, we have separated, you know, the dogs and the animal livestock part of it, but there's always an opportunity to move in and slip something by in time to come. Thank you, Mr. President. [LB252 LB865]

SPEAKER FLOOD: Thank you, Senator Stuthman. Senator Louden, you are recognized. [LB252]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I looked over the committee amendment, which becomes the bill, I do have some questions and I was wondering if Senator Cornett would yield for questions, if she would. [LB252]

SPEAKER FLOOD: Senator Cornett, will you yield to a question from Senator Louden? [LB252]

SENATOR LOUDEN: Yeah. [LB252]

SENATOR CORNETT: Yes. [LB252]

SENATOR LOUDEN: On page 2, as we get down there, and I notice that the Veterinarian Association was neutral for testimony, but on page 2 and I understand on about line 21, 20-21, "materials of any kind used by a veterinarian licensed to practice veterinary medicine and surgery in this state," and I don't have any problem with that. My question is, is when we get up here then what about a twitch on a horse? Will I be able to use a twitch on a horse myself? [LB252]

SENATOR CORNETT: Yes, Senator Louden. If you read page 1, line 7, no person shall knowingly or intentionally own or possess animal fighting paraphernalia with the intent to commit the violation. Last time I checked, we don't fight horses in this country. [LB252]

SENATOR LOUDEN: Well, I know, but it doesn't say anything about dogs and cats in your bill. It just says animals and that sort of thing, and that's my concern, that this could be spread a little bit farther out. And then when you do have mean horses and stuff, that's usually the way you handle them, is with a twitch, and I'm wondering where that was. And also on page 2, line 14, designed to attach to the leg of a fowl or other animal. And what about skid boots on these roping horses? You know, does that...would that

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

Floor Debate
March 31, 2010

include those or could we take that "other animal" out of there perhaps? I mean, I understand what you're trying to do and I don't have any problem with it. I don't think we should have dogfighting and that sort of thing, but I'm always concerned about it will start infringing on the things that we have to do to operate farms and ranches and use livestock, and I don't want to infringe on some of that stuff that we have to do, because sometimes it isn't very pretty. [LB252]

SENATOR CORNETT: No, and, sir, I've used a twitch a number of times on a horse. This bill is strictly for animal fighting. The "other animal" is to include cockfighting and the razors that they put on their legs. It has nothing to do with boots that help horses, prevent themselves from injuring themselves. It has nothing to do with twitching. It has to be in conjunction with the intent to fight and with other equipment involved in that... [LB252]

SENATOR LOUDEN: Yeah, okay. [LB252]

SENATOR CORNETT: ...and other evidentiary items. [LB252]

SENATOR LOUDEN: Okay. And then in line 14, it's...and I know what it is, a pointed instrument which they put spurs on, designed to be attached to the leg of a fowl or other animal. What other animal would you put spurs on for fighting other than some type of a fowl? [LB252]

SENATOR CORNETT: None. And then just so you know, LB865 took livestock out of this section of state law so livestock wouldn't even be included in this. This would just be for dogs. [LB252 LB865]

SENATOR LOUDEN: Yeah, I realize that. But then why can't, in this here, we have like "leg of a fowl or other animal," then why do you have "other animal" in there if this is just going to be a spur on a fighting rooster? [LB252]

SENATOR CORNETT: You know what, I would be happy to offer that amendment on Select File for you. [LB252]

SENATOR LOUDEN: Okay. And I'm wondering about some place along there, whether it's equipment, products, or material of any kind used by a veterinarian in the practice of veterinary medicine in this state or used for...what did we put in some of that other bill, something about used in...? [LB252]

SENATOR CORNETT: We could add some language that said to exclude livestock. I would be happy to do that also. [LB252]

SENATOR LOUDEN: Okay. I have no problem with that. The treadmill deal, I kind of

Floor Debate
March 31, 2010

question about that, if that even needs to be in there, because really what do fighting...people with their pit dogs, what do they use a treadmill for? [LB252]

SENATOR CORNETT: They put their dogs on...chain their dogs onto a treadmill and they put barbells around their necks and they make them run until they collapse to train them and condition them. [LB252]

SPEAKER FLOOD: One minute. [LB252]

SENATOR LOUDEN: Okay. Well, that...because I know we use...they use treadmills and hot walkers and stuff on horses all the time. [LB252]

SENATOR CORNETT: We can exclude hot walkers if you would like. [LB252]

SENATOR LOUDEN: And perhaps there should be something in there...should be in there that can be used for a period of time or something like that until the animal...or can be used for exercising the animal or some place like that. If you want to overhaul this thing before you get it to Select File, why, yeah, I'll...I don't have any problem with it other than I'm trying to protect what we do for a living out there. [LB252]

SENATOR CORNETT: I will be happy to, even though it is covered under LB865, write clarifying language in regards to separating livestock from pets, and I will be happy to clarify the language from "other animals" to "fowl." [LB252 LB865]

SENATOR LOUDEN: Okay. Thank you, Senator Cornett. Thank you, Mr. President. [LB252]

SPEAKER FLOOD: Thank you, Senator Louden. Senator Fischer, you are recognized. And a reminder, we are on a 15-minute time limit this morning. You have 2 minutes. [LB252]

SENATOR FISCHER: Thank you, Mr. President and members. I just wanted to rise and thank Senator Cornett for bringing this bill and also thank her for cosponsoring the previous bill that was passed dealing with livestock and removing livestock from this specific section of law. Senator Cornett has made it clear that livestock is not included in any of...any part of this legislation, and I think, she's made it very clear that this deals with dogfighting and she's been very open in her conversation with Senator Louden in trying to reassure everyone in the body and across the state as to the specific purpose of the bill. So I look forward to seeing the bill on Select File and at that time I believe we can address any needed amendments that I know Senator Cornett would be welcoming. Thank you, Mr. President. [LB252]

SPEAKER FLOOD: Thank you, Senator Fischer. Senator Ashford, you're recognized to

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

Floor Debate
March 31, 2010

close on AM1761. Senator Ashford waives his opportunity. The question is, shall AM1761 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB252]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of committee amendments. [LB252]

SPEAKER FLOOD: Committee amendments are adopted. Senator Cornett, you're recognized to close on LB252, seeing no other lights on. Senator Cornett waives her opportunity. The question before the body is, shall LB252 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB252]

ASSISTANT CLERK: 41 ayes, 0 nays on the advancement of the bill. [LB252]

SPEAKER FLOOD: LB252 advances to E&R Initial. Mr. Clerk, we now proceed to LB759. [LB252 LB759]

ASSISTANT CLERK: LB759 introduced by Senator Wightman. (Read title.) Bill was read for the first time on January 6 of this year; referred to the Banking, Commerce and Insurance Committee; placed on General File with no committee amendments. [LB759]

SPEAKER FLOOD: Senator Wightman, you're recognized to open on LB759. [LB759]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. LB759 would amend the Nebraska Professional Corporation Act to provide a procedure for winding down and dissolving a single-person professional corporation. This bill was brought to me by representatives of the Nebraska State Bar Association to address a problem in existing law. The Nebraska Professional Corporation Act allows attorneys, accountants, dentists, real estate agents, veterinarians, and doctors to incorporate their practice as a corporation to provide professional services. In many cases, a professional is the single stockholder or, because of the death of a professional...other professional shareholders, one professional becomes a single shareholder. Upon the death of the single shareholder, under current law, no shareholder who is a professional remains. Thus, no shareholder exists to wind down the practice or to dissolve the practice. LB759 solves this problem. LB759 grants authority for a nonlicensed professional to wind up a business upon the death of the last remaining shareholder of a professional corporation. The successor in interest to the last remaining of a professional corporation, which oftentimes would be a widow or personal representative, is granted authority to wind up and liquidate the business and affairs even when such successor in interest could have become a shareholder in the professional corporation unless otherwise provided in the articles of incorporation or bylaws of the professional corporation. This does happen on frequent occasions. This was heard before the Committee on Banking, Commerce and Insurance. As I said, it was sponsored by the Nebraska State Bar Association. There

Floor Debate
March 31, 2010

were no opponents. There was no opposition. The vote was 7 with 1 senator not present. I would urge the advancement of LB759 to Select File. Thank you, Mr. President. [LB759]

SPEAKER FLOOD: Thank you, Senator Wightman. There are no amendments to the bill. We turn to discussion on LB759. Senator Pirsch, you are recognized. [LB759]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just wanted to rise, in my position as Vice Chairman of the Banking, Commerce and Insurance Committee, as well as an attorney, and say this addresses a situation where there is a big void in the law and this gives instruction. I think people want to do the right thing. In this instance, the law is very unclear about what the right thing is, which has led to confusion. This gives specificity and direction so that we can approach it in the right manner. So I do urge you to vote in favor of this. Thank you. [LB759]

SPEAKER FLOOD: Thank you, Senator Pirsch. Senator Nelson, you are recognized. [LB759]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have a question for Senator Wightman. [LB759]

SPEAKER FLOOD: Senator Wightman, will you respond to a question from Senator Nelson? [LB759]

SENATOR WIGHTMAN: Yes, I will. [LB759]

SENATOR NELSON: Thank you, Senator. I stand in support of the bill but, just for clarification, is it not possible for a personal representative to wind up this now under our existing law? [LB759]

SENATOR WIGHTMAN: There has been questions raised with regard to this in some jurisdictions, I think, and the Bar Association felt it was important enough that it should have legislation that specifically covers it. [LB759]

SENATOR NELSON: Well, if there is a question in some jurisdictions, how do these ever get dissolved then? What process do they use? [LB759]

SENATOR WIGHTMAN: I assume they have been dissolved. Some of them perhaps have been dissolved by the Secretary of State for nonpayment of occupation taxes. [LB759]

SENATOR NELSON: Ah, just for failure to pay fees and things of that... [LB759]

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

Floor Debate
March 31, 2010

SENATOR WIGHTMAN: Right. [LB759]

SENATOR NELSON: (Laugh) All right. Thank you, Senator Wightman. Thank you, Mr. Speaker. [LB759]

SPEAKER FLOOD: Thank you, Senator Nelson. There are no other lights on. Senator Wightman, you're recognized to close on LB759. Senator Wightman waives his opportunity. The question before the body is, shall LB759 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB759]

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of the bill. [LB759]

SPEAKER FLOOD: LB759 advances to E&R Initial. Mr. Clerk, we now proceed to LB760. [LB759 LB760]

ASSISTANT CLERK: LB760 was introduced by Senator Wightman. (Read title.) Bill was read for the first time on January 6 of this year; referred to the Banking, Commerce and Insurance Committee; placed on General File with no committee amendments. [LB760]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Wightman, you're recognized to open on LB760. [LB760]

SENATOR WIGHTMAN: Thank you, Mr. President, members. The Nebraska Principal and Income Act is a compilation of default procedures for trustees administering trusts and personal representatives administering estates in allocating assets to principal and income, and to govern their proper distribution to beneficiaries, heirs, and devisees. To the extent the controlling document is silent, fiduciaries can utilize these statutes for discretion (sic). LB760 will update Nebraska law and make it consistent with the current U.S. Department of Treasury regulations. Historically, trustees were required to distribute the net income generated by marital deduction trust to surviving spouses in order to qualify for an estate tax marital deduction. U.S. Department of Treasury regulations were updated to permit trustees to pay a set percentage of the marital deduction trust assets in lieu of the requirement to distribute the net income. The bill changes the Nebraska Principal and Income Act by deleting the requirement to distribute the entire net income in a marital deduction trust. The trustee will be given another option for distribution of the income of these trusts. Under current law, trustees of these marital deduction trusts can administratively elect to convert these net income trusts to total return trusts. Under LB760, a beneficiary spouse of a trust for which the marital deduction has been taken would not be able to compel the trustee to reconvert the trust from a total return trust back to an income trust, so the beneficiary is given a new option by the law. Let me explain to you a little bit about why you might have a total income trust. Probably if you were looking at the best asset that somebody could have left someone over the last 50 years, it probably would have been shares in Buffett

Floor Debate
March 31, 2010

Partners or Berkshire Hathaway. And yet, under our principal and income rules, you would never have received one penny of income because Berkshire Hathaway, to my knowledge, has never, in the existence of the company, declared a dividend, so there would be no income. So that's part of the purpose of a total return trust, is to allow an election to pass out some of that growth, and you can set it to a percentage of the total income, including the growth of the principal. And yet, to require a trustee to convert that into something else, other than the Berkshire Hathaway stock, would have been a pretty poor investment or a pretty poor change of investments over the period of years because nothing...and I just saw an article recently that said that there was no mutual fund in existence that had outperformed Berkshire Hathaway over the history of the company's existence. This bill also deletes the prohibition against changing a net income distribution provision in an exempt generation-skipping trust if the trustee elects to convert such a trust to a total return trust. The Treasury regulations now state that a trust will not lose its generation-skipping exempt status merely because the trustee elects to convert a net income trust to one that pays out a "unitrust" amount and, therefore, the current Nebraska statutory prohibition is no longer current with federal regulations. This change will allow the trustee another distribution option. In summary, LB760 makes three changes to the Nebraska Principal and Income Act that are now permitted by changes in federal regulations. These changes allow more options to trustees and beneficiaries in the administration of estates and trusts that best meet their needs. There was no, again, no opposition to this. It was supported both by the Nebraska State Bar Association and the Nebraska Bankers Association. I would urge your advancement of LB760 to Select File. Thank you, Mr. President. [LB760]

SPEAKER FLOOD: Thank you, Senator Wightman. There are no lights on. There are no amendments. You are recognized to close. Senator Wightman waives his opportunity. The question before the body is, shall LB760 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB760]

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill. [LB760]

SPEAKER FLOOD: LB760 advances to E&R Initial. Mr. Clerk, LB732. [LB760 LB732]

ASSISTANT CLERK: LB732 was introduced by Senator Utter. (Read title.) Bill was read for the first time on January 6 of this year, referred to the Judiciary Committee, placed on General File with committee amendments attached. (AM1727, Legislative Journal page 506.) [LB732]

SPEAKER FLOOD: Senator Utter, you're recognized to open on LB732. [LB732]

SENATOR UTTER: Thank you, Mr. President. Good morning, colleagues. LB732 would make a change in cases where there is a forced sale of real property. The change simply would authorize that when there is a forced sale of real property, the sale being

Floor Debate
March 31, 2010

conducted by either a master commissioner or the county sheriff could be postponed for up to 45 days without requiring a second notice of sale. For some background, under current law a sheriff or master commissioner may conduct sales of real property in a number of different situations. The need for a sheriff's sale or master commissioner's sale may arise in the course of a foreclosure proceeding in which a court order is entered directing real property to be sold. Other court orders which direct property to be conveyed from one party to another may also give rise to the need to conduct a sheriff's or master commissioner's sale. In addition, the statutes regarding foreclosure of a tax sales certificate, when a third party has purchased tax sale certificate followed by...following default by the owner and making payment of real estate taxes, also provide a procedure to utilize a sheriff or conduct the ultimate disposition of the property. Similar use of sheriff's or master commissioner's sales may result with the real property is required to be sold upon execution of a judgment. Under current law, the sheriff or master commissioner's sale is preceded by published notice of the impending sale, generally for a period of four weeks. However, once the sale date arrives, there is no statutory provisions allowing the sheriff or master commissioner to postpone or reschedule the sale. At a minimum, if the sale cannot be postponed or rescheduled, additional expenses for a republished notice and sheriff's or master commissioner's fees borne by the borrower are incurred, as are additional attorney fees borne by the lender or seller for issuing a new summons, for publication, and other required legal activities. In 2004, the Legislature addressed a similar situation regarding sales conducted pursuant to the power of sale under a deed of trust by allowing the trustee sale to be postponed for a period of up to 45 days without having to repeat the presale notification procedures. Prior to this change in law, a trustee sale could only be postponed for a period of one day. By allowing such sale to be postponed for up to 45 days, additional costs may be avoided, for example, if a bankruptcy was filed immediately before the sale. Without the 45-day period for postponement of a sale, the lender or seller is unable to obtain relief from a bankruptcy stay in time to avoid having to repeat the notification procedures associated with the power of sale under a deed...under a trust deed. LB732 would provide similar benefits and provide additional costs...and avoid additional costs to both borrowers and lenders in connection with the type of sales. I also would mention that this bill was presented before the Judiciary Committee and no opposition appeared at the hearing. Thank you, Mr. President. [LB732]

SENATOR STUTHMAN PRESIDING

SENATOR STUTHMAN: Thank you, Senator Utter. As the Clerk has stated, there are Judiciary Committee amendments, AM1727. Senator Ashford, you are recognized to open on the committee amendments. [LB732]

SENATOR ASHFORD: Thank you, Mr. President. Committee amendment AM1727 clarifies the contents of the notice of the postponement of the sale. Under the amendment, a publicly declared notice must contain the new date, time, and place for

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

Floor Debate
March 31, 2010

the postponed sale. And that would be it. Thanks, Mr. President. [LB732]

SENATOR STUTHMAN: Thank you, Senator Ashford. Anyone wishing to be recognized on the Judiciary Committee amendment, AM1727? Seeing no lights, Senator Ashford, you are recognized to close. Senator Ashford waives closing. The question before the body is, shall AM1727 be adopted to LB732? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB732]

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of committee amendments. [LB732]

SENATOR STUTHMAN: The committee amendments are adopted. Seeing no other lights, Senator Utter, you're recognized to close. Senator Utter waives closing on LB732. The question before the body is, shall LB732 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB732]

ASSISTANT CLERK: 40 ayes, 0 nays on the motion to advance the bill. [LB732]

SENATOR STUTHMAN: LB732 does advance. Mr. Clerk. [LB732]

ASSISTANT CLERK: Next bill, Mr. President, is LB1047, which was introduced by Senator Wightman. (Read title.) Bill was read for the first time January 21 of this year, referred to Judiciary, placed on General File with committee amendments. (AM1812, Legislative Journal page 507.) [LB1047]

SENATOR STUTHMAN: Thank you, Mr. Clerk. LB1047, Senator Wightman, you're recognized to open on LB1047. [LB1047]

SENATOR WIGHTMAN: Thank you, Mr. President, members. The intent of LB1047 is to provide a default rule of construction for the decedent, someone dying who does not or could not change their estate plan to account for a year when there would be no federal estate tax or generation-skipping transfer tax. As some of you may know, we had kind of a strange situation with our federal estate tax in that we phased the exemptions upward for a number of years and then they finally reached \$3.5 million exemption last year. And this year, 2010, Congress provided that there would be no federal estate tax, that there would be an unlimited exemption, and then next year it goes back to \$1 million. There's been some movement afoot, movement to try to change this in Congress. There was, I think, one of the houses passed a bill that would have extended the \$3.5 million for two additional years, but Congress was so polarized and tied up with healthcare and whatever else that they have not taken any further action on it. Many wills and trust drafted to take advantage of federal estate tax exemptions for spouses and children used terms and formulas referring to things such

Floor Debate
March 31, 2010

as the applicable credit amount, unified credit, federal estate tax, and generation-skipping transfer tax. However, in 2010, as I said, there is no federal estate tax. Therefore, many of the formulas used in drafting trusts and wills will not function to fund trust or estate plans as intended when the will or trust document was created. The language of LB1047 provides that a will or trust that contains a formula referring to the unified credit estate tax exemption; applicable exemption amount; applicable credit amount; applicable exclusion amount; generation-skipping transfer tax exemption; GST exemption, which is generation-skipping transfer; marital deduction; maximum marital deduction; or unlimited marital deduction; or that measures the share of an estate or trust based on the amount that can pass free of federal estate tax or the amount that can pass free of federal generation-skipping transfer tax, or that is otherwise based on a similar provision of federal estate or generation-skipping transfer tax law shall be deemed to refer to the federal estate and generation-skipping transfer tax law as they applied with respect to estates of decedents dying on December 31, 2009. Otherwise, everyone that has this type of formula clause would have to make changes in their will during this year if there was any chance they were going to die, and so far I don't know of any of us present who doesn't have a chance of dying this year (laughter). This default rule will protect the intent of those decedents who use such formulas that depended on the existence of a federal estate tax or a generation-skipping transfer tax. Section 2(b) and 2(c) of LB1047 ensure that the language of the testator will control the disposition of the testator. If the testator expresses an intent that the language used in the will or estate document apply, even if there is no estate tax or regardless of the estate tax exemption, then the testator--the testator is the person making the will---will be allowed to pass property as they intended. Section 2(a) of LB1047 further provides that this default rule of construction will not apply if the decedent dies on a date on which there is a then-applicable federal estate or generation-skipping transfer tax. Believe it or not, there is still hope that the federal government may act, Congress may act and actually pass an extension. I urge the advancement of LB1047 to Select File with the Judiciary Committee amendment which adds the emergency clause. As I said, there is a committee amendment and, quite frankly, that was because the committee felt that it was important enough that we do this and it take effect so that practitioners could rely upon this. So with that, I'll close for now and will allow Senator Ashford to proceed with the committee amendment. Thank you, Mr. President. [LB1047]

SENATOR STUTHMAN: Thank you, Senator Wightman, for the opening on LB1047. As the Clerk has stated, there are Judiciary Committee amendments. Senator Ashford, as Chair of the Judiciary Committee, you may open on AM1812. [LB1047]

SENATOR ASHFORD: Thank you. If I could just ask Senator Wightman a quick question. I know we don't have much time. [LB1047]

SENATOR STUTHMAN: Senator Wightman, would you be ready for a quick question from Senator Ashford? [LB1047]

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

Floor Debate
March 31, 2010

SENATOR WIGHTMAN: Yes. [LB1047]

SENATOR ASHFORD: Could you clarify what you just said, Senator Wightman? [LB1047]

SENATOR WIGHTMAN: Well, I... [LB1047]

SENATOR ASHFORD: No. No, never mind. (Laughter) Touche. [LB1047]

SENATOR WIGHTMAN: Well, I'll put it in... [LB1047]

SENATOR ASHFORD: Touche, Senator Wightman. I was just trying to...this...you know the horse deal from yesterday? [LB1047]

SENATOR WIGHTMAN: Getting even (laugh). [LB1047]

SENATOR ASHFORD: Yeah, the horse and the machine? (Laughter) Okay. All those committee amendment does, Mr. President, members, is to add the emergency clause. Thanks. [LB1047]

SENATOR STUTHMAN: Thank you, Senator Ashford, for the opening on the committee amendments. Anyone wishing to be recognized on AM1812? Seeing no lights, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question before the body is, shall AM1812 of the Judiciary Committee, the amendments, shall they be attached to LB1047? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1047]

ASSISTANT CLERK: 41 ayes, 0 nays on adoption of committee amendments. [LB1047]

SENATOR STUTHMAN: Committee amendments are adopted. Senator Nelson, you are recognized. [LB1047]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to ask a question of Senator Wightman, if he will yield. [LB1047]

SENATOR STUTHMAN: Senator Wightman, would you yield to Senator Nelson? [LB1047]

SENATOR WIGHTMAN: I will. [LB1047]

SENATOR NELSON: Thank you, Senator. Believe it or not, I think I understand what we're doing here and I think it's very important. I see this was proposed and probably

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

Floor Debate
March 31, 2010

drafted by Bill Lindsay, who certainly knows what he's doing, but I just want to be sure about one thing. If...I'm referring to page 2 on line 14, Senator Wightman, the language there starting with line 14 that as they applied...well, "transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009." Now, I would read that to say we're only talking about decedents dying on that date. Is that what the intention is? I don't think so. I think perhaps it should read either dying on or before December 31, 2009, or perhaps on or after. [LB1047]

SENATOR WIGHTMAN: As I'm looking at my copy, Senator Nelson... [LB1047]

SENATOR NELSON: Oh, I'm looking at the green copy, page 2, line... [LB1047]

SENATOR WIGHTMAN: The one I have is a white copy but I don't think it's an amendment. Let me look for sure. This is the bill, and if you look at Section 1, it says a will or trust of a decedent who dies after December 31, 2009, and before January 1, 2011, that contains a formula clause, and that, by the way, answers a question that Senator Pankonin... [LB1047]

SENATOR NELSON: Well, and I'm looking at the green copy. Am I looking at the wrong thing then? [LB1047]

SENATOR WIGHTMAN: This is supposed to be green, and Section 1 says...now maybe... [LB1047]

SENATOR NELSON: Yes, go down to line 14 on page 2. This is Section 1, line 14. At the very end of the line it says... [LB1047]

SENATOR WIGHTMAN: Okay. What we're saying in that sentence, Senator Nelson, is that it would refer to the transfer tax laws as they applied with respect to the estates of a decedent dying on December 31. So we're going back at that point and we're using that as a fixed date, but anyone who dies from...and that's covered in Section 1, line 1, a will or trust of a decedent who dies after December 31, 2009, and before January 1, 2011. Here we're just fixing the date as to what the law was on December 31, 2009, that it would be construed as though that will was effective and the provisions were in effect as of December 31, 2009. [LB1047]

SENATOR NELSON: I understand that's what the intent is and that's the way it should be, but I don't construe the wording that way. I think it's confusing and I'm just thinking that maybe we might want to take another look at that on Select to make sure that it's clear that we're talking about the law as it was applied on December 31 or would have been. Maybe the word "dying" just needs to be taken out of there, the estates of decedents on December...but, anyway, I raise those questions. I think we have to be careful of our construction on things this technical. Thank you, Senator Wightman.

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

Floor Debate
March 31, 2010

Thank you, Mr. President. [LB1047]

SENATOR STUTHMAN: Thank you, Senator Nelson and Senator Wightman. Seeing no other lights on, Senator Wightman, you're recognized to close. [LB1047]

SENATOR WIGHTMAN: We do have a committee amendment and, since I don't see Senator Ashford here, I'll waive closing on that for Senator Ashford, if that's permissible. Oh, we already...okay. [LB1047]

SENATOR STUTHMAN: The committee amendments have already been adopted. [LB1047]

SENATOR WIGHTMAN: Excuse me. Excuse me, the amendment has been adopted. I'll waive closing. [LB1047]

SENATOR STUTHMAN: Senator Wightman waives closing. The question before the body is, shall LB1047 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Please record. [LB1047]

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB1047]

SENATOR STUTHMAN: LB1047 does advance. (Visitors introduced.) Mr. Clerk. [LB1047]

ASSISTANT CLERK: Mr. President, the next bill is LB706, introduced by Senator Haar. (Read title.) Bill was introduced for the first time on January 6 of this year, referred to Health and Human Services, placed on General File with no committee amendments. [LB706]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Haar, you're recognized to open on LB706. [LB706]

SENATOR HAAR: Mr. President, members of the body, this LB706 gives the Commission on the Deaf and Hard of Hearing explicit statutory authority to establish and charge fees for initial competency assessment for sign language interpreters. This is the current practice and the State Auditor recommended that they have this authority in statute. I would request that you ignore the \$3 million A bill attached to this. (Laugh) Just joking. There is no A bill; a very simple bill actually suggested by the State Auditor. Thank you very much. [LB706]

SENATOR STUTHMAN: You have heard the opening on LB706. Senator Gloor, you are recognized. [LB706]

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

Floor Debate
March 31, 2010

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Haar would yield for a question? [LB706]

SENATOR HAAR: Yes. [LB706]

SENATOR STUTHMAN: Senator Haar, would you yield to a question from Senator Gloor? [LB706]

SENATOR HAAR: Yes. [LB706]

SENATOR GLOOR: Let's talk about this \$3 million A bill, Senator Haar. [LB706]

SENATOR HAAR: (Laugh) [LB706]

SENATOR GLOOR: Actually, I do have a question. Do you know when did this competency certification testing begin? [LB706]

SENATOR HAAR: That I don't know. [LB706]

SENATOR GLOOR: But has it been in relatively recent future? I mean the issue here seems to be we have been charging and haven't had the statutory ability to charge. This hasn't been going on for decades, has it? [LB706]

SENATOR HAAR: That's exactly correct, yes. [LB706]

SENATOR GLOOR: Okay. [LB706]

SENATOR HAAR: Thank you. [LB706]

SENATOR GLOOR: All right. That's...thank you, Mr. President. [LB706]

SENATOR STUTHMAN: Thank you... [LB706]

SENATOR GLOOR: Thank you, Senator Haar. [LB706]

SENATOR STUTHMAN: Thank you, Senator Gloor and Senator Haar. Senator Nelson, you're recognized. [LB706]

SENATOR NELSON: Thank you, Mr. President. Members of the body, sorry for the delay here. I was engaged in conversation and perhaps it was already covered, but may I address a question to Senator Haar, if he will yield? [LB706]

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

Floor Debate
March 31, 2010

SENATOR STUTHMAN: Senator Haar, would you yield to a question from Senator Nelson? [LB706]

SENATOR HAAR: Certainly. [LB706]

SENATOR NELSON: Again, looking on page 2 of the green bill there where you put in initial competency assessments, that's on line 14 and 15, are these assessments something new or have they been done in the past without charge? [LB706]

SENATOR HAAR: This is something relatively new and it was being done without a charge. And, again, the State Auditor recommended that they have the authority to charge for this. [LB706]

SENATOR NELSON: And this is just to ensure initially then, as I understand it, that you've got someone whose understanding of the language they're going to translate is competent and they could be, after that initial assessment, they could go no further. Is that correct? [LB706]

SENATOR HAAR: That's my understanding. [LB706]

SENATOR NELSON: All right. Thank you, Senator Haar. Thank you, Mr. President. [LB706]

SENATOR HAAR: Thank you. [LB706]

SENATOR STUTHMAN: Thank you, Senator Nelson and Senator Haar. Seeing no other lights, the question before the body is, shall LB706 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB706]

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB706]

SENATOR STUTHMAN: LB706 does advance. Mr. Clerk, next bill. [LB706]

ASSISTANT CLERK: LB696 was introduced by Senator Pahls. (Read title.) Bill was read for the first time on January 6 of this year, referred to the Natural Resources Committee, placed on General File with committee amendments attached. (AM1676, Legislative Journal page 513.) [LB696]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Pahls, you're recognized to open on LB696. [LB696]

Floor Debate
March 31, 2010

SENATOR PAHLS: Thank you, Mr. Chairman, members of the body. I want to thank Senator Langemeier, who will speak to this bill, for helping me marshal it through the process, because this was going to be my priority bill but, for some reason, I wasn't around to direct it that way. LB696 directs the Department of Environmental Quality to collect solid waste disposal fees on waste generated in the state but hauled to outstate landfills in other states. The waste disposal fee is typically referred to as a tipping fee. The purpose of this bill is to collect the fee on all waste materials in our state, regardless of whether it is disposed of in our state or outside. The tipping fee supports, by statute, a variety of state environmental programs, not just those relating to landfills. The tipping fee is collected by the operator of the landfill when the waste arrives. Under this bill, transfer stations would collect the fee if the waste is intended to be dumped out of state. And just to give you an idea of the tipping fees, for example, if you have a...it's \$1.25 for six cubic yards of uncompacted, \$1.25 on three cubic yards of compacted, or \$1.25 on one ton of solid waste. And just to give you an idea, in the Omaha area one of these sites, it...around 200 tons are delivered daily into Iowa, and at \$5 a ton you can see we are losing some of that revenue. And you may ask, well, where does that revenue go? Well, there are two directions that revenue goes. Fifty percent of that revenue goes into the Integrated Solid Waste Management Cash Fund, and just to give you some subsets of that, that helps spills or environmental emergencies, it monitors waste disposal facilities, livestock waste management, litter reduction and recycling. And what I did is I just checked out just to see how many of these litter recycling grants that were granted, estimated in 2008-2009, there were 68 of those. So it affects a great many communities in the state of Nebraska. That's just one element of it. The other 50 percent of the Waste Reduction and Recycling Incentive Fund, 10 percent of that rebate goes back to the city or county where that's originated, and it goes to waste reduction and recycling grants. I guess that's where I should have been talking about the grants. So you can see by moving some of this solid waste or some of these waste products outside the state, we are losing that tipping fee, and this bill, what it does is says whether you decide to move it out, you still are required to pay that tipping fee. Now, the fiscal note says that this is not going to cost the state anything. In fact, it should, as we understand, should generate money for the state but right now we don't know because we don't keep track in hard figures of all of the funds or the amount of waste that is leaving the state of Nebraska. So I see this as a...this could be very helpful for many communities and especially some of the larger communities where these sites are. And I've been told, I've been looking, that there are around 19 sites. Not every site in the state of Nebraska does...I mean move things outside the state. And that concludes. Thank you. [LB696]

SENATOR STUTHMAN: Thank you, Senator Pahls. As the Clerk has stated, there are committee amendments from the Natural Resources Committee, AM1676. Senator Langemeier, as Chair of the Natural Resources Committee, you're recognized to open on the committee amendments. [LB696]

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

Floor Debate
March 31, 2010

SENATOR LANGEMEIER: Mr. President, members of the body, this bill, LB696, is designed to close a gap. We currently charge \$1.25 per three yards of uncomposted...or uncompacted trash to our landfills. We happen to have some that are going through transfer stations in Omaha and then the end product is ending up in Iowa and they're slipping past the \$1.25. And so the idea is to just close that loophole. The committee amendment does one thing. The bill, as introduced, referred to transfer stations. In the committee amendment, we convert that name to permitted facilities under the Integrated Solid Waste Management Act. That way DEQ has a better idea of who these particular facilities are. And with that, we'd ask for the adoption of AM1676. [LB696]

SENATOR STUTHMAN: Thank you, Senator Langemeier. Mr. Clerk. [LB696]

CLERK: Mr. President, Senator Langemeier would move to amend the committee amendments with AM2445. (Legislative Journal page 1237.) [LB696]

SENATOR STUTHMAN: Senator Langemeier, you're recognized to open on the amendment, AM2445. [LB696]

SENATOR LANGEMEIER: Mr. President, members of the body, AM2445 inserts one word, the word "and" at the request of DEQ. They thought it flowed better with that word in there, so we'd ask for the adoption of that one-word change. And then the adoption of AM1676 and LB696. Thank you. [LB696]

SENATOR STUTHMAN: Thank you, Senator Langemeier. You have heard the opening on AM2445 to the committee amendments. Senator Giese, you are recognized. [LB696]

SENATOR GIESE: Thank you, Mr. President, members of the body. Would Senator Langemeier yield to a question or two? [LB696]

SENATOR LANGEMEIER: Yes. [LB696]

SENATOR STUTHMAN: Senator Langemeier, would you yield to a question or two? [LB696]

SENATOR LANGEMEIER: Yes. [LB696]

SENATOR GIESE: Thank you, Senator Langemeier. Could you tell me, if you know, what is the fee now in, say, Iowa? What do they charge? Do they have this sort of fee? [LB696]

SENATOR LANGEMEIER: I don't know what the fee is in Iowa, and you and I have had this discussion and I knew you were going to ask these questions. There is a concern out there, and it happens to be Senator Giese, one of his constituents that runs landfills

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

Floor Debate
March 31, 2010

in Iowa and Nebraska, and he has a concern that if we plug this hole here, maybe Iowa will implement a tax or a fee in the future. And we can't address what Iowa is going to do, and you and I, we've talked about that and...but I think it's important that Nebraska fill our loopholes and hopefully Iowa makes good decisions for the future of their state. [LB696]

SENATOR GIESE: And I understand that, Senator Langemeier, and thank you. I wasn't going to bring that up, what I thought Iowa might potentially do, but I do have another question. Have we looked at, during this process, what the ramifications would be on a statewide basis. And maybe if you could give me just a little more background on this particular issue, where it came from, who was involved, I would certainly appreciate that. [LB696]

SENATOR LANGEMEIER: The city of Omaha and Douglas County brought this to the attention of Senator Pahls. I inherited it throughout this session to help with it. The concern was is...and maybe it was something that was just an oversight, but as this trash comes into one particular facility in Omaha, they sort out the recyclables and then they're shipping the nonrecyclable waste product into Iowa. And it came to their attention that they were not collecting this \$1.25 and so that's how it came up as a concern that this product was going to Iowa and not paying the tax. [LB696]

SENATOR GIESE: Well, thank you, Senator Langemeier. I knew you would enlighten us on that issue. Colleagues, here is my problem with this bill, and I've run into this several times in my short duration here at the Legislature. We have a specific bill dealing with a specific area and we don't...and we're doing legislation that has statewide ramifications. And time and time again I have addressed different situations on different bills and have been told by different agencies that we cannot do that, we don't want to have spot zoning, spot regulations throughout the state of Nebraska. So my fear is that we're doing this for one entity. I have not heard of anybody else that this involves yet and, frankly, I am not concerned with what Iowa may do. I think smart business people, as the one that I am representing here, will take care of themselves. So I just want the body to be aware of this bill and what it does and the possible statewide ramifications that it may have. Thank you, Mr. President. [LB696]

SENATOR STUTHMAN: Thank you, Senator Giese and Senator Langemeier. Seeing no other senators requesting to speak, Senator Langemeier, you are recognized to close on AM2445. Senator Langemeier waives closing. The question before the body is, shall AM2445 be adopted to AM1676? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB696]

ASSISTANT CLERK: 28 ayes, 1 nay on the adoption of Senator Langemeier's amendment to the committee amendments. [LB696]

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

Floor Debate
March 31, 2010

SENATOR STUTHMAN: AM2445 does...is advanced to AM1676. Seeing no other lights, Senator Langemeier, you're recognized to close on AM1676. Senator Langemeier waives closing. The question before the body is, shall AM1676 be adopted to LB696? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Please record. [LB696]

ASSISTANT CLERK: 32 ayes, 1 nay on the adoption of committee amendments. [LB696]

SENATOR STUTHMAN: Committee amendments are advanced. Seeing no other lights, Senator Pahls, you're recognized to close on LB696. Senator Pahls waives closing. The question before the body is, shall LB696 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB696]

ASSISTANT CLERK: 32 ayes, 1 nay on the advancement of the bill, Mr. President. [LB696]

SENATOR STUTHMAN: LB696 does advance. (Visitors introduced.) Mr. Clerk. [LB696]

ASSISTANT CLERK: Next bill, Mr. President, is LB978, introduced by Senator Mello. (Read title.) Bill was read for the first time on January 19 of this year, referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with no committee amendments. [LB978]

SENATOR STUTHMAN: Thank you. Senator Mello, you're recognized to open on LB978. [LB978]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. LB978 is a bill that would require any appliance purchased or leased by the state of Nebraska to be energy star certified with an exception that the materiel administrator may exempt the purchase or lease of an appliance from this requirement if he or she determines that the cost of compliance would exceed the projected energy cost savings. Energy star is a joint program of the Environmental Protection Agency and the U.S. Department of Energy. Energy star certified appliances must meet energy efficiency guidelines set by both of these agencies. Some of you may have heard of the recent concerns regarding energy star appliance testing. I would propose that now may be the best time to utilize energy star appliances as the Environmental Protection Agency and the Department of Energy have a particular watchful eye over vendors selling energy star products and are taking swift action to improve current testing and enforcement standards so that products are performing as expected. With a \$70 million energy bill each year, purchasing energy star appliances when it is financially practical benefits the state of Nebraska because it saves taxpayer dollars on state utility bills. By using less energy, the need to build new power plants is also delayed, saving additional public funds. And

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

Floor Debate
March 31, 2010

energy efficiency also has health benefits. By using fewer utilities and forgoing the construction of a new power plant, less harmful emissions are in the air and the environmental air quality is improved. LB978 is fiscally sensible and the Government, Military and Veterans Affairs Committee testimony for LB978 enjoyed broad support with favorable letters or testimony provided by the Lincoln Electric System, Metropolitan Utilities District, the U.S. Green Building Council, Sierra Club, and a health and energy company. In closing, LB978 provides efficiency in government that save hard-earned taxpayer dollars, reduce the state's use of utilities, and improves air quality. The purchase of energy star appliances is a responsible choice and provides an opportunity for our state to lead by example. With that, I'd also like to thank the Government, Military and Veterans Affairs Committee Chairman, Senator Avery, and the Speaker for making this a consent calendar bill. Thank you, Mr. President. [LB978]

SENATOR STUTHMAN: Thank you, Senator Mello. You have heard the opening on LB978. Senator Pirsch, you are recognized. [LB978]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. And I thank Senator Mello for coming forward with this bill idea. I just have quick question as to...really deals with the procurement process more than...and how this bill would interrelate to it. Would the...and so I wonder if Senator Mello might yield to a quick question. [LB978]

SENATOR STUTHMAN: Senator Mello, would you yield to a question from Senator Pirsch? [LB978]

SENATOR MELLO: Absolutely. [LB978]

SENATOR PIRSCH: Okay. With respect to...typically, with respect to a need, the governmental procurement officer has, on the state level (inaudible), would those typically be "bided" out? Is that the...through a general notification where we want to procure this type of product or service and then there would be some listings of requirements? Is that how it works? [LB978]

SENATOR MELLO: Yes. [LB978]

SENATOR PIRSCH: Okay. Would it...would then one of the vending require...I mean I like the feature in here that allows for the procurement officer to make a determination and to bypass if the cost of procuring these types of products would exceed the...the cost of the energy star certified appliance would exceed the extra cost in procuring that. But would...at the point that the...at what point would that determination come in? Would the requirement be posted to all potential bidders that it must be an energy star and only later would they...would those be considered? Or how would I...if I wasn't...didn't have an energy star product but it was far cheaper in the general scheme of things after you

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

Floor Debate
March 31, 2010

add the costs of the energy star certification, would I be invited to bid or would I feel that I couldn't even submit an application? [LB978]

SENATOR MELLO: I don't...Senator Pirsch, I don't generally understand what the question was, but I guess I'll try to give you some background information. [LB978]

SENATOR PIRSCH: Well, let me clarify it then. There is...you put in a bypass or a safeguard that allows that says the regular rule is you buy energy star certified appliances, but there is an exception if for some reason the cost of that energy star certification makes the product so prohibitively expensive that there are alternatives that would save all the energy savings and more. And so I'm just wondering would the original bid put out make that clear to potential bidders that even if...or would it just say don't bother applying unless you're an energy star certified product bidder? [LB978]

