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Floor Debate  
February 26, 2009

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[LB10 LB21 LB110A LB110 LB153 LB167 LB168 LB172 LB177 LB184 LB207 LB219A  
LB219 LB260 LB261 LB356 LB377 LB432 LB458 LB507 LB668 LB680 LR37 LR38]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-fourth day of the One Hundred First Legislature, First Session. Our chaplain for today is Dr. Dan Flanagan of St. Paul's United Methodist Church in Papillion, Senator Gay's district. Please rise. []

PASTOR FLANAGAN: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Dr. Flanagan. I call to order the thirty-fourth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Senators, please check in. Mr. Clerk, please record. []

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

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

CLERK: I have no corrections, Mr. President. []

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

CLERK: Mr. President, Senator Rogert announces the selection of LB260 as his priority bill for this session. New resolutions: LR37 by Senator Fischer; LR38 by Senator Harms. Both of those will be laid over, Mr. President. And that's all that I have at this time. (Legislative Journal pages 567-568.) [LB260 LR37 LR38]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Heidemann, for what purpose do you rise? []

SENATOR HEIDEMANN: A point of personal privilege. I would like to talk about the preliminary budget report that we just put out. []

SPEAKER FLOOD: You may proceed. []

SENATOR HEIDEMANN: Thank you, Mr. Speaker, fellow members of the body. A few minutes ago was handed out our preliminary budget report. I want to go briefly over it with you and talk about a bill that we will be introducing shortly. The preliminary budget is the first of several stages in the budget process. Many years when we do the preliminary budget, when we come to the floor with the final budget recommendation to the Legislature it almost looks alike. This year our preliminary budget probably will

Floor Debate  
February 26, 2009

---

change substantially because of four main things and I will touch on them briefly later on. To let you know that this has been a difficult process for us, in my five years this is the most difficult one that I have had to deal with. After the October forecast, we had a negative balance of \$377 million below the minimum reserve. The Appropriations Committee preliminary budget reduced that shortfall by \$340 million, and we are now at \$36.4 million short of the 3 percent minimum reserve. We did that by fund lapses, significant savings in the fiscal year '08-09 deficits, lower than projected increases in the budget, including TEEOSA state aid, the university, and state college funding. Briefly on revenue growth: Where this all started, we realized that we were in trouble with the state's budget was after the October forecast. They significantly, at that time, reduced our revenue projections down to, in fiscal year '08-09, to 1.2 percent; 1.4 percent in '09-10; and 3.9 percent in '10-11 for a three-year average of 2.2 percent. The thing that I think is significant that lets you know that what we're up against, over the past 27 years there have only been three years where the adjusted revenue growth was below 1.2 percent and the 1.4 percent levels. This is what we're having to deal with. This is significant. Spending growth: How were we able to take a \$377 million shortfall and get it to a \$36 million shortfall? On page 2, if you want to follow along, it does say spending growth. We have a pre-session estimates. Operations were at right at 4 percent; the second year at 3.7 percent. In the committee preliminary budget, we took that down to 2.3 percent spending increase and a 2.1 percent spending increase. State aid to individuals, which wasn't showing much growth anyway at a negative .6 percent and 3 percent in the second year. We took that to flat in the first year and an increase of 3.8 percent in the second year. State aid to local governments, where there was a significant savings, pre-session estimates the first year at 6.6 percent; the second year at 9.1 percent. The committee preliminary budget shows 2.2 percent and 3.2 percent in the second year. And the annual change of pre-session estimate, we were estimating 3.7 percent increase in the first year; 6.9 percent in the second year. The way that we were able to save that \$300-and-some million is that we took that spending increase to 1.8 percent in the first year and 2.9 percent in the second year, for an over year two-year average of 2.4 percent. Major differences from the Governor: The thing that costs the most, the thing that was a priority for the committee, though, was provider rates, and that was the most significant thing that almost cost us over half, at \$24 million. If the total difference from the Governor was \$54 million, so that you can see that that was the most significant spending increase difference from the Governor. I will touch briefly that there were four things that we are going to be tracking that is going to change things significantly for us. The Forecasting Board will be meeting tomorrow, and this is the first of the four things that we are going to have to deal with. There is a good chance that the revenue forecast for the next three years could be adjusted downward. It's probably not a question if it's going to be adjusted downward; the question is how much. It would not be surprising--and this is very important right here--it would not be surprising if the forecast covering the next three years, affecting this biennial budget, declined a cumulative \$300 million or more. Also the Forecasting Board will be meeting once again in April and we'll have to deal with this. Our budget will be practically over

Floor Debate  
February 26, 2009

---

and be almost ready to be reported to the floor, so we will have to deal with this. Also at that time, though, is the April forecast, and at that time it will probably take into account the lost revenue from the stimulus package, which we will have to deal with, and I might talk a little bit more about that later on. Right now, the second thing that we're going to have to deal with is the federal stimulus package. If the Forecasting Board is a negative, the stimulus package will be a positive thing for us. It is estimated that we will receive anywhere from \$1 billion to \$1.2 billion. There are a lot of questions about how it's going to flow and still some dollar amounts. We are working on that. The thing with the stimulus package though is what we mostly questioned, what we wonder is how it's going to affect our bottom line. As we deal with the February forecast, and it's not going to be good news, we were going to try to access as much of the federal stimulus money as we possibly can to affect our bottom line. The third thing that we are going to deal with, and this is the defined benefit liability plans that we have out there. We have worked with Senator Pankonin. The Retirement Committee will be part of the budgeting process this year. There is just no doubt about that. It will affect us to a certain amount in this biennium budget, probably in the second year. But most definitely in the next biennium budget we could see huge liability amounts out there dealing with the retirement funds. The fourth thing, and this is what we call our sandpaper, the last piece of our puzzle, and that's the cash reserve. And we are very fortunate in this state--and I might touch base a little bit on that just a little bit later on--but we're very fortunate in this state, and a lot of states across the country do not have a cash reserve to fall back on, and we have that out there that will help us see us through this tough time. And that will be our last piece of the puzzle and a very important piece of the puzzle. I will tell you at this time though, also, that we are worried about year one and two, but myself and there are others that are probably more worried about year three and four. So that when you see us dealing with the cash reserve and you see us maybe trying to leave...us leaving significant amounts in the cash reserve, it's for the reason that we are... []

SPEAKER FLOOD: One minute. []

SENATOR HEIDEMANN: ...not looking over a year one or two budget, but three or four years. Just real briefly on the General Fund financial status: On line 8 I had talked about we could see significant revenue drops because of dealing with the federal stimulus package. If you go down to line 28, you can see that we do show a \$36 million shortfall from the 3 percent minimum reserve in this biennium budget. The other thing I want to touch basically is how much money--and this is something that the committee will struggle with a little bit--how much money we're going to leave at the floor for A bills. The other thing to do when you're looking at the financial status, this will change dramatically after tomorrow's forecast, the February forecast. Just real briefly I want to thank Senator Adams, working with the Education Committee; I want to thank Senator Cornett, who is with the Revenue Committee that will be part of this; Speaker Flood, who I have worked with over the last month dealing with the federal stimulus package. And I'm saying this because we have difficult times before us, but if we work together

