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Transcriber's Office

Floor Debate
April 09, 2008

[LB48 LB245A LB245 LB308A LB308 LB415 LB435 LB606A LB606 LB701 LB709
LB720 LB734 LB736A LB736 LB745 LB746 LB781 LB806 LB819 LB830 LB830A
LB837 LB844 LB847 LB883 LB888 LB907 LB911 LB911A LB928 LB928A LB953
LB954 LB956 LB963 LB988 LB995 LB1001A LB1014A LB1022 LB1072 LB1094
LB1095 LB1104 LB1116A LB1116 LB1120 LB1121 LB1123 LB1147 LB1147A LB1153
LB1165 LB1172A LB1172 LB1176 LR238 LR284 LR389 LR390 LR391]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-sixth day of the One Hundredth Legislature, Second Session. Our chaplain for today is Senator Carlson. Would you all please rise.

SENATOR CARLSON: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Carlson. I call to order the fifty-sixth day of the One Hundredth Legislature, Second Session. Senators please record your presence by roll call. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements?

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

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Mr. Clerk, we will move to Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, the first bill is LB1014A.

CLERK: Mr. President, Senator Ashford would move to return LB1014A to Select File for a specific amendment, AM2345. (Legislative Journal page 979.) [LB1014A]

PRESIDENT SHEEHY: Senator Ashford, you're recognized to open on your motion to return to Select File. [LB1014A]

SENATOR ASHFORD: Thanks, Mr. President. And this is a very short amendment dealing with LB1014A. The Fiscal Office responded to the amendments to LB1014A by revising their fiscal note downward to reflect lesser duties by the Department of Health

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

Floor Debate
April 09, 2008

and Human Services in dealing with the child support issues involving incarcerated persons in the state. This fiscal note reflects a downward adjustment in...or savings in fiscal 2008-2009 of \$14,169, and in the next fiscal year of \$17,169. So I would urge the adoption of...returning to Select File and adopting the amendment. Thank you, Mr. President. [LB1014A]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You've heard the opening on the motion to return LB1014A to Select File. Are there members wishing to speak on this motion? Seeing none, Senator Ashford, you're recognized to close on your motion. [LB1014A]

SENATOR ASHFORD: I would just urge the adoption. Thank you. [LB1014A]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing on the motion to return to Select File. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1014A]

CLERK: 44 ayes, 0 nays on the motion to return the bill, Mr. President. [LB1014A]

PRESIDENT SHEEHY: The motion is successful. Senator Ashford, you're recognized to open on AM2345. [LB1014A]

SENATOR ASHFORD: The first time in a month that I've had more than 20 votes on anything. But anyway (laughter), I've explained the amendment, I believe, Mr. President. And I'd urge its adoption. [LB1014A]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening on AM2345. Are there members requesting to speak? Seeing none, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question before the body is on the adoption of AM2345 to LB1014A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1014A]

CLERK: 44 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB1014A]

PRESIDENT SHEEHY: AM2345 is adopted. Anything further, Mr. Clerk? [LB1014A]

CLERK: Nothing further. [LB1014A]

PRESIDENT SHEEHY: We will now return to the motion to advance LB1014A. Senator McGill. [LB1014A]

SENATOR MCGILL: Mr. President, I move LB1014A to E&R for engrossing. [LB1014A]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: You have heard motion. All those in favor say aye. Opposed, nay. LB1014A advances. Mr. Clerk, we will now proceed to LB1001A. [LB1014A]

CLERK: Senator White would move to return LB1001A to Select File for AM2720. (Legislative Journal page 1371.) [LB1001A]

PRESIDENT SHEEHY: Senator White, you're recognized to open on your motion to return to Select File. [LB1001A]

SENATOR WHITE: Thank you, Mr. Lieutenant Governor. This is the A bill to the bill that we pulled back yesterday and amended so that it would not take effect for another year, to reduce the pressure on the green sheet and to free up other money for other senators' bills. So I'd ask the body to please return this to Select File to amend the A bill so that it is in conformity with the underlying bill. Thank you, Mr. Lieutenant Governor. [LB1001A]

PRESIDENT SHEEHY: Thank you, Senator White. You have heard the opening on the motion to return LB1001A to Select File. Are there members wishing to speak? Seeing none, Senator White, you're recognized to close. Senator White waives closing. The question before the body is on the motion to return LB1001A for a specific amendment. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1001A]

CLERK: 44 ayes, 0 nays, Mr. President, on the motion to return. [LB1001A]

PRESIDENT SHEEHY: Motion to return is successful. Senator White, you're recognized to open on AM2720. [LB1001A]

SENATOR WHITE: Thank you, Mr. Lieutenant Governor. Members of the body, this is the A bill that has now been drafted to effect the delay of the implementation of the underlying bill for one year. And I would ask your support on this A bill. Thank you, Mr. Lieutenant Governor. [LB1001A]

PRESIDENT SHEEHY: Thank you, Senator White. You have heard the opening of AM2720. Are there members requesting to speak? Seeing none, Senator White, you're recognized to close. Senator White waives closing. The question before the body is on the adoption of AM2720 to LB1001A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1001A]

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB1001A]

PRESIDENT SHEEHY: AM2720 is adopted. Senator McGill. [LB1001A]

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

Floor Debate
April 09, 2008

SENATOR MCGILL: Mr. President, I move LB1001A to E&R for engrossing. [LB1001A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1001A advances. We'll move to item under Select File, Mr. Clerk. [LB1001A]

CLERK: Mr. President, Senator McGill, LB1147A, I have no amendments to the bill. [LB1147A]

PRESIDENT SHEEHY: Senator McGill. [LB1147A]

SENATOR MCGILL: Mr. President, I move LB1147A to E&R for engrossing. [LB1147A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1147A advances. We will move to the next item under the agenda. Senator Fulton, you're recognized for a motion. [LB1147A]

SENATOR FULTON: Thank you, Mr. President. I have handed out to members an explanation of what has gone on, and I'll briefly summarize that and then make this motion. Basically, we have found a technicality within our ignition interlock bill, which we passed yesterday. Thank you for that. This technicality is something that we have addressed. The Fiscal Office has helped us draft language for an amendment to both LB736 and LB736A that is very clear. It's not placed...we had it in a table format, but this is actually spelled out with language. And so I'm going to ask a series of motions here and I'll need your support in order to bring this back to the Legislature and eventually onto Select File. So my first motion is listed on your agenda, is to request the return of this bill from the Governor for further action. This is pursuant to Rule 7, Section 7, subsection (e). Thank you, Mr. President. [LB736 LB736A]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the motion of the request of the return of LB736 from the Governor for further consideration. Are there members requesting to speak on this motion? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the motion of the request to return LB736 from the Governor for further consideration. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB736]

CLERK: 41 ayes, 0 nays, Mr. President, on the motion to direct the Clerk to request the bill's return. [LB736]

PRESIDENT SHEEHY: The motion is successful. Senator Fulton, you're recognized to open on your motion on LB736A. [LB736]

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

Floor Debate
April 09, 2008

SENATOR FULTON: Thank you, Mr. President. Thank you, colleagues. LB736A is the A bill. We need to bring both LB736 and LB736A back, so I'll ask that you do likewise on LB736A. Thank you, Mr. President. [LB736A LB736]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the opening on the motion to request the return of LB736A. Are there members requesting to speak? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the motion of the request to return LB736A from the Governor for further consideration. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB736A]

CLERK: 45 ayes, 0 nays, Mr. President, on the motion to direct the Clerk to request the return of the bill. [LB736A]

PRESIDENT SHEEHY: The motion is successful. Mr. Clerk, you're recognized for acknowledgements of transmittal, letter transmittal. [LB736A]

CLERK: Mr. President, pursuant to the Legislature's direction, a communication from the Clerk to the Governor requesting the returns of LB736 and LB736A. Pursuant to that action, a communication from the Governor to the Clerk. (Read re: LB736 and LB736A, Legislative Journal pages 1386-1387.) [LB736 LB736A]

Mr. President, I now have, pursuant to that communication, a motion by Senator Fulton. Senator Fulton would move to reconsider the vote with respect to the final passage of LB736. [LB736]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on the motion for reconsideration of LB736. [LB736]

SENATOR FULTON: Thank you, Mr. President. To put more clarity on what we are doing here, this is the order of the process. I thank the executive branch, thank the Governor for allowing this bill to come back to the legislative branch. We now have to reconsider the vote in order to put it properly onto Final Reading. So I'll ask you to reconsider LB736. Thank you, Mr. President. [LB736]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You've heard the opening on the motion to reconsider the vote on LB736. Are there members requesting to speak? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the reconsideration of the vote on final passage of LB736. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB736]

CLERK: 43 ayes, 0 nays, Mr. President, on the motion to reconsider. [LB736]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: The motion of reconsideration is successful. [LB736]

CLERK: Mr. President, Senator Fulton would move to return LB736 to Select File for specific amendment, specifically AM2722. (Legislative Journal page 1373.) [LB736]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on motion to return LB736 to Select File. [LB736]

SENATOR FULTON: Okay, thank you, Mr. President. In order to put these clarifying amendments we need to move this back to Select File. And I'll just ask you to move this back to Select File. Thank you, Mr. President. [LB736]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the opening on the motion to return to Select File. Are there members requesting to speak? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the motion to return LB736 to Select File for a specific amendment. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB736]

CLERK: 41 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB736]

PRESIDENT SHEEHY: The motion to return is successful. Senator Fulton, you're recognized to open on AM2722 to LB736. [LB736]

SENATOR FULTON: Thank you, Mr. President. This is AM2722 and I will just briefly explain what has gone on here. The...this amendment, and I would first start by thanking the Speaker for this. The Fiscal Office over the Governor found originally...at the Governor's Office originally found what could be a technicality that doesn't allow us to properly collect funds. And so in the legislative branch, the Fiscal Office has helped us draft these amendments. This AM2722 creates new subsections for the ignition interlock permit and associated fees instead of having these fees in a table. This would allow the \$40 portion of the \$45 fee to be credited directly to the Ignition Interlock Device Fund. If you recall, we actually had this in table format. What we're doing here is spelling it out. The bill currently had this portion of the fee going first to the General Fund and then transferred to the Ignition Interlock Device Fund. This actually caused a cash flow problem. So this amendment would remedy that. The amendment also reinstates the Office of Probation Administration as the entity that would administer the Ignition Interlock Device Fund. That wasn't clearly enough spelled out in our last amendment. In fact it could be construed that the bill didn't actually have a specific agency. So this would do those...make those two remedies. And I'll ask you to adopt AM2722. Thank you, Mr. President. [LB736]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the opening of

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

Floor Debate
April 09, 2008

AM2722 to LB736. Are there members requesting to speak? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the adoption of AM2722 to LB736. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB736]

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB736]

PRESIDENT SHEEHY: The amendment is adopted. Senator McGill. [LB736]

SENATOR MCGILL: Mr. President, I move LB736 to E&R for engrossing. [LB736]

PRESIDENT SHEEHY: Senator Chambers, you are recognized. [LB736]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I have to tell Senator Fulton, you did it. I had told him that we should not put an amendment on to abolish the death penalty while everybody was not paying attention, but he offered it, you adopted it, and now I'm going to definitely support moving this bill forward. Thank you, Mr. President. (Laughter) [LB736]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You have heard the motion. All those in favor say aye. Opposed, nay. LB736 advances. Next item, Mr. Clerk. [LB736]

CLERK: Mr. President, LB736A, Senator Fulton would move to reconsider the vote on final passage of LB736A pursuant to Rule 7, Section 7(d). [LB736A]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on your motion for reconsideration. [LB736A]

SENATOR FULTON: In similar fashion, we'll need to move LB736A back to Select File in order to consider the clarifying amendment. So I'd ask the body to do that also. Thank you, Mr. President. [LB736A]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the motion to...for the reconsideration of LB736A, of the vote on final passage. Are there members requesting to speak? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the motion of reconsideration of LB736A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB736A]

CLERK: 40 ayes, 0 nays, Mr. President, on the motion to reconsider. [LB736A]

PRESIDENT SHEEHY: The motion to reconsider is successful. [LB736A]

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

Floor Debate
April 09, 2008

CLERK: Mr. President, Senator Fulton would move to return LB736A to Select File for a specific amendment, AM2723. (Legislative Journal page 1374.) [LB736A]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on your motion to return to Select File for specific amendment, AM2723. [LB736A]

SENATOR FULTON: I ask that we move this back to Select File so we can adopt the amendment. Thank you, Mr. President. [LB736A]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the opening. Are there members requesting to speak? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the motion to return LB736A to Select File for specific amendment. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB736A]

CLERK: 41 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB736A]

PRESIDENT SHEEHY: Motion to return is successful. Senator Fulton, you're recognized to open on AM2723 to LB736A. [LB736A]

SENATOR FULTON: Thank you, Mr. President. Senator Hansen asked if it might be quicker just to get the bill vetoed and start all over. (Laughter) Ah, I don't think so. If you'll indulge me for just another moment. This is the A bill. And I just want to take this opportunity to say thank you for this. We have a lot happening in this last couple of weeks. I think you all understand what I'm talking about. We're drinking a lot of water, with not a lot of capacity to drink. But the systems worked. There was a technicality that could be construed such that the bill wouldn't have been operative. We have fixed that, proof of the system working. And I thank you for allowing me to do this and to make this bill go into action. This is the A bill. This would appropriate \$10,000 cash funded Ignition Interlock Device Fund to allow them to carry out what we have intended they carry out. And so I'll ask that you adopt AM2723 to LB736A. Thank you, Mr. President. [LB736A]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the opening of AM2723. Are there members requesting to speak? Senator Pedersen. [LB736A]

SENATOR PEDERSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. This is just a short thing, statement I want to make to the people who will be returning next year. What a good thing this bill does for our whole state. This saves you a lot of dollars on incarceration. I hope you continue to go this way in the future, and to take a good look at how electronic monitoring can save the state, the counties, and some of the cities a lot of money. Good job, Senator Fulton. Thank you. [LB736A]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: Thank you, Senator Pedersen. Are there other members requesting to speak? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the adoption of AM2723 to LB736A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB736A]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB736A]

PRESIDENT SHEEHY: AM2723 is adopted. Senator McGill. [LB736A]

SENATOR MCGILL: Mr. President, I move LB736A to E&R for engrossing. [LB736A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB736A advances. (Visitors introduced.) Mr. Clerk, we will move to the first item under General File. [LB736A]

CLERK: Mr. President, LB1104, a bill introduced by Senator Fulton. (Read title.) Introduced on January 23 of this year, referred to Health and Human Services, advanced to General File. There are committee amendments, Mr. President. (AM2397, Legislative Journal page 1028.) [LB1104]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Fulton, you're recognized to open on LB1104. [LB1104]

SENATOR FULTON: Thank you, Mr. President. Hello again. This is a subject with some more gravity, with more gravity than what we have been considering this morning. LB1104...let me explain how this came to be. Three years ago the Nebraska Association of Pathologists began conversations with the Nebraska Medical Association and the Nebraska dermatologists over concerns that patient medical bills were being marked up excessively. Physicians, it appeared, were marking up other physicians' work, specifically as it relates to anatomic pathology. How I became interested in this bill, number one, I have an interest in making the cost of healthcare affordable for Nebraskans. Number two, it was actually a constituent that brought this to me. We were on the baseball field. During the summer our children are on the same team, and he's also a friend, and he was discussing this happening in his industry. It's the first time I ever learned about it. Some several months later I was privileged to be appointed to the Legislature and actually had the opportunity now to do something about it. So my staff and I researched this and basically we learned that there is markup that's going on within the medical profession, so we brought this bill forward. I brought it forward last year and we brought it forward this year. And I should say that I didn't realize the divisive nature of this bill until after introducing it. There is some division on this bill. And the fact that there is division on this bill as well as the practice, in my opinion, communicates the necessity of the Legislature stepping in to do something, to provide

Floor Debate
April 09, 2008

direction for the state, and particularly for our medical community. I want to make a specific thank you to Senator Johnson and the Health and Human Services Committee. They have put in probably as many (laugh) if not more hours than I have on this bill. And Senator Johnson really has been a steady hand as leadership for this particular issue. This morning I'm going to explain to you, we're going to shine light on this bill, on this practice. We're both going to...I'm going to say my piece here on the opening. Senator Johnson will speak on behalf of the committee amendments. It will then be my intention to introduce a bracket motion, and I'll ask for your unanimous consent to do this. The Speaker, I thank the Speaker for putting this up on the agenda. This bill probably is not ready to take up time, and so we're only going to ask for about 15 to 20 minutes to discuss this because it is a very important matter. The intent of LB1104 is to ensure that another physician doesn't mark up the diagnosing physician's bill. For example, if you have a biopsy taken to see if you have cancer, that biopsy is often sent, not always, but often sent to a pathologist who makes the diagnosis and charges a fee for that diagnosis. LB1104 helps ensure that another physician doesn't mark up the work...that a physician doesn't mark up the work of another physician. Eighteen other states have passed similar legislation, and similar legislation as to what's being proposed here. And I understand that the state of Maryland actually just passed similar legislation to address this problem just a couple of days ago. The federal government has required direct billing for over 34 years. In most states the medical societies have remained neutral on this issue. Some have even supported the measure, as was the case in Idaho last year. In Kansas, just south of us, similar legislation received unanimous support. You should also be aware that testimony two years in a row before the Health and Human Services Committee confirms that markups are occurring in Nebraska. And frankly, the testimony also confirms that there is a great deal of confusion amongst physicians in terms of what is right and what is wrong, according to their own Medical Code of Ethics. The AMA Code of Ethics, and this was something that really drew me into this bill, the AMA Code of Ethics is very specific about markups--it shouldn't happen. The handout that I provided summarizes this issue very well. You can take a look at that. I am not here to question why some in the medical community believe it is okay to mark up another physician's bill. I am here with LB1104 to make clear to all physicians what is and isn't okay when it comes to billing for medical services. I strongly believe that if we could pass LB1104 we will end a very divisive debate that could only harm the medical community and Nebraska in general. More importantly, we would be protecting patients from abuse within the system. Again, I want to commend Senator Johnson. We have locked arms on this. The Health and Human Services Committee has provided leadership on this also. I don't believe that the bill is in a form that we can move forward with, and that's why we're doing what we're doing this morning. But this is a very serious issue. This is impacting the cost of healthcare. And so long as physicians are marking up the work of other physicians this Legislature is going to have to be involved. I ask the Nebraska Medical Association to provide the leadership necessary to get this problem resolved, such that we don't have to do this on the floor of these hallowed halls. I thank you, Mr. President. [LB1104]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the opening to LB1104. As noted, we do have a committee amendment from the Health and Human Services Committee. Senator Johnson, you're recognized to open on AM2397. [LB1104]

SENATOR JOHNSON: Thank you, Mr. Lieutenant Governor. This is a sad day for me. When one is proud of one's profession and you cannot remain proud of your profession, it is a sad day. Let's hear the rest of the story. Basically, what we have is a situation not unlike what we see in many of our towns that has occurred over the last several years. We have had the dominant local store who has been able to set his prices as he wanted and the terms of his business. Now Wal-Mart is coming to town and there are other options available to people. And Wal-Mart, because of their ability for mass buying, also enters into the equation. What we have really is the situation has changed and we are in a state of flux. It's hard to change, we all know that. Last year at the hearing when it was concluded, Senator Pankonin said, I'm sorry, but I have much less respect for the medical profession after this hearing today. If last year's hearing was bad, this year's was worse. There has been nothing to change this opinion. In the interim the Nebraska Medical Association actually tried setting up mediation with a former very respected senator from this body, and even that could not be attempted. At this year's hearing it deteriorated into the individuals insulting one another that disagreed what they had to say, and that the other guy was unethical. It's still true, however, when they say it isn't about money it's still about money. Many of us have worked extremely hard. In fact, I think I've spent more time on this bill this year than anything else. I must say that there has been great cooperation with Senator Fulton. And rarely do we hear compliments on this floor for the professional representatives behind the glass, but certainly they were most professional throughout this. I wish the people that they represented could have been so professional. Indeed, at one point we thought that we did have an agreement and I recommended to the committee that this bill be advanced out of committee, all to no avail. Now where are we at? Other avenues are available to both sides. Less than half of the states have a law regarding this, but it is a serious issue. What both sides could do is take this to the national organization to which they both belong. What I would suggest is that all sides remember one thing that a fine physician by the name of Dr. Musselman once said: Do what's right for the patient and everything else takes care of itself. Finally, at this time this bill does not deserve the dignity of these hallowed walls. Perhaps a trip to the woodshed for the individuals would be more appropriate. I want to thank Senator Fulton who has been sterling throughout this course. I'm sorry that we end up this way. Perhaps we can do better next time. Thank you very much. [LB1104]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You have heard the opening of the committee amendment to AM2397. The floor is open for discussion. Members requesting to speak, Senator Dierks. [LB1104]

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

Floor Debate
April 09, 2008

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. I understand the dilemma that Senator Johnson has. I'd like to ask him a question, if I could. [LB1104]

PRESIDENT SHEEHY: Senator Johnson, would you yield to a question? [LB1104]

SENATOR JOHNSON: Yes, sir, I'll try. [LB1104]

SENATOR DIERKS: You suggested that the parties that conflict should get together and try to solve this problem themselves. Is that right? [LB1104]

SENATOR JOHNSON: Yes, that's what we have been trying to do. [LB1104]

SENATOR DIERKS: So at this point this legislation will go no further than this; is that also right? [LB1104]

SENATOR JOHNSON: I believe that Senator Fulton is going to very promptly file a motion to bracket this at this time. [LB1104]

SENATOR DIERKS: Well, the professions, whether they're medical or legal, whatever professions we have, have to have a certain amount of self-governing to be honorable and remain successful in our state. And I appreciate what you're going through. I think that we have...I think you have, too, and we have in the veterinary profession a group of people that have been appointed to look into problems that veterinarians have with drugs and with alcohol and those sorts of things. I suppose that this would fall somewhat in the same line of self-policing, and I would hope that you would be able to take care of this. Thank you very much. [LB1104]

SENATOR JOHNSON: You bet. Thank you, sir. [LB1104]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Mr. Clerk, you have a motion on your desk? [LB1104]

CLERK: Mr. President, I have a priority motion. Senator Fulton would ask unanimous consent to bracket LB1104 until April 17 of 2008. [LB1104]

PRESIDENT SHEEHY: You have heard the motion for unanimous consent to bracket LB1104 until April 17, 2008. Any objection? So ordered. We'll move to next item under General File, Mr. Clerk. [LB1104]

CLERK: Mr. President, LB746, a bill introduced by Senator Aguilar. (Read title.) Bill was introduced on January 9 of this year, at that time referred to the Government, Military and Veterans Affairs Committee. Bill was advanced to General File. There are

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

Floor Debate
April 09, 2008

Government Committee amendments pending. (AM1675, Legislative Journal page 462.) [LB746]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Aguilar, you're recognized to open on LB746. [LB746]

SENATOR AGUILAR: Thank you, Mr. President. Thank you, members. Thank you for allowing me to participate in Senator Fulton day. In my term as Chair of the Government, Military and Veterans Affairs Committee, I've had the opportunity and privilege to speak at several events either sending off or welcoming home members of the National Guard. As you know, these men and women sacrifice a great deal when they are deployed, so when the Adjutant General asked me to carry this bill to ensure they didn't have to sacrifice their opportunity to obtain college tuition reimbursement, I was happy to accept. Currently, a member of the Nebraska National Guard is allowed to receive tuition credit of 75 percent of resident tuition charges for a period of ten years from the date of the member's initial membership, so long as the member complies with certain requirements. The Military Department reports that a few people have been unable to complete their college education in the ten-year period simply because of deployments, and this bill will help correct the problem in the future. LB746 provides that if a member is unable to complete his or her course of study within the ten-year period due to deployment on federal or state active duty status, the Adjutant General may extend the entitlement period equal to the period of a person's active duty status, not to exceed a maximum of five years. The Military Department testified at the hearing that the state tuition assistance program is one of the Nebraska National Guard's most effective recruiting tools in bringing quality members into the Guard. The department also testified that equally important is the retention of Guard members. The tuition assistance program serves as the necessary incentive for members to stay in the Guard when they reach the midpoint of their military careers. I encourage your support of this important legislation. Thank you, Mr. President. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Aguilar. You have heard the opening to LB746. As noted, we do have a committee amendment from the Government, Military and Veterans Affairs Committee, AM1675. Senator Aguilar, you're recognized to open. [LB746]

SENATOR AGUILAR: Thank you, Mr. President, members. The committee amendment changes the required deployment period from not less than 180 days to not less than 120 days to accommodate certain Guard members who are deployed for shorter time periods. For example, Air National Guard members are often deployed for 120 days. There were no opponents to this bill at the hearing and the committee advanced the bill on an 8-0 vote. Thank you, Mr. President. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Aguilar. You've heard the opening of the

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

Floor Debate
April 09, 2008

committee amendment, AM1675. (Visitors introduced.) The floor is now open for discussion. Members requesting to speak are Senator Karpisek, followed by Senator Avery, and Senator Chambers. Senator Karpisek. [LB746]

SENATOR KARPISEK: Thank you, Mr. Lieutenant Governor, members of the Legislature. I'd just like to stand in support of this bill and thank Senator Aguilar for carrying it. I feel that our troops coming home need to be able to go back to school to finish out what they had started while they're away from their homes, their families. Again, thank you, Senator Aguilar. Thank you, Mr. President. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Avery. Senator Avery. [LB746]

SENATOR AVERY: Thank you, Mr. President. I am supporting this bill. I supported it in committee. I think it's a good bill. I want to draw some parallels of what we're trying to do with LB746 and what the federal government did with the GI Bill. The GI Bill far exceeded all expectations. It allowed eight million vets to attend college. According to a government study, each dollar invested produced a return of \$5 to \$12 in new tax revenues because people were...they found that vets with college degrees got better jobs and paid far more in taxes than they could have without college training. These college educated vets made more money, had better lives, and were able to provide better lives for their families. This bill that...the GI Bill, created what many called an entirely new middle class, and sometimes it's been referred to as the Marshall Plan for America. But it did more than that. One of the lasting legacies of the GI Bill of Rights is now the commonplace belief that education can be and should be available to everyone, regardless of sex, age, race, religion, or family status. By making it possible for the sons of farmhands and laborers to get a better education than they had ever dreamed of, the GI Bill gave widespread and permanent credibility to the idea that education is the pathway to better jobs and a better life. I am a fortunate recipient of the GI Bill. It changed my life. When I was 18 years old and graduated from high school, we had no money to send me to college. I enlisted in the Air Force and I served honorably for four years and then, when I got out, I used the GI Bill benefits. It opened up vast opportunities for me that would not have been there otherwise. Now I realize that LB746 is not the GI Bill, but it carries similar implications because it opens up and extends educational opportunities for our National Guard troops. It eliminates what is now a penalty for deployment. We must reward, not penalize, our troops for the sacrifices they make when they are deployed to combat zones. With that, Mr. President, I urge my colleagues to vote to support this bill. Thank you. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Chambers. [LB746]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I support the amendment. I support the underlying bill. I doubt that any argument is necessary to

Floor Debate
April 09, 2008

obtain sufficient votes to move it forward, but I have a very jarring issue that I want to touch on while discussing this bill. I was waiting for a bill like this to correct some false information given by the Governor and the Attorney General as they attempted to whip up the mobocratic spirit in this state against Latino people. Some people refer to them as illegal aliens, and when we had a hearing on LB963 some were referred to by far worse racial slurs in that hearing room, slurs in that hearing room where the Governor and the Attorney General were present. When the Judiciary Committee did as it should have done, which was to kill that bill, the Governor and the Attorney General called a press conference. One problem with press conferences is that media people lack information on the subjects discussed. The Attorney General has a size 14 mouth to accommodate his size 12 foot, which he frequently deposits in his mouth. During that press conference, he talked about the hundreds of students who are what are called illegals being allowed to attend the university on resident tuition basis. First of all, only 28 throughout the entire system--the media ignored that. So the Attorney General makes these flippant, totally false statements and he gets away with them. The Governor or the Attorney General, perhaps both, then took out and tried to exploit the men and women in the National Guard. Ignorantly, ignorantly, stupidly, inexcusably, disingenuously or outright fabricating and lying, one or both said that these children going to the university paying in-state tuition would be getting more than what is available to members of the Nebraska National Guard. That is an outright lie. The media sat there and swallowed it. This bill, if you read it, demonstrates that members of the Guard are forgiven 75 percent of in-state tuition. The Guard members are getting more, as is appropriate. But for the Governor and the Attorney General to stoop to such a low level and get away with it in the presence of the white media is inexcusable, and that's why I mention the race because white people are writing stories for white people, and maybe some of them share those very hostile, racist attitudes against people of my complexion who speak Spanish. One idiot during the committee hearing objected because a Puerto Rican was in a car accident. I didn't know Puerto Ricans were illegal aliens. [LB746 LB963]

PRESIDENT SHEEHY: One minute. [LB746]

SENATOR CHAMBERS: But Puerto Ricans are brown, Puerto Ricans speak Spanish, so they must be illegal. And the media ignored these things. It's their job to inform and enlighten the public. If they don't present the information, their editors cannot write appropriate editorials. If they give the information and the editorials are not written, the reporters can say, at least I discharged my duty. But how can they deal with what they don't know, and how can they know what they have no interest in learning? So I wanted to make the record clear on that issue. And I do support this bill, as I stated when I began. Thank you, Mr. President. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Members wishing to speak on AM1675: Senator Wallman, followed by Senator Loudon and Senator Schimek. Senator

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

Floor Debate
April 09, 2008

Wallman. [LB746]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, support this amendment and the underlying bill, and I thank Senator Aguilar for bringing this forth. And in picking up on something that Senator Chambers has said, we know that there was racism in the military in World War II, but we hope that gets better. And our Guard members are putting tremendous sacrifices in a part of the world where it's not exactly easy to live in and we're not exactly loved as a nation anymore, so we have to be careful what we do. And I definitely thank Senator Aguilar for bringing this forth. Thank you, Mr. President. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Wallman. (Doctor of the day introduced.) Senator Louden. [LB746]

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. I support this bill and I support the amendment because, as I've done quite a little work with the National Guard in our areas and supported them whenever I could, I think this is a great way to help do that. Those people sacrifice quite a little and if we can help them with their education, there's no reason why not we can't, as it is mostly for the National Guard people. It doesn't say anything about veterans, but there are other benefits that they are probably available for, for some of the veterans. But with this bill, I think it's a step forwards. It's something that needs to be done and certainly glad to help out with our National Guard membership whenever we can. Thank you, Mr. President. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Schimek, followed by Senator Dierks. Senator Schimek. [LB746]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I rise to support the committee amendment and the bill. We've had a number of these bills over the years, and my feeling has always been that it should be 100 percent instead of 75 percent or 50 percent, as it once was. But it is based somewhat on the total number of Guard members taking advantage of the tuition and what the total bill will be to the state. I think, especially at this time, since many of them are on active duty, it should be 100 percent and I hope that maybe at some point that might happen. I agree with Senator Avery that this is an important, an important thing to do, and the GI Bill was a revolutionary idea and it really worked. I believe it can still work. I rise because I want to second what Senator Chambers said. You know, I had an interview, Senator Chambers, with a reporter this morning who was asking about your service to the Legislature--and, by the way, I told her at the end I hope you won't get any bigger head than you already have (laugh)--but one of the things I guess I neglected to say to that reporter is you often say the tough things that maybe nobody else on the floor would say, and I wonder what's going to happen in future years if somebody doesn't step up to the plate and do

Floor Debate
April 09, 2008

that kind of tough talk that you often to. Now I'm not saying they have to do it the same way that you do. They may have a different way of doing it. But what you said is true; there are only 28 students who are taking advantage of the in-state tuition. Every segment of the education community in Nebraska came out in favor of that bill because they all understand the importance of education for children. And we educate those children from kindergarten through 12th grade, and it is absolutely insane to think that they ought to be prohibited from furthering their education when many of them who choose to pursue that education are very talented, would be very much contributors to our society. The demographics of this state are such that we are going to need a huge supply of trained workers in the next 20 years as our baby boomers retire. Many people talk about all the benefits that are given to illegal aliens, and they never talk about the contributions that are made to our state, and to the United States, by these individuals. They never talk about all the money that's paid into Social Security and Medicare by these people who will never, ever see any benefits from them. I mean, they're helping keep Social Security solvent, at least right now. I'm sorry, I get very passionate about this issue. And I thank you, Senator Chambers, for rising to speak about this, this morning, because the air does need to be declared on it. There are many people who think that in-state tuition issue is what defeated Tom Osborne for Governor. [LB746]

PRESIDENT SHEEHY: One minute. [LB746]

SENATOR SCHIMEK: I don't know that I would go that far, but it certainly was a huge issue in that campaign, and the problem was the way it was being presented made everybody think that these children were going to get free tuition from the state of Nebraska. Nothing could be further from the truth. They have to pay tuition just like all the other kids who graduate from high school in the state of Nebraska. It was the right thing to do then, it is the right thing to preserve for the future, and I'm glad I had the opportunity to say this. Thank you. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Dierks, followed by Senator Pedersen, Senator Wightman, Senator Nelson, and Senator Hansen. Senator Dierks. [LB746]

SENATOR DIERKS: Thank you, Mr. President. I just wanted to add my thanks to the committee for bringing this legislation. I, too, was a member of the Air National Guard in the middle fifties and was able to utilize the Bill of Rights to attain my degree in veterinary medicine. So I just appreciate what you're doing and I think that the veterans will certainly appreciate it as well. Thank you. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Pedersen. [LB746]

SENATOR PEDERSEN: Thank you, Mr. Lieutenant Governor and members of the Legislature. I take only this opportunity to do what I do on an individual basis on a larger

Floor Debate
April 09, 2008

basis. Whenever I run into somebody who has served in any branch of the military for our country and is currently serving, I thank them, and as a group, I thank them. And this is a way we can do even a little bit more in thanking them for offering themselves in the protection of us. I was never a military person, but I am very grateful, as I am sure most of you are and those that I know, neighbors and (inaudible), for them that have served and are serving. Thank you. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Pedersen. Senator Wightman. [LB746]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I, too, rise in support of LB746 and the amendment. I think that sometimes we forget how much sacrifice some of these Guard members and whole units within our communities suffer, how much sacrifice they make on our behalf, on behalf of their government, on behalf of their community. So I think this is a very small amount that we could do for them. I compliment Senator Aguilar for bringing this bill. But I also rise in support of some of the statements that Senator Chambers made. I don't know that I would go quite as far as he did, but then that's how Senator Chambers operates. But with regard to how much sometimes the media, sometimes some of our politicians trash those people who are in our country, mostly of Hispanic origin, who are working at jobs and really contributing many times to our society, you know, I have problems with the fact that they are illegal, but I also know how slowly the Immigration and Naturalization Service works. But politically it's always popular to say that they contribute to our national debt, to our expenses, and I think that is often not true, as Senator Schimek alluded to. I would commit to your reading a Texas net impact study which I think is probably the most complete and careful study that was made of the net impact of illegal immigrants across this country but primarily in the state of Texas, and they found that certainly it wasn't all expenses that were made for illegal immigrants, but they contributed greatly to the society. They found that actually there was a positive net impact from the contributions made by illegal immigrants. As I recall, it showed about a \$1.2 billion net impact to the state of Texas. Not only that, it found that if they were all to be taken from their society, that would have a \$17 billion negative impact upon the gross domestic product of the state of Texas. So I do resent it when politicians attempt to make hay out of what is a very emotional issue for a lot of people. I think that what they say is frequently totally unjustified and that they really ought to, and I would advise the media, to look at some of these studies that have been made, too, and particularly I think, as I say, probably the most complete one would be the Texas net impact study with regard to illegal immigration. So again, I do support the bill and the underlying amendment. I do also want to pay what tribute I can to Senator Chambers for his many years of service to this body and to the state of Nebraska. I'm certainly not going to stand here and say that I agree with him...the other day he was...on everything. The other day he had apparently written the dictionary on sense, nonsense, and common sense, and you know I took some issue with that. I think sense is what Senator Chambers defines it as being... [LB746]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: One minute. [LB746]

SENATOR WIGHTMAN: ...in his little dictionary, which I haven't been able to get ahold of yet. Thank you, Mr. President. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Nelson. [LB746]

SENATOR NELSON: Thank you, Mr. President, members of the body. I, too, certainly stand in support of this bill. I was privileged to go through the NROTC program at the University of Nebraska, and I know how much help it is to have your tuition taken care of and...when you have other costs to incur. Just for the record, I would like to ask a couple of questions of Senator Aguilar, if he would respond. [LB746]

PRESIDENT SHEEHY: Senator Aguilar, would you yield? [LB746]

SENATOR AGUILAR: Yes, I will. [LB746]

SENATOR NELSON: Senator, there's...in the fiscal note it shows no cost. There is probably a little bit of cost because it is a tuition credit, I believe, at whatever institution of higher learning the member of the National Guard is attending. At the hearing, were there any figures presented as to how many members of the National Guard are going through a program similar to this and about what the cost is that has to be absorbed by the University of Nebraska or other institutions? [LB746]

SENATOR AGUILAR: I don't recall hearing those numbers, Senator, at the hearing as far as the number participating. They did discuss that there were some and they were, you know, participating and looking forward to it and... [LB746]

SENATOR NELSON: Oh, all right. [LB746]

SENATOR AGUILAR: But I don't recall any specific numbers. I'm sorry. [LB746]

SENATOR NELSON: Okay. Well, that's fine and... [LB746]

SENATOR AGUILAR: I can get that information for you. [LB746]

SENATOR NELSON: Well, that's all right. Is it confined only to getting a bachelor's degree, or can they go on for master's and doctorates under a program like this? Do they have that option? [LB746]

SENATOR AGUILAR: It's specifically for bachelor's degree. [LB746]

Floor Debate
April 09, 2008

SENATOR NELSON: All right. All right. Thank you very much. I appreciate the information. I return the remainder of my time to the Chair. Thank you. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Harms. [LB746]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of this amendment, as well as the underlying bill. I've had the fortunate opportunity for a number of years, Senator Aguilar, to work with people who have been involved in National Guards, watched them when they come home, watched them be excited about changing their life, being able to go to college and find a new career and move on. This program is really very valuable. They pay a high price when we have to send them to Iraq and to other parts of the world, and I think we need to do as much as we can to make this easier and better for them. I would like to have you give some consideration, Senator, to one issue. It may not be an issue, but if a National Guard individual, belonged to the National Guard, would be pulled out in mid semester because of a crisis, what happens to him in the process, or her into the process, of their grades? Are they given a withdraw or, in some cases, the policies of universities and colleges are not real flexible. I'd like to...I'd just like to have you look into that and see if there is something we might want to incorporate in this that says they should be given a W if they're taken out for national reasons. Because that can happen and that can be an issue for that person. I think most people would be very flexible, but I just want to make sure that we protect them as much as possible because they can't control the fact we're pulling them out. Okay, so at least give it some consideration, a look at, and talk to other folks that might be in higher ed to see if that would be an issue. We could correct it very easily in this legislation. So I do want to urge you to support this bill and support the amendment. And Senator Chambers, I'm beginning to worry about myself because I'm beginning, as this starts cranking down, I'm starting to agree with you on some things (laugh) and I'm wondering if there's something wrong with me here. So thank you for all your services as well. Thank you. Thank you, Mr. President. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Janssen. [LB746]

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. Visiting with Senator Schimek just a little while ago, most of you, or some of you anyway, recall that Senator Schimek did chair the Government, Military and Veterans Affairs Committee for several years, and I had the opportunity to work with the National Guard, being a member of that committee, and getting the tuition from 50 percent raised up to the 75 percent level. At that time, we did try for 100 percent, but like all times, we were a little bit short on funds at that time, so we settled for the 75 percent. And I think it's a great, a great way to justify our feelings for the members of the National Guard, because they do sacrifice a lot of their time, energy, and parts of their lives for the service that they do render for the country and for this state as a whole. With that, I just wanted to bring you a little information about what has went on in the

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

Floor Debate
April 09, 2008

past. Thank you. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Are there additional members requesting to speak on AM1675? Seeing none, Senator Aguilar, you're recognized to close. [LB746]

SENATOR AGUILAR: Thank you, Mr. President. Thank you, members. I want to especially thank all the members who spoke favorably on this issue and would like to single out, if I could, Senator Schimek, Senator Wightman, and Senator Chambers. Senator Schimek, thank you for your passion in this arena, and you've been there for a long time doing that. Senator Wightman, thank you for having the nerve to, as one of the senators that's coming back next year, to have the nerve to get up and present the information that you did. It's very valuable to our other new members and appreciated from my perspective greatly. Senator Chambers, what can I say about you? Thirty-eight years of being the voice of those who have none. Senator Chambers, I thank you from the bottom of my heart for what you do. You will be greatly missed. Thank you, Mr. President. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Aguilar. You have heard the closing. The question before the body is on the adoption of AM1675 to LB746. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB746]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB746]

PRESIDENT SHEEHY: Committee amendment AM1675 is adopted. We will return to floor discussion on the advancement of LB746. Are there members requesting to speak? Senator Chambers. [LB746]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, my time ran out before I could finish and I don't intend to take much more time this morning, and I did not want to delay the adoption of that amendment. I did not want to derail the direction that the body was going as far as supporting this bill. There are people, don't ask me how it happens, who wind up in the military of this country. Their complexion is brown, their accent is Spanish. They're not citizens. They get killed and then they are deemed good enough to be granted citizenship. So even without citizenship, it was all right to let them risk their lives and fight for a country full of people who hated them, who hated their children, who thought they were unfit to be here, thought they should not be allowed to sit in a classroom and learn what people in this country say every person should be entitled to, which is an education. It would behoove the majority group in this country to check itself and try to understand how they are viewed by those who are oppressed on a regular basis by them, who are the victims of stereotypes in the print media, talk radio, television, even people who are supposed to be legitimate journalists.