SENATOR MELLO: The original bid would make that determination, so the Department of Administrative Services will determine whether or not they can follow the language in LB978 of whether or not a particular bid appliance saves enough money as an energy star certified appliance, and if it does not save the money it's supposed to save then they don't have to follow this requirement. [LB978]

SENATOR PIRSCH: They'd be aware of other alternatives that are not energy star, in other words. [LB978]

SENATOR MELLO: Yes. [LB978]

SENATOR PIRSCH: Okay. Well, thank you for that and I appreciate this bill concept. I think it is definitely one that needs to be brought forward, so thank you. [LB978]

SENATOR STUTHMAN: Thank you, Senator Pirsch and Senator Mello. Senator Wallman, you're recognized. [LB978]

SENATOR WALLMAN: Good morning, members of the body. Mr. President, Thank you. Would Senator Mello yield to a question? [LB978]

SENATOR STUTHMAN: Senator Mello, will you yield to a question from Senator Wallman? [LB978]

SENATOR MELLO: Absolutely. [LB978]

SENATOR WALLMAN: Senator Mello, this is a good bill, I feel, (laugh) but only one problem I think. How do we figure life cycle cost? (Laugh) You know, some of these appliances last a lot longer than others. And my old refrigerator might be 25 years old but still running, and hopefully this...if they figure this all together. Would you think that

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

Floor Debate
March 31, 2010

would be true? [LB978]

SENATOR MELLO: Well, Senator Wallman, the energy star certification process that goes through the federal Department of Energy and the Environmental Protection Agency takes in the life cycle costs of the energy savings. That's how they get the certification. So energy star certification has a federal created life cycle cost as it relates just to energy usage and energy cost savings over the length and life of the appliance. [LB978]

SENATOR WALLMAN: Thank you, Senator Mello. Thank you, Mr. President. [LB978]

SENATOR STUTHMAN: Thank you, Senator Wallman and Senator Mello. Seeing no other lights, Senator Mello, you're recognized to close on LB978. Senator Mello waives closing. The question before the body is, shall LB978 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB978]

ASSISTANT CLERK: 35 ayes, 0 nays on the advancement of the bill. [LB978]

SENATOR STUTHMAN: LB978 does advance. (Visitors introduced.) Mr. Clerk. [LB978]

ASSISTANT CLERK: Next bill, Mr. President, is LB792, introduced by Senator Coash. (Read title.) Bill was read for the first time on January 7, referred to Judiciary, placed on General File with no committee amendments. [LB792]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Coash, you are recognized to open on LB792. [LB792]

SENATOR COASH: Thank you, Mr. President. Thank you, members of the body. LB792 is a bill brought by the Nebraska Pharmacists Association. Every year, every so many years or so, three or four, the Pharmacy Association has to bring forth a bill to harmonize state statute to the federal statutes of the Uniform Controlled Substances Act. And that's what LB792 does. There are six provisions in LB792. And I'll go through them briefly and I'm not going to try and pronounce the names of all these drugs, but two of the drugs are listed here, they're just correcting spelling. The first drug...and on the handout that I gave you, the first drug is a spelling error. Three other drugs take our current scheduled substances and puts them in line with the federal statute. And when the federal government schedules the drug up or down we have to come into compliance and that's what four of these drugs do. And then the last two changes have to do with correcting the harmonization update that was inadvertently changed a few years back. And the State Patrol has asked us to change those because it affects how they can do their drug lab testing on those particular drugs. So again, colleagues, there's nothing new in this bill other than a couple of spelling changes and in addition

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

Floor Debate
March 31, 2010

we're coming into compliance with the federal drug act. So I would ask for your advancement of LB792. Thank you, Mr. President. [LB792]

SENATOR STUTHMAN: Thank you, Senator Coash. You have heard the opening on LB792. Seeing no lights on, anyone wishing to speak? Senator Coash you're recognized to close. Senator Coash waives his closing. The question for the body is, shall LB792 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB792]

ASSISTANT CLERK: 28 ayes, 0 nays on the motion to advance the bill. [LB792]

SENATOR STUTHMAN: LB792 does advance. Mr. Clerk, the next bill. [LB792]

ASSISTANT CLERK: Next bill, Mr. President, is LB695 introduced by Senator Price. (Read title.) The bill was read for the first time on January 6. It was referred to Judiciary Committee which reported the bill to General File with committee amendments. (AM1849, Legislative Journal page 539.) [LB695]

SENATOR STUTHMAN: Thank you. Senator Price, you're recognized to open on LB695. [LB695]

SENATOR PRICE: Thank you, Mr. President, members of the body. LB695 was introduced at the suggestion of a constituent who noted that the Nebraska Small Claims Court jurisdictional limit is quite low compared to our surrounding states and the nation as a whole. After speaking with a number of interested parties, the State Court Administrator's Office, and Nebraska State Bar Association, the Nebraska County Judges, and the Nebraska County Attorneys Association, none who expressed any concerns with this legislation, we determined that we would try to go ahead and raise the limit from \$2,700. The State Court Administrator's only recommendation was to keep the current provision whereby the jurisdictional amount is adjusted by the Supreme Court every fifth year according to the consumer price index. Now, I believe that this bill would reduce the burden on our civil courts while allowing more citizens to utilize the Small Claims Court process. In 2008 there were almost 7,000 Small Claims Court cases filed in Nebraska and close to 100,000 civil cases filed. The judgment over \$2,700 and under \$5,000 totaled about 7,000 cases. And the benefits of using the Small Claims Court included it's expediency, the low cost, and informally. The current low jurisdictional amount makes it difficult for many to have their cases heard in a Small Claims Court. Instead, they're only option is to file their claim as a civil case costs them more money and more time. While many do not have these resources to spare, this is why I wanted to bring this forward. There's simply not enough room sometimes in these cases for legal fees. And with that, I would yield and I'd ask that the body adopt LB695 and the forthcoming amendment. [LB695]

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

Floor Debate
March 31, 2010

SENATOR STUTHMAN: Thank you, Senator Price for the opening on LB695. As the Clerk has stated, there are Judiciary Committee amendments, AM1849. Senator Ashford, as Chairman of the committee, you're recognized to open. [LB695]

SENATOR ASHFORD: Yeah. Thank you, Mr. President. And simply this amendment puts the jurisdictional limit at \$3,500. This is a good change, a good bill, and we urge the adoption of the committee amendments. [LB695]

SENATOR STUTHMAN: Thank you, Senator Ashford. You have heard the opening on AM1849. Seeing no lights, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question for the body is, shall AM1849 be advanced? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB695]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of committee amendments. [LB695]

SENATOR STUTHMAN: Committee amendments do advance. Seeing no other lights, Senator Price you're recognized to close on LB695. Senator Price waives his opportunity to close. The question for the body is, shall LB695 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Please record. [LB695]

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB695]

SENATOR STUTHMAN: LB695 does advance. Mr. Clerk, next bill. [LB695]

ASSISTANT CLERK: Mr. President, LB986, was introduced by Senator Conrad. (Read title.) The bill was read for the first time January 19 of this year, referred to the Agricultural Committee, placed on General File with no committee amendments. [LB986]

SENATOR STUTHMAN: Thank you. Senator Conrad, you're recognized to open on LB986. [LB986]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I'm pleased to present LB986 which seeks to amend the Agricultural Opportunities and Value-Added Partnership Act which was authorized by this Legislature in LB90 in 2005. This legislation seeks to increase access and use of EBT and other nutritional and antihunger benefit programs at farmers markets and in local food cooperatives through the use of competitive grants and utilizing existing funds to purchase the hardware and software necessary to facilitate this use. This legislation seeks to build an infrastructure

Floor Debate
March 31, 2010

for improved nutritional options for low-income families while also creating an additional demand in economic benefit to local ag producers. This legislation envisions unique and varied public-private partnerships that have been experienced by other states that have developed similar programs. In fact, 31 other states and jurisdictions have at least a pilot program for use of such benefits in place at farmers markets already. In 2009 alone, at least nine other states debated and passed legislation supporting this type of program. Currently, Nebraska is only one of five states that does not have a WIC farmers market nutrition program. Colleagues, it's no news to you and you know well that Nebraska's economy is depending upon agriculture. And as policymakers we should do all that we can to ensure a market for our local producers exist and is expanded at every opportunity possible. As working families, children, the elderly, and other vulnerable populations are at increased risk during times of economic turndown like we are in now, we should do all we can to ensure these Nebraskans have access and resources to healthy foods. And that's what LB986 seeks to do. This legislation is a classic win-win-win idea. It promotes and supports local ag producers and products, it helps vulnerable Nebraskans live healthier lives, and it accomplishes these policy objectives through public-private partnerships utilizing existing infrastructure and funds. We had a great committee hearing on this bill. It came out with unanimous support and those testifying in support were among a very diverse group of interest from the Nebraska Farm Bureau Federation to the Nebraska Dietetic Association and other local antihunger groups. So with that, I'm happy to answer any questions about the bill and I would seek your consideration and support and urge its adoption. Thank you, Mr. President. [LB986]

SENATOR STUTHMAN: Thank you, Senator Conrad, for the opening on LB986. Senator Carlson, you're recognized. [LB986]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The Ag Committee did hear LB986 on February 16 and, of course, advanced it to General File. Without exception, the committee supports the overall goal of the legislation to enhance the means by which federal food and nutrition program beneficiaries can access farmers markets. As Senator Conrad indicated, the bill would insert express eligibility for grant awards under the Agricultural Opportunities and Value-Added Partnership Act for projects to equip farmers market venues with necessary electronic scanners and point-of-sale devices. Although such utilization of the value-added program funds has been an element of at least two grants awarded under the program to date, the committee felt strongly that the endorsement of and encouragement of project sponsors to apply for these funds for this purpose is very worthwhile. It is apparent that farmers markets are an increasingly popular and important venue for acquiring fresh, nutritious foods and certainly we would like people of all incomes to have access to quality products sold in these settings. The ability of farmers market vendors to serve federal nutrition program beneficiaries would provide an opportunity to tap into a federal funding stream to help support a growing and increasingly diverse

Floor Debate
March 31, 2010

direct marketing agricultural sector. I thank Senator Conrad for bringing this bill and would ask for your support for LB986. Thank you, Mr. President. [LB986]

SENATOR STUTHMAN: Thank you, Senator Carlson. Senator Sullivan, you are recognized. [LB986]

SENATOR SULLIVAN: Thank you very much, Mr. President and colleagues. First of all, I rise in support of this legislation. It's not very often that we can have legislation that I think is a win-win-win situation, but I think this certainly is. It helps make farmers markets products more accessible to more people. It provides another avenue for those on public assistance to purchase healthy nutritious food. And equally important, it brings agriculture right up face to face with another audience and I think this is a great opportunity. With that being said, I just do have a couple questions for Senator Conrad. [LB986]

SENATOR STUTHMAN: Senator Conrad, would you be willing to respond to Senator Sullivan? [LB986]

SENATOR CONRAD: Yes, of course. [LB986]

SENATOR SULLIVAN: Thank you, Senator. Can you tell me a little bit more about these competitive grants? Who is going to be the jury on these and how will they be administered? [LB986]

SENATOR CONRAD: Yes, Senator Sullivan, and to be clear, that's part of the existing infrastructure that I mentioned in my brief opening comments. We're not really changing anything in terms of how the existing Agricultural Opportunities and Value-Added Partnership Act works and so the staff in place to process these applications and to make the competitive grants will not change in any way but rather this just expands the pool of potential projects that could be eligible for these funds. And as Senator Carlson noted, they believe that they have granted to projects along similar lines but in fact it is important that we clarify this legislation to make this a specific possibility for those competitive grants. I believe that the staffing for this program is handled by the Department of Economic Development or it may be contracted out through their office. [LB986]

SENATOR SULLIVAN: Is the thought that the scanners would be purchased by the entity that hosted the farmers market or that they would be purchased by the individual producers? [LB986]

SENATOR CONRAD: I'm sorry, Senator Sullivan, I was trying to get clarification. If you could repeat the question. [LB986]

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

Floor Debate
March 31, 2010

SENATOR SULLIVAN: Yes, just wondering if the thought is that the scanner would be purchased on behalf of the entity that's sponsoring the total farmers market or by the individual producers? [LB986]

SENATOR CONRAD: Yes, thank you, Senator Sullivan. And to be clear, the legislation is purposely flexible and so it would provide an opportunity for either an individual producer or the organizers of the farmers market to be the applicant and grantee. [LB986]

SENATOR SULLIVAN: And in addition to being able to accept the card for public assistance could they also accept credit cards? [LB986]

SENATOR CONRAD: It's my understanding, Senator Sullivan, that there is a variety of different point of sale if hardware and software are available and my legislation primarily envisions those devices which will process public benefits cards and options. But it is my understanding that there are available devices...or there are existing devices that would accept these and then also credit cards or other forms of payment. So it may be a good opportunity for those interested in accepting those kinds of payments to get some infrastructure and hardware and software in place to accomplish such. [LB986]

SENATOR SULLIVAN: Thank you, Senator Conrad. I, again, wholeheartedly support this legislation. Thank you. [LB986]

SENATOR STUTHMAN: Thank you, Senator Sullivan and Senator Conrad. Senator Council, you're recognized. [LB986]

SENATOR COUNCIL: Thank you, Mr. President. I rise in strong support of LB986 and thank Senator Conrad for introducing this very important piece of legislation. For those of you who may not have had the opportunity to read a copy of a publication that Senator Carlson has and has made available to some, it speaks to the issue of food deserts and the fact that food deserts do exist in the state of Nebraska. And food deserts are locations across the state where the residents are unable to access fresh and nutritious foods. That there are no outlets for them to purchase such fresh and nutritious foods and through this bill it will increase access to those who wish to develop farmers markets in areas where they do not currently exist. It will increase, hopefully, the development of community gardens as a means of providing fresh produce particularly to low-income residents and specifically make these products available in areas where large numbers of low-income individuals reside so that they can use their government benefits to access locally produced fresh and nutritious foods. I urge this body to advance LB986 and to enable us to spread agriculture throughout the state of Nebraska to support our small local producers and encourage others who ordinarily do not see agriculture as a career opportunity for them to see that as not only as a career opportunity but a economic development vehicle. [LB986]

Floor Debate
March 31, 2010

SENATOR STUTHMAN: Thank you, Senator Council. Senator Nelson, you're recognized. [LB986]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to address a question or two to Senator Conrad if she will yield. [LB986]

SENATOR STUTHMAN: Senator Conrad, would you yield? [LB986]

SENATOR CONRAD: Yes, of course. [LB986]

SENATOR NELSON: Thank you, Senator. I just...I'd like a little clarification here in light of what I've heard from Senator Council. I had an interesting e-mail from a dietician in Omaha saying that this bill will provide access to farmers markets for SNAP, S-N-A-P, used to be called food stamps recipients. I guess my question is, don't they have access now? [LB986]

SENATOR CONRAD: Unfortunately they don't, Senator Nelson, in many ways. There is one farmers market here in Lincoln that does accept food stamp benefits but they do so through a system that they have coordinated with vouchers and tokens and that they do have approval to administer with the Department of Ag but in terms of widespread acceptance of these benefits at farmers markets and other co-ops and other places where we promote local ag producers products, they really don't have any ability to accept these kind of benefits and that's why we needed a source of funding from existing funds to help people put the hardware and software in place to accomplish such. [LB986]

SENATOR NELSON: Why is it they're not able to accept food stamps? I mean, they don't have the instruments to do that? [LB986]

SENATOR CONRAD: That's right, Senator Nelson. All food stamp benefits today, they're not like the coupon books that people sometimes think about but rather they're like a credit card or a debit card and that's how people then utilize their food stamps and a lot of these farmers markets don't have the kind of equipment to swipe that card. And that's what we're talking about here to help them get that equipment so that people can get healthy food with their benefits. [LB986]

SENATOR NELSON: All right. I understand. Thank you, Senator Conrad. Thank you, Mr. President. [LB986]

SENATOR STUTHMAN: Thank you, Senator Nelson and Senator Conrad. Senator Dubas, you're recognized. [LB986]

Floor Debate
March 31, 2010

SENATOR DUBAS: Thank you, Mr. President and members of the body. I'd like to just expound a little bit more on the questions that Senator Nelson just asked. We do...we are a vendor at a farmers market and this has been a real issue for us, people that want to buy our product and want to use the SNAP program. No vendor at the farmers market has access to the equipment we need now to do those types of transactions. There is a program in existence, it's for senior citizens and they are giving them paper coupons but that's still kind of a hassle. You have to turn them in and then you got to get the money back and it's not a real easy process but it's a program that our seniors have really enjoyed to be able to have access to fresh fruits and vegetables during the growing season. It's very popular. It's been in existence for quite a few years now so with the ability to have a farmers market buy this equipment so that each of the vendors don't have to buy it would make it simpler for vendors. You know, we're only in operation a few months out of the year. We set up outside, you know, having access to the electricity and things like that it isn't always the easiest thing to do. So having a farmers market have a central location where people could use their electronic means of purchasing their products would really be an asset for farmers market vendors as well as those customers who come. We're talking on a regular basis about the need for citizens to change their eating habits and there's no better place to begin that change in your eating habits than at a farmers market where you can get the freshest and best tasting products around. I'm not afraid of a little shameless self-promotion here so I would encourage any of you to visit any or your local farmers markets. They're a fun place to go and a great place to buy your food to feed your family. So I do stand in wholehearted... [LB986]

SENATOR STUTHMAN: One minute. Fifteen minute rule. [LB986]

SENATOR DUBAS: ...support of this bill. Thank you. [LB986]

SENATOR STUTHMAN: Thank you, Senator Dubas. Senator Conrad, you're recognized to close. Remember we have the fifteen minute rule. Senator Conrad waives her opportunity to close. The question for the body is, shall LB986 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB986]

ASSISTANT CLERK: 40 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB986]

SENATOR STUTHMAN: LB986 does advance. Mr. Clerk, next bill. [LB986]

ASSISTANT CLERK: LB997 is a bill introduced by Senator Mello. (Read title.) It was read for the first time on January 20 of this year, referred to Urban Affairs, placed on General File with no committee amendments. [LB997]

Floor Debate
March 31, 2010

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Mello, you are recognized to open on LB997. [LB997]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. LB997 is a bill that requires cities of the metropolitan class to include energy element as part of their comprehensive plan. That's already in state statute. Also LB997 requires counties and cities of the primary, first, and second class that choose to have comprehensive plans to contain an energy element as part of that plan. LB997 would become effective when a new comprehensive plan is developed, a full update to the comprehensive plan is undertaken, or by January 1, 2015. This date provides ample time for counties and municipalities, five years, to incorporate this new element into their comprehensive planning process. The energy element would add a new section to the comprehensive plan that would, first, assess energy infrastructure and energy use by sector, including residential, commercial, and industrial sectors; evaluate the utilization of renewable energy sources; and, third, promote energy conservation measures that benefit the community. With an ever-changing global economy and public power stretched to its limits across our state, it serves a positive public purpose for communities to evaluate their energy consumption, energy conservation opportunities, and renewable energy potentials. By collecting this information and making it available, greater transparency is provided to the public, including new industries that may wish to relocate to the area and decision makers are armed with information to guide their policies. Imagine the millions of dollars, taxpayer dollars that could be saved if every municipality critically examined their energy usage and incorporated these findings into their comprehensive plans. LB997, in short, is an opportunity for municipalities to examine their energy usage to make positive changes that benefit the entire community. Including an energy element in comprehensive plans is a long-term planning tool that addresses energy usage and efficiency. LB997 does not cost the state any additional funds and, in fact, stands to save communities valuable taxpayer dollars if the information gleaned from this process is fully utilized. In closing, I'd like to thank Chairwoman McGill and the Urban Affairs Committee for making this a consent calendar bill and also stating that the hearing for LB997 enjoyed broad support, and included letters of support or testimony from local environmental advocates, the American Institute of Architects, Omaha By Design, the Sierra Club, the U.S. Green Building Council and the city of Omaha. Accomplishing what LB997 calls for is a matter of incorporating what our public utilities are doing in regards to the planning process. I have discussed this with the League of Municipalities, both in the hearing testimony and afterwards in subsequent discussions which is why the league testified in a neutral but favorable capacity. LB997 does not mandate any expenditures and leaves considerable room for municipalities to decide how best to address energy efficiency in their comprehensive plans. Thank you, Mr. President. [LB997]

SENATOR STUTHMAN: Thank you, Senator Mello, for the opening on LB997. (Visitors introduced.) Those wishing to speak: Senator Campbell, Senator Haar, and Senator

Floor Debate
March 31, 2010

Utter. Senator Campbell, you're recognized. [LB997]

SENATOR CAMPBELL: Thank you, Mr. President. And I rise to support LB997 but I do have a brief question for Senator Mello. [LB997]

SENATOR STUTHMAN: Senator Mello, would you respond to a question? [LB997]

SENATOR MELLO: Absolutely. [LB997]

SENATOR CAMPBELL: Senator Mello, you and I spoke off the mike but I thought it was important that we talk a little bit on the record. And that is most comprehensive plans that are put together are zoning comprehensive plans that last over a long period of time. And yet what the bill calls for is a pretty detailed listing of items that we need to get to. Is there any thought that at some point we would come back and try to look at an annual or a semiannual assessment by the community of where they are? [LB997]

SENATOR MELLO: Senator Campbell, that's a great question. And in drafting this legislation the thought was trying to allow communities, in their planning process through their comprehensive plans, to be able to get quality information, energy-related information from public power districts to their local municipal utilities to help craft their long-term planning for the growth of their cities. This plan, LB997 only asks them to do this when a new plan is updated or when they create a new plan or by January 1, 2015. And ideally, it would be in, I think, the municipalities best interest if they look to update this information on a yearly basis. But for right now through LB997 that's not required. And I think it's something that we can look at after this is enacted to see how municipalities might want to look to change the statute, to make this more of an annual updated requirement for their master plans. [LB997]

SENATOR CAMPBELL: Thank you, Senator Mello and Mr. President. [LB997]

SENATOR STUTHMAN: Thank you, Senator Campbell and Senator Mello. Senator Haar, you're recognized. [LB997]

SENATOR HAAR: Mr. President, members of the body, I rise in support, obviously, of LB997. And I just want to thank Senator Mello for his focus on energy and energy efficiency kinds of issues. In the future we're going to see more and more of that. And as Senator Mello being the next generation, the issues he's dealing with, I think, will be top and foremost in his generation. My generation is just trying to catch up and maybe get jump-started. So thank you very much, Senator Mello. [LB997]

SENATOR STUTHMAN: Thank you, Senator Haar. Senator Dubas, you're recognized. [LB997]

Floor Debate
March 31, 2010

SENATOR DUBAS: Thank you, Mr. President. Would Senator Mello yield for some questions? [LB997]

SENATOR STUTHMAN: Senator Mello, would you yield? [LB997]

SENATOR MELLO: Absolutely. [LB997]

SENATOR DUBAS: Thank you, Senator Mello, for this bill. And I, too, stand in support of it. But I do just have a few questions. And I think they follow along the line the questions that Senator Campbell asked. So you're looking at when a county or a city updates their zoning regulations, this bill would require them to make this a component of their update? [LB997]

SENATOR MELLO: Yes. [LB997]

SENATOR DUBAS: Would you see this as something that could possibly be cost-prohibitive to our counties or municipalities? Is this going to involve a lot of in-depth research and study to get this as a part of their zoning regulations? [LB997]

SENATOR MELLO: Knowing the costs that are associated with comprehensive plans for municipalities and counties, and this was the conversation that we had at length with the League of Municipalities, a lot of communities already incorporate this information, getting it from public power. So it's more just of codifying what a lot of communities have done or are looking to do of getting that public power information in regards to their energy consumption and ways that they can promote energy efficiency within their long-term planning. So we...that was part of why the league, while they were supportive of it, came in a neutral capacity because they wanted to make sure we set it in testimony as well as on the record that this shouldn't cost any additional money in regard to their planning process. It should be information that's already publicly accessible and they just need to incorporate it into their plan. [LB997]

SENATOR DUBAS: I do think you're right about that. As a former zoning board member, I knew that we received yearly reports from our local public power districts that served us with a lot of this information. But also as a former zoning board member, I could see how I would look at this and go, oh, now they're asking us to do something else and what is that going to cost us. So I appreciate your recognizing that and talking to the league about it and would be happy to work with you in the future on helping our local zoning jurisdictions understand this better and put it in place. Because, as you said, I think in the long run it pays them dividends. So appreciate your work, thank you. [LB997]

SENATOR MELLO: Thank you. [LB997]

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

Floor Debate
March 31, 2010

SENATOR STUTHMAN: Thank you, Senator Dubas and Senator Mello. Seeing no other lights, the question before the body is, shall LB997 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Please record, Mr. Clerk. [LB997]

ASSISTANT CLERK: 30 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB997]

SENATOR STUTHMAN: LB997 does advance. Mr. Clerk, items for the record. [LB997]

ASSISTANT CLERK: One item, Mr. President. New resolution, LR540, introduced by Senator Janssen. That will be laid over. (Legislative Journal page 1238.) [LR540]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Next bill.

ASSISTANT CLERK: Next bill, Mr. President, is LB933 introduced by Senator Utter. (Read title.) The bill was read for the first time on January 13, referred to the Transportation Committee, placed on General File with no committee amendments. [LB933]

SENATOR STUTHMAN: Senator Utter, you're recognized to open on LB933. [LB933]

SENATOR UTTER: Thank you, Mr. President. Good morning, again, colleagues. In 2006, the Motor Vehicle Certificate of Title Act was amended to provide a means for evidencing the affixation of a manufactured or mobile home to real property including the process for issuance and surrender of the certificate of title. A certificate of title is required for the mobile home...is required for the mobile or manufactured home to operate on Nebraska roadways. When the home is affixed to real property, the certificate of title is surrendered. In order to obtain a certificate of title, one must essentially have the manufacturers certificate of origin. Now a problem has arisen for mobile and manufactured homes affixed prior to the 2006 changes and owned by someone other than the original owner. When a certificate of origin has not been kept, there is no practical way to obtain a duplicate from the manufacturer. LB933 would expand the type of proof of ownership required from a certificate of title applicant to include an affidavit by the owner affirming ownership that comes along with the county assessor assessment records for the manufactured home or mobile home. This bill further provides for an applicant who cannot produce the required proof of ownership, the certificate of title may still be issued if the department finds that other evidence provided by the applicant is sufficient. This bill represents a reasonable and workable solution to a problem that has arisen for lenders and mobile and manufactured homeowners alike as they attempt to comply with the Motor Vehicle Certificate of Title Act. This problem was brought to the Legislature by the Nebraska Land Title Association. It has advanced from the Transportation Committee without opposition

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

Floor Debate
March 31, 2010

and, colleagues, I urge your positive green-button vote on this bill. [LB933]

SENATOR STUTHMAN: Thank you, Senator Utter, for the opening on LB933. Is there anyone wishing to speak? Seeing no lights, Senator Utter, you're recognized to close. Senator Utter waives his opportunity to close. The question for the body is, shall LB933 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB933]

ASSISTANT CLERK: 27 ayes, 0 nays on the motion to advance the bill. [LB933]

SENATOR STUTHMAN: LB933 does advance. Mr. Clerk, the next bill. [LB933]

ASSISTANT CLERK: LB813 was introduced by Senator Gloor. (Read title.) The bill was read for the first time on January 8 of this year, referred to the Banking, Commerce and Insurance Committee, placed on General File with no committee amendments. [LB813]

SENATOR STUTHMAN: Senator Gloor, you're recognized to open on LB813. [LB813]

SENATOR GLOOR: Thank you, Mr. President. First, I want to give a little background briefly before I explain the bill. Once upon a time, I had dental coverage along with my health insurance. I no longer have that dental coverage and I use the term dental coverage rather than dental insurance because it isn't insurance at all. In fact, current Nebraska statute does not refer to dental coverage as insurance. The coverage under statute is referred to as prepaid dental services because that's what it truly is, not insurance but prepaid dental services. When you have health insurance you purchase insurance, medical insurance and you have almost all procedures in a large subset that you receive some kind of a reduction in cost which is set forth in the EOB or explanation of benefits. When you spend enough money to meet your deductible, the insurance company picks up all or a large portion for the expenses you receive beyond that point. This protects you as the patient from large, large medical bills, especially for catastrophic events or a major procedure you have to undergo. But on the dental side, it's just the opposite. Only certain services receive a reduction in cost and once you've hit your cap there's no further coverage, fillings, crowns, perhaps a cleaning once a year. In reality what you're doing is prepaying for the right to receive a certain amount of dental services. There's no insurance involved at all. It's a use-it-or-lose-it proposition. There's no coverage or protection against a major dental emergency or for dental care that is a surprise that may hit you outside or beyond a very tightly defined set of services like a few that I mentioned. Now that hopefully you understand the difference between health insurance statutes and prepaid dental statutes, this bill seeks to address a problem that's designed to or it's set up to stop an inappropriate strong-arm cost shifting that's currently going on with contract manipulations by some dental insurers. Nationally, there have been attempts to require dentists provide reduced rates on noncovered services. The problem is that these services are by their very nature

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

Floor Debate
March 31, 2010

outside the contract that was originally agreed to and aren't covered. The insurer in this case is trying to piggyback discounts for uncovered services onto a contract that relates only to covered services. When the services are not covered, not paid for the plan, that cost then shifts somewhere else to other insurance plans or to the uninsured. I feel that this type of cost shifting is one of the reasons that we have major health problems across the country. LB813 makes it clear that prepaid dental plans may not limit the fee charged for noncovered services. The bill has no fiscal impact, was advanced from the Banking, Commerce and Insurance Committee with unanimous vote, without amendments, and there were no opponents at the hearing. I ask for your favorable consideration of this bill and would be glad to answer questions about prepaid dental plans. Thank you. [LB813]

SENATOR STUTHMAN: Thank you, Senator Gloor, for the opening. Senator White, you're recognized. [LB813]

SENATOR WHITE: Thank you, Mr. President. Would Senator Gloor yield to some questions? [LB813]

SENATOR STUTHMAN: Senator Gloor, would you yield to some questions? [LB813]

SENATOR GLOOR: Yes, I would. [LB813]

SENATOR WHITE: Senator Gloor, I have no position on this bill yet, but I do have some questions about it. First of all, in a sense, you're prohibiting the prepaid dental group from negotiating for better prices on services other than those that they actually cover, is that correct? [LB813]

SENATOR GLOOR: Actually they could negotiate for those covers. What they could not do is offer a contract that's solely dependent upon the acceptance of those of noncovered services. [LB813]

SENATOR WHITE: Well, what that means then is effectively they could ask but they couldn't demand if you want to do business with our group we can't get a class-wide lower price, correct? For example...and let me see, maybe perhaps I don't understand, but let's say I have a plan that covers fillings, cleanings, but doesn't cover crowns. And so we are prohibiting a group forming to say, if you want our people for fillings and cleanings, you have to give us at least this price on crowns as well, should one need one. [LB813]

SENATOR GLOOR: Correct. [LB813]

SENATOR WHITE: What is the rationale for that, Senator, in the sense of if we can have buying organizations ban together to negotiate better prices, why is that not a

Floor Debate
March 31, 2010

good idea? [LB813]

SENATOR GLOOR: If they, in fact, can negotiate that better price then there would be no problem and the contract would be in place. Part of the concern that this seeks to address is probably rather than say bait and switch, it would be bait and pile on. Once a provider has in fact begun to provide services under an established contract, perhaps as much as 30, 40 percent of their business may all of a sudden be connected to that particular insurance plan. If they then come in and start requiring additional special pricing for services that weren't covered under that original plan, we find a provider locked into having a hard time saying no, somewhat trapped into that contract. They agree to it, start providing that discount, it shifts to everyone else who has either a different plan or no plan and so you find what I would call a pretty dramatic cost shift. This would not prohibit the dentist or any of the large purchasing plans from sitting down and coming up with a new contract that they then negotiate with the dentist. [LB813]

SENATOR WHITE: Well, then I guess, what does it do? I mean, if you're saying they can't shift the contract in the middle of the contract, well that's apparent because the contract itself protects against that. For example, if I have a contract with you that I will do fillings at this price and I'll do cleanings at this price and it says nothing about crowns, you have no contractual right to come in and take away your patients and say, now, I must cover crowns at a certain rate. [LB813]

SENATOR GLOOR: I don't know that that's completely an accurate description of signing up with insurance plans. You would be an expert in contract law, I would not. But I would certainly have some experience in negotiating with health insurers and quite frequently the challenge here would be there may have been an agreement but requiring me all of a sudden in the middle of a contract that we have come up with and agreed to, to now all of a sudden to provide dramatic change in the pricing that I received may well be problematic and outside the parameters of traditional contract law, but I don't know. [LB813]

SENATOR WHITE: What you're saying is that basically you'll get one of these groups because you say it's not really insurance. You say it's just a prepaid dental plan. [LB813]

SENATOR GLOOR: Correct. [LB813]

SENATOR WHITE: Okay. So you get a prepaid dental plan and you say they have a contract for a series of prices and then unilaterally... [LB813]

SENATOR STUTHMAN: One minute. [LB813]

SENATOR WHITE: ...in the middle of the contract they will ask for or demand that you

Floor Debate
March 31, 2010

drop prices on services not covered. Well, where's their leverage for that? I mean, you have a contract with them. [LB813]

SENATOR GLOOR: The leverage would be that a large portion of your patient volumes may now come from that insurer and that can be substantial. You will recall not that many years ago what was in vogue with a lot of benefit plans would offer prepaid legal services and under those prepaid legal services a small subset perhaps, wills, real estate transactions might have been covered. If all of a sudden establishment of dramatic trust and whatnot were limited under that, and a large portion of your law practice now is tied to that particular employer and the employees who came to you, you'd find yourself trapped. It doesn't mean that there couldn't be another interaction with that benefit group, that major employer, that would, in fact, negotiate further. But to pile on afterwards would be inappropriate. [LB813]

SENATOR STUTHMAN: Time. Senator White, you may continue. [LB813]

SENATOR WHITE: Thank you, Senator, Mr. President. Well, Senator, and I don't want to pull us off consent but I have real grave concerns that I think we need to talk about between now and Select or it could become an issue. And by the way, my father-in-law and one of my brother-in-laws are dentists and one of my very good friends (laugh) is a dentist. So I'm sympathetic but at the same time I'm not sure exactly what this is meant to address and if it's not insurance, Senator, I'm not sure we have the authority to do what you want to do under the antitrust rules. We're exempted...in the governance of insurance we're exempted from the antitrust rules but here we're putting on some interesting restraints on the ability to contract freely and yet we've already made the record it's not insurance. [LB813]

SENATOR GLOOR: I would be glad to between now and Select File sit down and work with you to try and address those concerns and we can certainly offer an amendment if that will help. [LB813]

SENATOR WHITE: Yeah, it's probably more a lack of my understanding than a fundamental problem with the bill, I hope. But I can tell you, I mean, the cost of any kind of medical care is a huge issue and what I hear this bill saying is, we're going to prevent people, for example, an employer group or union or any other kind of third-party group, from effectively negotiating a better array of prices for their members. And that's kind of like telling Sam's Club, well, you can't negotiate for better prices for something they don't buy, you know. And I'm not sure of the rationale of that at all if this drops prices. [LB813]

SENATOR GLOOR: There has been legislation like this in other states and the impetus for this legislation in other states has been the issue of cost shifting. That a small subset of people may, in fact, realize better pricing but that cost then shifts to a whole other

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

Floor Debate
March 31, 2010

category of individuals, some insured, but a vast majority uninsured. And there ends up being both a business challenge as well as a social and ethical challenge. [LB813]

SENATOR WHITE: Yeah, so but what you're saying then is that the way we handle that is telling the dentist he can't negotiate freely for lower prices or we're going to tell this company they can't ask them. So it's a government takeover of the dental industry, basically. [LB813]

SENATOR GLOOR: Actually the Dental Association brought this to my attention, so. [LB813]

SENATOR WHITE: Well, I'm sure they did and...but I guess what I'm saying is, we've been, a lot of people have been deeply upset at the idea of the government interference in healthcare and they've pointed to the model of dental health as how the free enterprise system works, and aren't we now crossing into the line that many conservatives have decried on a consent calendar item in the dental industry. [LB813]

SENATOR GLOOR: Again, I believe we can address your concerns between now and Select and would be more than happy to do so. I think with further explanation you would find yourself comfortable with this bill. [LB813]

SENATOR WHITE: I hope so. Thank you, Senator. [LB813]

SENATOR GLOOR: Thank you. [LB813]

SENATOR STUTHMAN: Thank you Senator White and Senator Gloor. Seeing no other lights, Senator Gloor, you're recognized to close. Senator Gloor waives his opportunity to close. The question for the body is, shall LB813 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Please record. [LB813]

ASSISTANT CLERK: 28 ayes, 0 nays on the motion to advance the bill. [LB813]

SENATOR STUTHMAN: LB813 does advance. (Visitors introduced.) Mr. Clerk, the next bill. [LB813]

ASSISTANT CLERK: Mr. President, LB852 was introduced by Senator Avery. (Read title.) The bill was read for the first time on January 11 of this year, referred to the Government Committee, placed on General File with no committee amendments. [LB852]

SENATOR STUTHMAN: Senator Avery, you're recognized to open on LB852. [LB852]

SENATOR AVERY: Thank you, Mr. President. The purpose of this bill is to allow

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

Floor Debate
March 31, 2010

additional offices to have write-in space on primary and general election ballots. LB852 allows for write-in space on the primary ballot for directors of Natural Resource Districts and directors of Public Power Districts. At the general election ballot, the bill allows write-in space for directors of Reclamation Districts, members of the Board of Educational Service Units, directors of Natural Resource Districts, directors of Public Power Districts and members of County Weed District boards. Currently, these offices are not allowed write-in space on the ballot. By allowing write-in space for these offices, you will be allowing someone who wants to run for NRD or ESU board, for example, to mount a write-in campaign. The bill also eliminates the situation where no one files for office and a vacancy is created. Under this bill if no candidate files for an office, a person would still be able to win the election by mounting a write-in campaign. In the current situation if no candidate files for an office, the board appoints a person to fill the position. At the hearing on this bill, the Papio Valley Preservation Association and the Nebraska Association of County Officials testified in favor. The Secretary of State and the Nebraska Association of Resource Districts testified in a neutral position. The bill advanced on a 7 to 0 vote with 1 member absent. I would urge you to adopt this LB852. Thank you, Mr. President. [LB852]

SENATOR STUTHMAN: Thank you, Senator Avery. Senator Fischer, you're recognized. [LB852]

SENATOR FISCHER: Thank you, Mr. President and members of the body. Would Senator Avery yield for questions, please? [LB852]

SENATOR STUTHMAN: Senator Avery, would you yield to a question? [LB852]

SENATOR AVERY: I will. [LB852]

SENATOR FISCHER: Thank you. Senator Avery, write-ins, currently do they have to file as a write-in candidate before any of those votes would even matter in an election? If you would just write in a person's name now, it's my understanding that those votes aren't even counted unless that person has gone through the steps of filing as a write-in candidate. [LB852]

SENATOR AVERY: You're correct. [LB852]

SENATOR FISCHER: So if a person would file as a write-in candidate for an NRD board now, what you're saying is there's no space on the ballot for that name to be even written in currently. [LB852]

SENATOR AVERY: That's correct. [LB852]

SENATOR FISCHER: So this bill, my understanding is, it's just correcting what I

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

Floor Debate
March 31, 2010

consider an oversight that the lines aren't there even if you've... [LB852]

SENATOR AVERY: Right. [LB852]

SENATOR FISCHER: ...already filed to be a write-in candidate, right? [LB852]

SENATOR AVERY: Nobody can figure out why (laugh) we don't have that space on the ballot. [LB852]

SENATOR FISCHER: Okay. Well, thank you very much. [LB852]

SENATOR AVERY: You're correct. [LB852]

SENATOR FISCHER: Thank you, Mr. President. [LB852]

SENATOR STUTHMAN: Thank you, Senator Fischer and Senator Avery. Seeing no other lights, Senator Avery you're recognized to close. Senator Avery waives his opportunity to close. The question for the body is, shall LB852 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Please record. [LB852]

ASSISTANT CLERK: 27 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB852]

SENATOR STUTHMAN: LB852 does advance. Mr. Clerk, the next bill. [LB852]

ASSISTANT CLERK: LB947 was introduced by Senator Avery. (Read title.) The bill was read for the first time on January 14, referred to the Government Committee, placed on General File with no committee amendments. [LB947]

SENATOR STUTHMAN: Senator Avery, you're recognized to open on LB947. [LB947]

SENATOR AVERY: Thank you, Mr. President. As most of you know, the Government Committee conducts a survey every four years of all state boards and commissions asking them to report information about their board including accomplishments over the past four years, how many times they've met, and things of that sort. After these surveys have been compiled, the Government Committee staff prepares a report that includes a review of the surveys and in that report we make recommendations as to which boards and commissions are no longer needed and we recommend that they be ended. I think it is important to eliminate any boards and commissions that are duplicative or no longer necessary. Last year, this Legislature passed a bill that eliminated several boards and commissions and I pledged to you then that we would continue to look for additional boards and commissions that could be eliminated. LB947

Floor Debate
March 31, 2010

eliminates the Community Development Block Grant Program Advisory Committee. Under the bill, the duties of the committee will be assigned to the Economic Development Commission. According to the 2008 Government Committee report on boards and commissions, the purpose of this committee was to provide regular consultation of the Community Development Block Grant Program to the Economic Development Commission. The committee typically meets about once a year. The Community Development Block Grant Program is primarily designed to provide safe, affordable, and accessible housing and infrastructure for low- and moderate-income Nebraskans. It was created under the Housing and Community Development Act of 1974. It's estimated that the cost of the Community Development Block Grant Program Advisory Committee is about \$8,000 a year. That includes staff time, mileage, and meals. Since the committee was typically meeting about once a year and the Economic Development Commission clearly can absorb the duties of the committee, there seems to be no reason to continue this program. It has the support of the Department of Economic Development, this bill does. So I am proposing that we eliminate it. The question is what do we gain by doing this? We gain some additional streamlining and consolidation of government which has been on our minds and in our discussions in this body quite a bit this session, plus there is some General Fund savings up to about \$8,000. This seems to me to be worthwhile. I do not see a downside to this at all and I would urge you to advance this. At the public hearing, the director of Department of Economic Development did appear to support it. No one appeared in opposition. The bill was advanced on a 7 to 0 vote with 1 person absent. Thank you, Mr. President. [LB947]

