

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

Floor Debate
April 06, 2010

[LB160 LB252 LB262 LB373 LB411 LB507A LB507 LB510A LB510 LB563 LB563A
LB594 LB687 LB695 LB696 LB706 LB712 LB713 LB728 LB732 LB742 LB757 LB758
LB759 LB760 LB771 LB779A LB780 LB789 LB792 LB800A LB800 LB801 LB809
LB813 LB829 LB836 LB840 LB842 LB844 LB849 LB852 LB861 LB862 LB872 LB877
LB879 LB882 LB884 LB894 LB907 LB908 LB933 LB934 LB937 LB937A LB945 LB947
LB950 LB951A LB951 LB956 LB961 LB978 LB986 LB987 LB987A LB990 LB993
LB997 LB999 LB1002A LB1002 LB1010 LB1013 LB1018 LB1047 LB1048A LB1048
LB1055 LB1057 LB1065 LB1070 LB1071 LB1072 LB1085 LB1094A LB1094 LB1103
LR441 LR455 LR456 LR457 LR458 LR476 LR480 LR529 LR530 LR531 LR532 LR537
LR544 LR545 LR546 LR547 LR548]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fourth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Pastor Mary Ellen Gaither of the First Presbyterian Church of Humboldt, in Senator Heidemann's district. Please rise.

PASTOR GAITHER: (Prayer offered.)

SENATOR CARLSON: Thank you, Pastor Gaither. Thank you for visiting your Legislature this morning. I call to order the fifty-fourth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Record, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

SENATOR CARLSON: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and reviewed LB852, LB947, LB993, LB1065, LB829, LB934, LB872, LB884, LB844, LB908, LB1055, LB758, LB809, LB907, LB1085, LB894, LB789, LB987, LB563A, and LB779A, all those reported to Select File, some of which have Enrollment and Review amendments attached. Communication from the Governor to the Clerk. (Read re: LB728, LB742, LB836, LB879, LB882, LB937, LB937A, LB951, LB951A, LB956, LB1018, LB1057, and LB1070.) That's all that I have, Mr. President. (Legislative Journal pages 1287-1292.) [LB852 LB947 LB993 LB1065 LB829 LB934 LB872 LB884 LB844 LB908 LB1055 LB758 LB809 LB907 LB1085 LB894 LB789 LB987 LB563A

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

Floor Debate
April 06, 2010

LB779A LB728 LB742 LB836 LB879 LB882 LB937 LB937A LB951 LB951A LB956
LB1018 LB1057 LB1070]

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

CLERK: Mr. President, confirmation report by the Judiciary Committee involves two appointments to the Crime Victim's Reparations Committee. (Legislative Journal page 1246.)

SENATOR CARLSON: Senator Ashford, as Chair of the Judiciary Committee, you're recognized to open on the committee confirmation report.

SENATOR ASHFORD: Thank you. Members, this is the confirmation report for two new members to the Crime Victim's Reparations Committee. Both were approved by the committee unanimously and I urge your support. The first one is Brenda Smith of Omaha, would serve a term from February 1, 2010, to July 16, 2014. She holds a bachelor's degree in criminal justice from Bellevue University. As a retired Omaha police commander, Ms. Smith has overseen the Victim's and the Witness Assistance Unit, as well as the Criminal Investigations Bureau, which dealt with victims of misdemeanor to felony crimes. She has devoted much of her time to volunteer work throughout the community in a number of organizations. She is a member of the Nebraska Crime Commission. As an instructor with the Criminal Justice Program at Metropolitan Community College, Ms. Smith continues to share her knowledge and expertise gained over many years of involvement with the justice system. The second confirmation report is for Candice Batton of Walton, Nebraska. She would serve a term from February 1, 2010, to July 16, 2014. Ms. Batton holds a bachelor's degree in sociology from UNL, along with a master's degree in sociology from Kansas State University and a Ph.D. in sociology from Vanderbilt. She is an associate professor and serves as the director of the School of Criminology and Criminal Justice at UNO where she has taught for nearly ten years. Her research and teaching focus is primarily on violence, criminological theory, and women in crime. Ms. Batton has also served as a citizens police...on the Citizen Police Advisory Board, the CenterPointe Board of Directors, and is currently a member of the Nebraska Crime Commission. I would urge the adoption of these reports and I appreciate your consideration. Thank you, Mr. President.

SENATOR CARLSON: Thank you, Senator Ashford. Members, you have heard the confirmation reports from Judiciary Committee. Are there senators wishing to speak? Seeing none, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question is, shall the Judiciary Committee confirmation reports be adopted? All in favor vote aye; all opposed vote nay. Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1292-1293.) 41 ayes, 0 nays, Mr.

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

Floor Debate
April 06, 2010

President, on adoption of the confirmation report.

SENATOR CARLSON: Thank you, Mr. Clerk. The confirmation report is adopted. Next item, Mr. Clerk.

CLERK: Mr. President, LB987A is a bill by Senator Council. (Read title.) [LB987A]

SENATOR CARLSON: Senator Council, you're recognized to open on your bill. [LB987A]

SENATOR COUNCIL: Thank you, Mr. President. I want to begin by thanking my colleagues for advancing the underlying bill, LB987, and as you'll recall, LB987 provides for a grant from the Department of Economic Development to a city of the metropolitan class, the city being the city of Omaha, Nebraska, to enable them to compete for a federal housing and urban development lead abatement grant that the city of Omaha has received through a competitive process on three different occasions. The state of Nebraska has previously provided matching funds to assist the city of Omaha in accessing this federal grant and, to date, 622 homes have been remediated, made lead-safe through this program. Now this program has limitations and requirements. Program eligible housing has to be located basically east of 42nd Street in the city of Omaha which also happens to coincide with the oldest housing stock in the city of Omaha. It has long been established that houses constructed prior to 1978, 1978 being the year that the federal government banned the use of lead-based paint, housing constructed prior to 1978 contained lead-based paint hazards. Additionally, houses constructed prior to 1950 have a compound effect with regard to the amount of lead-based paint present in those homes. And again, the target area for this lead-based paint abatement program are homes east of 42nd Street in Omaha, the overwhelming majority of which were constructed prior to 1950. In order to be eligible for a grant, if the city of Omaha should receive this HUD grant, is that there be children residing in the home who are under age six, the home must be owned, the applicant must be the owner of the property, and the residents of the home must have an income that is less than 80 percent of the median family income in the city of Omaha. And what that means is that these grants are available only to low-income residents in the city of Omaha. This grant is based on competition, the awarding of the grant is based on competition with other cities. What will assist the city of Omaha and positioning them to continue to receive the grant, the current grant which expires at the end of September this year, to enable the city of Omaha to continue to receive the grant one of the factors that HUD places a lot of emphasis on is the level of collaboration and the number of supporting partners. The city of Omaha is making \$300,000 available for the project. Douglas County is making \$300,000 of in-kind services available to the project, and there are several not-for-profit private organizations who are providing both in-kind and monetary services to enable the city of Omaha to obtain this grant. The way LB987, the underlying bill, is written is that these funds will only be allocated to the city of Omaha if

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

Floor Debate
April 06, 2010

they are selected by Housing and Urban Development to receive the grant. At that point in time the \$200,000, the source of which is the Nebraska Health Care Cash Fund, would be made available to the Department of Economic Development for distribution to the city of Omaha. And when you look at the Nebraska Health Care Cash Fund and if you look at the underlying policy and the programs and projects which the Department of Health and Human Services has identified as being eligible for Health Care Cash Fund grants which it controls, one of the leading programs is lead education and lead hazard abatement. This will enable the city of Omaha to carry forward with this state's healthcare policy of eliminating lead-based health hazards which there is no question have a long-term cost impact on the state if they are ignored and not addressed. Those costs will manifest themselves in terms of higher special education costs for children who have been exposed to lead poisoning, as well as higher medical care costs for those same children. With that opening, I would urge my colleagues to continue their support of this effort by advancing LB987A. Thank you, Mr. President. [LB987A LB987]

SENATOR CARLSON: Thank you, Senator Council. Members, you've heard the opening on LB987A. Are there senators wishing to speak? Seeing none, Senator Council, you're recognized to close. Senator Council waives closing. The question is, shall LB987A be advanced to E&R Initial? All those in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB987A]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB987A]

SENATOR CARLSON: LB987A is advanced. Next item, Mr. Clerk. [LB987A]

ASSISTANT CLERK: Mr. President, LB507A was introduced by Senator Campbell. (Read title.) [LB507A]

SENATOR CARLSON: Senator Campbell, you're recognized to open on LB507A. [LB507A]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. LB507A is the follow-up bill from the discussion last week to provide a safety net for a group of women who will be experiencing domestic violence and who at that point of pregnancy will need prenatal care. This safety net is meant to be in place for those women in terms of whether they would not qualify under the rules that have been set under Medicaid. It is important that, colleagues, that you take a look at the bill because it does outline some very specific conditions upon which this money can be used. No expenditures for permanent and temporary salaries and per diem for state employees shall be made from funds appropriated, and most importantly is that these monies are meant for prenatal care which shall only be used for this purpose. I do think it's very important as we go forward that the interim study group who will monitor where we are

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

Floor Debate
April 06, 2010

with this issue will also monitor the utilization of these funds and any special circumstances that is involved. I feel, with the conditions that are in the A bill and that of the interim study, we have put forth a very good safety net for a special group of women and their unborn children. Thank you, Mr. President. [LB507A]

SENATOR CARLSON: Thank you, Senator Campbell. Members, you have heard the opening on LB507A. Are there senators wishing to speak? Seeing none, Senator Campbell, you're recognized to close. She waives closing. The question is, shall LB507A advance to E&R Initial? All those in favor vote aye; all opposed vote nay. Has everyone voted that wishes to vote? Record, Mr. Clerk. [LB507A]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB507A. [LB507A]

SENATOR CARLSON: LB507A does advance. Mr. Clerk, next item. [LB507A]

CLERK: Mr. President, Select File, LB1048. Senator Nordquist, I have Enrollment and Review amendments first of all. (ER8211, Legislative Journal page 979.) [LB1048]

SENATOR CARLSON: Senator Nordquist for a motion. [LB1048]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1048. [LB1048]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. [LB1048]

CLERK: Mr. President, Senator Langemeier, AM2413, with a note you would like to withdraw that, Senator. [LB1048]

SENATOR LANGEMEIER: Yes, please. [LB1048]

CLERK: Mr. President, Senator Langemeier would move to amend with AM2459. (Legislative Journal page 1260.) [LB1048]

SENATOR CARLSON: Senator Langemeier, you're recognized to open on your amendment. [LB1048]

SENATOR LANGEMEIER: Mr. President, members of the body, I bring you AM2459 as promised on General File. I knew we were going to have to have a cleanup amendment so that is what this is. As we went through the process last time, first of all as we talked about some of the tax components, I have to thank the Revenue staff and Senator Cornett, and I also have to thank Senator Adams and his staff for helping us add the right wording into this particular amendment. They got the new nameplate capacity tax

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

Floor Debate
April 06, 2010

considered in the TEEOSA formula. That was something we were missing on the first round and I have to help thank them very much for their participation. The bill itself is what this amendment becomes. As I introduced it last time and I went through and all the people on the drafting committee listened to me introduce it and they watched me write up my introduction, they decided and with my discussion with them we redrafted it. That's why you see it so thick. We put it in a little more flowing order and so it has been reset for that purpose to make it more readable. There is no substantive changes to this amendment. When you're talking about billions of dollars of investments, we've had developers, public power, landowners, legal counsel. I've met more attorneys. This started out meeting developers, now I've met attorneys making sure that every word was properly defined and that there was no one questioning what that word meant. And so we have done the technical cleanups to make sure everybody is on page with that and we would ask for your adoption of AM2459 to LB1048. Thank you. [LB1048]

SENATOR CARLSON: Thank you, Senator Langemeier. Members, you've heard the opening on AM2459 to LB1048. (Visitors and doctor of the day introduced.) Senator Krist, you're recognized. [LB1048]

SENATOR KRIST: Mr. President and colleagues, the bill as amended, I have...I support AM2459 which becomes LB1048, I understand. My concern, though, has been registered with the state Director of Aeronautics, Mr. Ronnie Mitchell. We have invented a process where an ag sprayer or someone who has a need to fly at low level across the state would have to look at a separate database to find out geographical locations of where those towers, either permanent or otherwise, would be located. Senator Dubas had a bill at the beginning of this session that we were registering those ag sprayers and we knew where they were if they came in from outside the state. I think it's very important to note in this whole process that in pilot terms it's a potential accident waiting to happen if those flyers that are going to be low level do not know where those towers are. Mr. Mitchell has, in many terms, assured me that we would be looking for other opportunities to make sure that that database, that Web site, would be recognized and be available and be advertised for those ag sprayers that are out there. I think Senator Langemeier and his committee have done well putting the bill together. I understand it's taken a lot of effort. I applaud your two-year effort, but I think this particular issue is going to take continued concentrated effort to ensure the safety of those ag sprayers and low-level sprayers. With that, I will yield the rest of my time to Senator Langemeier. [LB1048]

SENATOR CARLSON: Senator Langemeier, 3 minutes and 20 seconds. [LB1048]

SENATOR LANGEMEIER: Thank you, Senator Krist, for the time. As you know, we have put some steps in here to...right now these particular towers have no markings. We have put steps in here to require them to have markings, whether they're paint or lights, and if they're existing towers, to put the 21-inch balls on the guide wires to allow

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

Floor Debate
April 06, 2010

them. There has been a new law passed by the state of South Dakota that the flyers have a lot of interest in and I just want...and I again thank Senator Krist for giving me his time. We are going to draft that and introduce that as a bill next year to either an interim study or...well, we'll look at it as a bill next year to look at all the facets of that South Dakota law to see if we can put some uniformity across the country, and so we will continue to address that as we go forward. And I thank you again for the time. [LB1048]

SENATOR CARLSON: Thank you, Senator Langemeier and Senator Krist. There are no other...excuse me, Senator Sullivan, you're recognized. [LB1048]

SENATOR SULLIVAN: Thank you, Mr. President. I wonder if Senator Langemeier would yield for a question. [LB1048]

SENATOR CARLSON: Senator Langemeier, will you yield? [LB1048]

SENATOR LANGEMEIER: Yes. [LB1048]

SENATOR SULLIVAN: Thank you, Senator. I know I asked when this bill was on General File about the impact that this will...well, first of all, I stand in full support of LB1048. I think this is moving us in the right direction. But if you recall, I asked the question about the impact that this development will have on rates that have typically been low compared to many other states. And recently I received an e-mail from a constituent that was concerned about that, particularly with respect to the private companies exporting power and the development of transmission lines. I wonder if you could shed a little light on that in terms of what will happen with the development of those transmission lines for exportation. [LB1048]

SENATOR LANGEMEIER: Thank you for the question. Our main focus when we started LB1048 was the protection of our Nebraska citizens and the ratepayers. I had to ask the question, I said, what's the advantage to Nebraskans if it causes our rates to go up? And so that has been a focus for us. That's why in the bill it specifically states that as a developer develops, they have to provide the money and develop their own transmission. Now, Nebraska Public Power will actually do the development of the transmission and then bill it back to the developer. So Nebraskans will have the same friendly service they've had as Nebraska Public Power has always done when they put transmission in, but that will be billed back to the developers to prevent any rate increase due to that for Nebraskans. [LB1048]

SENATOR SULLIVAN: Thank you very much, Senator. And again as I said earlier, I'm in full support of this. I've had constituents talk to me again, concerned about the impact on rates. They say, I'm for wind power but go slow on it. I think we're developing this the Nebraska way, and I think it's going to work for our citizens and it's going to work for our state. Thank you. [LB1048]

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

Floor Debate
April 06, 2010

SENATOR CARLSON: Thank you, Senator Sullivan and Senator Langemeier. There are no other senators wishing to speak. Senator Langemeier, you're recognized to close on AM2459. [LB1048]

SENATOR LANGEMEIER: Mr. President, members of the body, again, I want to thank everybody for their participation in this and all the help we've gotten from all the committees and all the staff. It's truly been a collaborative effort and we appreciate it and ask for your support of AM2459. Thank you. [LB1048]

SENATOR CARLSON: Thank you, Senator Langemeier. Members, you've heard the closing on AM2459. The question is, shall the amendment be adopted? All those in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB1048]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Langemeier's amendment. [LB1048]

SENATOR CARLSON: AM2459 is adopted. [LB1048]

CLERK: I have nothing further on the bill, Mr. President. [LB1048]

SENATOR CARLSON: Senator Nordquist for a motion. [LB1048]

SENATOR NORDQUIST: Mr. President, I move LB1048 to E&R for engrossing. [LB1048]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk, next item. [LB1048]

CLERK: Senator Nordquist, LB1048A. I have no amendments to the bill, Senator. [LB1048A]

SENATOR CARLSON: Senator Nordquist for a motion. [LB1048A]

SENATOR NORDQUIST: Mr. President, I move LB1048A to E&R for engrossing. [LB1048A]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried, the bill advances. Mr. Clerk, next item. [LB1048A]

CLERK: Mr. President, LB861. Senator, I have Enrollment and Review amendments first of all. (ER8212, Legislative Journal page 980.) [LB861]

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

Floor Debate
April 06, 2010

SENATOR CARLSON: Senator Nordquist for a motion. [LB861]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB861. [LB861]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. [LB861]

CLERK: Mr. President, Senator Karpisek would move to amend, AM2287. (Legislative Journal page 1029.) [LB861]

SENATOR CARLSON: Senator Karpisek, you are recognized to open on your amendment. [LB861]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I offer AM2287 to correct an oversight regarding application fees. Included in LB861 is an increase in the original application fee for liquor licenses from \$45 to \$400. The intent of this provision is to increase this fee in order to cover the cost for processing these new applicants. In reviewing the fiscal note and after consulting with the Liquor Control Commission, it was brought to my attention that the cost for processing a liquor license application under Section 53-130 for manufacturers, wholesalers, railroads, airplanes, sorry, airlines, boats, and nonbeverage users of alcoholic liquor is not as great as the other types of license applications. The cost for processing this type of application is considerably less because it does not involve other agencies like a retail license would. Therefore, in order to be true to the intent of this provision, I believe that this amendment is necessary. Thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator Karpisek. Members, you've heard the opening on AM2287. Are there senators wishing to speak? Seeing none, Senator Karpisek, you're recognized to close. Senator Karpisek waives closing. The question is, shall AM2287 be adopted? All in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB861]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Karpisek's amendment. [LB861]

SENATOR CARLSON: AM2287 is adopted. [LB861]

CLERK: Mr. President, Senator Coash would move to amend, AM2163. (Legislative Journal page 943.) [LB861]

SENATOR CARLSON: Senator Coash, you are recognized to open on your

Floor Debate
April 06, 2010

amendment. [LB861]

SENATOR COASH: Thank you, Mr. President. Good morning, colleagues. I appear today to introduce AM2163 to LB861. Let me give you a very straightforward explanation of exactly what AM2163 and then I'll tell you where this particular amendment came from. AM2163 applies to the closing time of alcohol establishments. Here are the provisions. An establishment may stay open until 2:00 a.m. with the consent of a supermajority of the local governing body, which means either the city council or the local county board has to vote to approve extending the closing time to 2:00 a.m. Alcohol sold would still have to be consumed on the premises so this is not an off-sale change. In order to harmonize this, the lottery would extend as well. And consumption by patrons would be prohibited 15 minutes after the closing time. AM2163 is a hybrid of two bills that we heard in the General Affairs Committee over the last two years and I believe that this hybrid brings out the best of both of those bills. They are LB262 and LB1013. What we're considering now is an amended version of LB1013 which advanced out of the General Affairs Committee on a vote of 7 to 1. Let me tell you what the key differences are between a couple of these bills that we heard. The main difference, colleagues, is this bill keeps the default closing time of bars at 1:00 a.m. However, it allows for an opt in to up to 2:00 a.m. This allows for local control because, again, the local governing body has to approve this; it allows for flexibility. Let me give you a couple of examples as I've talked with folks who might implement this. This might be something that a local governing body could say, 2:00 a.m. works for us but we only want to see it on Friday and Saturday evening. Well, we can do that. Your community may have a special event, county fair, something of that nature. The county board could extend the 2:00 a.m. closing time just for that week, okay, and they do that by either ordinance or resolution. I will point out to you that on both of these bills, LB262 and LB1013, local law enforcement did not come and testify in either a proponent or opponent or even a neutral position. As I've talked with our local law enforcement, they indicate that they prefer the local governing body making that decision because that gives your local police chiefs, county sheriffs the opportunity to interact with their local governing board and let them know what exactly the challenges would be should they choose to implement this. So with that, I will close on AM2163 and see if anybody has any questions. Thank you, Mr. President. [LB861 LB262 LB1013]

SENATOR CARLSON: Thank you, Senator Coash. Members, you've heard the opening on AM2163. Those wishing to speak, Senator Howard, and you are recognized. [LB861]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Coash would allow me to ask him some questions regarding this. [LB861]

SENATOR CARLSON: Senator Coash, would you yield? [LB861]

SENATOR COASH: Yes. [LB861]

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

Floor Debate
April 06, 2010

SENATOR HOWARD: Thank you. I want to better understand your amendment so please help me kind of work through this. Does this mean that the city council...I'm thinking of Omaha, the city council could approve, say, a particular bar to stay open until 2:00 if they put in request and said, we'd like to do this? [LB861]

SENATOR COASH: Senator Howard, no, they couldn't say this bar could stay open until 2:00 a.m. What they could say is, within the city limits of Omaha they can extend the closing time to 2:00 a.m. Each bar...you know, bars can close at 10:00 p.m. if they want to. This just is permissive in nature to allow them to close until 2:00 a.m. And by the way, they can also roll it back if they want to. They've always had that ability. The city council could say, we're having everybody close at 10:00. [LB861]

SENATOR HOWARD: Well, that's unlikely (laughter) but thank you for the information. However, what this amendment really says to me, now that you've explained this, is that the city council has the option to allow bars in Omaha to stay open until 2:00 a.m. And in my district, District 9, I think many of you are aware we've had a serious problem with liquor proliferation and liquor outlets and the crime that liquor brings. We've had...I'll go ahead and name it, a bar by the name of Cheaters at 40th and Farnam that had such an excessive amount of police calls that it finally has been shut down, but it took two years and concentrated efforts on the part of the neighborhood to get the problems that were going on addressed. And I might add the Omaha Police Department was very diligent in working on that issue, was very concerned about it, and had to take their time to come down to the city council and testify regarding all the problems that were well known pertaining to the Cheaters Bar. I have some very serious concerns about allowing this measure that the bars in Omaha potentially could stay open until 2:00. I see that coming. I see that as what will immediately happen is this measure will go before the Omaha City Council and I think chances are that it probably would be approved, and I can't support this amendment. Thank you, Senator Coash. [LB861]

SENATOR CARLSON: Thank you, Senator Howard and Senator Coash. Speaker Flood for an announcement. [LB861]

SPEAKER FLOOD: Thank you, Mr. President and members. One quick scheduling note: I am going to modify today's agenda, specifically LB563 on your agenda will be placed after LB594. Please make a note on your agenda, LB563 will be moved to the spot right after LB594 from Senator Dierks. So please make a note on your agenda. After we resolve LB861, we'll proceed to LB961. After LB961, we'll go to LB1072. Thank you, Mr. President.

SENATOR CARLSON: Thank you, Speaker Flood. (Visitors introduced.) We return to discussion on AM2163. Those wishing to speak: Senators McGill, Council, and Stuthman. Senator McGill, you're recognized. [LB861]

Floor Debate
April 06, 2010

SENATOR MCGILL: Mr. President, members of the body, I rise in support of Senator Coash's amendment, AM2163. I think this is something that, you know, many people in my generation muse over a lot, the fact that any other state and any other major city the bars are allowed to stay open until 2:00. In fact, Omaha is the largest city that doesn't have a 2:00 or later closing time. We look at the way that the convention center has not brought in the money that we thought it would, the Qwest Convention Center, because conventions don't want to take place in a city where the people who come here to visit aren't allowed to stay out and have a good time as well as attending the convention. Currently, we have people just driving across the river to Iowa so they can stay out and drink longer. I think this is a decision we should allow Omaha to make and allow all of our cities to make. I would hope that we would consider it here in Lincoln. I think it's something that helps attract young people to staying in Lincoln and to coming here in the first place. I think with ourselves, with late games here in Lincoln during the fall, that that extra hour would allow fans to enjoy themselves longer out on the town, and then wind down in a more appropriate way. I think we see people out drinking until 1:00 and pounding it hard to fit it all in before the 1:00 hour instead of taking their time and drinking in a more responsible rate with the bar staying open until 2:00. You know, I like that there is local control in this amendment instead of saying all bars, 2:00 a.m. across the state. I know different locations won't want to have 2:00 a.m., but I think that on a city-by-city basis this is something that we seriously need to consider if we want Nebraska to stay competitive, especially our cities like Omaha and Lincoln, and really I would encourage other parts of the state to think about it, too, if they want to be attracting businesses or shows or conventions to their parts of the state. I think it's something that we've fallen behind on in terms of attracting people and improving an environment where young people want to stay and live and have a good time and be more responsible by making it 2:00. And with that, thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator McGill. Senator Council, you're recognized. [LB861]

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise also in support of AM2163 and I just want to follow up on some comments that my colleague, Senator McGill, made. I appreciate the concern that was expressed by Senator Howard, but one of the issues that we face in the state of Nebraska is commonly referred to as brain drain and that is when young people who are, for the most part, college educated elect not to stay in the state of Nebraska. Now, while I think some will question the point I'm about to make, but I have had conversations with a number of young professionals, particularly those who completed their undergraduate education in larger cities outside the state of Nebraska, who when asked why they're not returning to Nebraska or once they've returned, particularly to the Omaha area, why they're looking to move out of the area, they tend to believe that we're not as progressive as the larger cities where they've gone to receive their undergraduate education. Many of them, the young professionals,

Floor Debate
April 06, 2010

and I've spoken to young professionals who are a part of Leadership Omaha and some other young professional organizations who would be supportive of allowing local political subdivisions to decide whether or not they wanted to extend closing hours until 2:00 a.m. Now, I don't know and I was hearing one of the concerns from my colleague, Senator Howard. My understanding that Senator Coash's bill applied particularly to holders of Class C and I and J liquor license, basically bars and lounges, and it was my understanding it was not his intent to allow off-sale liquor establishments to stay open beyond 1:00 a.m. And if that is a way of addressing some of the current concerns, I'm sure that Senator Coash would be open to an amendment returning the bill to Select, if it's not in there, to addressing that. But it's basically to place our metropolitan areas, Lincoln, Omaha, Grand Island, others who are experiencing some of this loss of young professionals who are looking to locate in areas where they have more entertainment options. And as Senator McGill stated, many times when Omaha and Lincoln and other places are being considered as convention locations, one of the things that these groups look at are what are the entertainment option for their visitors. And unfortunately in the Omaha area, the city of Omaha not only has to compete with the casinos right across the river, they also have to compete with the bars and lounges across the river that stay open until 2:00 a.m. I can tell you from personal experience, as a former bar owner, I would witness my customers begin to leave my establishment at around 12:45 a.m. so that they could get over to Council Bluffs and continue their entertainment, because they stay open until 2:00 a.m. City council members in Omaha, who I have had the opportunity to discuss this with, have advised me that they are supportive of being provided the opportunity to vote on whether or not... [LB861]

SENATOR CARLSON: One minute. [LB861]

SENATOR COUNCIL: ...to extend the closing hour in the city of Omaha until 2:00 a.m. So for those reasons, I'm supportive of AM2163, recognizing that it is a part of a bill that addresses the Liquor Control Act and the Nebraska Liquor Control Commission. I am confident that the Nebraska Liquor Control Commission would address any problems that are presented to neighborhoods by irresponsible bar and lounge owners, and that this would enable those responsible lounge and bar owners the opportunity to expand their business, expand their market, and to compete on an even basis with bars and lounges in Council Bluffs. Thank you. [LB861]

SENATOR CARLSON: Thank you, Senator Council. Senator Stuthman, you're recognized. [LB861]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Coash a question. [LB861]

SENATOR CARLSON: Senator Coash, would you yield? [LB861]

Floor Debate
April 06, 2010

SENATOR COASH: Yes. [LB861]

SENATOR STUTHMAN: Senator Coash, with your amendment here, does this mean that any bar in any city or any village, upon approval of the county board or the city council of a community, could stay open until 2:00? [LB861]

SENATOR COASH: Yes. [LB861]

SENATOR STUTHMAN: Okay. So in other words...that's all the questions I have for you. So in other words, in my opinion, you know, several bar owners could say, you know, we would like to stay open until 2:00, but I think the determining factor is, you know, will they be able to convince the county board, the city council of communities whether they have, you know, the support of staying open one more hour longer. I do realize the fact that, you know, in the bordering communities, you know, where they do allow them to stay open until 2:00, I do realize that, that it is...it may be a contributing factor. I think I'm supportive of the local control in an issue like this. I really truly think and I hope to the fact that people are responsible enough that they're not intoxicated by 1:00 and wanted to go to get super intoxicated by 2:00. But I think there could be some windfall from this. Law enforcement might be, you know, be able to pick up more people between 1:00 and 2:00. There's not too many people driving around in the rural areas between 1:00 and 2:00, depending upon if they allow the bars to be open. So I am going to listen to the debate at this time. You know, I support the local control of that part of it but the issue that I have, you know, and the real concern that I have is, you know, are those people going to be more intoxicated at 2:00 than they were at 1:00. But I think the biggest issue, in my opinion, is responsibility of those individuals. Hopefully, they have to be up at 6:00 to get to work at 8:00 the next morning. So maybe the one hour extra won't affect those people. So I'm going to listen to the debate. I do support the local control in this effort. Thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator Stuthman. (Visitors introduced.) We return to discussion on AM2163. Those wishing to speak: Senators Krist, Howard, Lautenbaugh, Dubas, Coash, and Sullivan. Senator Krist, you're recognized. [LB861]