Floor Debate
April 09, 2008

Then those people will say, well, I didn't realize it was offensive. Well, they need to learn something about the people who are in this country. They know the racism that infects every aspect of the life of people in this country who are not white. This is 2008 and when you've been in this world as long as I have, and have dealt with this issue for as long as I have, and as an old man, be confronting the same problems that I was introduced to as a very young child, I'm not able to say that America is making progress, that there is respect for all people in this country. But despite all of the wrongful things directed toward those people who are hated, they wind up being better citizens, in many regards, than those in this country. A white guy came before the Judiciary Committee and spoke against a bill, a resolution, Senator Pedersen offered to seek an apology and an expression of profound regret from this state for the role it played in the enslavement of my people, the enslavement of our children. And he said, what are you going to do about those forebears of white people who fought in the Union Army, and things such as that. What I would ask him, how--but I didn't do it, it was Senator Pedersen's resolution--how dare a white person say such a thing when my forebears fought on the side of America in the Revolutionary War and we were enslaved by this country, fought with Andrew Jackson in the War of 1812, at which time, by the way, the British burned the White House, that building, and it was painted white. That's when it became the White House. [LB746]

PRESIDENT SHEEHY: One minute. [LB746]

SENATOR CHAMBERS: Fought for this country against the British and were still enslaved. Then white people want to say, well, there was some white guy who fought in the Union Army. Well, so did black men when this country was about to have its pants pressed. And we were not paid the same amount. We were not given the same rations. We were called degrading terms. And when black people like us escaped from the South and came into Union lines, based on a directive of Abraham Lincoln, they were returned to slavery, to the slave hunters who could come into Union lines where black men were risking their lives for a country that enslaved them, and watch their brothers and sisters turned over to a slave catcher. I do have my light on again. Thank you, Mr. President. [LB746]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Schimek, followed by Senator Chambers. [LB746]

SENATOR SCHIMEK: Thank you, Mr. President and members. I don't intend to turn my light on again but a thought that has run through my mind for many months now, I guess since the introduction of the bills that came before the Judiciary Committee regarding immigration, I thought to myself I'd really like Nebraska to be known as a state of brotherly love and not the state of brotherly hate. I worry a great deal about the impact that the rhetoric is having on the population that it's directed against, and particularly I worry about the young people and what they must think of living in this state and in this

Floor Debate
April 09, 2008

nation, where some of them have lived all of their lives if not most of their lives, and I wonder what kind of effect that has long term. I was very interested to read in the paper the other day a story about Ted Turner. You all remember Ted Turner. He hasn't been saying much lately. He used to have his foot in his mouth on a regular basis. But he was quoted in an interview as talking about what would happen if he still had control over CNN, which of course he founded. And one of the things he said, among others, was that he would fire Lou Dobbs today, if he still owned CNN. And I don't know if you realize why he said that, but if any individual has been responsible for whipping up the hatefulness that is out there, I think I would say Lou Dobbs has done a really good job of it. And I may be stepping on people's toes, I don't know, but if you watch him on a regular basis you'll see that the target of all of his venom is really illegal immigrants. Should they be here illegally? No. But the fact of the matter is that Congress has not done a good job of controlling immigration, of providing for a way, a path, for naturalization. It often takes literally years for people to gain their citizenship. People who know very well the system of citizenship and naturalization still have trouble making their way through it. And for all those people who don't understand the system, it's almost impossible. I hope that we can get to a point in this state and in this Legislature that we can talk about the problems that unlimited immigration has and we can seek ways to deal with the immigrants that we have in the country in a humane way, in a rational way, in a compassionate way. Because I want to think what it would be like if I lived in another country and I didn't have a way to solve my situation in that country. I would hope that the place that I lived would help to find realistic answers to that. [LB746]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: One minute. [LB746]

SENATOR SCHIMEK: I fault Congress for not solving the immigration problems. We don't have any, any control over immigration laws in this country as a Legislature. We don't have any way to impact them except through our voices and through our pleas to our national representatives. They can't continue to walk away from the problem. It needs to be solved and it needs to be solved in a humane way. Thank you, Mr. President. [LB746]

SPEAKER FLOOD: Thank you, Senator Schimek. (Visitors introduced.) Continuing with discussion on LB746, Senator Chambers, you're recognized. [LB746]

SENATOR CHAMBERS: Thank you. And Mr. President, this will be my last time speaking on this bill, but not my last time this session speaking on the subject. I have an obligation to do everything that I do on this issue. If nobody hears me, if nobody is persuaded, I do not have an excuse, based on that, to sit quietly by. And people who sit quietly by do so because of fear. When everybody is on the same side, it's easy to

Floor Debate
April 09, 2008

stand up and say hallelujah, as we appropriately did when one of our colleagues was attacked unjustifiably, and it grew out of the very type of issue that I'm discussing today. If one of you all dares to show the least bit of compassion or understanding, you are branded, you are called names, and you are called a version of what they call me when I'm not present. They use the N word and add "lover" behind it to designate you. If one drop of black blood is so powerful and potent that it can turn another...an otherwise white person into a black person, then it should not be hard for you to understand that a few words from you spoken in opposition to racism will turn you into that blank lover. That's what you're people are saying about you. If they say that about you, and all you've done is speak for justice, imagine what we are confronting in terms of inappropriate treatment. And who speaks for us? When we speak we're called racists. I am provoked. And when I, the victim, will not roll over and swallow it and take it, they want to label me the bad fellow. They can label me anything that they choose and I still am going to stand and I'm going to speak. And there are people other than mine, other than the descendants of Africa--although, as was pointed out in our hearing and the anthropologists and scientists admitted, all people originated in Africa, but I'm talking about those of us from Africa by way of more recent vintage--there are other groups who are mistreated. They're not even my complexion, they don't even speak Spanish, but they are held in contempt and mistreated in this state, and those people will come to me. And not once have I ever said, why don't you go to the other white senators, why don't you go to the white Governor, why don't you go to the white Lieutenant Governor or the white judges of the Nebraska Supreme Court, why don't you go to the white mayor in your town or the white superintendents that all of you know are in charge of the schools; why do you come to me? And after a pause, well, Senator, we think you'll help anybody. But they say that quietly to me. They are afraid of what their own people will do to them. Then they have the nerve to condemn me when they know what their people think, they know what their people say. And they want me to be quiet and "complicit" in the destruction of my own people? Never. You want me to say forget the past when it comes to the fact that we were enslaved for those hundreds of years, but you don't tell the Jews to forget the past, do you? [LB746]

SPEAKER FLOOD: One minute. [LB746]

SENATOR CHAMBERS: You don't tell them to stop building Holocaust museums, do you? You don't condemn them for saying never again, do you? And you don't say they're unfair and unwise and unjust to tell the German government to give them reparations to the tune of hundreds of millions of dollars, and the head of Germany's government prostrated herself before the Israeli Parliament a few days ago, apologizing yet again for what Germany did to Jews. And you all, some of you, think that it is outlandish for Senator Pedersen to bring a resolution that simply says this state should acknowledge how wrong slavery was and express regret for the part that Nebraska played in it. That is the life that I live. And, Senator Carlson, to... [LB746]

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

Floor Debate
April 09, 2008

SPEAKER FLOOD: Time, Senator. [LB746]

SENATOR CHAMBERS: ...steal a line from you, I'm Ernie Chambers and that's how I see it. [LB746]

SPEAKER FLOOD: Thank you, Senator Chambers. (Visitors introduced.) Continuing with discussion on LB746, Senator Ashford, you are recognized. [LB746]

SENATOR ASHFORD: Thank you, Mr. Speaker. I would give my time to Senator Chambers. Even though he said he didn't want to talk anymore, he wasn't quite finished. He doesn't want the time. I wanted to just pick up on what Senator Schimek has said and about the immigration issue and others, and I think it's an important point. And I was really moved by Senator Wightman's comments as well, because if there is no other issue that we're going to be confronting next year that will take the kind of statesmanship that Senator Schimek and Senator Wightman have exhibited in their comments, and Senator Chambers as well, on this issue, I can't imagine what it is. We are challenged and will be challenged next year on this issue. I was talking to some individuals whom I know about races around the state, and I'm being told that the cardinal issue or the penultimate issue, the defining issue in many of these races is whether or not one supports in-state tuition for the 28 children/students who attend the University of Nebraska system. And that, I am being told, by those who know, that the issue, that issue alone, will define who wins the race, could define who wins the race or would be a significant issue in the race. I just can't imagine that. And I just can't believe that we are here, in 2008...I can't believe that that can be so, that the citizens of the state who will be voting for their representatives to come to this body next year will make a defining decision, will make a decision based on whether or not their...one of the two candidates would prohibit an individual, who has attended grade school and high school in our state, from going to the University of Nebraska with his or her friends and paying the same tuition. I...it's just...maybe I'm so out of touch, and I probably am and I'm sure I am, with my...with the citizens. But if I am, then something very dramatic and drastic has happened in the past few years that I wish I understood more about. But the challenge that we face, the same challenge that we all talked about last week in reference to Senator Lathrop, is that we are going to be challenged, as Senator Chambers has said, to be reasonable, to be rational, to be compassionate, to understand the real issues. And if people want to brand us as individuals for what we do, then they do. And as Senator Chambers has said over the years and said to me, it really doesn't matter whether you're elected or not to this body, it's what you stand for and who you are. I support Senator Aguilar's bill. I support Senator Aguilar and the lessons that he's taught us over the last two years that I've served with him, and I can promise this body that over the summer we will be going out across the state and we'll be thinking about the issue of immigration and we'll be talking to people, and hopefully in Senator Wightman's district and in other districts, and to try to find out what's really going on out there because it's essential and critical that we understand what we're

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

Floor Debate
April 09, 2008

doing. And with that, I would give back the remainder of my time. Thank you, Mr. Speaker. [LB746]

SPEAKER FLOOD: Thank you, Senator Ashford. There are no other lights on. Senator Aguilar, you're recognized to close on LB746. [LB746]

SENATOR AGUILAR: Thank you, Mr. President and members. It's been a great, great debate this morning, fellow members. I ask that you think about what you've heard this morning because next year you'll be faced with another decision on whether to get rid of in-state tuition. I ask that you try to correlate the difference between the education for those students and the education and the importance of it that we're talking about in this legislation here in front of you this morning. I ask for you to honor the troops of this country and green light this bill. Thank you, Mr. President. [LB746]

SPEAKER FLOOD: Thank you, Senator Aguilar. You have heard the closing to LB746. All those in favor of moving this bill to E&R Initial vote aye; all those opposed vote nay. Have all those voted who wish to? Record please, Mr. Clerk. [LB746]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB746. [LB746]

SPEAKER FLOOD: LB746 advances to E&R Initial. Mr. Clerk. [LB746]

CLERK: Mr. President, LB781 was a bill introduced by Senator Rogert. (Read title.) Introduced on January 9 of this year, at that time referred to the Judiciary Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM2097, Legislative Journal page 830.) [LB781]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Rogert, you're recognized to open on LB781. [LB781]

SENATOR ROGERT: Thank you, Mr. President. Good morning, members of the Legislature. LB781 is a bill that amends the Uniform Deceptive Trade Practices Act to define unsolicited checks and billing invoices as a deceptive trade practice, and to provide a general fraud provision that enhances Nebraska consumer protection against new and evolving forms of scam and fraud. There are at least eight states that address and embody in their statutes language on fraud from unsolicited checks, billing invoices, or specific solicitation provisions, and they include California, Tennessee, Oregon, North Dakota, Texas, Kentucky, Louisiana, and Alaska, and that list is growing. From state to state, many businesses have already seen these types of live incentive or promotional checks before. They are mailed to recipients, including but not limited to small businesses, nonprofit organizations, churches, and charities from businesses that claim to be online or yellow page advertising companies. The check is issued in a small amount, usually around \$2 or \$3, and the recipient at the front desk of a small business,

Floor Debate
April 09, 2008

during daily, monotonous transaction, will often place a check like this in the bag at the end of the day to be deposited in the business' bank account. Consequently, upon depositing or cashing this check, the business then becomes automatically entered into a contract for a period of time that obligates additional payments for services that they had no intention of ordering, nor that provides any real benefit or return. Had the recipient of the check understood the implications, or more importantly if the conditions had been appropriately communicated to them before depositing or cashing the check, it would seem to me that based upon circumstances in question, the consequences of the action and from the 50 complaints that have been received over the past 4 or 5 years to the state, most of these businesses would not have chose to enter into that particular agreement. In Nebraska one company sent out over 50,000 checks in hopes that contract conditions in the fine print would not be read in its entirety or at all, and out of those 1,200 were cashed and entered into contract agreements resulting in Nebraska consumers owing more than \$216,000. I believe these tactics are unethical, often leading to unnecessary embarrassment and harassment from a barrage of constant phone calls, letters, and faxes demanding payment, all the while threatening to haul them to small claims court at the expense of a local business and messing with their credit rating. While there are some steps that a consumer can take, such as monitoring their credit report, hiring an attorney for representation to document objections to the claim, filing a complaint with the Better Business Bureau and the Attorney General's Office, the process can be cumbersome. More importantly, it can take time, even years before anything can materialize in the form of a civil agreement or restitution after the investigation. Hypothetically, we could enter into the agreement with two or three companies a year, but even after that just around the corner there are two or three more companies, and then around the corner three more, and what happens is we end up chasing after these companies without any real resolution to the growing problem. By entering into our statutes and defining these acts as a Uniform Deceptive Trade Practice we make these activities unacceptable at the forefront, and we are able to be reactive and proactive simultaneously in putting a stop to this type of scam and fraudulent activity in Nebraska. While it's possible that a small claims court may throw the case out, or in the event that it be ruled in favor of the defendant, or in the event that the company would choose not to pursue it, it still doesn't prevent a company from preying on other small businesses or consumers who are still susceptible into making that particular payment under false pretenses. In other words, favorable circumstances still do not make a practice more acceptable. Now we see that these companies are beginning to mail unsolicited billing invoices, just as is being done with the unsolicited checks aforementioned. In the multitude of every day-to-day transaction, the billing invoice is received with the natural expectation or obligation to make payment; however, it is an acceptance for good of services that the business never intended to make, nor were they actually required to make payment upon. It, too, is a contract agreement that is entered into upon payment. They make...the very make and appearance of an invoice resembles, in most cases, an obligation to make payment, evidence in procuring payment, or some form of documented accountability. This in its nature is very

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

Floor Debate
April 09, 2008

misleading. These billing invoice scams are relatively new, evolving from the unsolicited check scam. And I'd like to go further by stating that these scams can and do continue to evolve from their current and original form. For this reason we have included a general catchall provision, one that will further aid us in pursuing scams that involve fake cashier's checks, magazine subscription sales, and charitable solicitations. But more importantly, it will allow us to pursue those innovative and new scams that may lead to more consumer susceptibility in the state of Nebraska. And finally, we have a provision to ensure that these companies are liable if they solicit our residents or even nonresidents if they have been pulled into a scheme that originated in Nebraska. Our provision will allow for this to be handled on a case-by-case basis, as jurisdiction would need to be determined. But if direct contact is made, the company can be investigated and possibly pursued based on their location. I passed out a few examples a few minutes ago, and you can look through those. It shows a couple checks and a couple invoices and a letter from a friend of mine that was led victim to this type of scam. I feel it is our responsibility as state legislators to protect our constituents and our citizens and put a stop, once and for all, to these kinds of scams and unethical business practices in the state of Nebraska. Thank you, Mr. President. [LB781]

SENATOR AGUILAR PRESIDING

SENATOR AGUILAR: Thank you, Senator Rogert. As the Clerk stated, there are committee amendments. Senator Ashford, as Chair of the Judiciary Committee, you're recognized to open on the amendments. [LB781]

SENATOR ASHFORD: Thank you, Mr. President. And Senator Rogert has adequately explained the bill. This is a very technical amendment that adds the word "knowingly", to make it...to make...to make Section 87-303 (15)(i) consistent with Section 87-303 (14). That's really it, Mr. President. It's really a...it's more than technical, but it is only a word change. It's to add the word "knowingly", to make certain that an offense under this act would require a knowing act on the part of the perpetrator. Thank you, Mr. President. [LB781]

SENATOR AGUILAR: Thank you, Senator Ashford. Anyone wishing to speak on the committee amendment? Senator Pirsch, you are recognized. [LB781]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Rogert would just yield to a quick question? [LB781]

SENATOR AGUILAR: Senator Rogert, would you yield? [LB781]

SENATOR ROBERT: Yes. [LB781]

SENATOR PIRSCH: Is it...it's my understanding that there's no appropriation attached

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

Floor Debate
April 09, 2008

to this, correct? [LB781]

SENATOR ROBERT: That's correct. It just changes our statutes to allow for a little more specific power in going after these types of scams. [LB781]

SENATOR PIRSCH: Very good. I'd yield the balance of my time to Senator Rogert, should he have any further comments. [LB781]

SENATOR AGUILAR: Senator Rogert, you have 4:30. Senator Rogert waives. Senator Harms, you are next, you are recognized. [LB781]

SENATOR HARMS: Thank you, Mr. President. Senator Rogert, would you yield? [LB781]

SENATOR ROBERT: Yes. [LB781]

SENATOR HARMS: Would you look on page 10, please, item (c). [LB781]

SENATOR ROBERT: Okay. [LB781]

SENATOR HARMS: Are you with me? [LB781]

SENATOR ROBERT: Yes. [LB781]

SENATOR HARMS: Item 6 or line 6. [LB781]

SENATOR ROBERT: Okay. [LB781]

SENATOR HARMS: Excuse me, it would be line 5, where it talks about the state of Nebraska against residents or nonresidents of this state. Could you explain the nonresident side of this state? What do you really mean by that? [LB781]

SENATOR ROBERT: Well, one of the things it... [LB781]

SENATOR HARMS: How can you be a part of the state and be a nonresident? [LB781]

SENATOR ROBERT: Well, you could own a business in the state and not be a resident in here. So that would allow for somebody that, say for example, lives in Council Bluffs and has a business in west Omaha. [LB781]

SENATOR HARMS: Okay. Thank you very much. I appreciate that. Thank you, Mr. President. [LB781]

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

Floor Debate
April 09, 2008

SENATOR AGUILAR: Thank you, Senator Harms, Senator Rogert. Senator Carlson, you're next and recognized. [LB781]

SENATOR CARLSON: Mr. President and members of the Legislature, I rise in support of this amendment and the underlying bill. And I'll tell you a little story. My father is 92 years old. He is the most honorable man that I know. And everybody is innocent with him, everybody is a friend until proven otherwise. And a couple of months ago he got one of these checks in the mail made out to him for \$3.50, I think it was, and he cashed the check. And then a month later he came in to see me and he indicated that he'd gotten a charge on his Visa for \$99, couldn't figure out what that was, and I couldn't figure it out either. So I have to go back through the credit card company and trying to get them to help me identify where this charge came from. Then I go back through the company and get ahold of somebody and try and have them explain to me what this charge is. And it's just exactly what Senator Rogert has presented, a deceptive trade practice that when an individual cashes the check all of a sudden they are getting some kind of a monthly billing. And so it is unethical. My father had no idea he was getting into something like this. So it took his time, it took my time, it took some threats of mine to this company to get that item off that charge card and not to have it appear again. And so this involves one of those practices that definitely needs to be stopped. It takes advantage of people that it certainly should not take advantage of, and is a lesson to all of us to really be careful what we get in the mail and what we cash in terms of a check. And so I appreciate this effort on this legislation and thank Senator Rogert for bringing it. Thank you. [LB781]

SENATOR AGUILAR: Thank you, Senator Carlson. There are no further lights on. Senator Ashford, you're recognized to close on the committee amendments. Senator Ashford waives closing. You've heard the closing on the committee amendments. The question is, shall the committee amendments to LB781 be adopted. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB781]

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB781]

SENATOR AGUILAR: Motion is successful. Senator Rogert, you are recognized to close on LB781. [LB781]

SENATOR ROBERT: Thank you, Mr. President. Thank you, Senators Carlson, Harms, and Pirsch for your questions. I encourage your support of this bill. And it's exactly as Senator Carlson mentioned. It's an attempt to protect consumers and businesses from unethical trade practices, in my opinion, scams, and scam artists that do things to us every day that we need to try and get our arms around. So I appreciate the support of those here, and I encourage the adoption of...the passing of LB781. Thank you. [LB781]

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

Floor Debate
April 09, 2008

SENATOR AGUILAR: Thank you, Senator Rogert. You've heard the closing on the advancement of LB781 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB781]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB781. [LB781]

SENATOR AGUILAR: The bill advances. Items for the record, Mr. Clerk. [LB781]

CLERK: Thank you, Mr. President. Health and Human Services reports LR238 back to the floor for further consideration by the full Legislature. Confirmation hearing reports from Health and Human Services Committee, two reports signed by Senator Johnson as Chair. Communication to the Governor to the Clerk. (Read, re. LB888.) Your Committee on Enrollment and Review reports LB844 as correctly engrossed. An announcement, Mr. President. Judiciary will hold an Executive Session at 11:00 in Room 2022; Judiciary Committee at 11:00. That's all that I have, Mr. President. [LR238 LB888 LB844]

SENATOR AGUILAR: Thank you, Mr. Clerk. Continuing on, we're now ready to open on LB911. Senator Hudkins, you are recognized to open. Senator Fischer, are you filling in for Senator Hudkins? (AM1971, Legislative Journal page 702.) [LB911]

SENATOR FISCHER: That's correct, Mr. President. [LB911]

SENATOR AGUILAR: You're recognized. [LB911]

SENATOR FISCHER: Thank you, Mr. President and members. Senator Hudkins had a funeral to go to this morning, and so she is not able to open on her bill and asked that I do so. I would like to move immediately to the committee amendment, if I may with your indulgence here, because the committee amendment strikes the bill and becomes the bill. The committee has discussed the federal REAL ID Act several times over the past couple of years. The feeling of the committee is that although we may have to end up complying with the act, now is not the time. At this time, I want to make clear that this amendment is not an attempt to comply with the federal REAL ID Act in any way. REAL ID has forced us to analyze our drivers' licensing system, and it has been found that we do have some security and fraud issues. AM1971 is an attempt to correct some of those concerns regardless of the federal REAL ID. When the Nebraska DMV articulated its vision for drivers' licensing in 2000 with the implementation of the interactive drivers' license system and the digital drivers' license system, they set a goal to implement the highest levels of security and integrity in process and systems. This vision was grounded firmly in the policy initiatives of combating underage drinking, protecting against identity theft, and reducing fraud. In 2001, the DMV implemented the Social Security verification program, one of the most effective fraud prevention tools it currently

Floor Debate
April 09, 2008

utilizes. In 2005, Nebraska was the second state to incorporate the digital watermark into our drivers' license card. The digital watermark is a cross-jurisdictional forensic security feature now being used by 18 states. Despite all of these improvements, the fact remains that fraud is still occurring and identities are still being compromised. In August the DMV received the initial results of an antifraud service that was provided by our drivers' license vendor. The vendor took the 2 million images stored in the DMV database and performed a one to many cross-check on each photo. That photo cross-check resulted in a preliminary report of 120,000 individuals who appear to have more than one document issued under more than one name. At first blush it appears that there are possibly 120,000 fraudulent reissued drivers' licenses or ID cards. In reality the number is less than that. Initial sampling indicates that approximately 60,000 of the apparent matches are not matches, they are just photos of two people who look alike. However, 45,000 of the instances of the multiple document issue were the result of operator error. The county treasurers' staff simply didn't bother to match the name of the individual with the persons whose picture he or she was taking. This is especially obvious when the name and gender of that...of a male...is that of a male and the picture is that of a female. While that is certainly not fraud, it cannot be overlooked. Each time we issue a document through the digital drivers' license system we have to pay our vendor \$4.30. Roughly 45,000 documents were issued in error. That comes to \$193,000 that's been paid out for errors and 45,000 people who had their documents reissued, some having to make a return trip for the corrected document. We as a body need to correct this. The DMV estimates that there are approximately 15,000 possible instances of fraud, individuals who hold multiple documents in different names. In 2005, the DMV created a fraud investigator position. From January 2006 to June 2007 they opened 208 fraud and/or identify theft cases. Those investigations have led to 45 arrests and prosecutions. In some instances the individuals were seeking an identity that will allow them access to age-sensitive products, alcohol being chief among them. Other times the individual was gaining a new identity to leave behind a revoked or suspended drivers' license, or an illegal immigrant seeking to assume the identity of a legal resident. The DMV has uncovered several instances of welfare and/or disability fraud. Some are seeking new identities for financial gain; others are seeking a new identity to avoid the sex offender registration requirements. Identity theft and fraudulently obtained drivers' licenses and ID cards are occurring in Nebraska. It's time we accept the stark reality that a drivers' license does not signify that we possess the privilege to operate a motor vehicle. It is the identity document issued by the state. It is the one document commonly requested and proffered to establish our identity. Viewed that way it makes sense to institute and demand the highest level of security and integrity in the systems and in the process. The main attempt of the committee amendment is to curb some of these concerns and to issue the drivers' licenses in one secure facility. Central card issuance and production provides the most secure and cost-effective way to produce drivers' licenses and ID card documents. Central issuance entails all drivers' licenses and identification cards being produced at one central facility after the applicant has made a trip to the DMV. The license or ID is then mailed to the applicant a few days

Floor Debate
April 09, 2008

later. The applicant leaves the DMV with a receipt that allows for driving privileges for 30 days. Central issuance allows the state to concentrate the necessary security into one facility, thereby reducing security costs. It also allows the state to do away with the deployment of expensive printer equipment into multiple locations. Part of the per card cost associated with our digital drivers' license system is allocated to the 108 card printers that we currently have in Nebraska. Other benefits of central issuance include the additional time for photo validation of applicants to ensure that the applicant has not already been issued a valid document in another name or identity, the ability to include security features on the physical structure of the card that isn't feasible in multiple branch offices, the prevention of the loss and theft of secure ID materials from local branch offices, and a reduction in applicant processing time or less time spent at the DMV for our citizens. The amendment provides for an identity security surcharge to cover the cost of technology and security practices not to exceed \$8. The surcharge will cover the enhanced security features of the card, mailing costs, and the additional staff DMV requires to operate central issuance. The DMV estimates they will need about \$6 surcharge to cover the costs of central issuance and the fraud detection. That will put a 5-year license at a cost of \$30, or \$6 per year. The committee amendment also has several clean-up changes for the license issuance process. Section 12 of the amendment moves the drivers' license and ID fees to round numbers. For example, a 5-year Class O license goes from \$23.75 to \$24. This section is revenue neutral for the DMV because fees are rounded down as well as up to the nearest whole dollar. Dealing with whole dollars will be easier for our citizens as well as the DMV when purchasing their drivers' licenses and identification cards. Section 14 removes the requirement that an applicant for an adult drivers' license, at age 17 or older, must surrender a provisional operator's permit. Many times a teenage driver will lose their operators permit, and current law requires them to buy a new one for \$11.25 and then hand it over to the DMV examiner right after it's issued in order to get their Class O license. This is not the current practice for any other type of license and it does not seem fair to our teenage drivers. The section also gives the DMV discretion on whether to waive the written examination and drivers' test...and driving test. This will allow the examiner to take applicants on a case-by-case basis and make the decision whether a written or a driving test is warranted. Section 15 gives the DMV the authority to recognize the LPE's, or school permits, as qualifying permits to be held for six months prior to a provisional operator's permit. This was left out of Senator Harms's teen driving restrictions bill, LB415 last session, and it has... [LB911 LB415]

SENATOR AGUILAR: Time, Senator. [LB911]

SENATOR FISCHER: ...been problematic for some applicants. Thank you, Mr. President. [LB911]

SENATOR AGUILAR: That was the opening to the committee amendments. There are amendments to the committee amendments. Mr. Clerk. [LB911]

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

Floor Debate
April 09, 2008

ASSISTANT CLERK: Mr. President, the first amendment to the committee amendments is from Senator Fischer, AM2180. (Legislative Journal page 1250.) [LB911]

SENATOR AGUILAR: Senator Fischer, you're recognized to open. [LB911]

SENATOR FISCHER: Thank you, Mr. President and members. AM2180 corrects several drafting errors to the committee amendment. The fee schedule outlined in Section 60-411...or 115 is revised so that each class of license has the correct categories and fees associated with those categories. The original statute had some of these categories omitted from various classes of licenses. On page 11 the stricken material is not required because DMV personnel will not be delivering the licenses anymore. Language changes are made on pages 29, 30, 40, and 44 to better reflect the future practices of DMV under this bill. The change on page 44 is dealing with state identification cards. The amendment strikes the language limiting the machine-readable information encoded on the card to the information contained on the face of the card and replaces it with a finite list of data that can be encoded on the back of the card. This change is consistent with the rest of the bill. The reason for this change is there are a couple of pieces of information that will be used for internal purposes at DMV that is not necessary to be printed on the face of the card. These are revision dates that may have happened pertaining to that individual card, as well as an inventory control number for that card. Thank you, Mr. President. [LB911]

SENATOR AGUILAR: Thank you, Senator Fischer. You've heard the opening to AM2180 to AM1971. Those wishing to speak, Senator Hudkins, you are recognized. [LB911]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. And I do thank Senator Fischer for opening on this bill, because as she said I did attend a funeral of a high school classmate this morning. Makes us all look at our mortality just a little bit more seriously. The amendment I am in support of, also the underlying amendment, and also the bill. The amendment to the amendment, AM2180, has to do with fees. Some go up, some go down, and some stay the same. So that I'm perfectly fine with. And then if I may talk about the amendment for just a minute. I received a magazine, it's called State Legislatures, and it was the March 2008 edition. And there were a few facts in here that I thought you might like to know, if you have not seen the article. States began requiring drivers to obtain licenses to operate motor vehicles in 1908. Now it's probably an understatement to say that there will not be a celebration of the drivers' license centennial anniversary. Then we come to May 11 of 2008. That is the deadline for state compliance with new drivers' license standards and procedures in the federal REAL ID Act. And as we have seen from other states as well as our own, there are states that are balking at this. This is seen as a...this amounts to the creation of a national database of citizen information which many believe is a privacy disaster in the

Floor Debate
April 09, 2008

making. Moreover, many attempts...or opponents, rather, decry REAL ID as a subversive attempt to establish a system of national ID cards. If you have the committee statement for LB911, take off the back page, and then you take the others and you do this (ripping sound). You tear it up and you throw it away because the...LB911 has been totally changed. What it is going to do now, as Senator Fischer told us, is going to have our state drivers' licenses and our state identification cards issued from a central location. If you remember the original bill it decreased the number of license examiner stations from 94, 95, 96, whatever it was, to 19. Obviously, the people in the western part of the state were not happy with this because some counties would lose their examining station altogether. They would have to go to another county which could be 100 plus miles away. What this amendment does now is allow for central issuance of licenses and ID cards. You would still go to your local county, wherever you went to get your licenses before, and actually you don't have to go back to your local county, you can go to any county seat and apply for your drivers' license. You will give them the basic information--name, address, height, weight, all of the stuff that you normally do now. You will probably be given an eye test and perhaps a driving test, depending upon the mood of the license examiners that day. [LB911]

SENATOR AGUILAR: One minute. [LB911]

SENATOR HUDKINS: Then that information will be sent to the DMV. Once a day or thereabouts, the DMV will send all of this information to a central contractor that will prepare for these licenses and then mail them to you. You will get a certificate, after you have passed your test, that you may drive. And then you should be getting this new license or card in the next five days. So really, that's all the bill does. There's nothing anymore about all of the other stuff. But the federal government has said that you got to start looking at working toward compliance. If you don't, if your state is noncompliant, we're not going to allow you to use a drivers' license to board an airplane or get onto...get into a federal building. So I would urge your acceptance of... [LB911]

SENATOR AGUILAR: Time. [LB911]

SENATOR HUDKINS: Thank you. [LB911]

SENATOR AGUILAR: Thank you, Senator Hudkins. (Visitors introduced.) Those wishing to speak on AM2180 are Senator Avery and Wallman. Senator Avery, you are... [LB911]

SENATOR AVERY: Thank you, Mr. President. I can think of a number of reason why Nebraska would not want to participate in the federal centralized database called REAL ID, and Senator Hudkins made some of those points. One point that she didn't make is that there are some people who have legitimate reasons to conceal their identity. These are victims of domestic violence, witnesses to criminal investigations and trials, others

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

Floor Debate
April 09, 2008

who might for some reason not want their location widely known. And I've listened very carefully to Senator Hudkins and to Senator Fischer about what we're trying to do with this bill. I think it's ironic that it has the number 911, since the REAL ID program is supposed to be an antiterrorist program. Was this coincidental, Senator? (Laugh) Ironic to say the least. I have one question for Senator Hudkins. Would it... [LB911]

SENATOR AGUILAR: Senator Hudkins, would you yield to a question from Senator Avery? [LB911]

SENATOR HUDKINS: I will answer a question, yes. [LB911]

SENATOR AVERY: Would it be accurate to describe what the bill is now with this amendment as REAL ID light? [LB911]

SENATOR HUDKINS: My opinion is no, but it keeps us on the path to satisfy the federal government. Whether we eventually adopt this or not or whether the federal government stands down on this or not, we are still seen as making progress toward the REAL ID Act. And if I may, the people that you talked about with identities that they wanted to conceal, you can still get on an airplane, or go into a federal building, or in your case your identity...if you have a passport. If you have a passport you don't even need to worry about this, but the great majority of Nebraskans don't. [LB911]

SENATOR AVERY: May I continue with the questioning? We will be setting up a state centralized database then, with this amendment? [LB911]

SENATOR HUDKINS: All of the examinations that have been done throughout the state will be sent to the DMV in Lincoln. They will send them to an outside source, I don't happen to know where that is; it's an outside contractor. All kinds of security and you can't believe the security that they will have there, as opposed to the security that we don't have now in our county courthouses. [LB911]

SENATOR AVERY: This still might raise some of the privacy concerns that the REAL ID program raises. I'm not sure what I'm going to do on this bill. I know it's not REAL ID, but it looks like it might be REAL ID light, so I'm going to listen very carefully to the arguments. Thank you, Mr. President, and thank you, Senator Hudkins. [LB911]

SENATOR AGUILAR: Thank you, Senator Avery and Senator Hudkins. Senator Wallman, you are next, you are recognized. [LB911]

SENATOR WALLMAN: Thank you, Mr. President. I too, like Senator Avery, have real trouble when you see in the paper like the Governor's wife of California, they stole her identity. And our military records are lost, sometimes you can't find them, like in St. Louis or something, my...friends of mine. So REAL identity...and I noticed there are

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

Floor Debate
April 09, 2008

some opponents to this here thing. And so let's be careful what we do with our real identity, because right now if you don't have a drivers' license, or look at how many, like Senator Kruse will tell you, you can have I don't know how many accidents. What do we do? They still drive. So if that's what we're trying to do with REAL identity we're getting these...like Senator Rogert's bill. I think we get too much centralized identity records, the possibility for theft is really there. And then we have less sections where to get your license and everything like this. And a lot of us do have passports, but a lot of us don't. So I can't support this. And thank you, Mr. President. [LB911]

SENATOR AGUILAR: Thank you, Senator Wallman. Senator Gay, you are next, you are recognized. [LB911]

SENATOR GAY: Thank you, Mr. President. I have a question for Senator Hudkins. [LB911]

SENATOR HUDKINS: Yes. [LB911]

SENATOR AGUILAR: Senator Hudkins, would you yield? [LB911]

SENATOR HUDKINS: Yes. [LB911]

SENATOR GAY: Thank you, Senator. Senator Hudkins, you said the committee statement, just don't look at that at this point. [LB911]

SENATOR HUDKINS: Yes. Actually, look at the committee amendment on the committee statement; that's what the bill is now. [LB911]

SENATOR GAY: Okay. The question is this then, on the fiscal note, is the fiscal note correct now? [LB911]

SENATOR HUDKINS: No. There is a new fiscal note, and it comes down considerably. If the one I have is current, the first year for fiscal '08-09 is a little over \$2 million, and then for '09-10 is a little over \$3 million. [LB911]

SENATOR GAY: Okay, thank you, Senator Hudkins. And you're doing a good job explaining. This is one of these issues I probably should have paid more attention to along the way. Here we are today discussing it and I'm trying to get up to speed a little bit, which we all should be. This is an important issue and there are some real concerns. My concern is the federal government is mandating, saying well, you must do this, and states are going back and forth--should we, shouldn't we? Some states are just not going to comply it sounds like. But the question is, Senator Hudkins, if we're going in this direction, to me, you said that, well, now you can go in any county. We're setting this up where you can go to any county and get your drivers' license issued, which

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

Floor Debate
April 09, 2008

probably isn't a bad thing. I think maybe centralizing we could save money in a way, too, if it's done right. But the question would be here, are we...in case this doesn't happen, let's say, let's say they change their mind and we don't have a REAL ID. I don't know if that would happen or not, but are we making some changes here, these first changes that would be...could be good for the state anyway, just the way we issue licenses and how we do the process? Because sometimes it doesn't make sense to have 93 people doing something; it just doesn't make sense with the way we are. But are we making strides in your view, that this could be a good thing to...long-term? [LB911]

SENATOR HUDKINS: I think so, because...and as far as going to other counties, that has been in law for some time; I don't know how long. And going back to Senator Avery's comments, we already do have a state database with DMV for licenses. And there was an article in the Omaha World-Herald talking about this very thing, that it said, there is a scam going on to sell fake drivers' licenses. Nebraska has one of the most secure licenses. But as quickly as we can come up with a new, better, improved, somebody is smart enough to figure out how to change it, or they steal the blank forms, which has been known to happen. But there is a group in Texas that, Houston based, I think. They've taken out an ad in newspapers and they've distributed fliers to Hispanic businesses in Omaha, Grand Island, and Lincoln offering so-called international drivers' licenses and state ID cards for about \$200. This company is registered under an assumed name in Harris County, Texas, and was doing business as Centro de Identificaciones. My Spanish isn't that great; I had help from one of the pages. But we are having trouble now with these blank drivers' licenses forms being stolen. You have a not quite so honest person working in those offices. But I think that what we're doing is going to help in that situation. Now there will be a central person that has this information, but it is in a much more secure... [LB911]

SENATOR AGUILAR: One minute. [LB911]

SENATOR HUDKINS: ...area. [LB911]

SENATOR GAY: Okay. And then, Senator Hudkins, you said the fiscal note went down. If you want to take any time, the balance of my time to explain where the \$2 million is going, if you know. If you don't that's fine, too. [LB911]

SENATOR HUDKINS: Thank you. The dollars would be used for...well, they would be sent to the Motor Vehicle Cash Fund for the Department of Motor Vehicles for Program 70, to aid in carrying out the provisions of the bill. So I'm sure part of this is...here's the amended one. Okay. It's...it's less than I said. In 2008-09 it's \$2 million, but there will be some revenue coming in for that, so you've got to subtract; and also in '09-10 \$3 million, but the revenue would be almost \$3 million. So it is going to be... [LB911]

SENATOR AGUILAR: Time. [LB911]

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

Floor Debate
April 09, 2008

SENATOR HUDKINS: ...definitely less. [LB911]

SENATOR AGUILAR: Senator Hudkins, you may continue on your own time now. [LB911]

SENATOR HUDKINS: Thank you. And I'll continue the conversation with Senator Gay. [LB911]

SENATOR AGUILAR: Senator Gay, would you yield? [LB911]

SENATOR GAY: Yes. [LB911]

SENATOR HUDKINS: And we'll just go back and forth, and if you have any other questions, or I'll give you the rest of the time when I'm finished. So this bill now allows for a change to a central issuance for drivers' license and ID cards. The additional cost of central issuance includes the additional equipment that are needed to process these cards and licenses. Implementation of the central issuance process is to be completed no later than April 1, 2009. And this bill directs DMV to protect the identity of card applicants, Senator Wallman, wherever you went, and holders by taking measures to reduce identity theft, fraud, forgery, and counterfeiting. I had my billfold stolen a couple of years ago when I was in California. And I thought, oh my gosh, what do I do now? My license is gone, my credit cards are gone, everything is gone. So we went to the local police station, filled out a report. He said, kiss it goodbye; this happens all the time, especially to tourists. He said, just go home and call your credit card company, cancel it. Go home, get your drivers' license reissued. Well, there must be honor among thieves because the day we got home, which was about a week and a half later, I was going to go to DMV that day and get my license. There was a letter that I had to pick up at the post office and pay 97 cents for. Someone had taken my drivers' license, my pictures of grandchildren and a couple other membership cards, threw them in a mailbox and the San Francisco post office sent them back to me. So at least I got my drivers' license back. But I was really concerned about identity theft. But I was able to get the credit cards cancelled, but they had tried to use it several times at an ATM machine, of all places, where they had to have a PIN number. Well, obviously they couldn't use it. So this, I think, is a good deal. It's not the REAL ID that the feds want, but it keeps us on the track if they decide that we have to do this; and if not, it's not going to hurt anything. And I'd give the rest of my time to Senator Gay. [LB911]

SENATOR AGUILAR: Senator Gay, you have 2:33. [LB911]