SENATOR STUTHMAN: Thank you, Senator Avery, for opening on LB947. (Visitors introduced.) Senator Sullivan, you're recognized. [LB947]

SENATOR SULLIVAN: Thank you very much, Mr. President and colleagues. I rise in support of this but also want to underscore that in my estimation and I think it was the consensus of the committee, that in no way does this action jeopardize the promotion and furtherance of the Community Development Block Grant Program. This program has provided numerous great programs that have helped a lot of communities in my district and all across rural Nebraska. So again, I just underscore that this doesn't jeopardize that program at all. It, as Senator Avery indicated, streamlines the process of the grant applications and subsequent approval, and I think just also indicates that we're concerned about looking for ways not only to streamline government but to save any dollars when we can. So again, I support this legislation. Thank you. [LB947]

SENATOR STUTHMAN: Thank you, Senator Sullivan. Senator Fischer, you're recognized. [LB947]

SENATOR FISCHER: Thank you, Mr. President and members. I had spoken to Senator Sullivan about this bill because I know she is such a strong supporter of rural Nebraska

Floor Debate
March 31, 2010

and as you heard she gave her assurances on the mike that the discussion within the committee was in no way against this worthwhile program that is so vital to many of our small communities. And I wanted to stand up on the mike and make sure that my views were known on this, too, because this is a program that I believe is vital, it should be continued. And I support the committee's action in trying to eliminate boards and advisory groups that are no longer meeting, that are no longer addressing needs, and knowing that it is sometimes worthwhile to put those groups into an agency that can conduct those programs and make those decisions. But I, too, wanted to stand and reaffirm my support for the program itself. Thank you, Mr. President. [LB947]

SENATOR STUTHMAN: Thank you, Senator Fischer. Seeing no other lights, Senator Avery you're welcome to close. Senator Avery waives his opportunity to close. The question for the body is, shall LB947 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB947]

ASSISTANT CLERK: 27 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB947]

SENATOR STUTHMAN: LB947 does advance. Mr. Clerk, the next bill. [LB947]

ASSISTANT CLERK: Mr. President, LB993 was introduced by Senator Carlson. (Read title.) The bill was read for the first time on January 20, referred to the Natural Resources Committee. That committee placed the bill on General File with no committee amendments. [LB993]

SENATOR STUTHMAN: Senator Carlson, you're recognized to open on LB993. [LB993]

SENATOR CARLSON: Thank you, Mr. President, members of the Legislature. I'm introducing LB993 which was heard before the Natural Resources Committee. The bill broadens the current law to enable the Department of Natural Resources to use the Water Resources Cash Fund to help pay for additional streamflow enhancement and ground water recharge projects in basins that are fully or overappropriated or bound by an interstate compact. Current law limits the use of the fund only to cease irrigation and it reads in statute, to reduce consumptive uses of water. But most NRDs would prefer not to retire irrigated land if other options are available and this becomes increasingly important as we try and meet the challenge over the next 20 years to double our production to feed the world. Now, the change in the addition to the use of that money would be to enhance streamflows or ground water recharge. This is what we're all about in managing water--trying to enhance streamflow, and trying to encourage ground water recharge. LB993 will allow the department to cost share with the NRDs on projects to capture water, store it in surface reservoirs or underground aquifers during times of high flows. I believe that this helps us in better management of the water that we have and

Floor Debate
March 31, 2010

so I would ask for your support on LB993. Thank you, Mr. President. [LB993]

SENATOR STUTHMAN: Thank you, Senator Carlson. Senator Lathrop, you're recognized. [LB993]

SENATOR LATHROP: Thank you, Mr. President. I wonder if Senator Carlson would yield to a question. [LB993]

SENATOR STUTHMAN: Senator Carlson, would you yield to a question? [LB993]

SENATOR CARLSON: Yes, I will. [LB993]

SENATOR LATHROP: Senator Carlson, I read this bill and I have to tell you when I read it I wondered, we're not changing the money going into this pot, right? We're just providing for another use, is that the case? [LB993]

SENATOR CARLSON: That's correct. Simply clarifying how the money could be used. [LB993]

SENATOR LATHROP: And it's a clarification but it isn't clear to me what that means. You just spoke in your introduction that we can use that money to retire some acres, take them out of irrigation, and if we're using it for river streamflow enhancement, what exactly does that mean? Are we...is this the vegetation eradication kind of a program? [LB993]

SENATOR CARLSON: That could be one of the possibilities because if it's simply to reduce consumptive use and that could also be vegetation removal, but doing things to enhance streamflow might be bringing water from a different position in a basin over to an enhanced streamflow. Certainly capturing water to keep it in a position to help recharge ground water, these are excellent things to do that help us in long-term plans to recharge the valuable resource we have and keep it in a position that it can be used beneficially in future years. And so it does clarify and it does expand a little bit how this money in this particular fund could be used. It's been requested by NRDs and I think it's the right thing to do. [LB993]

SENATOR LATHROP: And I don't have a quarrel with it. I'm just trying to understand it better because it was the one bill here I didn't understand entirely what we were trying to do and if I hear you correctly, you're saying currently we could pay an irrigator to take his land out of irrigation. That would be one permissible use. Now we can do things, you said, to divert water from one location so we could use it to build a canal, we could use it to build some kind of a pumping station, we could use it to dam up water. Are those uses that would fall within this new category? [LB993]

Floor Debate
March 31, 2010

SENATOR CARLSON: Possibly, yes. [LB993]

SENATOR LATHROP: Have I hit them all or is there something we haven't talked about that would be included here that you have in mind that we haven't yet talked about? [LB993]

SENATOR CARLSON: Once in a while there can be an enhancement to underground storage. It's not necessarily recharge. And underground storage is probably the best of all worlds because there's no evaporation. So the various things that we can do that we don't take away from streamflow and we're putting water in a better position for a greater beneficial use and not seeing it leave our state or leave a basin, I think it's the right thing to do. We must use our water for beneficial use and we must use our water in such a way that we become sustainable so we're using no more than we have available, so that we're guaranteeing that that resource is there for future generations. [LB993]

SENATOR LATHROP: Do you have a particular project in mind at this point in time? [LB993]

SENATOR CARLSON: I don't. [LB993]

SENATOR LATHROP: And let's see. I had a few questions. I think that may be it. It sounds like...oh, yeah, I know what it was. Who is going to spend this money or decide what it gets used on? [LB993]

SENATOR CARLSON: Well, that...this fund unless I'm wrong, it's administered by the Department of Natural Resources, basically it's the... [LB993]

SENATOR LATHROP: So if you're going to do one of these projects instead of spending the money to buy the water rights away from a...and I want to be careful how I say that, to spend the money to retire irrigated acres that Department of Natural Resources could think or determine that it's a better use of the money to do one of these projects you might have just described. [LB993]

SENATOR CARLSON: Well, the Department of Natural Resources has the final say and they'll be making judgments on... [LB993]

SENATOR STUTHMAN: One minute. [LB993]

SENATOR CARLSON: ...requests that come in from the various NRDs. So it's a cooperative effort. [LB993]

SENATOR LATHROP: Okay. Senator Carlson, I support the bill. I appreciate your answering my questions. I'm always...just being the city guy and having been through

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

Floor Debate
March 31, 2010

the Republican River Basin legislation a couple of years ago, I do have an interest in this and I try to take these opportunities to learn a little bit more about what we're doing there and answering the questions have been very helpful and I'm supportive of LB993. Thank you. [LB993]

SENATOR STUTHMAN: Thank you, Senator Lathrop and Senator Carlson. Senator Louden, you're recognized. [LB993]

SENATOR LOUDEN: Thank you, Mr. President and members. Would Senator Carlson yield for a question, please? [LB993]

SENATOR STUTHMAN: Senator Carlson, would you yield? [LB993]

SENATOR CARLSON: Yes, I will. [LB993]

SENATOR LOUDEN: Yeah. Senator Carlson, when was this Water Resources Cash Fund started? Was this started under the...actually used to checkoff out of corn and it was used for ethanol to start with and that's evolved into this Water Resources Cash Fund? [LB993]

SENATOR CARLSON: Senator Louden, I don't know the exact answer to that. I don't think so. I think it's got a greater history than that. But if I say it's going to be an opinion and I don't know for sure that I'm accurate on it, I would just need to find that out. [LB993]

SENATOR LOUDEN: Okay. Now this Water Resources Cash Fund, was that the cash fund that they used when they bought water from that Bostwick Irrigation District to send into Kansas? Wasn't money used out of that cash fund? [LB993]

SENATOR CARLSON: Yes, I believe so. [LB993]

SENATOR LOUDEN: Okay. And then is there what, what is it a million and a half or two and a half million dollars has to be transferred into this cash fund every year? [LB993]

SENATOR CARLSON: That's right. [LB993]

SENATOR LOUDEN: Okay. And then somewhere along the line if you remember when we were talking about LB701 once upon time years ago, and the Governor was wanting some money for the Platte River Recovery Program. And this was...his idea was, is how are you going to fund that and he wanted funding for this Water Resources Cash Fund and is this the fund that was supposed to start in 2013 when the ethanol fund sunset and we were supposed to start putting that money into the Water Resources Cash Fund? [LB993]

Floor Debate
March 31, 2010

SENATOR CARLSON: Yes. Yes, that's the one. [LB993]

SENATOR LOUDEN: Okay. And then here what, this last session or whenever we did away with that whole corn checkoff and did away with that source of revenue, is that right? [LB993]

SENATOR CARLSON: That's correct and now we have the challenge of finding the right source to replace that. [LB993]

SENATOR LOUDEN: Yeah, now, but into this Water Resources Cash Fund there's \$2.5 million from the General Fund is appropriated every year for it. [LB993]

SENATOR CARLSON: That's true up until 2013. [LB993]

SENATOR LOUDEN: Yeah, and then it...well, as long as this Water Resources Cash Fund according to what is in statutes now, is there a sunset on the \$2.5 million that goes into there? I didn't look the statutes close enough to see if there was a sunset on that or not. [LB993]

SENATOR CARLSON: I don't believe there is, but the idea was that we have continuing funding on that in 2013 and later and so we've taken that source of funding away, which I think was the right thing to do and now we have the challenge of where do we find the money to continue to fund this. [LB993]

SENATOR LOUDEN: Yeah, now this bill though doesn't find money does it? It designates what that money will be used for, isn't that what that bill as near as I understand it? [LB993]

SENATOR CARLSON: This bill simply expands how the money could be used. It doesn't address the funding. [LB993]

SENATOR LOUDEN: Right. And I'm wondering then by recharging and putting some of that in there and that sort of thing, will that take away from that Platte River Recovery Program because most of that was retiring irrigation or doing vegetation work and that sort of thing in order to enhance that flows on the Platte River because there's plenty of recharge as you get down there in...I guess around the Grand Island area and down in there. So I'm wondering if...is there going to be some other motive that when we say recharge that you're going to, somebody is going to want to come up with the idea that you're going to pipe water over into the Republican River because that's talked around a little bit now. Is that...is this going to have anything to do with that? [LB993]

SENATOR CARLSON: I don't think so. I wouldn't say that it wouldn't be...it's beyond the

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

Floor Debate
March 31, 2010

realm of responsibility, but we went back to... [LB993]

SENATOR STUTHMAN: One minute. [LB993]

SENATOR CARLSON: ...we want the beneficial use of water and if we can do things that enhance streamflows and encourage ground water recharge it's just, I believe, the right thing and that needs to be part of our long-range plan. [LB993]

SENATOR LOUDEN: Well, I agree you got to have a long-range plan. I'm just concerned that there won't be enough money to go around and that Platte River Recovery project is probably going to be upfront. I mean, it's going to be something that's going to have to be addressed. My understanding is it's going to make that Republican River thing look like an Easter egg hunt when we get into that Platte River deal. And I was concerned about that are we opening the door here so that someone can actually build a pipeline and pipe water over from the Little Blue into the Republican because that's been talked around about and I'm wondering where that is. [LB993]

SENATOR CARLSON: Well, you're correct. There's a lot of challenges ahead and this fund is managed by the Department of... [LB993]

SENATOR STUTHMAN: Time. (Visitors introduced.) Senator Heidemann, you're recognized. Senator Heidemann waives his opportunity to speak. Senator Carlson, you're recognized to close on LB993. [LB993]

SENATOR CARLSON: Thank you, Mr. President. Thank you members for your discussion, questions concerning LB993 and I would ask you to support the bill and vote for it. Thank you. [LB993]

SENATOR STUTHMAN: Thank you, Senator Carlson. The question for the body is, shall LB993 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Please record. [LB993]

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB993]

SENATOR STUTHMAN: LB993 does advance. Mr. Clerk, next bill. [LB993]

ASSISTANT CLERK: LB1065 was introduced by Senator Heidemann. (Read title.) The bill was read for the first time on January 21 of this year, referred to the Transportation and Telecommunications Committee. That committee placed the bill on General File with committee amendments. (AM2046, Legislative Journal page 735.) [LB1065]

SENATOR STUTHMAN: Senator Heidemann, you're recognized to open on LB1065.

Floor Debate
March 31, 2010

[LB1065]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. Currently, a towing company is required to notify any lienholder appearing on the certificate of title of a motor vehicle within 30 days of towing the vehicle. As introduced, LB1065 would reduce this time frame to five business days. The Transportation and Telecommunications Committee amendments offer a compromise of 15 business days. I fully support the committee amendments and at this time, I want to thank the Transportation Committee and the Chairperson of that committee of all the work they have done on this bill in working with me. The legislation also requires the towing company to return the possession of the vehicle to the owner, lienholder, or any other person lawfully entitled to the possession of such a vehicle upon payment of the towing and storage fees. The striking of the word "motor" was a bill drafter's suggestion to make it more consistent throughout the statutes. Unless a lienholder pays their accrued towing and storing charges within 90 days, the towing company will sell the vehicle at a closed bid auction pursuant to state law. The towing company is allowed to take out their towing and storage fees from the sale and I agree that the towing company should be reimbursed for their services. However, I am in support of trying to reasonably limit these accrual of these fees which eat away at the equity of the vehicle. Therefore, LB1065 propose to shorten the time frame for giving notice. Additionally, in some parts of the state, the towing company requires the lienholder to get a certified letter from the owner or a repossessed title to take possession of the vehicle as well as a notarized hold harmless agreement. This all takes more time adding to the storage fees and increasing the loss for the lienholder. In other parts of the state, it isn't problematic. The primary lienholder is simply required to present a proof of lien. The new language in subsection (1) of Section 10 addresses this inconsistency throughout the state. I urge you to support...I urge you to vote in support of the advancement of LB1065 as amended by the committee amendments. [LB1065]

SENATOR STUTHMAN: Thank you, Senator Heidemann, for the opening on LB1065. As the clerk has stated, there are Transportation and Telecommunication amendments. Senator Fischer, as the Chair of that committee, you're recognized to open on AM2046. [LB1065]

SENATOR FISCHER: Thank you, Mr. President and members of the body. At the hearing, we did hear from towing companies. In Senator Heidemann's original bill he had a 5-day notice period in there, but at the hearing the towing companies told us that even with the 30 days that they are given under current law that they usually don't start the process until the 20th day. That told the committee members that they could get this done in 10 days, so with the committee amendment we changed the 5-day notice in the original bill to 15 days. We feel that that is a good compromise on this and I look forward to you passing the committee amendment and then the bill. Thank you very much, Mr. President. [LB1065]

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

Floor Debate
March 31, 2010

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Coash, you're recognized. [LB1065]

SENATOR COASH: Thank you, Mr. President. Would Senator Fischer yield for a question? [LB1065]

SENATOR STUTHMAN: Senator Fischer, would you yield to a question? [LB1065]

SENATOR FISCHER: Yes, I will. [LB1065]

SENATOR COASH: Thank you. Senator Fischer, after the amendment was adopted by the committee changing it to 15 days, did you hear back from the towing companies on how they felt about that? [LB1065]

SENATOR FISCHER: The towing company did see the amendment and they still were not happy with it. I think the experience of the committee members, and I see Senator Lathrop has his light on, we can tell you that the towing companies do not want to see changes to the current law. [LB1065]

SENATOR COASH: Okay. Thank you, Mr. President. [LB1065]

SENATOR STUTHMAN: Thank you, Senator Coash and Senator Fischer. Senator Lathrop, you're recognized. [LB1065]

SENATOR LATHROP: Thank you, Mr. President. I am in support of the bill and the amendment and I thought I'd take this occasion. I actually sat through this hearing. I had the next bill in the Transportation Committee which I have a particular interest in some of the practices of these towing companies, and I did...you know, I appreciate what the Transportation Committee has done in this case because the towing companies essentially come in and they want to leave these cars sit there and not have to tell anybody about the charges. There are a lot of practices that we need to address with these folks. This bill and the committee amendment addresses one of them, that is leaving a car sit there until whatever equity is in a low-value car or any car starts getting chewed up by storage fees to let a car sit in the dirt lot. And I certainly support the idea that a lienholder ought to be notified that their collateral is sitting down there and that somebody has a lien that is paramount and they are getting into the equity in their collateral. So I support this and I look forward to working with the Transportation Committee and its chair on other practices of these tow companies. Thank you. [LB1065]

SENATOR STUTHMAN: Thank you, Senator Lathrop. Seeing no other lights, Senator Fischer, you're recognized to close on the committee amendment. Senator Fischer

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

Floor Debate
March 31, 2010

waives her opportunity to close. The question for the body is, shall AM2046 be adopted to LB1065? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1065]

ASSISTANT CLERK: 29 ayes, 0 nays on the adoption of committee amendments. [LB1065]

SENATOR STUTHMAN: Committee amendments do advance. Seeing no other lights, Senator Heidemann, you're recognized to close on LB1065. Senator Heidemann waives his opportunity to close. The question for the body is, shall LB1065 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1065]

ASSISTANT CLERK: 28 ayes, 1 nay on the motion to advance the bill. [LB1065]

SENATOR STUTHMAN: LB1065 does advance. Mr. Clerk, the next bill. [LB1065]

ASSISTANT CLERK: LB829 was introduced by Senator Rogert. (Read title.) The bill was read for the first time January 8 of this year, referred to the Business and Labor Committee, placed on General File with no committee amendment. [LB829]

SENATOR STUTHMAN: Senator Rogert, you're recognized to open on LB829. [LB829]

SENATOR ROBERT: Thank you, Mr. President. Good morning, members. LB829 is a follow-up adjustment stemming from last year's LB453 that was amended into the committee bill, LB630 that we passed some time that last session. It's merely a clarification to the law but fairly important. LB453 passed into law last year provided agricultural operation employers with less than ten unrelated full-time employees some flexibility regarding a required notice that is given to employees informing them that they are not covered by the Nebraska Workers' Compensation Act if they're injured on the job. LB453 provided another alternative of distributing this notice at the time of hire with the opportunity to give the notice at anytime before 30 days prior to the injury stating that the employer is exempt from providing workers' comp coverage. The requirement to give notice to employees at the time of hire gave rise to concern for those in the agriculture sector who had interpreted that a notice given any other time than at the time of hire is void. LB453 broadened the notice provision to allow for notice to be given at the time of hire to any time before 30 days prior to the time of the injury. Notice must be signed by the employer and retained by the employee and retained by the employer must state, in this employment you will not be covered by the Workers' Compensation Act and you will not be compensated under the act if you're injured on the job or suffer an occupational disease. You should plan accordingly. If it's not given to the employee, the employer is liable under the act. Since that passage, it's come to our attention that an unintended consequence may occur when an employer inadvertently misses the

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

Floor Debate
March 31, 2010

opportunity to provide a required notice to a single employee. He then could become subject to a liability for all the employees as a result of just one occurrence throughout the process. This is an unintended consequence we're trying to resolve with a clarification with LB829. It clarifies that the employer would only be liable for the action based on the employee or employees for whom did not receive the notice. The employer would still be held liable for not providing that notice under the act and I ask you to support LB829. Thank you, Mr. President. [LB829 LB630 LB453]

SENATOR STUTHMAN: Thank you, Senator Rogert, for the opening on LB829. Seeing no lights on, Senator Rogert, you're recognized to close on LB829. Senator Rogert waives his opportunity to close. The question for the body is, shall LB829 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Please record. [LB829]

ASSISTANT CLERK: 27 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB829]

SENATOR STUTHMAN: LB829 does advance. Mr. Clerk, next bill. [LB829]

ASSISTANT CLERK: Mr. President, LB934 was introduced by Senator Haar. (Read title.) The bill was read for the first time on January 13, referred to Business and Labor, placed on General File with no committee amendments. [LB934]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Haar, you're recognized to open on LB934. [LB934]

SENATOR HAAR: Mr. President and members of the body, LB934 adds members of the Civil Air Patrol to the Voluntary Emergency Responders Act. The act currently covers volunteer firefighters and volunteer emergency service. And here briefly are the parts of that. The act currently provides that employers cannot terminate or take disciplinary action against an emergency responder when they miss work due to responding to an emergency. However, employers may subtract wages for the employee for missed time. It requires employees to make a reasonable effort to notify the employer that they will miss work due to responding to an emergency. Employers may request that the employee provide a signed written statement that they were responding to an emergency and before an employee may seek protection under this act they must provide written notice to the employer, and provides a cause of action if the employee is wrongfully terminated under this act. Again, the Voluntary Emergency Responders Act currently covers volunteer firefighters and volunteer emergency service. And as an example of the potential use of this, recently when there were ice jams forming on the rivers of Nebraska, the Civil Air Patrol volunteers were up in their airplanes looking at the situation and helping assess the potential emergencies. Thank you. [LB934]

Floor Debate
March 31, 2010

SENATOR STUTHMAN: Thank you, Senator Haar, for the opening on LB934. Senator Council, you're recognized. [LB934]

SENATOR COUNCIL: Thank you, Mr. President. First, I want to note for the record that I have filed a conflict of interest statement with regard to LB934 and thus will be abstaining from the vote. I am a member of the Nebraska Wing of the Civil Air Patrol and I support the legislation but will be abstaining from the vote but urge my colleagues to vote in favor of LB934. [LB934]

SENATOR STUTHMAN: Thank you, Senator Council. Senator Adams, you're recognized. [LB934]

SENATOR ADAMS: Thank you, Mr. President. Would Senator Haar yield to a question? [LB934]

SENATOR STUTHMAN: Senator Haar, would you yield to a question? [LB934]

SENATOR HAAR: Yes. [LB934]

SENATOR ADAMS: Senator, under the language that we're dealing with here, with the passage of this, does this give benefits over and beyond job protection to members of Civil Air Patrol? [LB934]

SENATOR HAAR: No. No, not at all. [LB934]

SENATOR ADAMS: And you gave an example a moment ago which, in effect, answered part of my question and I'll let you respond further, if you so choose. But my question was going to be, relative to fire volunteers, EMT volunteers, how often are Civil Air Patrol going to be called out and I guess where I'm wondering is, how do they fit into that same category as these other volunteers? [LB934]

SENATOR HAAR: That's a good question. Thank you, Senator Adams. If there were an emergency that occurred in Nebraska where the use of airplanes could be helpful, then the Civil Air Patrol could participate, and the neat thing about that is, is that the Air Force owns and maintains and pays for the operation of those airplanes. [LB934]

SENATOR ADAMS: All right. Thank you, Senator Haar. Thank you, Mr. President. [LB934]

SENATOR STUTHMAN: Thank you, Senator Adams and Senator Haar. Senator Pirsch, you're recognized. [LB934]

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

Floor Debate
March 31, 2010

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just wanted to also rise as Senator Council has arisen and indicate that I'm a member of the...honorary member of the Nebraska Wing of the Civil Air Patrol and therefore would have a conflict as well and will refrain from voting on this therefor. Thank you. [LB934]

SENATOR STUTHMAN: Thank you, Senator Pirsch. Senator Krist, you're recognized. [LB934]

SENATOR KRIST: Thank you, Chair and colleagues. And ditto, I will be abstaining because of my membership in the CF. Thanks. [LB934]

SENATOR STUTHMAN: Thank you, Senator Krist. Seeing no other lights on, Senator Haar, you're recognized to close on LB934. Senator Haar waives his opportunity to close. The question for the body is, shall LB934 advance? All those in favor vote yea; all those opposed vote nay. Senator Haar, for what reason do you... [LB934]

SENATOR HAAR: Because a number of people are abstaining as they've stated, I guess I would like a call. Oh, wait, wait. [LB934]

SENATOR STUTHMAN: Have all those voted who care to? [LB934]

SENATOR HAAR: Thank some of those tardy members. (Laughter) [LB934]

SENATOR STUTHMAN: Mr. Clerk, please record. [LB934]

ASSISTANT CLERK: 27 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB934]

SENATOR STUTHMAN: LB934 does advance. Mr. Clerk, any items to be read into the record? [LB934]

ASSISTANT CLERK: Mr. President, I do. A name add to LB801 from Senator Pirsch. A potential conflict of interest statement from Senator Council. (Legislative Journal pages 1239-1240.) [LB801]

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

SENATOR STUTHMAN: You've heard the priority motion. All those in favor of recessing until 1:30 say aye. All opposed, no. We are in recess. Thank you.

RECESS

SENATOR ROBERT PRESIDING

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

Floor Debate
March 31, 2010

SENATOR ROBERT: Good afternoon. Welcome to the George W. Norris Legislative Chamber for the fifty-second day of the One Hundred First Legislative, Second Session. The afternoon session is about to begin. Senators, record your presence. Mr. Clerk, please record.

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

SENATOR ROBERT: Do you have any items for the record?

CLERK: I have nothing at this time, Mr. President, thank you.

SENATOR ROBERT: Thank you, Mr. Clerk. Returning to the agenda, General File consent calendar. First item on the agenda, Mr. Clerk.

CLERK: Mr. President, the next bill on consent calendar LB872 introduced by Senator Lathrop. (Read title.) Introduced in January, referred to Business and Labor, advanced to General File. There are committee amendments. (AM1985, Legislative Journal page 744.) [LB872]

SENATOR ROBERT: Senator Lathrop, you're recognized to open on LB872. [LB872]

SENATOR LATHROP: Thank you, Mr. President. And, colleagues, good afternoon. LB872 is a real simple thing. It's kind of become an annual tradition since I've been here. Back when Senator Cornett was the chair of Business and Labor, we passed LB588 which set the work comp fee schedule. We exempted from that fee schedule certain trauma services and the thought behind that was, is that we would see after a few years what the experience was, whether LB588 was actually saving work comp carriers money or not. And what we found is we haven't had enough time really to tell. So we keep extending this by one year. LB872 actually eliminated the exemption. On further reflection, we decided to not eliminate it but just move it down the road one year. And I'll take that up with you when I introduce the amendment momentarily. Thank you. [LB872]

SENATOR ROBERT: Members, you've heard the opening to LB872. As the Clerk states, there are Business and Labor Committee amendments. Senator Lathrop, as Chair, you're recognized to open on the amendment. [LB872]

SENATOR LATHROP: Thank you, Mr. President, colleagues. Continuing, AM1985 is the amendment that we're introducing. That amendment simply extends this exemption one year. Our hope is that after we have enough experience, since the passage of LB588, that we can make some judgment about whether the medical fee schedule for hospitals is actually saving work comp carriers money and therefore lowering work

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

Floor Debate
March 31, 2010

comp premiums in this state, then we can make a final determination what to do with those trauma services in the fee schedule. So I would urge your passage of AM1985 as well as LB872. Thank you. [LB872]

SENATOR ROBERT: Thank you, Senator Lathrop. (Visitors introduced.) Members, you have heard the opening to the committee amendment, AM1985. Are there members wishing to speak? Seeing none, Senator Lathrop, you're recognized to close. Senator Lathrop waives his opportunity. The question before the body is, shall the committee amendment, AM1985, be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB872]

CLERK: 34 ayes, 0 nays on adoption of committee amendments. [LB872]

SENATOR ROBERT: The committee amendments are adopted. Returning to discussion on LB872, seeing no members wishing to speak Senator Lathrop waives his opportunity to close. The question before the body is, shall LB872 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB872]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB872. [LB872]

SENATOR ROBERT: LB872 does advance. Next item on the agenda. [LB872]

CLERK: LB884, a bill by Senator McGill. (Read title.) Bill was introduced on January 11, referred to the Business and Labor Committee, advanced to General File. There are committee amendments. (AM1615, Legislative Journal page 746.) [LB884]

SENATOR ROBERT: Senator McGill, you're recognized to open on LB884. [LB884]

SENATOR MCGILL: Thank you, Mr. President, members of the body. LB884 is something that I think a lot of folks didn't even realize wasn't part of our statutes already. This bill would require any employer to issue an itemized wage statement within ten days of a request from an employee. This idea was actually brought to me by a constituent who testified before the Business and Labor Committee. In his situation, his wife was being paid by a business in my district just with a personal check from her employer. And when she asked for an itemized statement with deductions on it there was no law that then required that employer to give that to her. My constituent and his wife went to 12 banks then seeking a home loan. Because of newer, more stringent loan regulations they could not get their income or her income counted on any of those loan applications. So since she couldn't bring in an itemized wage statement to the bank, they could not include her income in the calculations for a mortgage, which ended up meaning they had to go with a smaller home and smaller mortgage since they couldn't include her income. Currently, there is no law in Nebraska requiring a statement

Floor Debate
March 31, 2010

with deductions to be made available to an employee should they request it. Iowa, Missouri, and Minnesota all have statutory requirements for itemized wage statements, with Minnesota going as far as to require a statement to be issued for every pay period. LB884 does not require it for every pay period, it's just within ten days of a request from an employee. We've worked with the Nebraska Federation of Independent Businesses to prepare an amendment to LB884. And the introduced copy of the bill allows the employee to dictate whether the statement is provided in electronic or paper format, but this amendment changes it to give greater flexibility to the employer regarding how they can best furnish the statement since some businesses go paperless, while some are completely on paper still without computer access. We've worked to ensure that LB884 accommodates the needs of small businesses, and I believe that this is a good common sense piece of legislation that will help people be able to apply for home mortgages. Thank you, Mr. President. [LB884]

SENATOR ROBERT: Thank you, Senator McGill. Members, you've heard the opening to LB884. As the Clerk stated, there are committee amendments. Senator Lathrop, as Chair of Business and Labor, you're recognized to open on AM1615. [LB884]

SENATOR LATHROP: Thank you, Mr. President and colleagues. AM1615 represents accommodations made for the business community who testified in support of LB884. AM1615 makes three changes. First, any request for an itemized statement must be made in writing. (2) after a written request is made the employer has the choice of providing either a printed or an electronic statement. And (3) a violation subjects the employer to an infraction rather than suit for injunction. Both AM1615 and LB884 advanced with a 7:0 vote. I ask you to support both. Thank you. [LB884]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You heard the opening to the Business and Labor Committee amendment, AM1615. Member requesting to speak: Senator Fulton and Senator Pankonin. Senator Fulton, you're recognized. [LB884]

SENATOR FULTON: Thank you, Mr. President, members of the body. I have spoken with Senator McGill about this and will try to get this...some of this into the record anyway. Here's my concern. When we introduced the committee amendment, AM1615, the committee amendment assuages any concerns I had that this could be onerous on small business. So that is not a concern anymore. The concern that I have is with regard to lines 15 through 18 on the committee amendment and the fact that this would now be considered an infraction. So when there is a bad acting employer, he would have to remit a payment and that payment would not come to the state. I think it goes to the schools if it's a fine, I'm not positive, but it's not coming to the state. So would Senator McGill yield to a question? [LB884]

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

Floor Debate
March 31, 2010

PRESIDENT SHEEHY: Senator McGill, would you yield to Senator Fulton? [LB884]

SENATOR MCGILL: Yes, I would. [LB884]

SENATOR FULTON: Senator, that's...I've explained what my concern is. Is there agreement, do you...you may not agree... . [LB884]

SENATOR MCGILL: Yeah. [LB884]

SENATOR FULTON: ..with my concern, but do you understand my concern? And is it... [LB884]

SENATOR MCGILL: Yeah. And I thank you, Senator Fulton, for coming and talking to me off the mike so we could at least clarify where we stand. I understand your concern and, yes, I know as a member of Appropriations you'd like to see that money come back to the state. But, you know, when we move from the green copy to the amendment it was the business community that wanted this lesser penalty on businesses. And that lesser penalty, you know, the best option was an infraction even... [LB884]

SENATOR FULTON: Okay. [LB884]

SENATOR MCGILL: ...though that money may not go to the place that we would like to see it go. [LB884]

SENATOR FULTON: Okay. I've communicated to Senator McGill that I'm willing to work with her. If we can come up with an amendment that...if we can come up with an amendment that I think is more appropriate, then I'd be willing to work with her on Select File. And so I'm going to cease here. I'm not going to pursue this anymore. I'll try to work with it on Select File. But I thought it important to communicate publicly and to my colleagues what the concern is anyway. So thank you, Senator McGill. Thank you, Mr. President. [LB884]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Pankonin, you're recognized. [LB884]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I find this bill interesting and I think it's good. As a small business person who has done payroll for 35 years and written a lot of payroll checks, signed a lot of payroll checks, I appreciate Senator McGill bringing this from the standpoint I think most all legitimate business people would be able to furnish this information. I'm going to ask her later off the mike what happened, because I just don't understand it. And also from a public policy standpoint, I think it's interesting to note if the employer won't give the employee this information it makes me wonder if they're even doing the withholding properly. And

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

Floor Debate
March 31, 2010

unfortunately, that does happen. And when you think about Social Security where it's a match between the employee and the employer, if that's not getting remitted that's really using the funds that should be your employee's for their benefit. And federal government takes kind of a dim view of that activity. But I appreciate this. I'm just astounded that someone wouldn't be able to furnish that. And I've filled out those forms many times for employees who are applying for a loan and it's just...I just can't believe it. But these are the kind of things we get into. And we hear from a constituent and policies sometimes need...oftentimes gets made because of it. So I appreciate you doing that, Senator McGill. Thank you. [LB884]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Seeing no additional requests to speak, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is on the adoption of AM1615 to LB884. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB884]

CLERK: 36 ayes, 0 nays on adoption of committee amendments. [LB884]

PRESIDENT SHEEHY: AM1615 is adopted. We'll return to LB884. Seeing no requests to speak, Senator McGill, you're recognized to close. Senator McGill waives closing. The question before the body is on the advancement of LB884. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB884]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB884. [LB884]

PRESIDENT SHEEHY: LB884 advances. We'll proceed to LB844. [LB884 LB844]

CLERK: LB844, a bill by Senator Lautenbaugh. (Read title.) Introduced on January 8, referred to Judiciary, advanced to General File. I have no amendments to the bill, Mr. President. [LB844]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on LB844. [LB844]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. Simply put, LB844 will continue a practice that is currently going on for tuition for the Law Enforcement Training Center. We've been using LEF funds which we have been accumulating through a court fee. And every year, every couple years we have to extend the date beyond which or on which that will cease. The problem is if it ever ceases, then either the city or the new law enforcement recruit or the county would have to pay for the training center tuition, which I think is around \$4,000. So what this does is remove the date at which the current practice would cease so the current practice would just continue onward. This really doesn't do anything, I'll be honest, for Omaha or Lincoln or the State Patrol because I believe they have their own facilities. But it is

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

Floor Debate
March 31, 2010

helpful to the smaller communities throughout the state. I guess, everything is smaller than Omaha and Lincoln, I guess I should say, and the counties who will benefit from this. And I would urge your green vote. [LB844]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the opening to LB844. Seeing no requests to speak, Senator Lautenbaugh, you're recognized to close. [LB844]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This will be a great opportunity for those of you who performed so poorly yesterday to start to redeem yourselves. (Laughter) So I would urge you to vote green and start the healing process. Thank you. (Laughter) [LB844]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the closing. The question before the body is on the advancement of LB844. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB844]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB844. [LB844]

PRESIDENT SHEEHY: LB844 advances. We will now proceed to LB908. [LB844 LB908]

CLERK: LB908 by Senator Conrad. (Read title.) Introduced on January 12, referred to Business and Labor, advanced to General File. I have no amendments to the bill, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Conrad, you're recognized to open on LB908. [LB908]

SENATOR CONRAD: Thank you, Mr. President, thank you, Mr. Clerk. LB908 is really a technical bill amending Section 48-108 that would improve the efficiency of the Nebraska Workers' Comp Court in terms of the approval for certain fees owed for legal services rendered. The approval of claims currently for legal services must be made by the presiding judge at trial. This bill simply would allow the approval of claims for legal services to be made by any judge of the Nebraska Workers' Comp Court. So it is fairly technical and straightforward in amendment. We had a great hearing on it in front of Business and Labor. There was no opponents and there is no fiscal component to this legislation. It just simply seeks to make the workers' comp system work a bit more efficiently for the parties involved. So with that, I would be happy to answer any questions or would urge your adoption. Thank you. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Conrad. You've heard the opening to LB908. Seeing no requests to speak, Senator Conrad, you're recognized to close.