SENATOR KRIST: Mr. President and colleagues, I stand in support of AM2163 and the underlying LB861 and I give you just a few examples. Senator Stuthman, you are right on the mark--government at the lowest level possible. Let those folks in local communities make those decisions. Our geography dictates that where you are in proximity to another venue may encourage you to bring that venue to you and to have that money stay close. I give you an example, personally, of many events that we have attended at the Qwest Center or in downtown Omaha where those events have ended at a point where you have a choice. You can run to a restaurant and shove down dinner and have a glass of wine in an hour and a half or you can go across the river and take a leisurely dinner for two and a half hours. Now, that's not...did I say anything about

Floor Debate
April 06, 2010

alcohol? No, not really, except for the glass of wine. What I said was, the venue would be available because, folks, there are a lot of restaurants in the downtown area that are making their money, a greater percentage of their money, on the profit for the alcohol they sell with the dinner. If they don't stay open to serve dinner and don't have the alcohol option available, it's not economically feasible for them. So that would be my second example. And then finally I would say this. The number one complaint I heard from the 20 or so people that I know that came into the city of Omaha for the swim trials, the Olympic swim trials, was, what, 1:00? Every one of those folks went across the river into Council Bluffs if they chose to have a late night dinner, to socialize late. I don't think we have to glamorize alcohol. I don't think we need to talk about slamming or getting more drunk or whatever it might be. I think we need to talk about enabling those venues, those brands of entertainment that follow a reasonable evening at a concert or at an event downtown. So for all those reasons, I support Senator Coash's AM2163 and urge your support of LB861. And I would yield the rest of my time to Senator Coash, if he would like it. [LB861]

SENATOR CARLSON: Senator Coash, 2 minutes and 40 seconds. [LB861]

SENATOR COASH: Thank you, Mr. President. Thank you, Senator Krist. I just want to bring up a few things. We've had a nice discussion on local control. There is a provision in this amendment that I want to make sure folks are aware of. First of all, this isn't just a majority of the local governing body. This is a supermajority. So that local governing body has to be really, really sure that this is right for their community. Local input is important and that's why I drafted this amendment in this way so that local communities, because they know the local problems, they can make those decisions. If you're in a small county out west and you've got three options and there are problems, who is going to know that? The local county board is going to know those problems. Senator Stuthman was right, the local bar owners, the citizens of that community, they are going to have to go convince their local governing board and they're going to have to convince them very well with a supermajority. Again, the locals know the problems so they're going to be able to make the best decision. In response to a question earlier about on- or off-sale, I think by Senator Council, this amendment applies to sales on...for consumption on the premises only. This does nothing...this means if you have a liquor store, it's still closing at the latest at 1:00 a.m. Okay? This only applies to on-the-premises sales of alcohol only. And thirdly, I will let you know where we are in comparison to our neighbors. We seem to be a big fan in this body of comparing ourselves to our neighboring states. Let me just tell you where our neighboring states are:... [LB861]

SENATOR CARLSON: One minute. [LB861]

SENATOR COASH: ...Iowa, 2:00 a.m.; South Dakota, 2:00 a.m.; Kansas, 2:00 a.m.; Wyoming, 2:00 a.m.; Colorado, 2:00 a.m. So if you happen to represent a district near a

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

Floor Debate
April 06, 2010

border you can just ask yourself where folks might be going, as Senator Council mentioned, at 12:30. Thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator Coash and Senator Krist. Senator Howard, you're recognized. [LB861]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Coash again would yield to me for a few questions. [LB861]

SENATOR CARLSON: Senator Coash, would you yield? [LB861]

SENATOR COASH: Yes. [LB861]

SENATOR HOWARD: Thank you, Senator Coash. In listening to the debate, there's just a few things that have occurred to me. All night grocery stores, will they be allowed to sell liquor later if they would choose to or are they included in the 1:00 a.m. curfew? [LB861]

SENATOR COASH: If the grocery store has an off-sale license, which most of them do, they have to stop their sales at 1:00 a.m. This is for...and line 21 and 22 of the first page, if I could read it to you: permit retail sales or dispensing of alcohol for consumption on the premises, excluding sales for consumption off the premises later than 1:00 a.m. [LB861]

SENATOR HOWARD: Okay. [LB861]

SENATOR COASH: So the off-sale licenses would not apply in this amendment. [LB861]

SENATOR HOWARD: That includes everyone that would be selling bottled or canned, for taking away. [LB861]

SENATOR COASH: That's correct. [LB861]

SENATOR HOWARD: All right. Well, that's helpful to know that. I'm wondering, too, if a group goes before the, say, city council in Omaha and requests this but they're denied, can this be appealed to the Liquor Commission? [LB861]

SENATOR COASH: Where's Hobie? Hobie? I'm going to check on that to make sure. I will tell you that I believe that local...they're going to have to follow the local process as far as appealing that to the local governing body. [LB861]

SENATOR HOWARD: Well, let me tell you what's happened recently in Omaha. The

Floor Debate
April 06, 2010

city council approved a liquor license for nine Walgreens. I believe it was nine Walgreens stores to sell liquor and they immediately appealed that to the Liquor Commission which granted permission for all the Walgreens to sell liquor. And so I'm wondering if that's the next step. If they're denied that in their community, if this body, whoever it would be, I'm assuming it would be the bar owners, would say, but we want to stay open until 2:00, we'd like to have a means to appeal this and the Liquor Commission is our next stop. [LB861]

SENATOR COASH: Senator Howard, this bill has nothing to do with the liquor license. It has to do with the state law on how soon a liquor establishment has to close. So there is no appeal to the Liquor Commission if they don't like this. They have to continue to work it through the ordinances. The ordinances or in the case of a county board, the resolutions would have to...that process has to be followed. [LB861]

SENATOR HOWARD: Well, I can appreciate that. Again, that's helpful information. I'm thinking if there are individuals on the city council, for example, that do have a stake in a bar and it's profitable to them to stay open later, it would seem to me that that decision wouldn't be too hard for them to make. I don't buy the argument...thank you, Senator Coash. I don't buy the argument that staying in a bar later makes you a more responsible drinker. I've never seen any statistics on that. I would find that really very hard to believe. That would give you more opportunity to drink certainly but in terms of making more conscientious, about your drinking, decisions, I don't think, for my knowledge, that really falls in line. One thing I'd like to point out on this and in dealing with the issues in District 9 it's become very, very apparent to me. Neighborhood bar means a bar in a neighborhood and many, many bars in Omaha are neighborhood bars. And I would suggest in small communities, many of these bars are located very close to where people live. I am fortunate. I don't have a bar on my block or in the close vicinity where I would be hearing the noise, but let me tell you when a bar closes at 1:00 a.m., the noise and the disruption can be incredible. When I visit my younger daughter in Chicago, her apartment building is very near a section of Chicago where there are a lot of young professionals go to the bars. [LB861]

SENATOR CARLSON: One minute. [LB861]

SENATOR HOWARD: Thank you. And when those bars close, the noise in the street is...I can only say it's incredible. And the police presence is multiplied at those times. I think this is a decision we need to think long and hard about. Allowing bars to stay open until 2:00 in the morning will have a lot of impacts, not only on Omaha but also on smaller communities. Thank you. [LB861]

SENATOR CARLSON: Thank you, Senator Howard and Senator Coash. Senator Lautenbaugh, you're recognized. [LB861]

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

Floor Debate
April 06, 2010

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this and I do thank Senator Coash for bringing this amendment. And again, I don't want to belabor this and I won't, but this is about local control. And as I've said here before, we're all in favor of local control until we're not. But this is an occasion where I think it's a pretty clear-cut choice. And I'm wondering if Senator Howard would yield to a question. [LB861]

SENATOR CARLSON: Senator Howard, would you yield? [LB861]

SENATOR HOWARD: I will. [LB861]

SENATOR LAUTENBAUGH: Senator Howard, you mentioned the licensing, the license applications of some Walgreens in Omaha that you're familiar with. [LB861]

SENATOR HOWARD: I'm somewhat familiar with. I'm, obviously, not on the city council. I, obviously, did not have a hand in that decision making. [LB861]

SENATOR LAUTENBAUGH: Do you know how many Walgreens applied to be licensed with the city of Omaha? [LB861]

SENATOR HOWARD: I believe, and again I didn't bring my facts and figures up here with me this morning, but I believe there were 34 Walgreens that applied, soon to be followed by many CVSs moving into Omaha. [LB861]

SENATOR LAUTENBAUGH: Do you know how many Walgreens the city council approved? [LB861]

SENATOR HOWARD: I believe it was nine. [LB861]

SENATOR LAUTENBAUGH: Nine out of the thirty-some applicants, is that correct? [LB861]

SENATOR HOWARD: That's what I said. [LB861]

SENATOR LAUTENBAUGH: Okay. Now, you've been, I think, advised and as I read this amendment it's true that for the 2:00 a.m. special opening time, there's no appeal beyond the city council. Do you understand that as well? [LB861]

SENATOR HOWARD: That was the question I asked Senator Coash. [LB861]

SENATOR LAUTENBAUGH: And I think you were given the answer that there is no appeal beyond the city council or local governing board as this amendment is written. It would not go to the Liquor Control Commission. And that's the end of my questions,

Floor Debate
April 06, 2010

Senator Howard. Thank you. [LB861]

SENATOR HOWARD: Thank you. [LB861]

SENATOR LAUTENBAUGH: I think that's important, folks, because that shows that the city of Omaha, city council, is not a rubber stamp for liquor licenses. All the Walgreens has applied, Walgreens applied, and 9 out of the 30-some were approved. Now, there's no reason to think that every bar owner who applied for this in Omaha would be approved either. They go through a process. And this would require a supermajority beyond what a liquor application license would take. I understand some of the opposition to this but it's not persuasive to me. I hate to mention roadside trapping but I will, because this came up during that debate where people were saying these trappers didn't tell us yet why they want to trap in the ditches. And I pointed out, well, Senator Rogert has a bill, this was a couple years ago, where it's 2:00 a.m. closing time and I'm getting people calling me and saying, I don't know why people need to stay out until 2:00 a.m. Well, neither do I, but that's not really the test. We should have a good reason why they shouldn't or we should let the localities control and err on the side of personal freedoms. And I don't think that can be said often enough here: Err on the side of personal freedoms. We've been told this won't allow off-sale after 1:00. That's fine. For some, that won't be enough. We've been told there is no appeal beyond the local governing board that has to come up with a supermajority. That's a good thing. For some, that won't be enough. But the reality is, people will find a way, if people are of a mind to stay out, they will. It just won't be in a controlled environment and you'll have all the things that people don't want that we have under current law, people hanging around parking lots, people doing what they do. And I think there's a big difference between 1:00 and 2:00. I think people will gradually go home, as opposed to every person stay out until 2:00 in the areas where this is allowed. So which makes more sense, to force everyone to hit the road at the same time at 1:00 or to allow for a more gradual departure? I think this is a good amendment. I think Senator Krist is dead on. He mentioned the swim trials. I'll mention the more recent wrestling finals that took place in Omaha. While this is not an Omaha bill, per se, because this could be any place statewide... [LB861]

SENATOR CARLSON: One minute. [LB861]

SENATOR LAUTENBAUGH: ...that so chooses--thank you, Mr. President--we are the only top 50 city that has a 1:00 a.m. closing time and people that come from elsewhere are genuinely surprised. People that come from elsewhere may not be of a mind to come back. All this does is let the localities decide and that's what we're supposed to be in favor of. We all, from time to time, talk about how great it is to have local control. That's what this amendment allows. I believe that the local boards can be trusted. I trust the city council to make that determination. I think they've shown they are careful about liquor decisions and I would urge you to vote for this amendment regardless of where

Floor Debate
April 06, 2010

you live in the state because I think there's benefit in it for all of us. And it does give a little bit of personal freedom, I think, to people and that's never a bad thing, all other things being equal. Thank you. [LB861]

SENATOR CARLSON: Thank you, Senator Lautenbaugh and Senator Howard. Senator Dubas, you're recognized. [LB861]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. As a member of the General Affairs Committee, I was one of those senators who was in opposition to the two bills that Senator Coash referenced that had been introduced to the General Affairs Committee about the extension of these hours. I tend to have rather old-fashioned values and would frequently tell my children, when we were arguing about curfews, that nothing good happens after midnight, so that's when you'll be home. And tend to carry that same viewpoint forward on this issue. But as we discussed the issue, as the hearings brought more information in, I recognized, especially for those communities like Omaha who are on the border, the challenges that they face to compete economically. We do not operate as an economic island. I introduced a bill last year that would allow an exemption for sales tax on farm equipment parts because our bordering states have that exemption and our implement dealers who are on the border, it's causing them economic damages because farmers will be willing to travel across the border to save a few dollars. So we do compete with our surrounding states and we put our businesses at a disadvantage when we don't allow them to operate on a somewhat level playing field. So I, you know, I struggled a little bit with my decision on this and originally the bill was to just to allow Omaha to do this. I still had, you know, I still had some issues. But as Senator Coash worked on this and he and I discussed, I am a believer in local control. You have to have a supermajority. This does not impact off-sale; it's only on-sale. I felt those people at the local level are the ones who best know their situations, best know their businesses, best know their constituency; they're going to be held accountable to their constituency forever for whatever decision they make. And so with that, I was able to say I could support this amendment because of the local control issue and that this wouldn't be a broad brush, this wouldn't be across the state. It would allow communities like Omaha to be able to compete with communities across the river, allow them to develop their businesses. You know, when we tend to think of liquor licenses, we're thinking of bars, we're thinking of a lot of different types of businesses. There are a lot of businesses in the downtown Omaha area who are upscale restaurants and those types, who don't attract what we think of as that bar crowd or that rowdy crowd, that will allow them to compete, to grow their business, and to contribute to our economy. I have family members who live in the Omaha area who tell me regularly they're going to leave...they're either going to decide either not to go out to eat in Omaha and just go ahead and go across the river to eat or they're going to leave the local establishment early and go across the river. That's not a decision I would make but it's the decision that's being made on a regular basis in the Omaha area. So again, this comes back to local control and not just a majority but a

Floor Debate
April 06, 2010

supermajority who are going to have to answer to their local constituency, have to be responsible for the issues that happen in their local areas, have to work with their local law enforcement, making sure that they're on board with this. So while I understand the concerns that have been raised, I had many of those concerns myself, I was able to get on board with this amendment because I think it took those extra steps to make sure that we're going to address the concerns that have been raised in a responsible fashion. So I do support AM2163. Thank you. [LB861]

SENATOR CARLSON: Thank you, Senator Dubas. Those still wishing to speak: Coash, Sullivan, Fulton, Christensen, and Howard. Senator Coash, you're recognized. [LB861]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues. I wanted to make sure, just get on the record myself a couple of things about this amendment so that it is clear. Should...first of all, colleagues, if this amendment passes, 2:00 a.m. does not become the law of the land for bar closing times. Doesn't happen. It may never happen because our local governing bodies may decide that what we have now is adequate. They could back it down now without this amendment. They could say 11:00, 10:00. They can do anything before that. What this amendment does is gives them authority to move it forward if they so choose. This amendment has nothing to do with the Liquor Control Act, has nothing to do with alcohol licenses to sell or to serve. If a local governing body wants to do this, they can do it because a city council member thinks it's a good idea. They don't have to be petitioned by a bar owner, they don't have to be...have a group that comes and says this is what we want. They just have to decide this is what's right for their particular city. This does not apply to off-sale licenses. I know it's been said, I wanted to get on the record. Off-sale licenses, still 1:00 a.m. This is not appealable because nobody has to bring this. Okay? So if a city councilmember, for example, thinks this is a good idea, and it's voted on and it fails because the supermajority has to be there, then that's it. Because it doesn't go through the Liquor Control Act, there's no appeal process. And finally, colleagues, I'll tell you that sometimes being different is good. Sometimes being the lone black sheep in a flock of white sheep is a good thing. In this case with this particular issue, colleagues, I'll tell you it's not good. I'm a believer that we have to stay competitive. We have heard some reasons earlier about why this could help us stay competitive. And I'm also a believer that Nebraska is a very independent state. And we are a state full of smart, thoughtful, locally elected officials that can easily make this decision based on the needs and the wants of their own community, and that's what AM2163 does. Thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator Coash. Senator Sullivan, you're recognized. [LB861]

SENATOR SULLIVAN: Thank you, Mr. President. Well, first of all I can't imagine staying out until 2:00 in the morning. Probably, if...would choose to do that in the privacy of my

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

Floor Debate
April 06, 2010

own home. But I think that having the local control is a good idea, but I do have, with respect to that, a question for Senator Coash. [LB861]

SENATOR CARLSON: Senator Coash, would you yield? [LB861]

SENATOR COASH: Yes. [LB861]

SENATOR SULLIVAN: Senator, my specific question relates to special events because in my small communities that there's a lot of community clubs and the like that apply for liquor licenses to host an event. Now if they wanted to stay open or have...be able to serve liquor until 2:00, would they be...would they go through the same process, right? They're included in this amendment, right? [LB861]

SENATOR COASH: Senator Sullivan, if I think I get your question right, now you're talking about some people who hold a liquor license, right? [LB861]

SENATOR SULLIVAN: Yes. Yes. [LB861]

SENATOR COASH: This does not apply to folks who hold a liquor license. If the local governing board, like in your case maybe a city, said we're going to extend it, then all of the liquor license holders within that...those boundaries could then extend their on-sale sales to 2:00 a.m. [LB861]

SENATOR SULLIVAN: Okay. Now, and you indicated in your comments previous that the decision and the idea would be coming from one of those board members. But what if the request came from the other way, to a board member asking them to... [LB861]

SENATOR COASH: Sure, they can do that. [LB861]

SENATOR SULLIVAN: Okay. [LB861]

SENATOR COASH: But unlike the Liquor Control Act, this decision is not appealable. [LB861]

SENATOR SULLIVAN: I see. Okay. Thank you very much. [LB861]

SENATOR CARLSON: Thank you, Senator Sullivan and Senator Coash. Senator Fulton, you're recognized. [LB861]

SENATOR FULTON: Thank you, Mr. President, members of the body. When Senator Coash approached me to ask how I would be voting on this, my initial reaction was to say I don't think it's a good idea. But I've sat here and I've listened and basically I've put forward the reasons that I would be against the bill and then I've tried to shoot each one

Floor Debate
April 06, 2010

of them down, and as I have succeeded in debating myself--a shout out to Senator Friend--I think I'm going to vote for this. And let me, if I could, I think there are some people still that are debating whether or not they're going to vote for this, debating with themselves. Let me, if I could, share with you the principles that I found competing here. On the one hand, you have the principle of subsidiarity and we call that local control. And it's important because that body which is closest to a problem is the most qualified to deal with that problem. That's the principle we all call local control. On the other hand, we have the legitimate responsibility of the state. We are a sovereign state and the state has the responsibility for law and order. Now let me put forward a debate that we had and that we have had and we will continue to have and that is the ban, the smoking ban. We remember how contentious that was. And if you hearken back, I think you will find that these principles were competing: When does the state, when should the state come in to make for uniformity in the law and when does the state back off to give an element of local control to a municipality or a political subdivision? And I submit to you, colleagues, that becomes a question of judgment. There is an appropriate time for the state to step in and say that there should be uniformity in the law. But there also has to be some element of control for those political subdivisions, otherwise you wouldn't need political subdivisions. If you go to either extreme, you eliminate the need for that government entity. If we're going to be absolutely about local control, then we don't have to have the state making laws because the locales can do it. On the other hand, if we say that all things should be local, then we don't need a state. We don't need a sovereign to be putting forth uniformity in our laws, law and order. So these are the competing principles. We have to utilize prudence and judgment to determine somewhere in between. The concern that I had was that we would have a patchwork, a patchwork of cities and towns, some of whom will say 2:00 is the closing time, some of whom will say 1:00 is the closing time. If that's the case, then you could see that in one city or in one town, where they shut down at 1:00, folks would pile into the car and road trip to that town where 2:00 is last call, and that's dangerous for many reasons. I don't think I have to elucidate that any further. A bunch of people who have been drinking who get into a car to drive to another place and start drinking again, that's a bad thing. But I can tell you as a person who grew up in a town not far from Iowa, Missouri, and Kansas, in the southeast corner of the state, this happens now with those cities, towns, villages that are on borders. And one of the largest metropolitan...well, one of the largest areas is a metropolitan and that's Omaha and I suspect that there are folks that will pile into a car to go across the river. So one of the reasons to vote against this is because we would have a patchwork of ordinances that would encourage people to behave irresponsibly. I think that occurs now so I don't think that that is a legitimate argument. That was probably my strongest argument against this and I don't think it's legitimate. The second argument that I had against this was that of law enforcement and we heard that law enforcement did not... [LB861]

SENATOR CARLSON: One minute. [LB861]

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

Floor Debate
April 06, 2010

SENATOR FULTON: ...come in and testify on this issue, but it seems that when we have extended drinking hours for people to purchase drinks that we could have problems that ensue afterward. Well, who is best equipped to determine whether indeed there will be problems in a specific city or village or town if not the local law enforcement? And that, friends, is a principle of local control. We can sit here and debate all day long what's going to happen. Ultimately, in my judgment, I think, the people most proximate to this issue are the ones best equipped to make the judgment. So I have changed my mind on this, after having listening to debate. I don't know if that's good or if that's bad, but I appreciate the debate and I stand in favor of AM2163. Thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator Fulton. Senator Christensen, you're recognized. [LB861]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Coash yield to a question, please? [LB861]

SENATOR CARLSON: Senator Coash, will you yield? [LB861]

SENATOR COASH: Yes. [LB861]

SENATOR CHRISTENSEN: Senator Coash, did you say that this would take a supermajority? [LB861]

SENATOR COASH: Yes. [LB861]

SENATOR CHRISTENSEN: Would you support then a supermajority in LB160 on the Papio bill a year ago was two-thirds. Went back and looked it up under LB160. It's on page 2, line 4, it says two-thirds of the members we called a supermajority. Would you be agreeable to me drawing up an amendment to change this to two-thirds? [LB861 LB160]

SENATOR COASH: Senator Christensen, I don't have any problems with that. I don't think it changes this amendment because without what I have here, 60 percent. I mean 60 percent is... [LB861]

SENATOR CHRISTENSEN: It could make a difference, depending upon the size of your board. [LB861]

SENATOR COASH: That's right. I mean some counties have five-member boards, others have seven, so... [LB861]

SENATOR CHRISTENSEN: If you have a five-member board, it only takes three, which

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

Floor Debate
April 06, 2010

is just a majority, and it could bump that up. I didn't do the division but I think that...I'm not overly enthused about this particular amendment, I'll be honest. But I think a little consistency in what we call a supermajority would be good, and I just wondered if you would agree to support my amendment. [LB861]

SENATOR COASH: Senator Christensen, again, I don't think two-thirds is much different than what we have here, so I'll take a look at it. If it makes you feel more comfortable, I'll definitely consider it. [LB861]

SENATOR CHRISTENSEN: Okay. Thank you. I don't know, I look at this bill and I'm not sure there's that many people leave Omaha at 1:00 in the morning to drive to Council Bluffs to come home at 2:00. Time you drive over there, it's not just a five-minute drive. I doubt you're going to go up and around in five minutes, get to the bar you want. And typically, they'll have last call a little bit early. And the added risk that you take, the added risk we're putting our citizens in, I'm not sure this is a good thing. I get concerned about setting people up for failure. When you get to drinking it's very easy to not make as rash of judgments. And I look at it from a business owner's perspective. If I'm hiring an employee and he's going out drinking, 1:00 is bad enough, 2:00 is even worse, especially if he's got to be to work early. I know every job is different, but I get a little concerned about the bill. I think if we moved it up to a supermajority and it was consistent, it would definitely be better. I guess I'm not sure what to say here. I'm just concerned about it and I'll continue to listen to debate. Thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator Christensen and Senator Coash. Those still wishing to speak: Senators Howard, Janssen, Cornett, Haar, and Nelson. Senator Howard, you're recognized. This is your third time. [LB861]

SENATOR HOWARD: My third time. Thank you, Mr. President and members of the body. Again, if Senator Coash is available. [LB861]

SENATOR CARLSON: Senator Coash, would you yield? [LB861]

SENATOR COASH: Sorry. Yes, I will. [LB861]

SENATOR HOWARD: Thank you, Senator Coash. I know how diligent you are about issues that you bring to the floor and issues that you present as bills, and so I'm hoping that you can give me some, at least, ballpark figures. In working with my neighborhoods and my neighborhood associations in dealing with issues regarding liquor in District 9, I am well aware that there's an increased presence, police presence required at bars after 1:00 a.m., when people are leaving those bars. And can you give me any numbers, any statistics regarding DUI arrests after the bars close at 1:00 a.m.? I'm thinking that those are probably higher than prior to 1:00 a.m. [LB861]

Floor Debate
April 06, 2010

SENATOR COASH: Senator Howard, I don't have any statistics that will tell me about DUI arrests per time. I can tell you, local enforcement will tell you that DUI arrests happen after people are no longer able to be...I mean, once they leave and they start getting in their cars, whether it's 11:00, 12:00 or 1:00, that's when the DUI arrests happen, so... [LB861]

SENATOR HOWARD: So it's kind of a window. It sounds like there's sort of a window of increased risk, if you will. [LB861]

SENATOR COASH: I would say that the DUI arrests happen whenever the closing time is. I don't know that they go up or down, but we can contact folks and get that information. [LB861]

SENATOR HOWARD: That would be helpful. In just thinking back from my own knowledge I know, you know, there's always...people are always worried about New Year's Eve going out because it's such an increased risk time and I know from dealing with the Cheaters Bar and all the work my neighborhood associations did regarding that, is the police presence was always...there was always a higher need for that police presence at around the time when that bar was going to be closing. And to my friend Senator Lautenbaugh's argument is that all the states have this and so that would be good for us. You know there's that old mom argument that if everyone stood on a bridge and was jumping off, would you do that too? I think we need to really consider this. Is this what we want for our state, a state that's certainly has been individual? The Unicameral is a good example of that. I would say local control certainly has its place and I appreciate that. If local control only serves as a vehicle for a higher body, such as the Liquor Commission, to counteract what the local control does, then we have a problem. Local control to me is the people that live in the neighborhoods, the people that every day, every day have to go out and clean up the streets where a bar has had people that have left the bar and things have occurred in those streets. The people that live there are the people that really should be the deciding factor on whether this is approved. I am very concerned about this. The neighbors came in and testified in opposition to those Walgreens licenses, and Senator Lautenbaugh had asked me about this. Again, only nine licenses were approved. However, that went right to the Liquor Commission, which approved all the licenses. So the neighborhood input was really just negated. And these are people, the neighbors are people that come on their own time. Many of them have jobs that they don't get paid for if they're not there. But they are committed to preserving their neighborhoods, to having their neighborhoods be a safe place to live that they do this and they commit themselves to this issue. I find this very troubling that we can stand here and make this decision regarding their neighborhoods and say, well, local control, local control will take care of that. That would be real good if local control had the voice that we have. [LB861]

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

Floor Debate
April 06, 2010

SENATOR CARLSON: One minute. [LB861]

SENATOR HOWARD: Thank you. I'd say to you, people that live in those neighborhoods that are trying to get a night's sleep because they go to work in the morning, they get up and they get their kids off to school, do you want your children, if you lived by a bar such as Cheaters, I'm only using it as an example, but a bar that was so disruptive and so rowdy, and it's not the only bar that has this problem, your children were awakened at night at 1:00 a.m., 2:00 a.m.--2:00 a.m. is even worse, I would suggest, than 1:00 a.m.--think about that if you want your baby up at 2:00 in the morning with these neighborhood disruptions. Thank you. [LB861]

SENATOR CARLSON: Thank you, Senator Howard and Senator Coash. Senator Janssen, you're recognized. [LB861]

SENATOR JANSSEN: Question. [LB861]

SENATOR CARLSON: 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 opposed vote nay. Record, Mr. Clerk. [LB861]

CLERK: 28 ayes, 8 nays to cease debate, Mr. President. [LB861]

SENATOR CARLSON: Debate does cease. Senator Coash, you are recognized to close. [LB861]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues. I appreciate the debate on AM2163. I think we've flushed out all the issues of this particular amendment. I'll go over them real quickly just to make sure everybody is clear. This is an amendment that keeps the default closing time for our state at 1:00 a.m. However, under a supermajority of that local governing body, that governing body can extend that closing time to 2:00 a.m. This does not apply to liquor licenses. This gives the local governing body the flexibility to do what they feel is necessary to govern their city or county. They can say it's for Fridays and Saturdays only. They can do it under special events. This does not amend the Liquor Control Act. And the bottom line here, colleagues, is that if we trust our local governing body to listen to the citizens who elect them, we can trust them with this decision as well. We can trust them that they will listen to their citizens and they will also listen to their local law enforcement. And you'll notice that on the two bills that address this in some fashion, law enforcement did not come in, in any capacity. And if you call your local...call your sheriff, call your local police chief and ask them, what I bet you will hear, because this is what I heard from my local law enforcement, is as long as we have the opportunity to go in front of our city council and tell them what our concerns are so that they can take that into consideration, 2:00 a.m., 1:00 a.m. really doesn't make a difference to us. There are economic reasons that a

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

Floor Debate
April 06, 2010

community may decide to extend it, we've heard about those communities on border states, because again, colleagues, Kansas, Iowa, South Dakota, Wyoming, and Colorado are all going to stay open until 2:00. So I appreciate the debate. I appreciate the concerns that have been brought. Those are legitimate concerns. But I would submit to you, colleagues, that those concerns are best addressed in the communities where this legislation might be impactful. Thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator Coash. Members, you've heard the closing on AM2163 to LB861. The question is, shall the amendment be adopted? All those in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB861]