SENATOR GAY: I'd pass. Thank you. [LB911]

SENATOR AGUILAR: Senator Gay waives his opportunity to speak. Senator Nelson,

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

Floor Debate
April 09, 2008

you are next, you are recognized. [LB911]

SENATOR NELSON: Thank you, Mr. President, members of the body. Would Senator Hudkins respond to a question or two? [LB911]

SENATOR AGUILAR: Senator Hudkins, would you respond? [LB911]

SENATOR HUDKINS: Yes. [LB911]

SENATOR NELSON: Senator Hudkins, you just made the statement that this is not going to hurt anything. Two million dollars hurts a lot. Why is it necessary to spend \$2 million for this new system? [LB911]

SENATOR HUDKINS: It is because of the additional equipment that is needed. And if we can go back to the new fiscal note, the expenditures would be \$2 million plus a little, and the revenue would be \$635,000. So actually it's \$1 million...half...do your math, I'm not very good at the math part. [LB911]

SENATOR NELSON: It would be about \$1.4 million, would it not? [LB911]

SENATOR HUDKINS: Yeah. [LB911]

SENATOR NELSON: All right. [LB911]

SENATOR HUDKINS: And then for the next fiscal year it's almost a wash, \$3 million versus \$2,857,000 in revenue. So, yeah, it is an increase for a couple of years just because of the new equipment. [LB911]

SENATOR NELSON: Presently it's my...I'm looking at the chart which is helpful here. But we have...currently now we have DMV examining stations in every county. Is that correct? [LB911]

SENATOR HUDKINS: Yes, and some counties have more than one. [LB911]

SENATOR NELSON: All right. You can't go every day of the week. I think maybe they circulate in some counties. But at least we're not going to do away with any DMV examining stations, is that correct? [LB911]

SENATOR HUDKINS: That's correct, but the licenses will not be issued in those stations like they are now. So there will be less need for the equipment there. There will be less need for some of the employees. [LB911]

SENATOR NELSON: All right. Who actually issues the license? Is it the examining

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

Floor Debate
April 09, 2008

station or the county treasurer? [LB911]

SENATOR HUDKINS: Well, you...all of the forms...you go to your county seat and you renew your license. All of that information that you give them will be sent to the Nebraska DMV. They will then accumulate all of that information from all of the counties and then send it on to this contractor. [LB911]

SENATOR NELSON: No, no, that's prospective. I'm asking about the way it's done now. [LB911]

SENATOR HUDKINS: And your question is what? [LB911]

SENATOR NELSON: I don't believe that...and maybe I'm wrong, but do the licenses that are issued now, do they come from the DMV? Are they put in the mail, or do you get those right at the county treasurer's office? [LB911]

SENATOR HUDKINS: They come from the county treasurer's office. [LB911]

SENATOR NELSON: That's right. So we wouldn't have any change there. We're not doing away with any county treasurers or any equipment, right? [LB911]

SENATOR HUDKINS: Not there. [LB911]

SENATOR NELSON: Right. So what we are going to do is buy a bunch of additional equipment, if I'm correct on this, and we're going to send everything into a central location under the belief that we're going to get additional security. And this is why it's necessary to get all this extra equipment? [LB911]

SENATOR HUDKINS: Yes, because there is more security. And I don't remember...don't know if you remember that there have been thefts of drivers' license blanks, if you will, and so people are pretty clever with a computer. They can make up their own licenses. [LB911]

SENATOR NELSON: Well, let's address the situation in Texas. Do they need blank forms to fabricate drivers' licenses under that type of scam? [LB911]

SENATOR HUDKINS: I don't know how they do that in Texas. [LB911]

SENATOR NELSON: Well, I suspect that they take the person who wants the drivers' license or they get the information from them, and they get their photograph, and then they make a false drivers' license. And if we can counterfeit 100 dollar bills and 50 dollar bills, we can certainly counterfeit drivers' licenses, in my opinion, just as easily whether we have increased security here in Nebraska or not. [LB911]

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

Floor Debate
April 09, 2008

SENATOR HUDKINS: Well, I... [LB911]

SENATOR NELSON: And, I guess, that's not a question, but that's an opinion. [LB911]

SENATOR AGUILAR: One minute. [LB911]

SENATOR NELSON: I'll turn my light on again. I would, just in the interest of getting more information on this, I'm going to be asking you the next time, unless you use your own time, to just tell us where we are with the REAL ID Act on a national level, what the proposals are, what the deadlines are, you know? And why...and my question then would be, why is it necessary to make a move at this time? Thank you, Senator Hudkins. Thank you, Mr. President. [LB911]

SENATOR AGUILAR: Thank you, Senator Nelson and Senator Hudkins. Senator Pankonin, you are next, you are recognized. [LB911]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. My questions were going to be almost exactly what Senator Nelson asked about. Would Senator Fischer yield? [LB911]

SENATOR AGUILAR: Senator Fischer, would you yield to a question? [LB911]

SENATOR FISCHER: Yes, I will. [LB911]

SENATOR PANKONIN: Senator Fischer, did you hear what Senator Nelson's questions were, to a certain extent? [LB911]

SENATOR FISCHER: Yes, yes. [LB911]

SENATOR PANKONIN: And I have the same sort of concern about where we're going, but also what would be the consequences if we don't pass this bill? What happens to the state of Nebraska? I think there's been questions about the cost and the protection of IDs and some of these other issues. If we plain just don't pass it, what happens to us? [LB911]

SENATOR FISCHER: Let me reiterate first of all, this bill doesn't deal with REAL ID. The amendment, the one-liner in the bill is for REAL ID because when it was introduced there were a number of items in that bill that would have moved Nebraska on the road to compliance for REAL ID. The committee struck the language in the green copy and came forward with this amendment, which addresses the security and identity theft concerns that the committee learned about in meetings and hearings that we had with the director of the Department of Motor Vehicles. So the bill is now dealing with those

Floor Debate
April 09, 2008

security and identity theft concerns and the cost that we have seen to the state of Nebraska due to fraudulent drivers' licenses. To answer you on where the federal government is on REAL ID, that seems to be a moving target. The states were told, and I'm sure some of you saw the press conference with the director of the Department of Homeland Security, that all states needed to comply with REAL ID. There were a number of changes made in the final regulations that were put out by the federal government. This body, we were not comfortable last session with REAL ID and complying with it; we made that clear in a resolution. But the Department of Homeland Security came out and said that if your state does not ask for an extension in order to meet the REAL ID requirements, your citizens would not be allowed on airplanes. The Governor in January sent a letter to, I believe it was to the director of the Department of Homeland Security, applying for that extension. That doesn't mean that Nebraska will comply with REAL ID. What that did was give Nebraska and the majority of other states and districts...the District of Columbia time to continue to lobby against this the largest, I believe, of unfunded mandates that we've seen from the federal government. Nebraska was granted that extension. If the Governor had not applied for it in May of this year, our citizens probably could not have traveled on airplanes because a Nebraska drivers' license would not be recognized as a secure form of identification. It would have taken a passport. So that's where we are. [LB911]

SENATOR AGUILAR: One minute. [LB911]

SENATOR FISCHER: I'm sorry, Mr. President? [LB911]

SENATOR AGUILAR: One minute. [LB911]

SENATOR FISCHER: Okay, thank you. [LB911]

SENATOR PANKONIN: Senator Fischer, thank you. I'm going to ask it one more time specifically. The consequences, if we don't pass (inaudible) has nothing to do with the federal government, but you think policywise, you know, I think people are concerned about not having those licenses processed in their county and this sort of thing. There's quite a bit of cost involved here. You think the consequences of not passing this bill are very severe for the state? [LB911]

SENATOR FISCHER: I don't know that if I would say they're very severe for the state. They...what we're looking at is close to \$200,000 that was paid out for errors made. I think I can safely say the majority of those were made at the local level, at the county level in issuing drivers' licenses, where the picture... [LB911]

SENATOR AGUILAR: Time. [LB911]

SENATOR FISCHER: ...did not match up with the name. Thank you, Mr. President.

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

Floor Debate
April 09, 2008

[LB911]

SENATOR PANKONIN: Thank you. [LB911]

SENATOR AGUILAR: Thank you, Senator Fischer. Thank you, Senator Pankonin. There are no further lights on. Senator Fischer, you are recognized to close on AM2180. [LB911]

SENATOR FISCHER: Thank you, Mr. President. I have concerns about REAL ID, you all know that. And as I said, as a body we passed a resolution expressing our concerns on that large, unfunded federal mandate. We have a presidential election coming up. Out of the three candidates, two of whom will move forward, and one who will become President, two of those candidates are against REAL ID. The third one wants the federal government to fully fund REAL ID. So I think after the election in November, we will see a change, maybe. I think and I hope we'll see a change in the attitude of the federal government in this regard. The amendment, which becomes the bill, is dealing with concerns over identity theft. And Senator Wallman mentioned identity theft and his concern with...his problems with having central records. I guess, I would propose to you that this bill that we're proposing here today will help with that. We won't see as much identity theft with our drivers' licenses. We won't see the mistakes made at the county level; we won't see the cost to the state of Nebraska financially. The DMV already has a central database, so it's not like we're going to be putting all this information in and creating some new big brother here at the state level. We won't be, we won't be. Our intent on this bill is to make our drivers' licenses more secure so we don't need to worry about identity theft--more tamper-proof. We need to make sure that the person getting the license is the one who applied for it and took the test. I believe this bill will do that. Specifically to the amendment you will be voting on now, as I said in the opening for the amendment, it does just correct some drafting errors that are in AM1971. So I would ask that you advance AM2180 to correct those errors. Thank you, Mr. President. [LB911]

SENATOR AGUILAR: Thank you, Senator Fischer. You've heard the closing on the amendment. The question is, shall the amendment to the committee amendment to LB911 be adopted? All those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB911]

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments. [LB911]

SENATOR AGUILAR: The amendment is adopted. [LB911]

CLERK: Mr. President, Senator Kopplin would move to amend the committee amendments, AM2634. (Legislative Journal page 1250.) [LB911]

Floor Debate
April 09, 2008

SENATOR AGUILAR: Senator Kopplin, you are recognized to open on your amendment. [LB911]

SENATOR KOPPLIN: Thank you, Mr. President, colleagues. I don't like this bill all this much. In fact, I hate the original version of this bill. The committee amendments make it better, but I still don't like it. This bill is another example of the many bills we debate because bad guys are misusing the system. Every time we pass one of these bills the bad guys win, because we give up a little bit of our personal liberties in order that we can protect ourselves from the bad guys. And who are these bad guys that this bill will address? Well, certainly if you haven't got proper documentation, you're not going to get a drivers' license, so we're protected there. If you're a young person and you fraudulently use a fake drivers' license to procure alcohol, we are being protected because they won't be able to get that done. Guys that want to steal our identity, we can be protected on that. But still the bad guys are winning. And this is a good time to ask about bad guys because income tax all has to be filed pretty soon. How many filers do you think are fudging on their income tax? Maybe they're the bad guys. How many big corporations have figured out a way to manipulate the system so that they don't have to pay taxes? Maybe they're the bad guys. Or maybe it's the guy, like an acquaintance I once had, figured out a way, didn't finish his new house; therefore it couldn't be taxed on property tax till it was completed, and he was bragging about it. We aren't good acquaintances anymore because I pointed out to him, every time you cheat you're causing me to pay more. So we have to determine who really are the bad guys. The other part of the bill that I don't like is the surcharge. I remember when we had to pay our income tax, then at the bottom you figure out another little percentage and we'll call it a surcharge, surtax. I don't care what you call it, it's another tax and I don't like paying it. Granted, it isn't much, it's down to, thanks to the committee, it's down to \$8 over 5 years. Of course, if I got three kids and a spouse, that's \$40. That's not much, but it's still a surcharge, a charge on top of another charge, so I don't like it. But I also have to tell you I know that the Department of Motor Vehicles, if they're going to do this, has to have some money to operate. So, Mr. President, I'll withdraw this motion. [LB911]

SENATOR AGUILAR: Thank you, Senator Kopplin. You've heard the opening on the amendment to the committee amendment. I'm sorry, the amendment is withdrawn. We are back to debate on committee amendments, AM1971. Those wishing to speak, Senator Hudkins, you are recognized. [LB911]

SENATOR HUDKINS: Thank you, Mr. President and members. On visiting with Beverly Neth, the director of DMV, I have a little more information and some information that I need to correct. We talked about the vendor for the central issuance. That vendor is the same person who is doing our drivers' licenses now. We don't know if it's going to be in Nebraska, because they have five facilities across the country. Our licenses might be done in Nebraska, they might not. The current licenses that we have are not 100 percent counterfeit (sic), but they are getting better. The newer licenses, and I've had

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

Floor Debate
April 09, 2008

mine for a number of years, and so probably it's one of the older ones, but the new ones have the holograms, where is you take it and turn it back and forth and catch the light there is going to be something on there that law enforcement can use. There is also a special printing that is used on our drivers' license, and there is also laser engraving. These are very, very hard to duplicate and to counterfeit. I said that there could be a reduction in employees. I was mistaken on that. Actually there will be probably the same or a few more, just simply to watch out for more fraud. And there will be more examining staff. The last time you went to get your license if you had to wait an hour, you probably said, why can't they have more staff? Well, that is going to happen. Let's think about the picture on your license and how that can be fraudulently done. The last time I went to get my drivers' license, I went to a building here in Lincoln, took the eye test because I didn't need to take the law test, and then they gave me a piece of paper and I went back out into the waiting room and waited and waited and waited. Finally, they called my name to come and get my picture taken. What would have stopped me from giving my information to someone else and they have their picture and everything else? Senator Fischer already said that we do currently have a massive database, so we're not going to be increasing that. It's just that the DMV itself won't do it, the county treasurers themselves won't be doing it. It will be sent directly to the vendor where they have security like you can't believe. If we don't do this, and let's go back to an article on homeland security. The Department of Homeland Security finally released in January the final regulations for DMV. The law became law in 2005, and it mandated national standards. But it took several years for the homeland security people to get their act together so the states knew what was necessary. We could have done this bill last year or the year before, but we didn't know what homeland security wanted. And why would you want to do something, spend all that money, and then have to do it over again? The final rules is a 300-page document. So there is lots of stuff there. [LB911]

SENATOR AGUILAR: One minute. [LB911]

SENATOR HUDKINS: If we don't do this it's going to be a consequence to our Nebraska citizens. You will not be able to use your current license to get on a plane or to enter a federal facility. I have a passport; it's not going to bother me at all. But the little old ladies, grandmothers who are going to visit their grandkids, she's probably not got a passport. She's not going to get on that plane. You need to go to the federal building to pick up income tax forms. Forget that, they're not going to accept your current form of identification. Thank you, Mr. President. [LB911]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Hudkins. Other members wishing to speak, Senator Howard. [LB911]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If I may ask

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Transcriber's Office

Floor Debate
April 09, 2008

Senator Fischer a question or two. [LB911]

PRESIDENT SHEEHY: Senator Fischer, would you yield to questions from Senator Howard? [LB911]

SENATOR FISCHER: Yes. [LB911]

SENATOR HOWARD: Thank you, Senator Fischer. I received a notice in the mail this week that I'm coming up on another birthday (laugh),... [LB911]

SENATOR FISCHER: Happy birthday. [LB911]

SENATOR HOWARD: ...and the Department of Motor Vehicles is well aware of it. And I'm wondering, if you would be so good to explain to me, how the procedure would change if this law were in effect? How would this be different for me to renew my drivers' license? [LB911]

SENATOR FISCHER: If you look at a handout you received that the pages passed out, Senator Howard, and colleagues, you will see that. And this was given to me by the Department of Motor Vehicles. The...excuse me, I think I'm getting a cold. On the side where four are listed, four steps, that is the current system in effect. You receive your renewal notice, or you notice on your own drivers' license that the expiration date has come up. You can go then to a county courthouse or a DMV testing facility and you go through the testing in some...I believe everyone has to have a vision test. If you have a good driving record and no tickets, you won't have to take the written test or the drivers' test, usually. I believe, though, that is up to the discretion of the examiner. Then you take the materials that the examiner gave you, you go to your county treasurer's office and they then will take your picture, give you...make the license there, you pay your fee, and you have your drivers' license. If you flip that over and you look at the other side, you'll see what's going to happen now. You get your renewal notice, you go to the examining station again, they'll take your picture, they'll do the vision testing. Then you will pay your fee and then the county treasurer or...the county treasurer, I believe, at that time then mails it to the central issuance...to the DMV headquarters. It's passed on to central issuance. They do a scrub on your picture and the license, which means they are comparing it to others so that we don't have that problem of fraud. And then your license will be mailed to you. There are some concerns on the way it's done now. Again, this amendment, this bill is trying to address fraud. There are some concerns on it now because sometimes somebody will go take a drivers' license test and they pass it, and they hand it to their friend in the hallway on the way to the treasurer's office. So you have somebody take the test. They hand their 100 percent grade paper on to somebody else in the hallway, who then gets their picture taken and gets the drivers' license. There's no way to confirm that the person who took the test is the one that had the...is going to get the drivers' license. Under this system with that photo taken at the

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

Floor Debate
April 09, 2008

beginning and then taking the test and then sending that in and having the central issuance database being able to cross-compare that with identification, that will, in our opinion and in the opinion of the DMV, that will take care of cases of fraud. It will also take care of cases of mistakes that are made just through human error at the... [LB911]

PRESIDENT SHEEHY: One minute. [LB911]

SENATOR FISCHER: ...county level, at the treasurer's office. [LB911]

SENATOR HOWARD: I appreciate the explanation. In listening to you, it occurs to me there's going to be a delay in having my new drivers' license. [LB911]

SENATOR FISCHER: Correct. [LB911]

SENATOR HOWARD: Clearly, I'm not going to leave with this new drivers' license in hand. If I've waited, not that I would, but if I've waited and it's very close to my birthday and my license expiring, am I going to have a piece of paper or something from the examining station saying that I've completed this and I'm waiting, my license is going to be processed and mailed? Will I have some identification in case I'm pulled over for a traffic violation? [LB911]

SENATOR FISCHER: Not that you would ever have a traffic violation, Senator Howard. [LB911]

SENATOR HOWARD: That's right. (Laugh) [LB911]

SENATOR FISCHER: But you would receive a piece of paper with a black and...with your picture, black and white photo on it, that's good for 30 days. It's anticipated that your license will be mailed back to you within 5 to 7 days I believe it was, though. But you will leave... [LB911]

PRESIDENT SHEEHY: Time, Senator. [LB911]

SENATOR FISCHER: ...with that piece of paper. You're valid to drive. Thank you, Mr. President. [LB911]

SENATOR HOWARD: Thank you. [LB911]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Thank you, Senator. (Visitors introduced.) Additional members wishing to speak on AM1971 are Senator Wallman, followed by Senator Hudkins. [LB911]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I would like to

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

Floor Debate
April 09, 2008

have a...ask Senator Fischer a question, please. [LB911]

PRESIDENT SHEEHY: Senator Fischer, would you yield? [LB911]

SENATOR FISCHER: Yes. [LB911]

SENATOR WALLMAN: Thank you. Senator Fischer, couldn't the DMV right now take your picture first and then give you the test, if they chose to do so? [LB911]

SENATOR FISCHER: No, because of the licensing. The way the facilities are you have to have that at the county treasurer's office where you pay your fee. [LB911]

SENATOR WALLMAN: My county treasurer's office does it the same way. But if they wanted to do that, I could take my picture first and take it to the next room, I think. But I'm not sure. But anyway, we seem to be so anxious to pass more rules and regulations and save federal government or the state government. If we have rules that work now, and presumably they do, we're still going to have some fake IDs. The mafia or whichever organization it is, they stay one step ahead of the law, whether it be finger printing, I've seen how they're doing that now, and there's lots of issues out here. And this is going to cost us some money. And also our local entities, the senior citizens, which I am part of, are going to have to drive to a drivers' license station, which is uncomfortable. They've been going to the courthouse all their lives. And we have, you know, like if you're 19, or 20, or 21 and want to get a drivers' license and do something on the weekend, you have to send it in for mail, and little things like that, and it makes it...it's why we're probably kind of unpopular with the populace in our areas because we keep passing more rules. And I always have more trouble with mandates and rules. If it's for the actual betterment of our society that would be nice. But thank you, Mr. President. [LB911]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Hudkins, followed by Senator Howard. Senator Hudkins. [LB911]

SENATOR HUDKINS: Thank you, Mr. President and members. Senator Wallman, don't leave. (Laughter) Senator Wallman,... [LB911]

PRESIDENT SHEEHY: Senator Wallman, would you yield? [LB911]

SENATOR HUDKINS: If...you don't have to answer, but I want you to listen. You said that the older people, of which you are one, well, I are one, too. Our DMV station happens to be in two different places in Lincoln. Yours probably is in the courthouse. Senator Adams' is probably in the courthouse. Senator Erdman's most likely is in the courthouse. That's not going to change. You're going to go to where you are getting your licenses now. I just mentioned the DMV station because Lincoln and Omaha are a

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

Floor Debate
April 09, 2008

little larger; they have several stations. But the process will not change. You will go where you're comfortable with going. And we only do this once every five years, so really nobody is comfortable with doing it because you forget what you have to do. Going back to the...thank you, Senator Wallman. Going back to the fiscal note, there is going to be an ongoing cost to this, simply because we have a vendor. We have an ongoing cost now, and we'll have an ongoing cost whether this bill is passed or not. Licenses and identification cards are pretty much cash funded. In other words, then you pay the fee, depending on if it's for one year, or two years, or five years, or a replacement, or a motorcycle license, there is a certain fee for that. That goes to the state to be used in paying for their expenses. It doesn't cover all of it quite. Now if you want we can probably raise the fees higher so it would cover it, but I don't think people want to do that. What does a five-year license cost you now, \$24, \$24-something for five years? You know, that's not too bad. That's a whole lot cheaper than going to a movie and dinner. So just remember that nothing is going to change, except there will be more security. The federal government is telling us that we need to do this. No, they're telling us that we have to do this. If we choose not to do this, as some states have, there could be repercussions from the federal government. Senator Fulton was showing me an article about I think it was Montana that told the federal government just exactly where they could go with this law. Again, it's going to be the people of Nebraska that are going to suffer. By passing this bill, going to the central issuance, we are saying to the federal government, we are still in the process of doing what you want us to do. So they're going to back off of us for a couple of years; they're going to give us more time to finish. In the meantime the rules could change, but we are going to be protecting our citizens. They'll go where they always have gone, they'll pay the fees. Some will go up, some will go down, some will stay the same. So the process is the same. There will just be a different person distributing or issuing the licenses and ID cards. Thank you, Mr. President. [LB911]

PRESIDENT SHEEHY: Thank you, Senator Hudkins. Mr. Clerk, do you have items for the record? [LB911]

CLERK: Mr. President, new resolution. LR389, calling for an interim study, will be referred to the Executive Board. Senator Pirsch would like to add his name to LB781. (Legislative Journal page 1391.) [LB911 LR389 LB781]

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

PRESIDENT SHEEHY: You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We are recessed until 1:30.

RECESS

SENATOR SCHIMEK PRESIDING

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

Floor Debate
April 09, 2008

SENATOR SCHIMEK: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call.

SENATOR AGUILAR PRESIDING

SENATOR AGUILAR: Record, Mr. Clerk.

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

SENATOR AGUILAR: Items for the record, please?

CLERK: I do, Mr. President, thank you. Enrollment and Review reports LB1001A and LB1014A as correctly engrossed. Enrollment and Review also reports LB1172, LB1172A, LB720, LB837, LB734 to Select File, some of which have Enrollment and Review amendments attached. And a new resolution, LR390, it's an interim study resolution introduced by Judiciary Committee; that will be referred to the Executive Board. That's all that I have at this time, Mr. President. (Legislative Journal pages 1392-1399.) [LB1001A LB1014A LB1172 LB1172A LB720 LB837 LB734 LR390]

SENATOR AGUILAR: Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda. Mr. Clerk.

CLERK: Mr. President, the Legislature returns to a discussion of LB911. This morning the committee amendments were adopted (sic), as was an amendment to the committee amendments by Senator Fischer. At this time, I have nothing further pending to the bill. (AM1971, Legislative Journal page 702.) [LB911]

SENATOR AGUILAR: Senator Fischer, you are recognized to close on the committee amendment. I'm sorry, Senator Howard's light is on. [LB911]

SENATOR HOWARD: (Laugh) That was mysterious. Thank you, Mr. President and members of the body. I'm going to keep this brief. I promised Carol, Senator Hudkins that I wouldn't take too much of her time here. But I do have one follow-up question for Senator Fischer that I was asked, and I think this is something I'd like to know as well, if Senator Fischer would yield to a question. [LB911]

SENATOR AGUILAR: Senator Fischer, would you yield? [LB911]

SENATOR FISCHER: Yes. [LB911]

SENATOR HOWARD: Senator Fischer, following the scenario that we discussed before

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

Floor Debate
April 09, 2008

lunch, I just...I have one additional question. I've gone to get my drivers' license renewed, which I plan to do on Friday, but I also plan to fly out of Omaha Friday evening to visit my daughter in Chicago. Will that ID that I'm issued, that temporary ID, be valid at the airport? [LB911]

SENATOR FISCHER: Yes. [LB911]

SENATOR HOWARD: They will accept that as a U.S. government-issued ID that I can use there. [LB911]

SENATOR FISCHER: We aren't under those provisions right now, Senator Howard, but if we were in the future, yes, that piece of paper with your black and white photo on will be accepted at the airport. [LB911]

SENATOR HOWARD: When I check in and they say, show me some...show us identification? [LB911]

SENATOR FISCHER: Correct. [LB911]

SENATOR HOWARD: All right. Thank you. [LB911]

SENATOR AGUILAR: Thank you, Senator Howard and Senator Fischer. (Visitors introduced.) Senator Fischer, there's no further lights on. You are recognized to close on the committee amendments. [LB911]

SENATOR FISCHER: Thank you, Mr. President and members. I would ask your support on this committee amendment. If you remember from our discussion this morning, the committee amendment strikes the bill, the original bill, and becomes the bill. This is an amendment that deals with fraud in our current system, deals with identity theft that we are facing in our current system. And remember, this is in a few circumstances, but it does add up to a cost to the state of about \$200,000 a year, and I believe this system is needed and I would ask you to support the committee amendment. Thank you. [LB911]

SENATOR AGUILAR: Thank you, Senator Fischer. You have heard the closing on the committee amendments. The question is, shall the committee amendment to LB911 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Senator Fischer, for what purpose do you rise? [LB911]

SENATOR FISCHER: Mr. President, I would ask for a call of the house, please. [LB911]

SENATOR AGUILAR: There's been a request for a call of the house. All in favor vote aye; those opposed, nay. Record, Mr. Clerk. [LB911]

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

Floor Debate
April 09, 2008

CLERK: 26 ayes, 0 nays to place the house under call. [LB911]

SENATOR AGUILAR: The house is under call. Would all unauthorized personnel leave the floor? All unexcused senators return to their seats. The house is under call. Senator Pirsch, would you check in? The house is under call, Senator Schimek, Senator Chambers, Wightman, McDonald, McGill. Senators Ashford, Synowiecki, Dierks, Langemeier, Loudon, Pedersen, the house is under call. Senator Wightman, the house is under call. Senator Fischer, how do you wish to proceed when Senator Wightman arrives? [LB911]

SENATOR FISCHER: Mr. President, I would accept call-ins. [LB911]

SENATOR AGUILAR: Senator Fischer has authorized us to proceed. Mr. Clerk, whenever you're ready. It's roll call votes. Sorry, it is call-in votes. [LB911]

CLERK: Senator Lautenbaugh voting yes. Senator Schimek voting yes. Senator Loudon voting yes. Senator McDonald voting yes. Senator Janssen voting yes. Senator Engel voting yes. Senator Fulton voting yes. [LB911]

SENATOR AGUILAR: Record, Mr. Clerk. [LB911]

CLERK: 25 ayes, 3 nays, Mr. President, on adoption of committee amendments. [LB911]

SENATOR AGUILAR: The amendments are adopted. There are no lights on. Senator Hudkins, you're recognized to close. [LB911]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. As Senator Fischer said, the amendments become the bill. We have had a good discussion this morning. There have been a lot of good questions. I hope that we have answered all of your questions. If not, please come to me or Senator Fischer before Select File, but in the meantime I would ask you to please advance this to E&R Initial. Thank you. [LB911]

SENATOR AGUILAR: You have heard the closing on LB911. All in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB911]

CLERK: 26 ayes, 11 nays, Mr. President, on the advancement of LB911. [LB911]

SENATOR AGUILAR: LB911 does advance. Senator Hudkins. I would raise the call. Senator Hudkins, you're recognized to open on LB911A. [LB911 LB911A]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. The fiscal

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

Floor Debate
April 09, 2008

note that we have is prepared as of 6th of April, so three days ago, and it says for fiscal year '08-09 the expenditures are \$2,016,354; the revenue is \$635,000. Fiscal year '09-10 the expenditures are \$3,067,707; the revenue is \$2,857,884. So the additional cost is for the additional equipment that is needed to process these drivers' licenses and ID cards. Most of this expense would be here whether we vote for this bill or the previous one or not, because we do have to pay the contractor that does the actual issuance. I would ask you to please support this and move it on. Thank you. [LB911A]

SENATOR AGUILAR: You've heard the opening on LB911A. Is there anyone wishing to speak? Senator Fulton. [LB911A]

SENATOR FULTON: Thank you, Mr. President. Would Senator Hudkins yield to a quick question? [LB911A]

SENATOR AGUILAR: Senator Hudkins, would you yield? [LB911A]

SENATOR HUDKINS: Yes. [LB911A]

SENATOR FULTON: These are Cash Funds, I recognize that, but the contractor, can you explain that again, the Cash Funds? Maybe I'm looking at the wrong revision, seven... [LB911A]

SENATOR HUDKINS: The revision I have is prepared by Gary Ryken. Is that the one you have? [LB911A]

SENATOR FULTON: No. [LB911A]

SENATOR HUDKINS: Okay. Then you have a different one than I do. And what was your specific question again? [LB911A]

SENATOR FULTON: How much? [LB911A]

SENATOR HUDKINS: On Select File, I've been told there will be an amended fiscal note so we all know what we're talking about. [LB911A]

SENATOR FULTON: Okay. Do you have an idea what that amended fiscal note is or... [LB911A]

SENATOR HUDKINS: What I just told you is what it is. [LB911A]

SENATOR FULTON: Okay. All right. Thank you, Mr. President. [LB911A]

SENATOR AGUILAR: Thank you, Senator Fulton and Senator Hudkins. (Visitors

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

Floor Debate
April 09, 2008

introduced.) There are no lights on. Senator Hudkins, you're recognized to close. Senator Hudkins waives closing. You've heard the closing on LB911A. All in favor vote aye; all opposed vote nay. Have you all voted that care to? Senator Hudkins, for what reason do you rise? [LB911A]

SENATOR HUDKINS: I hate to do it, but unless we can get three more votes, we're going to have another call of the house, please. [LB911A]

SENATOR AGUILAR: There's been a request for a call of the house. All those in favor for the house going under call vote aye; those opposed vote nay. Record, Mr. Clerk. [LB911A]

CLERK: 28 ayes, 1 nay, Mr. President, to place the house under call. [LB911A]

SENATOR AGUILAR: The house is under call. Will all unauthorized people please leave the floor. All unexcused senators return to their seats. The house is under call. Senator Raikes, Senator Nantkes, Senator Schimek, the house is under call. Senator Nantkes, Senator Schimek, the house is under call. Senator Hudkins, how do you wish to proceed when the senators are present? [LB911A]

SENATOR HUDKINS: Call-in votes. [LB911A]

SENATOR AGUILAR: Senator Hudkins has authorized us to proceed. She has also authorized call-in votes. [LB911A]

CLERK: Senator Synowiecki voting no. Senator Kruse voting...Senator Kruse, you had voted yes, Senator. Senator White voting no. Senator Fulton. (Laughter) Senator Fulton changing from yes to not voting. Senator Dubas voting yes. Senator Raikes voting yes. Senator McDonald voting yes. Senator Cornett voting yes. [LB911A]

SENATOR AGUILAR: Record, Mr. Clerk. [LB911A]

CLERK: 25 ayes, 9 nays, Mr. President. [LB911A]

SENATOR AGUILAR: LB911A does advance. Items, Mr. Clerk? [LB911A]

CLERK: I have no items at this time, Mr. President.

SENATOR AGUILAR: I raise the call.

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Mr. Clerk, we will move to the first item under Select File,

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

Floor Debate
April 09, 2008

LB1022. [LB1022]

CLERK: LB1022, Senator McGill, I have Enrollment and Review amendments, first of all. (ER8224, Legislative Journal page 1158.) [LB1022]

PRESIDENT SHEEHY: Senator McGill. [LB1022]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB1022]

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. [LB1022]

CLERK: Senator Hansen would move to amend the bill with AM2662. (Legislative Journal pages 1400-1401.) [LB1022]

PRESIDENT SHEEHY: Senator Hansen, you're recognized to open on AM2662. [LB1022]

SENATOR HANSEN: Thank you, Mr. President, and welcome to the "Lathrop Division" for the afternoon. For a little bit, we're going to start off by talking about prescription drugs, but this bill, LB1022, talks about veterinary prescription drugs. And AM2662 is very technical in nature. It eliminates the unnecessary sections. It defines some of the...it makes some of the definitions clearer, excuse me. It harmonizes some of the sections and it provides an operative date of December 1, 2008. That's all I have, Mr. President. [LB1022]

PRESIDENT SHEEHY: Thank you, Senator Hansen. You have heard the opening to AM2662 to LB1022. Are there members requesting to speak? Seeing none, Senator Hansen, you're recognized to close. Senator Hansen waives closing. The question before the body is on the adoption of AM2662 to LB1022. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1022]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Hansen's amendment. [LB1022]

PRESIDENT SHEEHY: AM2662 is adopted. [LB1022]

CLERK: I have nothing further on the bill, Mr. President. [LB1022]

PRESIDENT SHEEHY: Senator McGill. [LB1022]

SENATOR MCGILL: Mr. President, I move LB1022 to E&R for engrossing. [LB1022]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1022 advances. Mr. Clerk, we'll proceed to LB830. [LB1022 LB830]

CLERK: Mr. President, LB830, a bill on Select File. Senator McGill, I have Enrollment and Review amendments first of all. (ER8221, Legislative Journal page 1158.) [LB830]

PRESIDENT SHEEHY: Senator McGill. [LB830]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB830]

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. [LB830]

CLERK: Senator Heidemann would move to amend with AM2746. (Legislative Journal pages 1401-1402.) [LB830]

PRESIDENT SHEEHY: Senator Heidemann, you're recognized to open on AM2746. [LB830]

SENATOR HEIDEMANN: Thank you, Lieutenant Governor, fellow members of the body. There was discussion over the last couple of weeks, especially today, about how we could fund this and start this program without a General Fund impact. We come to a conclusion today that we could do that by taking some money out of the Health Care Cash Fund. This is what this amendment will do. Instead of a General Fund impact of \$682,637 the first year, it would be in '08-09, we will access that money from the Nebraska Health Care Cash Fund. It's expected in the second year that it will cost \$1,254,303. That amount of money will still be funded from General Funds. The thought is, in the next biennium, in the out year of '10-11, we will actually see enough of a savings from this that it would make up for that expenditure and it would be, hopefully, revenue neutral. So by adopting this amendment, we will take the fiscal impact out of the '08-09 year and it hopefully will be revenue neutral in the next biennium. Thank you. [LB830]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You have heard the opening of AM2746 to LB830. The floor is open for discussion. Members requesting to speak: Senator Lathrop. [LB830]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm in full support of Senator Heidemann's amendment. Basically, you'll recall, this is the bill that will bring cost-saving measures to the prescription drugs dispensed to Medicaid recipients. And the question was, how do we finance or from what source do we get the funds to pay the costs of startup? Senator Heidemann's amendment moves that from the General Fund to a cash fund and I fully support the effort. Thank you. [LB830]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Heidemann, no additional requests to speak, you're recognized to close. Senator Heidemann waives closing. The question before the body is on the adoption of AM2746 to LB830. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB830]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB830]

PRESIDENT SHEEHY: AM2746 is adopted. [LB830]

CLERK: Mr. President, Senator Lathrop would move to amend with AM2729. (Legislative Journal page 1403.) [LB830]

PRESIDENT SHEEHY: Senator Lathrop, you're recognized to open on AM2729. [LB830]

SENATOR LATHROP: Thank you, Mr. President and colleagues. This is an amendment to...you'll recall when we took this bill up on General File there was some concern expressed by the pharmacists over the composition of the committees that would help facilitate the selection and the administration of the preferred drug list. As a compromise between the medical community and the pharmacists, we have gone from directing, in the bill, directing what specialists from the medical community shall serve on this committee to indicating, where practicable, these are the folks that should serve on the committee. This is an accommodation. It doesn't change the substance of the bill. It doesn't change the savings found in the bill, but merely is an accommodation in an administrative way, and for that reason I would ask your support again to move AM2729 and LB830. Thank you. [LB830]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening of AM2729 to LB830. Are there members requesting to speak? Seeing none, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is on the adoption of AM2729 to LB830. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB830]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Lathrop's amendment. [LB830]

PRESIDENT SHEEHY: AM2729 is adopted. [LB830]

CLERK: I have nothing further on the bill, Mr. President. [LB830]

PRESIDENT SHEEHY: Senator McGill, you're recognized for a motion. [LB830]

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

Floor Debate
April 09, 2008

SENATOR MCGILL: Mr. President, I move LB830 to E&R for engrossing. [LB830]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB830 advances. We'll now proceed to LB830A. [LB830 LB830A]

CLERK: LB830A, Senator McGill, no E&Rs. Senator Heidemann would move to amend with AM2740. (Legislative Journal page 1403.) [LB830A]

PRESIDENT SHEEHY: Senator Heidemann, you're recognized to open on your amendment. [LB830A]

SENATOR HEIDEMANN: Thank you, Lieutenant Governor. Fellow members of the body, we need to adopt this amendment to let my other amendment work. It would just, on page 2, line 2, it would strike the word "General" and insert "Nebraska Health Care Cash" Fund. It will just access this money from a different source. I urge your adoption of AM2740. [LB830A]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You've heard the opening of AM2740 to LB830A. Are there members requesting to speak? Seeing none, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is on the adoption of AM2740 to LB830A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB830A]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB830A]

PRESIDENT SHEEHY: AM2740 is adopted. [LB830A]

CLERK: Senator McGill, I have nothing further on the bill. [LB830A]

PRESIDENT SHEEHY: Senator McGill. [LB830A]

SENATOR MCGILL: Mr. President, I move LB830A to E&R for engrossing. [LB830A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB830A advances. Mr. Clerk, we'll proceed to LB245. [LB830A LB245]

CLERK: LB245, Senator McGill, I have Enrollment and Review amendments first of all. (ER8232, Legislative Journal page 1268.) [LB245]

PRESIDENT SHEEHY: Senator McGill. [LB245]

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

Floor Debate
April 09, 2008

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB245]

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. [LB245]

CLERK: Senator Janssen would move, excuse me, Senator Johnson would move to amend, AM2680. (Legislative Journal page 1325.) [LB245]

PRESIDENT SHEEHY: Senator Johnson, you're recognized to open on AM2680. [LB245]

SENATOR JOHNSON: Thank you, Mr. Lieutenant Governor. Members of the Legislature, LB245 is the bill that would require all cities with a population of 1,000 or more, who now do not fluoridate their water, to reconsider a requirement passed by the Legislature in 1973 that they fluoridate their human drinking water supplies. AM2680 was drafted to address the concerns expressed by rural water districts that serve small cities and villages. A new subsection (3) is added. It provides, any rural water district organized under Sections 46-1001 to 46-1020 that supplies water for human consumption to any city or village which is required to add fluoride to such water supply under this section shall not be responsible for any costs, equipment, testing, or maintenance related to such fluoridation, unless such district has agreed with the village or city to assume such responsibilities. AM2680 also removes the language, "any political subdivision" to clarify that only cities and villages with a population of 1,000 or more are subject to the provisions of LB245 and responsible for the fluoridation of the drinking water supplies and not rural water districts, unless they agree with the city or village to assume those responsibilities. This amendment was requested by several rural water districts, and this is meant to accommodate their concerns. I would also like to qualify or clarify for the record the answer to the question by Senator Burling the last time that this came up. After consultation with various parties, and this is our staff, not the Attorney General, such analysis of the current law it does appear that such cities such as Hastings, which are currently considering fluoridating their water, that these communities, if they voted to prohibit fluoridation after the 1973 law, that that prohibition would continue. It would stand unless this bill is passed. Again, it would go to a vote of the people as we've suggested before, and that the vote is implemented by both the city or town administration or by petition of the voters. Thank you, sir. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You have heard the opening of AM2680 to LB245. The floor is now open for discussion. Members requesting to speak are Senator Pankonin. [LB245]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. Thank you, Senator Johnson. I wanted to just explain about the rural water districts. I think some of them that were concerned about LB245 and how they could be affected contacted my