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

Floor Debate
March 31, 2010

Senator Conrad waives closing. The question before the body is on the advancement of LB908. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB908]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB908. [LB908]

PRESIDENT SHEEHY: LB908 advances. We will now proceed to LB1055. [LB908 LB1055]

CLERK: LB1055 by Senator Carlson. (Read title.) Introduced on January 21, referred to Business and Labor, advanced to General File. I have no amendments to the bill, Mr. President. [LB1055]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Carlson, you're recognized to open on LB1055. [LB1055]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I introduced LB1055 which was heard in front of Business and Labor Committee. The bill was brought to me by the Department of Labor as a clean-up bill to address many changes needed in Nebraska statutes due to ever-changing federal requirements concerning state unemployment benefits. As a result, the entire section of law regarding the state employment security law has been rewritten to remove obsolete language, clarify definitions, and correlate internal references. The department and our revisors both agreed that changes were needed. The bill is 14 pages long and most of it is involved with what I just said. Now, there's a second part of the bill that's very, very important that would allow Nebraska to take advantage of a provision in federal law that allows a state to pay extended unemployment benefits directly from federal funds rather than the traditional 50-50 split, 50 federal and 50 state. Federal law requires that the state have the language in place to take advantage of the funds. The rewrite of the section also reflects language to allow Nebraska to access those funds. When the Department of Labor asked me if I would carry this bill, I had a couple of questions. Number one, is this obligating the state in the future to any expenditures in relation to unemployment that we do not have today? The definite answer to that was no. Second question was, if we chose not to access these federal funds, would that just be money not spent or would those funds go to some other state? The answer was those funds would go to some other state. So I think it's important that we access those funds and use them. And the potential effect of this is that rather than a 50-50 split but 100 percent being paid by federal dollars, without it the maximum liability for Nebraska in 2010 would be \$90 million. Passage of this bill makes our responsibility zero. I would ask for your support. Thank you, Mr. President. [LB1055]

PRESIDENT SHEEHY: Thank you, Senator Carlson. You've heard the opening to LB1055. Seeing no requests to speak, Senator Carlson, you're recognized to close. Senator Carlson waives closing. The question before the body is on the advancement of

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

Floor Debate
March 31, 2010

LB1055. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1055]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB1055. [LB1055]

PRESIDENT SHEEHY: LB1055 advances. We will now proceed to LB758. [LB1055
LB758]

CLERK: LB758 is a bill by Senator Wightman. (Read title.) Introduced on January 6, referred to the Judiciary Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB758]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Wightman, you're recognized to open on LB758. [LB758]

SENATOR WIGHTMAN: Thank you, Mr. President. They always give me these changes that would come with Latin derivatives or Greek derivatives. So I will attempt...I'll start right off by telling you that cy pres means as nearly as possible. Whether it's Latin or Greek, I'll have to check that out. LB758 amends the Nebraska Probate Code by specifically providing that the doctrine of cy pres, remember that's as nearly as possible, applies to wills, grants a personal representative the power to incorporate an unincorporated business into any form of limited liability organization, unless otherwise prohibited, grants a personal representative the power to operate an unincorporated, sole proprietorship indefinitely unless otherwise prohibited by deleting the current four-month limitation. And LB758 also clarifies the Nebraska Trust Code that the cy pres doctrine shall be applied to a trust only if the document creating the charitable interest does not otherwise provide for an alternative disposition of the property in the even the trust's charitable purpose becomes unlawful, impracticable, impossible to achieve or wasteful. That has been the rule with regard to trusts in the past. And so this would provide that it would also apply to wills. The doctrine of cy pres can be applied by a court when a testator, one who makes a will, had a charitable purpose that can no longer be carried out exactly as it was specified in the will. The doctrine of cy pres allows the court to order that the funds be directed to another charitable purpose that closely approximates the testators intention as nearly as possible. This doctrine is used to prevent charitable gifts from lapsing and to continue as nearly as possible the overall charitable purpose of the maker of the will, even if a specific intent as it was written in the will could not be carried out be carried out. Nebraska statutes currently apply the cy pres doctrine to trusts but the corresponding section of law relating to wills was repealed when the Uniform Trust Code was put into the Nebraska statutes. Section 2 of this bill would insert the doctrine of cy pres back into the Nebraska Probate Code. The bill further amends the Nebraska Probate Code that relates to the powers of personal representative of an estate. The amendment provides that the personal representative of an estate has the power to incorporate an unincorporated business into any form of limited liability organization subject to any

Floor Debate
March 31, 2010

direction otherwise contained in the will or court order. Current law allows the personal representative the ability to change an unincorporated business into a corporation. So it would broaden that. The amendment would also allow, subject to a contrary provision in the will or court order, the continuation by the personal representative of any unincorporated sole proprietorship indefinitely by deleting the current four-month limitation. Finally, Section 4 of the bill amends Section 30-3839 of the Nebraska Trust Code and clarifies that the cy pres doctrine shall be applied to a trust only if the doctrine creating the charitable interest does not otherwise provide for an alternative disposition of the property in the event of the trust charitable purpose becomes unlawful, impracticable, impossible to achieve or wasteful. What that is saying is that if the testator, the person making the will provides that the property goes to his children, in the event the charitable gift fails, then that is still going to take effect. It will go to the children. This bill was advanced by the Judiciary Committee. There was no opposition to it. I guess, as you would expect, since it's on the consent calendar and I would advance...I would request that you advance the bill to E&R Initial. Thank you, Mr. President. [LB758]

PRESIDENT SHEEHY: Thank you, Senator Wightman. You've heard the opening to LB758. Seeing no requests to speak, Senator Wightman, you're recognized to close. Senator Wightman waives closing. The question before the body is on the advancement of LB758. All those in favor vote yea; opposed nay. Please record, Mr. Clerk. [LB758]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB758. [LB758]

PRESIDENT SHEEHY: LB758 advances. We'll now proceed to LB809. [LB758 LB809]

CLERK: LB809 by Senator Rogert. (Read title.) Introduced on January 8, referred to the Judiciary Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB809]

PRESIDENT SHEEHY: Senator Rogert, you're recognized to open on LB809. [LB809]

SENATOR ROGERT: Thank you, Mr. President. Good afternoon, members. LB809 lengthens the statute of limitations in felony Medicaid fraud cases from three to five years. There are simple reasons for this. Medicaid crimes become more sophisticated, they take longer to investigate. Medicaid fraud cases are often complex schemes that are not learned about until they are well underway or are concluded. It takes a significant amount of time and resources to investigate false Medicaid claims. And without a longer statute of limitations, many criminals avoid prosecution. This bill allows law enforcement more time to complete their investigations. The Legislature already approved a similar five-year statute for crimes under the Securities Act because the body recognized that securities fraud schemes are complex and take time to unravel. This is also the case with Medicaid crimes. Five years is also the statute of limitation

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

Floor Debate
March 31, 2010

used by the federal government in criminal healthcare fraud cases. This change does not effect the statute of limitations applicable to civil actions. For example, I will show you that since the creation in 2004, this task force under the state of Nebraska spent about \$775,000 to fund the unit and has recovered over \$32 million that was improperly paid to Medicaid providers, and successfully prosecuted providers when they violated Nebraska public assistance fraud statutes. I ask for your support on LB809. Thank you. [LB809]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You've heard the opening to LB809. Member requesting to speak, Senator Pirsch. [LB809]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I'd just like to rise in support of this bill, LB809. This type of fraud involved significant amounts of dollars that have material effects. And with respect to the unraveling or detection of this type of crime, it does...it's a different animal than regular types of fraud. And so on that basis I do support. Thank you. [LB809]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Seeing no additional requests to speak, Senator Rogert, you're recognized to close. Senator Rogert waives closing. The question before the body is on the advancement of LB809. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB809]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB809. [LB809]

PRESIDENT SHEEHY: LB809 advances. We will now proceed to LB907. [LB809 LB907]

CLERK: LB907, a bill by Senator Conrad. (Read title.) Introduced on January 12, referred to the Judiciary Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB907]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Conrad, you are recognized to open on LB907. [LB907]

SENATOR CONRAD: Thank you, Mr. President. Thank you, Mr. Clerk. LB907 was brought to me by two third-year law students at the University of Nebraska College of Law who were engaged in representation of an 80-year-old woman from here in Lincoln who sought legal assistance from the civil clinic in regards of a potential bankruptcy proceeding. She had sought out legal representation to help better identify what her options were due to medical debt and other expenses incurred while raising her grandchildren. During the course of this representation and research related thereto, the students identified a technical flaw in our law in relations to who qualifies as a senior citizen eligible for a head of family exemption in our bankruptcy statutes and found that

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

Floor Debate
March 31, 2010

there was an inadvertent discrepancy in terms of how they were meant to apply and how they actually or potentially were being applied. So what this...so the students brought this legislation to me and we had a great hearing at the Judiciary Committee. We have the support of not only AARP but also Legal Aid and Family Housing Advisory Services in support of this idea, and also have worked extensively with the Nebraska Bankers Association and others who have an interest in these types of issues. And I want to publicly thank them for their hard work and looking at this legislation and with us to make sure that we could move forward in a narrowly targeted solution to this serious problem affecting unmarried seniors in our state and providing them with a little security and a little piece of mind in terms of protecting the equity in their households. With that, Mr. President, I am happy to answer any questions and would urge your adoption. [LB907]

PRESIDENT SHEEHY: Thank you, Senator Conrad. You've heard the opening to LB907. Seeing no requests to speak, Senator Conrad, you're recognized to close. [LB907]

SENATOR CONRAD: Thank you, Mr. President. And again, colleagues, in addition to the seniors that may be affected by this legislation and will have a more clear sense of security related to protecting the equity in their homes if faced with bankruptcy proceedings or otherwise, I do also again want to commend the students who brought this issue forward because I always try and find a bill each year that involves young people in our legislative process. And these two students were diligent in their research and representation of not only their client, but have been active participants in this process and have engaged their government in a positive and constructive way, and I cannot thank them for their example enough. Thank you. [LB907]

PRESIDENT SHEEHY: Thank you, Senator Conrad. You've heard the closing. The question before the body is on the advancement of LB907. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB907]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB907. [LB907]

PRESIDENT SHEEHY: LB907 advances. We will now proceed to LB1085. [LB907
LB1085]

CLERK: LB1085 by Senator Lautenbaugh. (Read title.) Introduced on January 21, at that time referred to Judiciary, advanced to General File. I have no amendments to the bill. [LB1085]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on LB1085. [LB1085]

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

Floor Debate
March 31, 2010

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. Very simply put, this changes the notice or the number of days after issuance a garnishment must be served or notice to the judgment debtor. The reason for this was very simple that sometimes when the attorney handling it is in one end of the state and the court issuing the garnishment is on the other end of the state, by the time the paperwork is receive the three days have passed and then you're out of time for serving the thing and you have to start over. This was causing a tremendous inefficiency with the courts as garnishment would have to be requested time and time again. So this gives a few extra days to get service done. And I would urge your approval. [LB1085]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the opening to LB1085. Seeing no requests to speak, Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives closing. The question before the body is on the advancement of LB1085. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1085]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB1085. [LB1085]

PRESIDENT SHEEHY: LB1085 advances. We will now proceed to LB894. [LB1085 LB894]

CLERK: LB894 by Senator Pirsch. (Read title.) Introduced on January 12, at that time referred to Judiciary, advanced to General File. There are Judiciary Committee amendments, Mr. President. (AM1958, Legislative Journal page 852.) [LB894]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Pirsch, you're recognized to open on LB894. [LB894]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I also wanted to thank the Judiciary Committee and in particular Senator Council for her work on this bill. LB894 is intended to update Nebraska shoplifting law to deter new techniques modern-day thieves employ. The bill would amend 28-11.01 to provide that an attempt to alter, disable, shield, or remove any security or alarm device attached to goods or merchandise or using or possessing a security countermeasure prior to the purchase of the goods or merchandise is a violation of the Shoplifting Act. Would provide that it would be unlawful for a person to possess a countermeasure devise in a store or retail establishment unless they were an authorized agent of the store. A violation of this act would be a Class II misdemeanor. LB894 addresses new methods of stealing which leads to higher prices for consumer goods and brings Nebraska in line with most of the surrounding states which have adopted such a law. Thank you. [LB894]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. You've heard the opening to LB894. As was stated, there is a Judiciary Committee amendment, AM1958. Senator Ashford,

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

Floor Debate
March 31, 2010

you're recognized to open. [LB894]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. There are two changes in the committee amendments. On page 2, line 25, after the first comma we insert the word "bypasses" to clarify that a person is in violation of this statute if they attempt to interfere with a store security alarm device and so forth. The second section changes would amend...strike page 4, line 5, beginning with (a) through (b). And this would revise the definition of security countermeasure device to mean a device which bypasses, disables, or removes such electronic or magnetic theft alarm sensor. And that would be the extent of the committee amendments. [LB894]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You've heard the opening to the Judiciary Committee amendment, AM1958. Seeing no requests to speak, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question before the body is on the adoption of AM1958. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB894]

CLERK: 40 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB894]

PRESIDENT SHEEHY: AM1958 is adopted. We'll now return to LB894. Seeing no requests to speak, Senator Pirsch, you're recognized to close. Senator Pirsch waives closing. The question before the body is on the advancement of LB894. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB894]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB894. [LB894]

PRESIDENT SHEEHY: LB894 advances. We will now proceed to LB789. [LB894 LB789]

CLERK: LB789 by Senator Ashford. (Read title.) Introduced on January 7, referred to Revenue, advanced to General File. I have no amendments to the bill, Mr. President. [LB789]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Ashford, you're recognized to open on LB789. [LB789]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. This bill deals with the 30 percent fund that is, at least at this point, is generated by sales tax revenues from the Qwest Center and goes out to smaller communities across the state. And it raises the cap on various municipality...for the municipalities who apply for and qualify for a grant. And I'm not really going to go through all the numbers. Basically, what it does is it increases the amount that a city, for example, of the primary class can apply for, \$1.5

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

Floor Debate
March 31, 2010

million over what it had been in the prior statute, in the existing statutes. And then on the down the line, for a municipality with a population less than 10,000 the application would be limited by \$250,000; that's an increase over the current law. So this enables smaller communities, as we were talking about the other day with Senator Lathrop's bill, allowing smaller communities to access the turnback from the existing turnback dollars, in this case solely from the Qwest Center until a new project comes in. But this is...will help these communities in their efforts to do new and creative projects similar to the 30 projects that are already in existence as a result of this fund. Thank you, Mr. Lieutenant Governor. [LB789]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You've heard the opening to LB789. Seeing no requests to speak, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question before the body is on the advancement of LB789. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB789]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB789. [LB789]

PRESIDENT SHEEHY: LB789 advances. We will now proceed to items under Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, we will now proceed to LB1070. The first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB789 LB1070]

CLERK: 42 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB1070]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Please read the title. [LB1070]

CLERK: (Read title of LB1070.) [LB1070]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB1070 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1070]

CLERK: (Record vote read, Legislative Journal pages 1242-1243.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB1070]

PRESIDENT SHEEHY: LB1070 passes with the emergency clause attached. We will now proceed to LB1002. [LB1070 LB1002]

CLERK: Senator Loudon would move to return LB1002 to Select File for a specific amendment, AM2434. (Legislative Journal page 1195.) [LB1002]

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

Floor Debate
March 31, 2010

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We're going to go to a Speaker's announcement. Speaker Flood, you're recognized. [LB1002]

SPEAKER FLOOD: Thank you, Mr. President, members. I've had a number of you ask about where we want to go on today's agenda. Obviously, it is a scheduled late night. My intention today is to get to LB945 and hopefully resolve it, Senator Harms's bill on texting while driving. My hope is that we resolve that bill by the end of today's business and do intend working through the evening supper which will be provided. Thank you, Mr. President. [LB945]

PRESIDENT SHEEHY: Thank you, Speaker Flood. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB1070 and LR428 and LR429. Senator Louden, you're recognized to open on your motion to return to Select File LB1002. [LB1070 LR428 LR429 LB1002]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Yes, I have a motion to return LB1002 from Final Reading back to Select File with the intentions of putting the amendment, AM2434 on it. [LB1002]

PRESIDENT SHEEHY: Thank you, Senator Louden. You have heard the opening on the motion to return LB1002 to Select File. All those in favor...any requests to speak? Seeing none, Senator Louden, you're recognized to close on your motion to return to Select. [LB1002]

SENATOR LOUDEN: Okay, with that, as our discussion the other day on LB1002 is the White Clay bill, it's close enough that I think most of it is fresh in your memory of what we were doing. And with that, we would return it to Select File and change it from \$100,000 to \$25,000 and that was the agreements that we had through it the other day to bring it in line with the A bill that we brought forwards. With that, I'd ask for the adoption of the amendment and also bringing LB1002 back from Final Reading. [LB1002]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the closing on the motion to return LB1002 to Select File. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1002]

CLERK: 44 ayes, 0 nays, Mr. President, on the motion to return. [LB1002]

PRESIDENT SHEEHY: The motion to return is adopted. To the amendment, Mr. Clerk. [LB1002]

CLERK: AM2434, Mr. President. [LB1002]

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

Floor Debate
March 31, 2010

PRESIDENT SHEEHY: Senator Louden, you're recognized to open on AM2434.
[LB1002]

SENATOR LOUDEN: Thank you, Mr. President and members. As I stated, this is the amendment that we drew up with the agreement between Senator Heidemann and Senator Utter and myself and some of the members of the body. We've changed the...from \$100,000 to \$25,000 is what they would receive into the Indian Commission to proceed with some grant writing and leverage money. This brings it in line with the A bill that we put the amendment on the A bill at \$25,000, so it puts these two bills in comparable states. And with that, I would ask for the adoption of AM2434. [LB1002]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the opening of AM2434 to LB1002. Seeing no requests to speak, Senator Louden, you're recognized to close. Senator Louden waives closing. The question before the body is on the adoption of AM2434. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.
[LB1002]

CLERK: 41 ayes, 1 nays, Mr. President, on the adoption of the Select File amendment.
[LB1002]

PRESIDENT SHEEHY: AM2434 is adopted. Anything further, Mr. Clerk? [LB1002]

CLERK: Nothing further, Mr. President. [LB1002]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1002]

SENATOR NORDQUIST: Mr. President, I move LB1002 to E&R for engrossing.
[LB1002]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1002 advances. We will now proceed to LB1002A. [LB1002 LB1002A]

CLERK: LB1002A, Senator, I have no amendments to the bill. [LB1002A]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1002A]

SENATOR NORDQUIST: Mr. President, I move LB1002 to E&R for engrossing.
[LB1002A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1002A advances. We will now proceed under General File...we'll move to the item under General File, LB987. Senator Krist, you're recognized to open.
[LB1002A LB987]

Floor Debate
March 31, 2010

SENATOR KRIST: Thank you, Lieutenant Governor. Colleagues, my priority bill, LB987, addressed the commitment of \$650,000 to allow the Veterans' Affairs to contract with the university to find an inexpensive, noninvasive diagnostic tool for lung cancer and involve the veterans in this effort as a study group. Why veterans? All of you colleagues received this morning a e-mail that capsulized a World-Herald article about Sergeant Klayton Thomas, semper fi. Veterans are 25 percent more likely to be affected by lung cancers. Sergeant Thomas' death speaks to the sense of urgency regarding this matter, so much so that our Congress passed legislation to outlaw burn pits and track the location and exposure of our soldiers, sailors, and airmen to them. To quote the World-Herald article and Representative Tim Bishop in New York: Our country's difficult experiences with Agent Orange and Gulf War illness taught us that we must be vigilant in treating our veterans long after they return from the battlefield. Having said that, we don't have the \$650,000 to move forward. Rather than put you... [LB987]

PRESIDENT SHEEHY: (Gavel) [LB987]

SENATOR KRIST: Thank you, Mr. Lieutenant Governor. Rather than put you as a body in a position to vote yes or no, my staff and I have worked diligently and I'm very happy to report that the effort will be pursued by the university and by Creighton Health Systems in the normal research efforts. I look forward to hearing about the successes in this cutting-edge technology and repeating their successes back to this body. I want to thank those that cosigned onto the bill and those that stuck with me through the last few months of working through the effort. I want to thank my fellow General Affairs...Government Affairs Committee members who voted it out and gave us an opportunity to put it on the floor. I want to thank John Hilgert, director of Veterans' Affairs, veterans' organizations throughout the state, Burdette Burkhart, Jeff Miller, John Liebsack, Roger Broeker, and of course David Holmquist of the American Cancer Society for your support. And to that end, I've also introduced LR532, which highlights November as lung cancer month. That resolution shows our commitment as a body to supporting the effort and find a cure for lung cancer. With that, there is a committee amendment that has to be disposed of, as well as another amendment I'm sure, but I want you to listen to this, if you would, please. I would invite you to support Senator Council in her motion to suspend the rules and amend LB987 with AM2418 that will follow shortly. With that, thank you, Mr. Clerk and Mr. President. [LB987 LR532]

PRESIDENT SHEEHY: Thank you, Senator Krist. You've heard the opening to LB987. As was noted, there is a Government, Military and Veterans Affairs Committee amendment, AM1778. Senator Avery, you're recognized to open. (Legislative Journal page 490.) [LB987]

SENATOR AVERY: Thank you, Mr. President. The committee amendment would have simply expanded the number of institutions that would be able to participate in the

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

Floor Debate
March 31, 2010

study, but as Senator Krist has mentioned, the original bill will be replaced by a pending amendment. Given that fact, I am going to ask you to vote red to dispense with this amendment to make room for Senator Council's amendment that will follow shortly. Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Avery. You've heard the opening of AM1778. Seeing no requests to speak, Senator Avery, you're recognized to close. Senator Avery waives closing. The question before the body is on the adoption of AM1778 to LB987. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB987]

CLERK: 9 ayes, 18 nays, Mr. President, on adoption of committee amendments. [LB987]

PRESIDENT SHEEHY: AM1778 is not adopted. [LB987]

CLERK: Mr. President, Senator Heidemann, I had two amendments from you, Senator, AM1831 and AM1854, with notes you want to withdraw both of those. Thank you. [LB987]

PRESIDENT SHEEHY: AM1831, AM1854 are withdrawn. [LB987]

CLERK: Mr. President, I then have an amendment from Senator Council, specifically AM2418. Pursuant to that offering, Mr. President, Senator Council would move to suspend Rule 7, Section 3(d), more commonly known as the germaneness rule, to permit consideration of AM2418 to LB987. [LB987]

PRESIDENT SHEEHY: Senator Council, you're recognized to open on your motion to suspend the rules. [LB987]

SENATOR COUNCIL: Thank you, Mr. President. I do rise this afternoon to request this body's favorable consideration of the motion to suspend the rule relative to germaneness to allow an amendment to LB987, Senator Krist's priority bill. This amendment admittedly relates to a matter that is substantially different from the subject matter of LB987; however, the ultimate objective of LB987 and this amendment are the same. The ultimate objective is the prevention and elimination of health hazards. As stated by Senator Krist, LB987 provides for the conduct of a study of diagnostic technology for early detection of lung cancer in veterans. The study was to be conducted at a cost of \$650,000 to be appropriated from the Health Care Cash Fund. LB987 was advanced by a unanimous vote of the Government, Military and Veterans Affairs Committee. Senator Mello introduced LB636, which originally provided for an appropriation of \$500,000 to the Department of Economic Development for promotional and visitor activities related to the U.S. Senior Open Golf Tournament that's being

Floor Debate
March 31, 2010

hosted by the city of Omaha in 2013. The Appropriations Committee advanced LB636 with an amendment which became the bill. The Appropriations Committee amendment allows for a grant in the amount of \$300,000 to be made to a city of the metropolitan class from the Petroleum Release Remedial Action Cash Fund by no later than September 15, 2010. The purpose of the grant is to enable the city of Omaha to obtain a \$2 million grant from the federal Housing and Urban Development Department to continue its lead-based paint abatement program. This is a 10:1 match. The city of Omaha has received two previous lead-based paint abatement grants since 2000 with the assistance of a state match of \$300,000 on each of those occasions. The last such match in the amount of \$300,000 was provided from the Petroleum Release Remedial Action Cash Fund in 2005. Since 1999, with the assistance of the matching funds provided by the state, the city of Omaha has made 622 homes lead-safe using these HUD grants. The current HUD grant expires at the end of September. The city of Omaha is in the process of applying for a new \$2 million grant to enable it to continue this highly successful program beyond September 30. In addition to the funds being requested from the state, the city will contribute over \$300,000 of local money, Douglas County is providing in-kind services, and the private philanthropic community is assisting as well so that we can truly leverage the \$2 million from HUD to effectively remediate more than 140 additional homes. The lead-based paint abatement grants are highly competitive, and while there is no guarantee that Omaha will receive the grant, we have been advised that we are...we, the city of Omaha, is among the top candidates to receive the grant. And while we can't guarantee that we'll receive it, rejection of its application is almost assured without the matching state commitment that is reflected in this amendment. And it must be noted that the amendment provides that the funds will not be allocated unless the city of Omaha is actually selected to receive the \$2 million HUD grant. There is an A bill that will be accompanying this amendment. The A bill provides for a transfer of \$200,000 from the Health Care Cash Fund, which is the same fund that was the source of the funding for Senator Krist's study of \$650,000. So rather than take \$650,000 to support LB987 as originally introduced, the amendment would provide for a allocation of \$200,000 from the Health Care Cash Fund. The change of the source of funding reflected in the amendment reflects the discussions, negotiations, and agreements among a number of my colleagues, and I want to take this opportunity to acknowledge them. First and foremost, Senator Krist for his support of Omaha's application for the lead-based paint grant, for his willingness to sacrifice his priority bill to allow the city of Omaha to access the Health Care Cash Fund in order to enable it to compete for this grant. I want to thank Senators Langemeier and Fischer who we appreciate the concern because, as the bill was originally introduced and amended by the Appropriations Committee, the original appropriation was going to come from the Petroleum Release Cash Fund and Senators Langemeier and Fischer expressed concern about the diminution of the funds available in that cash fund, although that had been the source of the state's previous two \$300,000 matches. I also want to take this opportunity to recognize Senator Mello again for championing this issue before the Appropriations Committee; Senator Cook, who worked with Senator Mello and myself in

Floor Debate
March 31, 2010

identifying the alternate sources of funding; and I finally want to thank Senator Heidemann for his cooperation and assistance in finding a way for us to access cash funds, not General Fund dollars, to provide these matching funds for the city of Omaha. I again urge you to vote in favor of suspending the rules to allow a vote on the amendment. Thank you. [LB987 LB636]

PRESIDENT SHEEHY: Thank you, Senator Council. You've heard the opening on the motion to suspend germaneness rules. Members requesting to speak are Senator Mello, followed by Senator Gay and Senator Heidemann. Senator Mello, you're recognized. [LB987]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'll try not to repeat a lot of what you just heard from Senator Council on her proposed amendment, AM2418, but I will give you a little background in regards to how we arrived at this point in regards to a motion to suspend the rules for germaneness. One of the handouts I passed out was a letter of request, an appropriations request from the city of Omaha last year and last April, April 2009, requesting \$300,000 for the exact program that Senator Council just discussed, a HUD, competitive HUD grant that the city of Omaha has received twice before to deal with the massive lead problem that we are facing in the city of Omaha. Through processwise, because of the letter and the request that was made last April and the timing of the request when myself and Senator Nordquist brought it to the attention of the Appropriations Committee, which was at the beginning of May 2009, it was determined that we had already crossed a threshold in the process to try to do any kind of changes to the budget. We had crossed...essentially, we reached an agreement as a committee already that we didn't want to try to make any changes as we were being ready to present the biennial budget for this biennial budget last year. With that said, I applaud Senator Heidemann of willing to letting Senator Nordquist and myself reapproach this issue this year because we needed to try to find some solution and/or some closure to whether or not the state was going to be a partner in trying to acquire this \$2 million grant. Now with that said, Senator Council mentioned that the Appropriations Committee voted 6 to 2 with 1 abstention or 1 not voting, I'm sorry, to replace a bill I brought in front of the Appropriations Committee last year, LB636, replace that bill with an amendment that would have allocated \$300,000 to the city of Omaha for this grant program. It passed out of the committee 6 to 2. And through that process it was under my understanding, as one of the lead proponents of it as well as Senator Nordquist, that that was going to be debated as part of the budget. Now, we were under a misunderstanding in that process which is understandable. I'm not...there's no one to lay fault at. It was some general misunderstanding. I think other committee members also were under the understanding that when we voted on it in committee we thought it would be part of the budget. But because it was not part of the budget it was put on a bill that essentially was not prioritized and the moment had passed before the Appropriations Committee could decide whether or not we wanted to make it a priority bill so that it could be debated on the floor. So that brings us to where

Floor Debate
March 31, 2010

we're at right now. And first, I'd like to thank Senator Krist for willing to give his priority bill as the vehicle to look to do this. Very few people I've met in this body have been as open, honest, and compassionate in regards to working with Senator Council, Nordquist, Cook, and myself on trying to find a way to make this happen. The other person I would like to thank, and I know we have a general disagreement on this bill or at least on the amendment and possibly the suspension of the germaneness rule, is Senator Heidemann. As a colleague, as the Chairman of the committee I sit on, I appreciate all of his work over the last month to help us get to this point to debate this issue. I'll let Senator Heidemann discuss his perspective on the issue which I feel is probably going to be different than mine, but as process goes, I have to thank him. And I think the other senators... [LB987 LB636]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR MELLO: ...have thanked him as well in regards to helping us at least arrive to this point where we can do this debate, because otherwise we would not have had a vehicle to discuss this. There was no money. We did not want to take it out of General Fund dollars, which was part of this original thought. We were going to originally take it from the LUST Fund in the Department of Environmental Quality. Senator Heidemann, Senator Gay were at least able to find a vehicle, cash vehicle, that we might be able to bring to the body and debate and discuss. Now with that said, there was another handout that I provided that goes over some of the issues that Senator Council mentioned on the actual amendment. I'd encourage the body to support the suspension of the germaneness rule, if you support this bill or you support this amendment and this idea. I understand there will be some who do not want to give funding to the city of Omaha for this grant. So be it. We've traveled these roads before in regards to whether or not members want to appropriate funding for projects. [LB987]

PRESIDENT SHEEHY: Time, Senator. [LB987]

SENATOR MELLO: Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Gay, you're recognized. [LB987]

SENATOR GAY: Thank you, Mr. President. I rise in support of the amendment on germaneness. I do support it, however, the reason why, I'd like to hear more about the bill and the lead fund and some of the other things that Senator Council would like to discuss. I think it does have merit to take what we are talking about, a health-related issue, to another truly health-related issue, lead abatement. How we got there is the Health Care Cash Funds that were going to be used with Senator Krist's original bill would still be the match for Senator Council's bill, if that's where we decide to go. I don't know where I'm at. I'm leaning in support of the overall bill, if we can get to that point as

Floor Debate
March 31, 2010

well, because of the match and the participation that the city of Omaha and Douglas County have done to go remedy a difficult situation in Omaha. Ongoing, I don't know if this could be ongoing but the way I understand this, and we could talk more about it, is a one-time funding match and to leverage these dollars. So I do support that. I plan on supporting this amendment so we can talk about the bill. Whatever your views are right now, I think we owe it on an important issue to discuss it and then listen to all the facts that we could discuss and have some exchange on the bill, and maybe not on the germaneness amendment. So I do support that. I think it's a creative way that Senator Krist...and I've worked with Senator Council and others and am getting a lot of input and to me it sounds like a worthwhile cause and a worthwhile endeavor to go do this. Again, I know this has come from previous funds before but the germaneness of health-related problem that this is going to help, what I've heard sounds very worthwhile, that we should go ahead and do this, so I rise in support of the motion of Senator Council and then to listen in very intently and make a good educated decision when we get to her amendment. Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Heidemann, you're recognized. [LB987]

SENATOR HEIDEMANN: Thank you, Mr. Lieutenant Governor and fellow members of the body. We've had good conversations so far. I will say I have been part of this. As far as there was an intent to get this up and running, I have helped Senator Council and Senator Mello. Getting them to this point, I will say that I will probably part ways with them at this time then. I will say that, I think I've heard it twice now, it's our understanding that there has only been one match, that was in 2005 for \$300,000. It was, from our recollection, a floor amendment to the budget. It was nothing that we did in Appropriations Committee. That was my first year on the committee and I didn't remember it and we're thinking now that it was a floor amendment to the biennium budget in 2005. So we're only coming up with one match so far. I have probably several issues with this. One is proceduralwise and it probably gets back to then how much of a priority is this. This came up to us very, very late last year. I think we was finalizing the budget to a point that we couldn't include it at that time. It takes a statute change to do this. Because it came up to us late again this year and we started to discuss it, realizing once again without a priority bill this was not going to work, because we can give them the money but without changing the statute you can't do this. So I kind of ask, and unfortunately, how much of a priority is this? Because if this was a priority, they should have introduced a bill, in my think and in my opinion anyway. Why didn't they introduce a bill that would have come to the Appropriations Committee and we could have had a public hearing on this issue? And we didn't. It still, even without that, we didn't really get another formal request. The only thing that I can get my hands on is a letter from Mayor Fahey, and I think everyone realizes that Mayor Fahey no longer is in office. I would have thought that if this was a continuation of a priority from that administration, that we would have heard earlier this year that this was a priority and something that the city of

Floor Debate
March 31, 2010

Omaha wanted. Omaha, because they are a city...they're called an entitlement city--an entitlement city is any city, from what I can understand, over the population of 50,000--does not have to go through the process of applying for these grants from the state of Nebraska. They have to apply straight to EPA, which I think out of...they do this out of Washington. And because of that and they are an entitlement city, the EPA wants local buy-in, and the local buy-in can be up to 25 percent, I don't think it even has to be 25 percent but up to 25 percent, and it looks like to me that the city of Omaha doesn't want to be part of that local buy-in. They're coming to the state of Nebraska and wanting them to do their part. They probably will have to come up with some because we're coming up with \$200,000. It's a \$2 million grant application, I believe. Twenty-five percent would put you at \$500,000. [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR HEIDEMANN: But that is...it says, I think the language says up to 25 percent, so it could even be less than that. Part of their part of it or their match can be in-kind contribution. So it's a possibility that they would not even...if we did this \$200,000, that they probably would not even have to come up with any cash dollars on their own, and that's a possibility. I wish if this was a priority that they would have put a request in to the Appropriations Committee or they would have put a bill in that we could have had a public hearing on this so that we could have done this properly. Procedurallywise, I have problems with that and, for that reason, I will not support the suspension of rules or the amendment or probably the bill. Thank you. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Members requesting to speak on the motion to suspend the germaneness rules, we have Senator Mello, followed by Senator Harms, Senator Coash, Senator Utter, Senator Council, Senator White, and others. Senator Harms, you're recognized...or, correction, Senator Mello. [LB987]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Real quick, to kind of continue what I was saying but also to gently just make sure we add some corrections to what my good friend and colleague Senator Heidemann just said, one, this is a grant not from the Environmental Protection Agency. It's a grant from the Housing and Urban Development Department at the federal level. And the city of Omaha has contributed \$300,000, both the previous times they received the grant as well as for this proposed grant, if they receive it. So there is a local financial buy-in from the city of Omaha. The Douglas County government, as well, is providing in-kind services as well as financial services, depending upon how...if and...if we're able to be a state partner in this issue, and that will be determined by obviously our debate today. The other aspect, real quick, if I can just gently try to clear up any misunderstandings, this request came from the city of Omaha, not from the mayor of the city of Omaha. There is a big distinction in regards to an elected official requesting something compared to a municipality requesting it. So I respect Senator Heidemann's perspective

Floor Debate
March 31, 2010

that we hadn't received any updated information or any updated requests from a municipality, but the fact is the original request came from a municipality to the Appropriations Committee as a whole. All nine members were "CCed" on the letter of request, not just the three members that represent the 2nd Caucus District within the Legislature. With that being said, processwise, if we wanted to spend some time debating the process, we can do that. I think with what Senator Gay had mentioned, Senator Heidemann, and Senator Council mentioned, this is a problem that faces not just the city of Omaha, colleagues. I would never claim to say that this is going to solve all the city of Omaha's lead problems. And when I argued this issue in the Appropriations Committee, I specifically mentioned if this was a lead problem in Scottsbluff, in North Platte, in Lincoln, or in Lexington, or Elk Creek, for that matter, I would be there with those senators fighting to try to make this happen because lead, in this issue particularly, lead-based homes and lead-based paint is affecting the welfare of our children. A colleague of mine last night, in all honesty, and I don't disagree that, yes, there's a lot of arguments made in regards to our business in the Legislature that when everyone says it's about the kids everyone is supposed to support it. I don't take that perception and I don't think this bill is about that perception. But the facts are these: We have a large number of children in the city of Omaha who are getting lead poisoning. Lead poisoning, as a handout that Senator Coash thankfully presented, lead poisoning is a serious risk, it's serious disease. It's affecting children's growth and their brains. This is not, I think, a...and I've never looked at this issue, both in the committee as well as our floor debate today. This is not an Omaha-only issue. And those who will come to the floor today to debate this and lay claim that this, once again, is an issue trying to help the city of Omaha, trying to do something for the city of Omaha, I say to you this: Go to your communities. If you have a lead-based problem with lead-based paint, come back here. I will be here with you. Senator Council will be here with you. Senator Cook will be here with you. Senator Nordquist, White, and other Omaha senators who deal with this issue on a daily basis. [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR MELLO: It's not about one city. It's about a problem that is facing our state and facing the general welfare of growing children between the ages of birth to five, when we have noticed through a lot of the great work in the Education Committee that birth to five is the most critical time of a child's well-being, of their growth and development. So why does the state not want to be a partner in trying to leverage \$2 million additional dollars from the federal government to help abate lead homes and lead paint? Colleagues, I can respect differences in regards to appropriating funding for programs. We do it all the time in the Appropriations Committee. My hope, though, is that the antiurban/rural fights that we have seen this year and last year does not come into this debate because it's not about one city getting the funding. It's about children who are going to be taxpayers someday, who needs our help at the earliest, critical stages of their life. [LB987]

Floor Debate
March 31, 2010

PRESIDENT SHEEHY: Time, Senator. [LB987]

SENATOR MELLO: Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Harms, you're recognized. [LB987]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of AM2418 that Senator Council is introducing. And I respect Senator Heidemann, his position. I worked now four years with him in the Appropriations Committee and I understand where he's coming from, but I believe that this is so important that we need to suspend the germaneness rule so that we can have an honest discussion here in regard to what this does for children and what it does for the people who live in homes that have lead paint. And I don't look at this as an Omaha versus rural America issue. I look at this as an issue that we're talking about children. We're talking about the future of children. We're talking about the health of children. And if you actually look into the issue in regard to what happens to a child who grows up in a lead-based home, it affects the development of their nervous system. It even actually reduces their IQ. It creates more learning disabilities and behavioral problems. And I think this is serious enough, folks, that it pushes a cost that we need to have some discussion about. It will push those costs, when you start addressing the issue of behavioral and you start dealing with the issues of children and IQs, it will push the cost over to special ed. That's what's going to happen to us. We're going to transfer that cost from one side to the other, and that's why I think it's important for us to have this public policy discussion today and now, and make that decision. I understand where Senator Heidemann is coming from and I'm not objecting to that. I'm just telling you that I think we need to spend this. We need to have the conversation and we need to understand what truly is going to happen to the children. It should not be the fact that it's in Omaha. If it was in Scottsbluff, Nebraska, or Valentine, Nebraska, or wherever it might be, I think we have a responsibility to make sure that our families are protected. I think we have to have a responsibility. We need to take the responsibility to make sure that we know that the children that are living in lead houses or with lead paint, that we have a chance to make that correction. We'll have a chance to give them the opportunity. I'm guessing that a lot of people who are in these homes may very well not have the resources, may very well be disadvantaged families, may very well be poor families, and I don't think we can walk away from that. I don't know how you feel, but I'll always err towards safety. I'll always err towards helping children and making sure that people have the opportunity to grow up and not have these issues that they're going to be confronted with. And when it starts affecting your nervous system, colleagues, we're talking about a whole nother series of illnesses and problems that are going to occur. So I guess when I look at this, I think this is important enough for us to suspend this germaneness rule and I think it's important enough for us to have the discussion. And then as a body, if you don't want to

Floor Debate
March 31, 2010

do it, I mean, we can live with that. I mean, majority rules here. So I can live with that. But I think it's fair to have that discussion now. I think it's important for us to have the discussion because I don't want to look back four or five years from now and say, you know what? Do we ever have an issue now. We'll always see these moving of families and children into special ed programs. It just explodes the costs for us. So, Mr. President, I would urge our colleagues to support this, and thank you, Mr. President.
[LB987]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Coash, you're recognized.
[LB987]

SENATOR COASH: Thank you, Mr. President. Thank you, members. Good afternoon. I passed out a handout earlier talking...and I circled a couple of things and I'm going to talk about those things, about the correlation between lead-based paint and developmental disabilities. And as many of you know, I do work in the field of developmental disabilities and I want to tell you a story about two young men that I know that I've served in my career. These are young men, they're from Omaha. They're from right in the heart of Omaha. I believe they're right from Senator Council's district: William and Tony. These two young men were born healthy. But not long after they were born and exposed to lead-based paint in their home, they began to change. By the time the oldest member of the family, the child, was five years old his mother could no longer provide the support he...she...that was required to keep him in the home. He, all of the sudden, wasn't able to be served in his home because he now acquired a developmental disability from the lead-based paint. Well, colleagues, guess who's paying for that service now? The state of Nebraska is on the hook for his services and will be for the rest of his life. Not long after that, his little brother followed in the same pattern. These young men were born healthy, and now their lives are different. Here's how it's different. These guys aren't going to work. They're my age, by the way. They're never going to earn a wage. They're going to contribute to their community, but in no way are they going to contribute in the way they could had they not acquired their disabilities. They have significant medical costs. Guess who pays for that? They spend a lot of time getting tests and going to the hospital, dealing with their condition. I want to read a little bit from the handout that I sent out to you: Even tiny amounts of lead can cause reduced IQ, reading and learning disabilities, attention deficit disorder and behavioral problems. Take a look at Senator Adams' education budget that he's dealing with. Why is special education such a huge part of the educational budget, especially in the metropolitan area? It's because of...in large part, because of the lead-based paint issue. It affects everybody differently, but I can tell you I've seen it from the most severe cases to the most...to less than severe. Regardless of where it lands, someone has to provide the support to the children who eventually becomes adults who were exposed to lead-based paint. So, colleagues, I agree with Senator Harms. This is not...this isn't an Omaha issue. This is a state issue. Because although a majority of these children might come from Omaha, their care that will be required for the rest of their life doesn't

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

Floor Debate
March 31, 2010

come from just the Omaha taxpayers. It comes from all...the whole state's taxpayers, and as a state I think we need to pay attention to this. And for that reason I will support the suspension of the germaneness rule and I'll continue to support the amendment. Thank you, colleagues. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Coash. Senator Utter, you're recognized. [LB987]

SENATOR UTTER: Thank you very much, Mr. President, and good afternoon, colleagues. I'm sure it's no surprise to you that I would get up and say something about this. Again, I would like to ask Senator Mello a question if he's on the floor and would answer a question. He doesn't seem to be here right at the moment. Must have known I was going to ask a question. I would be in wholehearted support of this legislation if there was some way that we could take the \$200,000 that the state is going to participate toward the local portion of the funding of this grant...if we could take whatever portion of money that that state money helped get, and spread it statewide. Because I want to suggest to you that I think there are lead-based paint problems from border to border in this state. And there are children living in those homes that have lead-based paint problems, and I think they suffer the same diseases wherever they go. But just the idea, to me, that it's the state's obligation to spend this money in a single municipality of our state and not share this money with the taxpayers across the state, I'm having a little difficulty getting my arms around. The other thing I'm having some difficulty with is the fact that this almost looks like a bill that all of a sudden some money showed up because of Senator Krist's action, and so all of a sudden we've got a place to use that money. Colleagues, I suggest to you we don't have to spend that money. The bill, to me, seems like it is important enough that...the amendment seems like it's important enough that it should be a bill and go through the complete hearing process just as any other bill does and approach the floor in that manner rather than being hitched onto a bill at the last minute. And so with that, I would have to tell you that I'm going to have some real problems with this bill and with the suspension of the rules in this matter. Thank you. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Utter. Members requesting to speak on the motion to suspend the germaneness rules, we have Senator Council, followed by Senator Nordquist, Senator Nelson, Senator Campbell, Senator Howard, Senator Dubas, Senator Hadley. Senator Council, you're recognized. [LB987]

SENATOR COUNCIL: Yes, thank you, Mr. President. And I'd like to respond to some of the concerns expressed by my colleague, Senator Utter. Senator Utter, you get no disagreement. Lead-based paint and exposure to lead poisoning should be an issue of concern for every member of this body as it affects every child in this state. But first I must note that the \$200,000 that is being requested here is being requested to enable the city of Omaha to obtain a competitive HUD grant. To my knowledge there is nothing

Floor Debate
March 31, 2010

that prevents any other community in the state of Nebraska that has a lead-based paint, lead poisoning problem as significant as the city of Omaha's, from applying for those funds. It's competitive and the city of Omaha, during the seven years that I've been involved with addressing the remediation and elimination of lead poisoning hazards in the city, has faced competition from cities like St. Louis, from cities like Minneapolis. But the point with regard to lead-based paint was attempted on my behalf, Senator Utter, to be addressed on a statewide basis. I know for a fact that children across this state are being lead-poisoned. I introduced a bill this year to require that all children have a lead test, a blood lead test, before they enter kindergarten. That bill did have a hearing before the Education Committee. There were a number of valid questions posed. I recognized when I introduced that bill that, according to medical standards, the ideal time for children to be tested for lead is at ages one, two, and three. But I found it difficult to try to mandate in this bill that parents had their children tested for lead at one, two, and three, when we weren't providing the means of covering those costs. So my bill said you would have to demonstrate, before your child could enter kindergarten, that you've at least had them tested between the ages of 18 months and four years. That bill is still sitting in the Education Committee. I had hoped that it would come out because that would affect all children across the state. It would allow everyone to get a feel for what kind of lead hazards actually do exist in their communities and what kind of measures need to be taken to correct that. That's been done in Omaha because Omaha has the unfortunate distinction of being designated as the largest residential superfund lead site in the nation. And while there's some confusion as to how many times Omaha has sought matching grant assistance from the state, I suspect that some of that confusion is because Omaha has requested grant assistance from EPA, as well as HUD. But the fact is, is that because of the conditions that exist in the city of Omaha with regard to the level of lead poisoning, statewide only 2 percent of the children statewide are lead-poisoned by current CDC standards. And current CDC standards are if a child has... [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR COUNCIL: ...more than ten micrograms per deciliter of lead in their blood system, they are lead-poisoned. And the document that Senator Nordquist has distributed shows you what happens to a child if they have ten micrograms per deciliter of lead in their blood system. They are prone to learning disabilities, developmental problems, lower IQs, hypertension, behavioral problem, dental concerns. CDC is reevaluating because it has been demonstrated that youngster with blood lead levels of five or less micrograms per deciliter in their blood are showing these same signs of developmental problems. There are research studies that connect and draw a direct correlation between blood lead poisoning and juvenile delinquency. [LB987]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Council. Senator Nordquist, you're recognized. [LB987]