CLERK: 33 ayes, 10 nays, Mr. President, on adoption of the amendment. [LB861]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk. [LB861]

CLERK: Senator Christensen would move to amend, FA73. (Legislative Journal page 1294.) [LB861]

SENATOR CARLSON: Senator Christensen, you're recognized to open on your floor amendment. [LB861]

SENATOR CHRISTENSEN: Thank you, Mr. President. All this bill simply would do is strike the 60 percent and make it 67 or two-thirds vote of the board. That would be consistent with what we passed a year ago with LB160 being a supermajority. That's why I asked Senator Coash if this was a supermajority. I just thought we should have a little consistency here. And so that's all this bill does. That simple, strikes the 60 percents, adds two-thirds vote of the board or 67 percent. Thank you. [LB861 LB160]

SENATOR CARLSON: Thank you, Senator Christensen. Members, you've heard the opening on FA73. Senator Cornett, you're recognized. Senator Cornett waives. Those still wishing to speak: Senators Haar and Nelson. Senator Haar, you're recognized. [LB861]

SENATOR HAAR: Mr. President, members of the body, I had the honor in the Lincoln City Council, when I was there, of introducing the bill for selling beer on Sundays, and we finally got that done and it really didn't hurt things at all. I think the bill in general is a good bill. I do believe in the local control part, and it will place an additional burden on local law enforcement, there's no question. However, in Lincoln, you find that the university is working with the mayor's office if there's a rowdy house of students, for example. So those things are getting better and better. I would...again, around local control, I would speak against Senator Christensen's amendment. Like on the Lincoln City Council, where there is seven members, 60 percent would mean four members; a

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

Floor Debate
April 06, 2010

three-quarters...or I'm sorry, a two-thirds would mean five members, and I think four members is sufficient. So, again, I would speak against FA73 but in support of LB861. Thank you. [LB861]

SENATOR CARLSON: Thank you, Senator Haar. Senator Nelson, you're recognized. [LB861]

SENATOR NELSON: Thank you, Mr. President, members of the body. I rise in support of Senator Christensen's amendment. I'm hearing two things about a seven-member council that a supermajority is five and others say it is four. I would ask...well, Senator Coash, will you yield to a question? [LB861]

SENATOR CARLSON: Senator Coash, will you yield? [LB861]

SENATOR COASH: Yes. [LB861]

SENATOR NELSON: Have you done the mathematics, Senator Coash? That question was posed before. What is a two-thirds majority? Out of a seven-member council, would that require at least five? [LB861]

SENATOR COASH: Yes. [LB861]

SENATOR NELSON: And does your bill require at least five at 60 percent? [LB861]

SENATOR COASH: Yes. [LB861]

SENATOR NELSON: But on a five-person board, two-thirds would require four out of five, would that not be correct? [LB861]

SENATOR COASH: I believe so, yes. [LB861]

SENATOR NELSON: Yeah. Well, for that reason, it doesn't affect Omaha so much and Lincoln, but I do think in smaller communities that we'd be better off to have a two-thirds majority, speaking from some experience of having lived in a small community. And I would, therefore, support Senator Christensen and urge the body to support that. Thank you, Senator. I'd like to ask a question of Senator Karpisek, if he will yield. [LB861]

SENATOR CARLSON: Senator Karpisek, will you yield? [LB861]

SENATOR KARPISEK: Yes, I will. [LB861]

SENATOR NELSON: I could probably save this, Senator, but I don't think I was here on LB861 when the amendment was brought in to change the provision with regard to

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

Floor Debate
April 06, 2010

churches being 150 feet away. Was there discussion at that time when you presented the bill on General File? [LB861]

SENATOR KARPISEK: Yes. [LB861]

SENATOR NELSON: All right. I haven't had a chance to look through at what was finally passed on General, but what about hospitals and assisted-living homes and things like that? Is that still in there, you have to be 150 feet away? [LB861]

SENATOR KARPISEK: That is still in there. We were going to exempt that, we have not. We're just taking the churches, but we've also...we're not just...we're not taking the 150 feet away. We're leaving it in there but we are putting an exemption in where a bar could go into that 150 feet if it went through the local...the whole process, local process, the Liquor Control Commission and the church be notified. [LB861]

SENATOR NELSON: There would ultimately...I mean, in any event, there would be a hearing before the Liquor Commission? [LB861]

SENATOR KARPISEK: Yes. [LB861]

SENATOR NELSON: All right. But they'd have to go through the local board first, is that...or does it go directly to the commission? [LB861]

SENATOR KARPISEK: You could do, I think, either way. [LB861]

SENATOR NELSON: Um-hum. I'm curious as to why we put this amendment in, why it was necessary to change? Why are we doing something different for the churches and the distance away, especially in a city? This is 50 yards away. That's not very far. [LB861]

SENATOR KARPISEK: The problem that we've run into, Senator, is the storefront churches, I'll call them, churches that are going into areas in downtown, especially maybe Grand Island is one, and they're opening up in maybe an old Coast to Coast store. And then anything around...within that 150 feet cannot become a restaurant with a liquor license or a bar. That's the issue. The biggest issue that we ran into was right here in Lincoln just down the street. A \$40 million project was going to not be able to go because it's 123 feet away from a church. [LB861]

SENATOR NELSON: Well, if there was an establishment already in place and a church moved into a storefront, wouldn't that be grandfathered in if they were already there? [LB861]

SENATOR KARPISEK: It would, but they'd have to have been there for two years. A lot

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

Floor Debate
April 06, 2010

of these buildings are empty, maybe say in downtown Grand Island, someone trying to... [LB861]

SENATOR CARLSON: One minute. [LB861]

SENATOR KARPISEK: ...come in and fill it near a church that was there now first would not be able to apply at all, no way. The amendment that's in LB861 would just make an exception that it could be...could go there if it was approved by the Liquor Control Commission. [LB861]

SENATOR NELSON: All right. All right. Thank you, Senator. [LB861]

SENATOR KARPISEK: Thank you. [LB861]

SENATOR NELSON: Thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Karpisek. Those still wishing to speak: Senators Wightman, Christensen, Lautenbaugh, and Coash. Senator Wightman, you're recognized. [LB861]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. If Senator Christensen would yield to a question, I have one question. [LB861]

SENATOR CARLSON: Senator Christensen, will you yield? [LB861]

SENATOR CHRISTENSEN: Yes. [LB861]

SENATOR WIGHTMAN: Senator Christensen, you talk about two-thirds and your bill says two-thirds but you've mentioned on several occasions 67 percent, and probably that should take some clarification. Because if you had a six-member board, and I don't know how many local authorities would have a six-member board, but that would make a difference, wouldn't it, as to whether it was two-thirds or 67 percent? [LB861]

SENATOR CHRISTENSEN: Well, 66.666 percent or 67, I rounded up, but two-thirds is the way I wrote the amendment, just like LB160 was. [LB861 LB160]

SENATOR WIGHTMAN: And all I would say is that I think we have to sometimes be a little careful on our discussion here because sometimes people read into that what our intent is, and actually a six-member board would be an example where two-thirds...four would carry two-thirds but it would not be 67 percent. So occasionally we would run into a situation where that fractional percent would make a difference. [LB861]

SENATOR CHRISTENSEN: Correct, and I wrote it two-thirds, so that would be the

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

Floor Debate
April 06, 2010

correct number. [LB861]

SENATOR WIGHTMAN: Thank you, Senator Christensen. Thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator Wightman and Senator Christensen. Senator Christensen, you're recognized. [LB861]

SENATOR CHRISTENSEN: Thank you, Mr. President. I'll clarify: This does not affect Omaha or Lincoln because they have seven-member boards. It would still be at five, would not change that. Where it does affect is some of the small communities like I have. Kearney is another one, has a five-member board. If you're 60 percent, three people, which is simple majority, is also 60 percent. So if you could get a 50 percent vote, you'd get a 60. And I think the intent here was to have a little extra boost here so that way, if you went to a two-thirds vote, that would mean, if you got a five-member board, it'd take four, which is 80 percent. That's a little on the high side. But I understand every board is a little different, but if the bill had been written just a supermajority so it couldn't be just three out of five, had to be four out of five, it wouldn't have made any difference to me. But where it's stated 60 percent, we called a supermajority. I thought we ought to be consistent here. So I'm just asking you to support this and I'll continue to listen to debate. Thank you. [LB861]

SENATOR CARLSON: Thank you, Senator Christensen. Senator Lautenbaugh, you're recognized. [LB861]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do rise in opposition to this amendment for the very simple reason that we aren't standardizing anything that makes a lot of sense to standardize when we're defining supermajority the same way we do in an NRD statute. Supermajority can be as we define it and as it is already defined in the underlying amendment that we just adopted. If we're talking about a five-member board, this amendment would bump it to essentially an 80 percent approval threshold, which to me seems high. And so for that reason, I do oppose this. We did have a little digression, that I guess I'll digress on as well, regarding the limit regarding churches. And I think what we have to keep in mind is in a lot of our smaller towns that are struggling to revitalize, if we have the rigid rule that we currently have now, what we're basically telling landlords that might own more than one parcel of property in a possibly depressed downtown district is that you better not rent to a church because, if you do, you can't rent to any place that would sell liquor in adjoining facilities, adjoining properties. That's the reason for Senator Karpisek's modification of the law, in my mind, and I think it is a commonsense thing to do and does, again, preserve local control, which is important. But I think we have to realize that in our liquor laws a lot of time we do things that can have the opposite result, a law of unintended consequences. And I don't think the existing law was meant to discourage storefront

Floor Debate
April 06, 2010

churches, but I can see it as having that effect. So I think the underlying bill as amended on General File has that in there that would address that issue regarding the proximity to a church; it addresses it in a very fair and proper way. And I would urge you to reject FA73 and continue to support the underlying bill. Thank you. [LB861]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. (Visitors introduced.) Returning to debate, Senator Coash and Senator Howard. Senator Coash, you're recognized. [LB861]

SENATOR COASH: Thank you, Mr. President. Thank you, members. I just want to speak about FA73. When Senator Christensen asked me about this on the mike earlier, I said it didn't...I didn't think it would do much, and if you have a seven-member board it doesn't do anything. Okay. Senator Fulton helped me do the math on this. If you got a seven-member board, you are still going to need five people; that won't change under FA73. If you have a five-member board, you're now going to need four of the five in order to enact a later closing time. The spirit of my amendment, which we've used the term "supermajority," was to give...to make sure that a good amount, more than half, of your local governing body was in support of this. And so to that end, FA73 is in the spirit of this particular amendment, and I'm going to continue to listen to debate as well. But what we have done, members, I believe is we've made somewhat of a rural/urban divide here, and I'll let you decide how you want to deal with that. But Lincoln and Omaha, seven-member boards, this doesn't change. Okay? But for the smaller communities west of Lincoln, anything that has a five-member local governing body, we are changing that with FA73. So I'll let you decide how you want to deal with that, and thank you, Mr. President. [LB861]

SENATOR CARLSON: Thank you, Senator Coash. Senator Howard, you're recognized. [LB861]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I'll give Senator Christensen an A for effort. He's trying to address this. He's trying to look out for small communities that are, as I described earlier, people living by those bars. And there are neighborhoods in District 9, which is inner city, who are living by those bars. It won't change anything for Omaha. Senator Coash has accurately pointed that out. Senator Christensen also has accurately pointed that out, and I think that's helpful that we know that going into this. I would suggest to you, it's not in this amendment but I would suggest to you that the really important local control is for the people, the people that live there, the people whose daily lives are affected by what happens at this business. There's no guarantee that any bar is going to be without problems. I think people realize that can come with the territory. But when there are excessive problems, when there is noise that disrupts other people's lives to the point where they feel that it's unsafe for them, it's unsafe for their families, I think we have to look at that as a body. Whether we live near those bars ourselves or not, we represent people that do. We are

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

Floor Debate
April 06, 2010

standing here for people who have a stake in this, and we need to be respectful of that. I think that (laugh), again, Senator Christensen is trying to put in an amendment that possibly in his area will make a difference. It will make no difference for District 9. What will make the difference is to have the input from the people that live in District 9, to have those people heard without having to go through a two-year struggle to get a bar closed down, a bar that's dangerous and disruptive to the neighborhood. And I thank Senator Christensen for his efforts. Again, I warn the body: This is an issue we need to take very seriously. Thank you. [LB861]

SENATOR CARLSON: Thank you, Senator Howard. Senator Haar, you're recognized. [LB861]

SENATOR HAAR: Mr. President, members of the body, I'm a little embarrassed. I was a math major and said that (laugh) my math wasn't correct when I got at the mike last time. What the bill is saying is four out of seven. I just rounded off. But it has to reach...according to the bill, it has to reach the 60 percent level. So for the Lincoln City Council, four out of seven is only 57 percent; five out of seven is 71 percent. So I do agree that in Lincoln it wouldn't make any difference. Just wanted to clear up that that was a rounding error. (Laugh) Thank you. [LB861]

SENATOR CARLSON: Thank you, Senator Haar, for your clarification. There are no other lights. Senator Christensen, you're recognized to close on your amendment. [LB861]

SENATOR CHRISTENSEN: Thank you, Mr. President. Colleagues, this is just simple amendment, adjusting it from 60 to...or two-thirds of the voting. So it's very simple. I think it's a good improvement to it. I'll wait and see your vote on it, and thank you for debate. [LB861]

SENATOR CARLSON: Thank you, Senator Christensen. Members, you've heard the closing on FA73. The question is, shall FA73 be adopted? All those in favor vote aye; opposed vote nay. Have all voted who wish to vote? Have all voted who wish to vote? Record, Mr. Clerk. [LB861]

CLERK: 27 ayes, 2 nays, Mr. President. [LB861]

SENATOR CARLSON: The amendment is adopted. [LB861]

CLERK: I have nothing further on the bill. [LB861]

SENATOR CARLSON: Senator Nordquist for a motion. [LB861]

SENATOR NORDQUIST: Mr. President, I move LB861 to E&R for engrossing. [LB861]

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

Floor Debate
April 06, 2010

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk. [LB861]

CLERK: Mr. President, LB961. I have E&Rs first of all, Senator. (ER8213, Legislative Journal page 980.) [LB961]

SENATOR CARLSON: Senator Nordquist for a motion. [LB961]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB961. [LB961]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. All opposed, nay. Motion carried. [LB961]

CLERK: Senator Council would move to amend, AM2311. (Legislative Journal page 1053.) [LB961]

SENATOR CARLSON: Senator Council, you're recognized to open on your amendment. [LB961]

SENATOR COUNCIL: Thank you, Mr. President. Very quickly, what AM2311 does is to remove from the underlying bill the requirement that the Department of Economic Development be allowed to withhold a small percentage of the fund for administrative purposes. The amendment actually reflects continued work in cooperation with the Department of Economic Development. The original sense was that because of the nature of the grants that would be awarded for preemployment training, that it would necessitate additional administrative work on behalf of the Department of Economic Development and, ergo, additional costs. But after continuing to work with the Department of Economic Development, in fact, this amendment is brought at their suggestion that there's no need for them to withhold any portion of the cash fund that is set aside for job training for administrative purposes. So all that AM2311 does is strike those portions of the underlying bill that provided that the Department of Economic Development could withhold up to 4 percent for administrative costs associated with the preemployment training program. I would urge the body's approval of AM2311. Thank you, Mr. President. [LB961]

SENATOR CARLSON: Thank you, Senator Council. Members, you've heard the opening on AM2311. Are there senators wishing to speak? Seeing none, Senator Council, you're recognized to close. Senator Council waives closing. The question is, shall AM2311 be adopted? All those in favor vote aye; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB961]

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

Floor Debate
April 06, 2010

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Council's amendment. [LB961]

SENATOR CARLSON: AM2311 is adopted. [LB961]

CLERK: I have nothing further on the bill, Mr. President. [LB961]

SENATOR CARLSON: Senator Nordquist for a motion. [LB961]

SENATOR NORDQUIST: Mr. President, I move LB961 to E&R for engrossing. [LB961]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carries. The bill advances. Items for the record, Mr. Clerk? [LB961]

CLERK: Mr. President, new resolutions: LR544, LR545, LR546, and LR547, all by Senator Harms, all will be laid over. Senator Heidemann, an amendment to LB987A to be printed. Senator Cook would like to add her name to LB987. (Legislative Journal pages 1294-1297.) [LR544 LR545 LR546 LR547 LB987A LB987]

And Senator Fischer would move to recess the body until 1:30 p.m.

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. We are recessed until 1:30.

RECESS

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fourth day of the One Hundred First Legislature, Second Session. The afternoon session is about to reconvene. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there items for the record?

CLERK: Just one, a conflict of interest statement has been filed by Senator Pirsch. That will be on file in the Clerk's Office. That's all that I have, Mr. President. (Legislative Journal page 1297.)

PRESIDENT SHEEHY: (Visitors introduced.) While the Legislature is in session and

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

Floor Debate
April 06, 2010

capable of transacting business, I propose to sign and do hereby sign LR441, LR455, LR456, LR457, LR458, LR476, LR480, LR529, LR530, LR531, LR532, and LR537. Mr. Clerk, we will now move to the 1:30 p.m. Select File consent calendar. The first bill is LB411. [LR441 LR455 LR456 LR457 LR458 LR476 LR480 LR529 LR530 LR531 LR532 LR537 LB411]

CLERK: LB411, Senator Nordquist, I have no amendments to the bill. [LB411]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB411]

SENATOR NORDQUIST: Mr. President, I move LB411 to E&R for engrossing. [LB411]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB411 advances. We will now proceed to LB713. [LB411 LB713]

CLERK: LB713 does have Enrollment and Review amendments. (ER8226, Legislative Journal page 1280.) [LB713]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. (Gavel) [LB713]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB713. [LB713]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB713]

CLERK: I have nothing further on that bill, Senator. [LB713]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB713]

SENATOR NORDQUIST: Mr. President, I move LB713 to E&R for engrossing. [LB713]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB713 advances. We will now proceed to LB252. [LB713 LB252]

CLERK: LB252, does have E&Rs, Senator. (ER8230, Legislative Journal page 1282.) [LB252]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB252]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB252. [LB252]

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

Floor Debate
April 06, 2010

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB252]

CLERK: Senator Cornett would move to amend, AM2451. (Legislative Journal pages 1298-1299.) [LB252]

PRESIDENT SHEEHY: Senator Cornett, you're recognized to open on your AM2451. [LB252]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. AM2451 makes changes to definitions that were brought up on General File discussion. I've spoken with Senator Hansen, Loudon, Schilz, and Stuthman and addressed their concerns in this amendment. The amendment removes the language dealing with jennies or hot walkers and the language...other animals, dealing with heels were removed. This amendment also removes the language dealing with having unprescribed veterinarian medication. I would request the body's support of AM2451 and the underlying bill. Thank you. [LB252]

PRESIDENT SHEEHY: You have heard the opening on AM2451 to LB252. Seeing no requests to speak, Senator Cornett, you're recognized to close. Senator Cornett waives closing. The question before the body is on the adoption of AM2451. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB252]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Cornett's amendment. [LB252]

PRESIDENT SHEEHY: AM2451 is adopted. [LB252]

CLERK: Nothing further on the bill, Mr. President. [LB252]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB252]

SENATOR NORDQUIST: Mr. President, I move LB252 to E&R for engrossing. [LB252]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB252 advances. We'll now proceed to LB759. [LB252 LB759]

CLERK: LB759, Senator, I have no amendments to the bill. [LB759]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB759]

SENATOR NORDQUIST: Mr. President, I move LB759 to E&R for engrossing. [LB759]

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

Floor Debate
April 06, 2010

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB759 advances. We'll now proceed to LB760. [LB759 LB760]

CLERK: LB760, Senator, I have no amendments to the bill. [LB760]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB760]

SENATOR NORDQUIST: Mr. President, I move LB760 to E&R for engrossing. [LB760]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB760 advances. We'll now proceed to LB732. [LB760 LB732]

CLERK: LB732 does have E&R amendments, Senator. (ER8227, Legislative Journal page 1282.) [LB732]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB732]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB732. [LB732]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB732]

CLERK: Senator Utter would move to amend with AM2481. (Legislative Journal page 1299.) [LB732]

PRESIDENT SHEEHY: Senator Utter, you're recognized to open on AM2481. [LB732]

SENATOR UTTER: Thank you, Mr. President, good afternoon, colleagues. AM2481 to LB732 simply removes the emergency clause that is currently contained within the bill. LB732 creates authority for sheriffs and master commissioners conducting a sale of real estate to postpone the sale for up to 45 days, bringing the provisions of the postponement of the sale in line with those that presently exist for sales by a trustee under a trust deed. While we had intended for the new authority regarding postponement of sales of real estate to go into effect immediately upon passage, the Judiciary Committee amendment that was adopted on General File creates a new substantive requirement for postponement of sales by sheriffs and master commissioners as well as by trustees under a trust deed. The new requirements which we believe are largely followed in practice require the sheriff, master commissioner or trustee to announce the new date, time and place of the rescheduled sale at the time that postponement of sale is announced. In order to ensure that the individuals conducting these sales will be aware of the new substantive requirements, AM2481

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

Floor Debate
April 06, 2010

would delay the implementation of LB732 until three months after the legislative session. This will allow lenders, attorneys, sheriffs to be informed by the respective associations of the new requirements of this law. I request your support for AM2481 to LB732 and the ultimate advancement of this bill to Final Reading. Thank you. [LB732]

PRESIDENT SHEEHY: Thank you, Senator Utter. You've heard the opening of AM2481 to LB732. Having no requests to speak, Senator Utter, you're recognized to close. Senator Utter waives closing. The question before the body is on the adoption of AM2481. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB732]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Utter's amendment. [LB732]

PRESIDENT SHEEHY: AM2481 is adopted. [LB732]

CLERK: I have nothing further on the bill, Mr. President. [LB732]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB732]

SENATOR NORDQUIST: Mr. President, I move LB732 to E&R for engrossing. [LB732]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB732 advances. We will now proceed to LB1047. [LB732 LB1047]

CLERK: LB1047 does have E&Rs, Senator. (ER8228, Legislative Journal page 1284.) [LB1047]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1047]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1047. [LB1047]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1047]

CLERK: Senator Nelson would move to amend with FA74. (Legislative Journal page 1299.) [LB1047]

PRESIDENT SHEEHY: Senator Nelson, you're recognized to open on FA74. [LB1047]

SENATOR NELSON: Thank you, Mr. President, members of the body. We're having an ongoing discussion on this. If you look at LB1047 on page 2, line 14, I had a question on our discussion on General File about the wording there on line 14, "with respect to

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

Floor Debate
April 06, 2010

estates of decedents dying on December 31, 2009," which in my mind confines the applicability there to decedents dying on that date. And therefore, on my floor amendment I am removing the word "dying" so it would read that they applied "with respect to estates of decedents on December 31, 2009." "Dying" is a redundancy. A decedent is deceased. But in talking with members of the lobby here, they seem to think that the intent of the bill is to confine it to that particular date, December 31, 2009. And I'm not going to question their judgment on that. We'll take a closer look at it, I guess, between now and Final Reading. So at this time, giving them the benefit of the doubt, Mr. Speaker, I'm going to withdraw my floor amendment. Thank you very much. [LB1047]

PRESIDENT SHEEHY: Thank you, Senator Nelson. FA74 is withdrawn. [LB1047]

CLERK: I have nothing further on the bill, Mr. President. [LB1047]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1047]

SENATOR NORDQUIST: Mr. President, I move LB1047 to E&R for engrossing. [LB1047]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1047 advances. We will now proceed to LB706. [LB1047 LB706]

CLERK: LB706, Senator, I have no amendments to the bill. [LB706]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB706]

SENATOR NORDQUIST: Mr. President, I move LB706 to E&R for engrossing. [LB706]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB706 advances. We'll now proceed to LB696. [LB706 LB696]

CLERK: LB696, Senator, I have no amendments to the bill. [LB696]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB696]

SENATOR NORDQUIST: Mr. President, I move LB696 to E&R for engrossing. [LB696]

PRESIDENT SHEEHY: Senator Giese, you're recognized. [LB696]

SENATOR GIESE: Thank you, Mr. President and members of the body. I rise again in opposition to LB696. As was discussed with Senator Pahls and Senator Langemeier on General File, I believe LB696 is a bill that was drafted with a specific situation in mind

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

Floor Debate
April 06, 2010

but which has broader implications when applied statewide. As I understand it, the goal of LB696 is to apply the waste disposal fee or tipping fee to solid waste that is generated within the state of Nebraska but is then transported across state lines and disposed of in a neighboring state. Based on the transcript from the bill hearing, this expansion of the tipping fee is designed to hit a single material recovery facility in Omaha which currently transports a portion of their waste to a landfill in Council Bluffs, Iowa. While there are no similar facilities in my district, landfills in Dakota County actually see the opposite occurring--solid waste generated in Iowa being transported across the river to be disposed of in Nebraska. My concern is that the passage of LB696 will ultimately lead our neighboring states, particularly Iowa, to respond by adopting similar fees on waste being brought into Nebraska landfills. Given that tipping fees in Iowa are currently higher than in Nebraska, our state potentially has more to lose from this policy change than we stand to gain. While I understand the desire of Douglas County to retain the fees that were generated in their county, I truly believe that this bill has unintended statewide consequences and I would urge the body to oppose LB696. Thank you, Mr. President. [LB696]

PRESIDENT SHEEHY: Thank you, Senator Giese. Seeing no additional requests to speak, members, you have heard the motion. All those in favor say aye. Opposed, nay. LB696 advances. We'll now proceed to LB978. [LB696 LB978]

CLERK: LB978, Senator, I have no amendments to the bill. [LB978]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB978]

SENATOR NORDQUIST: Mr. President, I move LB978 to E&R for engrossing. [LB978]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB978 advances. We'll now proceed to LB792. [LB978 LB792]

CLERK: LB792, Senator, I have no amendments to the bill. [LB792]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB792]

SENATOR NORDQUIST: Mr. President, I move LB792 to E&R for engrossing. [LB792]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB792 advances. We'll now proceed to LB695. [LB792 LB695]

CLERK: LB695, Senator, again I have no amendments to the bill. [LB695]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB695]

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

Floor Debate
April 06, 2010

SENATOR NORDQUIST: Mr. President, I move LB695 to E&R for engrossing. [LB695]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB695 advances. We'll now proceed to LB986. [LB695 LB986]

CLERK: LB986, Senator, has no amendments. [LB986]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB986]

SENATOR NORDQUIST: Mr. President, I move LB986 to E&R for engrossing. [LB986]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB986 advances. We'll now proceed to LB997. [LB986 LB997]

CLERK: LB997 does have Enrollment and Review amendments. (ER8233, Legislative Journal page 1284.) [LB997]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB997]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB997. [LB997]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB997]

CLERK: I have nothing further on that bill, Senator. [LB997]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB997]

SENATOR NORDQUIST: Mr. President, I move LB997 to E&R for engrossing. [LB997]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB997 advances. We'll now proceed to LB933. [LB997 LB933]

CLERK: LB933, Senator, I have no amendments to the bill. [LB933]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB933]

SENATOR NORDQUIST: Mr. President, I move LB933 to E&R for engrossing. [LB933]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB933 advances. We'll now proceed to LB813. [LB933 LB813]

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

Floor Debate
April 06, 2010

CLERK: LB813, Senator, I have no amendments to the bill. [LB813]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB813]

SENATOR NORDQUIST: Mr. President, I move LB813 to E&R for engrossing. [LB813]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB813 advances. We'll now proceed to LB852. [LB813 LB852]

CLERK: LB852, Senator, no E&Rs. Senator Stuthman would move to amend, AM2492. (Legislative Journal page 1300.) [LB852]

PRESIDENT SHEEHY: Senator Stuthman, you're recognized to open on AM2492. [LB852]

SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. I've been in discussion with my county election commissioner on the effects of this bill. And this bill would add another line to every position that was on the bill where there was just one person maybe running for a slot that would add another line for the write-in vote, which I think is okay. But in thinking it over and with what the discussion was with the election commissioner, was the fact that the effective date would be when we adjourn, 90 days after that, when it was signed. That would be between the primary and the general election. So they would have to change the ballot, there will be some changes but not a lot. So I felt that we should have this bill, this amendment really deals with the effective date of this. The effective date would be January 1, 2011, so that it is at the beginning of any type of an election cycle. And I'll give you a little bit of an example of what the effects of this bill will do. In my local area the NRDs, and one NRD in particular, the Lower Platte North, has nine subdistricts and one at-large position. So there will be ten extra lines on that. What is this going to have as to an impact? It won't have anything as far as an impact on the state, it won't have any impact other than these NRDs are going to get billed more from the election commissioner because it may take another page on the ballot. And in turn, that's a property tax increase because they're going to have to pass that on. That is the biggest issue that I have. There could be other issues with subdivisions, with ESUs, that could be with the public power districts, depending upon how many that they have. But creating another line for them, which I'm not opposed to, but I'm just trying to get onto the record that there is a good possibility that these entities are going to be billed more for the service given to them by the election commissioner on the ballot. So with that, I ask for your support on this to change the effective date so it starts with a new year, January 1, 2011. Thank you. [LB852]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You've heard the opening of AM2492. Member requesting to speak, Senator Avery, you're recognized. [LB852]

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

Floor Debate
April 06, 2010

SENATOR AVERY: Thank you, Mr. President. I just want to say that Senator Stuthman and I have discussed this amendment. I do not see it as a hostile amendment and I do not oppose it. Just by way of clarification, we did consult carefully with the Secretary of State. And we were told that adding a line for write-ins in these particular offices would not have a substantial effect on the length of the ballot and the cost would be minimal. Thank you. [LB852]

PRESIDENT SHEEHY: Thank you, Senator Avery. Seeing no additional requests to speak, Senator Stuthman, you're recognized to close. Senator Stuthman waives closing. The question before the body is on the adoption of AM2492 to LB852. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB852]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Stuthman's amendment. [LB852]

PRESIDENT SHEEHY: AM2492 is adopted. [LB852]

CLERK: I have nothing further on the bill, Senator. [LB852]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB852]

SENATOR NORDQUIST: Mr. President, I move LB852 to E&R for engrossing. [LB852]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB852 advances. We'll now proceed to LB947. [LB852 LB947]

CLERK: LB947, Senator, I have no amendments to the bill. [LB947]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB947]

SENATOR NORDQUIST: Mr. President, I move LB947 to E&R for engrossing. [LB947]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB947 advances. We'll now proceed to LB993. [LB947 LB993]

CLERK: LB993, Senator, no amendments to the bill. [LB993]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB993]

SENATOR NORDQUIST: Mr. President, I move LB993 to E&R for engrossing. [LB993]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye.