Floor Debate
April 09, 2008

office and Senator Johnson's office. In my legislative district, I have four different rural water districts that are in my legislative district; and for those of you that may not have them in your areas, these subdivisions were organized to provide water for rural folks. And in our area we have a lot of rural developments and acreages that, even though we're on the eastern part of the state where it rains more, we don't have good underground water accessible. And so these organizations have their own pipes and water towers and wells, and provide water for individuals and developments. But also they will contract to provide water for small villages and cities, and in particular in my area there are several that do this. Now I think everyone in my area is under 1,000 population, but that doesn't mean that they would...they could be larger than 1,000 or grow to over 1,000. And these rural water districts were concerned about the cost of providing this services and all the testing and regulation that goes with it because they're spread out over miles and miles of service area, and they may only be affected because one community wants this. So this clarifying language puts this on the communities involved, not the rural water districts, and I think this clarifies the situation. I'm very appreciative to Senator Johnson and his staff and the Health and Human Service staff for working on this, and working with the rural water districts to provide this amendment so the rural water districts will not be particularly obligated by LB245. Thank you. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Senator Burling. [LB245]

SENATOR BURLING: Thank you, Mr. President, members of the body. I want to thank Senator Johnson for his explanation in answer to the question that I had asked on General File. I have another question for Senator Johnson, if he would yield. [LB245]

PRESIDENT SHEEHY: Senator Johnson, would you yield to a question from Senator Burling? [LB245]

SENATOR JOHNSON: Yes, sir. [LB245]

SENATOR BURLING: Senator Johnson, maybe it's in the bill and I missed it, but it says any city or village of 1,000 population or more. I imagine we have several of those situations in the state where they are very close to that 1,000, maybe 5 or 10 either way. At what point in time do they determine that 1,000? Is it the last census, or the next census coming up, or... [LB245]

SENATOR JOHNSON: Senator Burling, you have a very good way of asking good questions that I don't know the answer to, but I will try and find that out for you privately and get it to you as soon as I can. It would be my guess, however, that as soon as the town would officially qualify, and that would be with the census, not what the chamber of commerce puts up. So I think that would be the qualifying thing. That would be my opinion at this time. [LB245]

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

Floor Debate
April 09, 2008

SENATOR BURLING: So I would take that to mean that if you're real close to that 1,000, you can wait until the 2010 census to make a final determination of whether you qualify or not? [LB245]

SENATOR JOHNSON: I believe that would be right. [LB245]

SENATOR BURLING: Okay. [LB245]

SENATOR JOHNSON: And there should be time to do that, too. [LB245]

SENATOR BURLING: Yeah, yeah. Thank you, Senator Johnson. Thank you, Mr. Chair. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Burling. Thank you, Senator Johnson. Are there additional members requesting to speak? Seeing none, Senator Johnson, you're recognized to close on AM2680. [LB245]

SENATOR JOHNSON: I'd just ask for your advancement of this amendment. These were good questions, particularly the one about the rural water districts. And we hope that we have answered that satisfactorily, and I believe we do. And with that, I would ask for your advancement of this amendment and the bill itself. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You have heard the closing. The question before the body is on the adoption of AM2680 to LB245. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB245]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Johnson's amendment. [LB245]

PRESIDENT SHEEHY: AM2680 is adopted. [LB245]

CLERK: Senator McGill, I have nothing further. [LB245]

PRESIDENT SHEEHY: Senator Preister. [LB245]

SENATOR PREISTER: Thank you, Mr. President, friends all. I appreciate Senator Johnson encouraging me to give you information, as he did last time. I want to start with a summary and then I will cite the studies. I want to give you some information about fluoride, let you know that it does not necessarily prevent cavities, let you know that it systemically, when it's in the system, is a poison, as poisonous as any poison we have, and that it actually is in higher doses than should be. And I did pass out to you some information from 7,000 health professionals who are very concerned about the levels of

Floor Debate
April 09, 2008

fluoride in water. So the summary of these studies states fluoridated water does not kill the bacteria that (1) colonize on tooth surfaces; (2) thrive on sugars; and (3) pass their acidic waste onto the dental enamel, causing the holes we call tooth decay. I'll cite some of the studies that come to essentially that conclusion. One is by Kelly M. et al.: the prevalence of baby bottle tooth decay, and here we're starting with the very, very young among...and we're talking about low-income people here, two Native American populations. *J. Public Health Dentistry*, 47-94-97, 1987 for your citation. I quote, the prevalence of baby bottle tooth decay in the 18 communities of Head Start children ranged from 17 to 85 percent, with a mean of 53 percent. The surveyed communities had a mixture of fluoridated and nonfluoridated drinking water sources. Here again I quote, regardless of water fluoridation, the prevalence of baby bottle tooth decay remained high at all of the sites surveyed. It made no difference having fluoride. Again, P. Weinstein et al., Mexican-American parents with children at risk for baby bottle tooth decay found compliance in putting fluoride drops in those bottles once a day was identical between both groups that had the same amount of dental caries. Fourth, this one was done by Von Burg, MM et al. Baby bottle tooth decay: Again, these are dealing with very young children, a concern for all mothers, the article, it was in Pediatric Nursing. Data from Head Start surveys show the prevalence of baby bottle tooth decay is about three times the national average among poor urban children. And I quote, even in communities with fluoridated water supply it made no difference. Now where it does make some difference when it's applied topically is on the side of the tooth, the smooth surface of the tooth. There's a difference between the side of the tooth and the pitted or fissure portion, the top grinding surface of the tooth. We find that as many as 90 percent of the cavities are in the grinding surface, the pitted fissure portion of the tooth. And that's the area that fluoride... [LB245]

PRESIDENT SHEEHY: One minute. [LB245]

SENATOR PREISTER: ...does no good. There are three studies that I'll cite for that. This one is the...fluoride primarily protects the smooth surface of teeth. This one was done in California and it was done in '93 and '94. I don't see the citation on that one. The second one is a letter from Dr. Jeffrey Koplan, an MD, at the Centers for Disease Control and Prevention, who states, because the surface-specific analysis was used, we learned that almost 90 percent of the remaining decay is found in the pits and fissures, the chewing surfaces of children's teeth, these surfaces that are not affected by the protective benefit of fluoride. And there is another one, but my time is running short. So on the next... [LB245]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Preister. Members requesting to speak on LB245 are Senator Hansen, followed by Senator Dubas, Senator Wightman, Senator Fischer, and Senator Preister. Senator Hansen. [LB245]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I rise

Floor Debate
April 09, 2008

again in opposition to the bill, and the reason is the financial aspect of it. Thank Senator Preister for bringing up the scientific part of it. I just object to the financial part of it. If North Platte, and that's the only city in my district that has more than 1,000 at this particular time, has 21 wells at \$6,000 a piece, it's a total of \$126,000. I think that's an excessive amount to ask them, and the reason I think it's an excessive amount is another problem that we talked about earlier last week. I had my staff pull up the array of schools that North Platte is one of, and it includes 11 schools. Kearney is in that school, and Senator Johnson might want to take note of this, that their mill levy was .9515; North Platte's mill levy was 95 flat, so even though Kearney...Senator Johnson goes home and he talks to his school folks and they get an additional \$494,000 worth of state aid, North Platte loses \$792,000. I think that the...to ask the cities of over 1,000 population, and a lot of those are small towns in western Nebraska that have lost state aid, I think we don't need to burden those cities even with the expense of the vote. Thank you, Mr. President. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Dubas. [LB245]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor, members of the body. I missed most of the initial debate on this due to my shoulder injury and other things, so I'm just now getting into the debate. This is an issue that I didn't really know a whole lot about. I've received quite a few e-mails and done some reading on my own. Personally, I didn't have a big objection to it. I thought it sounded like a good idea, but then as I began to read things, it did bring some questions to my mind. But similar to Senator Hansen's objections, mine come from the funding aspect and the requirement that we would be asking our communities to do. And I have two communities in my district that could be required to do this, as well as Grand Island, too, which I represent a part of. One of the communities had already put this to a vote of the people. Evidently, it generated an extremely...a lot of hot discussion and controversy, and overwhelmingly the community voted it down. The figures that they have provided me with as far as cost to put this into place is well over \$100,000. The other community is up in that range also. So you know, we put spending limitations on our local governing subdivisions, and then we ask them to do this. And even though there is the opt-out in it, there's still the expense of going through an election and doing all of those things. And as I said, one of my communities has already done this in recent times and it was resoundingly defeated. And so I guess I'm not inclined to support this bill now because of those reasons. And if communities want to do it, they don't need our permission to do it. They have that ability to move forward, and if the citizens feel that it's something that they're interested in doing, then they can bring it forward and ask to have it done. But for us to say that they should do it, even with the opt-out, I think is a requirement that's an unfunded mandate on our part. And my communities have raised some serious objections to it, and again especially because one has already gone through this process once, and now to have to do it again to opt out, it's not something that they are looking forward to. So I would encourage the body to really think seriously about the costs to the communities in your

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

Floor Debate
April 09, 2008

area for doing this and vote not to advance this. Thank you. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Wightman. [LB245]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I, like many of you, have probably received 50 or 100 e-mails, letters telling us that this is poisonous. And I have read a number of statistical studies on the other side. So if I could, I would like to ask Senator Johnson a question. [LB245]

PRESIDENT SHEEHY: Senator Johnson, would you yield to Senator Wightman? [LB245]

SENATOR JOHNSON: Certainly. [LB245]

SENATOR WIGHTMAN: Senator Johnson, I'm kind of putting my political future in your hands in responding to all of these letters and communications I have, talking about this being poisonous. And obviously, there are a lot of studies on the other side. So for my political future, could you tell me that there are least an equal number of statistical studies on the side that would indicate that fluorides are good for myself and my family? [LB245]

SENATOR JOHNSON: Yes, sir. And what I would quote you is September of 2007, not 1987. And what this is, is it's the Surgeon General and the Centers for Disease Control, just about six or seven months ago said, unequivocally, this is safe, and it is effective, and it is inexpensive to do. And it cuts down on the production of cavities in the neighborhood of 40 percent. You can find all kinds of studies, particularly on the Internet. Look where they're coming from. Look whether other people can replicate what these studies show. And I think you will find that the Surgeon General and the Centers for Disease Control didn't just do this willy-nilly. As far as California--somebody mentioned that--last fall California added 18 million people of their population that had to have fluoride added to their water. I would ask you, would that be done if it wasn't safe and effective? [LB245]

SENATOR WIGHTMAN: Now I know there are a number of communities in Nebraska that have fluoridated to where perhaps 50 percent of the population is being served by fluoridated water. Is that a fair statement or close? [LB245]

SENATOR JOHNSON: There certainly are areas where they are. The two that come to mind are Minden and McCook. I think that they have just about the perfect amount, and certainly these communities aren't suffering from being poisoned. [LB245]

SENATOR WIGHTMAN: Well, I'm talking about those that have added fluoridation. I think Omaha is in that group, is it not? [LB245]

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

Floor Debate
April 09, 2008

SENATOR JOHNSON: Omaha, Lincoln, and Kearney have all had their water fluoridated for more than 35 years. [LB245]

SENATOR WIGHTMAN: And I would ask one further question. Do you have any statistical studies that would determine or show how many people have died from that fluoridation over the last ten years? [LB245]

SENATOR JOHNSON: I don't think that there's very many. You can probably find one here, there, and everywhere. But there is no evidence that it is poisonous. We have chlorine in the water as well, and somehow or other that seems to be acceptable. Chlorine and fluorine are really pretty close on the chart. But we don't object to the chlorine. But to certain people this is poison, and I'm sure that we're not ever going to convince them otherwise. [LB245]

SENATOR WIGHTMAN: I thank you. I thought, since I might be putting my political future in your hand, I should have the wisdom of... [LB245]

PRESIDENT SHEEHY: One minute. [LB245]

SENATOR WIGHTMAN: ...your information. Thank you, Senator Johnson. Thank you, Mr. President. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Thank you, Senator Johnson. Senator Fischer. [LB245]

SENATOR FISCHER: Thank you, Mr. President and members. I was just visiting with Senator Friend about my feelings on this bill, and he told me I ought to get on the mike and do it like he does, which means I should start yelling. (Laughter) I am in opposition to this bill. My home community of Valentine has seven wells. That's going to cost taxpayers \$70,000. Senator Johnson and many of you who support this bill say, well, you know there's the opt-out, your communities can opt out. My communities have already decided to opt out; that's why we do not have fluoride in water. We've already made that decision. What this bill does is force taxpayers to fund an election. Our communities have already decided to opt out. Now this body wants to pass a bill saying, oh, and by the way, you can opt out, but you're going to pay for an election in order to do that. We've just cost taxpayers an additional fee, an additional cost, an additional tax so they can hold an election and opt out on something they've already chosen to opt out of. I find that ridiculous, I find that irresponsible. These communities have already made the decision to opt out. I ask you to join me in voting no on this bill. Thank you. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Fischer. We have Senator Preister, followed by Senator Johnson, and Senator Avery. Senator Preister. [LB245]

Floor Debate
April 09, 2008

SENATOR PREISTER: Thank you, Mr. President, friends all. I will continue where I left off in talking about fluoride itself. And I have mentioned that topically it has some benefit but in ingesting it, it does not have benefit. Early on it was thought that it would systemically be beneficial for the teeth. But there are studies--and yes, studies can conflict--but there are studies that show that systemically it causes damage to the system. It is a poison. Ingestion of fluoride has little benefit but many risks. It has risks to do brain damage, it has risk to the thyroid gland, it is an endocrine disrupter, risk to bones, risk to bone cancer, and risk to kidney patients. Let me tell you a little bit about what it is that it would be such. It's a by-product of two industries. The industrial chemicals used to fluoridate water may present unique health risks not found with naturally occurring fluoride complexes. So there is the naturally occurring, but there are other by-products, one of which comes from the aluminum industry. The chemicals--and I may mispronounce some of these--fluorosilicic acid, sodium silica fluoride, and sodium fluoride used to fluoridate drinking water are industrial waste products from the phosphate fertilizer industry. Hmm, real appealing. Of these chemicals, fluorosilicic acid, FSA, is the most widely used. FSA is a corrosive acid which has been linked to higher blood lead levels in children. A recent study from the University of North Carolina found that FSA can, in combination with chlorinated compounds, leach lead from brass joints in water pipes, while a recent study from the University of Maryland suggests that the effect of fluoridation chemicals on blood lead levels may be able to...may be greatest in houses built prior to 1946; those were the old houses that had lead solder and lead piping. Lead is a neurotoxin that can cause learning disabilities and behavior problems in children. So it not only is a problem in itself, but it helps to leach the lead out of old pipes in low-income areas that is certainly a problem in my district and in the inner city and older housing stock. Industrial waste that we're using in our water supply. The publication in 2006, a little more recent than some of the studies I cited, of a 500-page review of fluorides toxicology by a distinguished panel appointed by the National Research Council of the National Academies. The NRC report concluded that the US Environmental Protection Agency's safe drinking water standard for fluoride, that is a maximum containment level of 4 parts per million, is unsafe and should be lowered. Despite over 60 years of fluoridation, the report listed many basic research questions that have yet been addressed. Still the panel reviewed a large body of literature in which fluoride has a statistically significant association with a wide range of adverse effects. These include an increased risk of bone fracture, decreased thyroid function, lowered IQ,... [LB245]

PRESIDENT SHEEHY: One minute. [LB245]

SENATOR PREISTER: ...arthritis-like conditions, dental fluorosis, and possibly osteosarcoma. Yes, there are studies that say it's safe. There are also the studies that say it's not. I prefer to err on the side of caution and on safety, and in that regard I prefer not to have industrial waste in my water, and I would not do that to anyone else. It does

Floor Debate
April 09, 2008

not necessarily do any good in the body. It only is used topically for benefit. There is a warning label even on your fluoridated toothpaste. I'm going to be voting no for LB245. Thank you. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Preister. Senator Johnson. [LB245]

SENATOR JOHNSON: Thank you, Mr. President. I don't know where to start. We went through all this before. We just heard to beware of levels of fluoride more than four. The amount that is in the fluoridated water is 1.2, 1.2, not 4. Four is toxic or more levels higher than that. We are not talking about that. We are talking about putting levels in the water that are reasonable. Senator Dubas, Senator Fischer, did you make any decisions in 1973 where you might make a different decision today? That's when the law went into effect, and your communities might have voted on this. Do you think that the scientific evidence that is available today is any better than the decision that your people might have made in 1973? And I might remind you, as we did in talking to our fine senator from Hastings, is the law as best we can interpret it means you cannot go back and change your mind, no matter how much you want to, without this bill. Now this applies to all of the communities, and this is the reason the bill was written this way. And in large part calling our attention to it was Senator Hansen, that there are going to be communities where the cost is prohibitive. We know that there could be several injection sites, and when you multiply those by \$6,000, it could get to be to the point where it is not a reasonable thing to do. However, two people here mentioned the terrible cost that we're going to ask these people to do to go in and sponsor an election. We deliberately gave these communities two full years to do this, and the reason it was is so that they would have all kinds of general elections available to them to put this on the ballot, which makes the cost of the election almost negligible. So if you have further questions about the cost, we are trying to do our best to make this a reasonable decision. There is no cost to the election. And if we can't review what we do every 35 years, God help us all. With that, I would hope that you will stay firm on your votes that we had the first time and advance this bill. Thank you. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Senator Avery, followed by Senator Christensen, and Senator Loudon. Senator Avery. [LB245]

SENATOR AVERY: Thank you, Mr. Chairman. I'm a little bit surprised by this debate because, you know, I remember as a kid growing up fluoridating the water was considered a Communist plot. I've heard that phrased here. I haven't heard anybody actually make that argument. But I've been getting e-mails that say, cavities won't kill you, but fluoride will. Do not swallow; if you do, call the Poison Control Center right away. That sounds to me a bit far-fetched, a little bit alarmist. I would prefer to rely upon the Surgeon General and the Centers for Disease Control and Prevention than these conspiracies that I read on the Internet and these wild accusations and wild claims. The Centers for Disease Control and Prevention makes it clear that fluoridation of water is

Floor Debate
April 09, 2008

one of the greatest achievements in public health in the twentieth century. Why can't we just accept that as fact? Do we reject the Surgeon General's opinion that smoking cigarettes is harmful to your health? No, we don't. Then why do we reject this? It doesn't make sense to me. We've heard some talk about unfunded mandates. The opt-out provision makes the unfunded mandate argument less persuasive to me. I do appreciate Senator Fischer's comments that it will cost something to conduct these referendums. But I would argue that the public health benefits of water fluoridation are so compelling as to override these objections. If communities don't want it, then they can opt out. But I wish we would quit talking about so-called evidence that is really coming from really questionable sources. Fluoridation of public water supplies is safe, it is economical, and it's an effective way to prevent tooth decay. And I made this point the other day when we talked about this on General File and that has to do with the benefits to children, particularly children who come from poor families. These are families that lack adequate access to dental care. If these children can receive the benefits of fluoridated water, then it is a benefit that will last them their lifetime; and it may allow them to have better health for their teeth than they would have otherwise because they don't have the money for dental care. In fact, half the children ages 5 to 17, have never had a cavity in their permanent teeth from those communities that do have fluoridated water. I'm going to vote for this, and I hope the rest of you will, too. Thank you, Mr. President. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Christensen. [LB245]

SENATOR CHRISTENSEN: Thank you, Mr. President. I guess I want to just ask why we need this bill. Every city can do it now. I've had conversations, e-mails with a number of my cities that say, why? If we want to do it, we'll do it; we've looked at it in the past, we've chosen not to and there's been a variety of reasons why. Some of it's been the state has encouraged them to spread their wells out; they've got wells in multiple locations. Going to increase the cost of doing it. You know, why did the state encourage cities to spread their wells out? Contamination reasons? Whether it be nitrates in one area, some other compound in another area, terroristic threats, whatever it is, why is it spread out? Why did they encourage it? And now you're going to try and force them to tie them all together, eliminate the benefit of being separated, or put in multiple injectors to do this. This is what needs to be a local decision. If this is so great, Attorney General, or I mean recommendations from the experts, then it should sell itself to the people. The people should be requesting it. So I don't know why we need to force cities to spend money, to not have a vote. If the people want it, they need to speak up to their own people. Cities have that choice now. Fluoride is easily available. If you want it, it's in toothpaste, it's in rinses, it's at your dentist. There's all kinds of places you can get it. If you're a believer in it, go get it, use it. It has benefits, it's been proven, that's all right. Go get it, go use it. I just don't understand why we want to force this on. If it is such a great deal, then let's pay for it. If it's that good a deal with your vote put your money behind it, and let's pay for it. Thank you. [LB245]

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Louden. [LB245]

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. I...not necessarily going to say whether I will vote or not vote against the bill because that probably doesn't affect the district I live in. As you know, there's over 41 communities in the state of Nebraska that have naturally fluoride water. Once they get to 7/10 parts per million, why anything at that level or more is considered naturally fluoride. And I listened to some of the discussion on how bad it was for you, and it could be toxic and all that. Well, there's people out there in western Nebraska been drinking it for 100 years, and it didn't seem to bother them that much. So some of the towns like Alliance, Hemingford, Morrill, out in the district that I represent, all have naturally fluoride water. So it can't be that it's going to be bad for you because people been drinking it all the time. They talk about some of the things that you drink. We have a problem out in western Nebraska when the federal government changed the amount of arsenic in water. I think they changed it from 50 parts per billion to 32 parts per billion, which means it's about an eye dropper full in a swimming pool. And people been drinking that water for years and years and years with a little arsenic in it, and they tell you how bad that is for you, when although, used to be a lot of medicine had arsenic in it. So with the fluoride I have no problem with it. The way it's set up in the bill they can vote not to. As Senator Christensen said, if they want to do it I guess they can do it now, because from time to time some of the towns around do have issues about whether or not to put fluoride in the water. Some of them, I think, already have as we look at some of the lists around that are already doing it. So I don't think fluoride in the water is as toxic as someone is trying to put it forward. I don't think it's anything that's harmful to you. Anything from 7/10 part per million to 1.2 parts per million is the range that they try to do to put that in, and that's a pretty small amount of fluoride naturally occurring in the water. Will it do something for the health of the people? That's the reason Senator Johnson, I'm sure, has this bill brought forth, because he's probably concerned that it would be a health issue. So with that, I myself will probably vote for the bill. But I would want to put it on the record that fluoride isn't something that's going to be toxic at the level they use it in, because many of the wells and the water in western Nebraska and even as far down as Imperial, anything in southwest Nebraska--Imperial, Grant, that area--all has naturally fluoride water. Winnebago, Juniata, Walthill, those areas around there all have naturally fluoride water. So it's different places in the state that it occurs naturally, and it doesn't seem to be bothering anybody. So with that, I think I will support the bill. So thank you, Mr. President. [LB245]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Kruse, followed by Senator Dierks. Senator Kruse. [LB245]

SENATOR KRUSE: Mr. President, thank you. I call the question. [LB245]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: I have a call for the question. Do I see five hands? I do. Please raise again. I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB245]

CLERK: 25 ayes, 1 nay to cease debate. [LB245]

PRESIDENT SHEEHY: Debate does cease. We will return to Senator McGill. Senator McGill for a motion. [LB245]

SENATOR MCGILL: Mr. President, I move LB245 to E&R for engrossing. [LB245]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. I do have a request for a board vote. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB245]

CLERK: 27 ayes, 6 nays, Mr. President, on the advancement of LB245. [LB245]

PRESIDENT SHEEHY: LB245 advances. We'll move to LB245A. [LB245 LB245A]

CLERK: LB245A, Senator McGill, I have Enrollment and Review amendments first of all. (ER8232, Legislative Journal page 1269.) [LB245A]

PRESIDENT SHEEHY: Senator McGill. [LB245A]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB245A]

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. [LB245A]

CLERK: Senator Johnson would move to amend with AM2741. (Legislative Journal page 1404.) [LB245A]

PRESIDENT SHEEHY: Senator Johnson, you're recognized to open on AM2741. [LB245A]

SENATOR JOHNSON: I'm confused here for just a second. Oh, okay, we're on to LB245A, okay. The information regarding the LB245A was just handed to me a relatively short while ago. Here are the numbers that we have available to us. From the General Fund, the expenditures for the first year would be a little over \$55,000 and then from Cash Reserves would be \$10,000, and the second year it would be \$94,000 and \$20,000, and this would be used for regulation and technical assistance to the communities. [LB245A]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the opening of AM2741 to LB245A. Floor is open for discussion. Are there members requesting to speak? Seeing none, Senator Johnson, you're recognized to close. Senator Johnson waives closing. The question before the body is on the adoption of AM2741 to LB245A. All those in favor vote yea, opposed nay. Senator Johnson. [LB245A]

SENATOR JOHNSON: Well, I'm afraid we're going to have to, excuse me, Mr. Lieutenant Governor, ask for a roll call vote. Oh, just one second. [LB245A]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB245A]

CLERK: 26 ayes, 3 nays on the adoption of Senator Johnson's amendment. [LB245A]

PRESIDENT SHEEHY: AM2741 is adopted. [LB245A]

CLERK: I have nothing further on the bill, Mr. President. [LB245A]

PRESIDENT SHEEHY: Senator McGill. Senator McGill. [LB245A]

SENATOR MCGILL: Mr. President, I move LB245A to E&R for engrossing. [LB245A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB245A advances. We'll now proceed to LB1165. [LB245A LB1165]

CLERK: LB1165, I have Enrollment and Review amendments, Senator. (ER8233, Legislative Journal page 1292.) [LB1165]

PRESIDENT SHEEHY: Senator McGill. [LB1165]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB1165]

PRESIDENT SHEEHY: You have heard the motion on the adoption of E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1165]

CLERK: I have nothing further on the bill. [LB1165]

PRESIDENT SHEEHY: Senator McGill. [LB1165]

SENATOR MCGILL: Mr. President, I move LB1165 to E&R for engrossing. [LB1165]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1165 advances. We will proceed to LB995. [LB1165 LB995]

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

Floor Debate
April 09, 2008

CLERK: LB995, Senator, I do have Enrollment and Review amendments. (ER8223, Legislative Journal page 1162.) [LB995]

PRESIDENT SHEEHY: Senator McGill. [LB995]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB995]

PRESIDENT SHEEHY: You've heard the motion on the adoption of E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB995]

CLERK: I have nothing further on LB995. [LB995]

PRESIDENT SHEEHY: Senator McGill. [LB995]

SENATOR MCGILL: Mr. President, I move LB995 to E&R for engrossing. [LB995]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB995 advances. We'll now proceed to LB745. [LB995 LB745]

CLERK: LB745. Senator McGill, I have no amendments at this time. [LB745]

PRESIDENT SHEEHY: Senator McGill. [LB745]

SENATOR MCGILL: Mr. President, I move LB745 to E&R for engrossing. [LB745]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB745 advances. We'll now proceed to LB1153. [LB745 LB1153]

CLERK: LB1153. Senator, first of all, I have Enrollment and Review amendments. (ER8234, Legislative Journal page 1315.) [LB1153]

PRESIDENT SHEEHY: Senator McGill. [LB1153]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB1153]

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. [LB1153]

CLERK: Senator Raikes would move to amend with AM2701. (Legislative Journal page 1379.) [LB1153]

PRESIDENT SHEEHY: Senator Raikes, you're recognized to open on AM2701. [LB1153]

Floor Debate
April 09, 2008

SENATOR RAIKES: Thank you, Mr. President, members. This amendment makes two changes to the bill. One, you may recall on General File we made a change regarding eligibility for early childhood programs in school districts and promised that we would look at the impact of that. Senator Rogert brought the issue, in fact brought the amendment. So one part of this amendment is a revision of that. We strike the language that we put in on General File and actually include a much narrower exemption for students participating in early childhood programs rather than kindergarten. The second thing is there's a change regarding state calculations and a sort of a technical provision that deals with calculating state aid in the LB988 formula when you've got school districts that have left a unification. And basically, what we're doing is allowing the department to use the best information they have available in doing those calculations. That's the essence of the second amendment. So both of these changes are in this one amendment and actually, if he would like it, I would yield part of my opening time to Senator Rogert. [LB1153 LB988]

PRESIDENT SHEEHY: Senator Rogert, you're yielded a little over 8 minutes. [LB1153]

SENATOR ROBERT: Thank you, Mr. President. I only need a couple minutes. I want to thank Senator Raikes and his staff for checking this amendment over that I brought forth last week on General File to LB1153. I'll remind you all, the situation has been, in various school districts across the state, I think it has been miscommunicated to parents of four-year-old children that if your kids are born on a date that puts them five years old before October 15 of the year, they're being forced to go to kindergarten and they're missing out on the chance to go to preschool because of that rule. This amendment just gives us a one-year leeway so we can look a little further into that, that rule, and make sure that the Department of Education isn't making the decision for parents on what is the best time to send kindergartners or preschoolers on to class. We have...we know there are reasons on both sides of the fence that people would manipulate or misuse the rule, and that's part of the reason for the rule in place as it is today; however, I think it's probably a little too further encompassing and creates a gap for kids that were born from about June 15 to October 15, when they reach preschool age, that they're being forced to maybe go on to somewhere that they're not ready for. So with this adoption of the language in this amendment, it gives us one more year to go back and communicate better to our parents of those school-age children that they're going to have to either get ready and send their kids to preschool ahead of when they thought, or gives us a chance to maybe look at that rule a little bit more and maybe change it to allow for just some differences and more flexibility when parents send their kids to school. And that's all the time I need. Thank you, Mr. President. [LB1153]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Raikes, you still have 6 minutes, 15 seconds. Senator Raikes waives. You have heard the opening of AM2701 to LB1153. The floor is now open for discussion. Are there members requesting to

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

Floor Debate
April 09, 2008

Speak? Seeing none, Senator Raikes, you're recognized to close. [LB1153]

SENATOR RAIKES: Thank you, Mr. President, members. I'll just add a comment to what Senator Rogert has said. Some of you may remember that the issue of the age of entry into kindergarten was an issue that we dealt with in considerable detail--I lose track of time but three or four, five years ago. At that time, it was the decision of the Legislature that we should pursue, really, two aims. One is to provide an opportunity for kids to be in kindergarten at an early age and, secondly, to narrow, as best we could, the age range in the kindergarten year so that we could provide for a better instructional opportunity for those kids. Associated with that are the issues of red shirting, or so-called red shirting, and using kindergarten for childcare purposes and that sort of thing. We have made sure with this amendment that we honor, I believe, the decision of the Legislature in regard to that issue. And it may be something that needs to be addressed again, but we're not addressing it here. As Senator Rogert says, we are providing a very narrow exception for certain situations in which parents can be allowed one year to enroll their kids in early childhood rather than kindergarten. So I urge your adoption of the amendment. Thank you. [LB1153]

PRESIDENT SHEEHY: Thank you, Senator Raikes. You have heard the closing. The question before the body is on the adoption of AM2701 to LB1153. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1153]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Raikes's amendment. [LB1153]

PRESIDENT SHEEHY: AM2701 is adopted. [LB1153]

CLERK: Mr. President, Senator Raikes would move to amend with AM2731. (Legislative Journal pages 1405-1406.) [LB1153]

PRESIDENT SHEEHY: Senator Raikes, you're recognized to open on your amendment, AM2731. [LB1153]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I'm going to take an opportunity with this amendment to remind you a little bit about what we've done in the area of distance education. This is another area that we considered in some detail before and during the passage of LB1208. I'll remind you of the broad outlines of the policy that we adopted, and that was that we wanted to do everything we could to encourage school districts to exchange academic coursework through a distance education environment, both for the enhancement of educational opportunities to students, particularly in rural parts of the state but in other parts of the state as well, and in some cases to supply what really is a necessary ingredient for the accredited courses to be received by students, because in some instances there may simply not be

Floor Debate
April 09, 2008

personnel, teaching staff and so on, available at a site to provide those opportunities. We did that in the following manner. We wanted to provide individual school districts as much flexibility as possible in deciding how they wanted to go about providing these opportunities, and in doing so we had in mind how we would...we believed these opportunities could best be provided. So we encouraged them along a pathway toward that, what we thought was the best way, and it involved Network Nebraska and advertising coursework that they had available and that sort of thing. It also...we did the encouragement by providing real money to school districts in the form of incentives that didn't just simply offset state aid, but real financial incentive to school districts who did, in fact, exchange academic coursework with one another over the distance education environment. There has come a situation that I think needs to be addressed and that is that for school districts to be involved in distance education, there is a requirement or there's deemed to be a requirement now that they have to be involved not only in a...what you might call a clearinghouse, a distance education clearing house effort where all the courses offered by the various schools are posted so that other schools can know about those courses and participate in sharing, but they also have to be involved in a device-controlling structure as well whereby they not...in order to participate in this, the courses are scheduled and the actual devices used to transmit over distance are turned on and off, so to speak, by the software, the scheduling software. I think it's important to be consistent with the theme that we've adopted all along that really all that's required, in order to allow maximum flexibility, that school districts need to participate in the clearinghouse part of it. They should not be required to participate, in addition, into the device control aspect of it. This is somewhat of a technical issue. It's addressed in this amendment. But I will tell you this. This is something that came up to us very late. I wanted to make these points and try to tie them in to what I think is the philosophical policy stance that we've taken as a Legislature. On the other hand, I don't believe it appropriate for us to proceed forward with this amendment for a couple reasons. One of them is that we did not have a hearing on this specific issue, and secondly, it probably approaches the line of statute getting into regulation, which I don't think we need to do. So I hope I've made the point, but I will withdraw the amendment. Thank you. [LB1153]

PRESIDENT SHEEHY: AM2731 is withdrawn. [LB1153]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB1153]

PRESIDENT SHEEHY: Senator McGill. [LB1153]

SENATOR MCGILL: Mr. President, I move LB1153 to E&R for engrossing. [LB1153]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1153 advances. (Visitors introduced.) Mr. Clerk, we'll now proceed to LB806. [LB1153]

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

Floor Debate
April 09, 2008

ASSISTANT CLERK: Mr. President, I have no E&R amendments. I do have an amendment from Senator Wallman, AM2584. (Legislative Journal page 1407.) [LB806]

PRESIDENT SHEEHY: Senator Wallman, you're recognized to open on AM2584. [LB806]

SENATOR WALLMAN: Thank you, Mr. President. AM2584 corrects an oversight. When LB806 was drafted, Nebraska Revised Statutes 28-1313 and 28-1314 were changed to read "service animal." This should not have happened. The language for guide dogs should have been left as it was, due to the fact that this refers to a specific duty of a service animal. So this amendment simply removes Sections 12 and 13 and leaves the original language as is. I would encourage you to vote for this amendment. [LB806]

PRESIDENT SHEEHY: Thank you, Senator Wallman. You've heard the opening of AM2584 to LB806. The floor is open for discussion. Are there members requesting to speak? Seeing none, Senator Wallman, you're recognized to close. Senator Wallman waives closing. The question before the body is on the adoption of AM2584 to LB806. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB806]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Wallman's amendment. [LB806]

PRESIDENT SHEEHY: AM2584 is adopted. [LB806]

CLERK: I have nothing further on the bill, Mr. President. [LB806]

PRESIDENT SHEEHY: Senator McGill, you're recognized for a motion. [LB806]

SENATOR MCGILL: Mr. President, I move LB806 to E&R for engrossing. [LB806]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB806 advances. We'll now proceed to LB819. [LB806]

CLERK: LB819, Senator. I do have Enrollment and Review amendments. (ER8226, Legislative Journal page 1159.) [LB819]

PRESIDENT SHEEHY: Senator McGill. [LB819]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB819]

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. [LB819]

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

Floor Debate
April 09, 2008

CLERK: I have nothing further on LB819, Senator. [LB819]

PRESIDENT SHEEHY: Senator McGill. [LB819]

SENATOR MCGILL: Mr. President, I move LB819 to E&R for engrossing. [LB819]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB819 advances. We will now proceed to LB953. [LB819]

CLERK: LB953, Senator. I do have Enrollment and Review amendments. (ER8222, Legislative Journal page 1159.) [LB953]

PRESIDENT SHEEHY: Senator McGill. [LB953]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB953]

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. [LB953]

CLERK: I have nothing further on LB953, Senator. [LB953]

PRESIDENT SHEEHY: Senator McGill. [LB953]

SENATOR MCGILL: Mr. President, I move LB953 to E&R for engrossing. [LB953]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB953 advances. We will now proceed to LB907. [LB953]

CLERK: LB907, Senator. I do have Enrollment and Review amendments. (ER8225, Legislative Journal page 1166.) [LB907]

PRESIDENT SHEEHY: Senator McGill. [LB907]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB907]

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. [LB907]

CLERK: I have nothing further on LB907. [LB907]

PRESIDENT SHEEHY: Senator McGill. [LB907]

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

Floor Debate
April 09, 2008

SENATOR MCGILL: 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 LB308. [LB907 LB308]

CLERK: LB308, Senator. I have E&R amendments. (ER8227, Legislative Journal page 1167.) [LB308]

PRESIDENT SHEEHY: Senator McGill. [LB308]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB308]

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. [LB308]

CLERK: I have nothing further on LB308, Senator. [LB308]

PRESIDENT SHEEHY: Senator McGill. [LB308]

SENATOR MCGILL: Mr. President, I move LB308 to E&R for engrossing. [LB308]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB308 advances. We'll proceed to LB308A. [LB308 LB308A]

CLERK: LB308A, Senator. I have no amendments to the bill. [LB308A]

PRESIDENT SHEEHY: Senator McGill. [LB308A]

SENATOR MCGILL: Mr. President, I move LB308A to E&R for engrossing. [LB308A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB308A advances. We'll proceed to LB956. [LB308A LB956]

CLERK: LB956. I have Enrollment and Review amendments, Senator. (ER8235, Legislative Journal page 1315.) [LB956]

PRESIDENT SHEEHY: Senator McGill. [LB956]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB956]

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. [LB956]

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

Floor Debate
April 09, 2008

CLERK: I have nothing further pending to LB956, Senator. [LB956]

PRESIDENT SHEEHY: Senator McGill. [LB956]

SENATOR MCGILL: Mr. President, I move LB956 to E&R for engrossing. [LB956]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB956 advances. We will now proceed to LB1072. [LB956 LB1072]

CLERK: LB1072, Senator. I do have Enrollment and Review amendments. (ER8228, Legislative Journal page 1193.) [LB1072]

PRESIDENT SHEEHY Senator McGill. [LB1072]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [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: Senator Aguilar would move to amend with AM2688. (Legislative Journal page 1333.) [LB1072]

PRESIDENT SHEEHY: Senator Aguilar, you're recognized to open on AM2688. [LB1072]

SENATOR AGUILAR: Thank you, Mr. President and members. The amendment is consistent with the original purpose of LB1095, which was amended into LB1072 on General File. The amendment allow for two companies to have natural gas transmission pipelines supplying electrical plants that are owned by a city and that lie within the city limits. The version of LB1072 that we advanced from General File continued the double piping prohibition for high-volume ratepayers outside of cities. We now need to clarify that certain high-volume ratepayers inside cities are not to be affected by the prohibition. I apologize to Senator Friend for not getting the wording of the General File amendment completely correct. It is my understanding that this amendment has no opposition among the numerous natural gas entities and has no fiscal impact for the state. AM2688 exempts only city-owned electrical plants from the current prohibition against double piping. AM2688 is needed for two reasons. First, we need to ensure that our city-owned electrical plants have enough natural gas capacity. Allowing the second line will ensure adequate capacity and bring about lower costs for natural gas. Second, the language of this amendment and the exemption it creates will allow natural gas retail providers to comply with local ordinances and franchise agreements without violating state law. Currently, most, if not all, local franchise agreements require a natural gas provider to offer service to all residents and businesses that request service.

Floor Debate
April 09, 2008

The local power plant, when located within the city limits, is one of those users entitled to natural gas service upon demand under local franchise agreements. The trouble is, state law says that the natural gas retail provider may not provide service to an end user if that end user already has a gas supply. That's the double piping prohibition. So if a city-owned power plant already receives gas directly from an interstate pipeline, then the retail gas provider, though it has a city-imposed obligation to serve the plant, is prohibited from doing so by state law. It's that state law we are trying to change with this amendment. Let me give you an example that will make all of this real and more clear. In Grand Island, the city owns the electrical generating plant, which is called Grand Island Utilities. That plant is located within the city limits of Grand Island and currently gets all of its natural gas from a spur of an interstate pipeline. All around the plant, residences and businesses in Grand Island get their retail natural gas service from Northwestern Energy under its franchise agreement with the city. Northwestern has an obligation to serve all customers in the city, including Grand Island Utilities. But the double piping prohibition currently in state law does not allow Northwestern to serve Grand Island Utilities because there is already an interstate pipeline serving the plant. In other words, Northwestern has a duty under city ordinance to serve the utilities plant, but it is not allowed under state law to do so. AM2688 removes that dilemma by allowing Northwestern, in this example, to serve Grand Island Utilities. As a practical matter, this example demonstrates the importance of not only the amendment but also of the bill itself. Currently, the interstate pipeline company serving Grand Island Utilities has no incentive to add capacity needed for the plant or to charge reasonable rates. This amendment is a very narrowly crafted change to LB1072 that will allow city-owned electric plants like Grand Island Utilities to have an adequate supply of natural gas at affordable rates. The amendment also contains an emergency clause for situations like the Grand Island Utilities example I just discussed. Grand Island Utilities is already operating on a month-to-month basis with its current natural gas supplier. They are very nervous about being able to meet peak demand this coming summer and what the cost of trying to meet that demand will be. Building a second supply line would be expensive, but it might be a lot less expensive than not building one. The sooner this bill is enacted, the sooner Grand Island Utilities will be in a better position to renegotiate a new contract or consider other options for natural gas supply. I urge the adoption of AM2688. Thank you, Mr. President. [LB1072 LB1095]

PRESIDENT SHEEHY: Thank you, Senator Aguilar. You've heard the opening of AM2688 to LB1072. The floor is open for discussion. Members requesting to speak: Senator Friend. [LB1072]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I had an interesting...just had an interesting discussion. Rest assured, this will neither adversely or...well, let me take that back. This could positively affect the State Fair. It will not be adverse to anything that the State Fair is trying to do, if it actually goes to Grand Island. Rest easy. That's not part of the equation here. This is really simple.