Floor Debate
March 31, 2010

SENATOR NORDQUIST: Thank you, Mr. President. Thank you, Senator Council, for bringing this back to the important issue we're talking about here and the impact that this has on the state. The reason we've come forward and the reason the city has come forward before to seek these funds is because the state has a significant vested interest; that this is a health problem that will cost the state significantly down the road if we don't step forward and receive these funds to mitigate this problem. As Senator Council said, the document that I handed out shows ten micrograms per deciliter leads to learning disabilities, developmental problems, lower IQs, behavioral problems: all problems that the state has a vested interest in and the state will be funding if we don't take action to solve these problems. And, too often, the kids that are facing these problems, they live in older housing stock, certainly in Omaha, but that's certainly true everywhere. HUD says that probably 90 percent of the pre-1940 buildings in the country have lead; 80 percent of the pre-1960 buildings have lead; and 62 percent of the pre-1978 buildings have lead. The problem is too often these families maybe aren't going out and getting the screenings that they need in a timely manner. This is an issue...you know, lead poisoning is something you don't see. The symptoms are very hard to detect without a lead screening, and these kids, too often, aren't getting access to it. So as CDC and HUD and every document I've looked at this morning says prevention is about the only way you can get at this problem, find...getting those funds, getting those houses remediated. Certainly, over the last couple of years, we heard a lot more last year on the problem with lead paint in toys, and certainly it was a big problem coming from China, but that is miniscule compared to the problem of lead paint in houses; and that is, lead paint in houses is the most common high-dose source of lead exposure for U.S. children, according to the CDC. And regardless of the amounts that we have on the sheet here, they say evidence is clear there is no safe amount of lead exposure for children, under six certainly. A couple procedural process issues I want to clarify. I don't see Senator Heidemann on the floor but I just want to clarify he knows why we didn't have a bill introduced on this. We, last year, received a letter in April from the city of Omaha. They asked for this...they let us know about the grant. They asked for the request. It was too late in the budget process last year to do it. We had a discussion in committee and said we will approach this next year. We went through our decisions, we went through the forecast. As we were coming up on finalization of the budget this year, we took a vote on the committee and it was, I believe, a 6:3 vote to put this in the budget. At that time, this year, when we finalized the budget in late February, we were told, well, this takes a statutory change. That's why a bill wasn't introduced. It wasn't because, you know, we just decided to up and do this. We had a discussion last year about it. No one at that time made any mention of a bill having to be introduced. We thought...everyone said, yes, we'll look at, you know, using some cash funds, going forward, transferring, whatever we need to do. But then we found out a bill needed to be introduced. And so we looked, at that point in time, for a legislative vehicle. The second thing I want to point out, too, is that there is a significant local match. The city of Omaha has put forward \$300,000 in hard dollars. Douglas County is going to match that in

Floor Debate
March 31, 2010

in-kind services and they are also going to seek private donations as well. So there is more than the 25 percent local match that's required. It's a significant local match. [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR NORDQUIST: And they're asking for the state to be a partner in that because the state does have an interest in this. Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator Nelson, you're recognized. [LB987]

SENATOR NELSON: Thank you, Mr. President, members of the body. I rise in opposition to suspending the rule here for germaneness. I don't do this lightly because I'm from Omaha. This impacts my city. We have some important issues there. But I think procedurally this is not the way to go about it. I would echo a sentiment that because we have the opportunity to get \$2 million we should spent \$200,000 to obtain that. Senator Coash spoke about the dire effects that occurred from lead poisoning with two young men with whom he worked who are about his age now--and I don't know how old Senator Coash is--but it appears to me that that lead poisoning, which I'm sure did occur, it occurred probably 25-30 years ago. We are a little more enlightened now. We know what it does and what the lead poisoning and what we can do. We can test for it. And I've got an article here, Instant Lead Testing , and I'm just going to put it into the record. "You cannot tell if a child has lead poisoning unless you have him or her tested. The American Academy of Pediatrics recommends that all children up to age six be tested for blood lead. A blood test takes only ten minutes and results should be ready within a week. Ask your doctor for details." Now, I commend Senator Council for the bill that she put in. It may have been a mistake to go, you know, six years. The important time is to be testing in the first, second, or third year. I think \$200,000 on however it will be distributed could go a lot farther in helping with the prevention of the impact of lead poisoning than spending it in the manner that's proposed for 180 households--\$2 million for 180 households. That comes to \$11,000 per house. I think it says there's something like there's...if you have this material, 46,000 homes are at risk, possibly, because of the paint. I know there are areas in Omaha that have older homes but I think the way to approach this--and this is just my approach--is to do the testing to catch it early, at an early stage, and spend the money there. And then let's leave it up to the landlords or the people who own their homes who have children to at least repaint to the extent of window sills, replace doors, do things like that. You can put a permanent seal. Repainting is not a permanent solution but it is certainly a temporary fix for a period of 10, 15 years. And it's children that are mainly affected; not the adults so much. It doesn't seem to me that money needs to be spent--and this is just my own opinion--to the extent to take all the paint out of the interior of a house, all of the exterior paint, and then repaint again. It seems to me like there are more economical ways to do this. Yes,

Floor Debate
March 31, 2010

we've got lead poisoning now to a degree where it's going to cost us something. But I think we have ways now to deal with this that are a lot more effective than a measure such as this. If we do suspend the rules, then I will talk on this further, but I simply want you to know what my position is at this time, and I do not want to suspend the rules and will not vote that way. Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Campbell, you're recognized. [LB987]

SENATOR CAMPBELL: Thank you, Mr. President, and good afternoon, colleagues. I rise in support to suspend the rules and proceed to have a serious discussion on this issue. For all the years that I've been involved in children's issues, lead paint has been one of the most prominent, significant health issues for children. It doesn't make any difference where you are across this country, every metropolitan city, every city across this country needs to realize that this is a great health hazard. I'm willing to take a look at this issue and ultimately to support it because I believe that it is a problem, perhaps more pronounced in Omaha because of its designation, as Senator Council talked about. If we are truly going to make a difference in this area, we need to realize that only a couple flecks of paint can affect a child. You can say, well, we're going to clear all the sills and all this--but little flecks. I mean, this is an unbelievable problem that can be caused by such a small amount. I believe that that's why the Health Care Cash Funds are there. When we know we have a problem of this significance and will affect so many children and ultimately affect the cost for the state, why would we not look at those funds? Senator Pankonin sits beside me in the Health and Human Services Committee and he is always saying to me, you know, it's hard...it's hard to put into words when you say, well, this will save me money later. It's the whole prevention question which every advocate for every issue always struggles with. But in this case, we know the results and we know how to prevent it. Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Howard, you're recognized. [LB987]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I stand in support of this issue and I will say I've seen many children in foster care with behaviors that you have to wonder, did these come from a possible exposure to lead dust at an infancy? Was it fetal alcohol? What has really contributed to the problems that they're going through, the behaviors that they're experiencing? I think we should do everything that we possibly can to address this to provide children with a safe environment. I have some questions regarding the handout that we received earlier. And if Senator Mello is available, I would like to ask him some questions. [LB987]

PRESIDENT SHEEHY: Senator Mello, would you yield to Senator Howard? [LB987]

Floor Debate
March 31, 2010

SENATOR MELLO: Absolutely. [LB987]

SENATOR HOWARD: Thank you. Now I realize that you're not an expert on this, but possibly you have more information about it than I do and I would like to maybe have some additional information. This sheet that was handed out, at the top it's "LB987, Senator Krist," but it has your name on it so I'm sure you've read it. [LB987]

SENATOR MELLO: Yes. [LB987]

SENATOR HOWARD: About midway down it states: 9.7 percent of children in Omaha lead-test area, test positive for elevated blood levels, versus 2 percent of the Nebraska children. Now this number that's quoted, is this 9.7 percent of all children in the Omaha area or is this just the test group, which I'm not minimizing, but I want to know a little more specifically. [LB987]

SENATOR MELLO: I got these figures from the city of Omaha, Senator Howard. I can get that clarified in regards to whether or not it's a test area or all children within the city of Omaha. [LB987]

SENATOR HOWARD: I think that would be really helpful. One of the problems that we had in foster care was, while children did receive an annual physical and there was a blank on that physical regarding the lead content that they were carrying in their blood, that wasn't always tested. I mean, actually not on a regular basis was it tested. And I think that in itself is of a concern. The second part of this, and I'm sure you would feel the same way, is there's absolutely nothing to be gained by testing a child; finding that there's a high level, blood level, in their bloodstream; and then returning them to the same problematic environment. And I appreciate the efforts that you're doing on this. If you could get me this information regarding the statistics, that would be very helpful. Thank you. [LB987]

SENATOR MELLO: Okay. Thank you, Senator Howard. [LB987]

SENATOR HOWARD: I'm going to ask that Senator Ashford if he would allow me to ask him a few questions regarding the Omaha housing unit. [LB987]

PRESIDENT SHEEHY: Senator Ashford, would you yield to Senator Howard? [LB987]

SENATOR ASHFORD: Yes. [LB987]

SENATOR HOWARD: Thank you, Senator Ashford. I'm going to take advantage of your knowledge and your experience from your previous life, working as the Housing Authority executive director. I don't know if that was exactly your title, but certainly you were the executive over the Housing Authority for a number of years. In this statement,

Floor Debate
March 31, 2010

the same statement that I referred to with Senator Mello, there's a figure in here, 23,000-plus housing units in Omaha built before 1940 are at greatest risk for lead paint hazard, up to 46,694 housing units in Omaha may be at risk. Now I know, from my knowledge of Omaha, having worked in the projects, having seen these projects, a number of them torn down, is this the number of units that's left, to your knowledge, approximately? [LB987]

SENATOR ASHFORD: The Housing Authority has 600, or so, scattered site houses. [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR ASHFORD: Those are individual units. Those are, for the most part, prior to 1940--not all. And most of those have had lead paint removed. There are a few left. I don't know how many but a small percentage. There are about 4,000 Section 8 units in the city. And of those 4,000, they're required not to have lead-based paint, but, you know, in the inspection, inspectors look for lead-based paint. And then there are about, other public housing units--and you know them: Southside and Spencer Homes--for the most part, lead paint has been removed from those units. So the main problem are the structures, the houses, the individual houses built before 1940. [LB987]

SENATOR HOWARD: So the... [LB987]

SENATOR ASHFORD: And there are...the Housing Authority does own some that are going through the process of getting rid of the lead-based paint, but I can't say how many are still... [LB987]

PRESIDENT SHEEHY: Time, Senator. [LB987]

SENATOR HOWARD: Thank you. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Howard. Thank you, Senator Ashford. Senator Dubas, you're recognized. [LB987]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. Good afternoon colleagues. I, too, rise in support of suspension of the germaneness rule. As with so many things that we talk about on the floor, it's kind of a pay me now, pay me later kind of thing, and I think it's definitely the case with what we're talking about now. We pay exorbitant amounts of dollars to deal with, you know, behavioral health issues, incarceration, probation, parole, all those types of things that very many times, I think if we spent the money up front, could save us those dollars down the road. I had heard Senator Council make this comment about Omaha being the largest superfund site, and I was really quite taken aback by that and wondering why...and maybe it has been in the news

Floor Debate
March 31, 2010

more, but I certainly haven't caught it. You know, why aren't we hearing more about that? Why isn't that a big deal for our state? Why aren't we addressing that in a major way? So would Senator Council yield to some questions? [LB987]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Dubas? [LB987]

SENATOR COUNCIL: Yes, absolutely, Mr. President. [LB987]

SENATOR DUBAS: The comment that I just made about being a superfund site, how long has that been the case? How long have we known about it? And are we making it as well known as it should be? [LB987]

SENATOR COUNCIL: Well, I would hope, Senator Dubas, that it has been publicized, but the designation as a superfund site officially occurred in 2003, and that is an EPA designation. And for those who don't know, since 2003 the federal government, through EPA, has been appropriating at a minimum of \$15 million per year to clean up lead in the soil in Omaha, which is what makes Omaha the largest residential superfund site. Now, the state of Nebraska is required to match that \$15 million every year, as well. They're required to come up with 10 percent of the \$15 million every year. That comes out of the Nebraska Department of Environmental Quality fund, so you don't hear a lot about it because the state contribution to that cleanup effort is relegated to the state match through NDEQ. All of that work is being carried out under the auspices of the Environmental Protection Agency. [LB987]

SENATOR DUBAS: Thank you, Senator Council. I would tend to agree with the comment that Senator Utter made. And unfortunately I had to leave the Chamber as you were answering his question, so forgive me if I'm repeating it. But I do believe that this is a statewide problem and are we or do we need to be doing things in our communities across the state to be figuring out ways to deal with lead-based...I would guess practically every old farmhouse across the country has lead-based paint in it. So what do we need to be doing at a statewide level to address this? [LB987]

SENATOR COUNCIL: Yeah. And if I may, yeah, I do believe that all of our communities need to have their awareness raised about the adverse effects of lead poisoning on children. And if you were out of the room, I just briefly mentioned the fact that one way of raising that awareness, I had hoped, was through a bill I introduced this year to mandate that children entering kindergarten provide evidence of a blood lead test. Requiring parents to undergo that testing is a way of raising awareness, and I do know that the respective county health departments receive the same types of information from the Center for Disease Control that the Douglas County Health Department does. And if you have indications of elevated blood lead levels of children in your county... [LB987]

Floor Debate
March 31, 2010

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR COUNCIL: ...then there are CDC funds that can be made available for outreach and education. As I indicated, this HUD grant is a competitive grant. We compete, Omaha competes against cities from across the nation who have these similar types of problems. And if I could quickly, the point was made by Senator Heidemann that the matching is up to 25 percent. The reason Omaha tries to get to 25 percent, because it is competitive and we're competing against cities with children who have...cities with larger percentages of children who are testing positive for lead. [LB987]

SENATOR DUBAS: Thank you for that information, Senator Council. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Members requesting to speak on the motion to suspend the germaneness rule, we have Senator Hadley, followed by Senator Mello, Senator Council, Senator Janssen, Senator Haar, and Senator Gay. Senator Hadley, you're recognized. [LB987]

SENATOR HADLEY: Mr. President, members of the body, I see the people that I was going to ask questions of, snuck off the floor: Senator Mello, Senator Nordquist. Oh, Senator Mello is here. [LB987]

PRESIDENT SHEEHY: Senator Mello, would you yield to Senator Hadley? [LB987]

SENATOR MELLO: Absolutely. [LB987]

SENATOR HADLEY: Senator Mello, just so I'm clear, I'd like to ask you two quick questions so we can moving it along. Omaha will be making a hard dollar match in this...if this grant does go through, is that correct? [LB987]

SENATOR MELLO: That is correct, Senator Hadley. The city of Omaha will make a \$300,000 hard cash match for this grant. [LB987]

SENATOR HADLEY: Secondly, this is a priority of the city of Omaha. [LB987]

SENATOR MELLO: Yes. This is a priority for the city of Omaha. Once again, in the discussion I think that Senator Heidemann mentioned, while the request came from the city of Omaha under a previous mayor, it still has been a priority for the entire city of Omaha as I've also received an e-mail in support from the Omaha City Council president on this issue. So it is a city of Omaha issue. [LB987]

SENATOR HADLEY: Thank you, Senator Mello. I will support the germaneness rule. I would like to hear more of the debate but I will say, just quickly Googling it, I'm amazed

Floor Debate
March 31, 2010

at the number of cities around the country who have gotten these grants and are moving forward with these grants. So I think this is probably an issue that it deserves some debate in the floor. Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Council, you're recognized. This is your third time. [LB987]

SENATOR COUNCIL: Thank you, Mr. President. Just to address a couple of points. Senator Nelson spoke about testing children. Absolutely, we must test children. But as Senator Howard accurately noted, it does no good to find out that a child has an elevated blood lead level and send them back into the same environment where they continue to be exposed to the ingestion of lead-based paint. We gain nothing by knowing that they're poisoned without trying to remediate their environment and abate that condition and prevent some other child in that family or some child who moves into that property from experiencing that same type of exposure to these lead hazards. The other point is with regard to the cost associated with carrying out the objectives of the HUD grant. You're correct, Senator Nelson, that the average remediation and abatement cost runs in the area of \$10,000 to \$12,000 per home. But again, if you look at the homes that we're dealing with, these are homes, the overwhelming majority of which were constructed prior to 1958. Now, you talk about the two gentlemen that Senator Coash referred to, 25 years ago. Well, the fact of the matter is that these houses still exist. These houses still have lead-based paint principally on their exteriors and on their window sills, in the window construction themselves. So these grants go to abate that hazard by replacing windows, scraping and replacing exterior lead-based paint, removing interior lead-based paint so that these children can reside in lead-safe homes. Now, you compare the cost of that with the cost to remediate a yard. That activity has been going on at the expense of taxpayers through the federal government since 1999 at an average cost of \$15,000. And what occurs is that the yard is remediated. Nothing is done about the house. So we've wasted \$15,000 of your precious taxpayers' dollars by removing the lead hazard from the soil but doing nothing to address it in the home. And we've had instance after instance after instance where \$15,000 was spent to remediate the soil in the yard and we come back later and test the child, and we've had children testing with 30 and 30-plus micrograms per deciliter of lead in their blood system. And the question is asked: Where did it come from? It comes from the lead-based paint. And in terms of the priority on this issue, all I can say is that the Governor, every member of our congressional delegation, the mayor of the city of Omaha, they have all expressed their support for Omaha's application for any and all federal grants available to address the abatement of lead hazards from any conceivable source. And here is an opportunity. We're talking about using funds from the Health Care Cash Fund. I pulled out the "Nebraska Health and Human Services Finance and Support..." [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

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

Floor Debate
March 31, 2010

SENATOR COUNCIL: ...Title 402, Nebraska Health Care Funding Act, Grants from the Nebraska Health Care Cash Fund. The purpose of the Nebraska Health Care Cash Fund is to award grants in the following categories." One of them is "Public Health, subcategory (b), environmental health services, including lead testing and abatement." What is being requested here to use funds from the Health Care Cash Fund for a program that fits squarely within the objectives and the program outlined for the use of Health Care Cash Funds is consistent with the ultimate objective of Senator Krist's original bill, and I would urge your favorable consideration of suspending the rule as to germaneness to allow us to vote on this amendment and provide children in the Omaha area the opportunity... [LB987]

PRESIDENT SHEEHY: Time, Senator. [LB987]

SENATOR COUNCIL: ...to live a lead-free life. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Janssen, you're recognized. [LB987]

SENATOR JANSSEN: Question. [LB987]

SPEAKER FLOOD: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease on the motion to suspend the germaneness rule? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB987]

CLERK: 27 ayes, 1 nay to cease debate, Mr. President. [LB987]

SPEAKER FLOOD: Debate does cease on the motion to suspend the germaneness rule. Senator Council, you're recognized to close on your motion to suspend the rules. [LB987]

SENATOR COUNCIL: Yes, Mr. President. I'll be brief. I think that we have fully and fairly outlined the reason why this motion has been introduced. There was a request for this appropriation through the Appropriations Committee. It wasn't until after the committee itself had voted to approve an amendment that would have provided for a \$300,000 appropriation that those in support of this amendment became aware of the fact that there would be statutory changes required. Senator Krist graciously offered to allow his priority bill to be amended to enable this body to take a vote on whether or not the interests of the children in Omaha who are at risk of exposure to lead poisoning warrants an appropriation of \$200,000 from the Health Care Cash Fund to leverage a \$2 million grant to provide the opportunity for more of those children to live in lead-safe homes. With a suspension of the rules, we would be allowed to vote on AM2418, which

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

Floor Debate
March 31, 2010

becomes the bill and does provide for a \$200,000 appropriation to the city of Omaha to leverage a \$2 million grant. And I want to stress it's contingent, it is conditioned upon HUD selecting the city of Omaha through the competition to receive the \$2 million grant. If HUD does not select the city of Omaha, AM2418 provides that there shall be no appropriation from the Health Care Cash Fund. So the purpose of AM2418 is to position the city of Omaha to be able to access \$2 million to assist them in continuing a very successful program. And with that, I would urge your favorable consideration of the motion to suspend. I would ask the President to call the house and conduct the vote in regular order. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Council. There has been a request for a call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Senators, please record your presence. Please record, Mr. Clerk. [LB987]

CLERK: 44 ayes, 0 nays, Mr. President, to place the house under call. [LB987]

PRESIDENT SHEEHY: The house is placed under call. Senator Coash, would you check in. Senator Council, all members are present or accounted for. Members, you have heard the closing on the motion to suspend the germaneness rules. There has been a request for a roll call in regular order. Mr. Clerk. [LB987]

CLERK: (Roll call vote taken, Legislative Journal pages 1244-1245.) 31 ayes, 8 nays to suspend Rule 7, Section 3, Mr. President. [LB987]

PRESIDENT SHEEHY: The motion to suspend germaneness rules is adopted. The call is raised. [LB987]

CLERK: Mr. President, Senator Council would offer AM2418. (Legislative Journal page 1164.) [LB987]

PRESIDENT SHEEHY: Senator Council, you're recognized to open on AM2418 to LB987. [LB987]

SENATOR COUNCIL: Thank you, Mr. President. I think during the course of the debate on the motion to suspend the rules, that the purpose and objective of AM2418 has been thoroughly outlined. The bill consists of a couple of paragraphs that merely provides for an appropriation of \$200,000 out of the Health Care Cash Fund upon the condition that Omaha is selected by Housing and Urban Development to receive one of the competitive lead-based paint abatement grants--a grant that it has received on two previous occasions which has enabled it to convert 622 previously lead-contaminated homes into lead-safe homes. With the \$2 million grant, the city of Omaha would be able to undertake the renovation and abatement of lead in up to 180 homes where children

Floor Debate
March 31, 2010

under six reside. I would urge the body's favorable consideration of AM2418. Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Council. You've heard the opening of AM2418. Members requesting to speak are Senator Haar, followed by Senator Gay, Senator Krist, and Senator Langemeier. Senator Haar, you're recognized. (Gavel) [LB987]

SENATOR HAAR: Mr. President, members of the body, we're all getting kind of tired and...but I've been trying to connect the dots here. And I would like to read to you from the U.S. Consumer Product Safety Commission. And it's about...it says: What You Should Know About Lead Based Paint in Your Home: Safety Alert. "Lead-based paint is a major source of lead poisoning for children and can also affect adults. In children, lead poisoning can cause irreversible brain damage and can impair mental functioning. It can retard mental and physical development and reduce attention span." And now listen to this next sentence. It's what we talked about last night. "It can also retard fetal development even at extremely low levels of lead." So it's not just the children. Now we're talking about pregnant women who are at risk. And here's one for the guys. It can cause other reproductive problems, "such as decreased sperm count." That affects guys. So it's not only children, but it's pregnant women and it's men who would like to have babies. "Thus, young children, fetuses, infants, and adults with high blood pressure are the most vulnerable to the effects of lead." Now this goes on to say, "two-thirds of the homes built before 1940 and one-half of the homes built from 1940 to 1960 contain heavily-lead-paints." Furthermore, this article...and this is from the U.S. Consumer Product Safety... [LB987]

PRESIDENT SHEEHY: (Gavel) [LB987]

SENATOR HAAR: ...Commission. It talks about how to take care of lead poisoning, and Senator Nelson mentioned you can paint over it. Well, listen to what they say about it here. "Cover the lead-based paint. You can spray the surface with a sealant or cover it with gypsum" drywall. In other words, you can drywall over it. "However, painting over lead-based paints with non-lead paint is not a long-term solution." And it says, "Even though the lead-based paint may be covered by non-lead paint, the lead-based paint may continue to loosen from the surface below and create lead dust." I saw a program last week on Channel 12. They were talking about lead abatement. I just happened to see that one. And there are certain things, even if you use the best coatings available for lead-based paints, you still have to look at things where the paint could get knocked off, like the corners where two pieces of molding come together and something might knock that paint off. And then you've got to clean the air ducts after you've done all this abatement. You've got to take out the carpets if you've had lead-based paint. And if you really want to do a good job, you strip down all the lead-based paint, particularly around things like windows. So I just can't figure anymore. Last night we talked about...and I

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

Floor Debate
March 31, 2010

think there was some real concern about fetal anomalies. We want pregnant women to have healthy births. And yet, now we know again here's another thing. Even extremely low levels of lead can retard fetal development. So what are we talking about? Process? We're talking about dollars that maybe get spent in Omaha and, for God's sakes, they don't get spent somewhere in western Nebraska. Well, let's...you know, let's make an effort then in the next session to take care of those other problems. But I don't think we should let anything get in the way of this. This is an important issue, even if we can't... [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR HAAR: Thank you...even if it can't solve all our problems. If we're serious that we want healthy babies, lead-based paint is something we should be concerned about, I don't care where it occurs. Thank you very much. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Gay, you're recognized. [LB987]

SENATOR GAY: Thank you, Mr. President. I wanted to talk about the funding of what is now going to be the bill if it passes. Just this...these funds are coming from the Health Care Cash Fund, a fund we have in hand right now. So this is something that was not being expended on anything else. I think this is a very worthwhile cause and I do support...I supported the prior amendment I support this amendment. I think as a one-time opportunity, I don't this should be again and again. And I know we've done this through some other funds but I do think the leveraging of city and county money will be very beneficial. I'd like to ask Senator Council a question. [LB987]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Gay? [LB987]

SENATOR COUNCIL: Yes. [LB987]

SENATOR GAY: Thank you, Senator Council. Senator Council, you had talked about...I'm making the assumption and going to vote on the assumption that the city of Omaha would get this needed grant. But if they for some reason wouldn't, how would these funds...tell me the access, how you access the funds under your bill? [LB987]

SENATOR COUNCIL: Okay. Under the bill, Senator Gay, the grant monies will not be awarded unless and until HUD selects the city of Omaha as a grant recipient. And since the grant that Omaha is currently operating under expires at the end of the federal fiscal year which is September 30, the city of Omaha would know prior to September 30 whether they had received the grant because it would become effective October 1, 2010. [LB987]

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

Floor Debate
March 31, 2010

SENATOR GAY: Thank you, Senator Council. So we will know where the funds are by the time we are crafting budgets and these things. The Health Committee had a need for some of these funds as well, and we're perfectly...we still have some funds left to do whatever needs to be done. So I do think to be able to use the funds for this needed cause would be a good choice of what we're doing here today. I do support the amendment. And, Mr. Speaker, I'd yield the balance of my time to Senator Krist. [LB987]

PRESIDENT SHEEHY: Senator Krist, you're yielded 2 minutes 45 seconds, and then you're next in the queue. [LB987]

SENATOR KRIST: I would just finish by saying my \$650,000 expenditure is gone, to be clear. My lung cancer bill is gone, to be clear. The amendment that you need to support is AM2418 for lead cleanup, lead abatement. I also want to make it clear that that \$2 million that's leveraged will create \$2 million worth of jobs. Those are jobs to clean up the area. I just saw this as a win-win, particularly when the \$650,000 didn't appear to be there. The money is not new money. Senator Gay explained that to you on the mike. Folks, we need to support this and we need to come back and take care of other lead issues around the state. It's very important. Thank you. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Krist. It's my understanding you're waiving...you are next in the queue. [LB987]

SENATOR KRIST: I would like to yield some time to Senator Hadley. [LB987]

PRESIDENT SHEEHY: Senator Hadley, you're yielded 4 minutes 50 seconds. [LB987]

SENATOR HADLEY: Mr. President, members of the body, I'm going to stand in support of LB987. Let's not think about this as an urban...rural city/metropolitan city. You know, we've got a problem here and I think we should be supporting this whether it was Omaha, Lincoln, Kearney. You know, they have a chance to leverage some money that will help children in Omaha. I don't see that as an out-state/in-state argument. And if it was any other city, I would be standing here saying when you get this kind of leverage ability and using funds that are not General Funds, I really don't know how we should not support this. I happened to be looking through, this is a common type of thing. It's just...if you look, city after city across the United States has this problem. St. Louis, Minneapolis, Chicago, New York City, Boston, they all have...older cities have this problem. Are we going to sit and let some parochialism make a difference for our children? I hope we won't. And, of course, it's \$200,000. But what is a better use of the \$200,000 that we have? If someone has a better use of the \$200,000, I would like to hear what it is. And if there is a better use, then maybe we should use it for something else. But I think this is an awfully good use for it right now, given the fact that Omaha is willing to put up hard dollars. I assume Douglas County will at least be putting up some

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

Floor Debate
March 31, 2010

hard dollars, plus match. And we can help the children. So with that, I stand in favor of AM2418 to LB987. Thank you. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Members requesting to speak on AM2418 to LB987, we have Senator Langemeier, followed by Senator Nelson, Senator Dierks, Senator Hadley, and Senator Carlson. Senator Langemeier, you're recognized. [LB987]

SENATOR LANGEMEIER: Mr. President and members of the body, I rise in support. I want to reconfirm what Senator Harms said as we talked about this issue. It's been said on the floor it's a birth to eight issue. I would say it's for conception to age eight, big issue. I'd ask if Senator Council would yield to some questions. [LB987]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Langemeier? [LB987]

SENATOR COUNCIL: Certainly, Mr. President. [LB987]

SENATOR LANGEMEIER: Senator Council, as we had the Region 7 new administrator from the EPA here for a meeting a couple weeks ago that I was glad you attended, and I apologize...I'm glad the invitation got extended to you from our committee. I apologize for not getting it to you; that was my fault. [LB987]

SENATOR COUNCIL: Not a problem. [LB987]

SENATOR LANGEMEIER: But you made it there and we appreciate that. And as this area has become one of the largest superfund sites in the United States for lead, how...educate us on how this, if this grant is received, they're currently in Omaha digging up yard, taking the top six, seven inches off, and then putting sod back and new dirt. How do you foresee this money, this \$2 million, if you can get it, who's going to coordinate it and who's going to make sure there's not duplication? And one of your issues in our discussion was, is we're not dealing with the paint in the house before we're digging up the dirt, which is a big issue because then it's just recontaminating the new dirt and the new sod that's being laid down. Can you give us a little background on how you foresee getting ahead of this dirt removal project and...? [LB987]

SENATOR COUNCIL: Yes, and I'll try to do that as succinctly as I can, Senator Langemeier. The community in Omaha has been working with the Environmental Protection Agency since 2004 on a regular and consistent basis through a community advisory group that's made up of stakeholders from community-based organizations, neighborhood associations, Douglas County, all of our congressional delegation members have representatives on the task force, and the community has consistently advised the EPA that while there certainly is a problem with soil contamination in

Floor Debate
March 31, 2010

Omaha, with the housing stock age that is present in Omaha that there has to be a coordinated, comprehensive approach to remediating and eliminating lead hazards in Omaha. And so we have consistently been advised by EPA that we need to get HUD involved because EPA only has jurisdiction over soil contamination. HUD has jurisdiction over lead-based paint abatement issues. So how this is coordinated is it fits squarely within the comprehensive approach that the Governor has supported, all of our congressional delegation representatives have supported, the mayors of the city of Omaha have supported. So what it allows them to do are the worst homes where children reside will be the beneficiaries of the HUD grants. We finally convinced EPA that they needed to take some of the soil remediation money which I think you know to be about \$17 million a year... [LB987]

SENATOR LANGEMEIER: Correct. [LB987]

SENATOR COUNCIL: ...to take some of that soil remediation money and get out ahead of the soil removal and do the paint assessments and at least do the cover of the exteriors before they expend \$15,000 in the soil. So that's how it's being coordinated. [LB987]

SENATOR LANGEMEIER: Very good. I think it's very important to talk about that. The EPA's involvement is currently with just the soil, and we have houses in this area that are of great deal of age and we have lead issues that is compounding the problem with those through paint. And so it think this money could be used towards... [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR LANGEMEIER: ...assisting the \$17 million we got from the EPA to clean up this site and will continue to clean up this site. Thank you, Senator Council. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Nelson, you're recognized. [LB987]

SENATOR NELSON: Thank you, Mr. President, members of the body. I stand in opposition to AM2418. I'd like to ask a question or two of Senator Ashford if he will yield. [LB987]

PRESIDENT SHEEHY: Senator Ashford, would you yield to Senator Nelson? [LB987]

SENATOR ASHFORD: Yes. [LB987]

SENATOR NELSON: Senator Ashford, you answered some questions earlier about the efforts that had taken place in public housing, and I think you were very much involved in that. I gather from your answers that most of the public housing units were addressed

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

Floor Debate
March 31, 2010

with regard to the lead-paint poisoning and that remedial actions were taken. Is that correct? [LB987]

SENATOR ASHFORD: Yes, but that primarily is because we get a direct subsidy from HUD to make those corrections. And a lot of the public housing units have been torn down, so. But the scattered site units we do get direct aid from HUD to make those corrections. But... [LB987]

SENATOR NELSON: (Inaudible) [LB987]

SENATOR ASHFORD: Yeah. [LB987]

SENATOR NELSON: Do you have any idea how much money was spent by HUD in...? [LB987]

SENATOR ASHFORD: Oh, it's millions of dollars. I mean, it's...it was a massive effort. And the problem is there are many, many more single family units, and that's one of the big problems. Single family units...you know, many, many thousands more than the 4,000 units that, that...in the scattered site...or in the Section 8 program. [LB987]

SENATOR NELSON: So there were about 400,000 Section 8... [LB987]

SENATOR ASHFORD: Four thousand Section 8... [LB987]

SENATOR NELSON: Yeah, 4,000. [LB987]

SENATOR ASHFORD: ...and about 600 scattered site units. And sure, I mean, those are direct federal programs, and with direct federal money. But there are thousands of units in north Omaha and south Omaha: 45,000, Senator Council indicates. I mean, they are all over the place. And it's a terrible, terrible, terrible risk, so. [LB987]

SENATOR NELSON: Yes. Thank you, Senator. I agree with that. But I have to take the position here, if you take a look at the sheet that was handed out--and I'm going to come back to this--it's going to take \$2 million to take care of 140 houses. We've talked about the replacement of the soil. That takes about \$15,000 per yard, and I know they're working on that and perhaps there's a lack of coordination. But the lead poisoning that occurs comes from the dusting; from the soil that is inhaled, for the most part. And that's a major factor here in Omaha. I just have to wonder out loud why it is that if we've got these individual units, why, we as taxpayers, through this and through \$2 million, have to put out this kind of money about \$11,000--I don't know what my figures are--\$14,000 per unit to address just 140. Senator Haar would make it sound like we have an epidemic in Omaha. We don't. We may have a serious problem but we're addressing it. I'll just be frank. I think we're throwing a lot of money out there, not only in state funds

Floor Debate
March 31, 2010

and in federal funds that could be better used elsewhere with testing. I was involved in juvenile court about 15 years ago with a child who had some high blood levels, and she lived in Section 8 housing that they said there were paint chips on the window sill. Well, did...and the child was removed, and probably justifiably so. But there are things that the individual homeowners can do to address these problems and "alleviate" these problems that don't involve spending a huge amount of money for repainting, both on the outside and the inside. [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR NELSON: Something was said about it's...and it does say here that putting a new coat of paint on is not a permanent solution. No, it's not a permanent solution, but anybody who's put a coat of paint on knows it's going to last six or seven years and it's going to contain what is underneath that coat of paint or that seal. There's not going to be dust spreading around. Paint chips come off of window sills, and the window sills themselves can be addressed by painting. It doesn't take this kind of money. I just think this is a misspending of public funds. I think it's a program where we want to spend \$200,000 to go after \$2 million, and we're only going to be able to solve the problem for 180 and we aren't even sure whether they are affected. We just know that the houses need remedial action. Who should take that action? Should it be us or should it be the individual homeowners or the people that own the properties and are renting them out regardless under what kind of section or for rent? It shouldn't be... [LB987]

PRESIDENT SHEEHY: Time, Senator. [LB987]

SENATOR NELSON: ...a taxpayer problem. Thank you. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Next we have Senator Dierks, followed by Senator Carlson. Senator Dierks, you're recognized. [LB987]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. I stand in support of the amendment and the bill as well. I've had quite a little experience with lead poisoning. We have a treatment regimen we use on cows when they get lead poisoning, and if you...when you study the disease, you find out that you need to tie up this circulating lead and get it excreted from the body. Well, there's a drug called EDTA. That's initials for ethylenediaminetetraacetic acid. It's a chelating agent and you put this into the bloodstream of the cow. It ties up the lead and it is expelled through the urine. It works very efficiently. I saw three heifers one day and the typical symptom is that they're blind, they're down, they can't walk, and if they're milking they dry up. And I saw three first-calf heifers that this happened to. And the owner said, well, it can't be lead poisoning because I don't have anything around here that they could get it from. And I said, well, maybe you better look again. Well, he did finally, and when I went back out the next day to retreat, well, he had found a couple old car batteries out there along a

Floor Debate
March 31, 2010

fence line that the fence got broke and they were licking the lead out of the car batteries. Those cows were up and back and in the milking string in two days because we had the stuff to treat them. The same thing is used in people. It's called chelating--chelation agents. A good friend of Senator Sullivan's, Dr. Otis Miller from Ord, was known for his ability to treat people with lead poisoning with...not with lead poisoning, but he used the chelating agents to get rid of a heavy metal called calcium. So he was taking the heavy metal calcium out of the bloodstream of humans with a chelating agent. We had a trial...or a hearing here in the Legislature, here in State Capitol, oh, back in probably '98 or '99. Dr. Miller was being tried for use of this. He...and the Attorney General's Office said that the Department of Health had taken his license because they said that this was...there were complaints about it. And so they had a hearing down here and the Attorney General's Office conducted the hearing. So it's something that has been before us, and it didn't come to this legislative body necessarily, but we saw the results of what happens when people get into this business of chelating. Another thing you have to be aware of that's probably just as dangerous and maybe even more so, is the use of...they made the use of asbestos in a number of shingles that were put on houses. We went through a deal here about a year ago in a little town, up in Laurel, where they had taken down...let's see, I guess it was in Coleridge. They had taken down a building and hauled it out to the dump and then found out, later, that they had to pick it up and sterilize it and move it to another special place. And the cost was, like, I think it was like \$70,000 to get this stuff all taken to another place. They thought they were doing nothing wrong. They knew they wanted to get rid of the building. So there are a lot of things like this happening around the state, and I think if we...we can't let up. We have to keep working at it. And if we take a bite at a time, that's to our advantage and to the advantage of those people that have the problem. So this maybe just a small bite but I think we have to do it. Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Carlson, you're recognized. [LB987]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I have to admit some ignorance here. I didn't really catch it and this is my fault, until Senator Council closed, that in fact this was, I'm going to use the term "hijacking" Senator Krist's bill, and his has gone in the deep, dark hole of whatever, forever. And I didn't like the process. But having said that now, I do have a couple of questions and I'll listen and see where we go from here. So I would like to address Senator Council if she would yield. [LB987]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Carlson? [LB987]

SENATOR COUNCIL: Yes, Mr. President. [LB987]

Floor Debate
March 31, 2010

SENATOR CARLSON: Senator Council, in what I just said, my thinking was a little bit different channel, so help me again. The money to fund this is coming from where? [LB987]

SENATOR COUNCIL: The Health Care Cash Fund...and if I may elaborate, as Senator Krist indicated, his original bill, LB987, provided for an appropriation of \$650,000 to be taken from the Health Care Cash Fund before...then there was some discussion of dividing it and reducing it. And Senator Krist was not agreeable to that, which freed up \$300,000 in the Health Care Cash Fund. So in working with Senator Gay, who has an interest in the Health Care Cash Fund, this bill, instead of the original \$300,000 that was sought in the amendment that came out of the Appropriations Committee, it's down to \$200,000. And so it's in substitution for Senator Krist's \$300,000. So it's \$200,000 of the \$300,000 that had been voted out for appropriation for the cancer study, and Senator Krist volunteered his bill as a vehicle for this measure. [LB987]

SENATOR CARLSON: Okay, now the \$200,000 that we're now voting on. And I don't care really what the answer is here, is that \$200,000 now keeping services away from other individuals or entities in the state of Nebraska? [LB987]

SENATOR COUNCIL: To my knowledge, Senator Carlson, it is not. The Health Care Cash Fund has a rather healthy balance in it and the Legislature has been very conservative in terms of its appropriation of funds from that account. It is my understanding based on some information that Senator Krist provided me, I think Senator Krist's information indicated it would be 2036 before that fund would be close to being exhausted. [LB987]

SENATOR CARLSON: Okay. And I appreciate that because I had seen originally, when his bill came out, a list of various things that this fund was used for. So if this is excess interest or whatever it is in the fund, that's interesting and that's important. Now, I'll ask you one other question. I've listened to Senator Nelson and I'm not criticizing Senator Nelson at all because he gave two kind of convincing arguments in his time on the microphone. What's your response to him talking about this shouldn't cost this much money and there's a less expensive and just as effective way to do this? [LB987]

SENATOR COUNCIL: Well, you know, Senator Carlson, I have and continue to respectfully disagree with Senator Nelson. [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR COUNCIL: I've been involved in this subject for seven years. I have worked directly with the Environmental Protection Agency. I've worked directly with Housing and Urban Development. I have been intimately involved in the costs. Our congressional delegations, representatives...our congressional delegation itself, as well as their

Floor Debate
March 31, 2010

representatives, regularly discuss these issues. What we had attempted years ago, Senator Carlson, because the most effective way of riding the lead poisoning hazards is to take care of the structure that the children live in. The soil is contaminated because of the ASARCO lead refinery that closed in 1970. So once you remove the lead from the soil, you still have the risk of lead poisoning from the buildings. So the wiser use of dollars, in my opinion, is to put it into the homes. [LB987]