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

Floor Debate
April 06, 2010

Opposed, nay. LB993 advances. We'll now proceed to LB1065. [LB993 LB1065]

CLERK: LB1065, Senator, does have Enrollment and Review amendments. (ER8232, Legislative Journal page 1287.) [LB1065]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1065]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1065. [LB1065]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1065]

CLERK: I have nothing further on that bill, Senator. [LB1065]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1065]

SENATOR NORDQUIST: Mr. President, I move LB1065 to E&R for engrossing. [LB1065]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1065 advances. We'll now proceed to LB829. [LB1065 LB829]

CLERK: LB829, I have no amendments to the bill, Senator. [LB829]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB829]

SENATOR NORDQUIST: Mr. President, I move LB829 to E&R for engrossing. [LB829]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB829 advances. We'll proceed to LB934. [LB829 LB934]

CLERK: LB934, Senator, I have no amendments to the bill. [LB934]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB934]

SENATOR NORDQUIST: Mr. President, I move LB934 to E&R for engrossing. [LB934]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB934 advances. We'll now proceed to LB872. [LB934 LB872]

CLERK: LB872, Senator, I have no amendments to the bill. [LB872]

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

Floor Debate
April 06, 2010

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB872]

SENATOR NORDQUIST: Mr. President, I move LB872 to E&R for engrossing. [LB872]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB872 advances. We'll now proceed to LB884. [LB872 LB884]

CLERK: LB884, Senator, does have Enrollment and Review amendments. (ER8231, Legislative Journal page 1287.) [LB884]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB884]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB884. [LB884]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB884]

CLERK: I have nothing further on that bill, Senator. [LB884]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB884]

SENATOR NORDQUIST: Mr. President, I move LB884 to E&R for engrossing. [LB884]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB884 advances. We'll now proceed to LB844. [LB884 LB844]

CLERK: LB844, I have no amendments to the bill. [LB844]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB844]

SENATOR NORDQUIST: Mr. President, I move LB844 to E&R for engrossing. [LB844]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB844 advances. We'll now proceed to LB908. [LB844 LB908]

CLERK: LB908, Senator, I have no amendments to the bill. [LB908]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB908]

SENATOR NORDQUIST: Mr. President, I move LB908 to E&R for engrossing. [LB908]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye.

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

Floor Debate
April 06, 2010

Opposed, nay. LB908 advances. We'll now proceed to LB1055. [LB908 LB1055]

CLERK: LB1055 does have E&R amendments. (ER8236, Legislative Journal page 1289.) [LB1055]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1055]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1055. [LB1055]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1055]

CLERK: I have nothing further on that bill, Senator. [LB1055]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1055]

SENATOR NORDQUIST: Mr. President, I move LB1055 to E&R for engrossing. [LB1055]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1055 advances. We'll now proceed to LB758. [LB1055 LB758]

CLERK: LB758, I have no amendments to the bill. [LB758]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB758]

SENATOR NORDQUIST: Mr. President, I move LB758 to E&R for engrossing. [LB758]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB758 advances. We'll now proceed to LB809. [LB758 LB809]

CLERK: LB809, Senator, I have no amendments to the bill. [LB809]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB809]

SENATOR NORDQUIST: Mr. President, I move LB809 to E&R for engrossing. [LB809]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB809 advances. We'll now proceed to LB907. [LB809 LB907]

CLERK: LB907, Senator, I have no amendments to the bill. [LB907]

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

Floor Debate
April 06, 2010

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB907]

SENATOR NORDQUIST: Mr. President, I move LB907 to E&R for engrossing. [LB907]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB907 advances. We'll now proceed to LB1085. [LB907 LB1085]

CLERK: LB1085, Senator, I have no amendments to the bill. [LB1085]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1085]

SENATOR NORDQUIST: Mr. President, I move LB1085 to E&R for engrossing. [LB1085]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1085 advances. We'll now proceed to LB894. [LB1085 LB894]

CLERK: LB894 does have Enrollment and Review amendments. (ER8235, Legislative Journal page 1290.) [LB894]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB894]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB894. [LB894]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB894]

CLERK: I have nothing further on LB894, Senator. [LB894]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB894]

SENATOR NORDQUIST: Mr. President, I move LB894 to E&R for engrossing. [LB894]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB894 advances. We'll now proceed to LB789. [LB894 LB789]

CLERK: LB789, Senator, I have no amendments to the bill. [LB789]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB789]

SENATOR NORDQUIST: Mr. President, I move LB789 to E&R for engrossing. [LB789]

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

Floor Debate
April 06, 2010

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB789 advances. (Visitors introduced.) We will now return to Select File. We'll now proceed to LB1072. [LB789 LB1072]

CLERK: LB1072, Senator, I have E&R amendments first of all. (ER8223, Legislative Journal page 1228.) [LB1072]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1072]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1072. [LB1072]

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. [LB1072]

CLERK: Mr. President, Senator Adams, I have AM2448 with a note you want to withdraw that particular amendment. [LB1072]

PRESIDENT SHEEHY: AM2448 is withdrawn. [LB1072]

CLERK: Senator Adams would move to amendment with AM2484. (Legislative Journal page 1302.) [LB1072]

PRESIDENT SHEEHY: Senator Adams, you're recognized to open on AM2484. [LB1072]

SENATOR ADAMS: Thank you, Mr. President, members. Basically, what this amendment does is two things. First of all, it makes a technical correction that was advised by E&R. The second thing that it does, we have an ongoing relationship between the six community colleges that we are continually working on. And we are coming closer and closer, as this bill advances, to a final agreement with them. One of the things that the colleges brought forward was the fact that the property tax rate for community colleges terminated as of June 30, 2011, with the formula terminating. And what this would do would be to accommodate them by letting it, after June 30, letting the property tax rate extend out at its current level, which is a lid of 10.25, and would continue with budget authority of 2.5 percent. So currently, this year we would see a property tax levy of no higher for any of them than 10.25, with expenditure authority of 2.5 percent. This would merely extend that beyond that. And assuming next year that we have a new formula, those numbers could change. But in the meantime, this would simply go out subsequent fiscal years. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening of AM2484 to LB1072. Seeing no members request to speak, Senator Adams, you're

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

Floor Debate
April 06, 2010

recognized to close. Senator Adams waives closing. The question before the body is on the adoption of AM2484 to LB1072. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1072]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB1072]

PRESIDENT SHEEHY: AM2484 is adopted. [LB1072]

CLERK: I have nothing further on this bill, Mr. President. [LB1072]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1072]

SENATOR NORDQUIST: Mr. President, I move LB1072 to E&R for engrossing. [LB1072]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1072 advances. We'll now proceed to LB712. [LB1072 LB712]

CLERK: LB712, Senator, first of all E&R amendments. (ER8225, Legislative Journal page 1235.) [LB712]

PRESIDENT SHEEHY: Senator Nordquist, you're recognize for a motion. [LB712]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB712. [LB712]

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. [LB712]

CLERK: The first amendment, Mr. President, Senator Council. Senator, I have a note that you wish to withdraw AM2465 and offer, as a substitute therefor, AM2491. [LB712]

PRESIDENT SHEEHY: Without objection, so ordered. [LB712]

CLERK: Senator Council, AM2491. (Legislative Journal page 1302.) [LB712]

PRESIDENT SHEEHY: Senator Council, you're recognized to open on AM2491. [LB712]

SENATOR COUNCIL: Yes, thank you, Mr. President. And AM2491 in essence incorporates into LB712 what was stand-alone bill, LB990. LB990 was heard by the Judiciary Committee. No persons appeared testifying in opposition to LB990. And what

Floor Debate
April 06, 2010

LB990 seeks to do is to conform the county jail good time provisions with those of the state Corrections Department. Currently, under the state Corrections Department, the good time provisions are one day for one day. And it's very easy to calculate what an individual's good time will be under the state formula. Under the formula that applies to county jails and city jails it's a little more complicated, although it effectively results in very little difference between the length of time that an individual will serve in county jail. The problem arises that under the formula that applies to city and county jails the good time is not processed until the end of the sentence. And they have...let me try to explain that. Under the statute as it's currently written, for every 14 days that a person serves in county jail, after the conclusion of those 14 days he or she will earn 7 days of good time. And that formula continues to apply throughout their term...their sentence. So what it forces county jail and city jail officials to do is regularly and continuously keep track of when an inmate has completed 14 consecutive days of confinement and then total up what the good time then is earned. What AM2491 seeks to do is just conform the good time laws that apply to the county to those that apply to the state. When meeting with county corrections officials, they provided example after example of how, under the current good time provision that applies to county jails, an individual who has a sentence that would be...required to be served in county jail because it's less than one year could end up serving more time than someone who was sentenced to more than one year and sentenced to the state correctional facility because of the way that the calculation is carried out. Under LB990, it simply says that after an individual has served their first 15 days of any sentence that results in their confinement in a county or city jail, that after that they will earn good time at the same rate that anyone would earn if they were in a state correctional facility. According to representatives from both Douglas County and Lancaster County corrections that what the effect of LB990 would be is first of all to simplify the good time calculation and reduce the amount of administration that's associated with it, as well as result in a minimal reduction in the amount of time that people are confined in our county correctional facilities. As I indicated, both the representatives of Douglas County and Lancaster County corrections testified in favor of LB990. There was no opposition. In fact, the Judiciary Committee had selected LB990 as one of the bills that it submitted to the Speaker for consent calendar designation. When I noticed that LB990 had not been placed on the consent calendar, I inquired as to the reason that it was not placed on the consent calendar. And it appeared that there was some confusion with regard to what the committee, the Judiciary Committee, vote represented. The vote was 7 in favor of advancing LB990 and 1 being present and not voting. There was a concern from the Speaker's Office that because of the nature of this piece of legislation that someone being present and not voting might be an indication of some opposition. Although we have a number of bills on the consent calendar that have been considered on the consent agenda although there were individuals who were present and not voting. I don't see Senator Lathrop in the Chamber. But I have had a discussion with Senator Lathrop and in fact it was neither of our recollection that he did not cast a vote on LB990. But he authorized me to represent that he has no objection to LB990. And again, the Judiciary Committee unanimously decided to submit LB990

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

Floor Debate
April 06, 2010

along with the other Judiciary Committee bills for the consent calendar. I would humbly request your approval of AM2491. Again, it reduces the cost of administration by our county and other local jail officials. It also can have an impact, a favorable impact, on county budgets since the inmates will be treated essentially the same as someone who is sentenced to our state correctional facility. And it removes a bit of the unfairness associated with that process. Again, you can see how it works out. If you're looking at someone who is sentenced to, for example, a nine-month sentence that would have them confined in a county jail under this current formula, that person would not...would ordinarily be eligible for release on the good time after spending close to seven months incarcerated. Well, if someone received a 13-month sentence, which would submit them to the jurisdiction of the state correctional facility, under our good time law they would be eligible for release after six and a half months because they are on a one-for-one good time statute. So what happens is that individuals end up spending more time in county jail than they would if they had gotten a longer sentence and been subject to the jurisdiction of the state penal system. So with that, I would urge your support of AM2491. Thank you. [LB712 LB990]

PRESIDENT SHEEHY: Thank you, Senator Council. You've heard the opening of AM2491 to LB712. Seeing no members requesting to speak, Senator Council, you're recognized to close. Senator Council waives closing. The question before the body is on the adoption of AM2491 to LB712. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB712]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Council's amendment. [LB712]

PRESIDENT SHEEHY: AM2491 is adopted. [LB712]

CLERK: Mr. President, the next amendment, Senator Wightman, AM2482. Likewise, I have a request from Senator Wightman to withdraw AM2482 and offer, as a substitute, AM2489. [LB712]

PRESIDENT SHEEHY: Without objection, so ordered. [LB712]

CLERK: Senator Wightman, AM2489. (Legislative Journal page 1303.) [LB712]

PRESIDENT SHEEHY: Senator Wightman, you're recognized to open on AM2489. [LB712]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. AM2489 makes two technical amendments to the provisions of LB712. The first change addresses concerns recently raised by the Department of Health and Human Services after LB687 was advanced from the Judiciary Committee. LB712 contains the

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

Floor Debate
April 06, 2010

provisions of LB687. LB687 adjusts for inflation the dollar amount set in 1980, some 30 years ago, for the homestead allowance exemption for personal effects and the family allowance. Under the bill, the homestead allowance of \$7,500 is adjusted to \$20,000. The homestead exemption is limited to a surviving spouse or, if no spouse survived, to minor or dependent children. The exemption for personal effects, household furniture or a car of \$5,000 is adjusted to \$12,000, and the family allowance of \$9,000 is adjusted to \$20,000. This allowance is to provide support for the spouse and minor children during the time it takes to administer the estate. The Department of Health and Human Services contacted me after the bill was advanced from committee about the impact LB687 may have on the Medicaid Recovery Program. AM2489 makes it clear the revisions now proposed in LB712 will not reduce the recovery of funds for medical and other services that were paid by Medicaid on behalf of decedents who died without a will. The second change made by AM2489 eliminates the need for an A bill to authorize cash fund expenditures to implement LB757. LB757 was that part of the bill of LB712 that allows for motor vehicles governed by a certificate of title to be titled so that the vehicle automatically transfers to another designee upon the death of the owner. The Department of Motor Vehicles has requested authority to spend \$7,500 in cash funds to expedite the changes to its computer programs to implement this change. AM2489 delays the implementation of the provisions of LB712 that contain the provisions of LB757 until January 1, 2011, so that the computer programming expenses can be accommodated within the Department of Motor Vehicles' current budgetary authority and computer programming update schedule. AM2489 eliminates the need for an A bill for LB712. With that, I urge your adoption of AM2489. Thank you, Mr. President. [LB712 LB687 LB757]

PRESIDENT SHEEHY: Thank you, Senator Wightman. You've heard the opening of AM2489 to LB712. Seeing no members requesting to speak, Senator Wightman, you're recognized to close. Senator Wightman waives closing. The question before the body is on the adoption of AM2489 to LB712. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB712]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of Senator Wightman's amendment. [LB712]

PRESIDENT SHEEHY: AM2489 is adopted. [LB712]

CLERK: Senator Lautenbaugh would move to amend, AM2472. (Legislative Journal pages 1303-1305.) [LB712]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on AM2472. [LB712]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. These

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

Floor Debate
April 06, 2010

are two...this amendment represents two very simple bills I introduced that probably should have been consent calendar items but they weren't. They were combined into this one amendment. One of them corrects a peculiarity in our arson law. There was a requirement that you have to have burned a part of the structure to be guilty of arson. This would clarify that just burning the couch is good enough. And it's important because sometimes we've apparently missed arson charges because the structure wasn't damaged but contents were. So this would clarify that. The other deals with criminal attempt. Years back when we passed our criminal attempt statute, certain felonies, Classes IC and ID, when they were created were not added to the criminal attempt statute. So this would clarify that of these felonies you can also be charged with attempting to commit these felonies. And once again, there was no opposition to either of these bills in the committee that I recall. And I would ask your approval for this amendment. [LB712]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the opening of AM2472 to LB712. Seeing no members requesting to speak, Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives closing. The question before the body is on the adoption of AM2472. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB712]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of Senator Lautenbaugh's amendment. [LB712]

PRESIDENT SHEEHY: AM2472 is adopted. [LB712]

CLERK: I have nothing further on this bill, Mr. President. [LB712]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB712]

SENATOR NORDQUIST: Mr. President, I move LB712 to E&R for engrossing. [LB712]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB712 advances. Mr. Clerk, do you have items for the record? [LB712]

CLERK: I do, Mr. President. Enrollment and Review reports they've examined and engrossed the following bills: LB507, LB510, LB510A, LB800, LB800A, LB801, LB842, LB849, LB862, LB877, LB945, LB950, LB1002, LB1002A, LB1010, LB1071, LB1094, and LB1094A, those reported correctly engrossed. I also have a confirmation report from Transportation Committee. And Enrollment and Review also reports LB507A and LB987A to Select File. That's all that I have, Mr. President. (Legislative Journal pages 1305-1308.) [LB507 LB510 LB510A LB800 LB800A LB801 LB842 LB849 LB862 LB877 LB945 LB950 LB1002 LB1002A LB1010 LB1071 LB1094 LB1094A LB507A LB987A]

Floor Debate
April 06, 2010

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to LB771. [LB771]

CLERK: Mr. President, LB771 was a bill introduced by Senator Flood. (Read title.) The bill was introduced on January 7, referred to the Judiciary Committee, advanced to General File. There are committee amendments pending. (AM2442, Legislative Journal page 1246.) [LB771]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Flood, you're recognized to open on LB771. [LB771]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. What I want to talk about with LB771 are the changes that we're making as it relates to caregivers at regional centers. The committee amendment, which was offered by the...which will be offered by the Judiciary Committee, does change the green copy of the bill. It limits the application of the bill to caregivers providing care at a regional center to a sex offender. Basically, it says that if a caregiver at a regional center providing care to a sex offender, that was committed under the Sex Offender Act, is assaulted it's a felony like it would be in the correctional system. What we have right now, as Nebraska has endeavored into this system of using LB1199 to commit sex offenders for inpatient treatment, we've had some assaults. And the first phase of the three phases of treatment is at the Norfolk Regional Center. For three years I've had regional center employees truck down to Lincoln and share their story about being assaulted, sometimes very seriously, at our facility. It happens also from time to time at the facility at Lincoln. Just last week, two staff members, early Sunday morning, it would have been a week from Sunday, were assaulted and required care at a hospital. They're now recovering from their injuries. The bill as initially introduced actually applied that to any patient at a regional center, which would have included the mentally ill, would have included young people at YRTC in Kearney, places like that. The committee felt that that was not an appropriate extension of this protection to the caregiver and they forwarded the committee amendment out, which I do support, given my understanding of the committee's concerns. We owe it to these people working at a regional center, when a patient that knows the difference between right and wrong assaults somebody. I understand why there's concerns on the mental illness side, because the question is, can they form the requisite intent to commit a crime? Well, I think from time to time they can and they have the protections of like the M'Naghten standard. I don't think it's unreasonable at this time to not extend the protection to those patients. I do want to work through the rest of my career in the Legislature to maybe look at this again next year, and I'm committed to it. But this bill with the committee amendment does exactly what the core mission of my bill was and that is to make it a felony for a patient, that knows the difference between right and wrong, to physically assault a caregiver at a regional center. There have been too many assaults. And in my opinion, the Department of Health and Human Services and the regional center staff have done an outstanding job under the leadership of Bill Gibson and others, TyLynne Bauer at Norfolk, the COO at

Floor Debate
April 06, 2010

LRC, to reduce the number of assaults. They've engaged in MAT training, the use of restraints is dramatically down in our regional centers, thanks to the efforts undertaken by the department. This is one of those issues where I can honestly say I'm very, very, very impressed by what our state Department of Health and Human Services has done to reduce violence and assaults. Nevertheless, they do happen. And most of us in this room have the good fortune of going to work every day and not having to even think about getting slugged or attacked or tripped or taken into a back room and beat up. From time to time that happens. And let me tell you, the patients at the facility in Norfolk want this as much as the staff. If you cross that line, you belong in a system that has more to offer than a third-degree assault charge; you should be facing a Class IV felony. And that's what this does. The Judiciary Committee pared this bill down quite a bit, that was very important to them. I'm going to respect their authority and their perspective and I'm going to support the committee amendment. And I will come back next year with more resources, more testimony and more stories about the rest of the system. But this is a very significant step. This bill also contains provisions that are similar to Senator Lautenbaugh's LB840 as it relates to criminal attempt with regard to the possession of a handgun. It's something that county attorneys and county sheriffs in the state wanted addressed following the passage of firearms legislation a couple years ago. So I would urge you to vote for this. I'm going to vote for the committee amendment. I want to take a moment to thank the Judiciary Committee. We didn't necessarily agree on all of the steps but I do think they did what they felt was right. They had reason to look at it. And in the end, nobody wants to put a mentally ill person into a criminal situation when they're acting in a way that they can't form the intent necessary to complete the crime or commit the crime. So I appreciate that. I ask for your vote on LB771 and the Judiciary Committee amendment. Thank you, Mr. President. [LB771 LB840]

PRESIDENT SHEEHY: Thank you, Senator Flood. You've heard the opening to LB771. As was noted, there is a Judiciary Committee amendment, AM2442. Senator Ashford, you're recognized to open. [LB771]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. And Speaker Flood has aptly described the workings of the Judiciary Committee on this matter. And I would just second his comments that HHS has worked hard in this area. The committee has had, I have had, all the members have had a significant amount of good dialogue with HHS. One of the comments that was made to me this morning, something I did not realize but something we'll have to think about when we study this issue further, and as I indicated to HHS we would do that, is that the protections that Speaker Flood is talking about, when he originally introduced the bill, had originally been in statute prior to the functions of these regional centers being transferred from Corrections to HHS. So that's certainly something that I did not know at the time but is relevant to our further considerations of this idea. Another issue that...and Senator Flood has worked with me and the committee on this...on these amendments regarding the narrowing of the statute or the bill and the committee amendments. And I appreciate his support. Another area,

Floor Debate
April 06, 2010

though, that this bill raises and has raised and something we are going to think about and discuss over the interim is the youth facilities at Kearney and Geneva and the mixing of populations, the more violent and destructive population with those offenders and violators who are less so. I know that HHS is very much aware of these issues and are doing a good job in working on them. But I know as we delve deeper and deeper into the juvenile justice issue and the more we peel back the onion, at least in the Judiciary Committee, the more we find about the necessity of early intervention and separating the more violent juveniles from those less so, the more poignant the stories and compelling the issues. LB800 is a start there, but much more work is needed. And over the summer, as we think more about the juvenile justice issues as they relate to violent behavior, I think we have to think about the populations at Kearney and Geneva and some of the difficulties that arise there. And that is not the fault, nor do I mean it to be, of HHS or anybody else, but it's an issue, a series of issues result from that and those actions by juvenile judges across the state and county judges and other judges that involve those facilities. And we'll have to think about those. So in conclusion, Speaker Flood...LB771 with the committee amendments does, I believe, address at least one of the concerns that Speaker Flood had when he introduced the bill regarding sex...those who are committed under the Sex Offender Commitment Act and raising the threshold of culpability when employees of HHS are attacked. And clearly, it is significant. This is not a joke, it's not funny. We in the committee certainly did not think it to be so. It's just the populations are different when we're dealing with these various types or classes of individuals who are placed in these facilities. So I would urge the adoption of AM2442 to LB771. The committee will continue, over the interim, to look at this issue and other issues especially involving juveniles as we approach next session and think about further reforms to juvenile justice and those related issues. Thank you, Mr. Lieutenant Governor. [LB771 LB800]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening of AM2442 to LB771. (Visitors introduced.) We will now resume floor discussion on AM2442. Member requesting to speak is Senator Howard. Senator Howard, you're recognized. [LB771]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I stand in support of Senator Flood, Speaker Flood's bill, LB771. And I thank him for bringing this in. I think this is a very serious matter. And it's time that we look at what we owe those people that we put out at high-risk working for the state of Nebraska, especially with individuals who are adjudicated or who are known to be dangerous. I know of many instances with my fellow social workers who have, with the best of intentions, gone into dangerous situations and at minimum been threatened and in some cases actually assaulted. I encourage Senator Flood to look at expanding this bill as we go into next session because we owe this...we owe this to those people who want to do a good job with a very hard population and sometimes put themselves at risk. And I'm going to briefly just tell you a story of my own experience. I had a 16-year-old boy on my

Floor Debate
April 06, 2010

caseload who had serious chemical addiction problems. And this was when I was handling an adoption caseload. And I worked with his probation officer to try to get him into treatment. And he was so angry at me for suggesting that he needed to deal with his problems that he physically assaulted...he didn't assault me, he threatened me. And I had every reason to believe he was capable of carrying that out. And I filed charges on him to hold him accountable because I strongly believe we don't do these youth any favor by letting them off the hook. He was pretty angry about that, too, as you can imagine, and did get some repercussions for that from the judge in juvenile court. But this same boy, not that much later, went out and killed another youth over a jacket. These situations are very, very serious. We need to take them seriously and we need to give every protection we can to those that are out there in our front lines. Thank you, Senator Flood...Speaker Flood. [LB771]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Wallman, you're recognized. [LB771]

SENATOR WALLMAN: Mr. President, members of the body, I, too, want to thank Speaker Flood. We can only imagine what some of these front-line workers go through. We can only imagine. And they do it day after day. And we're putting some of their personal health at risk. And I've talked to some, I'm sure Speaker Flood has too. They get hurt. Our state employees get hurt working on the job. So I know there was opposition to this bill from some groups. But we have to protect the workers, the front-line workers. I think everybody should have to work in an institution for 30 days if they criticize our state institutions and I think you'd have a better appreciation for what they do. Thank you, Mr. President. [LB771]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Members requesting to speak on AM2442 are Senator Coash, followed by Senator Avery. Senator Coash, you're recognized. [LB771]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. I stand up here to talk with you a little bit about what it's like to work in the regional centers, the youth rehab centers. I've spent some time in my career working in these facilities, working with youth, working with adults with mental illness and their families. The problem that Senator Flood is trying to address is real. The workers that the state asks to go in and provide services and safety to folks who are placed in these institutions, this is real and the danger is real and these assaults do happen. And they happen for folks that earn about ten bucks an hour. Now you might ask yourself, well, how much is it worth to get assaulted? I would say there's not a...I don't think you could put a price on what it would take to get somebody...any of us to go in there and risk assaults for \$10 an hour, but yet it does happen. And I'll echo some of the comments about the improvement that HHS has seen. They've improved safety and they're continuing down that path. But yet there are folks that we serve who continue to be a danger to the staff

Floor Debate
April 06, 2010

who serve them. I want to address a little bit of what the committee struggled with in looking at LB771. As originally drafted, LB771 applied to people who were in the regional centers at Hastings, Norfolk and Lincoln, and the youth rehab centers in Kearney and Geneva. Some of the folks, the adults that are served there, are there under the Mental Health Commitment Act, which means there has been a board of medical professionals who have made the determination that that person should be committed, regardless of their will, to receive services. So you can have a...there may or may not have been a crime tied to that, but yet here they are and they're served there. So if they are served under the Mental Health Commitment Act, the committee struggled with the idea that if their mental health is in such a state that they need to be there, do they...are they warranted some other protections against this? We struggled with that. I struggle with the youth part. And working with youth in my career I can tell you that I rarely see a juvenile situation get better by charging them with a felony. Proponents of this bill will tell you that the threat of a felony is adequate in changing the behavior of the offender. I think there are some people who can disagree with that. I might be...I am one of them. I'm not sure that the threat of a felony is enough to change behavior of juveniles. Nevertheless, the staff and the employees that we put in front of juveniles do put themselves at risk and they do deserve some protection under the law. So I'm standing here to pledge to work with Speaker Flood, other interested parties, and the Judiciary Committee to continue to look for ways to provide the equal protection for the staff that we ask to do a very difficult job. But at the same time, we have to assure that there are safeguards for the most vulnerable people that we do ask--sometimes we ask, sometimes we force--to receive services at our care and our expense. And that is a balancing act. And I appreciate Speaker Flood bringing this because both of those sides of the coin are important. And I do urge the body's... [LB771]

PRESIDENT SHEEHY: One minute. [LB771]

SENATOR COASH: ...adoption of AM2442. And I would urge the body to consider thinking about how we make that balance. Because I don't believe that this issue goes away even with the passage of the amendment and the underlying bill. We still need to take a look at these issues. And we still need to make sure that our vulnerable people are protected and the people that we put in front of them to protect them are also taken care of. Thank you, Mr. President. [LB771]

PRESIDENT SHEEHY: Thank you, Senator Coash. Senator Avery, you're recognized. Senator Avery waives. Seeing no additional requests to speak, Senator Ashford, you're recognized to close on Judiciary Committee amendment, AM2442. [LB771]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. And very briefly again, this amendment deals with individual sex offenders who have been committed to the regional centers. It enhances the penalties for assaults on front-line personnel. It makes some other changes unrelated to these facilities regarding attempt to commit a felony,

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

Floor Debate
April 06, 2010

which were in the original bill. So with those changes and with the commitment that we'll continue to work through the issues, I would urge the adoption of AM2442. [LB771]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You've heard the closing of AM2442 to LB771. The question before the body is on the adoption of AM2442. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB771]

CLERK: 41 ayes, 0 nays on adoption of committee amendments. [LB771]

PRESIDENT SHEEHY: AM2442 is adopted. (Visitors introduced.) Anything further, Mr. Clerk? [LB771]

CLERK: I have nothing further, Mr. President. [LB771]

PRESIDENT SHEEHY: We'll now return to floor discussion on LB771. Seeing no requests to speak, Senator Flood, you're recognized to close. Senator Flood waives closing. The question before the body is on the advancement of LB771. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB771]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB771. [LB771]

PRESIDENT SHEEHY: LB771 advances. We'll now return to item under Select File, LB780. [LB771 LB780]

CLERK: LB780 on Select File. No Enrollment and Reviews, Senator. Senator Gay, I had an amendment, AM2456. I have a note you want to withdraw that, Senator. [LB780]

SENATOR GAY: Yes, Mr. President. [LB780]

PRESIDENT SHEEHY: AM2456 is withdrawn. [LB780]