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

Floor Debate
April 09, 2008

Remember, we talked about the little dog and the big dog. That's what LB1072 was. The big dog, it took an awful long time and an awful lot of parties to create language, and legal counsel for the Urban Affairs Committee, Bill was able to get all the parties together, along with the Urban Affairs Committee, to accept the language that was eventually put into LB1072, that was LB1095--the amendment was 1095 (sic.) This not a new bill. These were facts that came after General File, with a particular situation that Grand Island had difficulty with. I don't want to make this any more complicated than it needs to be, so I'll simplify it as best I possibly can. And my legal counsel is probably going to get mad at me for doing this, but I'm sure he'll tell me if he is mad at me. Let's say you had a house, and let's say you had a generator or a power source inside the house. You owned a particular piece of a natural gas pipeline that came in there to power that generator or whatever, but you didn't own everything that was associated with that natural gas pipeline to get access to that pipeline. Folks, really that's as simple as it is. We didn't know about those facts. We know now. Senator Aguilar's amendment addresses those, and by the way, we had about four or five different drafts of this, and ideas that would solve this problem. This was drafted by the Legislature. More or less, this was drafted by the legal counsel for the Urban Affairs Committee, based on the problem. The problem deals with Grand Island now, but it could deal with any situation throughout the state that would result from ineffective language. This makes...this really makes the language more effective. I am supportive of AM2688, as are all the parties associated with the discussions that the big dog sparked. One other thing the amendment does, and Senator Aguilar alluded to this, it does put an E clause on LB1072, so we would require 33 votes. I appreciate...I would be happy to answer any questions. I appreciate your time. Thank you, Mr. President. [LB1072 LB1095]

PRESIDENT SHEEHY: Thank you, Senator Friend. Are there additional members requesting to speak? Seeing none, Senator Aguilar, you're recognized to close on your amendment. [LB1072]

SENATOR AGUILAR: Thank you, Mr. President and members. Thank you, Senator Friend, for that simplification. I encourage you to support this amendment as well as the underlying legislation. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Aguilar. You have heard the closing. The question before the body is on the adoption of AM2688 to LB1072. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. Oh, Senator Aguilar. [LB1072]

SENATOR AGUILAR: I would request a call of the house. [LB1072]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB1072]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Aguilar's amendment. [LB1072]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: AM2688 is adopted. [LB1072]

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

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

SENATOR MCGILL: 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 will now proceed to LB928. [LB1072 LB928]

CLERK: LB928, Senator, I have Enrollment and Review amendments, first of all. (ER8230, Legislative Journal page 1197.) [LB928]

PRESIDENT SHEEHY: Senator McGill. [LB928]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB928]

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. [LB928]

CLERK: Mr. President, the first amendment to the bill, Senator Johnson, AM2304. (Legislative Journal page 1030.) [LB928]

PRESIDENT SHEEHY: Senator Johnson, you're recognized to open on AM2304. [LB928]

SENATOR JOHNSON: Thank you, Mr. Lieutenant Governor. What we have today is this: AM2304 contains the provisions of two bills heard by the Health and Human Services Committee and advanced by the committee. The first bill is LB883. This bill relates to the licensure of child care programs. The bill exempts a recreational facility center or program operated by a political or governmental from the licensure requirements under the Child Care Licensing Act. The bill is needed because in LB994, which was passed in 2006, it changed the definition of program under the act and inadvertently resulted in the licensure of recreational programs that had not previously been required to be licensed. So this is a change because of LB994, in 2006. The second bill is LB954. This bill was introduced by Senator Dierks and relates to HIV testing. This bill provides that an additional consent for HIV testing is not required if a general consent form for the performance of necessary medical tests or procedures has been signed. It should be noted that the bill as amended by the committee does require that the persons be informed that a test for the presence of HIV may be performed under a general consent and that the person may refuse the performance of the test.

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Transcriber's Office

Floor Debate
April 09, 2008

These provisions, amendment become effective with the emergency clause. I would ask their adoption. Thank you. [LB928 LB883 LB954]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the opening of AM2304 to LB928. The floor is open for discussion. Are there requests to speak? Seeing none, Senator Johnson, you're recognized to close. Senator Johnson waives closing. The question before the body is on the adoption of AM2304. All those in favor vote yea; opposed, nay. Senator Johnson. [LB928]

SENATOR JOHNSON: I'm sorry, but...(laugh). [LB928]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB928]

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Johnson's amendment. [LB928]

PRESIDENT SHEEHY: AM2304 is adopted. Next amendment, Mr. Clerk. [LB928]

CLERK: Senator Heidemann would move to amend, AM2519. (Legislative Journal page 1253.) [LB928]

PRESIDENT SHEEHY: Senator Heidemann, you're recognized to open on AM2519. [LB928]

SENATOR HEIDEMANN: Thank you, Lieutenant Governor, fellow members of the body. Earlier this year we passed LB606. And LB606, the funding mechanism was an intercept of the Tobacco Settlement Funding. Within seven days after the effective date of this act, and on July 1 of each year thereafter LB606 and LB606A passed with the emergency clause and took effect on March 26. The Tobacco Settlement Funds did not arrive within a seven-day period as required by LB606, and another deposit will not occur until April of 2009. Without this amendment, funding would not be available until April 2009. As it was the intent of the Legislature, as demonstrated by the inclusion of the E clause, that the bill and subsequently the funding be available immediately, this funding provides for a transfer from the Tobacco Settlement Fund in July 2008, and each July thereafter. I urge your support of AM2519 to LB928. [LB928 LB606 LB606A]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You've heard the opening of AM2519 to LB928. The floor is open for discussion. Are there members requesting to speak? Seeing none, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is on the adoption of AM2519 to LB928. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB928]

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's

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

Floor Debate
April 09, 2008

amendment. [LB928]

PRESIDENT SHEEHY: AM2519 is adopted. [LB928]

CLERK: Senator Erdman would move to amend with AM2598. (Legislative Journal page 1276.) [LB928]

PRESIDENT SHEEHY: Senator Erdman, you're recognized to open on AM2598. [LB928]

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. AM2598 is the committee amendment version of LB847 that was introduced before the Judiciary Committee and was also reintroduced after last legislative session. The purposes of this amendment and the purpose of LB847, which was advanced from the Judiciary Committee 6 to 0, with 1 present and not voting, is to provide a notice of appointment of personal representative to the Department of Health and Human Services. Currently, it's a requirement in law for other personal representatives to have notice, and this simply adds the Department of Health and Human Services to the same section of law that was previously discussed last year and is also a federal requirement that we have in the state of Nebraska. Essentially, the committee amendment does the following: Under the time line the personal representative will notify the Department of Health and Human Services, using the same form and the same information that other personal representatives utilize to be notified or provide notice of being the representative of an estate. Personal representative must mail the notice to HHS within five days. Again those are all within existing law, and simply alls we're doing is adding this to this. There has been a great deal of discussion about this, and in the event that there is a hesitancy to proceed with this amendment, we will withdraw it. However, let me explain to you again what this generally does. Under the Medicaid program we as a state are required to attempt to recover from estates, those that were on Medicaid. And in order for us to comply with that as a state our Department of Health and Human Services reads legal notices in the papers in order to do that, for they receive no formal statement. We work through the interim with the Nebraska Bar Association, if we're going to do it, and this is still a question for us to decide, and obviously there's an interest. I've shared this with Senator Chambers and others who have had a concern with this in the past. If there's a concern today, we won't go forward. But this is simply adding to the list the Department of Health and Human Services to receive that notice from the personal representative that they are attempting to settle an estate. Without receiving that notice and missing that time line, the state of Nebraska is shut out from the ability to recover from those estates. By doing that, that impacts the state's ability to do what the federal law requires us to do. And in addition to that, it provides an unworkable if not unrealistic expectation that the state of Nebraska can comply with the law. This is a policy decision. If we adopt this amendment it has a fiscal note to the state that is positive. That's not the reason to vote for this. If you are opposed to this...and again I had shared this with Senator

Floor Debate
April 09, 2008

Chambers prior. If he still has concerns with this bill as it's been amended by the committee, we will proceed without this amendment. I made that offer to him and Senator Johnson. But this is the bill in the correct form, if we're going to do it. I appreciate the Judiciary Committee advancing the bill 6 to 0. There are safeguards in place. When we talk about estate recovery there are things that are already exempted, whether it be the residence of the individual, whether it be \$5,000 of personal assets so that the family members can pass along family heirlooms or other things. There's a lot of safeguards currently in place. And those are established by the federal Department of Health and Human Services. Again, this is the way to do it. The question before you today is, should we as a state adopt this policy to allow the department to have notice of these estates being settled and to be able to make sure that they're a part of the process, in the event that they have a responsibility to recover from that estate? And those safeguards are in place to ensure that it is not onerous on the families in which the estate is trying to recover. There are additional safeguards and I would be happy to discuss those. Mr. President, may I ask Senator Chambers if he would yield to a question? [LB928 LB847]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB928]

SENATOR CHAMBERS: Yes, I will. [LB928]

SENATOR ERDMAN: Senator Chambers, we have...I have introduced this bill twice, and last year we brought it to the floor after working out the language. But because of the timing of that, Senator Ashford and others didn't like the way that it was done or weren't aware of some of the changes. This year we reintroduced the bill, brought it back to the Judiciary Committee. If we're going to do it, this would be the process that we would do it. The question that I would have for you is, are you any more comfortable today with the provisions of LB847 as introduced by the...or as advanced by the committee, the Judiciary Committee, or do you still have reservations, and are your reservations significant that you would oppose the bill if it's adopted? [LB928 LB847]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Erdman, in short, are you asking me if I would support this bill or at least not oppose it? [LB928]

SENATOR ERDMAN: I am. [LB928]

SENATOR CHAMBERS: Ask and it shall be given you. Let me hear you ask me. [LB928]

SENATOR ERDMAN: Will you support this bill, even if this amendment is adopted? [LB928]

SENATOR CHAMBERS: You got it, sonny. (Laughter) [LB928]

Floor Debate
April 09, 2008

SENATOR ERDMAN: Thank you. Thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Thank you, Senator Chambers. You have heard the opening of AM2598 to LB928. The floor is open for discussion. Members requesting to speak are Senator Chambers, followed by Senator Howard. Senator Chambers. Senator Chambers waives. Senator Howard. [LB928]

SENATOR HOWARD: Thank you, Mr. President, members of the body. If Senator Erdman would yield to a question. [LB928]

PRESIDENT SHEEHY: Senator Erdman, would you yield? [LB928]

SENATOR ERDMAN: I will. [LB928]

SENATOR HOWARD: Thank you, Senator Erdman. You know, every time we look at adding a new sort of duties or increasing any responsibility with the department they say it's going to result in their being required to hire more employees. When we looked at Senator Kopplin's bill regarding food stamps and the eligibility factor, they claimed they would have to hire 85 more employees. Will there be more FTEs required for this amendment? [LB928]

SENATOR ERDMAN: There will not, Senator Howard. And as I explained in my opening, right now for the department to comply with federal law they actually have to spend more time and more effort trying to comply with that than being given the notice that an estate is being settled. So this provides for streamlining of that process, while still protecting the rights of those family members from unnecessary recovery based on the federal guidelines. So this is actually a streamlining process from the department. We already have the staff; they're reviewing legal notices that are printed in statewide papers to comply with the federal law. And that, to me, doesn't make a lot of sense, and that's why this amendment is before us. [LB928]

SENATOR HOWARD: Will there be any reduction of staff in that case? [LB928]

SENATOR ERDMAN: I do not know. I have the fiscal note in front of me, and that's a question that I have not asked the department directly. But as we know, the recovery process requires the estates to be examined. And depending upon how that plays out or whether or not that workload it necessary, there may be the opportunity to realign staff or however that plays out. But the fiscal note is not specific to the staffing of the department; it simply reflects the reality that we are unable to access some of those estates that we have an obligation, as a state, to attempt to recover from. [LB928]

SENATOR HOWARD: I'm not...thank you. I'm not speaking in support of any sort of

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

Floor Debate
April 09, 2008

reduction of staff. I just appreciate the clarification. Thank you. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Howard. Thank you, Senator Erdman. Senator Erdman, seeing no additional requests to speak, you're recognized to close. [LB928]

SENATOR ERDMAN: Thank you, Mr. President. I appreciate the questions. Appreciate the courtesy of Senator Chambers. Federal law mandates estate recovery through the Medicaid program. We have that incorporated through our statutes, and there are exemptions in place that allow for adult children who are entitled to \$5,000 worth of assets to be exempted from that recovery. It simply adds the department to the priority of creditors; it doesn't change the priority of creditors. And it allows for the department to actually receive the same notices that other creditors would receive, thus streamlining the process and giving us the ability as a state to better comply with the requirement of federal law. I would encourage your adoption of this amendment. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Erdman. You have heard the closing. The question before the body is the adoption of AM2598 to LB928. All those in favor vote yea; opposed, nay. Senator Erdman. [LB928]

SENATOR ERDMAN: I request a call of the house. [LB928]

PRESIDENT SHEEHY: There has been a request for a call of the house. All those in favor of placing the house under call vote yea; opposed, nay. Please record, Mr. Clerk. [LB928]

CLERK: 26 ayes, 0 nays to place the house under call. [LB928]

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 Cornett, would you check in. Senator McGill, Senator Raikes, Senator Nantkes, Senator Flood, Senator Kruse. Senator Erdman. [LB928]

SENATOR ERDMAN: Mr. President, I would accept call-in votes at this time. [LB928]

PRESIDENT SHEEHY: Senator Erdman is accepting call-in votes. Mr. Clerk. [LB928]

CLERK: Senator Flood voting yes. Senator Pirsch voting yes. Senator Wightman voting yes. [LB928]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB928]

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

Floor Debate
April 09, 2008

CLERK: 26 ayes, 1 nay, Mr. President. [LB928]

PRESIDENT SHEEHY: AM2598 is adopted. The call is raised. Next amendment, Mr. Clerk. [LB928]

CLERK: Mr. President, Senator Johnson would move to amend, AM2642. (Legislative Journal page 1301.) [LB928]

PRESIDENT SHEEHY: Senator Johnson, you're recognized to open on AM2642. [LB928]

SENATOR JOHNSON: Thank you, Mr. Lieutenant Governor. AM2642 adds the provisions of two bills that were heard by the Health and Human Services Committee and advanced by this committee. The amendment also makes some less substantive changes suggested to three other bills heard by the committee. LB48 was introduced by Senator Dierks following a 407 review of the use of fluoroscopy by a certified nurse anesthetist or CRNAs. As amended by the committee, the bill permits CRNAs to use fluoroscopy in conjunction with a licensed medical radiographer in connection with the performance of authorized duties and functions upon (1) the successful completion of appropriate education and training as approved jointly by the Department of Health and Human Services and the Board of Advanced Practice Registered Nurses, and promulgated by the department in rules and regulations under the Radiation Control Act; and (2) an internal determination regarding the scope and supervision of such use in the particular hospital, office, or clinic where the CRNA practices and the use will occur. Number two, that is LB1120, at the request of the Department of Health and Human Services to repeal an exemption from certificate of need requirements for a facility of federally recognized Indian tribes. As amended by the committee, the bill contains the certificate of need exemption but also requires the tribe to have a self-determination agreement in place with the federal Indian Health Service for the proposed facility, so that the costs for enrolled members of the tribe who are served at the facility are paid solely with federal funds. A tribal facility is currently being planned in Nebraska near the South Dakota border which would potentially serve a majority of persons who are currently South Dakota residents. At the public hearing the tribe's chairman assured the committee that the cost of providing care at the facility would be completely federally reimbursed. Other changes: There are three issues that are amendments originally suggested by LB1121, LB1176, and LB1123. AM2642 requires the Department of Health and Human Services to analyze available options under the federal law and provide recommendations for the enhancing and replacing of the current Medicaid buy-in program for persons with disabilities who are employed. Those recommendations are due to the Governor and the Legislature no later than December 1, 2008. The second change is also related to Medicaid. The amendment requires the department to report for post-Medicaid changes to the Governor and the Legislature no later than December 15 before the next regular legislative session. This would allow at

Floor Debate
April 09, 2008

least 30 days before the end of bill introduction for the Legislature, and this would allow them adequate time to analyze and react to any proposed changes. The third change simply removes the Chair of the Behavioral Health Oversight Commission from the Children's Behavioral Health Task Force. The commission terminates on June 30 of this year. Mr. Lieutenant Governor, I would ask for the adoption of these amendments. Thank you. [LB928 LB48 LB1120 LB1121 LB1176 LB1123]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the opening of AM2642 to LB928. The floor is now open for discussion. Members requesting to speak are Senator Schimek, followed by Senator Synowiecki. Senator Schimek. [LB928]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I would just like to thank Senator Johnson and his staff for giving me a heads up on the portion of this amendment dealing with the health facility for the tribes of South Dakota. I do believe that they have worked very carefully on this issue, and they have come up with a reasonable amendment that would ensure that Nebraska doesn't have to pick up the tab for something that really is, in I think in most people's estimation, a South Dakota issue and a South Dakota problem. I certainly am always in support of anything that would give tribal members adequate healthcare. But I think that it ought to be done with an understanding that Nebraska is not going to have to foot the bill rather than South Dakota. So I wanted to thank Senator Johnson and his staff. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Johnson. (Visitors introduced.) Senator Synowiecki, followed by Senator White. Senator Synowiecki. [LB928]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor. Senator Johnson, would you yield to a question? [LB928]

PRESIDENT SHEEHY: Senator Johnson, would you yield? [LB928]

SENATOR JOHNSON: Yes, sir. [LB928]

SENATOR SYNOWIECKI: My question is relative to the Children's Behavioral Health Task Force and the removal of the chairperson of the Behavioral Health Oversight Commission from that. As you indicated, the Behavioral Health Oversight Commission is set to terminate on June of '08. Did you bring legislation this year to extend that? [LB928]

SENATOR JOHNSON: There was a discussion about that. What is currently to be underway is that there will be a task force created to look into this entire situation. Senator Synowiecki, there were actually six commissions, shall we say, that are out there and functioning. And the question is, should these be brought into one? And so

Floor Debate
April 09, 2008

that total relationship is to be studied. [LB928]

SENATOR SYNOWIECKI: Senator Johnson, my specific concern is Behavioral Health Oversight Commission was created for a very specific purpose, and that was to oversee the implementation of LB1083, the Mental Health Reform Act, which was passed by the Legislature. And that reform effort has not yet concluded. I know we're very close, I understand that and can appreciate that. But the oversight commission is made up of a diverse set of interests to oversee this reform effort. And my question to you is, what is the logic behind letting the oversight commission terminate when the actual act, the reform as imbedded within LB1083, is not yet complete? [LB928]

SENATOR JOHNSON: Yes, sir. And the question, of course, will be, when will it be complete and so on? And let me say this, the Behavioral Health Oversight Commission, I've been with them at many meetings and has been an outstanding group that has functioned very, very well. We have worked with the Speaker in looking ahead to all six of these groups and what their continued relationship will be. The question, and I hate to speak for the Speaker, but is this, is that do we need to look closer for the oversight by the Legislature, rather than delegating that oversight to nonmembers of the Legislature? [LB928]

SENATOR SYNOWIECKI: Thank you, Senator Johnson. I knew you had put legislation in to extend the life, if you will, of this Behavioral Health Oversight Commission. And the oversight commission has played a key role and it has individuals on that commission, as you have indicated, those representing the communities of both Norfolk and Hastings, the mental health...the mental institutions of Norfolk and Hastings and so forth. It also includes community-based providers, and it was developed and implemented as part of the reform effort for a very specific purpose, and that was to oversee the implementation of the reform. We're not done with the reform. We've come a long way and we've come a very long way. We're down to about 30-something patients in an institutional setting. And why we would wrap this thing up when we've got 34... [LB928]

PRESIDENT SHEEHY: One minute. [LB928]

SENATOR SYNOWIECKI: ...patients remaining at this point does not seem logical to me. The Behavioral Health Oversight Commission has played a key role in getting us where we're at relative to this reform with a diverse set of interests working together on a common goal to get people into community-based settings relative to mental health treatment. We are right now going through a mess in the developmental disability area and institutionalization. We've come a long way in the mental health sector, and it was in large part because of the efforts of the members of this oversight commission. You know, I'm not at all interested in relegating the interests of the Legislature to any commission or task force either. But they also play a key role in providing expertise,

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

Floor Debate
April 09, 2008

particular expertise that those members of the Legislature probably don't have in a lot of instances, and providing interest, whether that be community... [LB928]

PRESIDENT SHEEHY: Time, Senator. [LB928]

SENATOR SYNOWIECKI: ...specific interest, geographically,...thank you, Mr. Lieutenant Governor. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Senator White, followed by Senator Nelson and Senator Synowiecki. Senator White. [LB928]

SENATOR WHITE: Thank you, Mr. Lieutenant Governor. Would Senator Johnson be kind enough to yield to some questions? [LB928]

PRESIDENT SHEEHY: Senator Johnson, would you yield to Senator White? [LB928]

SENATOR JOHNSON: Yes. [LB928]

SENATOR WHITE: Thank you, Senator Johnson. On page 7 of the proposed amendment, we talk about directing the department to look into and make recommendations regarding new rules and regulations for the provision of services for people who are employed. Do you see that, Senator? [LB928]

SENATOR JOHNSON: On page 7? [LB928]

SENATOR WHITE: Yes, sir. [LB928]

SENATOR JOHNSON: I think I've got the right place. There are so many here that I may not, so... [LB928]

SENATOR WHITE: One of the concerns that's been expressed to me and that I share is whether or not, as we promulgate new rules, we will carry out the state policy of trying to provide services that permit people to live, as near as possible, independently from 24-hour care facilities. And with that regard, would you express your understanding of whether or not, with respect to this whole bill, it remains the state's intention to provide any services, whether it's physical therapy, educational, voc rehab, any kind of training, therapy, or rehab that allows people to live as independently as possible and out of facilities like Beatrice State Home if it is at all possible? [LB928]

SENATOR JOHNSON: Senator White, my feeling would be this, is that certainly the most expensive way that we can go about this is to have people institutionalized in a 24-hour-a-day facility, whatever level it is. Anything that we can do short of that, such as the physical therapy, these other entities that you mentioned not only saves money, but

Floor Debate
April 09, 2008

you know, it allows these people to live more normal lives and to extend the time out of these facilities, which I think all of us would want. So my feeling is that we are in general agreement. [LB928]

SENATOR WHITE: Thank you, Senator Johnson. And to the members of the body, one of the deep concerns I have is that often we get into penny cutting. And is, as the English would say, penny wise, pound foolish. We cut down the number of trips to physical therapy somebody may be entitled under Medicare/Medicaid, but then they end up in a nursing home because they cannot function in their home, and while one part of the budget shows a savings, another part of the budget explodes. I would like it clear as an expression of the body's intent--and I think Senator Johnson has said that--that it is not an acceptable practice to reduce or limit benefits under Medicare/Medicaid, whether it's for the elderly, for the disabled, or any other person in efforts of showing some meaningful savings in one part, but in fact it either makes them unable to work, which is what this amendment talks about, or it makes it more likely that they will go into a higher level of care facility. So with that understanding that the department is instructed truly to look for reasonable savings but to not cut back on services that allow people to live independent lives, hopefully to work and do other productive things, then I fully support it and I support the amendment and the bill going forward. Thank you, Mr. Lieutenant Governor. [LB928]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Nelson. [LB928]

SENATOR NELSON: Thank you, Mr. President. I would give my time to Senator Synowiecki, if he wanted to pursue his conversation with Senator Johnson. [LB928]

PRESIDENT SHEEHY: Senator Synowiecki, you're yielded 5 minutes. [LB928]

SENATOR SYNOWIECKI: Thank you, Senator Nelson. Thank you, Mr. Lieutenant Governor. Senator Johnson, would you yield to a question again? [LB928]

SENATOR JOHNSON: Yes, sir. [LB928]

SENATOR SYNOWIECKI: Senator Johnson, under the reform effort, under the mental health reform effort we have taken literally hundreds of patients from an institutionalized setting and transitioned them appropriately to a community-based setting. And just recently the Department of Health and Human Services released some statistics on--I wish I had them with me, I don't right now--on how dramatically improved the outcomes have been for a lot of these patients. And the Behavioral Health Oversight Commission has played a critical role in ensuring that those patients get to the appropriate level, appropriate setting level in a community-based setting. They have oversaw that process from the very beginning. I believe the oversight commission was created as part of the reform effort. Now we are in the midst of a terrible time, if you will, relative to the

Floor Debate
April 09, 2008

Beatrice State Hospital, as you are very well aware. But on the mental health and substance abuse side, on the mental health side we have done something, I think it was...is creative, it's progressive, it's out in front. It takes the consumer, the consumer of these services at the forefront, and we balance everything else. And everything is balanced, if you will, within this oversight commission. We're down to 30-something patients. We've got like 35 patients. I don't know if your legal counsel knows the exact number. We've transitioned hundreds of patients under the guidance of this Behavioral Health Oversight Commission. Why do we not extend this commission enough time to get these 35, 36 patients, as we have with the hundreds of patients that preceded them? And these will be the toughest ones to place. These will be the toughest ones to find an appropriate community-based care setting for. Why are we going to do away with an oversight commission that played a critical role in hundreds of patients going to a community-based setting? And Mr. Chairman, you brought a bill, a legislative bill, so I would assume you have some...you share some of the same feelings that I do relative to trying to have some level of oversight over these patients to make sure that they arrive at the appropriate place in our community-based setting, being treated close to their home communities, where they have support from their family, support from their home communities. Why are we forfeiting that opportunity for those remaining 30-something patients? [LB928]

SENATOR JOHNSON: Well, Senator Synowiecki, in large part you are correct. It...what we have as we've just had, I think, outstanding success in going from an institutional-based system to a community-based system. And certainly the Behavioral Health Oversight Commission has played a large part in this. I think that perhaps the best answer to this is that there now is tremendous momentum that is present in this. We've had the reorganization of HHS so that there are now specific people that are in charge of carrying out the will of the Legislature with the other bills that have been passed. But we felt... [LB928]

PRESIDENT SHEEHY: One minute. [LB928]

SENATOR JOHNSON: ...and again I hate to speak for the Speaker, but it is his feeling that now is the time for us to review all of these commissions that have been put together by the Legislature that are operating independently and that we should have a study to proceed to see just how many of these different groups are needed and how they should be constituted. So we are in agreement with the Speaker that this study should be carried out, and I guess that's the best answer that I can give you at this time. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Thank you, Senator Synowiecki. Time has expired. Mr. Clerk, do you have items for the record? And then we will move to Select File items, under the 4:00 p.m. agenda. [LB928]

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

Floor Debate
April 09, 2008

CLERK: Mr. President, Senator Synowiecki, an amendment to LB1147 to be printed. Enrollment and Review reports LB746 to Select File, LB781 to Select File. And I have two General Affairs confirmation hearing reports, those signed by Senator McDonald. (Legislative Journal pages 1408-1411.) [LB1147 LB746 LB781]

Mr. President, with respect to LB1116, Senator McGill, I have Enrollment and Review amendments, first of all. (ER8236, Legislative Journal page 1326.) [LB1116]

PRESIDENT SHEEHY: Senator McGill. [LB1116]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB1116]

PRESIDENT SHEEHY: You have heard the motion on the adoption of E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1116]

CLERK: Senator Erdman would move to amend with AM2747. (Legislative Journal pages 1411-1414.) [LB1116]

PRESIDENT SHEEHY: Senator Erdman, you're recognized to open on AM2747. [LB1116]

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. I appreciate again the opportunity to further clarify the language in LB1116. I want to give you an update of the conversations and tell you that the language that's before you is a cleaner version, a more refined version of the committee amendment that was adopted. The changes are designed to be technical. They're designed to address the concerns that we heard on the floor during the debate, as well as some of the issues that have come up between the parties. Specifically, I'll go through the amendment. I have distributed to you via e-mail a copy of the resolution that was adopted by the Nebraska State Fair Board on April 4, 2008, supporting LB1116. The vote was nine to one. This is consistent with the process that we have gone through at this point, and that is that this is a negotiated solution between the parties. The parties themselves got together to find this solution. They agreed generally to the parameters and we're putting the final touches on what that structure looks like so that we have a strong foundation for the fair to be successful and for the university to have their opportunities, and most importantly, for us to have resolution to this issue, not only for our benefit, for all parties that have been involved. Specifically AM2747 rewrites the previous Section 6. The previous Section 6 deals with the funding, the requirements for each of the entities that had been outlined prior--\$21.5 million from the University of Nebraska, \$8.5 million from the Grand Island area, \$7 million from the State Fair Board, \$5 million from the state of Nebraska are all contingent upon this plan making the improvements necessary in Grand Island for the State Fair to be relocated there. Specifically as you read through the language, Section 6(1) deals with the transfer of the deed, when that happens. Section 6(2) deals

Floor Debate
April 09, 2008

with the funding requirements, (a) deals with the requirements of the University of Nebraska-Lincoln, that that money has to be available, that the funds may be provided over time but they shall be done in cumulative increments of \$7,500,000 by October 1 of 2008, \$14,500,000 by February 1, 2009, \$21,500,000 by July 1, 2009. The language says cash or legally binding commitments, and let me explain to you what that means. In the event that the money is not immediately available or necessary at that time, the commitments still have to be demonstrated that with a call or with the appropriate response, that that money is actually available. So it may not actually be in a fund that's created by the Fair Board and the Hall County Livestock Improvement Association, but it's cash that's available. That's what that means. It doesn't mean that they can simply make a promise--and this goes for both the university and the Grand Island folks. This means that the cash is available and that this is a \$42 million deal that costs \$42 million in principal, and interest costs and other things would be on top of that if someone would choose to do that, but that's not being proposed. We're talking about a cash transaction of \$42 million. And the legally binding commitment allows those entities to secure those commitments, but it still requires that upon those dates that cash has to be available to make this work, or they're not complying with the benchmarks that are in this bill. One of the other contingencies that's in (b) of 6(2)(a) is that one of the conditions for the university to receive State Fair Park is that in addition to the \$21.5 million that they have to certify they have contributed, they also have to provide a master plan and a business plan to support or to carry out that master plan to the Department of Administrative Services and the Clerk of the Legislature by December 1 of 2009. And further, they have to commit to providing to the Legislature an update of that master plan and business plan every December 1, and that report would be distributed or delivered to the Clerk of the Legislature. Right now at State Fair Park the Fair Board has to have a master plan before they can make any improvements over \$150,000 at that site. That's part of the property management agreement. Under this provision, it's a similar provision for the university. They have to demonstrate that they have a master plan in place and, as important, that they have a business plan in place. And that business plan will go through the types of ways that they plan to finance and to be able to accomplish the master plan. You will not receive--and I want to be clear--you will not receive confidential information in the business plan. It will be at the 35,000 foot level. But you will receive aggregate dollars, you'll see how things are designed to work. Obviously there will be a master plan that will have site improvements and those types of scenarios including, I would imagine, engineering. But again, these are designed to be documents for review and are designed to simply be a report to the Legislature. If the Legislature has further questions, they can pursue that with the university. These reports don't trigger anything, but they are a requirement of this process. Excuse me, they don't trigger a review; they're a requirement for the university as a contingency to get State Fair Park, in the event that they and Grand Island meet their obligations. The same requirements in (c) are for Grand Island as they would be for the university at a lower rate. They follow the same process. It's the exact same language that they would have to comply with. In (3) of Section 6, the University of Nebraska and Grand Island

Floor Debate
April 09, 2008

shall certify to DAS, Department of Administrative Services, on those three benchmark days that the funds provided are there, that they're either there in cash or legally binding but most importantly, that that money is available for improvements to be made. Those amounts certified will be held and expended as determined by agreement. They're going to create an agreement between the Hall County Livestock Improvement Association and the State Fair Board to build the improvements. Those two groups will come up with an agreement, a site plan, those types of scenarios, and those two groups generally and jointly will determine the guidelines that they will utilize in developing those improvements. (4)(a) of Section 6 says the State Fair shall be relocated contingent upon the completion of the conditions specified in the funding. That's a trigger. If the money is available, if it's been certified, if the university has provided what they're supposed to provide and they're committed to long-term providing the information, those all have to happen before the law actually says the fair will be held in Grand Island, another safeguard that's in place. The State Fair Board in (4)(b) is responsible for any remaining costs with site improvements for relocating the fair not to exceed \$7 million. That's the same language, just written a little more clearly as was in the original committee amendment, and that on (c), again, the Fair Board shall provide a written release or instrument acceptable to the State Building Administrator in working with the president of the university to transfer the State Fairgrounds to the Board of Regents. Section 7 is a technical amendment. That's authority that's currently given to Lancaster County. And now that the decision is being made and would generally be made, assuming that these requirements are met, that that is no longer a responsibility nor an opportunity that the Grand Island...or, excuse me, that the Lincoln area or Lancaster County should have. And that's being transferred to the county in which the State Fair is located. Section 8 is a Revisor's request. Currently any improvements that are made to state improvements have to go through a review process. As there likely won't be major improvements made at State Fair Park, it's unnecessary for that oversight to continue in place. And so on the bottom of page 5 of this amendment, that language is stricken. It's not functional. It's simply a technical amendment to remove that requirement. The other sections that are in this committee amendment--Sections 10, 12, 13, and 14--generally affect the dates of when different sections become operative. The rewrite of the Fair Board becomes operative January 1 of '09, and these amendments are generally designed to reflect those types of changes. Number two on page 6 adds additional intent language to the language after (a), which is where the fair...it's the intent of the Legislature for the fair to be relocated. This new section is added. And again, this is intent language, that the State Fair Board, the Department of Administrative Services, the Board of Regents of the University of Nebraska shall cooperate with each other and with other appropriate entities to provide for and carry out the plan to relocate the State Fair and to transfer State Fairgrounds in Lancaster County to the Board of Regents, including activities by the Board of Regents to obtain due diligent surveys, reports, site assessments at the State Fairgrounds in Lancaster County, and by the State Fair Board in connection with providing a marketable title to the same in a form acceptable to the Board of Regents. It means they're going to play

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

Floor Debate
April 09, 2008

nicely and share their toys, if I can paraphrase it for you. The last line, or the last phrase in this section on page 6 of the committee amendments, lines 24 and 25 says, in a form acceptable to the Board of Regents. That refers to the title, doesn't refer to the land, because... [LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR ERDMAN: ...they're doing their due diligence, they're going through those assessments. When they get to this point, providing marketable title, meaning we're going to give you a warranty deed to that property. And I will tell you that a marketable title is pretty obvious. There's no encumbrances, there's the proof that the person selling the property has rights to sell that property, that the state would certify that via warranty deed, and that generally if it's a form acceptable to anybody it should be a form acceptable to the Board of Regents. This is not in there to be devious. It's just simply recognizing that the Board of Regents will receive that deed and it's designed, again, to be just technical in nature. The last part of AM2747 again deals with making sure the dates happen on the operative date instead of the effective date. I would encourage you to adopt this amendment. I stand willing to answer questions you may have on this and other questions that may or may not be included in this bill and the process in which we'll arrive at those answers. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Erdman. You've heard the opening of AM2747 to LB1116. Members requesting to speak are Senator White, Senator Schimek, Senator Karpisek, Senator Heidemann, and others. Senator White. [LB1116]

SENATOR WHITE: Thank you, Mr. Lieutenant Governor. I would also like to thank Senator Erdman and the university for their willingness to work on this bill. I have a great deal more comfort. I think we can honestly say that an innovation campus is a major undertaking for the state, one that has the possibility of bringing great benefits to the state. But in moving in that direction, we need to move as a business would. I think the people of this state expect us, as what I would call the equivalent of a board of directors of a very large corporation, to ensure the basic businesslike rules and principles are in place. One of those, that when we embark on something like this, is that the land that we transfer from the State Park--an important institution, one dear to the hearts of many Nebraskans--is going to be taken care of in a reasonable fashion. To that end, to their credit, the university was more than willing, Senator Erdman was very willing to facilitate that. A master plan is a document, for those who aren't familiar with them, generally used in big real estate developments, outlines general principles on what the purpose of the development is. It can go down to details as what shall be the nature of the materials used in the construction, what are the roadways, issues like that. A business plan, by contrast, is how will we financially carry out the dictates of the master plan. That these things are in place is the important thing for us to be concerned with, that we ask and expect those who are in charge of this project to plan it is

Floor Debate
April 09, 2008

reasonable. We will see, and I hope we do see, the master plan and the business plan evolve through the years. That's normal and healthy. Businesses change, aims change. But very fundamental concerns like the ones Senator Louden raised--will they sell this land that we are giving them or will they lease it?--should be addressed in the master plan. My understanding is, by the way, the university intends that all land be leased, that this land will permanently belong to the university and the people of Nebraska, an idea I think I wholly applaud. But overall, the concerns that I had that we do this in a businesslike, professional, well-thought-out manner has been addressed, and for that I thank all those who participated, particularly the university and Senator Erdman, and also Senator Flood who brought the parties together, Senator Pankonin who was there, and Senator Lathrop and others who participated. So thank you. And with those changes, I will vote for the amendment and the bill. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Schimek. [LB1116]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I'll try to be brief. And I do have a couple of questions of Senator Erdman, if I could. [LB1116]

PRESIDENT SHEEHY: Senator Erdman, would you yield to Senator Schimek? [LB1116]

SENATOR SCHIMEK: And Senator Erdman, I apologize... [LB1116]

SENATOR ERDMAN: Mr. President, I'll yield to questions from Senator Schimek and any other senators that have questions, so you can save that time. [LB1116]

SENATOR SCHIMEK: Thank you. This really doesn't pertain to the amendment, per se, but I've had some constituent mail and I have to make sure that I have the right answers. Somehow along the way I missed what happens to the racetrack. [LB1116]

SENATOR ERDMAN: You didn't miss it, Senator Schimek. And the answer, at this point the best that I can give you, and I've got this listed as the things that haven't yet been answered, there's no agreement at this point as to what the future is. The agreement obviously would be that as long as the State Fair Board is operating State Fair Park, horse racing remains at that site. Senator McDonald has introduced an interim study on horse racing. The horsemen had a meeting yesterday which representatives from the Fair Board attended. The university attended at a separate time. They are working through those issues to determine how that plays out. In the short term, it stays where it is, it's operated by the Fair Board. In the long term, it has to be evaluated through this process, determining another site obviously if the university needs that land at whatever time, and also looking at what funds are available to build a new site or build a new track. Those things are being negotiated now. They're not included in this bill because they presume three years out, as opposed to what we're answering today. [LB1116]

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

Floor Debate
April 09, 2008

SENATOR SCHIMEK: But who would pay for that? [LB1116]

SENATOR ERDMAN: The money to come up with relocation of the horse racing would generally come from a number of sources, potentially through the horsemen, through their supporters, through other financing. The Lancaster County Event Center and similar areas have some authority but they don't, at this point, want that responsibility to operate that. So private funds generally are going to have to come up to doing that. I'll remind you that when you looked at the proposal that was presented by the Friends of Innovation Campus, which is the group in Lincoln to relocate to 84th and Havelock, there was \$32 million on the table of private funds. We're at \$21.5 million of money from Lincoln, if you will, in this bill. Potentially some of that money would be available to help with the relocation. But those are the types of questions that are being asked. Those are the types of conversations that are being currently held. The short-term answer is that they stay exactly where they are. They're being operated by the exact same entity. The long-term question has yet to be answered. [LB1116]

SENATOR SCHIMEK: Okay. Then I have two other kind of related questions. One, and I think I know the answer to this, the lottery funds do follow the fair to Grand Island, correct? [LB1116]

SENATOR ERDMAN: They do. And Grand Island will be responsible for matching that, in addition to their \$8.5 million. [LB1116]

SENATOR SCHIMEK: And that was the other question, and I thought that was the answer but I just wanted to make certain that I had the right answer. Thank you, Senator Erdman. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Karpisek. [LB1116]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Would Senator Erdman please answer a few questions? [LB1116]

PRESIDENT SHEEHY: Senator Erdman. [LB1116]

SENATOR ERDMAN: Still yielding. [LB1116]

SENATOR KARPISEK: Thank you, Senator Erdman. We talked off the mike a little bit about that there may be some concern that there is the old state capitol buried somewhere near the site. Can you bring us up to date on that, please? [LB1116]

SENATOR ERDMAN: We have, Senator Karpisek, we have done some research to determine what potential sites...what parts of the current site may have impediments to

Floor Debate
April 09, 2008

being developed. We are still working to find out those specific details. As I know, the individual that has contacted you and has contacted me numerous times and have had conversations. The best that I can tell you is that we believe, based on our research and visiting with the State Fair Board, that that land currently has no improvements built upon it. And under the plan from the university, it will continue to have no improvements built upon it. It's part of the land that we believe is in the section that is actually owned by the city of Lincoln, as opposed to the state of Nebraska under the State Fair Park. And so that issue is important to have an answer to. But our research at this point shows us that that's not an impact either on the fair's operation currently nor on the development plans of the university for the same site. [LB1116]

SENATOR KARPISEK: And I suppose that the answer would be kind of the same when Senator Hansen asked about the Salt Creek tiger beetle that, if that is the situation that is under that land, that is the university's problem? [LB1116]

SENATOR ERDMAN: Part of this process is obviously doing site inspections, those types of due diligence, to make sure that when you go to build on a property, regardless of who owns it, that you know what the restrictions are, the requirements are, and if there are any other things that you need to know about. That will all be a part of this process. Depending upon when that is discovered and ultimately, again, as I've shared with you, it's not planned to be developed if we're talking about the same area. It has no impact on either entity, either the state or the university. But that's all part of this process that's outlined in this amendment, that they do their due diligence, they find those answers, they make sure that their plans fit with the engineering requirements for that site, and that they can complete those requirements. [LB1116]

SENATOR KARPISEK: Okay. Thank you, Senator Erdman. I just want to...I don't plan to speak much on this bill. Feel a little bit like Senator Chambers yesterday. I know when I'm beat, but that doesn't mean I give up. I still want to put in a couple words. I'm still concerned about the \$5 million coming from the state for the movement of the fair. We heard at the beginning of session we would not take any money out of the Cash Reserve. We've heard it, we've heard it, we've heard it, and we've heard it again. We worked on the school system, the state aid to schools. I think that we did a very huge disservice to some of those schools by the amount of cut that some of them took. I feel if the Cash Reserve was available and we would have known that, then we should have used some of that money to alleviate a little bit of that problem. Now when it fits our needs or someone's needs, now we can take some of it out. I don't agree with that. I don't think it's the right message, and I don't think it's the right way to do business. My other comment is we're all hearing, people should vote on this, the people should be able to vote on this. Senator Erdman did a great job of explaining why it can't go to...shouldn't go to a vote of the people. I would just like to ask the senators to take that into consideration. I have had way, way more support to keep the fair where it's at. Maybe it's because of where my district is, maybe it's because of my district. I'm not

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

Floor Debate
April 09, 2008

sure, but I have had much more e-mail to keep it where it is. I'm sure Senator Aguilar has not. [LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR KARPISEK: And I'm sure he's been the other way around, and I can certainly understand his vote. But I think that's going to be the thing that comes out of this, that people are going to be upset if senators didn't go by what they said, not that I always listen to every person, every one voice. We have to make that decision. I think that that's going to come back. I do feel that there's going to be a petition process put in place on this. That is not a threat. I just think that it's going to come and I hope that we're ready for it. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Heidemann. [LB1116]

SENATOR HEIDEMANN: Thank you, Lieutenant Governor and fellow members of the body. I'm still trying to understand everything--the amendment, the bill, where we're headed, the direction, the path. I was wondering if Senator Erdman would yield to a couple questions. [LB1116]

PRESIDENT SHEEHY: Senator Erdman, you're still yielding? [LB1116]

SENATOR HEIDEMANN: And maybe I should have picked up on this if I would have read enough, and so I'm just coming to you to maybe try to get information. What kind of agreement or lease are we going to have with...it's the Hall County Livestock? [LB1116]

SENATOR ERDMAN: Hall County Livestock Improvement Association. Fonner Park. [LB1116]

SENATOR HEIDEMANN: How long a lease do we have with them? [LB1116]

SENATOR ERDMAN: Well, according to the statute, it will be until the Legislature changes it, because the lease is an agreement and it's statutorily requiring that the fair be held at that location. So their lease would likely be...I mean, the terms of the lease may be for a period, but the fact that there will be a lease to utilize that property will be indefinitely until the Legislature, or if the Legislature would change that site in statute. [LB1116]

SENATOR HEIDEMANN: How about on their side, though? That's what I'm worried about. I just want to make sure that we don't spend \$40 million...I would hope that we would have a 100-year lease or whatever so that if we make all these improvements with state money and private funds, that they say, okay, we don't want the State Fair anymore. Do we have protections on that side that they cannot pull out from under us?