PRESIDENT SHEEHY: Time, Senator. [LB987]

SENATOR CARLSON: Thank you. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Are there additional members requesting to speak to AM2418? Senator Nelson, you're recognized. [LB987]

SENATOR NELSON: I'm not going to belabor this, but I'm going to ask a couple more questions that I didn't have time for before. This is a healthcare issue. Senator Louden asked for \$250,000 to address the situation out in Whiteclay. Then we reduced it to \$100,000 because we didn't have the money, and then we reduced it to \$25,000. Now, those are vulnerable people out there. What are we doing here? We're spending \$200,000 in addition to the \$1.5 million that we're doing for cleaning up soil. Is it doing that much good? I grant you, it's a problem with those that are already afflicted. But let me remind you again that there are better ways to address this that are less costly. If there are...it runs in my mind 64...or is it 640,000 homes? Let me be clear on that here: 46,000 housing units that may be at risk. If we're talking at, either depending, however you figure, but let's use the lower figure, \$11,000 per unit. It's going to take over a billion dollars to address that problem. We can't possibly get it done. Maybe we can be selective about this. Maybe we can pinpoint 140 homes. But I would still maintain that there is a better use for this money, albeit, and that we should not be spending \$200,000 in this manner just because a match of \$2 million is available. Thank you, Mr. President. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Stuthman, you're recognized. [LB987]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I haven't engaged in the conversation at this time, but there's one thing that is of real interest to me and it's, you know, taking the \$200,000 out of the Health Care Cash Fund. You know, we have...and I wanted to try to get identified, you know, is this Health Care Cash Fund money or is this money from the tobacco settlement? And in my research, it is money from that tobacco settlement. And as...you know, as I've been here with the Health Committee for eight years, we've tried to maintain, you know, that fund, the tobacco settlement fund. And we have always said, you know, we don't want to have people taking a couple hundred thousand dollars and for this and for that and

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

Floor Debate
March 31, 2010

everything like that, and taking that away so it erodes that portion of the tobacco settlement fund. But, you know, yes, this is just \$200,000, but it's part of, you know, taking money from the tobacco settlement. Tobacco settlement funds the Health Care Cash Fund is what it does. So I just wanted to remind people here that, you know, the majority of you were not with us when that tobacco settlement money came. A lot of states, when they received that tobacco settlement money, put it into their general fund. We're very fortunate here in Nebraska that we have maintained that tobacco settlement money. And I want to continue to do that as having money in our back pocket. So with that, I just wanted to get that information on the record. The Health Care Cash Fund is funded by that tobacco settlement money and it has always been the principal and always been the direction, you know, that we did not want to take money from that tobacco settlement money, you know, for a number of projects. I don't remember exactly when Senator Joel Johnson was here, what the definition of was...the definition is, is what types of projects we wanted to direct money from that tobacco settlement money. So I just wanted to get that on the record for the present time. Thank you. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Rogert, you're recognized. Senator Rogert waives. Senator Pirsch, you're recognized. [LB987]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator...well, I'll start with Senator Council if she might have an... [LB987]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Pirsch? [LB987]

SENATOR COUNCIL: Yes, Mr. President. [LB987]

SENATOR PIRSCH: With this...and the formal name of this particular fund, if you know it, could...it's the...from which the monies that you seek to fund this? [LB987]

SENATOR COUNCIL: The Nebraska Health Care Cash Fund. [LB987]

SENATOR PIRSCH: Okay. And this was set up with tobacco settlement money, is that correct? [LB987]

SENATOR COUNCIL: It is funded in part by the tobacco settlement funds, and then the Medicaid...Senator Gay can answer. It's the Medicaid transfer something. Both of those funds... [LB987]

SENATOR PIRSCH: Okay. [LB987]

SENATOR COUNCIL: ...contribute to it, so it's not all tobacco settlement money. [LB987]

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

Floor Debate
March 31, 2010

SENATOR PIRSCH: So it's a second source of funding as well. Has any...and historically...when was this fund set up? During...was that recently, ten years ago or 20 years ago? Not sure? [LB987]

SENATOR COUNCIL: Yeah, I would...you'd have to defer that question to someone who's been here much longer than I have. I know it's been in existence at least since the tobacco settlement. [LB987]

SENATOR PIRSCH: Um-hum. There hasn't been any, in past Legislatures, any agreements or anything that would make your usage of these funds somehow inconsistent with what prior understandings have been with respect to the usages of these funds, correct? [LB987]

SENATOR COUNCIL: There is a...there is statute that specifies specific appropriations from that fund every year. Three million goes to tobacco cessation; \$1.8 million--I don't have the exact numbers--go to autism; certain go into another fund that's available for grants through the Department of Health and Human Services, which I read from. And one of the program that can be funded...can receive grants through the Department of Health and Human Services is lead education and abatement. [LB987]

SENATOR PIRSCH: Yeah. So there are some...a certain portion...a smaller portion of the fund which are kind of earmarked for certain expenditures, but nothing with respect to the balance of the fund that would make it an inappropriate usage, correct? [LB987]

SENATOR COUNCIL: Well, the statute provides for X amount of dollars on an annual basis transferred into the Health Care Cash Fund. This doesn't alter that. [LB987]

SENATOR PIRSCH: Yeah. [LB987]

SENATOR COUNCIL: The A bill that accompanies this does not require any additional funds being transferred into the Health Care Cash Fund; is drawn from the money that is annually appropriated to the Health Care Cash Fund. [LB987]

SENATOR PIRSCH: Thank you for those answers. And maybe I'll ask Senator Gay if he a... [LB987]

PRESIDENT SHEEHY: Senator Gay, would you yield to Senator Pirsch? [LB987]

SENATOR GAY: Yes, I would. [LB987]

SENATOR PIRSCH: With respect to this fund, there isn't...it isn't structured or there hasn't been a historical understanding that X amount of dollars will flow here or X

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

Floor Debate
March 31, 2010

amount here. It's a pretty...a fund was created and a number of...a couple of funding sources have been feeding the fund, so to speak, but there was nothing that was agreed to with respect to a particular way that the fund would be annually spent or divided up, correct? [LB987]

SENATOR GAY: No. No, Senator Pirsch, there are no restrictions on the fund. And if I could, just quickly, I've been listening to the debate. One hundred thousand dollars each year since 2005 goes into a fund...goes intergovernmental transfer fund to the Legislative Council is to be used for studies or other things that would have anything to do with healthcare, obviously. That's why I think this is germane and we solved that question there. But, no, this is...even if we take these funds, the \$200,000, and they are used, there still leaves about \$180,000... [LB987]

PRESIDENT SHEEHY: One minute. [LB987]

SENATOR GAY: ...in that fund, which is plenty for what would possibly be needed to be done right now with the healthcare. [LB987]

SENATOR PIRSCH: And that continually...does that fund continually receive then (inaudible)? [LB987]

SENATOR GAY: One hundred thousand dollars a year. [LB987]

SENATOR PIRSCH: Okay. Well, and I guess in my estimation it's not a...it is a possible use of the funds. I think that maybe in the future...and my comments really aren't directed towards this bill, but just in general towards funds that don't have a specific designation. Maybe the Legislature, if we have specific wants and wishes and desires and more structure, we should talk about that in future sessions, so. Thank you for your time. [LB987]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Senator Rogert, you're recognized. [LB987]

SENATOR ROGERT: Question. [LB987]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease on AM2418? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB987]

CLERK: 29 ayes. 0 nays, Mr. President, to cease debate. [LB987]

PRESIDENT SHEEHY: Debate does cease. Senator Council, you're recognized to close on AM2418. Senator Council waives closing. The question before the body is on

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

Floor Debate
March 31, 2010

the adoption of AM2418 to LB987. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB987]

CLERK: 40 ayes, 1 nay on adoption of Senator Council's amendment. [LB987]

PRESIDENT SHEEHY: AM2418 is adopted. [LB987]

CLERK: I have nothing further on the bill. [LB987]

PRESIDENT SHEEHY: Senator Council, you're recognized to close on LB987. Senator Council waives closing. The question before the body is on the advancement of LB987. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB987]

CLERK: 38 ayes, 3 nays, Mr. President, on the advancement of LB987. [LB987]

PRESIDENT SHEEHY: LB987 advances. Mr. Clerk, do you have items for the record? [LB987]

CLERK: I do, Mr. President. Amendments to be printed: Senator Adams to LB1072, Senator Lathrop to LB563, and Senator Lathrop to LB622. Bill read on Final Reading earlier today was presented to the Governor at 2:35 p.m. (re LB1070). I have notice of hearing from the Business and Labor Committee with respect to LB622. A confirmation report from Judiciary. And Judiciary Committee reports LB771 to General File with amendments, and LR411 reported back to the Legislature for further consideration. That's all that I have, Mr. President. (Legislative Journal pages 1245-1250.) [LB1072 LB563 LB622 LB1070 LB771 LR411]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to items under Select File. The first bill is LB1071. [LB1071]

CLERK: Senator Nordquist, E&R amendments first of all, Senator. (ER8199, Legislative Journal page 953.) [LB1071]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1071]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1071. [LB1071]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1071]

CLERK: Senator Adams, I have AM2323 with a note you want to withdraw that particular amendment, Senator. [LB1071]

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

Floor Debate
March 31, 2010

SENATOR ADAMS: That's correct. [LB1071]

PRESIDENT SHEEHY: AM2323 is withdrawn. [LB1071]

CLERK: Senator Adams would move to amend with AM2403. (Legislative Journal page 1165.) [LB1071]

PRESIDENT SHEEHY: Senator Adams, you're recognized to open on AM2403. [LB1071]

SENATOR ADAMS: Thank you, Mr. President. Members, LB1071 is the educational technical bill and what we're doing here on the first amendment up is really deleting language from the bill that this same language appears in LB1071, which moved on Final Reading earlier today, and we don't need duplicative language in two bills. So we would be...this amendment would delete the language from this particular bill. Thank you, Mr. President. [LB1071]

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening to AM2403 to LB1071. Are there members requesting to speak? Seeing none, Senator Adams, you're recognized to close. Senator Adams waives closing. The question before the body is on the adoption of AM2403 to LB1071. All those in favor vote yea; opposed, nay. Senator Adams, you wish to be recognized. [LB1071]

SENATOR ADAMS: I'll waive. [LB1071]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB1071]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB1071]

PRESIDENT SHEEHY: AM2403 is adopted. Next amendment, Mr. Clerk. [LB1071]

CLERK: Senator Adams would move to amend with AM2460. (Legislative Journal page 1250.) [LB1071]

PRESIDENT SHEEHY: Senator Adams, you're recognized to open on AM2460. [LB1071]

SENATOR ADAMS: Thank you, Mr. President. Members, if you recall, one year ago in the state aid bill that we moved, within that state aid bill there was language that would allow school districts to access certain types of bonds under the ARRA program. And those bond programs we've listed in statute and so that our language blends with

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

Floor Debate
March 31, 2010

federal language. It has come to our attention most recently that new language was passed by Congress that would really create even more flexibility within these ARRA bonding funds and so what we would like to do in this amendment is really to mirror some of the federal language so that as schools continue to access federal bond programs for construction and qualified zone academy bonds that we already have in language, this would give them the new flexibility. Thank you, Mr. President. [LB1071]

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening of AM2460. Are there members requesting to speak? Seeing none, Senator Adams, you're recognized to close. Senator Adams waives closing. The question before the body is on the adoption of AM2460. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1071]

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB1071]

PRESIDENT SHEEHY: AM2460 is adopted. Anything further, Mr. Clerk? [LB1071]

CLERK: I have nothing further, Mr. President. [LB1071]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1071]

SENATOR NORDQUIST: Mr. President, I move LB1071 to E&R for engrossing. [LB1071]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1071 advances. (Visitors introduced.) Mr. Clerk, we will now move to LB800. [LB1071 LB800]

CLERK: LB800, Senator, I have E&R amendments first of all. (ER8201, Legislative Journal page 970.) [LB800]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB800]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB800. [LB800]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB800]

CLERK: Senator Karpisek, AM2266. I have a note you want to withdraw that amendment, Senator. [LB800]

SENATOR KARPISEK: I do, Mr. Clerk. [LB800]

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

Floor Debate
March 31, 2010

PRESIDENT SHEEHY: AM2266 is withdrawn. [LB800]

CLERK: Senator, I guess, I'm sorry, you want to withdraw and substitute. You want to offer AM2461. Is that right? (Legislative Journal pages 1250-1255.) [LB800]

SENATOR KARPISEK: That is correct. [LB800]

PRESIDENT SHEEHY: Without objection, so ordered. [LB800]

CLERK: AM2461, Senator. [LB800]

PRESIDENT SHEEHY: Senator Karpisek, you're recognized to open on AM2461. [LB800]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. This is the same amendment that I tried to bring on LB258 of Senator Harms's that would make marijuana and illegal drugs, the judge could take the driver's license for that citation. I have had this drafted to be exactly like Senator Harms's bill on Final Reading that turned out the way it did. Tried to do nothing different. Just trying to make the marijuana penalty be the same as the alcohol penalty. And I know there's some disagreement on what's worse, what isn't worse. I guess my stand has been let's make them both the same. In my opinion, the marijuana is worse. Maybe some of you don't agree. Maybe you think it's the other way around. So I guess we'll compromise or that's my hope here is to compromise and make them the same. And I am concerned if we show that alcohol has a penalty more strict than the marijuana that the kids are going to say, well, gosh, I think I'll just do marijuana then; if I get caught I won't lose my license but if I have a beer I will. That's my reasoning behind the amendment and Senator Harms is, I think, in agreement. We have talked about it and I have talked with Senator Ashford also. But I'd be willing to take any questions and thank you, Madam President. [LB800 LB258]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: Thank you, Senator Karpisek. The Chair recognizes Senator Lautenbaugh, followed by Senator Carlson. [LB800]

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. Senator Ashford, would you yield to a question? [LB800]

SENATOR SULLIVAN: Senator Ashford, will you yield? [LB800]

SENATOR ASHFORD: Yes. [LB800]

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

Floor Debate
March 31, 2010

SENATOR LAUTENBAUGH: Senator, I had heard some rumblings as this bill advanced originally that there might be some sort of a, because of the provisions therein, a cost shift towards the counties and perhaps Douglas in particular. Do you have any concern that that would happen under this bill? [LB800]

SENATOR ASHFORD: No. [LB800]

SENATOR LAUTENBAUGH: And why not? [LB800]

SENATOR ASHFORD: Well, the concern was that I believe...there were a couple of concerns. The main concern was that if we adopt, as we have done, and one of the hallmarks of this bill is graduated sanctions for juveniles, similar to what is applicable to adults, allowing probation to implement graduated sanctions without having to go back to court, that there would be some sort of rush on the providers. But in fact, and we've had several conversations over the last two weeks with the county and certainly with probation and with the HHS, and the conclusion is, no, that what has been going on in Douglas County for the past seven or eight years, diverting people out of incarceration and into other programs, will continue in exactly the same way that it has been. It simply gives statutory authorization for what they've been doing. It should not have...in fact, it should decrease as we redeploy money out of detention into other services that are cheaper, it should have a significant, I think, over the next five years, for example, decrease in costs as we redeploy assets. [LB800]

SENATOR LAUTENBAUGH: Well, thank you, Senator Ashford. I agree with you and I hope you're right. I'd yield the rest of my time to Senator Karpisek. [LB800]

SENATOR SULLIVAN: Senator Karpisek, you have 3 minutes and 10 seconds. [LB800]

SENATOR KARPISEK: Thank you, Mr. President, and thank you, Senator Lautenbaugh. I would like to say a little bit more about, if you recall, last time what happened. I tried to put the amendment on Senator Harms's bill and the Speaker, who was in the Chair, ruled that it was not germane. I tried to overrule the Chair but then pulled the bill, pulled the amendment. I just wanted to get some talking points on. This was a thought all along, was to put it on here. I just thought that it fit better on Senator Harms's bill, disagreed, and I don't like to try to overrule the Speaker, especially when he's in the Chair. So that's why I brought it on this. Again, we've talked about it. Senator Harms is aware, Senator Ashford is aware. I just think that we need to make these the same for teens, people under 21, and run them the same, treat them the same. Thank you, Madam Chair, Madam President. [LB800]

SENATOR SULLIVAN: Thank you, Senator Karpisek. The Chair recognizes Senator Carlson, followed by Stuthman and Wallman. Senator Carlson. [LB800]

Floor Debate
March 31, 2010

SENATOR CARLSON: Thank you, Madam President and members of the Legislature. This will be a short testimony. I simply rise, I like the idea that Senator Karpisek has brought forth. Think it makes sense. I think it's logical. And unless I hear something that really changes my mind, I am in favor of AM2461. Thank you. [LB800]

SENATOR SULLIVAN: Thank you, Senator Carlson. Senator Stuthman. [LB800]

SENATOR STUTHMAN: Thank you, Madam Chair, members of the body. I do also support Senator Karpisek's bill. The issue that I have with this is, you know, alcohol is a legal drug, consumption of alcohol is legal, but I think, you know, use of marijuana is illegal, and that is why, you know, I would have supported the fact that, you know, maybe the penalty should have been greater. But I think we're moving in the right direction, you know, of hopefully trying to address this, the use of these illegal drugs. Hopefully when we get down the road maybe a little bit further down in years to come, maybe...and I truly would be supportive of the fact that the use of meth, you know, that there should be something there also. Because I think the people that are driving down the road that are on meth are a greater hazard to have an accident, in my opinion, than someone that has alcohol, but we don't know the ones that have meth. We don't know, you know, which ones are driving on meth and that is a real concern of mine. You could have a head-on with someone and they're on meth but there's no way of proving it. You know, with alcohol, immediately, you know, they find out whether you have been, you know, under the influence. So I do support this because I think in society we have to be concerned with the fact of the illegal use of drugs and alcohol is a legal drug, in my opinion. So I do support this and I appreciate the fact that Senator Karpisek has brought this forward. Thank you, Madam Chair. [LB800]

SENATOR SULLIVAN: Thank you, Senator Stuthman. Senator Wallman, you're recognized. [LB800]

SENATOR WALLMAN: Thank you, Madam President. Would Senator Ashford yield to a question? [LB800]

SENATOR SULLIVAN: Senator Ashford, will you yield? [LB800]

SENATOR ASHFORD: Yes. [LB800]

SENATOR WALLMAN: Thank you, Senator. In regards to incarceration for anybody, do they keep track of whether they're on meth of smoke pot or any of that thing? Do you know? [LB800]

SENATOR ASHFORD: Sure. Sure. I mean we know. And that's a good question actually. It's a deep question because what we really do need to do is get that information and to make it as early as possible so that we can find out who these at-risk

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

Floor Debate
March 31, 2010

kids are and deal with them accordingly. [LB800]

SENATOR WALLMAN: I know I went to a conference on this when I was on the school board: 1 percent...10 percent of first-time users sometimes are hooked and, out of that, 1 percent, a good chance of somebody dying in their life...in their early life. So I think...would Senator Karpisek yield to a question? [LB800]

SENATOR SULLIVAN: Senator Karpisek, will you yield? [LB800]

SENATOR KARPISEK: Yes, I will. [LB800]

SENATOR WALLMAN: Thank you, Senator. Would you be willing to put meth on there also, or you just want it with marijuana? [LB800]

SENATOR KARPISEK: Well, I think right now we're just going to go with this and we can try to mess with it at a different time. [LB800]

SENATOR WALLMAN: Okay. I would yield the rest of my time to Senator Karpisek. Thank you. [LB800]

SENATOR SULLIVAN: Senator Karpisek waives. Senator Janssen, you're recognized. [LB800]

SENATOR JANSSEN: Thank you, Madam President, members of the body. I didn't plan to rise and speak about this, but I'd like to quickly ask Senator Karpisek a question. [LB800]

SENATOR SULLIVAN: Senator Karpisek, will you yield? [LB800]

SENATOR KARPISEK: Yes. [LB800]

SENATOR JANSSEN: Thank you, Senator Karpisek. One question is, did...was this originally, and I do remember when you brought it earlier, but was this ever a bill that was introduced? Is this an amended bill? [LB800]

SENATOR KARPISEK: This is not a bill that was brought. This is an amendment. [LB800]

SENATOR JANSSEN: And this is...so this AM2461 did not have a public hearing as it's written right now? [LB800]

SENATOR KARPISEK: No, it did not. [LB800]

Floor Debate
March 31, 2010

SENATOR JANSSEN: Okay. I don't...actually, I don't even recall but I'm fairly sure I wasn't supportive of Senator Harms's bill earlier when it spoke to alcohol for the reason that it was a nondriving offense, why should we take that privilege of driving away. I didn't think they related. I'm certainly not...I'm definitely not saying that there shouldn't be a punishment and I think there should be a punishment for the marijuana use and illegal drugs as well. I know Senator Wallman just said, you know, why don't we throw meth on there. Here's my concern. My concern is what's gone on here the past two and a half to three hours. I was probably on this floor for about ten days when I was ripped to shreds by people on this very floor about bringing an amendment that, mind you, the year before did have a public hearing. But I brought an amendment on a bill that you probably didn't like, many of you didn't like, so we used the whole procedure: Senator Janssen hasn't been here long enough; he doesn't know our rules; he's using tricks. It is a rule, he actually followed the rules, but we're hijacking a bill. My good friend in front of me, Senator Nordquist, said I hijacked a bill. I don't know if you have some concerns here of what we're doing. It's late at night, we're tired. I mean it's not late yet but it's going to be by the time we're done, (laugh) and we're just throwing bills together. We're taking bills that had nothing...we don't...we're not even concerned about germaneness anymore. This is what concerns me about government. What are we doing when people are not looking? Answer yourself that before you start voting on these amendments like this, because we can start piling on, and we are. And this should probably pass. This should have been a bill, this should have passed. I agree with Senator Karpisek. But what are we really doing? Are we doing anybody a favor here? Yeah, we're getting some bills through. Yeah, we didn't quite get one in, in time. Then we made it an Omaha versus outstate issue, which it wasn't. Good idea? Probably. Probably supported the bill if it was a bill, but it's good right now and we saw some money hanging out. This, it concerns me. It may not concern you, but it's just the manner in which we're doing this. We've got rules and we've trampled over them. I suppose one of our rules is we can basically suspend the rules. That's a rule. But if we're going to continue to do it, I'm bothered by it and I felt compelled enough to get up and speak about it and it's something I didn't want to speak on before. I just don't think we should be going down this road. Thank you, Madam President. [LB800]

SENATOR SULLIVAN: Thank you, Senator Janssen. The Chair recognizes Senator Schilz. [LB800]

SENATOR SCHILZ: Thank you, Mr. President...Madam President, excuse me, and members of the body. You know, whether or not you believe that this is a good idea to put these punishments in place, I tend to agree with Senator Janssen on this issue and it's not...it just comes down to the fact that I think he's correct. I think that there's a lot of issues here that...I mean I've got...I've got a local options sales tax issue that my district and folks in my district are, you know, having a real tough time with. But because I couldn't find, you know, enough people to support it in the committee, and I introduced it as a bill for every year that I've been here, I'm not trying to force that issue. I think

Floor Debate
March 31, 2010

procedures matter. I think rules matter, I think precedent matters, and I think we should follow that. Thank you very much. [LB800]

SENATOR SULLIVAN: Thank you, Senator Schilz. Senator Karpisek, you're recognized. [LB800]

SENATOR KARPISEK: Thank you, Madam President, members of the body. This has absolutely everything to do with being the same as Senator Harms's bill. This is not a different idea, something like a local sales tax, co-ops. This is not something out of the blue that I'm trying to pull in here that has nothing to do with it. It is germane. It did not have a public hearing because I would have never brought the bill or even this amendment had it not been for Senator Harms's bill because, I agree with Senator Janssen, I wasn't overly crazy about his bill. But if I can get this on, I would support his bill. I did support his bill. I think this has everything to do with his bill, so I thought it was germane to his bill, but I heard from everyone in the body saying that it wasn't. Fine. Oh, don't worry about it; we'll put it on LB800. Okay, so here we are putting it on LB800. This is not a completely different idea. It's just saying, fine, if we're going to be able to pull driver's licenses for alcohol, I think we should pull them for marijuana use too. That's as far as it goes. I don't think it's that much different and I don't think it's that big a deal, and I don't think that I'm trying to skate around the sides of this. I was even in favor of Senator Janssen when he came with his bill that he got ripped on before. I was...I said go ahead. I told him when I carried that bill that I wouldn't try to fight his amendment off, whoever brought it. I don't think that we need to...we just suspended rules. I should have done that, I guess, the last time instead of trying to overrule the Chair, which I still think that that was germane just because it didn't go in that exact spot. But I'm not going to get into a debate with the Speaker over it because it's not worth it, so...and he's always right. (Laugh) I do think that this fits here. I don't think it's so far out there that it needed its own bill. I think it just plays right into this. It's an amendment on to that bill that we said wouldn't work. I don't know what else to say about it. I don't think it's going that far out there. If you think it is, I guess we're going to disagree. Thank you, Madam President. [LB800]

SENATOR SULLIVAN: Thank you, Senator Karpisek. Senator Dierks, you're recognized. [LB800]

SENATOR DIERKS: Thank you, Madam President. I wonder if I could have a dialogue with Senator Karpisek. [LB800]

SENATOR SULLIVAN: Senator Karpisek, will you yield? [LB800]

SENATOR KARPISEK: Yes, I will. [LB800]

SENATOR DIERKS: Senator Karpisek, is this considered a primary offense or is this...I

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

Floor Debate
March 31, 2010

mean can they...how do you go about knowing...how does a patrolman go about knowing whether he should pick somebody up for this? [LB800]

SENATOR KARPISEK: Well, if they're caught with...just like Senator Harms's bill if they had an MIP. This is if they're caught with illegal drugs, you can pull their...the judge may pull their driver's license. So it's not a moving offense. It's just...it's identical to Senator Harms's bill on the minors in possession. [LB800]

SENATOR DIERKS: So if a person has been stopped and they suspect that there's some marijuana involved, then they can proceed with that? [LB800]

SENATOR KARPISEK: Just like they can now, yes. [LB800]

SENATOR DIERKS: Okay. Thank you. Thank you, Madam President. [LB800]

SENATOR SULLIVAN: Thank you, Senator Dierks and Senator Karpisek. Seeing no further lights on, Senator Karpisek, you're recognized. He waives his right to closing. The question is, shall the amendment, AM2461, to LB800 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to? Record, Mr. Clerk. [LB800]

CLERK: 25 ayes, 0 nays on adoption of Senator Karpisek's amendment. [LB800]

SENATOR SULLIVAN: The amendment is adopted. [LB800]

CLERK: Senator Ashford would move to amend with AM2385. (Legislative Journal page 1184.) [LB800]

SENATOR SULLIVAN: Senator Ashford, you're recognized to open on your amendment. [LB800]

SENATOR ASHFORD: Thank you, Madam President. Just a few quite technical changes that were asked by school districts to be considered as amendments to LB800 relative to some of the reporting requirements. First of all, the amendment removes the requirement for law enforcement to send a copy of a civil citation to the victim, a very, very technical amendment. It allows the juvenile court to impound the driver's license or permit of a juvenile or prohibit the juvenile's ability to obtain a license or permit if he has been adjudicated under 43-247 for a traffic...sub (4) for a traffic offense. It requires the court to notify the Crime Commission and the DMV when an order to seal the record has been issued. It amends language of Section 79-209 to clarify that school administrators, not classroom teachers, should be involved in addressing cases of excessive absence. It amends language of 79-209 to clarify that school administrators...I'm sorry, just school administrators, not classroom teachers, should be

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

Floor Debate
March 31, 2010

involved in addressing cases...that's the same thing. And finally, it harmonizes language with changes made to 79-527 in LB1070, and this was brought to us by the school districts. It clarifies that school districts need only report the number of and reason for long-term suspensions and not all suspensions. It clarifies that school districts need only report the number of and reason for contacts with law enforcement officials other than those serving as school resource officers. And it clarifies that districts that are members of a learning community must send the data reports to the learning community coordinating council. Those are the amendment...the amendments. Thank you, Madam President. [LB800]

SENATOR SULLIVAN: Thank you, Senator Ashford. Seeing no lights, Senator Ashford, would you like to close on your amendment? [LB800]

SENATOR ASHFORD: No, only just briefly to say that LB800 deals with a number of very significant issues involving juveniles with a focus on truancy and early intervention and avoiding detention for nonviolent offenders. I thank the body for its support for LB800 on General File and would urge adoption of AM2385. Thank you. [LB800]

SENATOR SULLIVAN: You've heard the closing on the amendment, AM2385. The question is, shall the amendment to LB800 be adopted? All those in favor vote aye; all those opposed, nay. Have all those voted who wish to? Record, Mr. Clerk. [LB800]

CLERK: 28 ayes, 0 nays on adoption of Senator Ashford's amendment. [LB800]

SENATOR SULLIVAN: The amendment is adopted. [LB800]

CLERK: Senator Nordquist, I have nothing further on the bill. [LB800]

SENATOR NORDQUIST: Mr. President, I move LB800 to E&R for engrossing. [LB800]

SENATOR SULLIVAN: You've heard the motion to advance the bill. All in favor say aye. Opposed? The bill advances. Mr. Clerk. [LB800]

CLERK: Madam President, LB800A. Senator Nordquist, I have no amendments to the bill. [LB800A]

SENATOR SULLIVAN: Senator Nordquist, you're recognized for a motion. [LB800A]

SENATOR NORDQUIST: Madam President, I move LB800A to E&R for engrossing. [LB800A]

SENATOR SULLIVAN: You've heard the motion to advance the bill. All in favor say aye. Opposed? The bill advances. Mr. Clerk. [LB800A]

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

Floor Debate
March 31, 2010

CLERK: LB849, Senator, I have E&R amendments first of all. (ER8209, Legislative Journal page 970.) [LB849]

SENATOR SULLIVAN: Senator Nordquist. [LB849]

SENATOR NORDQUIST: Madam President, I move the E&R amendments to LB849. [LB849]

SENATOR SULLIVAN: The question is the adoption of the E&R amendments to LB849. All in favor say aye. All those opposed say nay. The amendments are adopted. [LB849]

CLERK: Madam President, Senator Stuthman, I have AM2226, but a note you want to withdraw. [LB849]

SENATOR STUTHMAN: That is correct. [LB849]

SENATOR SULLIVAN: Mr. Clerk. [LB849]

CLERK: Madam President, Senator Gay would move to amend with AM2297. (Legislative Journal page 1015.) [LB849]

SENATOR SULLIVAN: Senator Gay, you are recognized to open on your amendment. [LB849]

SENATOR GAY: Thank you, Madam President. AM2297 is a technical amendment provided by the Bill Drafters in the department after...when it was going through. They were reviewing the bill and found out that the federal code, the citation they used on federal code was not updated, which is what we did earlier. They caught one more thing. And what this amendment does is corrects the United States code citation for federal law and updates language to parallel the federal code. Because these federal codes determine the eligibility for food stamps, it is important that Nebraska statute correctly provides notice to the citizens of the state where the federal statutes can be located. And that's what they did, they looked through, and I will give them credit--I was just talking to our legal counsel--and that they catch these things I commend them very much for doing that, because it's...I'm sure that that job is a difficult job, but I would want to commend the Bill Drafters for doing this. Also, while I have the mike, I'd just go ahead a little bit. Senator Coash is going to have an amendment as well that's very favorable on that and I'll let him explain that. But I'd ask for the body's support of AM2297. Thank you, Madam President. [LB849]

SENATOR SULLIVAN: Thank you, Senator Gay. Seeing no further...any lights on, Senator Gay, would you like to close? He waives closing. The question is, shall the

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

Floor Debate
March 31, 2010

amendment, AM2297, to LB849 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB849]

CLERK: 28 ayes, 0 nays on adoption of Senator Gay's amendment. [LB849]

SENATOR SULLIVAN: The amendment is adopted. [LB849]

CLERK: Senator Coash would move to amend with AM2431. (Legislative Journal page 1230.) [LB849]

SENATOR SULLIVAN: Senator Coash, you're recognized to open on your amendment. [LB849]

SENATOR COASH: Thank you, Madam President. Good afternoon...late afternoon, members. AM2431 is just a technical amendment. During the original drafting of LB849, I had worked with the HHS Committee to remove some language that required an elected official to serve on governing boards or advisory committees on companies that serve people with disabilities. So that was taken care of and we took care of that with the first amendment. But during that drafting of the amendment we had inadvertently changed an "or" or an "and" to an "or," thereby eliminating the requirement that people with disabilities would actually serve on the boards of the...be required to serve on the boards of the providers who served them. So in order to correct that, I bring AM2431. Thank you, Madam President. [LB849]

SENATOR SULLIVAN: Thank you, Senator Coash. I see no lights on. Senator Coash, would you like to close? He waives closing. The question is, shall AM2431 to LB849 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB849]

CLERK: 31 ayes, 0 nays on the adoption of Senator Coash's amendment. [LB849]

SENATOR SULLIVAN: Mr. Clerk, is there anything more on the bill? [LB849]

CLERK: I have nothing further on the bill, Madam President. [LB849]

SENATOR SULLIVAN: Senator Nordquist. [LB849]

SENATOR NORDQUIST: Madam President, I move LB849 to E&R for engrossing. [LB849]

SENATOR SULLIVAN: The question is the adoption of...the advancement of LB849. All those in favor say aye. All those opposed say nay. The bill advances. Mr. Clerk. [LB849]

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

Floor Debate
March 31, 2010

CLERK: Madam President, LB862, no E&Rs. Senator Carlson would move to amend with AM2441. (Legislative Journal page 1231.) [LB862]

SENATOR SULLIVAN: Senator Carlson, to open on your amendment, please. [LB862]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I introduce AM2441 to the standing committee amendment...or to LB862. And this amendment, which Senator Christensen graciously allowed to be attached to his bill, is a further clarification of LB477, which was passed by this body last year. Senator Utter gave that bill a year ago his priority. And briefly, the law required that an NRD, prior to approving a transfer of certified irrigated acres or other certified water uses or participation by a landowner or water user in a financial incentive program to obtain from the applicant, (1) a title report identifying existing lienholders and, (2) written consent to such transfer or participation from any such lienholders. This law was brought in to protect the financial institution, to protect the buyer of a piece of land, to protect the seller of a piece of land. Having been in effect one year, it's worked well. But in conversation with some attorneys, with some bankers, and with some NRDs, we had a hearing before the Natural Resources Committee to allow the transfer of four acres or less without such title reports or written consent of lienholders and a small transfer exception was part of the many discussions prior to the passage of the bill last year. The interested parties agreed to go ahead with the bill and come back this year with an amendment. Creating this de minimis exception which would allow an NRD to approve small transfers of certified water uses or certified irrigated acres for participation in financial or other incentive programs which involve four certified acres or less without incurring the expense of the report of title or having to obtain written consent from all lienholders. This was a special request from the NRDs, it was agreed to by the Bankers Association, and I would ask for your support in helping make last year's LB477 that much more effective. Thank you, Madam President. [LB862 LB477]

SENATOR SULLIVAN: Thank you, Senator Carlson. The Chair recognizes Senator Christensen. [LB862]

SENATOR CHRISTENSEN: Thank you, Madam President. I just stand in agreement with this amendment and just ask that you vote yes on this and on the bill itself. Thank you. [LB862]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Thank you, Senator Christensen. Senator Sullivan, you're recognized. [LB862]

SENATOR SULLIVAN: Thank you, Mr. President. I rise in support of the bill and also the underlying amendment, but I really would like to ask a couple questions of Senator

Floor Debate
March 31, 2010

Langemeier, if he wouldn't mind. [LB862]

SENATOR ROBERT: Senator Langemeier, will you yield to a question? [LB862]

SENATOR LANGEMEIER: Yes. [LB862]

SENATOR SULLIVAN: Actually, Senator Langemeier, my questions aren't so much related to Senator Carlson's amendment, but I've gotten some feedback from some of my constituents who are concerned about the occupation tax and also the bonding authority that if this bill passes will be given to, as I understand it, all NRDs in the state. I know you've been on an NRD board, so I wanted to know if you would just kind of enter into a little dialogue on this whole process that a board would go through to arrive at the point of issuing bonds. So can we start first at the beginning of how the project might get its initial start? [LB862]

SENATOR LANGEMEIER: Sure, and thank you for the question. And first of all, I guess I'm going to use time. If we need, I'll turn my light on, too, if we need more time. But first of all, as you start to go down the path of an integrated management plan, what typically is going to happen is, is you're going to be declared fully appropriated by the Department of Natural Resources. Once that's done, you have three years to come up with an integrated management plan. Your first step is to notify stakeholders, so you're going to have to notify a municipality, big businesses, you're going to have to notify surface irrigators, you have to notify ground water users, and notify everybody that has stake in this process. They create what is called a stakeholders group. They work with the NRD and talk about options, and they develop an integrated management plan. During that process, DNR will send out a representative as you have multiple meetings with this process. DNR will send out a representative. If you want to use the occupation tax, you had to...as we talked about that first round, you have to add additional language, and that additional language is tied to some things, what you can use the money for. So as you have those stakeholder meetings and you have DNR as part of that process, you have to prove you actually need those. You have to have a use for it. For, say, like in your district where you're not under any kind of a compact or you don't have anything like that, you'd have to demonstrate why you'd need this. And as they go through that process, once they've agreed to something then they have to have a public hearing, even though the stakeholders are all in the group, you still have to have a public hearing. And the stakeholders group is not limited to ground water people, to surface. It's anybody that wants to participate. So anybody can come into the NRD and say, I want to be a part of the stakeholder because I have a well or I'm a surface irrigator, I use water. I like to use the rest room, wash my hands, so I use water so I'm a stakeholder. So you can be part of that group. Anyway, as that group moves forward, DNR stays with you. Then you go and you have a public hearing and at the public hearing then you take more comments. And if at that point you as an NRD believe that you're at a point where DNR has signed off and will agree, then they're going to have a

Floor Debate
March 31, 2010

vote and the vote is a simple majority of the board, which we do everything with a simple majority, including this body. Then you would have an integrated management plan and that would also then, with that vote, you could add in that you want to use the bonding authority within it. [LB862]

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SENATOR SULLIVAN: So in other words, and as you know, I talked to you earlier in the week about the possibility that I had considered introducing an amendment to up that simple majority to a supermajority. But do you feel then, based on what you've just said, that there's ample opportunity not only for weighing in of all the stakeholders and through the public hearing for anyone to have a choice that by that time... [LB862]

SENATOR ROBERT: One minute. [LB862]

SENATOR SULLIVAN: ...you feel that the simple majority is adequate? [LB862]

SENATOR LANGEMEIER: I think the simple majority is adequate just because of the process you go through to create an IMP. You have to have the stakeholders there and that doesn't...and that's not weighed heavily by one group or the other. Anybody that wants to come in can be part of that stakeholder group and share their thoughts. DNR is part of the discussion so there you're going to have to prove to them that you need this occupation tax and have a use for it. I don't...into the future I see the use of the occupation tax limited but much more than the use of bonding, because you just don't have a lot of bonding uses out there. Usually, the occupation tax is to get you through a short water year, not to build structures. So I think it's adequate. Sorry. [LB862]

SENATOR SULLIVAN: And just so I'm clear on this, that the whole process of developing the IMP could also include in that whole process... [LB862]

SENATOR ROBERT: Time, Senators. Senator Langemeier, you're recognized. [LB862]

SENATOR LANGEMEIER: Thank you, Mr. President. And if Senator Sullivan would yield to... [LB862]

SENATOR ROBERT: Senator Sullivan, would you yield to Senator Langemeier? [LB862]

SENATOR SULLIVAN: Thank you, Senator, and I appreciate that. What I started to say was so, in other words, just so I'm clear, the whole development that you outlined, the whole process of developing the IMP, bringing it to a vote, in that whole process, that could include potentially the granting of the authority for bonding and the levying of the occupation tax. Is that correct? [LB862]

Floor Debate
March 31, 2010

SENATOR LANGEMEIER: It could be the granting of an IMP that would allow them to use it. They would have to then have more hearings and more votes later to actually set the occupation tax, whether it's \$1, \$2, \$3, up to \$10. That would be a whole separate vote. But they would have to agree in their integrated management plan to what they're going to use it for to qualify them to vote later to use it. [LB862]

SENATOR SULLIVAN: So, in essence, if we approve this legislation granting this ability for basically all NRDs in the state, there is quite a process involved before it would actually come to fruition. Is that correct? [LB862]

SENATOR LANGEMEIER: Correct. [LB862]

SENATOR SULLIVAN: Thank you very much. [LB862]

SENATOR ROBERT: Thank you, Senator Sullivan, Senator Langemeier. Seeing no other members wishing to speak, Senator Carlson, you're recognized to close on AM...Senator Carlson waives his opportunity. Question before the body is, shall AM2441 be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB862]

CLERK: 32 ayes, 1 nay on adoption of Senator Carlson's amendment. [LB862]

SENATOR ROBERT: AM2441 is adopted. [LB862]

CLERK: Mr. President, Senator Christensen would move to amend, AM2443. (Legislative Journal page 1256.) [LB862]

SENATOR ROBERT: Senator Christensen, you're recognized to open on AM2443. [LB862]

SENATOR CHRISTENSEN: Thank you, Mr. President. Thank you, colleagues. This is just a technical amendment to synchronize the sections to prohibit any misuse of potential loophole of the language tying the occupation without bonding to bypass and just be able to use, and bypass the uses and have the occupation tax. It simply incorporates language to clarify and assure that the NRDs need to state the intent in the IMP and to clarify and assure that in Section 2-3226.05 that only a qualifying district under Section 2-3226.01 can levy the occupation tax. We felt like the way we had it written there was a potential loophole. We wanted to make sure it was closed, that nobody could get in and try and levy this without going through this complete process, so we bring this amendment just to clarify that you have to go through the process that Senator Langemeier just went through. Thank you. [LB862]