CLERK: Mr. President, Senator Carlson would move to amend, AM2502. (Legislative Journal page 1308.) [LB780]

PRESIDENT SHEEHY: Senator Carlson, you're recognized to open on AM2502. [LB780]

SENATOR CARLSON: Mr. President and members of the Legislature, in the General File debate on LB780, I stood up and supported the implementation of the sunset provision for three years. I've been asked to submit this amendment which would make it four years, sunset in 2014. I don't have a strong feeling either way on this. I think those that recommended this change are generally those that were against the bill from the start, however, changing it from three years to four years does give one more year

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

Floor Debate
April 06, 2010

for observation. And knowing what I've experienced in health insurance over the years, when you implement a new plan, it takes about a year to reach a cycle where you can really observe what the effect of this policy is, and I could see a little bit of that in this case. So I would recommend that you support AM2502 and move the sunset date to 2014. Thank you, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Carlson. You've heard the opening of AM2502 to LB780. Member requesting to speak, Senator Lathrop, you're recognized. [LB780]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. I am going to stand in support of AM2502. I understand the concerns and I want to take you back to General File debate because we were on the floor and I came with you...to you with a fiscal note provided to me by the Fiscal Office--I don't run that place, I just go to it for fiscal notes--and they gave us a fiscal note that suggested, after they'd done a study, that we're likely to have two people experience these claims a year and that the cost of those claims would be about \$7,500. And there was concern, perhaps disbelief, that we would only have two claims, they would only amount to \$7,500 a year. And as a consequence, I made an accommodation to Senator Carlson that made sense to me which is, if you are concerned about the number of claims that we will have and the cost of those claims, then let's put a sunset on. That was Senator Carlson's idea and, you know, I can't...I could not on General File persuade enough people that the fiscal note was right, it reflected the experience in Arkansas and Missouri with their first responders, and so I made the accommodation. And so I believe what we have done is met the concerns with the sunset, we've met the concerns that were expressed about the fiscal note on General File. And I would have thought this was moving on Select File, but what I'm told now is that there is another letter that's moving around from Laura Peterson, I think, from the Department of Administrative Services. She's our state risk claims manager. Again, she's expressing some concern about the fiscal note. And I've read her...the substance of her letter is Arkansas and Missouri don't cover first responders, so our fiscal note is somehow deficient or is not proper. And I can tell you that we spoke to the people, my legal counsel spoke to the people in Arkansas and Missouri. This information reflects their experience with first responders. We're not making this stuff up. But, still, the disbelief and the concern continues. I appreciate it and that's why I'm willing to go along with the four-year sunset on this, because if it is substantially different than what we are talking about today, then we will take it up again in a few years and, if necessary, we'll let this go by the wayside if it is going to cause problems that have been suggested by those who are lobbying against the bill. And so I would encourage your support of Senator Carlson's amendment. I appreciate Senator Carlson's help on General File, his thoughtfulness on Select File, and your support on LB780. Thank you. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Members requesting to speak on

Floor Debate
April 06, 2010

AM2502, we have Senator Stuthman, followed by Senator Gay and Senator Wallman. Senator Stuthman, you're recognized. [LB780]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I just want to get a few things on the record here today and the fact that I have visited with my local volunteer fire departments. You know, I'm very sympathetic to the people that, the first responders, the volunteers of the fire department, that go out and are on situations, as I stated in the other debate the other day, of drownings of small children. One of the things that I really want to talk about is, you know, I'm supportive, you know, of this bill in one way and in another way I am a little bit cautious with it. What I think, and being in the real world of these individuals that, you know, are on these scenes that have to maybe pick up a small child that has passed away and it affects them mentally, but I think the best therapy for those individuals is getting back to work, getting to the workplace, getting back to work, keeping their mind off of it. What I think really, in my opinion, needs to be expanded is the fact that, you know, HHS, they have a program where they send out volunteers to work with these individuals and they work with these individuals that were on the scene only within that next day or two, counsel them. But I think in the real world what these individuals need is they need some counseling, they need someone that they can talk to, they need someone to help them get out of their little box. You know, maybe it takes three months, maybe it would take six months, but I think during that time those individuals should be getting, you know, back to work. They should be back to work. I think the real expansion, in my opinion, should come from the HHS, and I don't know what type of cost it would be, but I think it would be something that would involve them so that these individuals could talk to someone, get some counseling so that they can get out of their shell and be what's...that they are...they're starting to get withdrawn from the community. They need someone to talk to. But the best thing for them is get to work. The issues that I have raised and that were brought to me this weekend were the fact that those volunteer fire departments, with their workmen's comp and now with this mental-mental, they feel it's going to be quite an increase in cost to them. Now I know Senator Lathrop said maybe there would only be a couple or so, but...and that's very possible. I hope it would only be a couple, but I have a real concern, you know, that the rates of this workmen's comp insurance is going to escalate to make sure they will be able to cover all of those, if any, and that is a property tax increase, that is a definite property tax increase. Once that is enacted, it's very hard to pull that back off and say, well, our premiums are a lot less after four years when we decide maybe this is not needed. But that is the issue that I have. I would, you know...I won't be here but I would hope that this body could look at something that could help these people, you know, get some counseling more than the 24 hours after the incident or maybe 48 hours, something that could be ongoing for some time as needed. But I think the biggest issue is these people need to be back to work. That's the best therapy for them. That's what I think should be addressed. [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

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

Floor Debate
April 06, 2010

SENATOR STUTHMAN: I think that we should be looking at a program that would help these people. I don't think we should be looking at a program, in my opinion, that would keep them home to just think about the incident all day long. That's the worst thing for them people. And the workmen's comp would be, well, they can't get back to work, but they should get back to work. As I stated before, it's the best therapy for an incident like this, get their mind off of it, get them away from it. So I would just like to...I wanted to get this on the record that I think we should be looking in the future of some type of program other than the workmen's comp part of it, but something to assist these individuals get back to the real life. Thank you, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Gay, you're recognized. [LB780]

SENATOR GAY: Thank you, Mr. President. I didn't vote for this bill on General File and I'm listening on Select File to each amendment that's been filed here, and I wasn't sure what to do because to make a bill better, I'm not so sure that's the right thing to do as well, because I don't like the whole idea of expanding what we're doing here. I brought up on General File the cost of the premiums that municipalities will have to pay on this. We don't know that. We're taking a figure...and we can argue and we're going to talk a little bit about some of these fiscal notes. But when there's a fiscal note, if you read on a three-page fiscal note that somebody is giving us that it might be \$555,000, we should pay attention. So I think it's right we do talk about this. Senator Stuthman talked about what's available. Nebraska critical incident stress management, we spend \$47,000 a year on that and they've had over 100 claims or 100 opportunities to get together with volunteer firefighters and things like that. It's administered through the State Patrol, the way I understand it. Senator Cornett, who has dealings with these things, says those aren't very useful, but yet we still spent \$47,000 doing that on 100 different cases, from my understanding. So to say this would never be used I think is a little bit...we don't know that. This is a time where the League of Municipalities went against this, other people just...I have just concerns that if we add this...and everyone respects our firefighters, police, what they're doing, especially those volunteers even who do volunteer to do this. This isn't their paid profession and they're out to help their fellow citizens. We all want to support them. However, there's a certain point here when we look into these issues, we just need to think a little bit longer term. We better know what we're doing. I think I heard other senators talk, well, I'm not so sure if it's \$7,200 or whatever the case may be. There are some discrepancies here. So I hope we get engaged and we...and if you vote for this that you're comfortable on what you're voting for, but I do think there's some concerns that we should talk about. So I'm going to listen in to the different amendments that are out there to see if we can make it better and probably vote to make it better overall. I want to be up-front with Senator Lathrop. I'm not inclined to support the whole bill and I probably won't support the whole bill. However, if we can make it better in some ways, that's probably the best thing to do at

Floor Debate
April 06, 2010

this point. I withdrew my amendments just for that reason. I'm not so sure that you make the bill a better bill, but I'm going to listen closely to the different amendments that are on there. If Senator Lathrop would yield to a question. [LB780]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Gay? [LB780]

SENATOR LATHROP: Yes, I would. [LB780]

SENATOR GAY: Thank you, Senator Lathrop. Senator Lathrop, the question that I'm trying to get to and I was thinking about drafting an amendment that said the state would pick up the cost of the workers' comp premiums that are increased when they have to cover something new under workers' comp, and I can't get that. What I'm being told by others is, well, we don't know that exactly, but it'll probably go up. You're saying that \$7,200 or whatever, those are the incidents after they've found someone. How do we arrive at your \$7,200 and can we discount that premiums wouldn't go up on workers' comp if we add more benefits and more things that we're going to have to cover? The way I've understood insurance, the more things you put on an insurance policy, the more you're paying in premiums. That just makes sense actuarially to cover those costs, but do you have any data on what the cost of the premiums might be? [LB780]

SENATOR LATHROP: Yep. The answer is negligible. We went through this on General File. I had a report from the people that make these estimations, and their response was it would have a negligible effect on premiums. [LB780]

SENATOR GAY: And that's from the NCCI or whatever it is? [LB780]

SENATOR LATHROP: Yep, and they are the experts. [LB780]

SENATOR GAY: And I just got this letter I'm reading and there's discrepancies on that as well saying those look at (inaudible)... [LB780]

SENATOR LATHROP: Discrepancies on what? [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR GAY: Private workers' comp claims and not municipalities, which municipalities would be the ones who would have these cases more. [LB780]

SENATOR LATHROP: I'm not sure what you're talking about when you say there's a discrepancy. The fiscal note was comprised of first responders who made mental-mental claims in the states of Arkansas and Missouri. Those were first responders only. They found that there's on average two, given our population and our number of first responders, and the average cost was, you know, \$7,500 for two of

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

Floor Debate
April 06, 2010

them, so whatever that comes out to. [LB780]

SENATOR GAY: And I guess what we're looking at, there was another letter to refute that a little bit: excludes any injuries to state employees and there's many political subdivisions in those two states that were uncounted for. [LB780]

SENATOR LATHROP: That's not true. [LB780]

SENATOR GAY: Well, that's the...some people believe it is or they wouldn't have put that data out there. [LB780]

SENATOR LATHROP: Well, I can't help you. I mean, if somebody is going to write something that isn't true, all I can do is come on the floor and tell you that we talked to the people in Missouri and Arkansas and these are their first responders... [LB780]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Gay. Members requesting to speak on AM2502 to LB780, we have Senator Wallman, followed by Senator Pankonin, Senator Lathrop, Senator Utter, Senator Hadley, and Senator Gay. Senator Wallman, you're recognized. [LB780]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I can appreciate Senator Carlson's amendment if you have doubts about the cost of this bill. I spoke to my insurance agent, one of my many insurance agents whom I know very well, and earlier he had concerns about this too. I talked to him on the golf course. So we talked about this, talked with volunteer firefighters. They thanked me for putting something out there because they're doing it for nothing, a lot of these firefighters, EMTs. I had some training in this area. If you hit these people within an hour after the tragedy, makes a huge difference. So you're not spending much time off the job if you help them right away. Go to their house, knock on the door, it's tough. So, you know, there is help out there but not very many people are willing to do it. When you see your neighbor child dead and you see the parents, trust me, the dad and mom are never going to forget you. So we're very reluctant to pass something to help volunteers, I can hear it in this body, and I'm not reluctant to help volunteers because they've helped me already. So unless you've been a volunteer firefighter or EMT and seen death up close and personal, it's a different story because it gets in here and you won't forget it. So why are we reluctant to step out here and take a chance? I don't think it's much of a chance. I think it's a benefit for the firefighters, EMTs. Thank you, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Pankonin, you're recognized. [LB780]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I want to make a few comments on this bill and amendment as well. I was present not voting on

Floor Debate
April 06, 2010

the day on General File and I think it was an interesting discussion we had that day. I can recall, I think we were starting in the afternoon, but at whatever time it was someone in the lobby had me come out before we started the discussion on the bill and they said: Boy, this thing is really close. We don't know where you're at, but we think it's kind of a fifty-fifty deal. And obviously the vote ended up very strong for Senator Lathrop's effort and I think there are several reasons, one of them being just what Senator Wallman talked about. This is a worthy cause. We have people, both volunteers and employed folks, that do give such valuable service and see situations that are oftentimes very troubling and I appreciate all that. And like so many things here, if we had unlimited funds and the ability to solve everything, it would be wonderful. Sometimes we don't or we just don't know what the cost may be. And I think my friend Senator Lathrop is a very skillful legislator who had a favorable fiscal note that he believes in and I sincerely hope that that note is...that study or fiscal note is correct. If I recall, Senator Flood gave a fine floor speech. I went up to him afterwards and said, that was a ten-vote speech, and I believed it at the time, still do. And then as we moved on, Senator Carlson came with his amendment to look at this over three years, now he's got the subsequent amendment to look at four and I'm for that. But this bill ended up with a lot of momentum and, if I recall, had in the high 30s on the vote for and maybe there was like 7 of us that were present, not voting; no one voted no. But I think we do need to think about it. And as a little bit of a follow up to my talk the other day about retirement in general, I just intuitively wonder if these costs will be much higher than the fiscal note. Don't necessarily have the proof of that, but I am concerned. I said before and I'm going to say it again, I sincerely hope that if this passes that Senator Lathrop is correct. I want him to be able to say two or three years down the road that Senator Pankonin is a worrywart and didn't have his facts straight or his intuitive feelings were wrong. But I do want to go on the record that I think these costs systemwide will be much higher than the fiscal note. Now, maybe as we talked about in Retirement, maybe that's worthwhile for our state to do that. Maybe we should pay much, much more for this type of coverage because of its value, and I don't necessarily argue with that. I think it's nice to know what you're getting into maybe before you start. But I want to just mention a couple of things from my own personal experience. As you know, I've been a small employer, small business employer and, naturally, pay work comp costs. And fortunately, we've had a little business that even though it has some risks because of farm equipment involved, we've had a great mod rate that's below the average and yet my work comp costs continue to go up. Part of that's because of payroll going up, but part of it just seems like there's always creep in there because the system costs go up. And the other thing that I had experienced as being a small-town mayor and so appreciate the volunteers that involve, but, as been mentioned, the communities pay these work comp costs, a lot of them, even though we're so dependent on those volunteers, so appreciative of that, if those costs went up significantly would be...have a negative fiscal impact for a community that oftentimes is... [LB780]

SENATOR PRICE PRESIDING

Floor Debate
April 06, 2010

SENATOR PRICE: One minute. [LB780]

SENATOR PANKONIN: ...stretched and under stress already. So I think we need to look at all amendments that will be coming up or have come up. I'm in favor of this one. I don't know what I'm going to do on the bill. I'll listen to the discussion. And I'll say for the third time, I hope Senator Lathrop is correct on these costs systemwide that it would be negligible. Intuitively, I don't think it will be, but I sincerely hope they are because I do know the value in some of these mental health treatments, and I think even if the cost was ten times what's proposed, you know, could be a valuable thing to do. But if it's 20-fold, 100-fold, then I think we have a problem that we didn't foresee and I hope we don't end up with that and have to even revisit it sooner. But the bill had so much momentum, I'm assuming that it will be moving ahead here, but I think these... [LB780]

SENATOR PRICE: Time. [LB780]

SENATOR PANKONIN: ...amendments can make it better. Thank you. [LB780]

SENATOR PRICE: Thank you, Senator Pankonin. Senator Lathrop, you're next and recognized. [LB780]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I wanted to take an opportunity to respond to some of the specific things I've heard and some of the things that are more on the order of general feel that this debate is taking on. And I'll maybe start with Senator Stuthman, who I want to acknowledge for his support on General File, I really do. You'll recall Senator Stuthman, who was here on General File, told us of his days as a volunteer firefighter and a first responder and some of the things those folks see and how some of it is too much for the mind to comprehend and can result in things like posttraumatic stress disorder. Today he suggests, however, that the best thing for these guys is to get them back to work soon and that there's a critical incident stress management program offered through Health and Human Services. These guys just need to talk to somebody and get back to work soon. I want to explain what we're talking about and what we're not talking about. There is something called the critical incident stress management program. There might be a counselor you get to talk to, but I read last time we were here on General File, the program specifically doesn't provide the kind of care someone with posttraumatic stress disorder is going to need. And we're not...you know, the critical incident stress management program, good program. It's probably worth \$47,000 or whatever we're paying for it because most of these people are going to need nothing more than that. You know, these are professionals. They're professionals. Even the volunteers are professional. They have been trained. They have the fellowship of the people at the fire station and their colleagues to help them through the rough patches. We're talking about something that is just way bigger than that, something that is posttraumatic stress disorder, an image you can't get out of your mind

Floor Debate
April 06, 2010

that won't let you sleep, that won't let you function, and it's not just get back on your horse and ride again. We're talking about the kinds of things...and they are rare, which is why we're talking about maybe a couple a year, they are rare. Most of the time people will never use this benefit, they'll never take advantage of it, but a couple of times a year they're going to need it. And maybe it's \$7,500 for those two, maybe it's \$10,000, but let me tell you, let's talk about the people we're talking about. They're the folks that sign up to get on an ambulance in your community for free. And you know what? If they said, no, I'm not going to do it anymore and you had to hire people, this would be a drop in the bucket. These guys save your communities, my community in Ralston and your communities in greater Nebraska, hundreds of millions of dollars in staff costs and they don't ask for much, but they're having trouble with recruitment and retention and this is one of the problems. What we say with our vote on this is, are we going to send two people to return home and sit with no care or are we going to try to get them back in the fire station and back to the police station, get them proper care and they'll be back to work? You know, one of the reasons the cost is not as high as you would expect, and while my friends, thoughtful friends, have trouble with the fiscal note, is we're talking about something that if care comes early, it is very treatable. But when you tell a firefighter that's just seen something none of us could comprehend, none of us could live with after it's over, and you say to them, I've spent hundreds of thousands of dollars on training for my fire team and you can go on. [LB780]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR LATHROP: We should stand up and support this right now just because it's a good investment in the fire guys and in the police. Do we want them to leave after we've spent money training them? Because these are the men and women who leave the force because they don't get decent care. These aren't people that are down, people that had to throw up because they were called to a suicide or pulled somebody out of the bottom of a pool. They're people who are experiencing posttraumatic stress disorder. They will be rare. They can be cured. It has to happen early and it doesn't have to cost a lot. And why would we throw that investment away? It's about as logical as saying, I'm not going to change the oil in the fire truck. Now, who thinks that makes sense? It doesn't. These are our most important resource and they deserve care when they get to the place where they can't live with something they've seen on the job. I know... [LB780]

PRESIDENT SHEEHY: Time, Senator. [LB780]

SENATOR LATHROP: Thank you. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Speaker Flood, you're recognized

Floor Debate
April 06, 2010

for an announcement. [LB780]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. We're making progress today. I even found out I'm related to Senator Mello by marriage, which I will get over. (Laughter) But I wanted to provide you just a brief update as to what the rest of the day looks like. We will be adjourning tonight after we resolve LB780 or at 6:00, whichever comes first. Again, we'll adjourn today after LB780 or 6:00, whichever comes first. We will not be having dinner tonight. Tomorrow, we'll be taking up on General File LB999, Senator Campbell's bill, and Select File we'll also be taking up a legislative resolution, LR541. On Thursday, I anticipate finishing Select File to the extent we have it and possible motions to return Final Reading bills to Select File for a specific amendment. On Friday at this point, looking at some Final Reading. I wanted to give you kind of an outline as to what the week looks like. Appreciate our hard work, and thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Continuing with floor discussion on AM2502 to LB780. Members requesting to speak, Senator Utter, followed by Senator Hadley, Senator Gay, Senator Conrad, Senator Mello, Senator Wallman, Senator Krist. Senator Utter, you're recognized. [LB780]

SENATOR UTTER: Thank you very much, Mr. President. Good afternoon, colleagues. "Dad-gummit," my luck on the draw is not very good because I come right in behind the silver-tongued orator, my good friend Senator Lathrop. But I do have some concerns, colleagues, about what we're doing here. I see this as a mandate, an unfunded mandate, that I've found that I'm not very much in favor of in a lot of situations. And I want to report to you the messages that I'm getting from the biggest community in my district, and that being Hastings. They're very fearful of what we are doing with this mental-mental bill. They are scared of what it's going to do to them from a cost standpoint and, quite honestly, they think it could easily cost them a fireman and cost them a policeman when it's all said and done. They are, in fact, very concerned about the fiscal note on this bill. The things that I'm concerned about is where does it lead to? Where is it going from here? For example, we're not including private ambulance services in the...as eligible for their employees, for their first responders. We're not including hospital emergency room personnel that also get to see some very traumatic situations. And there's nothing here for the general public that sees these traumatic situations. And thinking of the Norfolk situation and some of those, it's very easy to say there's some considerable mental trauma in some of those situations. The other thing that I'm a little bit concerned about is the sunset. What do we do when the sunset ends? In four years, if there's not many claims, this body will say, gosh, it sure didn't cost very much, this is a program we need to continue. But frankly if it does cost a lot, why then we're going to say this is a program we absolutely have to continue. So in either situation, I think that it'll be very difficult to sunset this thing in four years even with the sunset clause. I want you to know that in my district there are numerous volunteer fire

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

Floor Debate
April 06, 2010

departments that perform admirably in my communities. And I know that particularly in the smaller communities, when there seem to be fewer and fewer younger people in those communities, that it is the recruitment problem is real and I understand that. I am not sure that just providing this as a kind of a carrot for recruitment is really where we need to be going with this. I'm going to tell you that I definitely appreciate the services that these people provide, there's no question about it. They are in fact doing a job that I don't want to do and I appreciate that. And these...in the volunteer areas, they are doing that gratis and I do appreciate that. I think, though, that we need to take a real close look at the type of mandate that this body may be sending back... [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR UTTER: ...to our cities, towns, and communities and I'm very concerned about that. Thank you very much, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Hadley, you're recognized. [LB780]

SENATOR HADLEY: Mr. President, members of the body, would Senator Lathrop yield to a question? [LB780]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Hadley? [LB780]

SENATOR LATHROP: Yes. [LB780]

SENATOR HADLEY: Senator Lathrop, I apologize, I should have gotten to you earlier. Last time, when the bill was on General, I raised the question about private ambulance companies and also then nonprofit hospitals that run their own ambulance services, whether they would be covered under this bill. Do you know whether they would be covered under this bill and have to provide this? [LB780]

SENATOR LATHROP: I think if they fit the definition of a first responder, yes. [LB780]

SENATOR HADLEY: They would. Okay. And so this conceivably could raise their rates. Would that be a fair statement that we're... [LB780]

SENATOR LATHROP: If it did, it would be negligible. [LB780]

SENATOR HADLEY: It would negligible. [LB780]

SENATOR LATHROP: Yes. [LB780]

SENATOR HADLEY: But that would be...that would be yet to be determined when this

Floor Debate
April 06, 2010

happened. Okay. I would just... [LB780]

SENATOR LATHROP: Well, we know historically that's going...if experience follows history, the consequence of this bill will be negligible. [LB780]

SENATOR HADLEY: Okay. Well, thank you, Senator Lathrop. I just wanted to be sure because I do know that Hastings has its own private ambulance service and Good Samaritan runs the ambulance service, the hospital runs the ambulance service for not only McCook but for the entire Buffalo County, and they're always working to keep costs down. And I just wanted to be sure to ask the question and thank you for answering it. Thank you, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Gay, you're recognized. [LB780]

SENATOR GAY: Thank you, Mr. President. I just wanted to rise again, and Senator Lathrop and I were discussing things and our time ran out, but I'm going to be asking him a few questions in a minute. But Senator Wallman discussed it is a benefit to firefighters. I mean, there's no question about it. I didn't look forward to today to say, well, boy, you know, I want to...leaving the Legislature, I really want to stand up and stick it to those firefighters. I don't. I didn't. What I wanted to say is, let's think about these municipalities a little bit who have said it's going to raise our premiums, a negligible amount is what we're hearing. I mean, I don't know. I just don't...I'm just not getting that part of it because the information I keep getting is different. So I'm going to listen in and I'm...this probably might be my last time to talk. We supported firefighters before. Senator Conrad had a bill where just maybe it was a year or two ago, it was a line of duty bill. I supported that bill. I think everyone in here supported that bill. If you passed away in the line of duty, your children all got an education, a college education. Very commendable. We knew what the cost may or may not be. It's a limited thing. It doesn't go on and on and on. It's something we could do for firefighters. I supported that. But I think the thing that really I don't know is these unknown costs that we should pay for we're adding. We say it's negligible. Well, if it's so negligible, we should put something in here, but we won't pay those costs, the communities will. So we're adding a benefit and then not going to pay for it. Those communities are going to have to pay for this, whatever that cost may be, and that's where we're having a discussion. And I know Senator Lathrop is passionate on this and many of us that are questioning it are not questioning the dedication of our public servants, especially those firefighters and police officers, so I hope it doesn't go there. I have very good friends that are both, very good friends, and I would tell them the same thing what I'm saying right now. Obviously, I'm saying it on the public record. So what I'm worried about is in this time, where we're all struggling and you're going to be struggling and communities will be struggling, we're adding more things to pay for and we won't be the ones that have to pay the bill. But if Senator Lathrop would yield to a question. [LB780]

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

Floor Debate
April 06, 2010

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Gay? [LB780]

SENATOR LATHROP: Sure. [LB780]

SENATOR GAY: Thank you, Senator Lathrop. There's an amendment coming up I think on some weeks on this letter that you have read and I have in front of me. It says we're comparing to Arkansas, Missouri, and some of these other states. The way I understand this--you can answer this--mental claims with a physical injury are compensation if the individual was a victim of a crime or violence. This is not limited to crime or violence, is that correct? Is there a difference between the bills that we're looking at? [LB780]

SENATOR LATHROP: Yes. In Missouri and Arkansas, it applies to everyone. This only applies to first responders. [LB780]

SENATOR GAY: Okay. In Missouri and Arkansas, it applies to everyone that's a... [LB780]

SENATOR LATHROP: Right. [LB780]

SENATOR GAY: ...that's a victim of a crime of violence? [LB780]

SENATOR LATHROP: I think that's right. [LB780]

SENATOR GAY: Wouldn't that be much different then if...the act of violence versus coming upon a scene of an act of violence or a horrendous (inaudible)... [LB780]

SENATOR LATHROP: Right. I would expect fewer under Nebraska's scheme than what they experience in Arkansas. Here's the difference. For example, they would cover, if you're working at the Kwik Shop or at the liquor store and somebody comes in and puts a gun barrel in your forehead, they would make that a compensable claim. Obviously, that person...if it happens enough, you're going to have some people that freak out about it and end up with posttraumatic stress over it, I would expect. Those folks can make the claim. In Nebraska, they can't. [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR LATHROP: These would be the people who happen onto something in the course and scope of their employment. So I would expect it to be less frequent...yeah, a less frequent occurrence in Nebraska. [LB780]

SENATOR GAY: So a citizen or an employee that witnessed that tragic event could then file a claim, which probably never happens, I agree. But a professional who we pay

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

Floor Debate
April 06, 2010

to come to scenes that are this horrendous, they know what they're coming upon. They don't like it, of course, but everyday in the line of duty...not everyday, thank God, but many times these volunteers come across that action. Wouldn't we have more cases then instead of the example you just used, was would be very, very rare? Of course, the data would be different, so are we truly comparing the right thing? You just used a... [LB780]

SENATOR LATHROP: No. Yeah. I got an answer for that. We have...and we just got done talking about this program that provides the critical incident stress management, these people that we have as first responders have access to this, so most of them will get through this with just some help from the... [LB780]

PRESIDENT SHEEHY: Time, Senator. [LB780]

SENATOR LATHROP: ...critical incident stress management. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Conrad, you're recognized. [LB780]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of Senator Carlson's amendment. I think it's a good-faith effort to work with the committee and to work with the leadership that Senator Lathrop has provided to this body on this important issue for some time, Senator Lathrop and others of course. A couple of points that came to mind in listening to the debate and hearing some of the dialogue this afternoon that I did want to make sure were part of this conversation, we heard the same concerns on General File as we're hearing today about, well, gosh, this fiscal note just...it's too low, it's just too good to be true, we just don't trust it. And I can tell you, as a member of the Appropriations Committee for the past four years, our Fiscal Office is nonpartisan and they are professionals who have expertise in drafting these fiscal notes. In fact, they drafted 700 fiscal notes in 2005, 836 fiscal notes in 2006, 617 fiscal notes in 2007, an estimated 800 fiscal notes in '08-09, and it's the best information that we have available to help us with our decision-making abilities on important issues of public policy. And we frequently hear banter about, oh, death by fiscal note or, oh, we don't trust the fiscal note. Well, it is the absolute best information that we have available to make our decisions, and it is staffed by people who have significant, incredible expertise on these very issues, and they do their job in a nonpolitical way. And, friends, I'll tell you, if you seriously have disagreements with this fiscal note, then we have much bigger problems because the assumption and the expertise utilized by the Fiscal Office is a part of every piece of legislation we pass through this body, and their judgment and their assumptions and their abilities are inherent in every penny on every line-item of the \$7 billion budget that we pass. If you have problems with the Fiscal Office, we have a lot bigger problems than whether or not the fiscal note on LB780 is accurate. If you have philosophical differences as to the