Floor Debate
April 09, 2008

[LB1116]

SENATOR ERDMAN: Yeah. Section 1 of the underlying bill says that the fair is held in Grand Island. They can't back away from that. That's in state statute. And so even if they don't have a "lease" the fair is held at that site. So that is the ultimate carrot that the state of Nebraska has. The response that we get from the other side, from the Hall County side is that they want it to be successful, they want it to be a partnership. The lease will reflect the best interests of both parties going forward and it's not designed to say, hey, we're going to build \$40 million worth of improvements and then we don't want the State Fair. That's not what's going on here at all. I get the sense that I'm maybe not answer your question so I'll yield back to you and you can ask it again if I didn't answer it. [LB1116]

SENATOR HEIDEMANN: I know there's a commitment from Grand Island. I just want to make sure we have a legal binding agreement that says that they cannot back out on this. [LB1116]

SENATOR ERDMAN: One, the legal binding agreement is a state law, Senator Heidemann. They can't back out on a state law. The state law says the fair will be held at that site at that location in that community. That's the ultimate legal binding agreement between these parties. That's been agreed to by the parties. That's going to happen. The functional details of who operates what, when, those maintenance types of things, those will be a part of the lease but we already have a legal binding agreement between the parties and it's in LB1116. [LB1116]

SENATOR HEIDEMANN: Okay. Appreciate that information. I've got some questions also in the amendment on page 6. It's Section 14, starting with line 16. This section was put in there because of concerns of liability issues, you would say, or... [LB1116]

SENATOR ERDMAN: You're on lines 15 through 25 on page 6? [LB1116]

SENATOR HEIDEMANN: Yes. [LB1116]

SENATOR ERDMAN: No. This was put in there not because of liability, but for access issues, for the reflection of the parties that they will work together, that it's just an intent that they're going to fulfill as a part of this process to make sure people are aware that they intend to work together to fulfill the plan that's outlined in LB1116. That includes the access that the university would like to have to be able to do engineering plans and those types of things, as long as they don't interfere with the operations of the fair during the time that the fair is still held at that site. It's simply a due diligence or an agreement, if you will, that we're putting into the intent language to reflect the parties' willingness to work with one another. [LB1116]

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

Floor Debate
April 09, 2008

SENATOR HEIDEMANN: The one thing that I picked up on, they talked about site assessments. And usually with site assessments there's cost with that. It talks about cooperation. Who will pay for site assessments and engineering and all this other stuff? [LB1116]

SENATOR ERDMAN: The university. [LB1116]

SENATOR HEIDEMANN: Okay. [LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR HEIDEMANN: And it talks about cooperate with each other and with other appropriate entities. Who would be other appropriate entities? [LB1116]

SENATOR ERDMAN: Some of the other appropriate entities may be the Cattlemen, the Sheriffs Association, those organizations that have improvements that they have leases for at that site, to ensure that there is a transfer of those lease or that that process plays out. By adopting LB1116, we're not impairing those leases at all. People still have a remedy, they still have a cause of action. Those are the appropriate entities that we're going to have to work through in addition to the horsemen and others as this process plays out, to ensure that people are at the table and that this is a logical progression from A to B. [LB1116]

SENATOR HEIDEMANN: Thank you. That will be it for right now. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Additional members wishing to speak on AM2747 are Senator Aguilar, followed by Senator Avery, Senator Hansen, Senator Erdman, Senator Carlson, and others. Senator Aguilar. [LB1116]

SENATOR AGUILAR: Thank you, Mr. President, members. I turned my light on simply to yield Senator Erdman more time if he needed it. [LB1116]

PRESIDENT SHEEHY: Senator Erdman, you're yielded 5 minutes. [LB1116]

SENATOR ERDMAN: Thank you, Mr. President. Thank you, Senator Aguilar. To follow up on the comments from Senator Heidemann on the lease, obviously the intent of this process and what's been agreed to between the parties, as I have shared with you before, is that there will be a long-term lease that will be entered into by the parties. Depending upon the progress of the process and what needs to be done and what individuals are responsible for at that site, the actual lease or the terms of that lease may change, but the lease and the terms of the State Fair Board utilizing that facility goes on until the Legislature changes the law, and that will still be reflected in their lease in addition to what's in the state statute. So the agreement is ongoing. That is

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

Floor Debate
April 09, 2008

binding between the parties. Their terms of the agreement as far as responsibilities and how they will share the revenues, how they will share the expenses, when that will happen, when the fair will have access to the property, when the State Fair would be held--those types of things will be in that specific lease. But candidly, the safeguard for these parties and the safeguard for the state of Nebraska to ensure that there is that agreement and that site is available is in the state statute. That's the current statutory process that we have at the existing site. That is how we have operated with the State Fair for a number of years and that's how we will continue to operate. It's interesting, the fact that the Legislature is doing some Cash Reserve transfers and others they're not. We're doing them at times for some members of the Appropriations Committee and for others not. We're doing them in certain cases and not. The reality is, is that all of us has had the opportunity to make the case. I have done that on roads funding, others have done it in other areas. Senator Carlson has done it with his irrigation payments that were a result of LB701. Although there have been comments by some that we shouldn't touch the Cash Reserve, I've been pretty consistent that that money should be available for things that we as a state believe are important. I'll go back to what we talked about on General File. Over the last 30 years, the state of Nebraska has contributed \$3.7 million total to improvements at State Fair Park. I shared with the committee all along and I shared with the parties involved in this conversation early on this session that I believe that it was essential and important for the state of Nebraska to be a partner in this solution. That not only means us as members being involved in the conversation, bringing parties together to find common ground, but that means financially. And that's what we're doing here. It is reasonable. It's a one-time expenditure similar to what Senator Carlson asked for in--Senator Carlson, I apologize for the number--but in his legislative bill this session. But it's consistent with a one-time expenditure. Recognize that there are \$37 million of additional funds that come from us leveraging that \$5 million in state funds. We are able to build \$42 million worth of improvements because we're able to overcome that gap. That's a small number. It's real money and it's part of the process that we have to evaluate as priorities. And it's part of the process that I have provided to the members of these conversations, the members of the Agriculture Committee, and to you as members when you've asked me, of the Legislature, about why this is there. If the decision had been made, if the parties couldn't have agreed, that money should have been available regardless of what the outcome was for the fair to utilize. I had made that clear all along as well. So we can go through the intricacies of this process, but recognize that myself nor the parties involved nor, I hope, you have arrived at this overnight. It has been a work product and hopefully you have taken advantage of the time that you've been given, as well as the information that's been provided, to ensure that the questions that you have have been answered. And if they haven't, again, I stand willing to try to answer those to the best of my ability. Thank you, Mr. President. Thank you, Senator Aguilar. [LB1116 LB701]

PRESIDENT SHEEHY: Thank you, Senator Aguilar. Thank you, Senator Erdman.
(Visitors introduced.) Senator Avery. [LB1116]

Floor Debate
April 09, 2008

SENATOR AVERY: Thank you, Mr. President. I've listened to the discussion. I've heard some things said that I want to address; things like, let's make the university act in a businesslike manner and let's see if we can't make them be professional. The underlying assumption seems to be that the university would not act in a businesslike and professional manner if we didn't put it in statute. Frankly, I object to that suggestion and I question whether this amendment is completely necessary. I would like to ask Senator Erdman a question or two, if he would be willing to yield. [LB1116]

PRESIDENT SHEEHY: Senator Erdman. [LB1116]

SENATOR ERDMAN: Yes. [LB1116]

SENATOR AVERY: Oh, you yielded. Sorry. Thank you. [LB1116]

SENATOR ERDMAN: I'm still yielding. [LB1116]

SENATOR AVERY: Yeah. I'll get to it. [LB1116]

SENATOR ERDMAN: Okay. [LB1116]

SENATOR AVERY: The language in here that requires plans, documents, agreements, requiring the university to commit to do these things--do you think that we're asking them to do anything that they would not otherwise do in the normal course of developing the State Fair Park and carrying out the intent of this Legislature? [LB1116]

SENATOR ERDMAN: No, I don't think so, Senator Avery. I will tell you that they've agreed to the language very readily. It's the same exact type of requirement that we placed on the State Fair Board. And so I guess to follow your logic further, you would probably then say that because this is in existing law, the Fair Board themselves isn't a professional organization; and that's not true either. This is simply a reflection of what they've agreed to do as a contingency and a safeguard so that the people of the state of Nebraska and specifically the Legislature have access to those plans prior to their development of it. [LB1116]

SENATOR AVERY: If this is what it takes to advance the bill, I certainly would not have any objection to that. I do object, though, to the suggestion that somehow the university has to be made to behave in a professional and businesslike manner. And I am also a little bit concerned that we might be just putting another hurdle in the way of the university, or maybe raising the bar and making it more difficult to clear. I believe the university would do it in a professional manner. I believe they would do it in a businesslike manner. I have no doubt about that and I don't think we need legislation to get them to do it. Thank you, Mr. President. [LB1116]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Hansen. [LB1116]

SENATOR HANSEN: Thank you, Mr. President. Mr. President, would you ask Senator Erdman if he would yield for a question, please? [LB1116]

PRESIDENT SHEEHY: Senator Erdman. [LB1116]

SENATOR ERDMAN: Senator Hansen, go ahead. [LB1116]

SENATOR HANSEN: Are you back there? [LB1116]

SENATOR ERDMAN: Hi there. You can't see me over Senator Langemeier. [LB1116]

SENATOR HANSEN: Okay. I have a question for you, Senator Erdman. It's been about 23 working hours that we've been in this Chamber since we passed LB1116 on General File. [LB1116]

SENATOR ERDMAN: Time flies. [LB1116]

SENATOR HANSEN: At the rate that we are going, can we have the State Fair moved by this August? [LB1116]

SENATOR ERDMAN: I'm sorry? (Laughter) [LB1116]

SENATOR HANSEN: At the rate we're moving, since it's only been 23 hours since we passed this bill, working hours since we passed this bill on General File, I was wondering if we, at this breakneck speed, if we could have the fair moved by this August. [LB1116]

SENATOR ERDMAN: Well, that depends on the money. And I guess if you want to coin the phrase "show me the money," anything is possible. But again, the time lines are based upon that. I understand the lightheartedness of the question. But our process is going to be significantly different than the responsible and thorough process that have to be done on these developments, which have been going on for about eight years now and, most importantly, about the last 15 months. So we're not just doing it now. We've been doing it for quite a while. [LB1116]

SENATOR HANSEN: All right. I appreciate that answer. There are a few, and I don't know the number, of privately owned buildings on the State Fairgrounds now. I know the Beef Pit and the Lancaster County Sheriffs Association has privately owned buildings out there. Are there any more, and what is the outlook for the reimbursement or the moving expenses for those if they would go to the new State Fair site? [LB1116]

Floor Debate
April 09, 2008

SENATOR ERDMAN: There are seven facilities that have been identified by the State Fair Board that potentially are either owned by somebody other than the state of Nebraska or the State Fair Board, or a private organization. You mentioned specifically the two private organizations. I won't get into the details of what people are talking about now, but practically speaking the Cattlemen and the Sheriffs Association have an opportunity to be made whole through their lease or their requirements or to be compensated in some form for their facilities that they have. One of the ideas that they may have is they may be able to move the property--obviously the Beef Pit and the sheriffs' building are not quite that easy to move. But there are different ideas that may be available to them depending upon the outcome, depending upon who owns the property, when those agreements are made. But those things have to be worked out between the passage, the assumption of the passage of LB1116, and the transfer of the land or, at some point, even after that. Those are the things that we talked about earlier, that I talked about earlier with Senator Heidemann about working with other interested parties to resolve those issues. That very easily is probably one of the most obvious ones that comes to the minds of a lot of people that are trying to figure out the transition process. [LB1116]

SENATOR HANSEN: Thank you, Senator. We all know that when you build private...either a house on a lake that's owned by NPPD or on state ground, that it is a risk. And the people who built those, I would assume that they knew there was a risk at some time, too. But even that, I think that those buildings need to be appraised at some time and a fair market value paid for them. [LB1116]

SENATOR ERDMAN: Yeah. [LB1116]

SENATOR HANSEN: Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Erdman. [LB1116]

SENATOR ERDMAN: Thank you, Mr. President. And if I can follow up, Senator Hansen, this is not a taking. They still have their right, they still have their property, they have their interests. Nothing changes in that regard. The opportunity for either the state or the university to work with those entities that have those properties is going to be there regardless of who the property owner is. Depending upon when that happens likely will depend on the reimbursement or the risk, if you will, of who assumes that. The thing that I would say, going forward, to you, Senator Hansen--I know you've been a member of the Cattlemen and others--whatever the resolution is for one, it should be similar or as fair to the other. We shouldn't say to one entity, say the Sheriffs Association, we shouldn't say to them, hey, we're going to buy your building from you, pay you fair market value, and turn to the other group, the Cattlemen and their Beef Pit, and say you're on your own, sue us. That's not what this is about. This is about working

Floor Debate
April 09, 2008

together with people and finding out that if we're going to treat one fairly, we should treat both of them as fairly as is possible. There are three agencies that have buildings or improvements on that site as well. There are two temporary or two movable facilities that are owned by private entities as well, which aren't as big of a deal as the more permanent improvements. But there are seven structures or seven different improvements that are going to be subject of how this transition plays out, who's responsible. And again, by the passage of LB1116, it doesn't impair their leases, it doesn't impair their rights. It just means that we have to try to work with them to find a resolution that's acceptable to them. And if not, they would still have some remedy that they could pursue in order for them to recover what they believe their right was. But you're absolutely correct. When you build on someone else's land, if you own it, whether it's through a ground lease or some other type of lease arrangement, you need to make sure that you understand what the lease agreement was. And it's not just those entities; there are other entities beyond those seven that are potentially owned by other entities that still have to be worked out as well. So those are the types of things that we definitely have to work through in the interim and obviously before the transfer. But in the event that that doesn't happen before the transfer of land from the state to the university, assuming all the benchmarks are met, then there still is an opportunity for that to be resolved, and I think it should be. And my hope is, is that those parties that are at the table will work in good faith with one another as we've tried to do through this process to find a resolution to that. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Senator Carlson, followed by Senator Wallman, Senator Schimek, Senator Friend, Senator Fulton, and others. Senator Carlson. [LB1116]

SENATOR CARLSON: Mr. President and members of the Legislature, I would like to address a question to Senator Aguilar, if he would yield. [LB1116]

PRESIDENT SHEEHY: Senator Aguilar, would you yield? [LB1116]

SENATOR AGUILAR: Yes, I will. [LB1116]

SENATOR CARLSON: Senator Aguilar, the goal and the plan is to have the first State Fair in Grand Island in 2010. Is this correct? [LB1116]

SENATOR AGUILAR: That is correct. [LB1116]

SENATOR CARLSON: And that being the case, how soon do you think the first dollar would be spent and the first spade turned on improvements, in order to prepare for that date? [LB1116]

SENATOR AGUILAR: Well, the Governor had discussed the possibility, if everything

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

Floor Debate
April 09, 2008

passes like this should, of coming out to the city of Grand Island to do the official signing of the bill. And I would imagine there will be some shovel work going on that particular day. [LB1116]

SENATOR CARLSON: Okay. So it's going to be very soon? [LB1116]

SENATOR AGUILAR: Absolutely. I mean, right now, you know, we're just finishing up our racing season. I would imagine as soon as that is over you'll start to see progress if everything goes according to plan. [LB1116]

SENATOR CARLSON: Okay. Thank you, Senator Aguilar. Some of you may remember that last Thursday I put a verbal attack on a radio station in Lincoln. And since then, I've talked to those people and invited the personnel from KLIN to come out to the first State Fair in Grand Island in 2010 and I'm going to be their host. So I want to make sure that things stay on schedule. I would like to address a question to...I'm going to address a statement to Senator Avery on his concerns. And Senator Avery, I firmly believe that the University of Nebraska is going to be professional in their approach to this agreement. They're going to be prudent, they're going to be businesslike, they're going to be honest, and they're going to be fair. But in terms of having a schedule, and that's what this amendment is about, it's almost like a business plan, and I think it's entirely appropriate that that kind of thing be done and be followed. I would like to address a question to Senator Erdman, if he would yield. [LB1116]

PRESIDENT SHEEHY: Senator Erdman, are you still yielding? [LB1116]

SENATOR ERDMAN: I am. [LB1116]

SENATOR CARLSON: Senator Erdman, it was LB1094... [LB1116 LB1094]

SENATOR ERDMAN: Thank you. [LB1116]

SENATOR CARLSON: ...that was so important to Senator Christensen and me, and I appreciate you bringing it up. [LB1116]

SENATOR ERDMAN: You bet. [LB1116]

SENATOR CARLSON: In this plan, there are three entities that it's very important that they perform--the University of Nebraska, the State Fair Board, and the city of Grand Island. Wouldn't you say that's true? [LB1116]

SENATOR ERDMAN: There's actually four, and the it's the state of Nebraska as well. [LB1116]

Floor Debate
April 09, 2008

SENATOR CARLSON: The state of Nebraska as well. Many times when we pass a law, if there's a violation of that law there's a spelled-out penalty, and that's not the case here. But I asked Senator Aguilar the question because if this amendment and LB1116 passes, then they are very quickly going to make some commitments to getting that area ready for the State Fair in 2010. And you got a schedule of payments and financial commitments for the State Fair Board and for the University of Nebraska, and Grand Island is spending money. Bad things happen with good intent. What happens if either the Fair Board or the university can't live up to their commitment? [LB1116]

SENATOR ERDMAN: The process that we're following here is we have to provide a viable site with the improvements for the fair to be relocated in before the fair can actually be legally moved from the site that they are at now. In the event that the benchmarks and the master plan... [LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR ERDMAN: ...aren't met by the university, which is a contingency on the land transfer, then it doesn't happen. And in the event that the money is not available from Grand Island as well, that's also a contingency on the land transfer happening. And the reason that's done that way is so that we don't evict the State Fair without the money. These groups have committed unequivocally to those funds and that includes the Fair Board, the city of Grand Island, the university, and then obviously if this bill passes, the \$5 million from the state. There are triggers in place that the next thing happens when those benchmarks are met. And if those benchmarks aren't met, it either extends the date or there has to be a revision of those conversations. [LB1116]

SENATOR CARLSON: Okay. Thank you, Senator Erdman. And I think that these entities are going to live up to what they say they're going to do and it will be a successful endeavor. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Wallman. [LB1116]

SENATOR WALLMAN: Thank you, Mr. President. Would Senator Erdman yield to a question? [LB1116]

PRESIDENT SHEEHY: Senator Erdman, would you yield to Senator Wallman? [LB1116]

SENATOR ERDMAN: Yes. [LB1116]

SENATOR WALLMAN: Thank you. In regard to Senator Schimek brought up about the horsemen and what they contributed to the State Fair Park in the past, it'd be a shame if we didn't give them some kind of a guarantee or a plan. And question number two,

Floor Debate
April 09, 2008

beings this legislative body literally did away with one-room schools and there's a one-room school sitting on the State Fairgrounds, would that stay there, do you know? [LB1116]

SENATOR ERDMAN: Two questions there; one dealing with horse racing. Again, the Fair Board and the horsemen have a good relationship. They have for years. And the Fair Board representatives have met with the horsemen as late as yesterday to try to work through some of these issues. They are committed...the Fair Board is committed, one, to ensuring that it has a successful transition, that they're capable and will be able to continue to operate that until that site is selected for a new track, and that at that point, then, another entity would apply for the license and receive that. The Fair Board doesn't want horse racing to lose out in this deal. They're committed to that as much as they are committed to the site in Grand Island, so that process is part of the conversations. The university has to be a willing partner in that conversation, Senator Wallman. They have to be sensitive to the realities that the horsemen face. They have to be willing to work with the Fair Board and with the horsemen in trying to find a reasonable timetable that meets their needs without putting undue burden on them. That's all part of this process. The university has to be a partner in that. They have to be a good landlord, if you will, if that's what ends up happening, that it stays at that site. But if it's their interest that that no longer stay at State Fair Park, they should be a good partner in helping to come up with the money that they had previously promised under the plan in Lincoln to help build a new racetrack somewhere else. And I think those interests are in play now; they're having conversations. On the issue of those historic properties, those historic buildings that are at State Fair Park, that's going to be a decision by the State Fair Board to be able to determine what happens to those old school buildings, the historic buildings, those types of things and determining what the outcome of those items are. Those again are those items that will have to be resolved in the interim. [LB1116]

SENATOR WALLMAN: Thank you, Senator Erdman. The one-room schoolhouse is kind of a relic for students around here; they go once in a while to see what it was actually like when I went to school. So thank you, Mr. President. Thank you, Senator Erdman. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Thank you, Senator Erdman. Senator Schimek. [LB1116]

SENATOR SCHIMEK: Thank you, Mr. President and members. I rise because of a comment I think that I heard Senator Karpisek make a little bit ago, and it relates to questions and comments I've been getting from my constituents, and I think that everybody needs to be able to tell their constituents the same thing. And that is, the Legislature does not have the authority to put these kinds of issues on the ballot. We can put constitutional amendments on the ballot, but we don't have the authority to put

Floor Debate
April 09, 2008

bills basically on the ballot. And that's important to know and it's important to tell your constituents. It's not like city government who has to put certain issues on the ballot for approval. We don't do that. If you look at page 250 in your Blue Book, you'll see a list of all the things that have been put on the ballot by the Legislature. They are all constitutional amendments. The people can put a constitutional amendment by petition. The people can put a referendum on the ballot after we passed a bill they don't like. But we cannot put a bill on the ballot. And can you imagine what would happen in here if we had that kind of authority? Any tough issue that came along, there would be a great temptation to put it on the ballot. And pretty soon that ballot could become very, very heavy with issues. It's just not something that we do or can do, and I think that you ought to be able to tell your constituents that that's not an option for us, and tell them that's why we're paid the big bucks, is to make these tough decisions. (Laughter) Thank you. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Friend. [LB1116]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I had...I've never talked about this bill to this point, or I hadn't talked about this bill to this point, mostly because I think that there were competent voices and plenty of discussion points--wasn't necessary. Most of you know that I lived in Grand Island, or you had heard the rumor, for almost four years. So you know, in a way I have a soft spot in my heart for this whole measure. I think it's a great idea. That said, I think it's important that some of those questions...and there is a comparison chart. I'm going to get into that in a minute. I think, it's important that those questions have arisen and it's important that we continue, however long it takes. We've got a few days left and I don't think Senator Erdman minds. But I wanted to make a few points. One, my friend, and I think we're all friends with him now, Senator Karpisek had made some comments earlier. And I flat-out blatantly disagree with one of the points that he made. I don't recall--and maybe he wasn't talking about me--I don't recall pointing out that the Cash Reserve was an untouchable set of funds or pretty much taboo and that we shouldn't use it when either we feel like our back is against the wall, we have no other choice, we're in a situation that we really feel like it would be valuable. I would say that all three of those things are probably in play here. I guess all I'm saying is I haven't heard the same things that Senator Karpisek has heard. I mean, as a matter of fact, we could have got away from a tax increase the other day if we would have tapped into the Cash Reserve. Don't get me started on that again. Look, the AM2747 is a decent amendment and I got a chance to go through it, and Senator White brought up some valuable points for whatever reason--and I really didn't get a chance to talk to Senator White about it the other day off the record. He brought up some decent points and I think, to a certain degree, that AM2747 answers some of the questions for him. And I'm not going to put words in his mouth, but it did for me because he put some of those questions in my mind when he was bringing them up the other day. We're looking at business plan language in here. In (b), the University of Nebraska providing a master plan and a business plan to carry out

Floor Debate
April 09, 2008

the master plan for the innovation campus to the Department of Administrative Services and to the Clerk of the Legislature on or before December 1, 2009, and commitments therein. That's about as good as it gets in legislative language. The second thing is...or the third thing is, that I wanted to point out, is that Senator Erdman sent out a comparison sheet earlier and I think it's very valuable. And one of the things that I've heard off the record or off the mike is that, well, what happens if Grand Island can't satisfy the needs, either from a funding standpoint, attendance, you know, whatever the case might be? Well, they're going to end up being a shortfall, right? I know...I talked to Senator Erdman off the mike. I don't have to ask him any questions because I got the answers here and I don't want to misspeak. But if there is a shortfall or if things aren't falling into place for Grand Island, the transfer doesn't occur. The language is here. So all bets are...well, not all bets are off. [LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR FRIEND: But the bets...thank you, Mr. President. The bets are off for the time being. The money has got to be there. It was one of the biggest questions that I had. Okay, Phil, what happens if Grand Island can't satisfy the needs? What happens is that the land transfer doesn't occur. I think the checks and balances are in place here. I think AM2747 is important, but I also think we can talk this thing to death. Again, you're probably talking to the wrong guy. I think this is an awesome idea. But the comparison sheet shows that State Fair Park was in \$18 million shortfall, that 84th and Havelock was almost the same, and the shortfall with Grand Island was nonexistent, if everything played out the way we needed it to play out with the legislative language and the way we want it to play out. I think this comparison sheet is important because if this fair stays where it's at, I believe it will fail. I believe Havelock is a nonstarter, 84th and Havelock. So anyway... [LB1116]

PRESIDENT SHEEHY: Time, Senator. [LB1116]

SENATOR FRIEND: Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Friend. We have Senator Fulton, followed by Senator Howard, Senator Harms, Senator Heidemann, Senator White, Senator Wallman, and Senator Karpisek. Senator Fulton. [LB1116]

SENATOR FULTON: Thank you, Mr. President. Thank you, members. As you recall, last time we debated this not too long ago, I was making a case for the location at 84th and Havelock. Senator Erdman went a long way to answering questions that I had. And frankly, having numbers in front of me has clarified, shone a little light on the decisions that we have before us. So what I'm going to do with my time here, there are four items I want to hit on. Number one is the ballot initiative that Senator Schimek talked about. But two, three, and four, I want to look at the three potentialities that we had before us.

Floor Debate
April 09, 2008

Senator Friend talked about a comparison sheet. I'm going to talk to Senator Erdman about that a little bit because it's actually illustrative of what went into the decision-making process. The ballot initiative, I have received a number of contacts from Lincolmites, from constituents, even from people outside of Lincoln asking why the people can't vote on this. Senator Schimek has already hit on it; I want to hit on it again so that people can hear it loud and clear. If the people want to vote on this, it can be done via an initiative process, a ballot petition, a petition process to put this on the ballot. We in the Legislature do not have that power. We in representative government must make these decisions because we are elected to make these decisions--or, in my case, appointed to make these decisions. A ballot initiative is going to have to come through the people, so people understand that. Now the options that we have available before us basically are three: leave the State Fair where it's at, move the State Fair to 84th and Havelock, or move the State Fair to Grand Island. The numbers do spell out how this decision came to be. And so I'll ask if Senator Erdman would yield to some questions. [LB1116]

PRESIDENT SHEEHY: Senator Erdman, are you still yielding? Continue, Senator Fulton. [LB1116]

SENATOR FULTON: Senator Erdman, the State Fair Park as is, if we were to--I'm looking off the comparison sheet. If we were to leave the State Fair alone, not do anything at all, could you explain the fiscal impact that that would have? [LB1116]

SENATOR ERDMAN: Yes. And just for clarification, it's the assumption that the \$5 million from the state is available or not? [LB1116]

SENATOR FULTON: Let's assume that it is not available, if we absolutely did nothing. I've had a number of constituents ask why can't we just leave everything alone. If we had status quo, what would that cost? [LB1116]

SENATOR ERDMAN: Okay. What we know is that we went through the process with the committee under LB435. Phase one was the ideal model; phase two was the examination of State Fair Park to the ideal model. Their number was \$30 million of improvements needed to be made at State Fair Park to bring it up to the level and which would be appropriate and necessary for a State Fair venue to be not only successful during the fair, but year round. And again, that's the goal at Grand Island or anywhere else, is if you're going to make these types of improvements, you want them to be utilized more than just, you know, two weeks a year. So if you use that as the basis, and the fair's numbers are about that same amount, just over \$30 million, they have demonstrated through their cash flows and through their cash on hand the ability to come up with \$7 million to be able to make those types of improvements. That leaves you a \$23 million shortfall to be able to make those necessary improvements. That doesn't mean that they couldn't be done. That means that it would take time to

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

Floor Debate
April 09, 2008

determine whether it's done through fund-raising or whether it's done through additional revenues. But recognize that the consultant's report said that to get to those additional revenues you have to make substantial improvements to the facilities in a number of areas, to make sure that you can attract that type of audience and return that type of investment. That doesn't mean that improvements that are there are falling down or those things everybody wants you to believe. It's not the case. The fact is, is that in order for them to be upgraded... [LB1116 LB435]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR ERDMAN: ...to the standard that they would need to be, to be successful or to be even equivalent to the facilities as far as age and type that you're going to have even at Grand Island, it would cost \$30 million total, of which the fair has demonstrated they have \$7 million potential out of their cash flow and then whatever the foundation could potentially raise to assist them. [LB1116]

SENATOR FULTON: Okay. So on a comparative basis, in order to adopt the status quo, comparatively it's going to cost \$23 million. Is that accurate? [LB1116]

SENATOR ERDMAN: Again, I'll go back to the comment I made to Senator Karpisek. It's \$18 million because my position all along was that the fair should have that \$5 million... [LB1116]

SENATOR FULTON: Including that \$5 million. [LB1116]

SENATOR ERDMAN: ...regardless, but it's an \$18 million shortfall immediately, after you calculate what the fair is able to come up with. Not including their foundation efforts and the state's money, it's an \$18 million shortfall at the existing site. [LB1116]

SENATOR FULTON: Okay. I'm running out of time. I'll return to this on some other time. Thank you, Mr. President. Thank you, Senator Erdman. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Thank you, Senator Erdman. Senator Howard. [LB1116]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Erdman is still yielding or is still addressing questions, I have one for him. [LB1116]

PRESIDENT SHEEHY: Still? [LB1116]

SENATOR HOWARD: Still. [LB1116]

SENATOR ERDMAN: Hello, Senator Howard. [LB1116]

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

Floor Debate
April 09, 2008

SENATOR HOWARD: And Senator Erdman, you may have addressed this in your opening or at some previous segment in this. But I've had a constituent that's contacted me and has asked what happens in the event that in moving these buildings, taking these buildings down, they run into something unforeseen like asbestos in the buildings. I mean, these are old structures. Who's responsible for paying any additional cost that comes in with this? [LB1116]

SENATOR ERDMAN: Senator Howard, as I walked through the new language that's on page 6 of the committee amendment talking about the due diligence, the site surveys, the site assessments, those would all be those types of items that would be included in that. Depending upon what is found and what is revealed, those would be logical conversations between the state of Nebraska and the university as to the responsibility, as to how those would be handled. Obviously it would likely depend on cost or benefit and who that would benefit, recognizing that the University of Nebraska-Lincoln is an entity within the state of Nebraska. But those are the types of answers that would...or those are the types of questions that would be answered through that process and would have to be resolved between the state and the university. And as I mentioned to Senator Heidemann earlier, the engineering studies and those things would be done by the university as part of their cost for developing the site, and they've committed to that in the information they've distributed to you. [LB1116]

SENATOR HOWARD: So what it sounds like to me, what you're saying is, there's not a firm commitment for who's going to address that right now; it's a conversation or it would be a conversation between the university and the state regarding the cost. [LB1116]

SENATOR ERDMAN: Senator Howard, think of it this way: if you were buying a house or getting a property, when you went to purchase that property you would probably have some additional information that would help you with that. Part of this process requires benchmarks, checks and balances for things to happen for the ultimate result to be successful. So that is being contemplated as far as engineering. We know that we've got partnering plans from the mayor's office in Lincoln. The State Fair's own master plan, they have engineering studies of costs of infrastructure improvements. Obviously none of those contemplate demolition or those types of areas. But those generally would be the responsibility of the university that would inherit or would gain the property. But there is no specific responsibility, if you will, that one entity or another; it's going to depend on what those site assessments demonstrate and ultimately what the current owner and the new owner would work out as far as their property transfer. [LB1116]

SENATOR HOWARD: Well, I could appreciate that, and I hope that you can also appreciate my concern. My district is an older district in Omaha and asbestos problems are not a novelty that we experience. And I think in some of these buildings we may really find that to be the case, whether it be in the roofing material or in insulation, that

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

Floor Debate
April 09, 2008

that's going to be a cost and a considerable cost that may not have been anticipated when this plan was made. I'm going to offer the remainder of my time to Senator Friend. [LB1116]

PRESIDENT SHEEHY: Senator Friend, 2 minutes. [LB1116]

SENATOR FRIEND: Thank you, Mr. President. I was messing with the pages right there. I'm not going to tell you how. Senator Howard, thank you. Actually I'll tell you how, if I have any more time at the end. How much time do I have? [LB1116]

PRESIDENT SHEEHY: 1:45. [LB1116]

SENATOR FRIEND: I didn't...thank you. I didn't want anybody to misconstrue what I was saying. I like Lincoln, too. I hope you all understand that. Well, I kind of lived here the last six years so, I mean, I've lived in Lincoln and Grand Island. All I'm saying is, I think that when you look at that comparison sheet that Senator Fulton was talking about, I think that the Agriculture Committee--and I don't want to put words in their mouth--I don't think that they had any other choice, folks. I think that they were forced into a situation here that made the most logical sense. I think that they looked at the comparisons, they dug into these numbers really deep and they said, look, we've got shortfall numbers for 84th and Havelock and we've got shortfall numbers for the State Fair Park. We've got improvements at State Fair Park, we've got improvement... [LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR FRIEND: ...numbers at 84th and Havelock, and we've got improvement numbers in Grand Island. I think it forced their hand. And I don't want to put words in their mouth. This was the most logical choice, and it was the most logical choice for both communities. I know that sounds crazy, but I think it is. The other night...one of my favorite guys is Bob Knight. And the other night after the game, he was talking...he was arguing with Digger Phelps after the Memphis-Kansas game. And Bob Knight goes, Digger, we can talk about this for five hours and you're never going to convince me at all. Maybe this is one of those issues. If it is, so be it. But I think what's happened here, no matter what, was going to cost the state money. I think this is the wisest move. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Friend. Thank you, Senator Howard. Senator Harms. [LB1116]

SENATOR HARMS: Thank you very much, Mr. President, colleagues. I rise in support of AM2747 and the underlying bill, LB1116. I think Senator Erdman has done a tremendous job in getting this to where it is today. If you look at everything that he has

Floor Debate
April 09, 2008

accomplished for this bill--he's answered all the questions, he's dealt with all the issues. And quite frankly, I think that this will be successful. I believe that Grand Island and I believe that the Fair Board and the university will meet their obligations. But for us as senators, I think we need to keep focused on the fact that this is an opportunity for us to move this state forward. This is an opportunity for us to take this great state of Nebraska and put it into the new world global economy. We will be unable to compete in the future. We will be unable to meet the demands that will be placed on this state and this country because we will not have the research that's available, and I believe very strongly that the University of Nebraska is the key to our future. The research they can do will move this state forward. It will attract businesses and manufacturing and companies to this state. And so as we look beyond what we're talking about today and we look into the future, we're looking at something very bright. We're looking at the opportunity to begin to carve a new direction for this state, and that's what we should be about in this legislative arena. That's what we are here for, is to move the state forward, to make the right decision. Senator Erdman has placed us on the schedule, on the track to move this state forward. And I can tell you, 20 years from now or 10 years from now, the senators that are in this room will look at this project as one of the most important things that this Legislature has done for the future of this great state. And so I would urge you as senators to move this forward and vote in favor of this amendment and this bill, LB1116. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Wallman. [LB1116]

SENATOR WALLMAN: Question. [LB1116]

PRESIDENT SHEEHY: The question has been called. Do I see five hands? I do. The question is, shall debate cease on AM2747? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1116]

CLERK: 27 ayes, 4 nays, Mr. President, to cease debate. [LB1116]

PRESIDENT SHEEHY: Debate does cease. Senator Erdman, you're recognized to close on AM2747. [LB1116]

SENATOR ERDMAN: Thank you, Mr. President. Let me briefly go back through what the amendment does. Let me clarify something that Senator Heidemann and I were in conversation with so that it's clear to you what's specifically stated in this amendment, outline what's in there and hopefully you'll adopt this as a technical amendment to LB1116 and we can continue, if you have questions or comments, on LB1116 until those lights run out. I would hope that members would be sensitive to that, that if individuals have questions, that they have that opportunity before any vote on Select File to advance the bill. And ultimately I would hope that you would agree and advance the bill at that time. Section 6 is a rewrite of the existing Section 6 of the bill. It more

Floor Debate
April 09, 2008

appropriately and accurately states the obligations of the parties involved and the contributions that they will be making on behalf of their individual organizations to this solution. It makes sure that those dollars have to actually be available through the benchmarks before any land is transferred. And if you go to (4), it is true--and this is a clarification for Senator Heidemann--there is nothing directly that obligates the State Fair Board in a long-term lease with Grand Island. But let me walk you through this scenario: (4) of Section 6 in this amendment says "the Nebraska State Fair shall be relocated to the city of Grand Island pursuant to (4) of section 2-101 contingent upon completion of the conditions specified in (2) of this section." The intent language in 2-101 is it's the intent of the Legislature for the fair to be held at Fonner Park. That intent language is triggered when the money is in the bank and has actually been certified to the Department of Administrative Services that Grand Island, the university are on record that they've got the money. The Fair Board, at the passage of this legislative bill within 60 days, is on record that they're committing to \$7 million to the solution. In the event that that money is there--and again, we're operating that it is--the only way that that money can be spent is by an agreement between the Hall County Livestock Improvement Association and the Fair Board. If you honestly think that we would have wrote this bill to say hey, we're going to bring the fair out here and then give them no protection, you obviously haven't been paying attention. But it has been somewhat confusing how this is laid out, and I want to make sure that it's clear. There is no direct requirement. The lease has been agreed to in principle. Upon the passage of LB1116 that will be executed. Upon the passage of LB1116 the agreement and the site plan and those improvements will be executed and those two parties, under that agreement, will have joint say in the improvements that actually get built. So it's more than just simply saying hey, do we have a lease in place? Not only do we have the requirement that the parties have to contribute before the fair be relocated, but we also have the requirement that the two parties that will be partners in Grand Island have coequal say in an agreement as to how the money will be spent and ensuring that their parties are represented and their interests are protected going forward. So it is clear that's the intent. It's clear that there are triggers in this bill that go back to that to ensure that if something is missed, that the fair is not without a home; and more specifically, the fair is not moved from its existing site. It is in the best interests of all parties to fulfill their obligation; otherwise, this cannot be executed. Section 7, again, is a technical amendment that transfers to the new county...excuse me, to the county in which the State Fair would be located. Section 8 is a Revisor's request that deals with the review of property improvements, that it would no longer be necessary with the passage of LB1116. The other provisions of... [LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR ERDMAN: ...the amendment deal with the technical nature, effective dates, reworking the wording or the operative dates of some of those sections. And it also includes the language that these parties will continue to work together, not only between