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

Floor Debate  
February 26, 2009

---

we can get through these difficult times, and when the difficult times are over we can move this state ahead in a positive manner. We show that we did that back in the early 2000s . We need to do it again. And we have a lot to be proud of, this state, because we are in a so much better place than a lot of other states around us. And if we do it right again, we can, when we come back out of this we can be in the forefront. So I think that's something that we need to keep in the back of our minds. At this time I want to touch briefly on that we will be, as the Appropriations Committee, introducing a bill. We can do this according to Rule 5, Section 4(c)3. It is clear, though we cannot quantify the amounts at the time nor fully anticipate the tie into our core budget, it is our judgment that this bill may be useful as an instrument for us to enact a budget with the enhanced new federal funding flows. With the permission of the Speaker, we introduce this new bill pursuant to our rules in order to schedule the bill for a hearing and provide for a vehicle for appropriations should it be needed. If you have questions later on, you can catch me afterwards and I will try to answer them at that time. The Fiscal staff is also a great resource. Thank you. []

SPEAKER FLOOD: Thank you, Senator Heidemann. Mr. Clerk. []

CLERK: Mr. President, a new bill: LB680 by the Appropriations Committee. (Read LB680 by title for the first time.) That's all that I have, Mr. President. (Legislative Journal page 569.) [LB680]

SPEAKER FLOOD: Thank you, Mr. Clerk. We now move to the first bill on General File, LB168. [LB168]

CLERK: LB168 is a bill by Senator Avery. (Read title.) Introduced on January 12; referred to the Government Committee; advanced to General File. I have no amendments to the bill, Mr. President. [LB168]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Avery, you are recognized to open on LB168. [LB168]

SENATOR AVERY: Good morning, Mr. President and colleagues. LB168 allows the state purchasing bureau to use a reverse auction to acquire goods if the bureau determines it would be advantageous to the state; that is to say, if the state could save money in doing so. The bill applies only to specified goods, not to services. To explain a little bit about what a reverse auction is, it's used in business-to-business procurement transactions. It's a type of auction in which the role of the buyer and the seller are reversed. The primary objective is to drive the purchase price down for goods. All of you are familiar with ordinary auctions. These are called forward auctions. In an ordinary auction, the buyers compete to obtain a good or a service at the best price. In a reverse auction, sellers compete to obtain the business, so the buyer is really in the advantageous position or in the driver's seat. Reverse auctions are conducted in an

Floor Debate  
February 26, 2009

---

open and interactive environment. If the bureau conducts a reverse auction, it will provide notification of the intent to use such an auction, and an award will be made to the lowest responsible bidder. Responsible bidder implies that the best value will be obtained in these purchases. The bureau may contract with a third-party vendor to conduct a reverse auction. There are currently 13 states that allow reverse auctions, including Iowa and Minnesota. The Department of Administrative Services believes that Nebraska will be able to improve pricing and procurement of goods, probably also getting goods more quickly, and certainly saving the state some money by using this type of auction. When the bill was heard in the committee, there was no opposition. The committee advanced the bill on a 7-0 vote, with 1 member present and not voting. I urge you to advance this bill. Thank you, Mr. President. [LB168]

SPEAKER FLOOD: Thank you, Senator Avery. Mr. Clerk, are there committee amendments? [LB168]

CLERK: I have no amendments to the bill, Mr. President. [LB168]

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to discussion on LB168. Senator Nantkes, you are recognized. [LB168]

SENATOR NANTKES: Thank you, Mr. President. Good morning, colleagues. Thank you, Senator Avery, for your eloquent opening on this important piece of legislation. And colleagues, I rise in support of the bill, but I really wanted to take just a few minutes this morning to talk a little bit about the appropriations process and the preliminary budget that we have sent forward to you as a committee. Number one, I think that we need to each offer our sincere and deep gratitude to Senator Lavon Heidemann. Because of his strong leadership, we were able to craft a very responsible budget which I think helps to carefully rein in our state spending, be careful steward of the taxpayer dollar, and meet many of our important obligations. One thing I did want to draw your attention to was the introduction of the standalone bill, LB680. This will be the primary vehicle for us as a Legislature to carefully delineate and craft how we utilize those federal stimulus dollars. I urge each of you: Mark this hearing date on your calendar. This is the time when you come and help us put together a plan for recovery in the state of Nebraska. We need your ideas, Senator Dubas, in regards to green jobs and energy conservation. We need to hear from you, Senator Adams, about the important needs in the context of education that we can include within this bill. I really encourage you to start percolating. Start talking to your constituents. Figure out ways that we as a body, not just as an Appropriations Committee, can best utilize the significant federal dollars that will be coming to our state under the federal fiscal relief plan. Thank you. [LB168 LB680]

SPEAKER FLOOD: Thank you, Senator Nantkes. (Doctor of the day introduced.) Continuing with discussion on LB168: Senator Mello, you are recognized. [LB168]

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

Floor Debate  
February 26, 2009

---

SENATOR MELLO: Mr. President and members of the Legislature, I rise in support of LB168 and would like to commend Senator Avery for introducing a very innovative bill that will help, I believe, make our government more efficient and more accountable to the taxpayers. It's an issue that I explored over the last few months, and I was glad to see that someone introduced it and am a big supporter of it. So thank you, Senator Avery. I also rise to commend Speaker Flood, Senator Lavon Heidemann, and the members of the Appropriations Committee and Fiscal Office for introducing LB680. This vehicle will allow the Legislature to play an active role and a productive partner with Governor Heineman in determining where these stimulus dollars will be going over the next 18 months. I believe it's imperative that all 49 of us, and not just members of the Appropriations Committee, play an active role in discussing the stimulus bill and its impact with all of our constituents, because Nebraska, at this point in time, with an unprecedented fiscal outlook as well as also an unprecedented cash reserve, has an opportunity. We have an opportunity to move forward in a new direction--a direction that will value strategic investments in education, strategic investments in our public health infrastructure, and strategic investments in job creation. I look forward to working with all of the members of the Legislature and working with Governor Heineman and the executive branch in formulating a cooperative environment for us to help move this state forward with these stimulus dollars, to ensure we enact the key components of that stimulus package, which is to stabilize our education system, to help create jobs, and to take care of the most vulnerable citizens in our state, as well as make sure that our state government is held to a higher standard in regards to transparency and accountability. I think it's going to be crucial over the next few months that all senators try to be involved with the public hearing that will be coming up, but also trying to gather as much input from constituent groups in your districts, because this is a bill that all of the Legislature needs to help craft. This is a bill that all of Nebraska helps to need craft, and I look forward to working with everyone over the next few months on LB680. Thank you, Mr. President. [LB168 LB680]