Floor Debate
April 06, 2010

substance of the underlying bill, come out and say it. Be an honest broker in the debate and say I have an honest philosophical difference about the extension of workers' comp benefits for X, Y, or Z reasons. That's a legitimate viewpoint to bring forward and that's part of doing our job, but don't attack the Fiscal Office who's done a good job, who continues to do a good job, or use them as a shield for whatever reason, political or otherwise, that you're choosing to speak against or vote against this bill. Finally, we had a great dialogue on this bill on General File and, if memory serves, there were no "no" votes. So if all of a sudden this new opposition has been generated, I would suggest that those senators who now all of a sudden have opposition to this legislation need to file a statement explaining their vote on General File. What caused the dramatic turn of events in just a few short weeks that eviscerated or is eviscerating support from this important piece of legislation? Finally, on a personal note, I can tell you as a daughter of a first responder, my father has been a deputy sheriff for over 30 years in Seward County. [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR CONRAD: He gets up everyday and puts a gun on his hip and goes to work and sees and deals with some of the most difficult things you can imagine in the human experience, in the human condition. Has he ever had to put in a mental health claim because of it? No, he has not. But the point being, I wonder what the vote would look like on this bill if this dialogue happened on September 12, 2001, when people were rushing with full-fledged support and patriotic appreciation for what our first responders have done in that situation and what they do every day in every community? Are we that far removed from that time? Have we forgotten that sacrifice? Or are we that easily swayed by politics that our actions and our votes will not match our rhetoric? If you have legitimate, philosophical disagreements, express them in an honest way. [LB780]

PRESIDENT SHEEHY: Time, Senator. [LB780]

SENATOR CONRAD: Don't blame the Fiscal Office and don't blame first responders. Thank you. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Senator Wallman, you're recognized. [LB780]

SENATOR WALLMAN: I'd like to thank Senator Conrad for her comments. Right on the money. And our Fiscal Office does the best they can and I don't think they're going to embellish numbers one way or the other, and I know they've been accused of that, but I think they honestly do the best they can. And so mental issues, we're talking about mental-mental issues. Let me tell you, most males do not want to admit they have mental problems. It's not something they rush out, well, I got mental problems. It's not something we do. And I'd yield the rest of my time to Senator Conrad. [LB780]

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

Floor Debate
April 06, 2010

PRESIDENT SHEEHY: Senator Conrad, you're yielded 4 minutes 15 seconds. [LB780]

SENATOR CONRAD: Thank you, Mr. President. Thank you, Senator Wallman. I actually I think had wrapped up most of my comments but I do appreciate the time. And I do want to just reiterate to folks, if you have questions about the fiscal note, talk to the Fiscal Office, talk to the Fiscal Analyst, understand how they complete their process, because they're very easy to work with and they're very knowledgeable about all aspects of state government and the issues before us. And they do a darn good job with all of those many myriad of responsibilities that are put on their plate and they're a great resource for our branch of government, our independent branch of government. We've got people in that office who have not only an experience on a variety of different issues but have been here as a part of our legislative branch of government for 20-plus years, most of them on the staff have been there at least that long, and that experience is something that's critically important to our decision making and is an important resource to tap, particularly in this term limits dynamic where all of us have very limited experiences in terms of dealing with a variety of these complex and difficult issues that can be emotional as well. And so we must rely upon a variety of different sources in forming an appropriate judgment about the policy questions we're asked to legislate on. Doing independent research, talking to our constituents, visiting with our staff, utilizing fiscal...the Fiscal Office, utilizing the Legislative Research Office, these are all resources that we have available and at our fingertips if we have questions, if we have concerns. If these kinds of things do come up, we don't have to suffer blindly in the dark. We can look to those who have this kind of expertise to help us along the way. And they've done it not only on this legislation but, as I noted, on every bill that comes before us. And if you have a philosophical disagreement because you don't like the workers' comp system or you don't like something about first responders, well, that's fine and that's honest and you can say that. But you shouldn't attack our staff because that's attacking our branch of government and they're important to our independence and they're important to our process. Finally, I really want to just congratulate Senator Lathrop, Senator Carlson, and others who have done the hard work on this bill for some time, who have come together to work out legitimate differences and to try and put together a framework of something that's reasonable and workable so that we can have a window of information available to us in four years, under Senator Carlson's amendment, to come back and reevaluate. [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR CONRAD: That's a moderate incremental approach to dealing with these issues and it provides us and future Legislatures the opportunity to have a more complete picture. That should be of great solace to those who question the credibility of the fiscal note as it presently stands because we'll have a greater chance to look back and have a more complete picture, and that's important to our work as well. So there's

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

Floor Debate
April 06, 2010

been plenty said about slippery slopes and "woulda," "coulda," "shoulda," or gosh knows I don't trust that fiscal note and I just inherently think there's something wrong with it. Well, then if you support first responders, come forward, acknowledge that there's legitimate mental health issues that may need to be dealt with. Hopefully, they can be dealt with quickly and inexpensively and we can have productive citizens continuing to protect us in the most difficult of circumstances. And then we can take a deep breath,... [LB780]

PRESIDENT SHEEHY: Time, Senator. [LB780]

SENATOR CONRAD: ...we can see where we're at, at four years. Thank you, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Thank you, Senator Wallman. Members requesting to speak on AM2502, we have Senator Krist, followed by Janssen, Carlson, Utter, Haar, Giese, Campbell, and Sullivan. Senator Krist, you're recognized. [LB780]

SENATOR KRIST: Thank you, Lieutenant Governor, colleagues. I guess in responding to AM2502 and in private conversation off the mike with Senator Carlson, I understand the reason for the sunset and I think both the opponents and proponents see that there's good and bad in terms of the length of the sunset itself. If four years gives us an opportunity to look at the financial, the economic and the true reason why this is being done, which is how we take care of our first responders, then maybe that's appropriate, the four years. And I think in my own mind I'm not...I will support a sunset and I think four years may or may not be appropriate and I'll listen to that. So in terms of speaking just to the amendment, that's the only content that I have. In speaking to the bill, I totally...I understand what Senator Conrad has said and I understand what Senator Lathrop is trying to do. But I want to remind you all that if you've never been...if you've never had a gun on your hip or you've never been part of a first responding unit with an ambulance or medical services or you've never seen a charred body or you've never seen an airplane that was parked next to you on the ramp not return and know what that means or you've never seen somebody vaporized or you've never gone through the effort of trying to restore a human being because they are suffering posttraumatic stress disorder, then I would suggest that you listen to what we're saying. I believe the fiscal note is correct for two reasons: (1) we've got a great Fiscal Office. They do their best job. I agree with Senator Conrad. But I also agree that the fiscal note is almost correct, plus or minus a little bit, because I know how traumatic an issue, an event has to be to push a person towards PTSD. The first line of defense in PTSD is the screening process that goes along with hiring our first responders. It's tremendous. We do a great job at police and fire and volunteer fire and volunteer assistance. We screen people so they're not susceptible or they're not as susceptible as they can possibly be. The second is training. How do I deal with this on a daily basis? What am I going to see

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

Floor Debate
April 06, 2010

when I get out there? What's triage going to look like? The third is the internal first treatment that we say that we provide. And if you've talked to the people...I won't use the L word, but if you've talked to people who will weigh in on either side, they will say, you know, we've got a great system in place. That's part of it. It's part of it so that your supervisor pulls you over or your commander pulls you over or whatever it might be and says, tell me about your day, allowing you the opportunity to vent. If you go into any of the posttraumatic stress disorder Web sites, you will read the most critical part of this whole thing is treatment immediately. So if I link those things together, the things that I just talked about, and having been one and I said before on the mike during the previous discussion, oh, but for the grace of God go I, because I watched the people next to me suffer from PTSD; I did not. Why was I more susceptible...less susceptible? I'm sorry. Why were they more? Maybe it's because of who I am, how I was treated, how I was trained. I don't know, but the treatment was there for me in the military to go back at some point and say, I have a problem, I need to talk to somebody about it. The treatment needs to happen immediately. That's why I say today I believe... [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR KRIST: ...the fiscal note because the incidents that will push a person who's properly trained, properly screened, and handles this situation on a day-to-day basis would be less susceptible to get to that point. But for gosh sake, colleagues, when he does...he or she does get to that point, the intervention, the treatment has to be immediate, it has to be as quick as possible, and there has to be follow up. And that's why that fiscal note is plus or minus correct. Plus or minus what? I don't know, but the sunset will help us find what that plus or minus is. I will speak to each one these amendments that comes up in terms of content, of PTSD that I know and I have seen myself. For right now, I will tell you I would support the sunset and I thank Senator Lathrop for bringing this forward. I support LB780. Thank you. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Janssen, you're recognized. [LB780]

SENATOR JANSSEN: Question. [LB780]

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 AM2502? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB780]

CLERK: 28 ayes, 0 nays, Mr. President, to cease debate. [LB780]

PRESIDENT SHEEHY: The motion to cease debate is adopted. Senator Carlson, you're recognized to close on AM2502 to LB780. [LB780]

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

Floor Debate
April 06, 2010

SENATOR CARLSON: Mr. President and members of the Legislature, this will be a short close. Most of the discussion is really centered around things other than simply moving the sunset date from three years to four years. I appreciate Senator Lathrop's support and would ask for yours on AM2502. Thank you. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Carlson. You have heard the closing. The question before the body is on the adoption of AM2502 to LB780. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB780]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Carlson's amendment. [LB780]

PRESIDENTS SHEEHY: AM2502 is adopted. Mr. Clerk, next amendment. [LB780]

CLERK: Senator McCoy would move to amend, AM2454. (Legislative Journal page 1309.) [LB780]

PRESIDENT SHEEHY: Senator McCoy, you're recognized to open on AM2454. [LB780]

SENATOR McCOY: Thank you, Mr. President and members. I'd like to start off by saying I voted for this piece of legislation on General File and was proud to do so. Feel it's a...it's my understanding, with the sunset provision as it was currently talked about then, the three-year sunset provided a measure that we could go back and take a look at this in the future, and I just now supported Senator Carlson's amendment as well. You'll see that AM2454 is the first of two amendments that I have before us this afternoon, but both provide measures to bring in line this legislation with the statute in Arkansas that has been talked about a number of times as we go through this process. I believe that it's necessary to, again, bring yet another would be two measures to this discussion that provide a few more safeguards to make sure that we look at what all of the consequences may be. I think we've also had a good discussion this afternoon as to the Fiscal Office and fiscal notes, and I think our Fiscal Office, Legislative Fiscal Office, does a tremendous job. It's a heavy burden that they carry, particularly in the economic situation that we find ourselves in, which isn't the first time we've found ourselves in such a situation over the decades and the years. And they provide an invaluable resource not only to us as legislators but to the state as a whole. The data that they put together is very, very helpful. And the National Council on Compensation Insurance letter that Senator Lathrop has talked about and the data that they provided to the Fiscal Office is what they used to put together the information in the fiscal note and the three or I should say two revisions but the three fiscal notes that were put together on this legislation. And that data is based on data that's put together by a pool of states, one of those being Arkansas. And part of the statute in Arkansas is what my amendments are based on, and this first one is that a year after the incident that a mental injury or mental illness has occurred, compensation could be paid. That is the law in Arkansas and I

Floor Debate
April 06, 2010

believe that may be one of the reasons that, if the claims are at a lower level as has been talked about, that may be one of the reasons why. And I believe this is a necessary component to this discussion and should be added on and adopted as part of this legislation. Thank you, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator McCoy. You've heard the opening of AM2454 to LB780. Members requesting to speak, Senator Carlson, followed by Senator Utter, Senator Giese, Senator Campbell, Senator Lathrop, Senator Conrad. Senator Carlson, you're recognized. [LB780]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. When you think about first responders and what they do, and our volunteer firefighters and what they do, nobody in here would say they shouldn't be treated fairly. Now, if I were considering whether or not to become a volunteer firefighter or a first responder, most of them have some kind of an accidental death benefit right now. There's a reason for that. If they are killed in action, their family will receive some benefit. It makes sense. I think all of them have some form of bodily injury coverage, so if they're injured on a call physically, they will have coverage. Now, how many of you, if you were considering becoming a volunteer firefighter or first responder, found out there is no insurance in the event of death, there is no insurance in the event of bodily injury, and your present health insurance won't be in effect while you're a first responder or a volunteer? I think all of us would think that's not fair. I don't think I want to be a first responder. I can't afford the risk in being a first responder. Now, if we encourage people to go into the armed services because we want them to serve and we want them to protect us, but we tell them if you have mental or emotional problems, we're sorry but it's just too bad, don't come to us for help, none of us would accept that. Now, let's look at some other points that have come up in discussion today on this bill. We now have a four-year sunset provision. And let's suppose that after four years those of you that are here look back on this bill and there have virtually been no claims of any substance whatever. Now you have a decision. Do you extend the sunset date or do you just make a provision that the law now will make payment for these types of injuries as they occur and that's the end of it and there will be coverage? That's one possibility. Another possibility after four years would be you look back and there have been a moderate amount of claims that caused some concern, but you can look at them and it's really not much different than bodily injury that has occurred. So another decision needs to be made. Do we extend the sunset provision or do we let the bill die? And let's look at the third possibility and that is that after four years, there's a heavy amount of claims. Well, there's been a problem. The problem has been addressed. The people that act as our first responders and our volunteer firefighters have been provided for, they've been covered. [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

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

Floor Debate
April 06, 2010

SENATOR CARLSON: Was that the right thing to do? I think it was. So if we have a fear of what's going to happen so we do nothing, it won't be any different four years from now. Whatever happens, this is a condition and a problem and a possibility that needs to be addressed. I believe action needs to be taken, and I support LB780. Thank you, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Carlson. (Visitors introduced.) Continuing with floor discussion on AM2454 to LB780. Members requesting to speak, Senator Utter, followed by Senator Giese, Senator Campbell, Senator Lathrop, Senator Conrad, Senator Price, and others. Senator Utter, you're recognized. [LB780]

SENATOR UTTER: Thank you, Mr. President, colleagues. I'm wondering if Senator Lathrop would respond to a question. [LB780]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Utter? [LB780]

SENATOR LATHROP: Yes, I will. [LB780]

SENATOR UTTER: Senator Lathrop, can you tell me in the instance of the city of Hastings where they have a paid fire department, could the mental-mental coverage be a part of the salary and negotiations that take place between the fire department and the city of Hastings now? [LB780]

SENATOR LATHROP: No, because the firefighters and the...the city of Hastings could not award or provide for work comp benefits unless the statute has been changed. [LB780]

SENATOR UTTER: And would that same thing be true with the volunteers, a community that saw fit to take care of their volunteers then? It has to be a statewide mandate? [LB780]

SENATOR LATHROP: It has to...you cannot make a workers' compensation claim except for as is allowed by our work comp statute, and right now it doesn't allow for a mental-mental claim for a first responder, so we have to amend this statute so that it's possible to make such claim. So you couldn't negotiate your way into something that's not permitted by the work comp statute presently. [LB780]

SENATOR UTTER: And is it possible then to adjust the work comp statute to provide that it could be an individual situation with each individual community? [LB780]

SENATOR LATHROP: I don't think so, only because that's not the nature of a work comp claim. It's...there are a lot of commonalities between the various states' work comp statutes. There's some differences, some tweaks that happen. We're going to

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

Floor Debate
April 06, 2010

tweak ours with LB780. But there's a fundamental commonality to work comp statutes and essentially saying, well, this is on the books for you to negotiate as part of your package is not part of work comp juris prudence. [LB780]

SENATOR UTTER: Thank you, Senator Lathrop. I will just...I didn't mention a few minutes ago when I was up visiting about this bill that the city of Hastings I know at the present time is giving some consideration to...not...to acquiring the ambulance service to become a part of the fire department in Hastings, thinking this would be a more efficient use of fire department and police personnel in the city of Hastings, but I can tell you from visiting with those folks that they're having second thoughts about it, primarily because of the effects that this bill may have. And so I would repeat one more time that I think what we're talking about here and that we need to think seriously about is sending an unfunded mandate back to our villages, our cities, and our communities in this state, and I'd ask you to consider whether that's appropriate or not. Thank you. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Giese, you're recognized. [LB780]

SENATOR GIESE: Thank you, Mr. President, members of the body. I rise today in support of LB780 and just wanted to address a few things that have been talked about. You know, I think a lot of what we talk about today, decisions that we make are...they're based on what-ifs. And let me just address a couple of those. I know there's a lot of former mayors here today and myself being one of those. I've only had one call that pertains to this bill. That was from the city of Dakota City. They have one of the strongest volunteer fire departments in the state and they are for this bill. Obviously, you're going to say, well, yeah, I know why, but they are for this bill. But there's a lot of history that goes with our volunteer fire departments, and back to my point about the mayor. One of the things that we had to do in South Sioux with the dwindling numbers of the volunteer fire department was that we had to eventually hire two full-time, paid fire department staff. And it was a decision that we had great concern about it, as we have great concern about these costs that may be with this bill before us today. But I would ask you to ask yourselves who would you want to be on the end of that call when you don't have a volunteer firefighter that's going to show up? Do you not have somebody that's going to answer a rescue call? So you weigh the costs of a full-time firefighter versus volunteer. And I would just urge the body to think about that as we go forward. Senator Lathrop, would he yield to a question? [LB780]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Giese? [LB780]

SENATOR LATHROP: Sure. [LB780]

SENATOR GIESE: Senator Lathrop, just a hypothetical. Two volunteer (sic) firefighters

Floor Debate
April 06, 2010

cost \$50,000, approximately, each per year. Would you say that the premiums that we're talking about on a city, a average city in Nebraska is going to be more than \$100,000 per year? [LB780]

SENATOR LATHROP: Oh, no. I mean, I think it's clear. The NCCI said it's negligible and, you know, a lot of those...the people that provide information to NCCI are the insureds and they include cities and towns. They have enough experience with this to give us data that we can use to predict what's going to be the effect on insurance premiums. The answer is still negligible. [LB780]

SENATOR GIESE: Well, thank you, Senator Lathrop. I appreciate that and I listen intently when we talk about the Fiscal Office. Usually, 99 percent of the time we talk about the Fiscal Office and their opinion being too high on a bill. I don't know when the last time I've heard about the fiscal note being too low on a bill. I have not heard that yet discussed too much on the floor. So, Senator Lathrop, I appreciate the work on LB780 and would yield you any time I may have left. [LB780]

PRESIDENT SHEEHY: Senator Lathrop, you're yielded 1 minute 40 seconds. [LB780]

SENATOR LATHROP: Thank you. And thank you, Senator Giese, for your remarks. I'm trying to look at my list and see what I got time to cover. Maybe I can respond to a point made by Senator Utter, which is it's hard to imagine that this is a carrot for recruitment of a volunteer fireman or a volunteer first responder. You know, I'd be surprised if it's much of an inducement to recruitment, but it is a tool for retention and that's really what I think we're missing in this discussion, is that we go out into our communities, we try to round up people that will do this and serve as volunteers,... [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR LATHROP: ...and then the question is, once something happens to him, do we want to discard them and leave them to their own devices to find the care they need or do we want to help them because they've been serving our community? And I think the answer is, we want to help them. And you can look at this as the humane thing to do or you can look at it as a good investment, but why would you turn your back on somebody who, in the case of some of these paid guys, we've spent a lot of money training and a lot of the volunteers we've spent a lot of money training? And it's the right thing to do. But just from an economic point of view, why would you turn your back on these people and say, you can go home and all the things that happen to somebody with posttraumatic stress disorder, we'll let them happen to you; we'll just find a fresh guy and train him in your place, when we can bring these people back from this terrible posttraumatic stress disorder with a little bit of care? [LB780]

PRESIDENT SHEEHY: Time, Senator. [LB780]

Floor Debate
April 06, 2010

SENATOR LATHROP: Thank you. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Thank you, Senator Giese. Senator Campbell, you're recognized. [LB780]

SENATOR CAMPBELL: Thank you, Mr. President. Earlier Senator Conrad urged all of us who were going to get up and speak this afternoon to talk honestly about where we're coming from. And I have to say that, in putting my honest feelings on the table, I am very mixed. And I have continued to talk with Senator Lathrop about this. And primarily having come from a public entity, sitting on a county board that was responsible for the workers' comp premiums and claims and looking at that whole area, on the one hand, you're very...it's very important for you to look at the employee and determine what is oftentimes in the best interest in that coverage. On the other hand, you want to make sure that your constituents understand and that you're ready to be able to respond financially. And so I have to say that I'm going to put that on the table first to indicate that. In Lancaster County, I know how devastating it was the first year I was on the board that we had a deputy sheriff that was shot in a domestic violence situation in a small town outside of Lincoln. And I know how difficult that whole situation was for our entire department. And really for years after that people talked about that incident, so I do understand that. We did not, however, have any volunteer firemen or...from a first responder in that sense, but we did deal with the fire districts and their budgets and their preparation. So to some extent, I'm going to probably ask a couple of questions of Senator Lathrop in regard to that. And as I understand it, the premiums, what drives up premiums is the experience, so we all may start out with a fairly even premium. My concern is for those fire districts, should they have a volunteer fireman or person who has to deal with this situation, and have we helped them backstop any large claims. And so, Mr. President, that would be the context of my question to Senator Lathrop. [LB780]

PRESIDENT SHEEHY: Senator Lathrop, would you yield? [LB780]

SENATOR LATHROP: Yes, I will. [LB780]

SENATOR CAMPBELL: Oh, the context of my question is really coming from the fire district's perspective and having watched their budgets and how they deal with that. I understand the claim or the premiums and I agree with you. I'm not concerned about that premium. What I am concerned about is should that claim come through and it be a larger claim, have we helped any way for these local fire districts to backstop any very large claim in a horrific situation that might happen to them? [LB780]

SENATOR LATHROP: Is there a financial... [LB780]

Floor Debate
April 06, 2010

SENATOR CAMPBELL: Is there a way to do that, to backstop and help them with any claims? Do they, then, come to the Legislature? It's almost like... [LB780]

SENATOR LATHROP: No, I think it's...understand that if you're in the firehouse and the bell rings and you jump on the pole and you ride it down to the first floor like they do on TV and you break your ankle, it's covered. [LB780]

SENATOR CAMPBELL: Oh, I know that. [LB780]

SENATOR LATHROP: If you fall off the fire truck and break your neck and you're paralyzed and you languish in a vegetative state for years, it's covered. So the kind of claims that we're talking about, compared to some of the injuries we already cover with work comp, are small because it's mostly counseling, which is cheap, and mostly we can get these guys back to doing something productive right away. [LB780]

SENATOR CAMPBELL: And, Senator Lathrop, I appreciate that. I just think there are some situations in which that volunteer... [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR CAMPBELL: ...force and district might find themselves in a more...that might need help and so I was trying to figure out how we might backstop that, but I'll keep listening. Thank you. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Lathrop, you're recognized. [LB780]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I wanted to talk about this amendment and maybe I'll talk about this amendment and the next one in the same occasion because you'll recall on General File we had a good, solid, hard discussion on LB780. And a lot of you expressed concern about the cost and disbelief, I'll call it, about the cost, and we made the accommodation. And this thing moved I think 38 to nothing without a call of the house. So now we have some amendments here and I listened carefully when Senator McCoy introduced them. He didn't suggest that this makes the bill better. He didn't suggest that there was an evil or a problem this addresses but merely that, well, Arkansas and Missouri have this kind of a provision in their statute, so we're going to attach it to Lathrop's LB780 and that's my reason; thank you and I hope you'll support it. And I would suggest to you that before we adopt an amendment, before we adopt an amendment, an additional amendment to LB780, perhaps we ought to have a purpose. There ought to be a reason that AM2454 makes sense in this bill. And let me tell you it does, as Senator McCoy represented. And by the way, I appreciate your support from General File and your support of the firefighters and the first responders in this state. But this provision's application in another state is on a scheme

Floor Debate
April 06, 2010

that covers...a work comp scheme that covers every employee in the state, not just first responders. So the bill, LB780, already is more narrow than any other state, and all we're doing with these two amendments Senator McCoy is offering is to further narrow it and, I believe, without a purpose. The bill here basically says that if somebody dies from a mental illness and they die and it's directly related to their work, no question about that, and it's a mental illness caused by their employment as a first responder, if they die from it within a year it's compensable, and if they die a year and a day later it's not. And I think if somebody has a mental illness because they've been serving our community and under LB780 it's a compensable injury, then it ought to be a compensable injury and I don't know why we're setting up artificial time barriers that are inconsistent with work comp law in the state of Nebraska as it exists today. And I would encourage your opposition to AM2454. Thank you. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Conrad, you're recognized. [LB780]

SENATOR CONRAD: Thank you, Mr. President. I was hoping that maybe Senator McCoy would yield to a question, please. [LB780]

PRESIDENT SHEEHY: Senator McCoy, would you yield to Senator Conrad? [LB780]

SENATOR McCOY: Yes. [LB780]

SENATOR CONRAD: Thank you, Senator McCoy, and actually I'm glad that my light came up after Senator Lathrop's comments because I did want to talk about the text of the amendment a little bit and try and get my head around what your substantive intent was here. It's a fairly short amendment. In reading through that what it seems to be saying to me is, "If the death of an employee resulting directly from mental injury or mental illness compensable under subsection (1) of this section occurs within one year after the incident resulting in such mental injury or mental illness, compensation shall be paid to dependents of the employee under Section 48-122," and then it has some technical language after that. So does this...this amendment essentially assumes that there are instances where somebody will incur a mental injury or mental illness based on their service or work. It's premised on that assumption, is that right? [LB780]

SENATOR McCOY: I think that this amendment is predicated on the fact--that is exactly what it says, Senator Conrad--if a death occurs from that. [LB780]

SENATOR CONRAD: And by that, what does that language mean? Because when I read it, it seems to me to say, for example, a suicide. A death resulting from mental injury or mental illness, isn't that contemplating a suicide? [LB780]

SENATOR McCOY: Well, I would assume that that's certainly one... [LB780]

Floor Debate
April 06, 2010

SENATOR CONRAD: Is there another example...okay. [LB780]

SENATOR McCOY: ...of the definitions of what that would be. [LB780]

SENATOR CONRAD: Yeah. I'm just trying to figure out if there's another definition someplace of what a death resulting from mental injury or mental illness would be other than suicide. [LB780]

SENATOR McCOY: We can certainly explore what that may be. Suicide would certainly be one of the deaths that could occur from that, certainly. [LB780]

SENATOR CONRAD: Okay. Thank you, Senator McCoy. And, colleagues, that...I want to thank Senator Campbell for her honest assessment of the legislation earlier. I do appreciate that. And I'll tell you I rise in opposition to this amendment based on the clarification that Senator McCoy did so straightforwardly provide. This acknowledges that mental injury and mental illness can be incurred during the course of duty in service to our community, yet rather than providing treatment for those mental injuries and mental illnesses, it says we acknowledge that you've incurred this kind of injury but, rather than treating you, we're going to see if you end up committing suicide and then we're going to pay some payments out to your dependents. Wow! That is a harsh result, a very harsh result. And we spend a lot of time talking about mental illness and behavioral health issues in this body and we spend a lot of time learning about and talking about if we can't do it on the preventative side then we do it on the treatment side because that's how we get productive, healthy citizens, and that's what the research demonstrates is the best way to deal with these issues. And Senator McCoy says the best way to deal with these issues is, if in fact you are injured, if you incur a mental illness or a mental injury serving your community, we're not going to provide treatment for you, but we'll pay your kids or your wife after you kill yourself as a result of that experience. That is ludicrous and that is offensive! Finally, in terms of the unfunded mandate issue that has been bandied about on this floor, and Senator Lathrop mentioned this briefly in his conversation with Senator Campbell, if you truly believe that line of reasoning and that is your opposition to this legislation, then I suggest why haven't you put in an amendment... [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR CONRAD: ...to repeal the workers' comp benefits we do pay to first responders for physical injuries? Because we do, and nobody has challenged that as being an inappropriate payment or being an unfunded mandate that should be repealed, number one. And number two, if you don't adopt this legislation, you know who the unfunded mandate ends up on? The head of the first responder, who either is a volunteer or a professional who has dedicated their lives in either law enforcement or

Floor Debate
April 06, 2010

EMT or firefighting, etcetera. That's...you say, you know what, it's not fair to the city of Hastings or the city of Seward or the city of Lincoln to pick up this tab; in fact, the person who sacrificed, who put their life on the line serving the community, they should pay, they should pay for serving their citizens, fellow citizens, for serving their community. [LB780]

PRESIDENT SHEEHY: Time, Senator. [LB780]

SENATOR CONRAD: Thank you, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Members requesting to speak on AM2454 to LB780, we have Senator Price, followed by Senator McCoy, Senator Haar, Senator Krist, Senator Stuthman, and others. Senator Price, you're recognized. [LB780]

SENATOR PRICE: Thank you, Mr. Lieutenant Governor, members of the body. I rise to say that there are elements of this amendment that I truly appreciate and I'm going to elaborate. We heard during debate previously about the incident or the potential for our first responders to be involved in a situation where someone could end up having...seeing something horrific and having, as we would like to call, a PTSD event. And we heard and I've quoted numbers about where different organizations for emergency and first responders said anywhere between 14 percent to 22 percent of all current individuals in this line of work could have PTSD. And then we heard about the culture, and this is what I'm going to focus on, the culture. We heard of a culture where we don't want to be the ones that go out and tell our professionals to seek assistance because of the negative connotation that it could have, the implication. Senator Cornett talked about you don't want to be put on a desk, you don't want to lose your gun or your weapon, excuse me. So the question I would say is we have a culture that says hide it, and this would erode that culture. This would tell people and it would tell the supervisors hopefully and the rest of the department, we had a member who saw something, let's go ahead and debrief him, do the things that we talked about before, but let's not foster and continue a culture where we deny it, where we hold it in. I am not a professional on the psychiatric or psychological issues, I'll guarantee you that, but I've often heard it doesn't get better with time. Hiding it, you get more defense mechanisms on how you are going to push it away and not deal with it until it becomes a critical incident. Maybe you have something that happens that triggers. So I like this amendment because we could help destroy that culture where they don't seek help because it shouldn't be a shame to say I'm having to cope with something that maybe is a little tough for me, and go on seeking help, so I really appreciate it for that. Now, I'd also like to address the idea about they said it being narrow in scope here versus in Arkansas. I don't think scope has an issue here. We're talking about the culture. If it's narrow in Nebraska versus some other state, that doesn't talk to what this amendment is. Let's look at the amendment. And so I'd like you to focus on that. And I also want to say I did not hear at any point in time, nor do I read in this amendment, that someone doesn't get treatment. If you go to someone and