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

Floor Debate
April 09, 2008

themselves, but with other appropriate entities such as the city of Lincoln, such as these private entities that have facilities on State Fair Park, to work through these types of conversations. And I would hope, most importantly, that through these conversations, that those interests are honest, they're candid with one another, and that we're sensitive to the needs on both sides as we've tried to do through this process. AM2747 is a technical rewrite of some of the sections of the underlying bill. I would encourage your adoption and would look forward to continued conversation on the underlying bill after its adoption. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Erdman. You have heard the closing of AM2747 to LB1116. The question before the body is on the adoption of AM2747 to LB1116. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1116]

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB1116]

PRESIDENT SHEEHY: AM2747 is adopted. [LB1116]

CLERK: I have nothing further on the bill, Mr. President. [LB1116]

PRESIDENT SHEEHY: Senator McGill. [LB1116]

SENATOR MCGILL: Mr. President, I move LB1116 to E&R for engrossing. [LB1116]

PRESIDENT SHEEHY: Members wishing to speak on the motion: Senator Karpisek, followed by Senator Fulton, Senator Erdman, Senator Friend. Senator Karpisek. Senator Karpisek waives. Senator Fulton. [LB1116]

SENATOR FULTON: Thank you, Mr. President. I do still want to get this into the record. Would Senator Erdman yield? [LB1116]

PRESIDENT SHEEHY: Senator Erdman, would you yield? [LB1116]

SENATOR ERDMAN: I will. [LB1116]

SENATOR FULTON: The second...we had State Fair Park as is, leaving the status quo, and then 84th and Havelock and Grand Island. Those were the three options before us. The second option, 84th and Havelock, something that I had advocated for in our last debate, the shortfall according to your comparison is a little less than \$18 million. [LB1116]

SENATOR ERDMAN: Senator Fulton, let me interrupt you. I've just sent the sheet that you're working from to the members so that they can review it, assuming that it will come to the e-mail. [LB1116]

Floor Debate
April 09, 2008

SENATOR FULTON: Okay, good. I hope members will review this. This...it's clarifying, the numbers are clarifying and the way that it's spelled out here. Could you elaborate a little bit on the \$17.9 million shortfall comparatively to the other three options that exist for 84th and Havelock? [LB1116]

SENATOR ERDMAN: Here's how we come to these three sites, first of all, Senator Fulton. As we as a committee heard testimony, not only on October 1 of last year but also on December 14, it was pretty clear, I think, to most of the committee members, if not all of them, that there three viable solutions: that you would leave the fair where it is, that it would move to 84th and Havelock, or the possibility is, is that it would move to Grand Island. From that date forward, that was how I operated. And as I mentioned on General File, I gave the mayor of Lincoln additional discretion to pursue other sites that he thought may be another opportunity. But generally it was these three sites. As we have already discussed, there were \$30 million worth of improvements that would be necessary at the State Fair Park, of which the State Fair has demonstrated that they have immediately available \$7 million, leaving a \$23 million shortfall or an \$18 million shortfall if you include the state's money. If you go to 84th and Havelock, you've got \$10.5 million that was pledged by the University of Nebraska; you have \$15.8 million that was pledged by private sources on behalf of the University of Nebraska. So that number is \$26.3 million. You had \$6 million pledged by the vision group, Vision 2015. If you use the same \$7 million that the fair has committed to their site at that site as well as \$5 million from the state, you're \$17.9 million short of building what they proposed at that site. That includes a racetrack. I want to be clear that includes a racetrack, but it does not include an arena. Now the site at 84th and Havelock also has facilities that the Lancaster County Ag Society owns and would potentially be available. But even at that point, we're simply dealing with what was presented to the committee, not accounting for those new improvements. This was just simply apples and apples at that time. So to move to 84th and Havelock, it's also an \$18 million shortfall based on what they presented to the committee on December 14. We had subsequent correspondence with the members of the Friends of Innovation Campus saying they would take this off the table or that off the table. But practically speaking, the conversations between them, their proposal didn't change much. [LB1116]

SENATOR FULTON: Senator, the other sites that were considered in Lincoln, there were ideas that were put forward. But as far as proposals with monetary connotation, 84th and Havelock was the best site that was proposed in Lincoln. Is that correct? [LB1116]

SENATOR ERDMAN: It was the closest thing to a viable option that was put forward by the community of Lincoln, partially due to the work that they had done prior with the mayor's task force, with other efforts including Vision 2015. But it had two very strong components that other sites didn't: it already had existing improvements that could be

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

Floor Debate
April 09, 2008

utilized and it also had significant private investment, including land that would be available for the site to be developed, of which the other eight sites that were offered to the Fair Board the city neither had no interest nor did they have any right to that property and they didn't have any money. And when they came up with the money, they didn't have a site to build on because they couldn't offer... [LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR ERDMAN: ...84th and Havelock as a viable site because of some of the other concerns. [LB1116]

SENATOR FULTON: Okay. And then finally, Grand Island's option, and I will actually get this into the record and then ask you a question, I guess, to clarify. The university actually offered a little bit less money for the Grand Island site, so that reflects the statement that you made earlier that Lincoln actually had some advantage coming into this, correct? [LB1116]

SENATOR ERDMAN: They did. [LB1116]

SENATOR FULTON: Okay. The city of Grand Island, \$8.5 million they are agreeing to come up with. The main advantage really has to do with existing infrastructure in Grand Island having to do with the arena that exists there. And that comes out to make a shortfall that Grand Island...and comparatively Grand Island had the best option by \$17.9 million. True? [LB1116]

SENATOR ERDMAN: Yeah. And I have my light on; I'll go through that a little more so that doesn't end our conversation, but I'd like to articulate that a little further. [LB1116]

SENATOR FULTON: Okay. Thank you, Senator. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Thank you, Senator Erdman. Senator Erdman, you're recognized. [LB1116]

SENATOR ERDMAN: So I can continue on: again, members, you should have a copy of a PowerPoint sheet that shows the comparison of the possible fair sites. The left-hand column is State Fair Park, the middle column is 84th and Havelock, and the right column is Grand Island. If you're figuring out how you do this, you add up the contributions minus the improvements and that gives you a shortfall. So at State Fair Park--and again, if you follow the numbers, it's the same \$5 million for all three sites, it's the same \$7 million from the Fair Board at all three sites. The community of Grand Island or the area of Grand Island came up with \$8.5 million. The university is contributing \$21.5 million. You can't necessarily compare the 84th and Havelock directly with that Grand Island site as far as the money from the university, because as it was

Floor Debate
April 09, 2008

presented to the committee on December 14, it was appeared or it was presented as if that was money on behalf of the university either directly or through their foundation, when in reality it was \$10.5 million from the university and the rest of it was going to be raised by private sources. So you can arrange it however you want, but it's \$10.5 million from university sources and \$21.8 million from private sources, some of which are affiliated with the university through the foundation, some are just private interests within the community of Lincoln. But when you add all that up, you needed \$62.2 million to accomplish what they proposed. Their solution to bridge the gap--and it didn't include the \$7 million from the fair and it didn't include the \$5 million from the state--their shortfall was approximately \$30 million, of which they wanted the Fair Board to bond that \$30 million to build those improvements. So if you have \$32 million available to build improvements, of which approximately \$20 million of that is consumed, or \$25 million, to build a racetrack, the fair actually had \$5 million of excess that they potentially could have utilized to build their improvements and they would have had to spend another \$30 million of their own at that site. I think logically the fair said if I have to spend \$30 million, why wouldn't I just spend it on my own site that I've already been at for 107 years? Those were the types of scenarios that we walked through. Senator Friend is somewhat right that it's clear after the end, and according to some of these comparisons, that there was one location that met the obligations as well as the opportunities that were presented. But going into this, it wasn't clear to any party that the answer was Grand Island, or that the answer was 84th and Havelock, or that the answer was that it had to move at all. All of those options were still on the table prior to the weekend that the Agriculture Committee met on that next Monday to advance the bill with the committee amendment. That was the time the parties agreed to a solution. Prior to that point, it was assumed that if the Legislature--and this is what I had said, it was actually printed in the Lincoln Journal Star that weekend--if these parties could not come to an agreement, that that was a sign that it was time to move on and that the fair should stay at its current location. That is understanding that there was a \$23 million shortfall in which there was no significant private funds, but that I was still as a member of the Legislature going to pursue that \$5 million regardless of what the outcome was. Financially, the Grand Island site was an easier hurdle to overcome. But just because we got to the financial numbers and said we can build the improvements, that didn't presume that the fair was moving even at that point. Grand Island, Fonner Park, the Fair Board, and myself sat down and said how do we work out governance, what does the lease look like, who's responsible for the improvements, who manages them, who owns them, what's the cost to the State Fair Board, what do they receive in income? Those types of things still had to be worked out, because just because you could move the fair because of the numbers and build the improvements doesn't mean that that was the right relationship or doesn't mean that there weren't other issues that needed...
[LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

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

Floor Debate
April 09, 2008

SENATOR ERDMAN: ...to trump that same conversation. However, when the money was available to build that level of improvements, we could have that next conversation. Based on where we are here, we never got to that point with 84th and Havelock, because the money was never on the table to satisfy to the level that Grand Island was able to satisfy the obligation of the Fair Board, and most importantly, to position the Fair Board in a situation where they're not continually maintaining the costs of those buildings as they do now. So in addition to the cost savings that you see here in Grand Island to the Fair Board, they're not paying the maintenance costs at Grand Island either. They're helping to build the buildings, they're helping to partner with them, they're sharing in the costs, they're sharing in the revenue, but they're not longer the landlord and they no longer have to maintain those buildings. That's going to be the responsibility of Fonner Park. They've agreed to that. That's also a financial advantage that the fair would not have had at any other site that's on your comparison. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Senator Friend, followed by Senator Heidemann. Senator Friend. [LB1116]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Only to say that I am in agreement with Senator Erdman's comments. We've had...I've had conversations with Senator Erdman from the very beginning of this session in regard to the State Fair, and he had never ever told me that the skids were greased or Grand Island was the one. I mean, I totally concur with that. The first I heard was when the Ag Committee brought it out to us. And I also agree with Senator Fulton and Senator Erdman. If you haven't looked at that comparison sheet, do look at it. I think it's valuable. And by the way, the comments on the record of me messing with the pages, here's what that entailed in case you were curious, especially Kitty. If you push your chair light on and off, they don't like that. That's what I was doing. Thank you...oh, by the way, I want to yield the rest of my time to Senator Heidemann. Thank you. [LB1116]

PRESIDENT SHEEHY: Senator Heidemann, 4 minutes. [LB1116]

SENATOR HEIDEMANN: Thank you, Senator Friend. I just want to touch base and hopefully I'll be able to have a little bit of a conversation with Senator Fulton here...Senator Erdman, excuse me, eventually. I don't know where he went to. But I just want to get it into the record or try to figure out what the future obligation to the state of Nebraska is. And I just want to make sure we all understand what we're getting ourselves into. And that's probably the wrong term to use, getting ourselves into. What's going to happen down the road? I've been told this could be a billion dollar project and it could be a third of university funding and the rest would be private. I worry about who's going to build streets and water and the sewer and how much it's going to cost. The other part that the university is going to build, the educational buildings, the research, if we fund them like we have in the past in mechanisms such as LB1100 and LB605, 50

Floor Debate
April 09, 2008

percent of the funds have come from the state of Nebraska. And I would think that there's a possibility that over the next 20 years, that we could maybe invest up to--and this my estimate--up to \$100 million. And that sounds like a pretty good figure, a pretty substantial figure. In reality, it's only \$5 million a year over the next 20 years. It might be the best investment we ever make; I don't know. But I want to just make sure as you vote for this that even though it's not an obligation, we're not obligating that we are going to give that money, if we're going to do this right they will come back to the state of Nebraska and ask for funding. There's no doubt about that. And we have shown that over time that we step up and we do help fund. And there's nothing wrong with that. And if this is a priority, if this is good, that's okay. But you can look over the next 20 years. I mean, you might be investing \$100 million into that. And if that's a priority, that's fine. But let's just make sure we know what we're getting ourselves into and what it could cost down the road. Thank you. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Thank you, Senator Friend. Senator Erdman. [LB1116]

SENATOR ERDMAN: Mr. President, I would...I was here, Senator Heidemann. I was trying to make copies of that slide for the media. But if you have questions, I would yield to them. [LB1116]

PRESIDENT SHEEHY: Senator Heidemann. [LB1116]

SENATOR HEIDEMANN: Any thought of the cost as far as over the next 20 years, Senator Erdman, what the university will put into innovation campus? [LB1116]

SENATOR ERDMAN: Senator Heidemann, we received a document from the university--there was actually a packet of information. And in that packet there included a time line of their proposed improvements, when they would happen, the things that they would be doing. It also gave a general understanding of the historical costs that the state has helped with the university. As we mentioned on General File, maintenance, building, those types of obligations are university obligations and I would encourage all members of the Appropriations Committee to keep that handy if they come asking. But the cost for the state to develop innovation campus right now as a contingent of LB1116 is zero. The cost to the state becomes more than zero in the event that the Appropriations Committee in their benevolence, and the Legislature follows suit, decides to assist them. The information that I have from the university shows that that number over time is actually 18 percent of the total cost. So I'm using their numbers; you probably have effective numbers based on what the Fiscal Office is giving you. But if you use that number, the chancellor mentioned that it was approximately \$300 million of the public side of developing this site and approximately \$700 million of private dollars to develop this site for their side of it. If you multiply that by 15 to 20 percent, which is what the president stated at the hearing on February 26, you're in that \$45

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

Floor Debate
April 09, 2008

million to \$60 million range over time. You can go back and compare the nanosciences...I mean, whatever we're doing--honors buildings, whatever--and look at what we're actually doing, but the university's information tells me that traditionally the cost of building and maintaining improvements has been approximately 18 percent of the total cost over the life. And it's because of the Legislature's interest in providing about \$12 million annually for maintenance and ongoing operations at the state and university level for education for buildings. [LB1116]

SENATOR HEIDEMANN: Don't you agree, though--and I just want to make this point--if we decide to go ahead with this, there is no obligation, but if we decide to go ahead with this and the university gets their innovation campus, we as a state need to stand behind it and make sure it's successful. And if it takes \$100 million to do that, we should be willing to step up and do that, because if this passes and if I'm in this Legislature and I'm on Appropriations and they come to ask us for money so this can be successful, I am going to want to fund this. Do you... [LB1116]

SENATOR ERDMAN: Can we get it out of the Cash Reserve? [LB1116]

SENATOR HEIDEMANN: No. [LB1116]

SENATOR ERDMAN: Okay. (Laughter) Let me respond to that, and I think that's a valuable point, Senator Heidemann. Let me go back to where we are. Had the Legislature had the same interest in the future of the State Fair that you're articulating for the future of the university, we wouldn't be having this conversation today--\$3.7 million over 30 years. And in fact, when we ran into shortfalls in the Legislature, we not only zeroed out any of that money, we took away the money that the state used to give to the 4-H and FFA kids that showed at the fair for premiums--\$237,000. We zeroed that out. So it's somewhat of a double standard. Obviously, if the university wants this property, they should have to pay for it. They're doing that under this scenario. If they want to develop it, it is financially their obligation. They have stated that in writing. Is there a chance for them to come back and ask the Legislature for funding? There always is, there always is. But if I were a member of the Legislature and they did that, I would start asking questions about other assets that they have, about coordinating those assets to the new site, and ensuring that we are the last participant in that financing,... [LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR ERDMAN: ...just like we are as a state the last participant in this proposal to ensure that they have that opportunity and the fair has an opportunity to be successful at another site. [LB1116]

SENATOR HEIDEMANN: You do agree with me though, don't you, Senator, that if we

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

Floor Debate
April 09, 2008

decide to do this innovation campus and enable the university to do this and if we want it to be successful, we need to stand behind it financially? [LB1116]

SENATOR ERDMAN: True. There's two ways that you can stand behind something financially, as you well know. You can put the money in or you can guarantee something. They have to be able to demonstrate...when you go get a loan for your farm operation, you may have a guarantee. You probably don't at this stage of your operation, but you may have somebody guarantee it. But you're, as an operator, signing that note primarily to say I am going to be able to comply with this note--this person may help us. That's what we are as a state. We may help them, but it's up to them to prove that they can get it done. [LB1116]

SENATOR HEIDEMANN: This is your time. [LB1116]

PRESIDENT SHEEHY: Time, Senator. [LB1116]

SENATOR ERDMAN: Not anymore. (Laughter) [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Thank you, Senator Heidemann. Members wishing to speak: Senator Dierks, followed by Senator Burling and Senator Heidemann. Senator Dierks. [LB1116]

SENATOR DIERKS: Thank you, Mr. President. I just want to thank Senator Heidemann, because he was asking the same questions that I have asked at the different committee hearings we had. And I also want to thank Senator Erdman, because I think he's providing the right answers. My problem has always been what is going to be the responsibility of Nebraska's taxpayer in case of a failure anywhere along this procedure. And being one of those taxpayers, I have some problems with that. So that's why I ask those questions. And I do appreciate Senator Erdman's answers, and I do appreciate that Senator Heidemann at least got them on the record. I do support the amendment and I hope that you will as well. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Burling. [LB1116]

SENATOR BURLING: Thank you, Mr. President. Appreciate the additional work that's been done on this project and bringing this amendment to us for consideration. I support this amendment. I give the rest of my time to Senator Erdman. [LB1116]

PRESIDENT SHEEHY: Senator Erdman, you're yielded 4:40. [LB1116]

SENATOR ERDMAN: Thank you, Mr. President. Thank you, Senator Burling. You know, this is...and again, if you have questions, I think the Speaker is willing, and I hope that you are, to ask them. I want you to make sure you have answers to your questions.

Floor Debate
April 09, 2008

There is a lot at stake in this conversation. There has been all along, and I will tell you that there are a lot of people that have good faith that this is going to work. But with that, as it says, to much is given, much is required. There is going to be a lot required of a lot of parties for success to be a reality. Obviously there are still questions to be answered, but fundamentally, based on the framework that we have we can answer the essential questions to move us to that next round. And I've also distributed to you a second item that I distributed to you on General File as well, not just the comparison sheet but the issues that would come up if the fair stayed at its existing site. So you can review that as well because, again, that is a possibility, that if the Legislature wouldn't enact something different that would be a reality for the fair. It doesn't mean that it's feasible at this time financially, but it's a possibility and for your consideration you have that again. There has never been and there won't be during the conversation with the parties in LB1116 any expectation that this obligates anybody...excuse me, that this obligates the Legislature in any way in the future. It doesn't preclude them from asking. But as you all know and as I've articulated and Senator Heidemann has pointed out, it's in black and white that the university has said their obligations are clear. In the event that we as a state, as a Legislature on behalf of the citizens want to help them with their financial obligations, we can do that. But you won't be doing it because you passed LB1116. Again, had we spent more than \$3.7 million at State Fair Park over the last 30 years, we wouldn't be having this conversation. Are we obligated to spend more than that on State Fair Park going forward? No. Is there the possibility they'll ask? Sure they will; they're the University of Nebraska. Senator Schimek found that funny; I hope the university did, too. But this is a point in time. As I was going through the example with Senator Heidemann, you could be seen as the Legislature being the guarantor of a proposal at Grand Island for the fair and of the innovation campus in Lincoln. But recognize that the success of those ventures is firmly in the hands of those that were at the table. They recognized the opportunities. They're ready to seize upon them and they believe they're realistic. They believe they can present the business plan to show how to work at innovation campus at State Fair Park. And the Fair Board believes very strongly on a vote of nine to one that this is the best opportunity for them, not just this is the best opportunity available to them--there's a distinction. This is the best opportunity for them to meet their vision as articulated in statute and their obligations to the citizens of the state of Nebraska to provide a State Fair, as we have required and obligated them to do under statute. Nine to one. And the one vote, as I understand it, is because of similar concerns that the university may not be paying enough. We are here today because those parties... [LB1116]

PRESIDENT SHEEHY: One minute. [LB1116]

SENATOR ERDMAN: ...agreed on a solution. They did it in good faith. They believe going forward that this is not only in their best interests as an individual entity, but as a collective group, and most importantly, in all of their eyes, for the state of Nebraska. Does it require things to change? It does. Does it require all entities to reevaluate how

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

Floor Debate
April 09, 2008

they operate? It absolutely will. Are they capable, are they up to the task, and are they willing? They definitely are. I appreciate your consideration and will continue to stand and try to answer any questions you may have on LB1116 or its contents. Thank you, Mr. President. [LB1116]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Seeing no additional lights on, you have heard the motion on the advancement of LB1116. All those in favor say aye. Opposed, nay. LB1116 advances. Mr. Clerk, we will return to floor...oh, okay. We will now proceed to LB1116A. [LB1116A]

CLERK: Senator McGill, I have no amendments to LB1116A. [LB1116A]

PRESIDENT SHEEHY: Senator McGill. [LB1116A]

SENATOR MCGILL: Mr. President, I move LB1116A to E&R for engrossing. [LB1116A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1116A advances. Items for the record, Mr. Clerk. [LB1116A]

CLERK: Mr. President, before we return, Enrollment and Review reports LB736 and LB736A as correctly engrossed. Your Committee on Judiciary reports LR284 back to the Legislature for further consideration. And amendments: Senator Kopplin to LB734. New resolution, LR391 by Senator Heidemann. That will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 1415-1416.) [LB736 LB736A LR284 LB734 LR391]

PRESIDENT SHEEHY: Mr. Clerk, we will return to floor discussion on LB928. We will also return to the Johnson amendment, AM2642. Are there members requesting to speak? Seeing none, Senator Johnson, you're recognized to close on AM2642 to LB928. (AM2642, Legislative Journal page 1301.) [LB928]

SENATOR JOHNSON: This hasn't been this long since we've talked about this. And what this is, is it's about the certified registered nurse anesthetists. There is a certificate of need regarding the Indian tribes that all the people are agreed upon. And then there are changes in three bills that are quite minor in character. So with that, I would ask for the advancement of this amendment. Thank you. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You have heard the closing. The question before the body is on the adoption of AM2642 to LB928. All those in favor vote yea; opposed, nay. Senator Johnson. [LB928]

SENATOR JOHNSON: Mr. Lieutenant Governor, it looks like we're going to need to have a call of the house. Thank you. [LB928]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: There has been a request for a call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB928]

CLERK: 22 ayes, 0 nays, Mr. President, to place the house under call. [LB928]

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 Janssen, Senator Karpisek, Senator Christensen, Senator Pankonin, Senator Preister, the house is under call. Senator Johnson, when members are present, how would you like to proceed? [LB928]

SENATOR JOHNSON: Be happy with a board vote. [LB928]

PRESIDENT SHEEHY: Call-ins or roll call? [LB928]

SENATOR JOHNSON: Call-ins. [LB928]

PRESIDENT SHEEHY: Senator Engel, would you check in. Senator Kruse, Senator Preister, the house is under call. Senator Johnson. [LB928]

SENATOR JOHNSON: Let's proceed. [LB928]

PRESIDENT SHEEHY: Senator Johnson has indicated we may proceed, and he is accepting call-ins. Mr. Clerk. [LB928]

CLERK: Senator Engel voting yes. Senator Avery voting yes. Senator Wightman voting yes. Senator Lautenbaugh voting yes. Senator Fulton voting yes. Senator Cornett voting yes. Senator Hansen voting yes. [LB928]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB928]

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Johnson's amendment. [LB928]

PRESIDENT SHEEHY: AM2642 is adopted. The call is raised. [LB928]

CLERK: Mr. President, Senator Dubas would move to amend with AM2282. (Legislative Journal pages 1416-1418.) [LB928]

PRESIDENT SHEEHY: Senator Dubas, you're recognized to open on AM2282. [LB928]

Floor Debate
April 09, 2008

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor, members of the body. I introduce AM2282 as a result of a piece of legislation that I introduced to the Health and Human Services Committee, LB1176, this session. The bill was not advanced out of committee and so therefore I bring this amendment. This amendment requires that the Medicaid Reform Council to summarize and make recommendations to the Legislature of possible changes to benefits at least 60 days prior to the beginning of a legislative session. My original bill aimed to create a check and a balance between the executive and legislative procedures, and this amendment will do the same. If you can think back to the beginning days of the session in January, we were all presented with a letter and a packet of information from the Department of Health and Human Services which outlined the recommended changes and cuts to Medicaid and services that they were going to provide as far as dental services, eyeglasses, chiropractic visits, hearing aids, and medical rehab visits per year. This was something that I saw it on my desk, I picked it up, I kind of put it in this is something I should read, so it was in my pile to read. And I still hadn't gotten to it until someone came to me and asked me if I'd seen it and was asking me some questions about it. So then I went back to my pile and looked through it, and all of a sudden realized that these things were going to move forward without us having any kind of a hearing process, without any of the impacted parties having the ability to bring, you know, bills forward, or work with different senators to address these concerns. And so that's why, kind of in the eleventh hour, I introduced LB1176 to at least get a public hearing on what the Medicaid recommendations were going to be. The recipients most affected are those with a disability, and when I heard that there wasn't going to be this public hearing on the legislative branch, as I said, I decided to introduce the bill. The Medicaid Reform Commission was developed in 2005 under LB709. This commission's primary goal is to reduce Medicaid costs, which are growing exponentially because of rising healthcare costs, and I do support this commission and the work that they are trying to do. However, I feel cutting a specialized population's benefits without a public hearing specifically pertaining to those cuts is not a responsible action on the part of the Legislature. Our public hearing process is a very, very important part of our process. Sound public policy ought to rest on procedural checks and balances. While I don't necessarily support the recommendations in the Medicaid...that were made in this Medicaid report, I have met with constituents who are very frustrated by the lack of assistance from their private insurance companies for their children with developmental disabilities or mental illnesses, and I do counter the argument that those limitations will be effective. If we are to cut benefits of Medicaid recipients who have a disability, I really think there are other places we should look first. I think LB830, the preferred drug list, is a great example of how we can look to save money rather than cut services. I hope you will consider the 60-day requirement that will guarantee the legislative body enough time to respond to these recommendations. I think 60 days is an appropriate time for all of the impacted parties to see what those recommendations are and talk to their senators and talk to the people who are impacted and see if there is anything that needs to be introduced legislatively. We've always been

Floor Debate
April 09, 2008

very proud of the public hearing process that we have in the Legislature. There's also a part in my amendment, while it wasn't a part of my original bill, it definitely was brought up in the public hearing on my bill. It was discussed at the hearing. And this provision allows for someone with a disability to appeal losing those benefits, if they can prove that they are medically necessary. This will also guarantee that when those cuts are enacted there is a safety net in place for those truly...who are truly in need of assistance from the state. The disabled is a group that ought not have to worry about whether the state will provide safeguards for them. I really do feel we are obligated to do that. Several years ago when there were some substantial cuts made in regard to children on Medicaid, there was not an appeal or a hearing process, and those cuts were made that impacted over 10,000 children, to my understanding. And there was a lawsuit filed against the state and the state did lose that lawsuit. So I think by putting this language into the amendment that protects the state and allows for the due process. The language in my amendment that deals with this appeals process is language that directly mirrors federal policy and what they have in place for when changes are made to Medicare and those people impacted, and it allows for this bypass or this appeals process. So I hope that you will consider this amendment seriously, understand the importance of getting information in a timely fashion so that we as a legislative body, as well as those who are impacted by decisions being made, have the chance to get questions asked and introduce appropriate legislation if need be and put this safety net in place for those who are directly impacted by the cuts that are being made, and support this amendment and move it forward. Thank you very much, Mr. President. [LB928 LB1176 LB830]

PRESIDENT SHEEHY: Thank you, Senator Dubas. You've heard the opening of AM2282 to LB928. Members requesting to speak from the floor are Senator Erdman, followed by Senator Gay, Senator White, Senator Chambers, Senator Schimek, and Senator Stuthman. Senator Erdman. [LB928]

SENATOR ERDMAN: Thank you, Mr. President. Would Senator Dubas yield to a question please? [LB928]

PRESIDENT SHEEHY: Senator Dubas, would you yield? [LB928]

SENATOR DUBAS: Yes, I will. Yes, I will. [LB928]

SENATOR ERDMAN: Okay, sorry about that. I was making sure. And I won't, hopefully, subject you to the same amount of yielding that I had to recently do. But it is an important issue. You appeared before the committee with LB1176. The amendment before us is not that bill, correct? [LB928 LB1176]

SENATOR DUBAS: There's a portion of the bill in it, yes,... [LB928]

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

Floor Debate
April 09, 2008

SENATOR ERDMAN: Okay. [LB928]

SENATOR DUBAS: ...on the 60 days. [LB928]

SENATOR ERDMAN: The 60 days was there, but this new portion was not. [LB928]

SENATOR DUBAS: No, it was not. [LB928]

SENATOR ERDMAN: The exemption provision was something new. I believe it was possibly even something that was offered at the committee by one of the testifiers, but it was not actually within the confines of LB1176 as introduced? [LB928 LB1176]

SENATOR DUBAS: That's correct. It was brought up in the discussion during the hearing, but it was not a part of my original bill. [LB928]

SENATOR ERDMAN: Okay. And you're also aware that the committee advanced LB1176 with a committee amendment that was actually adopted on that last vote that Senator Johnson had offered. Correct? [LB928 LB1176]

SENATOR DUBAS: Yes, I'm aware of that now. I know I had been speaking with the Health and Human Services Committee people and hoping to get my 60 days included in a committee amendment and was of the understanding that that probably wasn't going to happen, and so that's why I just went ahead and proceeded to put my amendment together. [LB928]

SENATOR ERDMAN: Okay, very good. Thank you very much. Members, it's...whatever the issue is regarding the Department of Health and Human Services, there's obviously a lot of interest in what that is. The specific program that we're talking about here is our Medical Assistance Act, our Medicaid program. The intent of LB709 and the intent of the Medicaid Reform Council isn't to cut Medicaid. That's not what its intent is. In fact I can read it to you. It's to ensure the sustainability of the Medicaid program for needy Nebraskans to establish priorities and ensure flexibility in the allocation of Medicaid benefits, to examine the effects of changing economics and demographics, and to offer alternatives to Medicaid eligibility. That doesn't say we're cutting Medicaid. That recognizes that as the cost continues to grow that we need to be proactive in providing alternatives. And in fact not only was in that last amendment similar language on the notification, which the committee agreed to, there was also a study, a directed study that the committee has said to the department, we want you to look at the buy-in that continually gets introduced before our committee and determine what the real costs are and why we don't pursue those things. We're not saying let's do an interim study. We are, by statute, directing them to report back to us by the end of this year, based on some of the same concerns we've heard not only on Senator Dubas' bill, but on a bill that Senator Johnson introduced this year. This exemption was not in LB1176. What the

Floor Debate
April 09, 2008

committee recommended and voted unanimously to advance as the first part of this amendment was a requirement that the department notify the public, by December 15, of any changes to the Medicaid program. And as we set up under LB709, as the task force worked together with the Medicaid Reform Council, and then under the enabling legislation, I believe it was LB1248, we set up a process that ensured, and maybe not enough time, and that's why the committee is willing to pursue the amendment that we've already adopted, but we ensured two things--that no changes could be made to the Medicaid program until there was a legislative session that intervened; and secondly, that no actual reductions or changes to the Medicaid program can be made without a public hearing of the department. You know why we got sued over that situation with removing or changing the standards that we had under the Kids Connection Program and for eligibility for children under the Medicaid program? Because we were in a crunch, we had no money, we had no way out, and we simply looked at the programs, and it was not just Medicaid, it was state aid to schools, it was the university, it was everybody that got money from the state, and we said,... [LB928 LB709 LB1176]

PRESIDENT SHEEHY: One minute. [LB928]

SENATOR ERDMAN: ...we don't have any good planning to help us make this decision. We now have a process to accomplish that. And if anything, what I continue to hear from some people, including advocates that oppose Medicaid reform was, well, it hasn't done enough, so therefore we should repeal it. Come on. You can't have it both ways. But the reality is that the committee has addressed Senator Dubas' concern on the notification. That was in the amendment that you just adopted. The second part of her amendment was never included in a legislative bill, and while it was contemplated by some, it was never considered fully by the committee. Unfortunately, I stand in opposition to this amendment. I believe we're accomplished similar goals, if not better, under the previous amendment which you've just adopted. Thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Senator Gay. [LB928]

SENATOR GAY: Thank you, Mr. President. I also stand in opposition to the amendment. Senator Erdman discussed how we arrived at that. We just passed an amendment that has the 15th as a notice. Senator Dubas brought this to our attention, and LB1176 was added to the committee amendment to satisfy her concerns. I know she's very passionate on these, as others are here. But when you're looking at reforming things, there's difficult decisions have to be made. The changes that were made under her amendment we're discussing, AM2282, is substantial. Wasn't heard during the committee, and like...I just think Senator Johnson and the committee went above and beyond to try to not add a whole lot of things to the committee bill. This is a change late in the game. Senator Dubas talked about the eleventh hour, some of those

Floor Debate
April 09, 2008

things were brought up. I agreed to part of that, and I think we all did, but this was a compromise that everyone would have a chance to hear some of the changes that were being proposed. We discussed the Medicaid Reform Commission, which does meet publicly, and Senator Erdman and others are on that commission. Those are public hearings, and they're attended, and they make recommendations that may or may not be adopted by the Legislature. So while I agree with what she's trying to do, giving fair notice, I think that was done in what we just did on the bill. To add Section 5 on here especially makes changes that are hard to implement. You're asking...a whole new change that we haven't even had any discussion or hearing on. And here we are day 56, late in the day to add that on here. That's what we're here to discuss, and she has every right to do this. But I would encourage us not to do that at the time. I think when we look at these issues, we can come back possibly next year, and we had this discussion, you know, let's start here, see how it goes, and come back next year. If we need to expand this we will. But as a concession, I think we did put the December 15 date; it was just adopted, and now I think to change that wouldn't be wise. I do think if we need to look at it in coming years we should. Some of the people that will be affected, of course, they pay attention to what we're doing and they know what we're doing. But I think the committee and all of you, as we make changes, those are come to...they come to the floor, we will debate them and we will make proper changes. No change is easy, and I don't see anything that's really easy to do if we would change Medicaid at all. So some of these things, like I say, I don't think we should be doing this. We don't know the ramifications of what we're doing with this amendment. So I would encourage you to vote against this amendment. Thank you, Mr. President. [LB928 LB1176]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator White. [LB928]

SENATOR WHITE: Thank you, Mr. Lieutenant Governor. I would like, if Senator Dubas would be kind enough to respond to a few questions, ask her to yield. [LB928]

PRESIDENT SHEEHY: Senator Dubas, would you yield to Senator White? [LB928]

SENATOR DUBAS: Yes, I will. [LB928]

SENATOR WHITE: Senator Dubas, as an attorney who does constitutional law, one of the real concerns I had with the bill and was brought to mind by your amendment, is the lack of an appeals process from this situation. As you understand the bill as it exists now, if, for example, someone was getting respiratory therapy and then it was deemed no longer medically necessary, but their doctor said, if you don't pay for this they will die in time, or not be able to work, or go into 24-hour state care, there's no appeal process to that right now, is that correct? [LB928]

SENATOR DUBAS: To my understanding there is not. Now I could stand to be

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

Floor Debate
April 09, 2008

corrected, but to my understanding no. [LB928]

SENATOR WHITE: Now are you aware of a history with the number of children, thousands of children that were cut off of benefits resulting in a lawsuit? [LB928]

SENATOR DUBAS: Yes. [LB928]

SENATOR WHITE: Would you please briefly explain to the body what that meant to the state, what occurred? [LB928]

SENATOR DUBAS: A lawsuit was filed and the state lost. [LB928]

SENATOR WHITE: And how many children were affected by that? [LB928]

SENATOR DUBAS: My recollection was 10,000 plus. [LB928]

SENATOR WHITE: Were denied benefits, they subsequently sued in federal court, and then were...those benefits were reinstated. [LB928]

SENATOR DUBAS: I'm not sure of the outcome. I just know that the state lost. I don't know what we had to do for corrective actions. [LB928]

SENATOR WHITE: Thank you, Senator Dubas. [LB928]

SENATOR DUBAS: Yes, yes, I'm told that, yes, that's true, that we had to reinstate. [LB928]

SENATOR WHITE: Senator Chambers, would you yield to a question, sir? [LB928]

PRESIDENT SHEEHY: Senator Chambers, would you yield to Senator White? [LB928]

SENATOR CHAMBERS: Yes, I will. [LB928]

SENATOR WHITE: Senator Chambers, do you have a concern over the constitutionality of the act if Senator Dubas' amendment is not adopted? In other words, that we can halt may be life-sustaining assistance, and there's no place to appeal the bureaucrat's decision who orders that? Does that, in your mind, raise constitutional issues? [LB928]

SENATOR CHAMBERS: A question always arises when there is a right a person has and that right is infringed or taken away, and the person has no way or place for an appeal. So it does raise questions, but I cannot say how serious a question as far as the constitutionality would go, but it would raise a serious question, I believe. [LB928]

Floor Debate
April 09, 2008

SENATOR WHITE: Thank you, Senator Chambers. I work in this area, in constitutional law areas. And I do not work in health areas, in this area very often. But if what we're talking about is the termination of physical therapy, respiratory therapy, kidney dialysis, rehabilitation following brain injury, occupational therapy, things like this and the person doesn't have a chance to muster their physicians, their support people to say, wait a minute, without this I could end up in Beatrice, or without this I will die. And they don't have a chance to review and to seek review of a decision that can have that kind of impact. I think it is not only unwise of the state to have that procedure in place, but it's potentially very unconstitutional, in my mind at least, and also I think it leads us to a sense of false economy. One of the concerns I really have is as we seek to cut expenditures, which we need to in Medicare and Medicaid--I mean it is regretful, but we're in the era where literally we're not going to be able to afford all care for all people all the time--but if that's where we're going, human beings make mistakes. And appellate courts exist for that... [LB928]

PRESIDENT SHEEHY: One minute. [LB928]

SENATOR WHITE: ...reason. And when we're talking about people's lives, at least they should have the chance to go to a new face with their arguments in hopes that it would be reversed and that the care they need would be continued. For that reason, unless other information comes forward, I do support the amendment. And I appreciate Senator Dubas bringing, as well as Senator Erdman, Senator Gay and the others' hard work on this area. And I also want them to know, this committee, I deeply respect how hard it is that they would even put this in place and that they are doing the financially right thing by the state, and I'm grateful for that. Those are tough decisions. But at the same time I would like the opportunity for every citizen to have a second hearing to make sure that what the state is doing is the right thing. Thank you. [LB928]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Chambers. [LB928]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I support the amendment. But before I go into that, I'd like to ask Senator Erdman a question about something he said. [LB928]

PRESIDENT SHEEHY: Senator Erdman, would you yield to Senator Chambers?
[LB928]

SENATOR ERDMAN: I will. [LB928]

SENATOR CHAMBERS: Senator Erdman, you had said something about a hearing or a public hearing by this council after some report had been received, or something. Would you just state that so I have clear what you said. [LB928]

Floor Debate
April 09, 2008

SENATOR ERDMAN: Right. The process that is...that was outlined under the enacting bill of Medicaid reform was that the Legislature will be notified prior to session, and I'll admit wholeheartedly that this year was right before session, but they will be notified that no reductions in Medicaid can take effect until the Legislature has adjourned; in other words, giving the Legislature the chance to stop any proposed reductions. But even if the Legislature doesn't stop them, the department still has to have a public hearing on those proposed changes before they make any final determinations. [LB928]

SENATOR CHAMBERS: Okay. So that would be the department, not this Medicaid council. [LB928]

SENATOR ERDMAN: Correct. The Medicaid Reform Council meets, I don't know if it's quarterly, I don't recall off the top of my head. We meet and evaluate the planning and the statutory requirements that were done under those legislative bills to examine possible alternatives that still provide the necessary medical services, but provide better sustainability for the system long-term. So they meet, we meet, I'm a member of that council. And I'll turn my light on, Senator Chambers, to give you some more time. But we meet as a member of the...I meet as a member of that council. The department comes in with their statutorily required reviews according to certain dates, but they also provide us additional reports. We have members on that council that are healthcare providers from long-term care, we have professionals, lay people, Medicaid recipients, and it's a broad-based group of folks that examine all of these issues at that time. But we as a council don't actually hear that. That's the hearing that's done by the department before they would make any reductions. [LB928]

SENATOR CHAMBERS: Okay. Now when we look at the wording of Senator Dubas' amendment with reference to notification, at least 60 days prior to the beginning a regular legislative session, what harm would be caused by giving the Legislature that kind of lead time? [LB928]

SENATOR ERDMAN: There is no harm, Senator Chambers. As I pointed out earlier, the amendment we just adopted stated a date specific, it was December 15, and that's 30 days prior to the end of bill introductions that the department would have to give not only the Legislature notice, but the public notice. And this year Senator Johnson had a bill to stop some of the Medicaid reductions. Actually, if we would have adopted Senator Dubas' bill in the form that it was in, it would have actually made the Medicaid reductions quicker because of the time of that than what the rules and regs would have been. But it was problematic, and so the committee agreed that we should give the Legislature and the public more time. The committee voted the committee amendment out as of December 15. Senator Dubas' bill said 60 days. And it's a reflection of the Medicaid reform council and other groups are working through the interim. And generally, December, the first part of December is a realistic time frame to tie all those things up and to be prepared for introduction. [LB928]

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

Floor Debate
April 09, 2008

SENATOR CHAMBERS: But if this amendment were adopted, are you saying, and I didn't hear you say it, but are you indicating that this could not be complied with by whoever would have to make this information available to the Legislature? (Inaudible). [LB928]

SENATOR ERDMAN: No, I don't think so. I think it's a matter of functionality. I think it's a matter of giving the department the time that they would need, because when we adjourn this year, it's going to be April 17; when we adjourn next year it's June 1. They can't really be working on a lot of those proposals during that time because they're working with the Legislature. So they already have a limited window. The committee's balance was, we need to give the public and those recipients time to be able to prepare their case to the Legislature or to the department. We chose December 15 as a practical matter. Senator Dubas' bill has two components in it, that's just one of them. [LB928]

SENATOR CHAMBERS: And that's why I want to take them one at the time. If we didn't say... [LB928]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB928]

SENATOR CHAMBERS: ...60 days, what number of days, other than December 15, would be reasonable? [LB928]

SENATOR ERDMAN: I can only speak on what the committee did with the committee amendment to her bill. We felt it was reasonable to do December 15, but if you're... [LB928]

SENATOR CHAMBERS: But that was arbitrary, wasn't it? [LB928]

SENATOR ERDMAN: It was based...it was based on giving one month prior to the end of bill introduction, so it was a 30-day notice from the last day of bill introduction, which typically is that third week in January. That's where the logic came to set that date. It was an arbitrary date, but it was actually based on the reality that the Legislature meets some days the first week in January to start, some years it's the second week in January. But generally, you would have 30 actual days, calendar days, before the end of bill introductions to give you time to understand what recommendations were made. It's simply a... [LB928]

SENATOR LANGEMEIER: Time. Thank you, Senator Chambers. Those wishing to speak we have Senator Schimek, Senator Stuthman, Dubas, Johnson, Gay, and others.