SPEAKER FLOOD: Thank you, Senator Mellow. Senator Nordquist, you're recognized. [LB168]

SENATOR NORDQUIST: Thank you, Mr. President. First, I want to thank the leadership of our Chairman Lavon Heidemann for putting together this...on this preliminary report. We worked together. A lot of tough decisions. I want to thank him, first of all. Secondly, on the stimulus bill, LB680, that's going to be coming up. You know, I want to thank the Speaker. And as some of you remember last week, the Appropriations Committee members submitted or circulated a letter talking about transparency, opening up the process, establishing a Web site. That process is under way. Hopefully, we're going to have a Web site up soon that the public can come to and get information, find resources on what the stimulus is, how much is coming to Nebraska, where the money is going to be going. And I want to thank the Speaker for his leadership, in particular, on that. It's critical, with this much money coming through our government, that the public is aware

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

Floor Debate  
February 26, 2009

---

of where the dollars are going and where the dollars are being spent. And that's our hope that us, along with the Governor's Office and other national resources, that we can present that information to the public. But we also want the public involved in the process. We also want the public involved in the process. We want to hear their thoughts. We want to hear about their shovel-ready projects. We want to hear about shovel-ready projects all across this state that we can invest in. We want to listen about the services that we're providing in this state, and do the best that we can to put together a mainline budget and a stimulus package budget. On the underlying bill, LB168, it's a great bill. It makes government act more like business. That's what we need more of. We need to look for ways to reduce our spending in a commonsense way that business would do it. So with that, Mr. President, I encourage everyone to support LB168, and I encourage members to visit with members of the Appropriations Committee about the stimulus package, and if you have thoughts, to visit with us about that. Thank you. [LB168 LB680]

SPEAKER FLOOD: Thank you, Senator Nordquist. Senator Dierks, you are recognized. [LB168]

SENATOR DIERKS: Thank you, Mr. Speaker. I, too, rise in support of LB168. I'm surprised we haven't looked at this sort of legislation other years. I remember visiting with a school superintendent a number of years ago, and asking him how they arrived at teachers' salaries after that crash in the '30s when everybody was in poverty. And he said that they did this same kind of a thing. We brought the teachers and the school board together and they started negotiating until the teachers got it down to where the school board would say okay, and that's the way the salary schedule got started back in the late '30s. So I think it's a novel idea and I think it's a great idea, and I sure support it. Thank you. [LB168]

SPEAKER FLOOD: Thank you, Senator Dierks. Senator Pirsch, you are recognized. [LB168]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I, too, want to stand before addressing LB168, the bill at hand, and make a few comments regarding the appropriations process and those actions that have already been taken by the leadership of this body, including the Speaker, the Chairman of the Appropriations Committee, Senator Heidemann, and important chairs, including Senator Adams. And I think the work that you've done so far in planning for the next two, three years, is greatly appreciated by the body, and it will...you know, the problem I think other states are experiencing is they've put off difficult decisions because they are difficult to the point in time that they hit a crisis level. And the team that has been in place here on so many of these committees and with Speaker Flood has anticipated that which other states has put off, has made adjustments anticipating those, and I think that as a result of that we are moving smoothly towards addressing challenges, and we will not have the crisis,

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

Floor Debate  
February 26, 2009

---

and we have not had the crisis that other states have experienced. And I think the end result of that is going to be a greatly heightened quality of life for the people in the state of Nebraska, as the entire nation goes through rough economic times. And so I thank them for that. And I appreciate, by the way, the remarks by Senator Nantkes that continues to reinforce the idea that as the Appropriations Committee makes these difficult decisions, that they want a great deal of participation, even in the initial process, with the rest of the body. So thank you for that. Moving on to LB168, the matter at hand, I rise in support of that. I do sit on the Government Committee. It did not have any opposition. It gives yet another tool in the arsenal for the Department of Administrative Services in procuring goods and services for the state to utilize the system that is most effective in bringing about the lowest price for the taxpayer. Having said that, I will...I do appreciate the remarks previously made and would urge you to approve both--I'm sorry--to advance LB168. [LB168]

SPEAKER FLOOD: Thank you, Senator Pirsch. Senator Sullivan, you are recognized. [LB168]

SENATOR SULLIVAN: Thank you, Mr. Speaker and colleagues. Good morning. I rise in support of LB168. As a member of the Government Committee, I think it improves efficiency of government, and we can all be concerned about doing that. I also commend Senator Heidemann and the Appropriations Committee for their initial work on the budget. I know we've got some tall challenges ahead of us but I'm confident that we'll all rise to the challenge. And also I take to heart Senator Nantkes' comments about the fact that we all need to reach out to our constituents about the stimulus package and get their reactions and feedback. I've already heard from a few constituents saying, don't forget about rural Nebraska. And I've assured them that I won't as we discuss how we're going to use this stimulus money. But first and foremost, I think we need to consider we are one Nebraska and we need to go forward on how we can make this entire state strong and better. Thank you. [LB168]

SPEAKER FLOOD: Thank you, Senator Sullivan. Senator Harms, you are recognized. [LB168]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Avery, would you yield for a couple questions, please? [LB168]

SPEAKER FLOOD: Senator Avery, will you yield to a question from Senator Harms? [LB168]

SENATOR AVERY: I will. [LB168]

SENATOR HARMS: Senator Avery, on page 2, line 18, I'd like to visit with you just a minute if we could about that. Are you with me? Senator Avery, when we talk about



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

Floor Debate  
February 26, 2009

---

"bidders compete to provide goods in an open and interactive environment," what does that actually mean to me? What does that...what are you saying in there? [LB168]

SENATOR AVERY: That's a good question. In a reverse auction environment, the sellers actually get to see what the other vendors are offering. They get to see the product and they get to see what they are asking in price, so there's an opportunity for every seller to adjust their asking price in view of what the competition is asking. [LB168]

SENATOR HARMS: Senator Avery, when they do that, are those bids in a verbal or a written, or are they open or closed? [LB168]

SENATOR AVERY: They are open, and it's my assumption they are written. [LB168]

SENATOR HARMS: Okay. [LB168]

SENATOR AVERY: It's an open environment where the sellers are actually competing among themselves to get the business from the state or the buyer. [LB168]

SENATOR HARMS: And is that written, done right on the spot, and how long is that bid held open to address this issue? I can see, electronically, how that can be done because they do it already. You can put bids up and you watch your bids take place. But I don't know when it is an open or closed session, when it's written. What is the length of the period? Is it immediately? What is the time schedule in regard to this bid process? [LB168]