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

Floor Debate
April 06, 2010

you say I have an issue and it's validated through this battery of the DSM-IV tests that you do have a PTSD-type situation, you're getting treatment. No one denies it. No one said you won't get treatment. And I don't believe Senator McCoy ever said no one would get treatment. And with that, I'd yield the balance of my time to Senator McCoy, if he'd like to use it. [LB780]

PRESIDENT SHEEHY: Senator McCoy, you're yielded 1 minute 35 seconds, and then you are next in the queue. [LB780]

SENATOR McCOY: Thank you, Mr. President, and thank you, Senator Price. Appreciate Senator Price's comment. And perhaps Senator Conrad didn't understand the tenor or premise or the purpose of AM2454 because it does not address taking away the intent or the purpose of LB780, it merely brings into line this legislation to mirror similar statute... [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

SENATOR McCOY: ...that has been talked about--thank you, Mr. President--from the state of Arkansas. We've talked about the state of Arkansas, the state of Missouri, and we've used, as did the Legislative Fiscal Office, the state of Arkansas and their statute in putting together the fiscal note and the revisions after it. And this amendment and the amendment behind it would very simply bring alongside the existing legislation provisions that the state of Arkansas has. Nowhere in this amendment or in the one to follow is there anything that says that the original intent of the bill is destroyed. It isn't. It puts into place... [LB780]

PRESIDENT SHEEHY: Senator McCoy, you're now on your time. [LB780]

SENATOR McCOY: Thank you, Mr. President. It simply puts into place provisions that are in place in statute in Arkansas, and we've used this statute in Arkansas many times in General File. It was talked about at the committee hearing, as I understand from going through the transcript. It's been talked about in this debate on Select File. And I believe those to be commonsense provisions to add into this discussion and to add to this legislation to make sure that the statute that we're talking about in Arkansas matches, that the Legislative Fiscal Office used in putting together the fiscal note, matches the legislation that we're attempting to pass here today and passed on General File. And again, in response to Senator Conrad, at no place in my comments in opening on AM2454 or in, as I've already told you, my vote on General File did I express a discontent with the purpose and intent of LB780. I think that's very, very important to point out. Thank you, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator McCoy. Senator Haar, you're recognized. [LB780]

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

Floor Debate
April 06, 2010

SENATOR HAAR: Mr. President, members of the body, I stand in support of LB780 and I just want to get up and talk about this a little bit because my father in the little town of Freeman, South Dakota, was on the volunteer fire department and I remember at least once when he came home with singed eyebrows and smelling of smoke. And I didn't know to what extent, you know, he suffered mentally from that, but it was something that he did for the community. I know a lot of volunteer firefighters in my district and also paid volunteer...paid firefighters and EMT people in Lincoln, and they provide a really important service to this community and I think we owe it to them and, frankly, for me it's very personal. Where I live right now, if I have a heart attack, it's going to be the Malcolm Volunteer Fire Department that's going to come and take care of me, and I value that. And finally I'd like to say that sometimes unfunded mandates can allow things to happen that wouldn't otherwise allow things to happen. I think if we put this mandate into law that communities will do it, some of them might grumble but they're going to see that it's the right thing to do. Thank you very much. I'd like to give the rest of my time Senator Lathrop, if he would wish it. [LB780]

PRESIDENT SHEEHY: Senator Lathrop, you're being yielded 3 minutes 25 seconds. [LB780]

SENATOR LATHROP: Thank you and sorry for that delay. (Laugh) I actually got caught in between a chair and a bench over there but I'm all right. (Laughter) I know the Lieutenant Governor is a volunteer fireman. Let me...I think we're probably getting about ready to vote on these amendments and wrap it up, so I'm going to use the time that I've been given and my light is not on. I'm just going to use the time to talk about what we're talking about today, which is somebody...you know, in work comp right now, our firefighters, our first responders, our volunteers are paid for a physical injury. So a volunteer fireman breaks his ankle jumping off of the fire truck, it's compensable. We're not creating a new type of benefit. All right? We're just saying that somebody who has a really, really bad emotional injury, something that makes them go into that dark abyss, that place where you lose your family, where you start self-medicating with alcohol and prescription medications and you...these people end up with divorces and they end up being homeless and bad stuff happens to these people. And the question today has been framed in terms of what's it going to cost the city. You know, this is an unfunded mandate. What are we doing? You know what? What about these people that served our communities? What about these people? What if this was \$10,000 a claim? It's not, but what if it was? You know, when we don't take care of these people, when we do not take care of these people that have posttraumatic stress disorder that have been serving our community, paid or volunteer, if we don't take care of them, they just go off, all their training goes out the door, and they go into this place where they try to cope with what their mind won't let go of. [LB780]

PRESIDENT SHEEHY: One minute. [LB780]

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

Floor Debate
April 06, 2010

SENATOR LATHROP: These are people that are getting hurt in their psyche, every bit as real, more painful perhaps than a broken leg or a bad back, and it's appropriate that we care for them and not tell them: Thanks for your service; good luck with your posttraumatic stress disorder; you're on your own. I really do, I would encourage your opposition to Senator McCoy's amendments. It's certainly not personal. I appreciate his support of the bill. And then I would appreciate your support moving LB780 on to Final Reading. Thank you. [LB780]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Krist, you're recognized. Senator Krist waives. Senator Stuthman, you're recognized. [LB780]

SENATOR STUTHMAN: Question. [LB780]

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 AM2454? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB780]

CLERK: 33 ayes, 1 nay to cease debate, Mr. President. [LB780]

PRESIDENT SHEEHY: The motion to cease debate is accepted. Senator McCoy, you're recognized to close on AM2454. [LB780]

SENATOR McCOY: Thank you, Mr. President and members. I'd like to point out again that the premise of AM2454 is to add into LB780 a similar provision as the state of Arkansas has in their existing statute and upon which we have continually compared LB780 to. I think this is an important provision, one that provides a way to make sure that we are providing some sort of a benefit but also putting in some guardrails for it. This is important, I believe, to make sure that we do and maintain the mentality that the body clearly has indicated their willingness to support, and that is a sunset provision to look into what the long-range cost and ramifications of this legislation would be. I supported those provisions. I see this as a continuation of that, yet another way to make sure that we are providing a benefit to first responders, if such a benefit is adopted by the body, while at the same time providing a way to make sure that we are...we have the ability to know what these benefits will cost and what this will mean to our small businesses across the state. And I would urge the adoption of AM2454. Thank you, Mr. President. [LB780]

PRESIDENT SHEEHY: Thank you, Senator McCoy. You have heard the closing. The question before the body is on the adoption of AM2454 to LB780. All those in favor vote yea; opposed, nay. Senator McCoy. [LB780]

SENATOR McCOY: Would ask for a call of the house. [LB780]

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

Floor Debate
April 06, 2010

PRESIDENT SHEEHY: There has been a request for the call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB780]

CLERK: 36 ayes, 0 nays to place the house under call, Mr. President. [LB780]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Loudon, the house is under call. Senator McCoy, all members are present or accounted for. How would you like to proceed? [LB780]

SENATOR McCOY: Roll call vote, regular order, please. [LB780]

PRESIDENT SHEEHY: There has been a request for a roll call vote in regular order. Members, we are voting on the adoption of AM2454 to LB780. Mr. Clerk. [LB780]

CLERK: (Roll call vote taken, Legislative Journal pages 1309-1310.) 17 ayes, 27 nays on the amendment, Mr. President. [LB780]

PRESIDENT SHEEHY: AM2454 is not adopted. The call is raised. Mr. Clerk, we will move to the next amendment. [LB780]

CLERK: Mr. President, Senator McCoy would move to amend with AM2455. (Legislative Journal page 1310.) [LB780]

PRESIDENT SHEEHY: Senator McCoy, you're recognized to open on AM2455. [LB780]

SENATOR McCOY: Thank you, Mr. President and members. As I indicated earlier in my opening on the previous amendment, this is the second amendment that would adopt a provision into LB780 that mirrors existing statute in Arkansas that we have modeled LB780 after, and that would be that it would limit these benefits to 26 weeks. Legislative Fiscal Office used both of the provisions that were based in the previous amendment and this amendment in their analysis on this bill, on the underlying legislation, as they put together the fiscal note for it. Both of these provisions are currently in Arkansas statute and I believe are necessary to this, to be adopted to LB780, in order for this to truly mirror this statute. And there are those that have held this legislation, Arkansas, as the gold standard for how we would like to conduct our business and I believe, if that is the case, then this should be a necessary component to what we're doing. And if there are those that don't believe that to be the case, I would be very interested to hear why. I believe this is necessary to again provide a guardrail, along with the sunset provisions that we have adopted as a body, to make sure that we

Floor Debate
April 06, 2010

are putting safeguards out there for our small businesses while, at the same time, recognizing the high importance that our first responders have to our state. Thank you, Mr. President. [LB780]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator McCoy. You have heard the opening on AM2455 offered to LB780. The floor is now open for discussion. Those wishing to speak, we have Senator Dubas, Nelson, Gay, Fulton, Janssen, McCoy, Schilz, Lathrop, and Krist. Senator Dubas, you're recognized. [LB780]

SENATOR DUBAS: Thank you, Mr. President, members of the body. Before I get into my questions, I will have some questions for Senator Lathrop, I'd like to just take an opportunity again to really let this legislative body know, as well as our citizens across this entire state of Nebraska, while this issue might not have a direct impact on how we recruit and retain volunteer firefighter and EMS, it will have some play in that issue, and this is going to be a very, very critical issue in short order for our state as we continue to try to recruit and retrain...retain emergency responders, especially in our rural areas of the state. There's been bills introduced the last several years trying to get a \$500 tax credit for these people. We can't even get that through the body. This is going to be a critical issue for our public safety if we don't figure out ways to help our communities recruit and retain these very, very important public safety people in our communities. So, like I said, while this might not have a direct impact, I think it does have some indirect connection to what we're talking about today. So would Senator Lathrop yield to some questions, please? [LB780]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB780]

SENATOR LATHROP: Yes, I will. [LB780]

SENATOR DUBAS: Thank you, Senator Lathrop. And perhaps you've touched on this. I've kind of been in and out dealing with some other issues in my office. But are we...are we talking apples to apples here when we're talking about what this piece of legislation that you've introduced compares to Arkansas and Missouri? Are we talking the same things? [LB780]

SENATOR LATHROP: No, and I'm glad you asked the question because I was just making a note to talk about that. Arkansas has not been represented by me or anyone else in this body to be the gold standard for work comp statutes, nor is Arkansas the standard for the language that we've chosen here. What we did and the reason we've talked about Arkansas and we have had some discussion about Missouri is because the Fiscal Office has no way of predicting without looking to other jurisdictions to see what's the experience with mental-mental statutes and work comp in other states. And so the

Floor Debate
April 06, 2010

Fiscal Office turned to Arkansas and Missouri, both of which have mental-mental statutes that apply to every employee in every industry in every job in their two states. Then we had to, or the Fiscal Office, "Nebraska-tized" the number to have that number reflect our statute, because we only apply to first responders, and the fact that we have a smaller...a smaller population. So Arkansas is not the gold standard on work comp, I don't think anybody that practices in the field would suggest that, but it provides us with, or the Fiscal Office, with something to use for a yardstick to predict what can we expect in Nebraska, and that's Arkansas' only involvement in this discussion. [LB780]

SENATOR DUBAS: So just to reemphasize what you said, and I think maybe it's been lost in the course of the discussion, when we're talking Arkansas and Missouri, they're covering a whole array of workers where we are just looking at first responders only with your legislation, correct? [LB780]

SENATOR LATHROP: Exactly. [LB780]

SENATOR DUBAS: Okay. And then will this be an automatic increase to workmen comp premiums should this legislation pass? [LB780]

SENATOR LATHROP: No. Here's what I'd expect--a negligible effect on the work comp premium. And just to give you kind of how's this work, NCCI is an outfit that calculates, if we tweak work comp up or down or we change the medical benefits or we provide for more benefits or a longer period or make changes to our benefits in any respect, they're the people with the bean counters and the "actuarialists" who try to take the experience from other states across the country,... [LB780]

SENATOR LANGEMEIER: One minute. [LB780]

SENATOR LATHROP: ...large numbers, and tell you what effect is this going to have if you pass this law in Nebraska or what effect is it going to have if you pass a law in Iowa. They did that with us. They had the experience from across the country with the cost of mental-mental coverage for first responders, and their answer is it's going to be a negligible effect. [LB780]

SENATOR DUBAS: Thank you, Senator Lathrop. You know, I don't want to negate the concerns that our local government subdivisions have. I don't want to pass unfunded mandates down to them. I think the information we've been given is fairly clear that it will be minimal at best. And we put the sunset in. As I've talked with some of the people that have contacted my office, we're trying to take their concerns into consideration, but this also shouldn't keep us from doing something that is very important to recognize the work that our volunteers, that all of our emergency personnel respond to. Thank you very much. [LB780]

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

Floor Debate
April 06, 2010

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Nelson, you're recognized. [LB780]

SENATOR NELSON: Thank you, Mr. President and members of the body. I stand in support of Senator McCoy's amendment, AM2455, because, despite what's been said here today, I think we have to have some limitations along the line. I'm looking at a fact sheet here. Senator Lathrop has talked about NCCI and Arkansas does not track mental-only claims and does not report to NCCI, from what I see here, and the same with Missouri. So here we have our Fiscal Office doing the best job that they possibly can based on a very small amount of claims or those that are reported. Senator Lathrop keeps talking of a negligible cost. I'd like to address a question or two to Senator Lathrop, if he will yield. [LB780]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB780]

SENATOR LATHROP: I would be happy to. [LB780]

SENATOR NELSON: Well, very good. You work in workmen's comp law, do you not, Senator Lathrop? [LB780]

SENATOR LATHROP: Occasionally. [LB780]

SENATOR NELSON: Okay. [LB780]

SENATOR LATHROP: I try to stay away from it, honestly, but I do it. [LB780]

SENATOR NELSON: I would too. The first responders across the state are already covered by workmen's comp in the areas of physical injury. Are they not? [LB780]

SENATOR LATHROP: Very true. [LB780]

SENATOR NELSON: Okay. Let's talk a little bit about work comp law. You're going to bring mental-mental underneath this. In a physical injury claim there's a period of temporary disability, right, ordinarily? [LB780]

SENATOR LATHROP: Doesn't need to be. [LB780]

SENATOR NELSON: Well, but there might be some temporary disability. [LB780]

SENATOR LATHROP: It is possible,... [LB780]

SENATOR NELSON: Okay. [LB780]

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

Floor Debate
April 06, 2010

SENATOR LATHROP: ...depending on the severity of the injury and what the person does for a living. [LB780]

SENATOR NELSON: How is that calculated, the benefit that the worker is going to get under temporary disability? [LB780]

SENATOR LATHROP: Two-thirds of their average weekly wage, up to a maximum amount that goes up every year, the temporary total disability maximum amount. [LB780]

SENATOR NELSON: So if their weekly wage, let's just say, is \$400 to \$500 a week, they're going to get two-thirds of that. [LB780]

SENATOR LATHROP: Let's make it \$450. [LB780]

SENATOR NELSON: \$450. All right. [LB780]

SENATOR LATHROP: Then I can divide it by three easy enough and tell you that the TTD benefit would be \$300. [LB780]

SENATOR NELSON: And the limitation of that again, I mean that goes how long? [LB780]

SENATOR LATHROP: Until they can be returned to some type of work so if you... [LB780]

SENATOR NELSON: Is there any minimum on that? [LB780]

SENATOR LATHROP: A minimum? [LB780]

SENATOR NELSON: Yeah. I mean is there any... [LB780]

SENATOR LATHROP: I think \$49 is the minimum. [LB780]

SENATOR NELSON: No, no, what I mean, as far as the extent of time that that temporary disability can go on. [LB780]

SENATOR LATHROP: No, no, no. In fact, Senator, you don't get it unless you're off work because of your injury for more than seven consecutive days. [LB780]

SENATOR NELSON: That's true. [LB780]

SENATOR LATHROP: Thank you. [LB780]

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

Floor Debate
April 06, 2010

SENATOR NELSON: That's true. But we have to...we have to figure that if someone has experienced mental trauma here, that they...if it's really severe, and I know what you're maintaining about getting to them immediately and giving them the counseling, but that's not necessarily going to work 100 percent of the time. They may have been so traumatized that they're going to be off work beyond seven days and for quite a long time afterwards. Would that be correct? [LB780]

SENATOR LATHROP: Well, I guess I'd have to go back to the experience they had in Arkansas and in Missouri where they apparently take care of these claims for now about 30, about \$4,000 apiece. [LB780]

SENATOR NELSON: I find that incredible. There must not be any long-term disability down there in Arkansas because I think we stand a good chance here of getting into \$100,000 per claim if there's disability for a period of time. What about total disability? Suppose a psychiatrist says this person is just totally disabled, can't work at anything, he's been or she has been so traumatized? What are we faced with there as far as compensation? [LB780]

SENATOR LANGEMEIER: One minute. [LB780]

SENATOR LATHROP: Well, you're asking me to accept a hypothetical. [LB780]

SENATOR NELSON: It can go for a number of years. [LB780]

SENATOR LATHROP: If somebody... [LB780]

SENATOR NELSON: It can go for... [LB780]

SENATOR LATHROP: ...if somebody has posttraumatic stress disorder and getting them proper care doesn't work and they can never work another day in their life, then we can send them to poverty or we can cover them, and if we cover them, they will get total disability benefits for as long as they're unable to work. [LB780]

SENATOR NELSON: That's true. And that's going to cost way, way more than \$7,000. I'm just pointing out that there's a possibility of huge claims here and I can understand why the municipalities and other entities are concerned about this, so that's why I'm supporting this. Hopefully they wouldn't have to go the rest of their life, that's an extreme case, but I think it's reasonable to confine this to 26 weeks and limit it to that extent to help contain the costs... [LB780]

SENATOR LANGEMEIER: Time. [LB780]

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

Floor Debate
April 06, 2010

SENATOR NELSON: ...that employers will have to pay. Thank (microphone malfunction). [LB780]

SENATOR LANGEMEIER: Thank you. Thank you, Senator Nelson. Senator Gay, you're recognized. [LB780]

SENATOR GAY: Thank you, Mr. President. I support the amendment and I think earlier, when I was listening in, if there was an amendment filed that was to, in someone's mind, going to clarify a bill we're working on, they have full right to do that. What I was hearing a little bit and the tone of the debate a little bit is if you're against this bill you're against the volunteer firefighters, police officers, whatever. You know, I wouldn't say...I wouldn't say this Legislature has never done anything for our volunteer firefighters. I did a little checking just before, while we've been debating this, and I'm going to say some of these bills. In 2002, Senator Hartnett had a bill for tax-deferred pension benefits for volunteer firefighters that passed. In 2003, Senator Janssen's uncle passed a bill to increase the minimum death benefit for volunteer firefighters in incorporated cities from \$5,000 to \$10,000 that passed. Quite honestly, if we want to do something, we should probably raise that to more than \$10,000. Then we'd have to pay for it as well. In 2008, Senator Hudkins had a bill, LB757, provide for a \$500 tax credit for volunteer firefighters; didn't pass. Senator Dubas just brought that up. That's a good benefit. If you want to...if we're worried about volunteers, that would be a good one. I had one just last...in 2008, increase penalties for assault on a first responder; it didn't get out of committee, didn't pass obviously. I mentioned earlier Senator Conrad had, in 2009, waive in-state college tuition for children of firefighters and law enforcement officers killed in the line of duty. That did pass, very good bill. Senator Fischer had a bill in 2009, consider volunteer first responders as state employees for purposes of health insurance; didn't pass. I assume that was a considerable amount of money and I wish we...maybe that's something that we should look at. We just passed one last week, Senator Lautenbaugh, LB373, provide for rebuttable presumption that certain infectious diseases are job-related for purposes of death or disability benefits; just passed last week. To say that we're not doing anything or that we don't support our volunteers, if that's where the argument goes, quite honestly, I think we're going in the wrong direction there. I heard about it's a minimal cost, it's a minimal cost. I've stood up many times defending the Fiscal Office. I think they do an excellent job. However, our role here is to use our own judgment a little bit and say let's look into the future, what does...a little bit of common sense says that premiums should go up. It's only negligible. If this is so negligible, when you look at your committee statement, the city of Omaha, League of Municipalities, chamber of commerce, Omaha Chamber of Commerce, Lincoln Chamber of Commerce, Nebraska Grocers, Nebraska Restaurant, Nebraska Retail Federation, state of Nebraska Risk Manager, and the risk manager of the city of Lincoln all opposed this bill. If it's so negligible, why would they care then? So as I hear this, I'm in support of this amendment. I still oppose the bill. I think Senator McCoy, with his amendments, is trying to make a bill a little better and I'll support that. However, like

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

Floor Debate
April 06, 2010

I say, when I hear the tenor a little bit, and it's toned down a little, but I think we should keep a focus on the bill. Those of us who are opposed to this bill are not opposed to those people that protect us every day. And like I say, we have friends and relatives who are volunteer firefighters or police officers. What we're saying is this time...is this the time to start expanding benefits again on municipalities, or if you're self-insured municipalities, to pay some of these premiums that we're unsure of? I still think it's right that we do listen a little bit to others who have a view on the fiscal note and we take that into consideration. So with that, I just wanted to rise. This will be the last time I talk on this bill, but I was hearing the tenor change a little bit from colleagues that I respect on both sides of the aisle and I think we... [LB780 LB373]

SENATOR LANGEMEIER: One minute. [LB780]

SENATOR GAY: ...if we stick to the bill, it's important we look at this and what this will do to recruitment. I don't think this is going to hinder recruitment. I don't think, if you're a young person or man or woman wants to volunteer as a paramedic or a firefighter, you're going to even ask about this bill: Boy, what does that do for me on posttraumatic stress disorder if I have a case? I doubt...that's the last thing that comes in their mind. They want to serve the public, do a good job. I think there are other ways we could take care of some of our volunteers and they've been shown in the Legislature. Some have passed, some haven't, but at least some of these the state would pay for and we wouldn't shift that cost to municipalities. Thank you, Mr. President. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Gay. Those still wishing to speak, we have Senator Fulton, McCoy, Schilz, Lathrop, Krist, Price, and others. Senator Fulton, you're recognized. [LB780]

SENATOR FULTON: Thank you, Mr. President, members of the body. I know we have the temptation to look at these bills, after we've been on bill after bill after bill for some time, to believe that we are either for or against a certain body or a certain group or a certain lobby or special interest or what have you when we deal with these bills. The fact of the matter is we have to make a decision on policy and that's what we're charged with doing. So I recognize that that is a temptation and maybe it is, after we stay on things for a while, that's what happens, but we need to stay focused on the policy to make the decision that's best for the state. This amendment, AM2455, on its face, it makes a lot of sense to me, and I haven't heard a lot of debate on the merits of the amendment itself and so I'm going to ask a few questions if, Mr. President, if Senator Lathrop would yield to a question. [LB780]

SENATOR LANGEMEIER: Senator Lathrop, will you yield? [LB780]

SENATOR LATHROP: Yes, I will. [LB780]

Floor Debate
April 06, 2010

SENATOR FULTON: Senator, are you opposed? You haven't had a chance to really speak. You're opposed to AM2455? [LB780]

SENATOR LATHROP: Sure. I haven't heard a reason for it. [LB780]

SENATOR FULTON: Okay. What is the reason that...we're just going to have the debate out loud. I mean that's what we're doing. [LB780]

SENATOR LATHROP: Sure. [LB780]

SENATOR FULTON: It seems to me that the reason to be in favor of it would be that from a fiduciary standpoint where we're setting limits, and so if there are claims that are filed that allows municipalities and units of government to better plan their risk, that's why I would say in favor. What would you say is a reason to be against? Does that sound reasonable as a... [LB780]

SENATOR LATHROP: Well, I can appreciate that. Whenever, whenever we stop a benefit, a work comp benefit, interfere with somebody's ability to bring a claim, we're handing that responsibility off to somebody else, okay? I think it's good that you framed this in terms of policy because that's what it is. Whenever we limit somebody's right to make a claim, we hand the responsibility for that claim to someone else. So let's take a guy who, obviously, if he's well in a couple weeks, this amendment wouldn't affect him, so we're talking about somebody that needs 30 weeks worth of care, okay, 30 weeks worth of counseling but we're going to stop at 26. Or maybe they need more than that. So who pays if we stop? That's the question. That's the policy question you want to talk about. And I'll tell you, when we stop, we say to this guy, this person who is serving our community, who suffered posttraumatic stress disorder, you're on your own so you and your family are going to pick this up now. And if it leaves him unable to work, he's going to have to absorb that and not the community he was serving. Or we send it over to Medicaid and we tell Medicaid, you know what, we're going to hide this over in Medicaid and have Medicaid pay it. [LB780]

SENATOR FULTON: Okay, Senator. Senator, would that not militate against the fiscal note that's been in question? If indeed the amount that we are to expect to be paid by tax...ultimately it's taxpayers, I mean that's why our interest is here in looking at the cost. If we are saying that the costs to premium...the increase to premiums will be negligible and if indeed the fiscal note is \$7,500 or whatever it is, a seemingly negligible number in the grand scheme of our overall budget,... [LB780]

SENATOR LATHROP: Sure. [LB780]

SENATOR FULTON: ...then it seems to me by putting forth limits at 26 weeks, what you have elucidated seems to militate against the fiscal note and the claim that this is

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

Floor Debate
April 06, 2010

negligible. [LB780]

SENATOR LATHROP: No, you asked me... [LB780]

SENATOR FULTON: Do you follow? [LB780]

SENATOR LATHROP: ...you asked me why I thought it was a bad idea and I'm telling you that if somebody needs more than 26 weeks this is a bad idea. The reality, Senator, is my belief is most people will be in and out of their care and back to work and fully functioning in far fewer than 26 weeks. [LB780]

SENATOR LANGEMEIER: One minute. [LB780]

SENATOR FULTON: Those who are opposed, and I, just to be clear, I was...when we put that sunset on LB780, I became in favor of it and I remain in favor of it. This seems to me reasonable because it would allay the fears of those who continue to be opposed to this bill based upon the fiduciary...the possibility that this could end up costing a lot of money to one small municipality. I'll just...I'll continue...I'll close by saying that I'm in favor of AM2455. It seems that if we are to have...if we're to have a policy recognizing our first responders, as we do in LB780, and I'm in favor of LB780, it's not unreasonable to put forward some guidelines. If indeed the argument that's leveled against...leveled in favor of this is that it will be negligible in cost, then indeed putting forth 26 weeks as a limitation should not be...should not be a concern. So I, therefore, stand in favor of AM2455 and the underlying bill, LB780. Thank you, Mr. President. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator McCoy, you're recognized. [LB780]

SENATOR McCOY: Thank you, Mr. President. Would Senator Lathrop yield to a question? [LB780]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB780]

SENATOR LATHROP: Yes, I would. [LB780]

SENATOR McCOY: Thank you, Senator. Do you know of any state in our nation, Senator Lathrop, that has statute that has no limitation on disability benefits? [LB780]

SENATOR LATHROP: No limitation on any disability benefit? Even the state of Nebraska caps the amount you can receive in temporary total disability benefits so that it affects the high earners. [LB780]

SENATOR McCOY: Should have clarified, the time frame of such benefits as we're

Floor Debate
April 06, 2010

talking about under this current legislation. [LB780]

SENATOR LATHROP: Nebraska has a 300-week limitation, Senator McCoy, unless you are totally disabled permanently. So if you have some limitation in your earning ability that's not total and 100 percent, there's a 300-week limitation that applies to every single work comp claim. [LB780]

SENATOR McCOY: Thank you, Senator. We talked about the different states, Missouri and Arkansas are a few, and the NCCI letter in question has dealt with a pool, as Senator Lathrop has talked about, found costs to be negligible. Colleagues, I would state to you I believe if these costs are negligible then what would be the harm of such a 26-week limitation as a measure to make sure that we have the ability to know what the cost will be? It's my understanding and reason for my question to Senator Lathrop that there is not a statute in any other state that I'm aware of that has what we would propose to do in LB780 and that's not put a limitation on, no time limitation other than the 300-week that Senator Lathrop talked about, a time limitation on these disability benefits. And if Senator Lathrop would yield, I'd like to address him another question. [LB780]

SENATOR LANGEMEIER: Would you yield? [LB780]

SENATOR LATHROP: Yes. [LB780]

SENATOR McCOY: Yeah, Senator Lathrop, I assume that you've seen this letter that we received this morning via e-mail from the State Risk Manager. Would that be correct? [LB780]

SENATOR LATHROP: I did scan it. [LB780]

SENATOR McCOY: Okay. [LB780]

SENATOR LATHROP: I think I understand it. [LB780]

SENATOR McCOY: We, unfortunately, didn't have this letter during our General File discussion. I found this very interesting because over the weekend, the long weekend, I received a lot of feedback from folks in my legislative district. Interestingly enough, very little feedback was received on General File on this piece of legislation. That wasn't the case over the long holiday weekend. I heard from not only those on village boards in my district but also from volunteer fire personnel, including a fire chief. I mentioned to this chief this amendment that is before us this afternoon and we talked about how valuable a resource our first responders are to the state of Nebraska, and on that we are in firm agreement, as I believe most of us are here in the body. I also talked to that fire chief about this amendment. He felt this was a very reasonable amendment to add and

Floor Debate
April 06, 2010

moderate the legislation to mirror what other states have done, namely Arkansas. And I find it interesting that we want to use Arkansas as the paragon of virtue of what we're trying to accomplish here when it works into the discussion, but yet when I bring up this discussion with these two amendments about what Arkansas actually has in their statute, we want to say, well,... [LB780]

SENATOR LANGEMEIER: One minute. [LB780]