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

Floor Debate
March 31, 2010

SENATOR ROBERT: Thank you, Senator Christensen. Members, you've heard the opening to AM2443. Senator Langemeier, you're recognized. [LB862]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in support of AM2443. I'm not necessarily sure that we needed this but we thought there might be a loophole developed. We just wanted to make sure we plugged anything that might look like a loophole any way there could be interpreted. So we'd ask for the adoption of AM2443. Thank you. [LB862]

SENATOR ROBERT: Thank you, Senator Langemeier. Seeing no other members wishing to speak, Senator Christensen waives his opportunity to close. Question before the body is, shall AM2443 be adopted? All those in favor vote yea; opposed, vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB862]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Christensen's amendment. [LB862]

SENATOR ROBERT: AM2443 is adopted. [LB862]

CLERK: I have nothing further on the bill, Mr. President. [LB862]

SENATOR ROBERT: Returning to discussion, any members wishing to speak? Seeing none, Senator McGill for a motion. [LB862]

SENATOR MCGILL: Mr. President, I move LB862 to E&R for engrossing. [LB862]

SENATOR ROBERT: Members, you have heard the motion to advance LB862 to E&R for engrossing. All those in favor signify by saying aye. Opposed, nay. LB862 does advance. Next item, Mr. Clerk. [LB862]

CLERK: Mr. President, the next bill, Senator McGill, I have E&Rs first of all. (ER8188, Legislative Journal page 768.) [LB877]

SENATOR ROBERT: Senator McGill, you're recognized for a motion. [LB877]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB877]

SENATOR ROBERT: Members, you have heard the motion to adopt the E&R amendments. All those in favor signify by saying aye. Opposed, nay. The E&R amendments are adopted. [LB877]

CLERK: Senator Cornett, I have AM2304 with a note you want to withdraw that. Right? [LB877]

Floor Debate
March 31, 2010

SENATOR CORNETT: Yes. [LB877]

CLERK: Senator Cornett would move to amend with AM2439. (Legislative Journal page 1230.) [LB877]

SENATOR ROBERT: Senator Cornett, you're recognized to open on AM2439. [LB877]

SENATOR CORNETT: Thank you very much, Mr. President, members of the body. Let me just give you a quick refresher. LB877 was introduced at the request of the Tax Commissioner. The bill changes various provisions of property tax law. With the amendment, AM2439, makes changes to LB877 which are important and technical...important technical amendments. The amendment makes two basic changes. The first change clarifies the right to appeal the granting or denying of an exemption by property tax owners and assessing officials. The second part allows TERC to public a Web site as a formal means of notifying the Tax Commissioner and the public of decisions of that the TERC has made. It establishes this method to give notice instead of electric transmission of documents, which was found in the original bill and its amendments. This was done to make giving notice more cost-effective and give the public access to the decisions at the same time. With that, I'd urge the body to support the amendment and the underlying bill. Thank you. [LB877]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: Thank you, Senator Cornett. Seeing no lights, Senator Cornett, would you...says she waives closing. The question is, shall AM2439 to LB877 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB877]

CLERK: 26 ayes, 0 nays on adoption of Senator Cornett's amendment. [LB877]

SENATOR SULLIVAN: The amendment is adopted. [LB877]

CLERK: I have nothing further on the bill. [LB877]

SENATOR SULLIVAN: Senator McGill. [LB877]

SENATOR MCGILL: Madam President, I move LB877 to E&R for engrossing. [LB877]

SENATOR SULLIVAN: You've heard the motion. All those in favor say aye. Opposed? The bill is advanced. Items for the record, Mr. Clerk? [LB877]

CLERK: Thank you, Madam President. New resolution: Senator Nelson offers LR541;

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

Floor Debate
March 31, 2010

be laid over. Senator Council has an amendment to be printed to LB712. And a new A bill. (Read LB779A by title for the first time.) That's all that I have. (Legislative Journal pages 1256-1257.) [LR541 LB712 LB779A]

SENATOR SULLIVAN: Thank you, Mr. Clerk. The next bill on Select File is LB801. [LB801]

CLERK: Senator McGill, I have Enrollment and Review amendments. (ER8216, Legislative Journal page 1021.) [LB801]

SENATOR SULLIVAN: Senator McGill. [LB801]

SENATOR MCGILL: Madam President, I move the E&R amendments. [LB801]

SENATOR SULLIVAN: The question is the adoption of the E&R amendments to LB801. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB801]

CLERK: Senator Fulton would move to amend with AM2447. (Legislative Journal pages 1258-1259.) [LB801]

SENATOR SULLIVAN: Senator Fulton, you're recognized to open with your amendment. [LB801]

SENATOR FULTON: Thank you, Madam President, members of the body. AM2447 has firstly a technical amendment and then secondly an amendment that is meant to catch something which may have been an oversight. First, we wanted to fix a definitional problem with the word "promotion" and that appears in AM2447. That which we think might be an oversight is found in the body of AM2447 and it is to exempt the telecom industry, including interactive computer service companies like Yahoo, Google, AOL, and Bing; cable operators; and telecommunication services in the cases of user-generated content. We want to protect them from civil action. This addresses cases where someone initial uses, for example, their Time Warner e-mail account to perpetrate a pyramid scheme. It could also address cases where someone uses their Yahoo's advertising platform to serve what appears to be a legitimate ad and then, after Yahoo has reviews that ad, the perpetrator would switch the content. So if one is utilizing one's e-mail account, we want to make sure that the individual who's the malefactor is the one who we go after and not the company who provides him with the e-mail account. So I'll ask your favorable vote on AM2447. Thank you, Madam President. [LB801]

SENATOR SULLIVAN: Thank you, Senator Fulton. Seeing no lights on, Senator Fulton, would you like to close? He waives closing. The question is, shall the amendment,

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

Floor Debate
March 31, 2010

AM2447, to LB801 be adopted? All those in favor vote aye; all those opposed vote nay.
Record, Mr. Clerk. [LB801]

CLERK: 32 ayes, 0 nays, Madam President, on the adoption of Senator Fulton's
amendment. [LB801]

SENATOR SULLIVAN: The amendment is adopted. [LB801]

CLERK: I have nothing further on the bill. [LB801]

SENATOR SULLIVAN: Senator McGill for a motion. [LB801]

SENATOR MCGILL: Madam President, I move LB801 to E&R for engrossing. [LB801]

SENATOR SULLIVAN: The question is the advancement of LB801. All those in favor
say aye. All those opposed? The bill advances. Mr. Clerk. [LB801]

CLERK: LB1094, Senator, I have E&R amendments. (ER8217, Legislative Journal page
1021.) [LB1094]

SENATOR SULLIVAN: Senator McGill. [LB1094]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB1094]

SENATOR SULLIVAN: The question is the adoption of the E&R amendments to
LB1094. All those in favor say aye. Opposed? The amendments are adopted. [LB1094]

CLERK: I have nothing further on that bill, Senator. [LB1094]

SENATOR SULLIVAN: Senator McGill. [LB1094]

SENATOR MCGILL: Madam President, I move LB1094 to E&R for engrossing. [LB1094]

SENATOR SULLIVAN: You've heard the motion. The question is the adoption of the
E&R...the advancement of the bill. All those in favor say aye. All those opposed? The
bill advances. Mr. Clerk. [LB1094]

CLERK: LB1094A, Senator, I have no amendments to the bill. [LB1094A]

SENATOR SULLIVAN: Senator McGill. [LB1094A]

SENATOR MCGILL: Madam President, I move LB1094A to E&R for engrossing.
[LB1094A]

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

Floor Debate
March 31, 2010

SENATOR SULLIVAN: The question is the adoption of the E&R amendment to LB1094A. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB1094A]

CLERK: Madam President, LB842, no E&Rs. Senator Council would move to amend with AM2301. (Legislative Journal page 1053.) [LB842]

SENATOR SULLIVAN: Senator Council, you're recognized to open on your amendment. [LB842]

SENATOR COUNCIL: Where are we? Oh yes (laugh). Ooh, it's been a long day, colleagues. Yes, LB842 changes the current law with regard to the handling of the investigation of a death that occurs during the apprehension or custody of a criminal defendant. Under LB842 as originally introduced, it not only eliminated the requirement of existing law to appoint a special prosecutor, which I can understand what the motivation for that change is because it does require counties to incur some additional costs in terms of hiring special prosecutors, but I do have a concern and I have received a communication from attorneys across the state. Some of the attorneys in the smaller counties expressed a concern about eliminating the special prosecutor. Well, my bigger concern is about eliminating the requirement that, whoever the prosecutor is, that the actual investigation of the death is conducted by an independent group of law enforcement officials. Under the existing law, the special prosecutor is to select three peace officers from outside the jurisdiction to conduct the investigation into the death and then present the results of the investigation to the special prosecutor who then presents the case to the grand jury. Under LB842, that is eliminated, so the result of LB842 is that county attorneys would conduct the prosecution and that the local law enforcement who is in fact the subject of the investigation would be investigating themselves. Now, I know there are some who suggest that that shouldn't create a problem, that law enforcement has a high standard that they operate under, but we need only look at the recent situation involving the Douglas County crime scene investigation unit where at least there are indications that, during the internal investigation of that particular CSI officer, that the investigation wasn't conducted in a full and complete fashion and had it been so conducted, there would not have been the need for the number of trials involving that crime scene investigator. So the purpose of AM2301 is to try to strike a balance between what I understand that Senator Lautenbaugh was trying to achieve on behalf of the county attorneys, and that is to allow the county attorneys to review the results of the investigation and then present the case to the grand jury. So AM2301 provides that the court shall appoint the county attorney or his or her staff member, who has at least the currently specified amount of legal experience and trial experience, and that that attorney, who's appointed by the court, would then select three peace officers from outside of the jurisdiction. So it strikes a balance. The county attorneys can conduct their review of the evidence and present

Floor Debate
March 31, 2010

the case, but it provides some degree of assurance and transparency in terms of the actual conduct of the investigation, since it is under current statute to be conducted as an open criminal investigation and AM2301 restores that. [LB842]

SENATOR SULLIVAN: Thank you, Senator Council. Those wishing to speak: Senators Lautenbaugh and Cornett. Senator Lautenbaugh. [LB842]

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. I do rise in opposition to this amendment and I'll just be very brief about it. I don't believe that the law, as it currently exists, that we are trying to change with my bill, LB842, continues to be relevant or serve a purpose. And as I indicated before, there's a cost every time we have to go down this road and that was the motivator for bringing this...my bill, LB842. I believe this amendment, by reinstating the requirement that we have three peace officers from different jurisdictions, does bring some of the cost back into this process. And, again, I don't think we ever gained anything from the process as it is an existing law. And I would cite for you--I know Senator Council cited the example of the crime scene investigator--it is unclear to me how that case would have had a special prosecutor involved in any event. So whether there was a special prosecutor or not, the investigation of that gentleman would have proceeded in the same way. I don't know where the special prosecutor would have come into this. Similarly, I think the amendment has some drafting problems in that if section (d) were to be part of the law, become part of the bill, then there would be no prosecutor in natural death cases, no one to present the evidence to the grand jury. And I know that's not intended but I have a problem with that obviously. But more to the point, I do believe that we can trust our law enforcement officers and our prosecutors to investigate these crimes. As I said on General File...or these possible crimes, I guess is a better way to put it. As I said on General File, we do have examples from across the state. I can think of one in Omaha where there was a police officer who was charged with basically forcing a prostitute to engage in prostitution with him, under duress, and he was prosecuted by the county attorney with evidence from the police department and he was convicted, and that's how it's supposed to work. And I don't see how that circumstance or that prosecution would differ in any way from a death in police custody. With LB842, the police are allowed to conduct the investigation. The prosecutor is allowed to prosecute. If he has any concerns, the county attorney does, about his ability to be fair and impartial, as with any attorney but doubly true of county attorneys, they could seek the appointment of a special prosecutor still. So I understand Senator Council's purpose for bringing this amendment. I just don't agree that it's necessary and I would urge you to vote no. And I would yield the rest of my time to Senator Council. [LB842]

SENATOR SULLIVAN: Senator Council, would you like the remainder of his time? [LB842]

SENATOR COUNCIL: Yes. How much time? [LB842]

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

Floor Debate
March 31, 2010

SENATOR SULLIVAN: Two minutes. Two minutes and 5 seconds. [LB842]

SENATOR COUNCIL: Thank you. And I appreciate Senator Lautenbaugh yielding the time and allow me to use this time to clarify the point I was making with regard to the CSI investigation. That was a case where the Douglas County Sheriff's Office investigated itself and several questions have arisen as a result of the fact that the sheriff's department investigated itself and failed to discover the...well, what has now been established, that there was tampering. That's the issue that AM2301 is seeking to address, is that there is, despite what most of your experiences may be, a great lack of confidence in law enforcement's ability to investigate themselves, particularly when there's a death involved. And I am acutely aware of the case involving the prostitute. Didn't involve a death. The officer... [LB842]

SENATOR SULLIVAN: One minute, Senator. [LB842]

SENATOR COUNCIL: Thank you. [LB842]

SENATOR SULLIVAN: I'm sorry. It was 1 minute. Excuse me. [LB842]

SENATOR COUNCIL: Oh, sorry, I thought you said time. I'm sorry, Madam President. (Laugh) [LB842]

SENATOR SULLIVAN: Sorry. [LB842]

SENATOR COUNCIL: It didn't involve a death and I think that there should be a higher standard when an individual dies in custody. We just had a death occur last week and the Sarpy County Sheriff's Department is pursuing that matter in accordance with the existing statute, as it should be; that we should provide a mechanism that the public...all of the public has confidence in. I don't doubt that Senator Lautenbaugh has confidence in the police investigating themselves but I can assure you residents of my district do not. Because when we look at the cases of death in custody... [LB842]

SENATOR SULLIVAN: Time, Senator. Senator Cornett, you're recognized. [LB842]

SENATOR CORNETT: Thank you, Madam President, members of the body. I rise in support of the underlying bill but I also rise in support of the intent behind Senator Council's amendment. Law enforcement really doesn't want to investigate its own members. Frequently, when we have...when I was on the department, and I know still goes on, if we have an officer that's involved in a crime, we call in an outside jurisdiction because it's very difficult to investigate the people that you work with every day and a lot of times your life depends on and you depend on them and they depend on you. I'm not saying that they wouldn't do their very best to investigate these situations. I'm not saying

Floor Debate
March 31, 2010

that there would be any wrongdoing in them. I'm saying that it is always better if you have people that you work with on a daily basis that have been involved in a situation, particularly where a death is involved, that you have outside people looking in on the situation. With that, I will yield the remainder of my time to Senator Council. [LB842]

SENATOR SULLIVAN: Senator Council, 3... [LB842]

SENATOR COUNCIL: Thank you, Senator Cornett, because you did raise the other point and I appreciate it. I did have occasion to have a conversation with you regarding the amendment before I introduced it. I believe that it's in the best interests of all concerned if the investigation, particularly when, you know, we're talking about a death that occurs while someone is being apprehended by law enforcement or being held in the custody of law enforcement, that that investigation needs to be conducted by an independent third party. It provides the level of confidence that the public is seeking, and as I was stating before my time ran out the last time, unfortunately, the overwhelming majority of cases of death in custody have involved people of color in Douglas County and that raises a level of suspicion among residents which can be removed by involving some independence. As Senator Cornett said, it also avoids placing law enforcement officials who have to continue to work with each other in a position where they may or may not be the cause of one of their fellow officers being disciplined. I believe that AM2301 strikes a balance. The interlocal agreements, the cooperative agreements between law enforcement, I believe, are such that it would not increase the cost to any of the counties to have law enforcement officials from outside of their respective jurisdictions come in and conduct the investigations. These officials cooperate and share resources on a fairly regular basis. I think AM2301 is a reasonable and justifiable balance of the respective interests that the existing statute was enacted to address, and I would urge your passage of AM2301. [LB842]

SENATOR SULLIVAN: Thank you, Senator Council. You are next in the queue. Would you like any additional comments? Senator Council waives her right to speak, also her closing. The question is, shall the amendment to LB842 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Council, for what purpose do you rise? [LB842]

SENATOR COUNCIL: I would request a call of the house, Madam President. [LB842]

SENATOR SULLIVAN: 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. [LB842]

CLERK: 16 ayes, 0 nays to place the house under call. [LB842]

SENATOR SULLIVAN: The house is under call. Senators, please record your presence.

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

Floor Debate
March 31, 2010

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. Senator Lathrop, please check in. Senator Campbell, Senator Karpisek. Senator Karpisek, please report to the Chamber. Senator Council, all members are present or accounted for. How would you like to proceed? [LB842]

SENATOR COUNCIL: Roll call vote, regular order. [LB842]

SENATOR SULLIVAN: Roll call vote, regular order. Mr. Clerk, please call the roll. [LB842]

CLERK: (Roll call vote taken, Legislative Journal pages 1259-1260.) 17 ayes, 22 nays, Madam President. [LB842]

SENATOR SULLIVAN: The amendment is not adopted. [LB842]

CLERK: I have nothing further on the bill. [LB842]

SENATOR SULLIVAN: Senator McGill. [LB842]

SENATOR MCGILL: Madam President, I move LB842 to E&R for engrossing. [LB842]

SENATOR SULLIVAN: You've heard the motion. All those in favor say aye. Opposed? LB842 is advanced. The house...the call is raised. The next bill on Select File is LB950. [LB842 LB950]

CLERK: Madam President, with respect to LB950, I have E&Rs, Senator McGill. (ER8219, Legislative Journal page 1049.) [LB950]

SENATOR SULLIVAN: Senator McGill. [LB950]

SENATOR MCGILL: Madam President, I move the E&R amendments. [LB950]

SENATOR SULLIVAN: The question is the adoption of the E&R amendments on LB950. All those in favor say aye. All those opposed say nay. The amendments are adopted. Mr. Clerk. [LB950]

CLERK: Senator Pankonin would move to amend with AM2353. (Legislative Journal page 1131.) [LB950]

SENATOR SULLIVAN: Senator Pankonin, you're recognized to open on your amendment. [LB950]

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

Floor Debate
March 31, 2010

SENATOR PANKONIN: Thank you, Madam President. Good evening. This amendment to the E&R amendment strikes language in the county and state retirement plans that refers to money forfeited from the defined contribution plans. On January 1, 2003, the defined contributions plans were closed to new state and county employees. Since that date, all new employees were and continue to be automatically placed in the state and county cash balance plans. As a result, no one has become a new member of these plans for the past seven years. Members of the state and county plans vest after three years of service, so anyone who was in the defined contribution plan prior to 2003 vested by 2006. Thus, the defined contribution plans no longer receive forfeiture monies. I urge the body to pass this amendment to cleanup, make this technical change. Thank you. [LB950]

SENATOR SULLIVAN: Thank you, Senator Pankonin. Seeing no lights, Senator Pankonin, would you like to close? Senator Pankonin waives closing. The question is, shall the amendment, AM2353, to LB950 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB950]

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator Pankonin's amendment. [LB950]

SENATOR SULLIVAN: The amendment is approved. [LB950]

CLERK: I have nothing further on the bill, Senator McGill. [LB950]

SENATOR SULLIVAN: Senator McGill. [LB950]

SENATOR MCGILL: Madam President, I move LB950 to E&R for engrossing. [LB950]

SENATOR SULLIVAN: You've heard the motion. All those in favor say aye. Opposed say nay. LB950 is advanced. Mr. Clerk, items for the record? [LB950]

CLERK: I have two items, Madam President. Senator Langemeier would like to print an amendment to LB1048, Senator Dierks to LB594. And that's all that I have. (Legislative Journal page 1260.) [LB1048 LB594]

SENATOR SULLIVAN: Thank you, Mr. Clerk. Pursuant to the Speaker's instructions, the body will stand at ease right now.

EASE

SENATOR SULLIVAN: The Chair recognizes the Speaker for an announcement.

SPEAKER FLOOD: Thank you, Madam President. We are going to go ahead and pass

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

Floor Debate
March 31, 2010

over LB507. We will be passing over LB507. We will continue now with Select File discussion on LB510. Thank you very much for your patience. [LB507 LB510]

SENATOR SULLIVAN: Thank you. So as the Speaker indicated, we will be on LB510. Mr. Clerk. [LB510]

CLERK: Madam President, thank you. Enrollment and Review amendments have been adopted, Senator. When the Legislature left the issue last week, Senator Pirsch had pending AM2372. That's the pending amendment, Senator. I do have a note that you wish to withdraw. [LB510]

SENATOR PIRSCH: That's correct. [LB510]

SENATOR SULLIVAN: The amendment is withdrawn. Mr. Clerk, anything additional? [LB510]

CLERK: Yes, there is, Madam President. Senator Ashford had an amendment, but I also have a note that he wishes to withdraw AM2377. [LB510]

SENATOR SULLIVAN: The amendment is withdrawn. [LB510]

CLERK: And, Madam President, Senator Ashford, a motion, motion 94, again a similar note that he wishes to withdraw. [LB510]

SENATOR SULLIVAN: Motion is withdrawn. [LB510]

CLERK: I have nothing further on the bill, Senator Nordquist. [LB510]

SENATOR SULLIVAN: Senator Nordquist. [LB510]

SENATOR NORDQUIST: Madam President, I move LB510 to E&R for engrossing. [LB510]

SENATOR SULLIVAN: You've heard the motion. The question is the adoption...the advancement of LB510. All in favor say aye. Opposed say nay. The bill is advanced. Mr. Clerk. [LB510]

CLERK: LB510A, Senator, I have no amendments to the bill. [LB510A]

SENATOR SULLIVAN: Senator Nordquist for a motion. [LB510A]

SENATOR NORDQUIST: Madam President, I move LB510A to E&R for engrossing. [LB510A]

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

Floor Debate
March 31, 2010

SENATOR SULLIVAN: The question is the advancement of LB510A. All those in favor say aye. Those opposed say nay. The bill advances. Mr. Clerk. [LB510A]

CLERK: LB1010, Senator, I have E&R amendments first of all. (ER8210, Legislative Journal page 975.) [LB1010]

SENATOR SULLIVAN: Senator Nordquist. [LB1010]

SENATOR NORDQUIST: Madam President, I move the E&R amendments to LB1010. [LB1010]

SENATOR SULLIVAN: You've heard the motion. The question is the adoption of the E&R amendments to LB1010. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB1010]

CLERK: Senator Pankonin would move to amend with AM2249. (Legislative Journal page 945.) [LB1010]

SENATOR SULLIVAN: Senator Pankonin, you're recognized to open on your amendment. [LB1010]

SENATOR PANKONIN: Thank you, Madam President. AM2249 to committee amendment AM2029 would add two provisions which addresses issues that were raised during the General File debate on LB1010. The first is language that would become a new Section 5 on page 4. It would ensure that a private landowner, whose property was divided by a trail bed, would have reasonable access to all of the property. The exact location of a trail crossing from one parcel of land to another would be based on an agreement to be made by the landowner and the natural resources district. I am grateful to Senator Loudon for suggesting the addition of this provision. The second provision is language added in Section 4, subsection (2)(d) on page 4, which acknowledges the importance of considering economic development benefits when determining the best possible route for a trail. This issue was also addressed and discussed by others when LB1010 was heard on General File. I believe these provisions will further enhance both the rights of landowners and the best practices in trail development as they are addressed in LB1010. I ask for the adoption of AM2249 to committee amendment, AM2029. Thank you, Madam President. [LB1010]

SENATOR SULLIVAN: Thank you, Senator Pankonin. Seeing no lights on, Senator Pankonin, are you...you're recognized to close. [LB1010]

SENATOR PANKONIN: The only comment is I hope we can get 25 people in here to vote on this amendment. Thank you. [LB1010]

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

Floor Debate
March 31, 2010

SENATOR SULLIVAN: You've heard the closing on the amendment, AM2249. The question is, shall the amendment to LB1010 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Senator Pankonin, for what reason do you rise? [LB1010]

SENATOR PANKONIN: We're going to see if we need to...but it looks better already. [LB1010]

SENATOR SULLIVAN: Record, Mr. Clerk. [LB1010]

CLERK: 27 ayes, 0 nays on adoption of the amendment. [LB1010]

SENATOR SULLIVAN: The amendment is advanced...or adopted. [LB1010]

CLERK: I have nothing further on the bill, Senator Nordquist. [LB1010]

SENATOR SULLIVAN: Senator Nordquist. [LB1010]

SENATOR NORDQUIST: Madam President, I move LB1010 to E&R for engrossing. [LB1010]

SENATOR SULLIVAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB1010]

CLERK: LB945, no E&Rs. The first motion I have to the bill, Senator Rogert, AM2121. (Legislative Journal page 940.) [LB945]

SENATOR SULLIVAN: Senator Rogert, you are recognized to open on your amendment. [LB945]

SENATOR ROGERT: Thank you, Madam President. Good evening, members. Six o'clock, "Captain Lunch-hunter" is in full effect. My amendment today, AM2121 to this bill, makes what Senator Harms and Senator Wightman are presenting to us a secondary offense, just like wearing a seat belt is in the state today. This amendment, if adopted, would say you cannot be pulled over for alleged texting and driving but you could be ticketed for it if you are pulled over for something else. And I talked to Senator Wightman and Senator Harms about this earlier and we tried a couple other issues this afternoon to try and smooth it out, and I've just come to the conclusion that this is the direction I want to go. And if this amendment is adopted, I'll let the bill go forward at that point. So we can be here an hour or whatever, or we can be here four. That is up to all of us in this room. I still believe that the enforcement issues that follow this bill make it impossible legislation. I was driving down the road yesterday, my phone in my hand,

Floor Debate
March 31, 2010

wasn't on it, wasn't texting, just had it in my hand up against the window. Pulled up here in Lincoln next to a police officer and thought "reason to pull me over right there." I have a phone in my hand in plain sight. And that is ridiculous to me. There are so many things that can be perceived as texting today, whether it is or not, that it would open up probable cause for pulling folks over for lots of reasons. I sent around a piece of paper when we on this on General File and it said that the state of Missouri since it adopted it had nabbed five people across the state in eight months. Missouri is a pretty populace state. I've got an article on my desk here and I'll pass it around later. In three states and the District of Columbia, studies have found that auto accidents have not decreased whatsoever after they passed antitexting legislation. It will not stop people from texting and driving. They'll do it in their lap, on their console, out of plain sight, and they'll continue to do it. And all the while we have this arbitrary means for pulling people over, and what I'll just go ahead and characterize as a strictly...strict profiling. Young men, Latino men, anybody driving a crappy car will be pulled over for reasons mentioned as perceived texting in an attempt to see what's going on. And that just doesn't sit well with me. So we'll have the discussion, and I think this is the way to go because I think if we put this provision in, it still allows for somebody getting in an accident, they come back and prove that they were texting while driving, it adds to the insurance liability claim, it adds to the possible criminal charge, and they can get a ticket for it at that point. Thank you, Mr. President. [LB945]

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: Thank you, Senator Rogert. Those wishing to speak on AM2121 are Senators Harms, Hadley, Wightman, and Cornett. Senator Harms, you're up and recognized. [LB945]

SENATOR HARMS: Thank you, Mr. President. I rise in opposition to AM2121. The notion that texting while driving should be a secondary violation is a flawed premise, colleagues. What you're saying is that it's good enough...if I'm good enough at it, I can hide it. What you're saying to the public is if you can get away with it, get away with it. No regard to safety, public safety, when we move from primary to secondary. By the time the distracted driver causes any harm, colleagues, it's too late. Distracted driving would have already...the distracted driver would have already hit maybe another car or a pedestrian or run a stop sign or a red light, exceed the speed limit, or drive in an unsafe manner. Making this law a secondary offense truly sends the wrong message to law enforcement and the public. If it's not important enough to be primary, it's not important for the police to enforce this or to comply with it. One of the comments that my colleague made, Senator Rogert, that talked about profiling, I want to talk about that for a minute because the state of Nebraska, the Nebraska Office of Highway Safety applied and got a \$1.1 million federal highway grant for racial profiling. So today we are in the process of studying racial profiling in this great state in regard to cars and driving. Let me share a couple things with you that has happened in other states. In other states in

Floor Debate
March 31, 2010

regards to seat belts and racial profiling and what happened from moving from secondary to primary. Studies in several states which moved from secondary to primary seat belts enforcement were Michigan, California, Louisiana, Georgia, Oklahoma, and Maryland, and in each of these states there was a perception among minorities that believed they would be ticketed if this was primary. And what they found when they changed the law, that it was just the opposite. That, in fact, there was no increase. In fact, in some states there was a decline. So when we talk about that issue, colleagues, it's a false premise. It doesn't and it isn't going to happen. Text messaging is a serious offense and, quite frankly, what it does is that you'll find that the reaction time of a driver declines by 35 percent, steering control declines by 91 percent, and one thing they end up going is they end up driving with their knees and their hands...their knees and their arms in many cases. Texting while driving combines three very...three different types of distractions: visual, and that's taking your eyes off the road; manual, taking the hands off the wheel; and cognitive, taking the mind off of the road. To wait until someone violates or this occurs is just too late. We've already had the pain. We may already have had the injury. We may already have had the death. In this great nation, in 2008, 1 trillion text messaging has occurred that were sent. That tripled from 2007. One out of every five cars text messages. Colleagues, we're asking for a tragedy in this great state in this great nation. The federal government has already addressed the issue with bus drivers and... [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR HARMS: Thank you, Mr. President...with bus drivers and truck drivers. They have simply said it's illegal. You cannot do it and if you do it and you're caught the fine is over \$2,000 and a criminal or civil charges can be brought against you. The President of the United States gave an executive order that simply said we will outlaw the use of text messaging in any federal cars or through any federal equipment. Colleagues, this is dangerous. And over the country in this last year we had 6,000 deaths, over 500,000 injuries from distracted driving. It is a serious issue and I think in this great state we need to take a stand to say to the people who are doing it, it's wrong. We believe that you should...we are going to protect you. It is our responsibility to set the standards and the standards of this issue should be high and... [LB945]

SENATOR JANSSEN: Time, Senator Harms. [LB945]

SENATOR HARMS: Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Harms. Those wishing to speak include Senators Hadley, Wightman, Cornett, Wallman, Hansen, Harms, Price, and Dubas. Senator Hadley, you're up and recognized. [LB945]

SENATOR HADLEY: Mr. President, members of the body, thank you. I oppose AM2121

Floor Debate
March 31, 2010

and support LB945 as written. Is it dangerous to text and drive? Some of the studies have shown a person who has a .57 second reaction normally goes to .64 seconds when they're driving under the influence and goes to 1.36 seconds when they're texting. At 75 miles an hour, if normal stop, if they're driving under the influence it takes them four feet further. If they're texting, it takes them 70 feet further. Driving while texting: 23 times more likely to have an accident than the person who is not driving while texting. If you're texting at 55 miles an hour, four point six seconds when you're texting. You take your eyes off the road. That's the equivalent of going a full football field with your eyes off the road. And Senator Harms said there were 6,000 people killed because of texting. We talk a lot about, in here, about what our constituents want. Surveys have shown 91 percent of them want a ban on texting when you're driving--91 percent. So we're going to say we're going to listen to the 9 percent to do it. Secondary versus primary. We have a seat belt law. It's secondary. You don't wear your seat belt, who do you hurt? You hit the windshield. It's you, isn't it. You hit the dash. It's you. You make this a secondary offense and you hit another car when you're texting, who do you hurt? You hurt the other person. There's a big difference between wearing a seat belt and texting. It determines who you hurt. Penalties. The penalties are less than DUI even though I've just shown that the consequences are greater than driving under the influence. Lastly, I want to talk a little bit about hard to enforce. Since when does that become a criteria for passing laws? Criminal laws, driving laws. Do we sit here and have a discussion about, oh, that's too hard to enforce so we're not going to have the law? I don't think that's correct. I think it's important that a deterrence can be just having the law. Having the law on the books can deter what people do. I happened to look at some of the reasons people get stopped for DUIs. Straddling the center or lane marker, 65 percent of the people that are pulled over for that are DUI; appearing to be drunk, 60 percent; almost striking an object or a vehicle, 60 percent; weaving, 60 percent; driving on other than a designated roadway, 55 percent; swerving, 55 percent; slow speed, 50 percent; stopping without cause, 50 percent; drifting, 50 percent. The list goes on. There are ways to stop people: sobriety tests. So I think the idea that it is hard to enforce is not an appropriate reason to not pass the bill. We should be passing the bill because it's the right thing to do. Ninety-one percent, according to the studies I read of our citizens,... [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR HADLEY: ...want this bill passed. They want to know that that person that's coming at them at 70 miles an hour on the highway is not trying to text. We hope they're not trying to text. And if they are, we want a way of stopping them from texting. I think that's what the people in the state of Nebraska want so I hope you'll vote no on AM2121 and yes on LB945. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Hadley. Those wishing to speak include Senators Wightman, Cornett, Wallman, Harms, Hansen, Price, Dubas, Rogert, and

Floor Debate
March 31, 2010

Lathrop. Senator Wightman, you're up and you are recognized. [LB945]

SENATOR WIGHTMAN: Thank you, Mr. President. I rise in strong opposition to AM2121 which would make texting a secondary offense. I would like to discuss a little bit what Senator Rogert said with regard to Missouri and it's difficult to enforce and only so many arrests had been made. I have here a letter that indicates that in the state of Missouri it applies only to people 21 years of age or younger. So, first of all, a patrolman or an arresting officer has to make a decision as to whether that person is 21 years of age. And as a matter of fact, he says that. It's kind of difficult to enforce, to be very honest with you, Keathley commented Tuesday during a press conference at Troop C headquarters. You have to somehow make up in your mind when you see that person, okay, is that person 21 years old or younger? Are they 25 years old? It's pretty tough to enforce. Well, I agree it would be pretty tough to enforce if it only applies. But those problems would not be present if we passed LB945 in its present form. I want to talk to you a little bit about somebody I was out at Kearney to their chamber meeting a couple of weeks ago, and someone came up to me who'd been very active in the chamber. And he says, Senator, I want you to press forward with that texting bill. And I said, oh, really? He said that's right. He says I text all the time when I drive and he says the only way I'm ever going to stop is if you pass a law against it. I said does that mean primary as opposed to secondary? He says, it sure does. He says my kids go with me and ride with me, and he said sometimes they want to know before we go, are you going to text while you're driving? Because they recognize that as being dangerous. So I think what Senator Hadley, Senator Harms have already said, that there are a lot of people that are going to comply if we pass this law. I think far fewer will comply if it's secondary than if it's primary because I think we will be sending, as Senator Harms said, the wrong message, that we don't think it's very important. If we're going to make it a secondary offense, it's not very important. And as Senator Hadley said, this is a lot different than any of the other bills that we have passed, any of the other laws that we have passed that provided for a secondary offense. And primarily the seat belt law. The seat belt law doesn't endanger anybody other than the driver. I don't think you could point to a single situation where somebody else in the car was killed, somebody else outside the car, another occupant of another vehicle was killed as a result of somebody not wearing a seat belt. I see as it being a totally different issues. And so I agree that making this a secondary offense weakens the offense in the minds of all of the people that are out there and it just plain sends the wrong message. Senator Harms made mention of the fact that in 2008 a trillion text messages were sent. Obviously all those weren't sent while driving a motor vehicle. But I happen to have an update today and this came from a Washington headline in which the Transportation Department on Wednesday, today, proposed a ban on text messaging at the wheel of interstate truck and bus drivers, following up on its call to reduce distractions that lead to crashes. But the part I wanted to mention was that in the first six months... [LB945]

SENATOR JANSSEN: One minute. [LB945]

Floor Debate
March 31, 2010

SENATOR WIGHTMAN: ...750 billion text messages were sent. So if it continued at the same rate, we would be at 1.5 trillion for 2009, and this says that it's growing exponentially, and I think it is. We may well reach a trillion and three-quarters or 2 trillion in 2009. By 2010 I would almost be certain that we would reach 2 trillion text messages. So this is a substantial reason to treat this differently than other manners of distracted driving because it is so prevalent on the highway and it is so dangerous. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Wightman. Those wishing to speak: Senators Cornett, Wallman, Harms, Hansen, Price, Dubas, Rogert, Lathrop, Schilz. Senator Cornett, you're up and you're recognized. [LB945]

SENATOR CORNETT: Thank you. I rise in support of the amendment. The first thing about a law is it has to be enforceable for people to respect the law. If you're talking...even in Missouri, if it is only for teenagers, if you only have had eight convictions, that is not an enforceable law. I've talked to law enforcement last week, members of law enforcement. I talked to people in the prosecutor's office. These cases are not going to get prosecuted unless there is serious injury involved. Currently, if you get in a car wreck and one person accuses the other person of texting, civilly, sure, the attorney is going to subpoena that phone record. Sure, you're going to prove they were texting and then that could be evidence in the civil case. The cost of subpoenaing that person is borne by, a lot of times in the beginning, the attorney in hope of recovery, by the person that was found negligent, or if they're not found guilty, possibly by the person that sued to begin with. There is no way reasonably to prove someone is texting without subpoenaing. The bill does not address people that have maps--I can't think what they're called--GPS on their car. I know somebody that sits there the entire time they're driving, looking down, trying to see where they're going on a map. That's just as dangerous. You either have to look at something that is enforceable and go hands free or you have to pass something that is enforceable. I'm just going to read from the article that...where Senator Rogert got his information. Lawmakers love to get tough on society's ills, but banning something is often better politics than policy. As states have outlawed texting behind the wheel, they are starting to learn. In 2009, a dozen states rushed to restrict the practice; 20 more expected to follow this year. Congress is considering making bans universal. But hold on. Traffic experts say that bans are virtually useless as a practice. Let me repeat that: virtually useless as a practice. Unless you look at the entire digital transmission, how are you going to prove someone wasn't looking for a phone number? I have a contact list of over 400 people on my phone. Do you know how long it takes me to scroll down that? Longer than it takes me to text. People looking down at their maps, people eating. Senator White wanted to make texting fall under the careless. If you are driving inappropriately, whether you're texting, whether you're on the phone, whether you're putting on mascara or eating a burger, that can be construed as careless already in under the laws that we have. A police officer

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

Floor Debate
March 31, 2010

can't just reach in your car and take your cell phone from you. Can't do it. So you pull someone over. You look like you were texting. No, officer, I was making a phone call. I was looking for a phone number. I was getting directions. So he can't take your phone and prove it. He can write you a ticket on suspicion. Unlike DUI, you don't have a breath test. Unlike even a normal traffic offense, it's not just the officer's word against the person now. The person goes to court, pleads not guilty because this is a serious offense. [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR CORNETT: And now they have to subpoena the records and the cost to the court system. Do we have anything in there that that cost for subpoenaing the records goes back to the person who's charged? I didn't see anything there. [LB945]

SENATOR LATHROP: (Inaudible.) [LB945]

SENATOR CORNETT: Pardon me? [LB945]

SENATOR LATHROP: (Inaudible.) [LB945]

SENATOR CORNETT: And if that...as Senator Lathrop says, it happens automatically. So are we going to start suspending people's driver's licenses because they can't afford the subpoena? A secondary offense, if there's a car accident, they can be charged. Teenagers already can't drive in this state and text. We did that. I rise in support, as I said, of AM2121, and with that I will support the underlying bill. Thank you. [LB945]

SENATOR JANSSEN: Thank you, Senator Cornett. Those wishing to speak: Senators Wallman, Harms, Hansen, Price, Dubas, Rogert, Lathrop, Schilz, Wightman, and White. Senator Wallman, you're up and recognized. [LB945]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I stand in favor of Senator Rogert's amendment AM2121, and I'd like to ask Senator Harms a question. [LB945]

SENATOR JANSSEN: Senator Harms, will you yield? [LB945]

SENATOR HARMS: Oh, yes. [LB945]

SENATOR WALLMAN: Senator Harms, I appreciate your passion. Was this brought to you by a patrolman or officers or your own idea? [LB945]

SENATOR HARMS: Actually it's a combination of things, in talking with some youth this summer as well as some law enforcement and my own passion for safety, but it's a

Floor Debate
March 31, 2010

combination of three. Actually there's a fourth one and that was parents. Because, you see, Senator, we already do that in a graduated license program that we have. We took away the use of the cell phone. [LB945]

SENATOR WALLMAN: Sure, I know. Thank you. Well, I love a song, the home of the brave and the free. I had coffee in church. A mother came to me, of a teenage sons. What are you guys doing? MIP, texting, dah, duh-dah, duh-dah. Bullying our youth. Disillusion with law enforcement. And I have coffee with a law enforcement officer at least twice a month. And you know what he said? It's unenforceable. It's a good idea, lots of good ideas. But why put onerous burdens on our law enforcement people? DUIs, texting...DUIs, that's an important thing. But they claim more accidents happens from eating food or spilling hot coffee (laugh) somewhere if you're a male. So that gets your attention. So that causes accidents. There's lot of things, folks, that cause accidents when you barrel down the highway, 75-80 miles an hour. Yeah, inattentive. Changing radio stations. Dropping your cigarette on the floor. There's lots of things cause accidents. So I hate...you know, I agree with Senator Rogert's amendment. If that doesn't pass, I'll have a hard time supporting the bill. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Wallman. Those wishing to speak: Senators Harms, Hansen, Price, Dubas, Rogert, and others. Senators Harms, you are up and recognized. [LB945]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Cornett, you should have on your desk a chart like this I hope. If you don't, I'll give you a copy of this. This is a...what this is, is this is an odds ratio, and the very thing Senator was talking about was the use of maps. When you look at this, it's broken down into four segments. It's complex; moderate; simple; and secondary. On the complex side of the task it shows that text messaging on a cell phone is 23 times greater than anything else you can do. And you go down to the aspect of a map, which she was referring to, shows only seven times. And if you look at the dial of a cell phone, only 5.93 percent ratio in regard to that issue and complexity. What I'd like to do if I can for a moment here, I'd like to bring some science into this issue. One of the things that we have found that the neuroscientists have reported that very few people have the elite brain power to multitask behind a wheel well enough to stay safely on a road. Dr. David Strayer, a cognitive neuroscientist from the University of Utah, has been researching brain function and multitasking for over a decade. He puts drivers in a simulator and tests their multitasking abilities. And what he found was that only 2 percent might be gifted to be skilled pilots, fighter pilots, but in their testing they have found no one, colleagues--and I repeat this--no one yet who can safely text and driver. And now we're getting down to the science of things and I'm here to tell you that's enough to get my attention. Also would like...hopefully you have a copy of this to take a look at. This is what happened in California in text messaging. And this, by the way, is primary and it's not secondary. What they showed in this chart is rather interesting. I think a picture is worth a million