SENATOR AVERY: I'm sorry, Senator Harms. I'm not sure I can answer that but I will certainly try to find someone who can. My initial reaction is that it would be a fairly contained environment, so you couldn't drag it out over weeks, but you might be able to do it over the course of a day or two. [LB168]

SENATOR HARMS: Well, I can see that the bill itself...I support the bill. I'm not in an argumentative mood today in regard to this particular issue. But why I'm telling you that is I've been in enough bid processes in a previous career that I can see you could have a problem with this. It's not clearly identified. There's not a time limit on this. I would suggest that if you look at that, you ought to be careful with that because I can see it will cause some problems. Thank you, Mr. President. [LB168]

SPEAKER FLOOD: Senator Wightman, you are recognized. [LB168]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. If Senator Avery would yield to a question or two, I would like to engage in some conversation. [LB168]

Floor Debate  
February 26, 2009

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SPEAKER FLOOD: Senator Avery, will you yield to a question from Senator Wightman? [LB168]

SENATOR AVERY: I will. [LB168]

SENATOR WIGHTMAN: Senator Avery, do you see this as being much different than if we solicited a single bid and had a cutoff date, say it was 12 o'clock noon on March 15, and bids could be solicited during that...or would be solicited during that period of time, and the bids would be made and they would be posted either on a Web site or the Internet? [LB168]

SENATOR AVERY: That's how I see it happening. But the important thing is that it's open to all vendors and all bidders so they can see what the others are doing, and adjust their asking price to be more competitive. [LB168]

SENATOR WIGHTMAN: And I would think that over the next several years, as we work our way through this economic situation that we're in, this would be particularly valuable because there are going to be a lot of contracting firms that are wanting bids...or wanting work, and it would seem to me that it would be very beneficial during this period of time. But so I do stand in support of the bill. I'd like to speak just a moment if I could, also on the appropriations bill, and I want to congratulate Senator Heidemann, as well, for his leadership in putting together a preliminary budget. I think that the situation Nebraska is in is extremely good compared to most other states, and maybe all other states. But I know there were nine that were listed as not being in a deficit situation. I've also seen figures that we were one of five. I'd like to review a few figures with you. Probably some of you saw...and I'm comparing Nebraska to the national situation. We had about a \$790 billion stimulus bill that just passed Congress, and if any of you read, you probably heard on TV or saw on TV or read in the papers that that amounts to \$10,000 for a family of four. Some of you may remember last fall there was talk about unfunded obligations of the United States government, and the figure I remember reading was \$53 trillion. And my understanding was that that was almost entirely for Social Security benefits that had been earned and paid in, and Medicare: the obligations of the U.S. government for people who were either eligible or would be eligible, that there was no funding for. And I'd like you to compare for a minute what \$53 trillion amounts to compared to \$790 billion. I think it's 68 times--the \$790 billion that the stimulus package amounted to. If you divide \$790 million into \$53 trillion, that's 68 times. That means that a family of four has a share of the national obligation of almost \$700,000 for a family of four. I think when you consider that in light of what Nebraska's situation is, you can see what a job that the leadership of the Legislature has done over the last several years in maintaining a steady course, a pretty much a pay-as-you-go situation. So I ask you to keep those figures in mind as we work our way through this budget. [LB168]

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

Floor Debate  
February 26, 2009

---

SPEAKER FLOOD: One minute. [LB168]

SENATOR WIGHTMAN: Again I compliment Lavon Heidemann for all of the work that he has done in putting together the preliminary budget and providing leadership to the Appropriations Committee. Thank you, Mr. President. [LB168]

SPEAKER FLOOD: Thank you, Senator Wightman. There are no other lights on. Senator Avery, you are recognized to close on LB168. Senator Avery waives closing. The question for the body is, should LB168 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB168]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB168. [LB168]

SPEAKER FLOOD: LB168 advances to E&R Initial. Mr. Clerk, we now move to LB207. [LB168 LB207]

CLERK: LB207, by Senator Avery. (Read title.) Introduced on January 12 of this year; referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. I have no amendments at this time, Mr. President. [LB207]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Avery, you are recognized to open on LB207. [LB207]

SENATOR AVERY: Thank you, Mr. President. LB207 contains three provisions relating to state buildings and properties. The first provides that the Governor's Residence Advisory Commission will conduct an annual inspection of the Governor's Residence. Current law requires the inspection to be completed in June. This provision in LB207 will allow the commission more flexibility as to when to conduct the inspection. They may decide to do that in June or they may not. The second provision allows the Department of Administrative Services to lease state property to a private entity to provide necessary services when the space is not being used and is not needed for public use. Currently, the Capitol Commission has the authority to lease space to private entities. This bill provides consistency in allowing DAS also to have the authority to lease to private entities. DAS currently has to go through a complicated process through the vacant lands and excess property committee procedure in order to lease to private entities. It is a longer process. This would allow them more flexibility to lease to private entities when state property is not needed. The final and third provision, the bill outright repeals section of law, 81-1108.40. This section of law allowed the Department of Administrative Services to purchase a building to house the Nebraska Library Commission. This statute was passed in 1973. The building for the Library Commission was never built or purchased. So that's an unnecessary provision of law that does not

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

Floor Debate  
February 26, 2009

---

need to stay. There was no opposition in the hearing on this bill. The committee advanced it on an 8-0 vote. I urge you to advance it to Select File. Thank you, Mr. President. [LB207]

SPEAKER FLOOD: Thank you, Senator Avery. You've heard the opening on LB207. There are no lights on. There are no members wishing to speak. Senator Avery, you are recognized to close. Senator Avery waives closing. The question for the body is, shall LB207 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB207]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB207. [LB207]

SPEAKER FLOOD: LB207 advances to E&R Initial. Mr. Clerk, we now proceed to LB177. [LB207 LB177]

CLERK: Mr. President, LB177 is a bill by Senator Lathrop. (Read title.) Introduced on January 12; referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. I do have Banking Committee amendments, Mr. President. (AM123, Legislative Journal page 367.) [LB177]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Lathrop, you are recognized to open on LB177. [LB177]

SENATOR LATHROP: Thank you, Mr. President, and good morning, colleagues. LB177 would make changes to the security freeze provisions of state law that was passed in 2007. A security freeze stops any of the three major credit reporting companies from providing your credit report to anyone unless the freeze is suspended or lifted by the individual who placed the freeze. This freeze is the strongest tool available to a consumer to stop identity theft. LB177 makes three changes to the current law. First, the bill defines a minor for purposes of the security freeze provision as someone who is under the age of 19. While the bill passed in 2007 provided for a free security freezes for minors, this change actually defines who a minor is under this law. That definition is also consistent with Nebraska state law otherwise. Second, the bill removes the seven-year sunset provision for the security freeze. This change would mirror what is taking place across the country. This change is especially appropriate since it can sometimes take longer than seven years to rectify a case of identity theft. Third, the bill, as it will be amended by the committee, would change the fees related to the use of credit freezes. It currently costs \$15 to place a security freeze and there is no cost to temporarily lift that freeze or to remove the freeze. The amendment, which Senator Pahls will describe momentarily, would establish a fee of \$3 to place, temporarily lift, or remove the security freeze. The original version of LB177 changed the \$15 fee to \$5. This was done after a discussion with Experian, one of the credit reporting companies. LB177 makes a good tool for consumers in their fight against identity theft even better,