SENATOR McCOY: ...that really isn't important or that doesn't apply to the state of Nebraska, and I would ask why. Why is that the case? Because I believe this is an important provision to not only take care of our first responders but to make sure that we know what this is going to mean, not only to the state of Nebraska. Because, friends, the NCCI letter states that state claims are not...they couldn't take those into account because they don't have that data available to them. That's an important provision that we must understand with this discussion. Thank you, Mr. President. [LB780]

SENATOR LANGEMEIER: Thank you, Senator McCoy. Senator Schilz, you're recognized. [LB780]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good afternoon, everyone. It's getting late in the afternoon, late in the day and...but you know we're here discussing a very important issue. And serving on the Business and Labor Committee, where this bill came through, I've heard the arguments on both sides, continue to get lobbied to this day from folks that have strong feelings on each side for this. And I think it's important to note and I think, just as Senator McCoy said and everyone else in this body believes, our first responders, our emergency personnel are very important to the state of Nebraska, very important to our emergency services and getting things done. And so we want to make sure that we can help them wherever we can in whatever we can do. On the other side, who gets to pay for this if it happens? And I think that's a question, because with every bill like this that you bring up, you know, there's one thing that we do know. There will be a cost and we don't necessarily know what that will be. I do find it amusing and I know others have spoken to this today that (laugh) if the Fiscal Office comes back with something that costs too much we complain like crazy, and now if the Fiscal Office comes back with something that costs too little we complain like crazy. So I'm still trying to figure that part out myself. You know, we don't know what the costs will be. The one thing that makes this issue much more difficult than anything that...anything that we see before in workers' comp issues is that we're talking about mental illness and, you know, it's such a tough...such a tough measure to look at and understand, okay, is this person mentally ill, what caused that and how do we move forward to cure it, and then ultimately have we found the cure for this person. And I think that's what makes it so hard. It's a perception thing on the first part and then it's a very difficult thing to understand. So I have a tough time with these bills. I've got firefighters from my home community that are standing up saying, hey, we

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

Floor Debate
April 06, 2010

really need this and it makes sense, and then I've got communities, cities, municipalities on the other side that are saying, hey, you know, this is a huge problem because we don't know what it's going to cost. And I think the fear of the unknown is a huge thing. And so, you know, the last question I think that everybody asks, especially when we talk about workers' comp, is what...what's going to happen. If you implement this and you put this in place, will people ultimately find a way to play games with the system to put themselves out there in saying, hey, I need this help and go from there? And I would hope that everybody would look at this in such a way as a tool to be able to help those that really need it. Unfortunately, what we've seen in the past is that that's not necessarily the case. I'm still undecided on this. I'm intrigued by Senator McCoy's amendments and I will continue to listen to that. And I guess I don't have much else to say so I'll turn the rest of my time over to Senator Price, if he'd like it. [LB780]

SENATOR LANGEMEIER: Senator Price, a minute 48. [LB780]

SENATOR PRICE: Thank you, Mr. President. Thank you, Senator Schilz. Here's a question I have. Would Senator Lathrop yield to a question? [LB780]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB780]

SENATOR LATHROP: Yes. [LB780]

SENATOR PRICE: Thank you, Senator Lathrop. In reading the amendments and the bill, what I've noticed is that this would be applicable to first responders who are responding to an event, correct? [LB780]

SENATOR LATHROP: Yes. [LB780]

SENATOR PRICE: Okay, great. What happens in the scenario when the first responder, like in most volunteer fire departments, if the first responder, say, works at a large corporate entity, let's say...well, any large corporate entity, and while at work, and they're an EMT, and while at work for that company they witness and they're there for someone who has a horrific accident, falls down the stairs. [LB780]

SENATOR LATHROP: Wouldn't be covered because it's not happening in the scope and course of their employment, which is a... [LB780]

SENATOR LANGEMEIER: One minute. [LB780]

SENATOR LATHROP: ...fundamental, fundamental requirement of work comp. [LB780]

SENATOR PRICE: Okay, great, because the question I had, I didn't know if there was some other responsibility for a medically trained person to respond if the person is in

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

Floor Debate
April 06, 2010

need of some medical service. So you know, i.e., the child drowning in a pool, you're the only one with CPR, you also happen to be one, that would not go against the employer or anything like that at the time. [LB780]

SENATOR LATHROP: No, because they're not in the scope and course of their employment. [LB780]

SENATOR PRICE: Great. Thank you very much. Thank you again, Senator Schilz, for the time. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Schilz and Senator Price. Senator Lathrop, you're recognized. [LB780]

SENATOR LATHROP: I've noticed something today. It kind of happened on General File and now it's happening again. And my friends, my colleagues stand up one at a time, one after another, and say we all like our first responders, we all appreciate what our first responders do for our communities, I want to support our first responders, I always support our first responders, I'm there for the first responders, we should be there for the first responders, and then there's a pause and we start talking about the cost. How much do you like the first responders? What's the price? Do you like them a little bit? So this is okay if it's 20 bucks a fire station? Do you like them enough to pay 100 bucks a fire station? Really, honestly, if you oppose the bill, I've not stood up and said you hate firefighters or you don't appreciate them. I didn't hear anybody say that. I think we might be feeling a little funny about our opposition to the bill, and why wouldn't we, because we all want to go back to our hometowns and back to our communities and back to those picnics and tell the volunteer firefighters we were with them and the paid guys that we were there. But now things come up and we've got the grocers out back lobbying the thing, we got some people that don't have a dog in this fight lobbying it and they're whipping up our mayors and they're whipping up our city council and now we're getting the blowback and we're getting e-mails that sound like it's the end of the world, and then one after another the people who are against this bill from the start are giving us hypotheticals that are not the experience other states have had, and they suggest, as my friend Senator Nelson did, contrary to the fiscal note, this is going to result in huge claims, I can see huge claims from here. And we were also encouraged to use our own judgment. We're not being encouraged to use our own judgment. We're being encouraged to substitute our judgment. But with what? What data do you have that this is going to cost money other than the speculation of a few of our colleagues? That's it. You know, I'm going to tell you something. If you adopt this amendment, there's going to be somebody that needs more than 26 weeks worth of benefits. Probably isn't going to happen very often, might happen once every five years, but he's going to need it and it isn't going to be there for him if you adopt this amendment. And when we get around to moving the bill, when we get around to moving the bill you should think of those volunteer fire guys and you should think of your fire department and you should think

Floor Debate
April 06, 2010

about how this has come back around. There's some people lobbying it. They're whipping up the cities. The cities are sending you e-mail and talking about things that are not the experience other states are having and you're being encouraged to oppose LB780 based upon some hypotheticals that are inconsistent with other states' experiences. Now Senator McCoy is a thoughtful senator. I appreciate his support of LB780. I appreciate his interest in the subject matter. I'll tell you, I don't think we need to put further limitations because Arkansas has done this. [LB780]

SENATOR LANGEMEIER: One minute. [LB780]

SENATOR LATHROP: It's not model legislation down there in Arkansas. Their involvement in this discussion is only so that we have some measure for what's going to happen in Nebraska. That's all. They aren't the gold standard. Please, colleagues, I encourage you to oppose Senator McCoy's...respectfully oppose Senator McCoy's amendment. I think it's brought in the best...with the best intentions. I just disagree with it. Then I would encourage your support of LB780 and let's move it on to Final Reading. Thank you. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Those still wishing to speak, we have Senator Krist, Price, Utter, White, Conrad, and others. Senator Krist, you're recognized. [LB780]

SENATOR KRIST: Thank you, Mr. President and colleagues. Senator Utter asked a question early on in the discussion whether or not we should present unfunded mandates down into lower levels of government, and normally I've stood up and said unfunded mandates are not a good thing. However, my experience with PTSD and handling the human side of this equation tells me that if those levels of government are not doing what they should be doing that maybe we should coax them to help them go down that road. I believe strongly enough in this issue to say that I think that in this particular case, with all respect to Senator Utter, this is a time when I think the risk factor for the amount of the unfunded mandate is worth the risk to take care of our people and our first responders. Secondly, Senator Dubas made a Freudian slip and I wonder if it was really Freudian. Recruit, retrain, she said, I mean retain. I want you to think about something for a minute. The average cost to get a firefighter, a volunteer firefighter, up to speed they tell me is somewhere between \$30,000 and \$35,000. So if one volunteer fire department in your small community falls off of his capability, the minimum that you are throwing away could be \$30,000 to \$35,000. Now that figure may not be completely...you can debate that figure with me. I think that's on the low side because I think if you go all the way to be a captain and does all the things he needs to do, that figure might be much higher. Next, by all the research that I have done and all my personal experience, and you can pull up any Web site and look at the statistic analysis...statistical analysis and it is now firmly entrenched in medical science and statistics that between 7 and 8 percent of the general population will at some time

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

Floor Debate
April 06, 2010

during their life suffer from PTSD, 7 to 8 percent. Those causes are rape and more serious crimes, and I won't go into them. The statistic for first responders that's issued is .5 of 1 percent. Less than .5 of 1 percent of our first responders is actually affected by PTSD, and they tell us in the statistics, if you look at and you read the Web site, they tell us that the average length of care is between three to six months. In some cases, it goes out a year; in most cases all symptoms and all drugs, if they're prescribed, is over within a 24-month period, returning the person completely to service. I tell you and I said it before, I think that my experience is that if you treat it fast, efficiently, correctly, that you can return someone to service almost immediately. I've heard it said that we are comparing apples to apples, oranges to oranges, apples to oranges; we're holding up the state of Arkansas as an example. If in fact we're holding Arkansas up as an example in a dollar-for-dollar arrangement, a dollar-for-dollar example, then Arkansas should be more expensive than we are because those benefits go citizenwide in some cases, not just first responders. I respect the fact that we're going to set a time limit involved and that we will essentially reduce the risk of economic or financial... [LB780]

SENATOR LANGEMEIER: One minute. [LB780]

SENATOR KRIST: ...exposure. And, colleagues, that's what this is all about. Choose a number. We want to choose 26 weeks? How about 52? How about two years? How about this? How about if you want a representative example of how this is going to work let's let the sunset do the job? Let's let the four years of the sunset do the job and then we will see how much of a risk we have taken at the end of four years. And I hope I'm back in four...I hope to see myself back here to make that decision in four years and I hope that Senator Lathrop is right. I hope that I don't have to eat my words. But I believe honestly that we should go forward and we should allow this test, if you will, run for the sunset period. Thank you, colleagues. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Price, you're recognized. [LB780]

SENATOR PRICE: Question. [LB780]

SENATOR LANGEMEIER: There has been a call for the question. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM2455? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB780]

CLERK: 27 ayes, 2 nays to cease debate, Mr. President. [LB780]

SENATOR LANGEMEIER: Debate does cease. Senator McCoy, you're recognized to close on AM2455. [LB780]

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

Floor Debate
April 06, 2010

SENATOR McCOY: Thank you, Mr. President, members. Think we've had a great discussion this afternoon, while at the same time continuing to maintain the value of our first responders. I disagree with Senator Lathrop that this discussion is about somehow a bright line between where we do and where we do not support first responders. I don't have to tell any one of you, least of all those of you that sit on the Appropriations Committee, the very nerve-racking and troubling budget situation that stares us in the face. It's happened before in our state. It will probably happen again. There are many, many, many worthwhile causes and this is one of them. But the taxpayers of Nebraska will shoulder this burden and AM2455 seeks to draw a line where the taxpayers of Nebraska...where it stops, while at the same time recognizing the value of what our first responders do for our state. I believe that our Legislative Fiscal Office does a marvelous job, but in this case I think they looked at the situation with the best information they had in front of them. But as this letter from the Risk Manager of the state of Nebraska talks about this morning, the NCCI data doesn't take into account state employees and political subdivisions in the states of Arkansas or Missouri. So how could they accurately determine for certain that these costs would be negligible? Perhaps they are, but we don't know that. And because we don't know that, I believe that this amendment is necessary, along with a sunset provision to provide those guardrails to this discussion. Those members of the body that have been here more years than I have had to deal with this issue in legislative sessions past. This issue has been wrestled with before. There's a reason for that, in my view, and that is because it is a difficult issue. I believe that we can respect what our first responders do for our state while at the same time doing what we do for any other issue that the state of Nebraska has to deal with, and that is letting moderation and fiscal responsibility enter into the discussion, because we have no choice. We have to balance our budget, as families across Nebraska do as well, as political subdivisions across Nebraska have to look at where their dollars are going. Members, I think that this amendment is prudent, it's wise. I would urge your support of it. Thank you, Mr. President. [LB780]

SENATOR LANGEMEIER: Thank you, Senator McCoy. You have heard the closing on AM2455 offered to LB780. All those in favor vote yea; all those opposed vote nay. Senator McCoy, for what purpose do you rise? [LB780]

SENATOR McCOY: Call of the house, please; roll call vote, regular order. [LB780]

SENATOR LANGEMEIER: There's been a request to put the house under call. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB780]

CLERK: 36 ayes, 0 nays to place the house under call. [LB780]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Those members here, Senator White, Senator Giese, please

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

Floor Debate
April 06, 2010

check in. Senator Lautenbaugh, would you check in? Senator Rogert, would you please check in? Senator Loudon, would you please return to the Chamber? The house is under call. All members are present or accounted for. There has been a request for a roll call vote in regular order. The question before the body is, shall AM2455 be adopted? Mr. Clerk, please call the roll. [LB780]

CLERK: (Roll call vote taken, Legislative Journal pages 1310-1311.) 12 ayes, 30 nays, Mr. President, on the amendment. [LB780]

SENATOR LANGEMEIER: AM2455 is not adopted. With that, I raise the call. Mr. Clerk, next amendment. [LB780]

CLERK: Senator Nelson would move to amend. (AM2488, Legislative Journal page 1311.) [LB780]

SENATOR LANGEMEIER: Senator Nelson, you are recognized to open on AM2488. [LB780]

SENATOR NELSON: Thank you, Mr. President, colleagues. Now that we have voted these other amendments and not approve them, I'm offering this amendment which would basically...I'll read it. On page 1 to the amendments to AM2064, strike beginning with the first "a" in line--this may be on your gadget--3 through the first comma in line 4; in line 4 strike "or paid" and "or paid." What this does then is limit this bill, LB780, to volunteers across the state of Nebraska and I think probably that's appropriate because we are all concerned about the volunteers, we want to do what's right by them, although, as you know, I've had some reservations about the cost. But we have a situation in our larger cities, our metropolitan areas, where we have paid responders where they really have benefits provided for them at the present cost to those cities, and I just want to give you an example of what Omaha does and what they're providing. First of all, there's, during training, there's a period of time that they spend on that, and then they also provide staff counseling in the event of a mental-mental, a trauma here in these situations, and a whole lot of benefits that are provided. Now I know there have been some comment that those benefits, the counseling are not sufficient. Well, I'm not here to say whether they're sufficient or not, but they certainly can be made sufficient. Senator Krist has alluded to the fact that it's very important to address these stress disorders immediately and he's had a great deal of experience in the service with that. I would think the same would be true here then with our police and fire departments and other paid responders. Why, rather than impose additional mandates on the cities that are already providing some of the things through the workmen's compensation law, why not deal with that with a different bill or maybe perhaps let them come forward voluntarily and expand and enhance the programs that they have? It would certainly be less costly, I think, to those cities and would be something that they would certainly I think welcome and be glad to do rather than have to deal with temporary disability and

Floor Debate
April 06, 2010

perhaps permanent disability, if it comes to that permanent total under the workmen's comp law, plus all the additional costs. So I think this can be a win-win situation here. We are still providing for the volunteers across the state. If what Senator Lathrop says is true and proves out, it may not be that costly. It, on the other hand, it may be quite a bit more costly for the cities with the large amounts of police force and firemen and responders that they have who are already paid. They have really pretty good benefits and a lot of provisions in their existing policies that will take care of these posttraumatic disorders. So I would like to have some discussion on this from other persons, perhaps from senators from Lincoln or other larger cities to see what their take is on this, and provide only for the volunteers, provide these benefits under work comp law, and then leave the cities with the paid responders to use the existing benefits that they have under their medical policies and perhaps enhance them so they can address the issue in that way and still provide very well for the responders that they are paying on a full-time basis. So I would encourage your support of this amendment and welcome discussion. And with that, I will close it or just stop at this time, Mr. President. Thank you. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Nelson. You have heard the opening on AM2488 offered to LB780. We had a number of lights on before the last motion to cease debate. We'll work through those lights. Those wishing to speak, we have Senator White, Utter, Lathrop, Conrad, and Cornett. Senator White, you're recognized. [LB780]

SENATOR WHITE: Thank you, Mr. President. I have not spoken often. I think I made the initial comments when this bill was introduced on General File and I haven't spoken since. I would like to address the merits of Senator Nelson's amendment on a couple of points. First of all, the way the system is set up in Omaha and I believe in Lincoln, and certainly in Omaha, the posttraumatic stress treatment from workers' compensation will represent a major and substantial savings over what happens right now. I'm going to mention two police officers by name, Officer Kruse and Officer Sears. In one case, Officer Sears I believe shot a Mr. Ammons and went out on a full disability pension because of posttraumatic stress. There was always questions in my mind, had there been early and effective intervention under workers' compensation, whether that could have been prevented. And Officer Kruse had a similar situation. I'm not sure which one was what, but one of them shot a person holding a cell phone and went out on full and complete disability based on posttraumatic stress. If Senator Nelson will be kind enough to yield to a question... [LB780]

SENATOR LANGEMEIER: Senator Nelson, would you yield? [LB780]

SENATOR NELSON: Yes, certainly. [LB780]

SENATOR WHITE: Thank you, Senator Nelson. Senator Nelson, have you considered what it is costing the city of Omaha right now because we had officers go out on

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

Floor Debate
April 06, 2010

posttraumatic stress disorder on full and complete disability, not limited, by the by, to 300 weeks, not limited? Have you considered that cost in presenting this calculation that a more effective medical system to rapidly intervene and get them back to work would actually result in major substantial savings? [LB780]

SENATOR NELSON: I've not considered that. I'm not familiar with the two cases that you cite. But I will say this. I have some reservations, Senator, about how quickly counseling is going to be available under the workmen's comp provisions because it takes time to file a claim and get started on that. I would just argue that we're better off to do it under the existing enhanced provisions that the cities could provide and handle it that way, and I think maybe save a great deal of money all the way around. [LB780]

SENATOR WHITE: Senator, with all due respect, you don't do workers' compensation work, do you? [LB780]

SENATOR NELSON: Been a long time since I've done that. [LB780]

SENATOR WHITE: Okay. You do realize, of course, if there's an injury or incident on the job, the worker is immediately entitled to medical treatment whether a claim has been filed or not, and in fact it's the request for that medical treatment also often requires the filing of a claim. [LB780]

SENATOR NELSON: I understand that... [LB780]

SENATOR WHITE: Okay. [LB780]

SENATOR NELSON: ...with physical injuries certainly it happens immediately, but here we're talking about mental-mental disabilities and I'm not so certain that the person is going to file a claim immediately. [LB780]

SENATOR WHITE: And actually, Senator, that therein, in your language, is the rub. You said here we're talking about mental disabilities. The entire point of this is to keep them from rising to the level of a disability. That is why rapid treatment is everything. That is why comprehensive treatment with people who are trained over the long time and a long period at returning people to work is essential. I want to talk to you briefly and I want to talk to you about cost saving and I also want to talk bluntly about hypocrisy. First, cost saving. True conservatives do not penny pinch when a judicious expenditure of funds prevents higher costs in the long term. That is true conservative fiscal responsibility. For too long we have had people masquerading as fiscal conservatives,... [LB780]

SENATOR LANGEMEIER: One minute. [LB780]

Floor Debate
April 06, 2010

SENATOR WHITE: ...often on a national level, who have called themselves conservatives, at the same time ignored the infrastructure, borrowed money rather than make the difficult choices between spending and properly financing that spending. And here we have another case. Folks, I'm going to tell you right now, you can't claim you like and appreciate especially your volunteers or even your professionals and oppose this bill. What you're really saying is I like the services but I care more about me than I care about what they do and the risks they run. And you know what? That may be a legitimate point, but make no mistake about what's going on here. It is flat-out a choice between, yes, I respect and appreciate their courage and their devotion and I will stand up for them, or I'll take advantage of them, use them, and I will dump them when they're injured and done. And that has been done to soldiers... [LB780]

SENATOR LANGEMEIER: Time. [LB780]

SENATOR WHITE: ...for centuries. Enough is enough. [LB780]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Utter, you're recognized. [LB780]

SENATOR UTTER: Thank you very much, Mr. President. Colleagues, I rise to support Senator Nelson's amendment to this bill. I believe we've talked an awful lot all afternoon about the volunteers and the difficulty with recruitment and if in fact that this would help them in recruitment, why, maybe that's worth a trial within the scope of the sunset limits of this bill. One of the things that really bothers me is that we have been talking about Arkansas not only today during this debate but also earlier during the...during the first round of debate on this bill. And we've talked about Arkansas and Missouri and now there seems to be some confusion, from what I'm hearing at least, about what the figures actually include and what they don't include, and we're touting the Arkansas and Missouri bills that have supposedly a low cost to them, and yet we're not willing this afternoon, in Senator McCoy's two bills (sic), to put the same restraints on these bills as we did in...as Arkansas and Missouri do. And it seems to me like it...that as we're in this experimental period and as we're going along this road, that that would have been an important thing to do, that let's put some...let's put some strings on the bill, let's put some constraints on the bill until we find out what we're really dealing with. Because I think there's some confusion over what we're really dealing with and I have some real concern about that. My people in my district have some real concern about what we're really dealing with. And I guess I'm...on one hand, we want to use Arkansas' experience and talk about what Arkansas does, but, on the other hand, we don't want to use Arkansas' experience and don't want to do what Arkansas does. And I think that clouds this debate, frankly, as far as I'm concerned. I think that we've...that Senator Nelson is making an attempt to maybe bring some realism to what might really happen in this bill, an opportunity to help those communities that have volunteers to provide that service to them. I think there's a big difference between the volunteers and the paid people.

Floor Debate
April 06, 2010

Supposedly, when you're a trained, paid EMT and you take the job for money, you understand a little bit about what you may be faced with, and I think that's entirely different when we look at our volunteer people throughout the...throughout the state that provide untold dollars worth of service to our communities. So I would urge you to support Senator Nelson's amendment. Thank you. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Utter. Senator Cornett, you're recognized. [LB780]

SENATOR CORNETT: Thank you, Mr. President, members of the body. Right now I'm trying to control my temper and I don't want to say anything rash, but this may be the least thought-out amendment I have seen this year. An amendment...I understand a filibuster and I understand a filibuster attempt and I understand what's going on here and that's fine, but if you're going to offer an amendment and people are going to take that amendment seriously, then it shouldn't be an amendment that harms the rest of the state. I understand Senator Nelson represents Omaha, just as I represent Bellevue, just as each one of you in here represent a different municipality, county, but that doesn't mean you offer an amendment that hurts the entire rest of the state because you think it's going to do your city some good or your lobbyist told you to put that amendment in. Senator Nelson, have you thought about the departments that are partial paid? Have you thought about...let's use my city, Bellevue department, as long as we're separating and becoming that partisan that we're only representing the cities that we're from, Bellevue Fire Department, half-paid now. So this person can get treatment, and this person can't. That's fair. What about the small police departments, the small sheriff's departments in the city whose sheriffs make \$20,000-some a year? They're supposed to pay now? What happened to equity when we offer an amendment? What happened to treating everyone with the same respect? Omaha does have benefits, but if you want to go see a therapist because you are suffering from posttraumatic stress, you pay. So now a volunteer in the next county doesn't have to pay when they've seen the same thing? How is that fair? How about the volunteer fire departments around the state that are partial paid? They get paid \$20, \$30 for a run. What's your cutoff for what's paid and what's not paid? I think that it is absolutely reprehensible that a lobbyist physically writes the amendment and hands it to a senator to turn in. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Senator Conrad, you are recognized. Not seeing Senator Conrad, Senator Nelson, you are recognized. [LB780]

SENATOR NELSON: Thank you, Mr. President, members of the body. Let me address some of Senator Cornett's concerns. I don't have the benefit of living in Bellevue or know how they structure their department, and now I'm learning that they have half-paid, as I understand it, and then volunteers. That may very well be unfair but that doesn't apply to the city of Omaha. We have paid police and firemen and paid responders, and that's...my amendment here is dealing with those larger metropolitan

Floor Debate
April 06, 2010

areas that have that situation. If there's an element of unfairness then I guess we should further amend and see what can be done where you've got part paid and part volunteers. Let me say also, just for the record, that no lobbyist came to me with this amendment. We drew it up ourselves in our office. My LA did that and I've held it up until this point. This is my amendment. It's not written by anybody else. I will say again that metropolitan areas where they have paid personnel, through their collective bargaining and through the benefits that they can provide, they can take care of this, they can improve their benefits, that's all I'm saying here, and they can do it as part of that process and not have workmen's compensation laws mandated on us as is the case at this point. We're mandating on all of the volunteer departments and municipalities if we pass this bill. That's what we're doing. I'm just saying there's no need to do that in these situations where you have all paid responders and that's what this amendment is about. It's not my intent to get into the element of unfairness. I guess if you follow Senator Cornett's logic, because we are doing benefits for the responders that are volunteers, why, then everybody else has to come along to make it fair. I don't hold to that belief. I also am...I regret that emotions got involved in this and that this is reprehensible. I don't consider it that. I think it's a bona fide amendment that merits consideration and that if there needs to be further amendment to make it fair, let's go with that. But that would be my response at this time. Thank you, Mr. President. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Lathrop, you're recognized. [LB780]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I just wanted to respond. I think I may be the last light on. I'd really like to address this amendment and move LB780 before 6:00. And in that regard, I just want to talk about a couple of things, some of which Senator Cornett started to address, which are, you know, I don't think it matters if a person develops posttraumatic stress disorder whether they're paid or not paid, volunteer or not volunteer. They need help and they need care. And if we're talking about the fact that the people in the city of Omaha...I mean we can't ignore the city of Omaha when we make policy but I don't think we need to make it around those folks. And the city of Omaha is self-insured, right? So whether they pay it through work comp or pay it through health insurance, same dollars. So I think cutting out the paid people causes more problems than it solves. We have a four-year sunset and that should be our protection. It's our backstop against something being more expensive than we expected it to be. And maybe I'll end with this note, and that is ultimately we're here to decide and set our priorities, and this bill would cost us \$7,500 for two years. That's the estimate from our Fiscal Office. We've spent \$500,000 on the humanities. I don't have a problem with that but, you know, if we're going to sit here and legislate and make policy, then we're going to set priorities. And one of the priorities I guess we took up earlier this year was a half-a-million-dollar appropriation for the humanities. And now we're going to cut out the people that serve our community for a fraction of what we're spending on the humanities? I'm not against the humanities but it is difficult to understand someone who

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

Floor Debate
April 06, 2010

would advocate for a half a million dollars for the humanities standing up and trying to cut people out that serve our community. I think we should soundly defeat Senator Nelson's amendment and move LB780. Thank you. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Seeing no other lights on, Senator Nelson, you're recognized to close on AM2488. [LB780]

SENATOR NELSON: Thank you very much, Mr. President. I'll be brief. I think I've said pretty much what I have to say. I think we've got apples and oranges here. Senator Lathrop and I disagree. I appreciate his support on providing for the humanities. I was just over to a lunch today and we saw how far that provision goes, what a wonderful thing it is for the state of Nebraska, big and small metropolitan areas and our small towns and other communities out across the state. I don't look at this as cutting anybody out. I look at it as not mandating where we don't need to have a mandate. Our metropolitan areas, as far as I'm concerned, are already providing to a certain extent and probably could do more, but it doesn't have to be under the aegis of workmen's comp. We are still providing for our loyal volunteer responders across the state. This will be a benefit for them and I think that's great, whatever the cost may be. And finally, I will continue to disagree with Senator Lathrop. Enough has been said about that but, as far as I'm concerned, the four years will show, in my opinion, that we're going to pay a lot more money than we have in the fiscal note at this time and that I believe is just based upon the lack of information that's available at the present time, because a lot of the information has not been provided that would help the fiscal note and make it more realistic, in my opinion. So I urge your support of this amendment and I ask that you vote green when we vote. Thank you, Mr. President. [LB780]

SENATOR LANGEMEIER: Thank you, Senator Nelson. You have heard the closing on AM2488 offered to LB780. The question before the body is, shall AM2488 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB780]

CLERK: 4 ayes, 29 nays, Mr. President, on the amendment. [LB780]

SENATOR LANGEMEIER: AM2488 is not adopted. Mr. Clerk. [LB780]

CLERK: I have nothing further at this time, Mr. President. [LB780]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB780]

SENATOR NORDQUIST: Mr. President, I move LB780 to E&R for engrossing. [LB780]

SENATOR LANGEMEIER: Thank you. You've heard the motion. There has been a request for a board vote. All those in favor vote yea; all those opposed vote nay. Have

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

Floor Debate
April 06, 2010

all those voted that wish to? Record, Mr. Clerk. [LB780]

CLERK: 38 ayes, 5 nays, Mr. President, on the advancement of LB780. [LB780]

SENATOR LANGEMEIER: LB780 does advance. Mr. Clerk, items for the record? [LB780]

CLERK: Mr. President, a new resolution, LR548 by Senator Nordquist and others; that will be laid over. Amendments to be printed: Senator Lathrop to LB563A; Senator Lathrop to LB563; Senator McGill, LB594; Senator Flood, LB1103; Senator Campbell, LB999; and Senator Price to LB563. I do have a name add. Senator Council would like to add her name to LB987. (Legislative Journal pages 1311-1315.) [LR548 LB563A LB563 LB594 LB1103 LB999 LB987]

And, Mr. President, a priority motion: Senator Mello would move to adjourn the body until Wednesday morning, April 7, 2010, at 9:00 a.m.

SENATOR LANGEMEIER: You have heard the motion to adjourn. All those in favor say aye. All opposed say nay. The ayes have it; we stand adjourned. (Gavel)