Floor Debate
April 09, 2008

Senator Schimek, you're recognized. [LB928]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I didn't realize too much in advance that this amendment was coming up. But I was one of the cosponsors of the Dubas bill, and I have an interest in this area. And I'm really most concerned that the process be fair to everybody, and I appreciate that the committee did put a good portion of the bill in this amendment or in their amendment to the bill. I have been listening closely to what has been the conversation between Senators Chambers and Erdman. And I'm thinking to myself that December 1 might be a more logical time. It gives a little bit more time. Remember that we are...you run up into all kinds of holidays and kids home from school and people's attention diverted by a lot of different things, that if it were possible, I think that a December 1 might give us a little bit more leeway. And I don't know how Senator Dubas feels about that. I don't think we want to make it onerous, either, for the department. The other part of this--and I'm going to give your some time here in a minute, Senator Chambers--the other part is, I believe, and especially if Senator Dubas' information is correct, that this is done at the federal level, I do believe that it would be something that we should do. And I don't know exactly how it should be structured, but I do believe that there should be some kind of an appeal process. So I'm very supportive of the gist of her amendment, and I don't have firm and strong opinions on some of the details. With that, Senator Chambers, I would turn over the rest of my time to let you and Senator Erdman carry on. [LB928]

SENATOR LANGEMEIER: 3:01. [LB928]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Schimek. And I have my light on and so does Senator Erdman, so I'll use this time for something a little different, in terms of actually make some assertions instead of doing it by way of question and answer. I was going to ask, why would it be less reasonable to say November 15 or December 1 than it would be to say December 15? That is an arbitrary date. Senator Schimek did touch on those holidays, the time of the year, and I'm going to presume that people take their work as seriously as I take mine. And on these types of issues while I'm working other matters, 15 days before the start of the session is not a lot of time, and we can mention the 10 legislative days during which we can draft, craft, or introduce bills. But sometimes a lot of work on bills is being done during that period, so it's not always convenient. You don't even have the time available if you want to give it to address an issue that could be as serious as might be entailed in what we are talking about here. And when you get to the appeal situation, with Social Security or any other...anything I can think of, not only do you have an appeal, they notify you of where to appeal, how much time you have, and how to go about doing it. And if you have any questions, they give you a number to call. For the life of me, I cannot understand why there is fear of an appeal. Who's going to lose? Why should there not be an appeal? Senators want appeals if they go to court. We're the first ones to holler unfair, unfair. The Legislature, myself included, spent most of the morning defending a colleague.

Floor Debate
April 09, 2008

[LB928]

SENATOR LANGEMEIER: One minute. [LB928]

SENATOR CHAMBERS: In a sense, that was an appeal made to the Legislature. We're going to uphold his dignity, and then we, as a Legislature, will look at others who are less able to take care of themselves than he and say they don't need an appeal, because we said so. It's inconvenient. Those are the types of contradictory, inconsistent actions that do get on the fighting, meaning that figuratively, side of me. The people we're talking about are not lawyers, they're not members of the Legislature, they don't have a voice, and they often are mistreated, misused, handled rudely, and I know this for a fact and yet I see so much lacking in terms of consideration. Because I know my time is up, I'll stop at this point. Thank you, Mr. President. Thank you, Senator Schimek. [LB928]

SENATOR LANGEMEIER: Thank you, Senator Chambers, and thank you, Senator Schimek. Those wishing to speak we have Senators Stuthman, Dubas, Johnson, Gay, Chambers, and Erdman. Senator Stuthman, you're recognized. [LB928]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. In going back to my file on LB1176, in noticing, you know, the proponents and the opponents on the bill, there were, and this was on the bill, on the hearing that we had on the bill, and there was 3 proponents on the bill, and there was 11 opponents to the bill. I would like to ask Senator Dubas a question, if she would respond. [LB928]

SENATOR LANGEMEIER: Senator Dubas, would you yield? [LB928]

SENATOR DUBAS: Yes, I will. [LB928]

SENATOR STUTHMAN: Senator Dubas, this Section 5 that you put in there, that was part of one of the opponents of the bill, is that correct? [LB928]

SENATOR DUBAS: Yes, that's correct. [LB928]

SENATOR STUTHMAN: But that...the appeal process, that was not part of your original bill, was it? [LB928]

SENATOR DUBAS: No, it was not. And the reason that so many people came in, in opposition to my bill, is because of the way we had to draft it. It was drafted, as I said, kind of in the eleventh hour. And so I wanted to make sure that we got the 60-day notification in the bill and so the bill was just drafted as, okay, these are the recommendations that are made, and then it also included the 60-day notice. So I wasn't in support of accepting the recommendations. But that's just how the bill was

Floor Debate
April 09, 2008

drafted. [LB928]

SENATOR STUTHMAN: Okay. So in other words then, the appeal process was in the opposition to the bill. [LB928]

SENATOR DUBAS: Excuse me? [LB928]

SENATOR STUTHMAN: That was in the opposition of the bill. One of the opponents of the bill was one that was because of this appeal process. That wasn't in the bill, correct? [LB928]

SENATOR DUBAS: Right, they did not support the recommended cuts. They did...almost everybody that testified, even if they testified in opposition, testified in support of the 60-day notice. They were just opposed to accepting the recommended cuts. And then it was brought up, through the course of the hearing, about the fact that they didn't have a chance to appeal these recommended cuts. [LB928]

SENATOR STUTHMAN: So in other words what we...what you have done is you have taken a portion out of one of the opponents of the bill and adopted that in this amendment right now... [LB928]

SENATOR DUBAS: Right, I tried to address their concerns. [LB928]

SENATOR STUTHMAN: ...which has really never had a hearing as far as that is concerned. [LB928]

SENATOR DUBAS: It did not have an actual hearing, no. It was brought up during the course of the hearing, but was not actually a part of my bill. [LB928]

SENATOR STUTHMAN: So is that a good recommendation to take something that is in opposition of a bill and put into another bill as an amendment? [LB928]

SENATOR DUBAS: I think it addresses the concern that was raised at the hearing as far as recommended cuts and how those cuts were going to impact the people and the fact that they didn't have that opportunity to take those concerns to anyone. [LB928]

SENATOR STUTHMAN: Well, I'm just...I just have a concern that, you know, that we are putting something in that hasn't had a public hearing and it's something that we...that it seems like we're taking out of the some of the opposition of the bill that had had a hearing, and taking portions from the opposition and putting it and adopting it into another amendment and tacking it onto a bill. I just...I'm a little bit concerned about how we're doing that process, what...and I'm not against the fact that this portion should not be adopted. But I really think it should have had a public hearing. I really think that

Floor Debate
April 09, 2008

should have had a public hearing, in my opinion, because then there could have been, you know, the proponents and opponents on that part of it. But we have just piecemealed this thing and taking a portion out of one of the opposition to the bill and put it into an amendment to get it into another bill. So I do not support this. I think it's not a good policy at this present time. So thank you, Mr. President. [LB928]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Dubas, you're recognized. [LB928]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I think this discussion that we're having right now actually makes the point that I have raised through my amendment. We're discussing the fact that there is something in this amendment that didn't actually have a hearing. And that's the point that many of the people raised when they came to this hearing, is that they weren't going to have an opportunity to raise their concerns about how these cuts were going to impact their lives. These cuts were going to impact their lives on a daily basis. We're talking about cutting hearing aids, and access to eyeglasses, and chiropractic care, and other types of things. And so again, the language that's in the amendment mirrors what's already in place and is used at the federal level when these types of cuts and changes are made to services to the disabled. So again, I think this discussion really just supports the point that I'm trying to make as far as having a public hearing and the ability to express concerns. Again I support the 60-day notification. I think it's...very important points have been raised about December 15, you know, what's going on in the middle of December and who's paying attention to what is not necessarily enough time for us to look at what's coming down the pike and prepare ourselves adequately. While I know that it might put the department, you know, up against the wire a little bit for this 60-day notification, I don't think it's out of the realm of possibility to have this information presented in a timely fashion for all of us. I mean, we don't just get information about health and human services issues. As legislators we're receiving information on a multitude of issues, and so for us to sift through and prepare ourselves for what's coming the next legislative session, the more advance notice we can get as well as others, I think, is only appropriate. So again, I don't think the 60-day notification is out of line. I would also like to state I do appreciate the Health and Human Services Committee and the work that they've done. I have had the opportunity to work with them on other issues and know how seriously they take their job and their concerns for the people that they serve, and I've appreciated the work that they've done and my opportunities to work with them. And we have been able to address some serious concerns over the last two years, and so that is much appreciated. You know, and the fact that they did, you know, take a portion of my bill and incorporate, at least the idea of it, into their amendment I'm appreciative of that, too. But I feel very, very strongly about this. And the people who I have worked with and who have expressed their concerns to me really do deserve a voice and really do deserve to have these concerns raised on the floor, and that's why I do it. It's not as a criticism of what the Health and Human

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

Floor Debate
April 09, 2008

Services Committee has done; it's just that this is something I believe very, very strongly in and think that we need to have due process in place for people with these issues, to feel like they have the time and the opportunity to represent their concerns and have people hear what they have to say. I thank you, Mr. President. [LB928]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Johnson, you're recognized. [LB928]

SENATOR JOHNSON: Could I ask Senator Dubas to respond, please? [LB928]

SENATOR LANGEMEIER: Senator Dubas, would you yield to a question from Senator Johnson? Senator Dubas, would you yield to a question from Senator Johnson? [LB928]

SENATOR DUBAS: Yes, I will. [LB928]

SENATOR JOHNSON: You had some statement before of an eleventh hour that...regarding a bill. Could you repeat that again? I didn't quite hear it. [LB928]

SENATOR DUBAS: Yes. When the concern was initially brought to me about the recommended cuts to Medicaid, it was like, if I'm remembering right, like the day...the last...the day before the last day of bill introduction, and I'm not remembering the time line exactly. But it was a very, very short amount of time for us to put something together and try to address the concerns that the interested parties had about the Medicaid cuts. [LB928]

SENATOR JOHNSON: Now let me ask you...let me ask you this, that being the case and you were short of time with the eleventh-hour notification, how long ago were we notified about your filing of this rather substantive change in the procedures which our committee had studied and determined to be, you know, give time to our committee, to HHS, and to the public? We had studied this for a considerable length of time. Now how much time did you give us to respond to this and visit with you about the concerns that we've had? [LB928]

SENATOR DUBAS: I did just introduce this amendment, just today. I had visited... [LB928]

SENATOR JOHNSON: At what time today, please? [LB928]

SENATOR DUBAS: Oh,... [LB928]

SENATOR JOHNSON: About half an hour ago? [LB928]

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

Floor Debate
April 09, 2008

SENATOR DUBAS: No, it was longer than that. [LB928]

SENATOR JOHNSON: An hour? [LB928]

SENATOR DUBAS: I introduced it before we...before LB928... [LB928]

SENATOR JOHNSON: The fact of the matter is, is that you're just objecting to what happened to you before and now you're coming, it seems to me, and doing the same thing to the committee after they've had, you know, studied this and tried to look at it diligently from all aspects. And now here again at the eleventh hour we're being asked to change this. Why did you pick 60 days? Why not 75, 47, whatever? Our committee spent time coming up with the 15th of December. And with, you know, with further study, working with you we'll be glad to change that at another time. But our committee has studied this at this time and believe this is the time, and I'm going to ask the Legislature to reject this amendment and stick with what the committee has decided at this point. Thank you. [LB928]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Johnson. Senator Gay. [LB928]

SENATOR GAY: Thank you, Mr. President. I just want to go a little bit...Senator Johnson brought up this is late. There's a process here, and I get a little worried when we start getting off the process. I think this is a substantial change to a bill that was introduced, amended, and brought to the floor. There was a...somewhat agreement, I thought, that here's what we're going to have, here's the date. We may disagree on the date, but there's substantial changes in this amendment, Section 5. And the whole process to go through, whether we have or we don't, we're discussing it now over on the side. Senator Erdman is visiting with Senator Chambers about the process. But this is a substantial change to a bill that we heard, we brought out. And I'm not arguing that somebody doesn't have concerns and it's not like the committee just goes and says, well yeah, we're going to do whatever to save some bucks. We've never done that. That couldn't happen anyway because you've got the rest of us watching what we're doing. This was an agreement we had and we put into the committee bill which, by the way, we didn't want to overload, due to the respect of the body. Now we have an amendment that I think has a substantial change. We haven't had any time to discuss it with the department, amongst ourselves even. Senator Johnson, this happened in the last hour or so. So Senator Dubas has the right to do this, I'm sure. I would just say that we have something to start with. We just passed that, by the way, and now let's wait. If we find we need to expand this and change it next year, that's the way the process works. I think we're circumventing what we've done for a long time. And we've had other cases here where somebody else wanted to bring a bill to the floor that was already introduced, and they tried doing this, and we didn't do that. So I don't think we should do

Floor Debate
April 09, 2008

this tonight. I respect Senator Dubas and what she wants to do and others. And I know Senator Schimek has concerns with this, too. I do agree with Senator Erdman, this year was probably different. We did get it late, too, but we had change in the department, we had new people at Health and Human Services that were working on things, and they tried the best that they could. We told them as well, you know what? Give us more time because that concerns people in the body. So that's why we had this concession, and I wouldn't call it a concession, but a compromise of the 15th. If we need to look at it again next year, Senator Dubas will be back, others on the committee will be back. And you're hearing from committee members who are disagreeing with this process. Not that we totally disagree with what the notice part...what the notice does in Section 2, but Section 5 is substantial. You're going to make substantial changes late in the session, and we've had no time to discuss this and look at it. So you're asking the department, create a process, notify those who are eligible. If you don't notify them within ten days the department shall be deemed to have found the services requested to be medically necessary. These are big changes that we're doing very quickly. So I would encourage us not to adopt this amendment, and let's look at it. We know there's an issue, and we can address it again when we come back. And I know that Senator Dubas will bring that back and it can be addressed at that time. So that's why I say not so much that I disagree with what she's trying to do, because I have worked with her on other issues and we work very well together, just for the record I would say. But I just think the process that we're looking at, that we shouldn't be doing this. Courtesy to all of us, if this was your committee we were dealing with, and we're making dramatic changes at the end... [LB928]

PRESIDENT SHEEHY: One minute. [LB928]

SENATOR GAY: ...of the session, I think, you know, that wouldn't sit too well. And it's not a pride thing or anything like that. I think it's just the process we're doing. If we start doing this now, down the road, you know, we don't want to set a precedent here of doing this. So thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Chambers. [LB928]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm coming to this discussion late, and it kind of touches on getting information too late to really adequately digest it before the Legislature begins. So what I would really want to see done, as a minimum, is to change the date from December 15 to December 1. Then the language in the other part is problematic to me. First of all, as I'm reading it and engaging in discussions, there would be a cap in terms of the amount of service or visits or whatever a person would be entitled to have. If a person were allowed fewer visits or less of whatever it is, the person currently can challenge that up to the amount of that cap. In other words, the difference between what is allowed and what the cap would provide. This language may be saying that the recipient would like to have the opportunity to

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

Floor Debate
April 09, 2008

take exception to the cap itself and get everything allowed up to the cap and then go beyond that. I'd like to ask Senator Dubas a question or two. [LB928]

PRESIDENT SHEEHY: Senator Dubas, would you yield to Senator Chambers? [LB928]

SENATOR DUBAS: Yes, I will. [LB928]

SENATOR CHAMBERS: Senator Dubas, what have I stated, with reference to the language in the second part, that is incorrect? [LB928]

SENATOR DUBAS: Nothing to my knowledge. [LB928]

SENATOR CHAMBERS: So what we're talking about really, in terms of something new or different from what exists now, is to exceed the cap and argue that that would be medically necessary and therefore it ought to be exceeded? [LB928]

SENATOR DUBAS: That would be my understanding, yes. [LB928]

SENATOR CHAMBERS: I'd like to ask Senator Erdman a question or two. Thank you, Senator Dubas. [LB928]

PRESIDENT SHEEHY: Senator Erdman, would you yield to questions from Senator Chambers? [LB928]

SENATOR ERDMAN: I will. [LB928]

SENATOR CHAMBERS: Senator Erdman, is that the way you understand what this language would be dealing with? [LB928]

SENATOR ERDMAN: (Laugh) You caught me at a disadvantage, Senator. I was talking to Senator Langemeier. [LB928]

SENATOR CHAMBERS: Okay, let me say briefly and quickly what it was. Currently, and we'll use the example of a certain number of visits to a chiropractor, if you're allowed 12 at the cap and you get 9, you can challenge that limit to 9 by saying the other 3 would be medically necessary. And right now, because there is a cap, you can challenge or appeal the difference between what they allow and what is allowable under the cap. [LB928]

SENATOR ERDMAN: That's how I understand it. [LB928]

SENATOR CHAMBERS: And this language is saying that the recipients should have the opportunity to challenge the cap itself and argue that additional care or visits would

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

Floor Debate
April 09, 2008

be medically necessary, therefore they should be granted this request. Is that the way you understand this language? [LB928]

SENATOR ERDMAN: I think that's what Senator Dubas intended. I don't...as we have had a conversation, I don't know that that's the practical application, and I don't know that that's consistent with other states' limitations on benefits and whether or not there's an appeal process in those scenarios under the same Medicaid program under federal law. So I...the first question I could answer unequivocally that there is a process that I'm aware of that you can appeal if you are not being afforded the rights or the benefits that are currently limited or what that limit amount is. The second part, I think, is somewhat still in question about whether or not this language actually exempts all limitations as they exist at the effective date, or whether the intent was to create an appeals process for up to that limit. I think that's still somewhat in question, both based on Senator Dubas' introduction,... [LB928]

PRESIDENT SHEEHY: One minute. [LB928]

SENATOR ERDMAN: ...as well as further conversations. And I believe my light is next and we can continue at that point. [LB928]

SENATOR CHAMBERS: If there were to be a discussion among and between the interested parties, I know there's not much time left in the session. Could there perhaps be some language fashioned which would do what Senator Dubas says she's interested in doing, and the working on it wouldn't necessarily mean that there is support for it, but to at least try to get language which says what is necessary to be said to get at what she's talking about? [LB928]

SENATOR ERDMAN: Absolutely, I think there could be, and I think there would be time. You would obviously want to have the department and other interested parties involved in that. But I think you're right. You could work on the language and then let the Legislature decide whether we wanted that policy or not. I think... [LB928]

SENATOR CHAMBERS: And not to cut you off, but time. There would be enough knowledge within the body and staff to do that, wouldn't there, without going to the department? [LB928]

SENATOR ERDMAN: There would be. The caveat, obviously, would be you would be potentially impacting the administrative costs of the system and what... [LB928]

PRESIDENT SHEEHY: Time, Senator. [LB928]

SENATOR CHAMBERS: Thank you, Mr. President. [LB928]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: Thank you, Senator Chambers. Thank you, Senator Erdman. We have Senator Erdman, followed by Senator Schimek, and Senator Stuthman. Senator Erdman. [LB928]

SENATOR ERDMAN: Thank you, Mr. President. As I was going to continue, you would want to also know what the impact is to the department for the administration of that, because you'd be creating a process that currently isn't in place, and it's a different process. Even though there's an appeals process, you would likely have a different set of scenarios or circumstances; and it may very well be able to be accomplished within the existing staff and authority. But you would want to at least make sure that whatever language we came up with, that it would either be financially affordable or fit within existing authority; otherwise, you potentially have an impact either on the Medicaid system to provide this, in addition to the potential impact of expanding the services that may currently be available. Senator Chambers is offering the amendment of December 1. That's fine. I mean, the reality is, is that the public needs to know. But recognize currently that the public has the right to know before the session. This year was rushed. It was--everybody admits that. There were factors that contributed to that. Whether you pick December 15, December 1, November 15, they're all arbitrary. But if it provides better clarity and better comfort as far as the date, I don't see a problem with that necessarily. It's just a matter of saying, look, we want this to be a reasonable time frame for people to be able to have access, or more importantly, to be able to prepare themselves for the legislative session. And so from the December 1 amendment, I think that's fine. On the second part of the bill, I do think that people within this body, with consultation with staff or others outside of this body, could likely come up with language that could accomplish what Senator Dubas wanted to, and then we could have the conversation again about whether that's the right policy, if I understand Senator Chambers' observation. And I'll yield the remaining time to Senator Chambers. [LB928]

PRESIDENT SHEEHY: Senator Chambers, 3:20. [LB928]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Erdman. And I don't think we need that much time because Senator Dubas, in consultation with Senator Johnson and staff, have come up with an amendment that will deal with the date, and we'll work the other part later. But I don't want to state what the amendment is. So that's all that I will say at this time and give back to Senator Erdman whatever of his time remains. [LB928]

PRESIDENT SHEEHY: Senator Erdman, 2:50. [LB928]

SENATOR ERDMAN: Thank you, Mr. President. I see Senator Dubas is working. I'll continue to talk so that she has the opportunity to finalize whatever her amendment is that she's working on. This process is, as hard as it may seem to be as far as the Medicaid process, it's more methodical than you think, because when you start making

Floor Debate
April 09, 2008

decisions that impact people, regardless of where that is, it not only impacts obviously the recipients, it impacts the providers, it impacts a lot of folks. And to go through a process and ensure that there are safeguards in place, I think is appropriate. Ultimately and fundamentally you have to realize that no matter where you set that line, somebody is going to say, I need more. That's a difficult reality of this process. And that's at times a difficult part of being the intermediary or the administrator of a program like this, because obviously if money was no object and people had the right to whatever or had the ability to access whatever they wanted, they potentially would do that. For some of the people that would access that, they would probably need it; and if you want to go through the process of figuring that out, then we can have that conversation. But practically speaking, if the issue is as has been directed--and I will point out to you that what's being proposed by the department for Medicaid reform was one of the very points that was in the Medicaid Reform Council in 2005--it was identical to what was proposed. It was adopted unanimously, there was no one in opposition to that, there's been no one that spoke against it at that time. And I think maybe the reason was people thought, well, they'll never do anything. If you don't do anything, and again the purpose of Medicaid reform is not to cut people off, but here's what happens if you don't start thinking about ways that you can make it sustainable... [LB928]

PRESIDENT SHEEHY: One minute. [LB928]

SENATOR ERDMAN: ...and provide alternatives, but also make sure that the care we're providing is the right care, you can't afford to pay for it and you won't pay for it. The state of Nebraska...Senator Chambers was right when he made the comment earlier, the state of Nebraska will target certain programs for reductions quicker than others. And the ability for us as a Legislature is to be able to govern those scenarios or to be prepared for those realities is by having the planning and the information available to us when we need it. That's why the plans, those things that are being done on the reform council, the work that's been done by Jeff Santema, the legal counsel, and others to get us to this point, are essential for us when we find those shortfalls to ensure that we have flexibility and information to make the best decision to still meet the needs of Nebraskans who depend on this program and that they can depend on it not just in the short-term, but a sustainable long-term. That's the goal, that's the target, that's what we're shooting for. Thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Mr. Clerk, do you have an amendment filed on your desk? [LB928]

ASSISTANT CLERK: Mr. President, Senator Dubas would move to amend her own amendment. (FA273, Legislative Journal page 1419.) [LB928]

PRESIDENT SHEEHY: Senator Dubas, you're recognized to open on FA273. [LB928]

Floor Debate
April 09, 2008

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. I do appreciate the discussion that we have had here this evening. I think it is very important, and again I want to reiterate how much I respect the work that the Health and Human Services Committee does. It wasn't my intention to circumvent the committee process, but I do feel very strongly that these types of procedures need to be put in place. I think there's a recognition on the part that getting the information to us in a timely fashion is important. So my amendment does move that date to December 1 and then strikes the rest of the amendment, including the part that deals with the appeals process. I will look forward to working with the committee and the interested parties in the coming sessions to see what we can do to address the concerns that they have. I think that the body has indicated, through the course of this session and other issues that we've discussed, that we do have a concern for those with physical disabilities and behavioral disabilities and making sure that they are receiving the adequate services are important to us. And yes, we have to operate within our means and the financial restraints that we have placed upon us. But again those people who are...who have the least voice among us really deserve us to speak for them, and so I hope that we'll continue to do this. And I do ask you to support the amendment to my amendment. And I would like to yield the rest of my time to Senator Johnson. [LB928]

PRESIDENT SHEEHY: Senator Johnson, 8:20. [LB928]

SENATOR JOHNSON: Thank you, Mr. Lieutenant Governor. This won't take long. Senator Dubas was most gracious in a compromise that was offered. The main parts of it, as she has mentioned, is the operative date would be changed to the first of December. This would give more time to other senators not on the committee, but also to the public, but still allow time for the agencies, etcetera, to do the job. And the other considerations that she brought up certainly are policy type decisions, and we can discuss those at length in the committee and so on. So I would recommend that this floor amendment be accepted and we move on from there. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You have heard the opening of FA273 to AM2282. The floor is open for discussion. Members wishing to speak are Senator Schimek, followed by Senator Chambers. Senator Schimek. [LB928]

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. I will be brief as well. I rise in support of the amendment. I think this is a better time frame in which we can operate. I also wanted to say, you know, don't chastise Senator Dubas too hard for her eleventh-hour amendment because I've seen much, much worse take place here on the floor (laugh) of the Legislature. And there may be will come a time when you all will have an eleventh-hour amendment. But having said that, I also think it's a good idea to let the people know in advance that you are going to be presenting that amendment, and everybody ought to have adequate notice. Sometimes that's not possible. But I just wanted to say I support the amendment. And thank you, Senator Dubas, for bringing the

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

Floor Debate
April 09, 2008

issue. It is an important issue, I think. I'm not sure I totally understand this appeals process, but it seems to me that we ought to have something in place, and so I thank both the committee and the Senator. Thank you. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Chambers. [LB928]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm pleased to see the cooperative effort that manifested itself this evening and many times on this floor, especially toward the end of the session. And mercifully, I will not have to be a part of it for very much longer. Things can be very tense, but if people can keep their whits about them even if their emotions are at a high pitch, accords can be reached, and what is achievable can and will be achieved. I have to take issue with what Senator Stuthman said about accepting something from the opposition. I've often heard more sense presented by people who are on the other side, and hearings are not just to get one side. Hearings presume that there are people on both sides who will have something to contribute and in the court system, the judges who disagree with the majority are said to be dissenting judges. But before the whole thing is over in the broad view and the broad sweep of things, their dissent becomes the majority opinion and it's accepted. And sometimes that dissent is offered by one judge--one judge who made a point, then others began to see it. So I will never reject something because somebody from the other side offered it. And I'm not going to reject something out of the hand because it comes not only at the eleventh hour, but the eleventh hour and fifty-ninth minute, if that gives us time. We're flexible. We think on our feet. We're able to adjust and adapt, and that's what the Legislature should be if it's not. We are not to be hidebound. You all have got to remember that whether we're here...you are here 60 days or 90 days, they are 60 days and 90 days for work. As long as there is time to work, be prepared to do what is necessary. Medical people, if they're worth their salt, will not give up on a patient as long as there is life in the body and sometimes even when there is no detectable life--no pulse, no respiration--and somebody doesn't give up and then happens what they call a medical miracle. Maybe it's not a miracle; it's just that in other cases people gave up too soon. But you should never give up too soon. And I've got a suggestion: The next time my colleagues are at that trough, I'm going to ask for a call of the hogs, not a call of the house, (laughter) and I'm not going to ring a bell and do like you all do; I'm going to say suey, and we'll see them come running. (Laughter) Thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Seeing no additional lights on, Senator Dubas, you're recognized to close on FA273. [LB928]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor, members of the body. Again, I appreciate the cooperative effort on everybody's part. There isn't a day goes by, since I've been elected to this position, that I haven't learned multiple things as I've been in this Chamber as well as my committee hearings, and I hope that that never ends. This

Floor Debate
April 09, 2008

has been a great learning experience for me, and I do appreciate the cooperative effort of everyone. I want to cooperate, too. At the end of the day we all have the same goal in mind, and when we dig in our heels, you know, sometimes we don't get things done. I've also learned if you believe in something, if you believe in it very passionately, it's our right and our duty to stand up on the floor and speak to those things, and so I hope I never lose sight of that. And I will continue to do this, and maybe I'll take some different tactics down the road, but I will always continue to stand up and speak for the things that I believe. So I'd appreciate your support of this amendment. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Dubas. You have heard the closing. The question before the body is on the adoption of FA273 to AM2282. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB928]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of the amendment to the amendment. [LB928]

PRESIDENT SHEEHY: FA273 is adopted. We will return to floor discussion on AM2282. Seeing no lights on, Senator Dubas, you are recognized to close. Senator Dubas waives closing. The question before the body is on the adoption of AM2282 to LB928. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB928]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB928]

PRESIDENT SHEEHY: AM2282 is adopted. [LB928]

CLERK: Mr. President, Senator Dierks would move to amend, AM2755. (Legislative Journal page 1419.) [LB928]

PRESIDENT SHEEHY: Senator Dierks, you're recognized to open on AM2755. [LB928]

SENATOR DIERKS: Thank you, Mr. President. Members of the Legislature, this amendment strikes some language from LB928 that was attached earlier and we found some difficulties with it, and we're just going to ask that it be removed. It strikes Section 1...in AM2304 it strikes Section 1 and 5 and takes care of the problems we have. We'll probably bring it back in another year, after we have time to visit about it a little bit. But right now we'd like to remove that from the statutes. Thank you. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Dierks. You've heard the opening of AM2755 to LB928. The floor is open for discussion. Are there members requesting to speak? Seeing none, Senator Dierks, you're recognized to close. Senator Dierks waives closing. The question before the body is on the adoption of AM2755 to LB928. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB928]

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

Floor Debate
April 09, 2008

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Dierks's amendment. [LB928]

PRESIDENT SHEEHY: AM2755 is adopted. [LB928]

CLERK: Senator Flood would move to amend, AM2759. (Legislative Journal pages 1419-1422.) [LB928]

PRESIDENT SHEEHY: Senator Flood, you're recognized to open on AM2759. [LB928]

SPEAKER FLOOD: Thank you, Mr. President, members. Earlier this session we've had a lot of discussion about the idea of these legislatively created task forces involving members of the Legislature, mixing in the executive and the judicial branches of government. And we have worked very well, I think, with a number of senators in here to address some of the concerns that I and others have raised about legislators doing legislative business and the executive branch, you know, involving the citizens to have these task forces. Basically, here's the situation: The Behavioral Health Oversight Commission is set to expire at the end of this fiscal year--June 30, 2008. Senator Synowiecki and I have talked. He has an interest in seeing a level of oversight continue. He and I have agreed on AM2759, which reconfigures this commission under the executive branch to begin July 1, 2008, with 12 members as opposed to the 25, representing behavioral health providers, consumers, advocates, the communities where regional centers are located, including representatives that are employees of the regional center. It continues...they continue to receive reimbursement for the necessary expenses for their travel. They are to conduct regular meetings, provide advice and assistance to the division, promote the interest of consumers and their families, provide reports as requested, oversee and support implementation of the Nebraska Behavioral Health Services Act which was passed in 2004. I want to very clear: This amendment does require the Division of Behavioral Health to provide the commission with a quarterly report regarding the implementation of the Nebraska Behavioral Health Services Act, and it is expected that the division will provide that report in person at the meeting and communicate back and forth with the commissioners regarding the reform efforts. This would terminate one year from its inception--June 30, 2009. Gives everybody another year. And the rest is basically technical. But this has been agreed to by Senator Synowiecki. I would give him the balance of my time to say as he pleases. Thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Synowiecki, 7:50. [LB928]

SENATOR SYNOWIECKI: I just want to thank you. Thank you, Speaker Flood, thank you, Mr. Lieutenant Governor. I appreciate the Speaker bringing this amendment. I think it's something we should do. We're talking about particularly vulnerable citizens here. This reform effort began with the passage of the reform effort in 2004. And here we are,

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

Floor Debate
April 09, 2008

four years later, and we're down to like 36, maybe 37 patients remaining in an institutionalized setting. This oversight commission oversaw the transition, again of particularly vulnerable citizens from an institutionalized setting to a community-based setting, in as safe and as expedient manner as we can, protecting the best interests of those patients since 2004. I just think it's important as we move towards the final phase of this reform program, that we have some level of oversight relative to this transition. I think it helps with the transparency. I think we're involved now with the...we have the legislative resolution relative to the Developmental Disability Center in Beatrice. I think we're on the back end of something good here. I'm speaking of the LB1083 reform, something that is positive for our vulnerable citizens, something that it is doing a lot of good in our communities. And I think the Oversight Commission played a key role in a lot of facets of that, and I think it enhanced the transparency of this transition. And I want to thank the Speaker for bringing this alternative approach in the executive branch, so that we can continue to have some degree of oversight on this process. Thank you. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Thank you, Senator Flood. You've heard the opening to AM2759. The floor is now open for discussion. Members requesting to speak, Senator Johnson. [LB928]

SENATOR JOHNSON: Thank you, Mr. Lieutenant Governor. I shan't speak long. Who says that you can't do good things at the eleventh hour? I think this is an excellent compromise. The Speaker has visited with the oversight committee and others in the past, usually within the last several weeks. But there did remain this concern that Senator Synowiecki has expressed and so I am very pleased with this agreement, and I would ask that everyone support this amendment. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Seeing no additional requests to speak, Senator Flood, you're recognized to close. Senator Flood waives closing. The question before the body is on the adoption of AM2759 to LB928. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB928]

CLERK: 34 ayes, 1 nay, Mr. President, on the adoption of Senator Flood's amendment. [LB928]

PRESIDENT SHEEHY: AM2759 is adopted. [LB928]

CLERK: I have nothing further on the bill, Mr. President. [LB928]

PRESIDENT SHEEHY: Senator McGill, you're recognized for a motion. [LB928]

SENATOR MCGILL: Mr. President, I move LB928 to E&R for engrossing. [LB928]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB928 advances. We'll now proceed to LB928A. [LB928]

CLERK: LB928, no E&R. Senator Johnson, first amendment, AM2620, but I have a note you want to withdraw, AM2620, Senator. [LB928A]

PRESIDENT SHEEHY: AM2620 is withdrawn. [LB928A]

CLERK: Mr. President, Senator Johnson would move to amend with AM2757. (Legislative Journal pages 1422-1423.) [LB928A]

PRESIDENT SHEEHY: Senator Johnson, you're recognized to open on AM2757. [LB928A]

SENATOR JOHNSON: Thank you, Mr. Lieutenant Governor. And this, hopefully, will not take us long. It's been a very productive evening, and...but it also is getting well into the evening. Thank you for your indulgence. What this does is includes the savings from Senator Erdman's Select File amendment and a General File amendment which authorizes Cash Fund expenditures for information and referral for persons with brain injury. The net General Fund savings is \$119,000; and a \$237,000 in fiscal year 2010. With that, I would ask for the approval of AM2757 and LB928A. [LB928A]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You have heard the opening. The floor is open for discussion. Member requesting to speak, Senator Chambers. [LB928A]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I support Senator Johnson's amendment. I wanted to wait until we had the day wrapped up to let you know that I put a packet of information on your desk related to a bill that I will be dealing with tomorrow. It's LB280A, a bill that Senator Stuthman will not need. And the process will be that I will offer a motion to suspend the rules so that the germaneness issue is done away with. If that is granted, then I will offer the amendment which would be to make certain information relative to disciplinary action actually imposed on law enforcement persons and teachers available to the public. This information that I gave you is designed to show you that I'm not picking on anybody. I started on this matter with this particular judge way back in 1997, and he had committed wrong conduct, wrongful conduct years before that. But when I became aware of it, I took action. Although the Supreme Court suspended him for six months, they should have gotten rid of him; they didn't. And what makes this relevant so I can use it in addition to it being the point that I want to make or supporting it, a few days ago a federal judge handed down an opinion that said the man who was the subject of this judge's earlier misconduct is going to have to be turned loose if the state doesn't grant him a new trial, after 20 years. And even if the new trial is granted, there may be such flaws that occurred in his earlier trial that he will be sprung. This idea of having

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

Floor Debate
April 09, 2008

transparency in government is essential, that wrongful conduct of that judge when he was a prosecutor was concealed for over ten years, it's why it's necessary when somebody is a public employee, on the public payroll, on the clock and does something wrong, they should not be shielded and protected, because sometimes there are reverberations that become known far down the line and create a great amount of difficulty. I, in honoring Senator Stuthman's chastisement of Senator Dubas, do not want mine to be considered an eleventh-hour amendment or bill; that's why I'm telling you at least 24 hours in advance. Thank you. (Laughter) [LB928A]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Seeing no additional lights on, Senator Johnson, you're recognized to close. Senator Johnson waives closing. The question before the body is on the adoption of AM2757 to LB928A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB928A]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Johnson's amendment. [LB928A]

PRESIDENT SHEEHY: AM2757 is adopted. [LB928A]

CLERK: Senator Flood would move to amend, AM2760. (Legislative Journal page 1423.) [LB928A]

PRESIDENT SHEEHY: Senator Flood, you're recognized to open on AM2760. [LB928A]

SPEAKER FLOOD: Thank you, Mr. President, members. This appropriates \$10,000 over two years for the provisions that we just adopted with the Behavioral Health Oversight Commission...I'm sorry, for one year for the provisions of the Behavioral Health Oversight Commission so that they can pay for travel and expenses, per diem, when they come to Lincoln to do their business. It's a \$10,000 appropriation out the Healthcare Cash Fund. Thank you, Mr. President. [LB928A]

PRESIDENT SHEEHY: Thank you, Senator Flood. You've heard the opening to AM2760 to LB928A. Senator Flood, seeing no lights on, you're recognized to close. Senator Flood waives closing. The question before the body is on the adoption of AM2760 to LB928A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB928A]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB928A]

PRESIDENT SHEEHY: AM2760 is adopted. [LB928A]

CLERK: I have nothing further on the bill. [LB928A]

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

Floor Debate
April 09, 2008

PRESIDENT SHEEHY: Senator McGill, you're recognized for a motion. [LB928A]

SENATOR MCGILL: Mr. President, I move LB928A to E&R for engrossing. [LB928A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB928A advances. Items for the record, Mr. Clerk? [LB928A]

CLERK: I have no items, Mr. President.

Mr. President, a priority motion. Senator Christensen would move to adjourn until Thursday morning, April 10, at 9:00 a.m.

PRESIDENT SHEEHY: You've heard the motion to adjourn until Thursday, April 10, 2008, at 9:00 a.m. All in favor...Senator Stuthman, did you wish to be recognized?

SENATOR STUTHMAN: No.

PRESIDENT SHEEHY: Thank you. (Laughter) All those in favor say aye. Opposed, nay. The Chair rules we are adjourned.