Floor Debate  
February 26, 2009

---

and I ask you for your support. Thank you, Mr. President. [LB177]

SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Thank you, Senator Lathrop. You've heard the opening to LB177. We have committee amendments. Senator Pahls, as Chairman of the Banking, Commerce and Insurance Committee, you are recognized to open on AM123. [LB177]

SENATOR PAHLS: Good morning, Mr. President and members of the body. The committee amendments would make changes in that part of the bill involving charges that consumer reporting agencies may impose on consumers. Senator Lathrop has gone into some detail on the amendments but I'm just going to point out again, Steve Lathrop, as the introducer of the bill, asked the committee to alter the fee structure so there would be a \$3 fee to place a security freeze; a \$3 fee to temporarily lift a security freeze; and a \$3 fee to remove a security freeze. The committee adopted Senator Lathrop's recommended amendments as the committee amendments on the bill. The committee, as you see, they supported the bill, and of course they support the amendments. I ask for your support. Thank you. [LB177]

SENATOR ROBERT: Thank you, Senator Pahls. Members, you have heard the opening to AM123 on LB177. Are there members wishing to speak? Seeing none, Senator Pahls, you are recognized to close. He waives closing. The question for the body is, shall AM123 be adopted to LB177? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish? Record, Mr. Clerk. [LB177]

CLERK: 35 ayes, 0 nays on adoption of committee amendments. [LB177]

SENATOR ROBERT: AM123 is adopted. [LB177]

CLERK: I have nothing further on the bill, Mr. President. [LB177]

SENATOR ROBERT: Returning to discussion on LB177, are there members wishing to speak? Seeing none, Senator Lathrop, you're recognized to close on LB177. [LB177]

SENATOR LATHROP: Thank you, Mr. President. Thanks for the support, colleagues. This bill, just as a reminder, will simply change the fee structure. It is more consumer-friendly with the change in fee structure, and I'd ask you to advance LB177. Thank you. [LB177]

SENATOR ROBERT: Thank you, Senator Lathrop. Members, you have heard the closing to LB177. The question for the body is, shall LB177 advance to E&R Initial? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Record, Mr. Clerk. [LB177]

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

Floor Debate  
February 26, 2009

---

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB177. [LB177]

SENATOR ROBERT: LB177 does advance. Next item on the agenda. [LB177]

CLERK: Mr. President, if I may right before that, Natural Resources will meet in Executive Session at 10:00 today, Room 2022; Natural Resources at 10:00 in 2022.

LB377, Senator Pankonin. (Read title.) Introduced on January 16 of this year. Referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. At this time I have no amendments, Mr. President. [LB377]

SENATOR ROBERT: Senator Pankonin, you're recognized to open on LB377. [LB377]

SENATOR PANKONIN: Good morning, Mr. President and members. LB377 would adopt the Nebraska Governmental Unit Credit Facility Act. The act would give political subdivisions authority to back their bonds with letters of credit from a United States governmental enterprise, such as the Federal Home Loan Bank of Topeka, or from a bank that is backed by a United States governmental enterprise. LB377 is being introduced in a reaction to federal law changes approved by Congress on July 30, 2008, under the Housing and Economic Recovery Act. The Nebraska Governmental Unit Credit Facility Act would potentially allow Nebraska governmental units to credit enhance their bonds with letters of credit issued by or confirmed by the Federal Home Loan Bank of Topeka or other United States governmental enterprises. The Federal Home Loan Bank of Topeka could issue its letter of credit directly to back a bond or it could issue a confirming letter of credit, backing a letter of credit issued by a member financial institution in support of a bond. In either case, the rating of the bond should improve to AAA, triple A, greatly enhancing the bond's marketability and resulting in lower interest costs for the governmental unit. The federal law changes permit Federal Home Loan Banks to issue such letters of credit for a wide range of products through December 31, 2010. The potential advantage to political subdivisions would be that municipal bonds backed by these letters of credit could possibly issued at lower interest rates. LB377 would give political subdivisions in Nebraska the authority needed to take advantage of the new federal changes. The bill would give political subdivisions general authority to use letters of credit or similar devices from federal agencies to support their bonds. The procedure to issue bonds would not be changed by the act. The act would give political subdivisions an additional option when issuing bonds. Thank you. [LB377]

SENATOR ROBERT: Thank you, Senator Pankonin. Members, you have heard the opening to LB377. Are there members wishing to speak? Seeing none, Senator Pankonin, you are recognized to close on LB377. [LB377]

SENATOR PANKONIN: I'll waive closing. [LB377]

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

Floor Debate  
February 26, 2009

---

SENATOR ROBERT: The question before the body is, shall LB377 advance to E&R Initial? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Record, Mr. Clerk. [LB377]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB377]

SENATOR ROBERT: LB377 does advance. The next item, Mr. Clerk. [LB377]

CLERK: LB219. (Read title.) The bill was introduced on January 13 of this year; referred to Transportation and Telecommunications Committee; advanced to General File. At this time I have no amendments, Mr. President. [LB219]

SENATOR ROBERT: Senator Flood, you are recognized to open on LB219. [LB219]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, everybody. This bill transfers the office of highway safety, currently a division of the Department of Motor Vehicles, to the highway safety section of the Department of Roads. It would thus consolidate the state's planning, strategies, funding, and data analysis related to highway safety into one agency; namely, the Department of Roads. This proposed transfer has the full cooperation of the executive branch, and at the committee hearing Directors Beverly Neth and John Craig, as well as Colonel Bryan Tuma, all testified in support of it. LB219 was advanced to General File by a unanimous vote of the committee. Why is this transfer needed? Three reasons: efficiency, transparency, and accountability. Efficiency. While all the agencies involved cooperate to a very high degree, it still remains that the state of Nebraska has two entire divisions of two agencies dedicated to the same purpose; namely, highway safety. Intuitively, it is inefficient. These two divisions are not located in the same building. They cannot share supplies. They cannot share personnel. What they can do and certainly do communicate with each other, a high level of coordination associated with daily interaction with one's peers is simply unattainable. Transparency. I believe that speaks for itself. And finally and most importantly to me, accountability of public funds is the reason for this transfer. Both DMV and DOR award millions of dollars in federal highway safety grants to law enforcement, advocacy groups, political subdivisions, and others. The risk of overlap and other unintended circumstances simply cannot be avoided. However, having one highway safety office significantly reduces the risk. The transfer will hold the DOR responsible for all federal highway safety grant funding. There are two reasons to place this office in the DOR. First, the highway safety section has over three times the personnel of the DMV office of highway safety. Second, federal government requirements, duties, and, most importantly, penalties, center on state transportation agencies, which in DOR is Nebraska; thus, DOR is a motivated leader in the area of highway safety. I will acknowledge that there are some folks at both agencies, quite possibly just one, that have some concerns about the merger. I have promised them