Floor Debate
March 31, 2010

words. But what they found here, before California's texting ban went into effect, about 1.4 percent of drivers were texting. When they put the primary ban in on text messaging, it dropped to about 0.4 or about 70 percent decline. I'm here to tell you, colleagues, it will make a difference. And I would ask you not to support AM2121. I think it's bad. I think we need to have it as primary or we will not resolve the issue in any form or manner. I also wanted to talk just briefly with you. Mr. President, how much time do I have? [LB945]

SENATOR JANSSEN: 2 minutes 6 seconds. [LB945]

SENATOR HARMS: Oh, that's good. Thank you. I wanted to talk to you a little bit about what's happened in the great state of Washington. This great state had a secondary law and they just recently have changed that law back to primary, and for some of the very same reasons I'm saying here is that they tried the secondary route. It was hard for them to enforce. They said primary will give them the opportunity to enforce it, and the fact is that the deaths did not stop, the accidents did not stop, the injuries did not stop. And the people in California were at risk and so they are...or, excuse me, in Washington. They were at risk. And so they voted and changed it from secondary to primary. There's other states...there's not very many states, by the way, that have gone secondary at all with this particular issue, and those states are now starting to have the consideration and the discussion, you know, this is not working for us. [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR HARMS: Thank you, Mr. President. One of the things I wanted to comment in regard to Senator Cornett--and I appreciate her and I've always respected her views--one of the things that law enforcement told me just recently is that they now have these video cameras and they can zoom in. It's a lot easier than you think, colleagues, to zip into your car to find out whether you're texting or not texting, and I would tell you right now with those kind of cameras you want to be careful what you might be doing, you might be embarrassed, because they do have the ability to do this. And so I don't have enough time to go on, Mr. President. I'll be back later. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Harms. Those wishing to speak: Senator Hansen, Price, Dubas, and many others. Senator Hansen, you are up and recognized. [LB945]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I was enjoying reading this that Senator Wightman sent out, the "LB945: Texting is the most dangerous task a driver can do while driving." It is an interesting list, especially if you start at the bottom, the "Secondary Task." They even call this a task: looking at the left-side mirror through the left-side window, looking at the right-side mirror through the

Floor Debate
March 31, 2010

right window, checking your speedometer. Those are all driving tasks. Those should be done and done regularly. And then as you go up: "Interact with or look at the occupant." Well, you have to do that when you drive with your wife. Senator Janssen, you will learn that. "Drink from a container." Well, drinking from a container isn't all that bad unless maybe alcohol is involved in that too. "Talk/sing/dance with no indication of passenger; put on or remove seat belt." My son got picked up for careless driving by putting on his seat belt after he started...after he left a parking stall. I think the point is these things all go up and end, of course, with "Text messaging on a cell phone." There's so many things that we can list. And I think if we list texting on a cell phone, that we need to list all of the rest of them in a particular order, and this order is as good as anything I've seen so far. Senator Hadley said 70 percent of our constituents want something done, whether pass this bill or something...something done. And I'm not sure they want this bill passed. Constituents that I've talked to say that texting while driving is not common sense, and I agree. I really honestly agree. I've talked to law enforcement. They said it's going to 1 in maybe 500 that they can ever catch actually doing it. When you get pulled over for...or say we cross the center line and a patrolman is following at some distance. They'll stop the car and say have you been drinking tonight? Nope. Well, they have a test for that. They'll say have you been smoking pot tonight? Nope. Well, they've got a drug dog to maybe answer that question too. You've been texting tonight? Nope. There's no way they can check that out without a subpoena. It's going to be pretty hard to do, but if the officer pulls you over and you're not drunk and you've not been smoking pot, there's a good chance there's something in that car that caused you to cross the center line. If it's a texting problem that you have, that's fine. It's still careless driving. That's the point: it's careless driving. Any of these things on Senator Wightman's list can cause careless driving. That's where this needs to be. The only problem is if we add texting while driving, we have to add everything else too. I don't like the amendment that Senator Rogert has up on the bill on the board now, but I will vote for it and I will vote against the bill. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Hansen. Those wishing to speak on AM2121: Senators Price, Dubas, Rogert, Lathrop, Schilz, Wightman, McCoy, Cornett, Krist, and Wallman. Senator Price, you're up and you're recognized. [LB945]

SENATOR PRICE: Thank you, Mr. President and members of the body. I have some questions about the bill and what we're trying to do. Well, actually I don't have a question about what we're trying to do. I understand the issue here--texting while driving is bad--and I feel safe in believing that 48 other members of this Legislature fully agree that texting while driving is bad. Okay, now we move on to the next point about how are we going to prove this? Because, see, here's what I'm concerned about. If we have a law on the books that is difficult if not nearly impossible today to adequately prosecute, how long will it be until the law enforcement sees it as a, I don't know, an imposition perhaps? And here's why. I was talking earlier and I was told that do you know it's a primary offense to have something hanging from your mirror? So if you have your high

Floor Debate
March 31, 2010

school, college graduation fez hanging there, if you have an air freshener hanging there, your puka beads, whatever it is, your ID card, that's a primary offense. And I don't know when was the last time someone got pulled over for that, all right? And I may be corrected here shortly, but we'll see about that. How about the tinting on your windows? You know, once you have your windows tinted what makes it difficult to prosecute is at the time you need to have the old "tint-o-meter," you know, to be able to tell what the transmissivity of light is through the glass. Kind of difficult at the time. So we don't see a lot of those tickets. So now we'll talk about the technology, and I feel somewhat capable to talk about the technology. We're going to have to have a question answered and I mean this in all seriousness: When you're texting what constitutes texting? Is it the composition of the message? Is it the reading of a message? Is it the transmission of the message? Is it all three? Which part of that, which component are we aiming for here? Because let's just say it's the easiest one would be the transmission. Okay, once you subpoena the records and you do what Senator Cornett has outlined, go through and you subpoena the records and you get all the records. And you find out, guess what? At the exact time--and I know they have the video equipment in the car so you can get down real quick to the exact time--a text transmission was accomplished; okay, you got them. But what if they were just composing the message? Well, if you're composing the message is that sending a text? Because I would argue that sending a text means just the transmission. And the transmission is really, really, really quick. And then you...but it's when they're composing...I've driven down the interstate going home and I've seen people doing just what we said: someone driving 75 to 80 miles an hour, because I'm a slowpoke, passing me. I look down and they're driving with their knees, passing me on Interstate 80, heading toward Omaha. And you know what I want to do? I want to honk my horn but I realize I'd get in an accident and that probably wouldn't work out well; the results aren't good. But now we're going to ask law enforcement to make that determination as a primary offense, so I think that we're going to have a challenge here and that's really where my concern lies. I agree it's bad. My question is: Will law enforcement feel the obligation to consistently pull people over? [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR PRICE: Thank you. Let's look at another example we have. Another example is seat belts. Seat belts are not a primary offense, yet we see that seat belt usage has gone up and up and up, in the 70th percentile, generally speaking, nationwide. There's some differences between the northeast. I just went up and looked up on the National Transportation and Safety Board's Web site. They're getting about 70 percent and it's increasing and it's getting better and better. I agree, Senator Harms, that having a primary offense will possibly cause some people to stop doing it and that would be great. But my fear is just as we heard before: No, I wasn't texting; I was reading. You're going to have to actually catch them in the transmission phase. And the question also is if you were texting, how long? What if you were texting before you got caught but you were on the interstate? Now, I am between mile marker 426 and mile

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

Floor Debate
March 31, 2010

marker 425. You pulled me over at mile marker 420. My text went out at this time.
[LB945]

SENATOR JANSSEN: Time. [LB945]

SENATOR PRICE: Thank you. [LB945]

SENATOR JANSSEN: Thank you, Senator Price. Those wishing to speak on AM2121: Senators Dubas, Rogert, Schilz, Wightman, and others. Senator Dubas, you're recognized. [LB945]

SENATOR DUBAS: Thank you, Mr. President. Good evening, members of the body. I would like to take an opportunity to talk about some students. Their school isn't actually in my district but it's some of the students that attend that school are in my district. And this is District 1-R north of Grand Island, and this school participates in Project Citizen. And I don't know how many of my colleagues are familiar with Project Citizen but this is where students collectively decide on an issue that they want to investigate and come up with conclusions, and it's a competitive competition. And this one particular group of students, their names are Evan Wiese, Jordan Watson, Ashley Scherer, Kayla Peters, Natalie Chitty, Callie Olsen, Cole Kruse, Jeremy Kroeger, and Jacob Byerly. They decided to pick the topic of cell phone use and texting while driving. And they really have to do a lot of investigating. They talked to law enforcement officers, did a lot of research on the subject, and ultimately they're supposed to come up with a conclusion or a proposal as to how they feel that this project particular issues should be addressed. They received second place, I believe, with their particular project. They came up with three policies that they wanted to look at implementing to deal with texting. First, they decided to make it a primary law just for those 14 to 17, and a secondary law for 18 and older. The fine would be \$150 and an increase of \$50 for every offense with it. They go on to explain the advantages and disadvantages. Their second idea is a primary law just in the areas where schools are and a secondary law everywhere else. They thought that having it a primary law around schools because there's a lot of pedestrian traffic, it would...that would be an appropriate place to have it be primary. Their third thought was having it be a primary law for all ages of drivers in Nebraska and the fine would be \$150 and an increase of \$50 for every offense that occurs while...after that. They ultimately decided on the third policy as their class policy. They felt that it made...that having it be a primary law for all ages of drivers would be the appropriate manner to...solution to the problem. They feel that it's the best policy because everyone, no matter what age they are, are at risk of an accident. They have an action plan of educating the public. And I have noticed recently there are commercials and ads on the television now talking about the dangers with texting and driving. And I think that's great and that's what these kids hit on, how important it is to talk about, make the public aware of if they make this decision these are the consequences of their decision. They also suggest trying to get the Legislature to pass a law by explaining the purpose of it and showing them some of

Floor Debate
March 31, 2010

the graphs that show the increasing number of accidents involved when using cell phones in this manner. And we would like to explain to them the advantages and the disadvantages of this policy becoming a law. So here's a group of young people, junior high-aged kids who spent a great deal of time looking into this issue, really looking at both sides of the issue, and coming up with what they felt was an appropriate conclusion. I've also spent time surveying my district, wrote about it in my column, had a question on my Web site. And overwhelmingly the responses I received back from people were, yes, they felt that this type of a law, because texting is so much more of a distraction, so much higher a degree of damage that can come from texting while driving, they felt it was justifiable. And I mean these are people that most of the time are saying, government, get out of my life and stay out of my life,... [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR DUBAS: ...but when they really think about the issues and the implications of texting while driving, feel that it's important enough that we do need to address it in a serious manner with it being a primary offense and having it be a law. So with that I stand in opposition to the amendment and in strong support of the underlying bill. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Dubas. Members, we are discussing AM2121 to LB945. Those wishing to speak are Senators Rogert, Schilz, Wightman, Cornett, and others. Senator Rogert, you are up and you are recognized. [LB945]

SENATOR ROGERT: Thank you, Mr. President. Actually Senator Fischer, if she would yield to a question or two, I'd appreciate that. [LB945]

SENATOR JANSSEN: Senator Fischer. [LB945]

SENATOR FISCHER: Yes. [LB945]

SENATOR ROGERT: Senator Fischer, it's been brought up that, earlier, that when does enforcement take precedence when we're passing laws? And I want to know in your experience since you've been here, and you've been on the Transportation Committee for quite awhile, how often have police officers come to your committee talking about enforcement issues on bills that have been presented? [LB945]

SENATOR FISCHER: I can't recall that ever happening, Senator Rogert. I may be wrong on that but I can't recall that it's happened. [LB945]

SENATOR ROGERT: Why do you suppose that is? Do you have any thoughts on that? [LB945]

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

Floor Debate
March 31, 2010

SENATOR FISCHER: You kind of caught me off guard with that question. [LB945]

SENATOR ROBERT: Sorry about that. You were off the floor when I...(laugh) [LB945]

SENATOR FISCHER: I don't know why that is. With regards to this specific bill we did not hear from law enforcement at all. They were not present at the hearing either in support, opposition, or neutral. [LB945]

SENATOR ROBERT: Okay. Thank you, Senator Fischer. Senator Council, will you yield to a question or two? [LB945]

SENATOR JANSSEN: Senator Council. [LB945]

SENATOR COUNCIL: Yes, Mr. President. [LB945]

SENATOR ROBERT: You've been on the Judiciary Committee since you've been in the body and I've been there in that same committee as you, and it seems to be my recollection that we have law enforcement come to talk to us lots of times. We deal with a lot of the criminal penalties and those, or most of those. Do you...how do you recall folks coming in to tell us about enforcement? [LB945]

SENATOR COUNCIL: Well, we've had the sheriffs come in and testify on bills. We've had the Omaha Police Department, the Lincoln police chief. I'm trying to think of any other law enforcement. But we've had law enforcement come when they have an interest or a concern particularly when we're perhaps changing infractions, adding infractions, deleting infractions. We've had law enforcement come in and testify in regard to those bills. [LB945]

SENATOR ROBERT: Yeah. And they've come in to support quite a bit. I mean, they come in to oppose or to voice their concerns, but they come in to support, and they'll often...but they're always there to talk about the enforcement issues about different penalties. Okay. [LB945]

SENATOR COUNCIL: That's my experience. Yes, Senator Robert. [LB945]

SENATOR ROBERT: Thank you, Senator Council. And I noticed what Senator Fischer told me that they did not come in at all to support this bill which leads me to think, why is that? And I've got some e-mails. I know we got something, got forwarded to us from Senator Wightman's office, I think it was the Dawson County sheriff supports this bill. And I have a feeling that if we look around hard enough and I've got an e-mail in my folder here today, too, that was from a state patrolman out in western Nebraska who thinks this is a horrible idea. So I think enforcement is always an issue and you'll have folks that will say it's fine, folks that will say it's not, but to say that it's not something that

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

Floor Debate
March 31, 2010

should be discussed at completely at full length is wrong. Senator McCoy, will you yield to a question? [LB945]

SENATOR JANSSEN: Senator McCoy, will you yield? [LB945]

SENATOR McCOY: Yes. [LB945]

SENATOR ROBERT: Senator McCoy, you've...did you take a typing class or a computer class, you know, in high school or college, somewhere? In high school probably. [LB945]

SENATOR McCOY: I seem to recall that I did. [LB945]

SENATOR ROBERT: And how did you learn...what happened when you looked down at your hands when you were typing? [LB945]

SENATOR McCOY: It was difficult to learn to type while not looking at my hands, as I recall. [LB945]

SENATOR ROBERT: But the whole goal of it was to learn to type while looking ahead... [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR ROBERT: ...at your screen or at your paper? [LB945]

SENATOR McCOY: Correct. [LB945]

SENATOR ROBERT: And most people...would you say that most people do that if they've had a class, at least by the time they get through there? [LB945]

SENATOR McCOY: I would assume that would be correct. [LB945]

SENATOR ROBERT: Thank you, Senator McCoy. I think that it's also not true to say that you have to be looking at your phone to text. And folks, don't every kid in high school and every teacher in high school will tell the kids are texting with their phones that are in their pocket. That's not looking at it. That's not even pulling it out of your pocket, and they're sending messages. There are a lot of dangerous activities that go on in a car. Texting is one of them. This is a bad bill. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Robert. Those wishing to speak: Senators Wightman, Cornett, Krist, Wallman, and Harms, and others. Senator Wightman, you're up; you're recognized. [LB945]

Floor Debate
March 31, 2010

SENATOR WIGHTMAN: Thank you, Mr. President. First of all, I would like to address a few of the issues raised by Senator Hansen a few minutes ago when he read from this sheet that has been passed out that rates various activities that might take place in the car as to what the increase in odds or ratio of the likelihood of an accident, and Senator Harms has mentioned and maybe someone else that 23.24 times is what text messaging shows on this study. Some of them that he read were down here in the one-point-something category. As we look, none of them get any closer than one-half of the ratio that text messaging is. So any way you look at it, text messaging is not only the most distractive of any of these activities; it also is the most prevalent. When we talk about probably a trillion and a half text messages, that's a figure so big that almost none of us can even understand exactly what 1.5 trillion is. I think if you divide it by 310 million people in the United States, that's about 3,000 text messages per year. Actually it's probably closer to 5,000. I think I was using 1 trillion when I did that. So that's how many text messages are being sent, and some of them are like myself that aren't sending any text messages. Many of those people were from zero to seven or eight years of age that probably aren't sending any text messages either. But that's still 5,000, approximately 5,000 times for every man, woman, and child. I'd like to talk a little bit about the letter from...and I think Senator Harms at least mentioned this letter from Fred Zwonechek, Nebraska Highway Safety Administrator. He says, "There are approximately 1,200 law enforcement patrol vehicles used for traffic enforcement in Nebraska, including 350 Nebraska State Patrol units. Since the Nebraska Office of Highway Safety first began awarding grants for in-car systems in 1994, a total of 1,947 cameras have been awarded. Today, nearly 100 percent of all vehicles utilized for traffic enforcement by police departments, county sheriffs, and the Nebraska State Patrol are equipped with camera systems. Since 2006, the Nebraska Office of Highway Safety has awarded grants to police departments and sheriff's offices across Nebraska to obtain 783 high resolution digital in-car systems, most with zoom camera capabilities. These systems are replacing the older VHS technology systems. The Nebraska State Patrol reports that all but 10 of their 350 units are equipped with VHS in-car camera systems. It is expected that all units will be equipped with new digital in-car systems by January 1, 2011." I read that to show you that the technology is there, present, and will be present by January 1, 2011, to zoom in on these cars. And many of these infractions will be recorded on camera and can be enforced. You know, I know one of the previous speakers talked about the fact that Washington had changed their law from secondary to primary. As far as I know, there isn't a single jurisdiction in the United States that has changed from a primary to a secondary and I don't think that's going to happen. And I can almost predict when this body, if we pass it as a secondary, will pass it as a primary. And that is when some friend... [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR WIGHTMAN: ...or some relative of a member of this body is killed in an

Floor Debate
March 31, 2010

accident, and that's going to happen, I think, in the next few years. And we will then change it from secondary to primary. But that's going to be too late, too late for many people in Nebraska who will have died by that time. So I ask you to think about these things. Sure, there's problems, but I don't think they're insurmountable problems with regard to enforcement. I'll visit with you later. I don't have time to get into that about many other laws that are probably very unlikely to be enforced but they still exist on our books. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Wightman. Those wishing to speak: Senators Cornett, Krist, Wallman, Harms, and Hansen, and others. Senator Cornett, you're recognized. [LB945]

SENATOR CORNETT: Thank you very much. Earlier, Senator Hadley said that the difference between a primary offense and a secondary offense in regards to seat belt is who you hurt. If you want to look at a law in this state that needs to be looked at, it's not a primary offense not to have your child secured by a seat belt if they're over six years old. Who are you hurting with that? How many children get ejected in car accidents every year because they're not seat belted in? And we can't pull them over as police officers when we see that. That's a secondary offense. Other laws that are unenforceable that people do all the time: driving barefoot. Not supposed to do that. Senator Price brought up a very good point to me that I had not even thought about. And it led me to think about all the times I'd been cross-questioned on the stand, because you look down at your watch, you look down at your clock on the cruiser, maybe you look at your cell phone when you're a cop because you have them, and it tells you it's 12:00. You pull someone over, you write the time down as a stop as 12:00. You get that record back, that subpoenaed record, and it shows that person wasn't texting at 12:00 because your times didn't match. Or better yet, it shows they weren't texting when you stopped them at all. But they were texting before that. Are you going to try...is a prosecutor going to try and charge them with this because the times aren't right? Are you going to saying if it was on the interstate, the...well, there was no exit between here and here for so many miles; they had to have been texting when that text went out at that time. How are you going to prosecute that? How many times have you seen times not exactly match? My cable box will say one time, my cell phone will say another. It's usually only a few seconds off but do you think that's enough to get off of a ticket? And you're talking maybe on the second, third offense. Look at the points you lose on your license. People are going to take this to court. And if those times don't match, they're going to win. But I think there are a lot of things that are in our law if you want to look at secondary offenses that probably should be made primary before this is. Thank you. [LB945]

SENATOR JANSSEN: Thank you, Senator Cornett. Those wishing to speak: Senators Krist, Wallman, Harms, Hansen, and Hadley, and others. Senator Krist, you are up. You are recognized. [LB945]

Floor Debate
March 31, 2010

SENATOR KRIST: Thank you, Mr. President. I'm going to take a little different tack on this and I'm going to talk about some personal experience and then give you some statistics, and then I'd like to ask both Senator Harms and Senator Rogert a question. So stand by for ramming speed. In my personal experience, the way to keep people from drinking and driving in the time that I spent in the country of Iceland was zero tolerance. Point zero zero one. If you sniffed, you probably would be convicted. And, you know, there's not a whole lot of drinking and driving in Iceland. They've created a whole industry of paying for cabs. Taxis are pretty popular in Iceland. The country of Zimbabwe bans the use of cell phones in the vehicle unless it's hands-free, as does Australia, Austria, Bahrain, Belgium, Brazil, Botswana...let me go down the list alphabetically. So zero tolerance in a vehicle keeps people from being distracted, as Senator Harms says. Senator Rogert, would you yield to a question? [LB945]

SENATOR JANSSEN: Senator Rogert, will you yield? [LB945]

SENATOR ROBERT: Yes, I will. [LB945]

SENATOR KRIST: The issue that we're debating is actually not whether it is a distraction to be texting, but enforcement and the possibility of it being a primary or a secondary offense. Is that correct? [LB945]

SENATOR ROBERT: That is correct. [LB945]

SENATOR KRIST: So you would be agreeable to vote for your amendment, your amendment, and for LB945 if it were a secondary offense. [LB945]

SENATOR ROBERT: I would be less disagreeable. How about that? [LB945]

SENATOR KRIST: Okay. That's fair. Senator Harms, would you yield for a question? [LB945]

SENATOR JANSSEN: Senator Harms, will you yield? [LB945]

SENATOR HARMS: Yes. [LB945]

SENATOR KRIST: Do you agree that zero tolerance would be ultimately where the state should go and that we need to work ourself in that direction? [LB945]

SENATOR HARMS: I don't think there's any question about it, Senator. And as I told you off the mike, I would have been there but I don't think it's possible to do that in this body at this time. [LB945]

Floor Debate
March 31, 2010

SENATOR KRIST: Then, colleagues, what I'm suggesting is, given the international experience, given some of the states' experience around us going from primary to secondary, it seems prudent and reasonable for us to make it a secondary offense not to text for all ages in the state of Nebraska and to move in a direction if we're serious about distracted driving to follow the lead of other countries, other states. But let's get there in stages. Let's get there at the point where we can live with where we're at. Let's compromise tonight and let's get to a point where we can make it a secondary offense and make it illegal for anyone to use their cell phone of any device to text and allow police and law enforcement to do their best and let's revisit this as we come up and potentially go to a primary or potentially go to where I think we should go. And if you don't have a hands-free, then you ought not be doing something that distracts you from driving. Let's be reasonable. Let's not spend until 10:00 and not have the votes for cloture. Let's not spend the rest of the night talking about something that we're probably not going to agree on. Let's agree on a secondary offense. Let's make some leeway here tonight and make a statement and come back and visit this and revisit it until we get to a point where hands-free devices are the way to go. And let me say one other thing. We are so close technologically right now to speaking into your phone and texting a message... [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR KRIST: ...that is a technology that is right around the corner. Right around the corner. That speaks to what you have to do professionally or personally. If you want to be able to text in your car, then buy the state of the art phone which is right around the corner where you say "A-B-C," and A-B-C comes out and you punch a button that says "text," or you say, better yet, "text the speaker; I'm done speaking now; send." [LB945]

SENATOR JANSSEN: Thank you, Senator Krist. Those wishing to speak: Senators Wallman, Harms, Hansen, Hadley, Council, and others. Senator Wallman, you're up and you're recognized. [LB945]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I have to agree some with Senator Krist and also Senator Rogert in the literature he sent out. How do we enforce this? You know, we hear about what I hear about--Big Brother. Health insurance, national healthcare. If the national people, federal government, brought this down on Nebraska, we'd come unglued. A mandate. Do we hate mandates? I noticed on this sheet, Highway Patrol wasn't on there. Police and local county sheriffs wasn't on there. If they were adamant about trying to enforce this issue and our judicial system, we cut the budget. And I heard taking it to court. How are you going to win in court? That was a good argument. And there's lots of things you can have a wreck, and usually it is driver error. Responsibility, accountability, all these things if you drive a car or a truck. Take your eyes off the road, you may have a wreck.

Floor Debate
March 31, 2010

You hit a deer. Last night two deer were hit right ahead of me. Well, I could have hit one of them but I missed them both. So would that have been driver (laugh) error? So you can have an accident or somebody could have run into me, but they decided not to. They hit the deer. So it's driver error, folks. Is this enforceable? Do I want a camera shining on me when I go through everything on the highway on the bridges and underpasses, overpasses? Some people might not like that. What is that going to cost? I don't think we have a lot of money to spend on our law enforcement. We're cutting back on patrol officers, then we cut back on our judicial system, and we may have to cut back more. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Wallman. Those wishing to speak: Senators Harms, Hansen, Hadley, Council, Rogert, Karpisek, Wightman, and Dierks. Senator Harms, you are up and recognized and this is your third time. [LB945]

SENATOR HARMS: Thank you, Mr. President. I appreciate that. I wanted to talk a little bit about one of the comments that I think my good colleague Senator Rogert brought up, and we're referring to some...how people view things. And the issue that we have here today and the term that they're using is what we call inattentional blindness. So when you're using a cell phone and you see something happening, it doesn't register even though you're looking at it. Your mind is already making a judgment call that it cannot focus to the brain and that's called inattentional blindness. But what happens to you when you're text messaging, folks? Colleagues, you're not even looking at the road. That's the difference. If you're on the cell phone...and I've had this happen to me in my previous world, driving 75 miles down the road with a--by the way, with a handless system--got a call. Took the call. And I was going 75 miles an hour and I...and until I got into this issue here I didn't understand what had happened but I now understand it. But I saw what was occurring but I just didn't...I couldn't put it together, and at 75 miles an hour I almost rear-ended someone. And after that, that was it. I don't take cell phone calls on the road and I can understand that it is an inattentional blindness. The mind just doesn't register and if you're a person like I am, I am not multitask oriented and it does not work well. I wanted to walk you down through...this has been, when we had the debate earlier and the discussion today, there has been a lot of things about law enforcement, whether or not...why they didn't come forward and testify. Well, we do have, by matter of record, a letter that was sent and given by the Sheriffs' Association which, by the way, supported this bill as it's written. But I normally don't go out and I don't recruit people to come and testify. I haven't done it. Probably will never do it. And so I have, though, spoken with law enforcement and they agree with the bill as it's written. They agree that it is dangerous and they agree that something should be done. I wanted to talk a little bit about law enforcement and the effectiveness of dealing with this kind of distraction. The factors that they look at is, first of all, inappropriate speeds, they're not in their driving lane, they're drifting, they're overcorrecting, and repeatedly they look down, and the officer can observe this. And what they've said is that how long they are typing on a keyboard, it only takes, on a phone call, it only takes about ten

Floor Debate
March 31, 2010

strokes. Did the driver type on the keyboard but never put it up to his ear? Does the driver look at the device, a screen last long than a quicker glance necessary to see the ID information? In talking with law enforcement, folks, they do not believe, many of them, they believe, yeah, it would be to a certain degree a judgment call, but they don't believe that it's a factor that should stop us from addressing this issue. They believe very strongly that if it's secondary, it will be very difficult for them to enforce it at the secondary level. And so I hope that as...I think the lines are pretty drawn here and I don't know if anybody else's minds are going to be changed here but I would hope that you would give this serious thought. [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR HARMS: Thank you, Mr. President...and to all of us understand the seriousness of it. And what we're beginning to see is the growing issue. The issue is about to hit all the states even at a trillion and even at 6,000 deaths and approximately 500,000 injuries. That's going to multiply rapidly. In the state of Nebraska, we've escaped the deaths but we've had one death in the last couple years, but a number of accidents, and it's increased. And I will tell you it will increase again and again and again, and I hope that we don't lose lives, but that is the possibility of this. It's a difficult decision and as we look at this what you have to decide is what is your public policy going to be? And when we make that decision, if this is what you want, then we have a chance to move forward and put this bill to rest, whatever that public policy might be. And I... [LB945]

SENATOR JANSSEN: Time. [LB945]

SENATOR HARMS: ...can lives with whatever public policy we would choose to do. We've had fair debate. [LB945]

SENATOR JANSSEN: Time, Senator Harms. [LB945]

SENATOR HARMS: Oh, thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Harms. Those wishing to speak on AM2121 to LB945 are Senators Hansen, Hadley, Council, Rogert, Karpisek, Wightman, and Dierks. Senator Hansen, you're up; you are recognized. [LB945]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I want to go back just a moment to the list from Senator Wightman handed out, and under the "Moderate Tertiary Task," the second one down I guess, is "opening a pill bottle to take medicine." Well, Mr. President, if you've got hands like this, there's a couple things you're not going to do. You're not going to text and you're not going to open pill bottles because it takes both hands and your knee driving again, and it's not a good idea. On a

Floor Debate
March 31, 2010

"Simple Tertiary Task," about halfway down, I can't imagine doing this one on the interstate: opening and closing the driver's door. It's going to take your full left arm to push that door open. I don't know what you're going to open the door for but that seems like that might be a little higher up the list. I want to take a little bit of time here and talk about the technology. Senator Krist talked about the technology that is coming. I'm pretty sure the technology is already there and I've got three printouts from the Internet--I mean I finally learned how to do that--so we just, in there, we googled...I googled "hands-free phone texting." And there's a lot of information there: how to make your phone now that you have, no matter what brand of phone you have, you can make that phone hands-free and text on it. I don't know how much it costs exactly. There's nothing in the literature that I could see that was doing this. But here's one about the author. Larry Lewis, he's a dad, he's concerned about his kids growing up texting now and they're not driving but they're soon going to be at that age. What are we going to do for that? Let's make that...if it's something they're going to do, let's make it safe. Either that or make it illegal altogether using that particular machine. I'm not sure that that isn't where we shouldn't be going anyway, is texting, is outlawing cell phone use, period, unless it is hands-free. But the technology is already there. Here's another one from the..."Clemson University researchers have developed a hands-free alternative to cell phone texting while driving. If you can't keep people from doing it, make it safer," said Juan Gilbert, professor and chairman of the human-centered computing division of Clemson's School of Computing." It's Clemson. If Clemson did it, certainly the University of Nebraska ought to be able to do it. And here's another one. This is a really good one: Speech Recognition/Synthesis Cell Phone--"You're breaking up." The article goes on to say that if you're in the fringe areas, and we have a lot of fringe areas out where I live, if you're talking and you're breaking up, if you go to texting it uses a lot less bandwidth so texting actually is a better method of communication to those who, you know, you're trying to talk to. "The advantage: Texting requires a lot less bandwidth than sound does, so the emergency mode," that your phone goes into, "should continue working even where reception is lousy, giving the caller enough time to walk to a spot..."--yeah, we've done that before. You get stuck in the hills and you walk up to the top of the hill and maybe you've got reception, maybe not. Anyway, the point of this one is this one was signed by a guy named "kinemojo," December 21, 2006. That's four years ago. That's four and half years ago. This technology is there. I bought my wife a new cell phone probably two months ago, and they tried to sell her the one that was hands-free texting. And I know she won't be texting while driving because she can't text while she's sitting, and so we didn't need to go to that phone. We got her a little more...one that was a little more simple. And but I just want to say... [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR HANSEN: ...that the technology is there. If parents can't convince their kids not to text and drive, at least buy them a decent phone. Buy them some technology that they can do it without texting in a car. We've got to be able to convince people that

Floor Debate
March 31, 2010

texting at any age is not good. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Hansen. Those wishing to speak: Senators Hadley, Council, Rogert, Karpisek, Wightman, Dierks, and Wallman. Senator Hadley, you're up; you're recognized. [LB945]

SENATOR HADLEY: Mr. President, members of the body, it's getting late in the evening and I don't know whether we're going to change a lot of people's thoughts on this, but I was sitting here and I was struck by something the Speaker said. I don't know, it might have been years ago, but it might have been yesterday also. I think he kind of chastised us, if I remember right, about our duties about deciding whether something was constitutional or not. Do you remember that? I believe we were talking about...I can't even remember the bill now. Yes, it was an Attorney General's letter about constitutionality, and I think he told us that that wasn't our job, right? Well, is it our job to determine how easy or hard it is for a law enforcement person to enforce one of the laws we make? Is that one of the things that we should? Should we be putting ourselves in that position and making that decision? If we are then we better be deciding the constitutionality of every law we're putting out here. I happened to look at some laws that are hard to enforce. Some of the hardest laws to enforce in the country, I'll list them: copyright laws. Copyright laws are exceedingly difficult to enforce. Does that mean we should do away with them? Prohibition. We sat and listened for hours about an Indian reservation that has a prohibition law that is very difficult to enforce. Should we make them do away with it since it's hard to enforce? Immigration laws. Are they hard to enforce in the United States? Well, they must be because we have a lot of illegal immigrants. Should we do away with the immigration laws because they're hard to enforce? Piracy; antispam laws; encryption laws. Here's an interesting one. I'm not going to ask for a show of hands because the revenue commissioner might be watching. How many of you filled out a use tax form when you do your income tax every year for your purchases on the Internet that are delivered to you? Very difficult law to enforce. Shall we do away with having to pay a use tax on items that you buy out of state and have shipped in? That's very hard to enforce. Shall we do away with it? Happened to read an article by...about Virginia. They have a secondary enforcement. One of their concerns is their officers are now saying we see people texting and we can't pull them over; an accident waiting to happen. We see somebody texting in a car. They have their hands on the steering wheel; they have their phone there; they're texting. We can't pull them over because it's a secondary offense. Let me end up by giving you one figure: 6,000. That was the number of people that died last year in accidents that texting was a part of. If you sit and tell me that we're not going to pass it as a primary offense because it's difficult to enforce, you're saying that 6,000 lives doesn't make it worthwhile trying to enforce the law. Thank you, Mr. President. [LB945]

SENATOR JANSSEN: Thank you, Senator Hadley. Those wishing to speak: Senators Council, Rogert, Karpisek, Wightman, Dierks, Wallman. Senator Council, you're up;

Floor Debate
March 31, 2010

you're recognized. [LB945]

SENATOR COUNCIL: Thank you, Mr. President. I have sat for awhile and just listened to the debate because this is a very difficult issue and this issue is a public policy issue probably in its purest form. And the dilemma, the horns of which I find myself trapped on, is that texting while driving is a bad idea but LB945 is a bad idea. So how do we reconcile that? And I sit and listen, and sometimes I tend to be too logical and I was sitting listening to Senator Hadley a minute ago and I was looking at the data, and the question that I just keep coming up with is, you know, the police officer who says I saw somebody and I knew they were texting. I don't know how they conclude that. If I make a long distance call on my phone, that's ten keystrokes. How does a police officer know whether I'm texting or dialing a phone number? And unfortunately for me, I have to look at my phone to do both. You know, I know there are people who can text without looking. I know people who can dial without looking. I can't do that. I look at the data here: Effects of California's In-Vehicle Texting Ban. After questions raised in regard to other debates, I started questioning the accuracy of the data. How did they determine that texting dropped? What was it? Reports? I read one of the pieces of information that was distributed during General File debate on this, and I looked at it and they...and it said that in California the way they collected their data on texting was someone stood on the side of the road and counted vehicles that they determined the person in the vehicle was texting. How can you determine what somebody is doing when they're going past you at 70 miles an hour and you're stationary? How do you know what I'm doing? Senator Krist raised an interesting point and that's why I'm talking about the dilemma here. You know, the answer is ban handheld devices while driving. But what happens? We create a couple of classes of drivers, don't we. We create the class of drivers who can afford these Bluetooth and these voice-activated devices and those who can't. I have a problem with that. I have a problem with the enforcement. And how are we to determine that these offenses are going to be capable of being enforced? You know, my experience is going to be is you're going to see maybe quite a few tickets issued and far greater percentage of nolle pros, which means they get to the court and the prosecutor determines there's no way I can make this case, and they dismiss. As I've stated before, I'm also concerned about profiling and it's a legitimate concern. I shared with some of my colleagues today that I was stopped one day, hadn't done anything. When the officer came to my car I asked the officer... [LB945]

SENATOR JANSSEN: One minute. [LB945]

SENATOR COUNCIL: ...what had I done wrong? How many of you have in your vehicle hanging from the rear view one of those little evergreen air fresheners? I bet many of you do. How many of you know that that's against the traffic laws of the state of Nebraska? I was stopped and issued a warning ticket and ordered to take my little evergreen air freshener off my rear view mirror. Now ask yourself, do you really think that was the reason I was stopped? Do you think it had anything to do with my race and

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

Floor Debate
March 31, 2010

the fact that--I heard Senator Price--my windows were tinted? Maybe probably a little past the allowable tint. [LB945]

SENATOR JANSSEN: Time. [LB945]

SENATOR COUNCIL: Thank you. (Laughter) [LB945]

SENATOR JANSSEN: Thank you, Senator Council. Continuing on, those wishing to speak: Senator Karpisek, Wightman, Dierks, Wallman. Senator Karpisek, you are up; you are recognized. Senator Karpisek waives. Senator Wightman, you are recognized. [LB945]

SENATOR WIGHTMAN: Question. [LB945]

SENATOR JANSSEN: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB945]

ASSISTANT CLERK: 29 ayes, 1 nay to cease debate, Mr. President. [LB945]

SENATOR JANSSEN: Debate does cease. Senator Rogert, you are recognized to close on your amendment. [LB945]

SENATOR ROGERT: Thank you, Mr. President. Thank you, members, for the lively discussion this evening on my amendment. You know, the reason I'm bringing this secondary amendment because there are literally a hundred things you can do in a car that are dangerous. There's no doubt about it. You can smoke, you can drink coffee, you can talk on the phone, riffle through your iPod to find a song you want to listen to, eat Taco Bell all at the same time, and all of those are legal. All of those are legal. The bill mentions, if you read it, texting while the vehicle is in motion. Well, okay, you can sit at a stop sign, 14 cars piled up behind you, send text messages, and drive off. You hit somebody in the intersection. Cop says you were texting. No, I wasn't; I was texting at the stop sign, then I took off. Enforcement is going to be the key. It's almost impossible. I can hold 47 different devices up in the air in plain sight and it looks like I'm texting and I'm not. I can be pulled over and I will be. If this goes in, folks will pull them over, and to prove it that I was or was not, the police force will have to subpoena those records. They cannot take your phone. And before I get pulled over I can have everything erased anyway. So for something that may or may not have happened because I was holding a phone up in the window, in a primary offense they can pull me over and spend hundreds of dollars, thousands of dollars possibly, fighting this case. I ask for you to vote for this amendment because it's fair and it's the right thing to do. It gives John...Senators Wightman and Harms a step towards what they're looking for. And I'll shut up if we get this amendment. Thank you, Mr. President. [LB945]

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

Floor Debate
March 31, 2010

SENATOR JANSSEN: Thank you, Senator Rogert. You've heard the closing on the amendment. The question is, shall the amendment to LB945 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Rogert, for what do you rise? [LB945]

SENATOR ROBERT: Well, I have no reason to be risen. [LB945]

SENATOR JANSSEN: Mr. Clerk, please record. [LB945]

CLERK: 25 ayes, 16 nays on the amendment. [LB945]

SENATOR JANSSEN: The amendment is adopted. [LB945]

CLERK: Senator Rogert, I now have AM2367. [LB945]

SENATOR ROBERT: Mr. President, I wish to withdraw that amendment. [LB945]

SENATOR JANSSEN: The amendment is withdrawn without objection. Mr. Clerk. [LB945]

CLERK: Senator, I have nothing further on the bill. [LB945]

SENATOR JANSSEN: Senator McGill. [LB945]

SENATOR MCGILL: There has to be a motion. (Laugh) [LB945]

SENATOR JANSSEN: Senator McGill, you have a motion? [LB945]

SENATOR MCGILL: Mr. President, I move LB945 to E&R for engrossing. [LB945]

SENATOR JANSSEN: Is there any further debate on the motion to advance LB945? Those wishing to speak on the advancement of LB945, Senator Dierks and Senator Wallman. Senator Dierks, you are recognized. [LB945]

SENATOR DIERKS: Thank you, Mr. President. I guess I thought I had lost my opportunity, but...I think we made a mistake on that last vote. I...personally I don't think that cell phones should be used in a car. I think that should be against the law for a driver. I just think that how can you concentrate on what you're doing when you're trying to dial numbers on a cell phone, let alone a message machine. We know that this 6,000 number keeps coming back to me that they were talking about. That proves to me that there's difficulties there, folks. I guess that...I'm not sure how I'm going to vote on this. I'm just disappointed that that last amendment was adopted. Thank you, Mr. President.

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

Floor Debate
March 31, 2010

[LB945]

SENATOR JANSSEN: Thank you, Senator Dierks. There are no members wishing to speak on the advancement of LB945. Senator Stuthman has requested a record vote. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB945]

CLERK: 34 ayes, 9 nays, Mr. President, on the advancement of LB945. [LB945]

SENATOR JANSSEN: LB945 is advanced. Mr. Clerk. Mr. Clerk, items for the record. [LB945]

CLERK: Mr. President, I have a motion from Senator Council with respect to LB510 to be printed. [LB510]

And Senator Mello would move to adjourn the body until Thursday morning, April 1, at 9:00 a.m.

SENATOR JANSSEN: There's a motion to adjourn. All those in favor say aye. Opposed say nay. We are adjourned. (Gavel)