Floor Debate  
February 26, 2009

---

that I will visit both the DMV and the DOR offices of highway safety between now and Select. I will better understand what they do. I have already taken the opportunity to learn much more than I knew even a month ago about the work of the highway safety office at the Department of Motor Vehicles. This is important work, and by no means am I attempting to slight either office for the work they've done. I've been impressed with their commitment to law enforcement, with setting out the in-car cameras with the selectives. I'm a law enforcement person and I do feel there's a lot to be said for highway safety dollars connecting directly to those who travel on our roads and making sure that we don't have impaired drivers on our roads, and, more importantly, that our roads are safe. And safety goes beyond impaired driving. It also includes making sure you know what the road conditions are; making sure that the Department of Roads works well with law enforcement in terms of communicating to the citizens. This is important work. It's a substantive decision that's being made here in LB219, and I intend to work between now and Select File to know even more and to visit with folks in both agencies. Thank you, Mr. President. [LB219]

SENATOR ROBERT: Thank you, Senator Flood. Members, you have heard the opening to LB219. Those wishing to speak are Senators Lautenbaugh, Stuthman, Carlson, Gloor, and Howard. Senator Lautenbaugh, you are recognized. [LB219]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I rise briefly in support of this bill. I think it's a much needed change that will bring much needed efficiency. I applaud the Speaker for bringing it, and as I said, I'll be brief. I'll be brief. I just urge you to support it because it's the right thing to do. Thank you. [LB219]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Senator Stuthman, you are next and recognized. [LB219]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I truly do support this bill that Speaker Flood has brought forward. I think it's a very good idea. Some of the questions that I had by constituents and agencies was the fact that will this interrupt any of the grant processes that take place already for some of the...you know, like Project Extra Mile or any one of those groups that do get funding through that program. So could I ask Speaker Flood a question, please? [LB219]

SENATOR ROBERT: Senator Flood, will you yield to a question from Senator Stuthman? [LB219]

SPEAKER FLOOD: Yes, I will. [LB219]

SENATOR STUTHMAN: Senator Flood, this won't interrupt any of that process that is already being taken place and is still in place, correct? [LB219]



Floor Debate  
February 26, 2009

---

SPEAKER FLOOD: It should not. [LB219]

SENATOR STUTHMAN: Because what this bill does is only physically moves the one group to another establishment, and hopefully have better efficiencies as far as the two being together. [LB219]

SPEAKER FLOOD: Yes. And in all fairness, Senator, my understanding is that when DMV does move, they won't physically be in the same office, office, as the highway safety group at DOR. But John Craig, the director of the Department of Roads has signaled to me and others, and said it at the hearing, that it's his intention within time to move them all under the same exact physical location. [LB219]

SENATOR STUTHMAN: Okay. Thank you, Speaker Flood. That is...I think that is a very good idea and I think we're going in the right direction. And I have assured a lot of the people that, you know, this will not affect any of the projects or any of the process that is currently in place and any of the staffing that is utilized for any of those types of projects. So with that, I do support this bill. Thank you, Mr. President. [LB219]

SENATOR ROBERT: Thank you, Senator Stuthman. Senator Carlson, you are next and recognized. [LB219]

SENATOR CARLSON: Mr. President and members of the Legislature. If I could, I'd like to ask Senator Flood a question. [LB219]

SENATOR ROBERT: Senator Flood, will you yield to a question? [LB219]

SPEAKER FLOOD: Yes, I will. [LB219]

SENATOR CARLSON: Senator Flood, I am in support of this bill, regardless of your response to my question, but I want to ask anyway. Because you indicated a reason for this is efficiency, and then it says in the A bill that there's simply a transfer of existing appropriation to the Department of Roads, so there's...it would be nice if there were a reduction as a result of this efficiency. [LB219]

SPEAKER FLOOD: Thank you, Senator Carlson. I think that the efficiency...you know, I think that John Craig's comments at the committee hearing, where he wants to get DMV moved over before he makes decisions on where to find efficiencies, and I understand that, because he's not going to...we're not waving the flag to say we're cutting positions. I think it's realistic to think that down the road, working together at the Department of Roads and what is now in the DMV, the highway safety office, that there could be some efficiencies. It just kind of baffled me as to why we had two different agencies handing out highway safety dollars. For instance, Project Extra Mile receives money from both the Department of Roads and the DMV. It should be a coordinated effort. And to the

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

Floor Debate  
February 26, 2009

---

DMV office of highway safety's credit, they have worked very well collaboratively with the DOR on those highway safety grants that they started handing out a couple of years ago. I think this will provide better efficiency. [LB219]

SENATOR CARLSON: Okay. Thank you, Senator Flood. Thank you, Mr. President. [LB219]

SENATOR ROBERT: Thank you, Senator Carlson. Senator Gloor, you are next and recognized. [LB219]

SENATOR GLOOR: Thank you, Mr. President and members of the body. Would Speaker Flood yield to a question, please? [LB219]

SENATOR ROBERT: Senator Flood, will you yield to a question? [LB219]

SPEAKER FLOOD: Yes, I will. [LB219]

SENATOR GLOOR: I believe you've addressed this but I want to make sure I'm clear, and that is that what cost savings there may be, what efficiencies there may be from a consolidation, won't happen initially on a physical relocation basis. That's a long-term goal but nothing that has been plugged in as a short-term reality. Is that correct? [LB219]

SPEAKER FLOOD: That is correct. [LB219]

SENATOR GLOOR: Okay. My only other comment would be a cautionary one. It is curious that these responsibilities were split somewhere along the line. I assume this made sense to somebody. I'm a little discomforted that we don't know what those reasons and rationales are. There may have been good reason somewhere along the line that these responsibilities were split. To bring them back together sounds commonsensical and something that I believe I can get behind. I'm still trying to work this through in my mind, but I wish I knew what the history was. That would make it a lot easier for me to get completely comfortable with it. Thank you. [LB219]

SENATOR ROBERT: Thank you, Senator Gloor. Senator Howard, you are next and recognized. [LB219]

SENATOR HOWARD: Thank you, Mr. President. If our Speaker would yield to a question. [LB219]

SENATOR ROBERT: Senator Flood, will you yield to a question? [LB219]

SPEAKER FLOOD: Yes, I will. [LB219]

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

Floor Debate  
February 26, 2009

---

SENATOR HOWARD: Thank you, Speaker Flood. In looking at the committee statement, I see that Diane Riibe came in as an opponent to this bill. Could you give me some idea of what her testimony is, what her concerns were, and how these will be addressed? [LB219]

SPEAKER FLOOD: Yes, I will, Senator Howard. Although I did not take notes, I did watch her testify. If I remember correctly, her primary concern was that if it's not broke, don't fix it. She has great respect for both the highway safety office of the DMV and I also would assume she has respect for the highway safety office at the DOR. She felt like we have a model program in Nebraska and that we shouldn't do anything to disrupt it. I think reading this bill, you'll note we're not doing anything to disrupt it. And given your concern, would be happy to visit with her between now and Select File. [LB219]

SENATOR HOWARD: I think that would be excellent and I appreciate your willingness to do that. Thank you. [LB219]

SENATOR ROBERT: Thank you, Senator Howard. Those wishing to speak: Senators Hansen, Gay, and Flood. Senator Hansen, you are recognized. [LB219]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. If I could ask Senator Flood a question or two. [LB219]

SENATOR ROBERT: Senator Flood, will you yield to a question? [LB219]

SPEAKER FLOOD Yes, I will. [LB219]

SENATOR HANSEN Thank you, Mr. Speaker. Are all of the responsibilities of the DMV would now be under the Department of Roads or is just the safety aspect and the handing out of the safety grants? [LB219]

SPEAKER FLOOD: Well, actually what I did was, in the bill, on pages 3 and going to 4, everything of the DMV's office of highway safety would be transferred to the Department of Roads except for the Motorcycle Safety Education Act and the STOP Program. I felt that those two were connected enough with the licensing of motorists on Nebraska roads, that they should stay with the DEMON and that the rest of it, as it relates to highway safety, should go to the Department of Roads. [LB219]

SENATOR HANSEN: Will this have any effect on closing the Department of Motor Vehicles' offices around the state in the county seats? Some have already been closed but... [LB219]

SPEAKER FLOOD: No. No, this has nothing to do with the licensing divisions, so the

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

Floor Debate  
February 26, 2009

---

offices that are in courthouses. The only office that would move would be the one in the State Office Building would be transferred to a Department of Roads facility in south Lincoln. [LB219]

SENATOR HANSEN: Okay. The Nebraska Cattlemen is leading a nationwide program called the truckers Beef Quality Assurance program, and I assume that that would be part of the Department of Roads now. Would that be correct? It's a program that's being talked about, anyway, with the safety program with DMV. [LB219]

SPEAKER FLOOD: If that is occurring there, I would assume then that would possibly, most likely, go to the DOR, although I will find out an answer and let you know later today. [LB219]

SENATOR HANSEN: Thank you very much. Would Senator Fischer yield to a question? [LB219]

SENATOR ROBERT: Senator Fischer, will you yield to a question? Senator Fischer? [LB219]

SENATOR HANSEN: Or Senator Fulton, either one. It sounds like they're...Senator Fischer. [LB219]

SENATOR FISCHER: Yes, Senator Hansen. [LB219]

SENATOR HANSEN: Senator Fischer, does the Department of Roads have in their budget any increase in funding for this program for this switch from DMV to move to the Department of Roads, most of their programs anyway? [LB219]

SENATOR FISCHER: Do they anticipate needing an increase in funding, is that your question, at the Department of Roads for this? [LB219]

SENATOR HANSEN: Yes. Yes. [LB219]

SENATOR FISCHER: From memory, I don't believe that there will be any need to increase the funding. [LB219]

SENATOR HANSEN: Will programs like the Nebraska Cattlemen's truckers Beef Quality Assurance program, will that continue if it's moved to the Department of Roads? [LB219]

SENATOR FISCHER: Did you want it moved to the Department of Roads? [LB219]

SENATOR HANSEN: That's what the bill is doing, I believe. I asked the Speaker and he

Floor Debate  
February 26, 2009

---

said that would be one of those moves, except for the motorcycle training and one other one, so. [LB219]

SENATOR FISCHER: It's my understanding, Senator Hansen, that no programs will be changed when the move is made. [LB219]

SENATOR HANSEN: But...so they all will be just moved to the Department of Roads then. Okay. Thank you, Mr. President. [LB219]

SENATOR ROBERT: Thank you, Senator Hansen. Senator Gay, you are next and recognized. [LB219]

SENATOR GAY: Thank you, Mr. President. I rise also briefly to talk on this bill. I think it's a good idea. There was opposition as we're talking a little bit, but I think that's...after listening to Senator Flood, saying he will work on it. We understood that too. This did pass out of Transportation Committee unanimously. So we did take that into heart, the concerns, because I think the thing is, it's working very well now, but efficiencywise it could work better. They can communicate a little better. DMV can focus on what they do the best, issuing--and I'm not an expert, I'm new to the committee--but they can focus on what they do best and then this could work with the Department of Roads to enhance what they're presently doing to make it better. So I think efficiencywise, communicationwise, it made sense and I supported this out. And after listening to Speaker Flood, I know he...you know, he's very thoughtful and will continue to work on any changes that may need to be made. Project Extra Mile is a great organization and has a lot of good input, and I think their concern, too, was, well, is it still going to be an excellent program? I have no doubt it will still be an excellent program. They can get the grants and continue to move forward and find new innovative ways to make our roads safer. So I support this and would urge my colleagues to support it. Thank you, Mr. President. [LB219]

SENATOR ROBERT: Thank you, Senator Gay. Senator Flood, you are next and recognized. [LB219]

SPEAKER FLOOD: Thank you, Mr. President. Senator Gloor raised a good question when he was talking about how this got split up like this, and really I don't think it was anyone's fault, and I'll give you a little history. In 1972, the DMV took over the office of highway safety that really started in 1967. And by all accounts, we have an outstanding office of highway safety program in Nebraska. In about 1986 or '87, the accident records bureau changed its name to the office of highway safety at the Department of Roads. You can get a better understanding of what they do. They look at how many deaths were at an intersection, review the data and process the data, and they still do that today. In the last three or four years, the federal highway funding that comes through the Department of Roads, states were given an opportunity to use up to, I believe it was

Floor Debate  
February 26, 2009

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10 percent of that, or 20 percent...10 percent of that, if I'm right, to go toward highway safety projects. And Nebraska was one of five states that were doing that. And that would be the reason that the Department of Roads then contacted the DMV, office of highway safety, and said let's work together; tell us what your criteria is to hand out these funds; and then those funds would go to, have gone to like Project Extra Mile or they've gone to some of the law enforcement-related selectives and grants like that. And so they have experience in that area. Now, obviously, the real experience is in the DMV in terms of highway safety. They bring that over to the Department of Roads. And, for me, I think we have to think outside the box beyond impaired driving and beyond the law enforcement selectives. I think highway safety in Nebraska is also the great work that Omaha and Lincoln districts are doing when they have those command centers where they have all the TVs up there and they're communicating with law enforcement in the area. I'd love one of those in northeast Nebraska, though, so that Senator Stuthman and I could be working. So the State Patrol and Department of Roads would be housed in the same facility and they'd be communicating to broadcasters and they'd be communicating to the public about the condition of roads and what roads are doing, and coordinate a response and work with law enforcement to close the roads during times of emergency or flooding or whatever. The same thing should happen to the troop area in Grand Island, in North Platte, in Scottsbluff. I just see a lot of good things that could come of this. Granted, albeit, it's outside of the scope of what they're doing in some ways of highway safety, but I think that's important that we continue to develop that initiative that began a couple of years ago that I think is very positive. So that's the history. The short answer to Senator Gloor's question is, Department of Roads was kind of bootstrapped up into that more traditional highway safety role like the DMV when they started being able to use some of their federal funds for highway safety, so. Thank you, Mr. President. [LB219]

SENATOR ROBERT: Thank you, Senator Flood. Senator Pankonin, you are next and recognized. [LB219]

SENATOR PANKONIN: Thank you, Mr. President. For some reason, the Project Extra Mile folks in my district specifically, in Nebraska City, are very concerned about this bill and the potential ramifications. As always, Speaker Flood has been very gracious in listening to my concerns, and I appreciate his efforts to study this issue further between the first and second round of debate. I will be voting red because of those concerns of my valued constituents, but I'll look forward to the continued discussion and efforts on the behalf of many to make this a better bill if it is going to move forward. Thank you. [LB219]

SENATOR ROBERT: Thank you, Senator Pankonin. Senator Campbell, you are next and recognized. [LB219]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. I do want to assure

Floor Debate  
February 26, 2009

---

some of my colleagues that a number of the programs that you may be questioning...and I'm going to read from Director Neth's testimony to the Transportation Committee. The vast majority of the duties and activities of the office of highway safety are not found in Nebraska statute, but rather relate to activities, responsibilities, and programs found in the Code of Federal Regulations Chapter 23...and on and on. And there are ten of those programs. And specifically is one to combat underage drinking task force, and I think part of the concern by Ms. Riibe was will those programs continue. And, of course, they would, under the federal statutes that we would be required to continue in this office. Thank you, Mr. President. [LB219]

SENATOR ROBERT: Thank you, Senator Campbell. Seeing no other lights on, Senator Flood, you are recognized to close on LB219. Senator Flood waives closing. The question for the body is, shall LB219 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted who wish? Record, Mr. Clerk. [LB219]

CLERK: 31 ayes, 1 nay, Mr. President, on the advancement of LB219. [LB219]

SENATOR ROBERT: LB219 does advance. Next item, Mr. Clerk. [LB219]

CLERK: LB219A by Senator Flood. (Read title.) [LB219A]

SENATOR ROBERT: Senator Flood, you're recognized to open on LB219A. [LB219A]

SPEAKER FLOOD: Thank you, Mr. President and members. This simply transfers the funding for the highway safety office from the Department of Motor Vehicles to the Department of Roads. It's anticipated there will be some one-time costs for this transfer, such as physical moving costs, Web site redesign. DOR has indicated they would absorb these costs and utilize its own employees. With that, I would ask you to support this A bill and move it along. Thank you, Mr. President. [LB219A]

SENATOR ROBERT: Thank you, Senator Flood. We do have an amendment. Senator Flood, would you like to open on AM369. (Legislative Journal page 484.) [LB219A]

SPEAKER FLOOD: Briefly I will, Mr. President. Thank you. This amendment simply allows the DMV office to continue to meet FY '08-09 obligations after the division is transferred to the Department of Roads. Any balances remaining after '08-09 obligations have been met shall be transferred to the Department of Roads no later than September 30, 2009. [LB219A]

SENATOR ROBERT: Thank you, Senator Flood. You have heard the opening to LB219A and AM369. Are there members wishing to speak? Seeing none, Senator Flood waives closing. The question for the body is, shall AM369 be adopted to LB219A? All those in favor vote yea; oppose vote nay. Have all those voted who wish? Record,

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

Floor Debate  
February 26, 2009

---

Mr. Clerk. [LB219A]

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB219A]

SENATOR ROBERT: AM369 is adopted. [LB219A]

CLERK: I have nothing further, Mr. President. [LB219A]

SENATOR ROBERT: Members wishing to speak on LB219A. Seeing none, Speaker Flood, you're recognized to close on LB219A. Senator Flood waives closing. The question for the body is, shall LB219A advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Record, Mr. Clerk. [LB219A]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB219A. [LB219A]

SENATOR ROBERT: LB219A does advance. Next item on the agenda. [LB219A]

CLERK: Mr. President, LB110 is a bill by Senator Fischer. (Read title.) The bill was introduced on January 9 of this year, referred to the Transportation Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM181, Legislative Journal page 367.) [LB110]

SENATOR ROBERT: Senator Fischer, you're recognized to open on LB110. [LB110]

SENATOR FISCHER: Thank you, Mr. President and members. LB110 creates a specialty license plate program administered by the Department of Motor Vehicles. A qualified nonprofit organization may apply to the DMV to design specialty plates for the organization. The funds raised through the specialty plates will be split between the DMV Cash Fund and the Highway Trust Fund, with 85 percent going to the trust fund. With the bill, on January 1, 2011, the DMV shall begin issuing specialty license plates for qualified organizations. The department will work with the organization in designing the plates. In order to be eligible for a specialty plate, an organization must be not-for-profit and provide the department with several qualifying documents. In discussing this bill with the DMV, the intent is to put an organization's symbol or design in a designated spot on a generic Nebraska license plate. This is similar to how our border state Iowa administers its specialty license plates program. Every year the Transportation and Telecommunications Committee sees several bills introduced regarding specialty licensing plates. I believe that LB110 gives these organizations a more fitting avenue to pursue their goal. The DMV is intricately involved with the designing, manufacturing, and distribution of our state license plates. If an organization is serious about showing its support for its cause through a license plate, this bill sets up an administrative process at the DMV to attain this goal. Even though Senator Ernie Chambers and I did not frequently see eye to eye, this is one topic where we did agree.



Floor Debate  
February 26, 2009

---

I believe a license plate is solely for the state's purpose of identifying a vehicle. Even though I hold a strict view of the use of license plates, I understand why a person or a group would like to make it more than that. However, the associated fee is still part of the state's revenue. We pay for our highways through three main user fees: the gas tax, the sales tax on motor vehicles, and motor vehicle registration fees. The plate fee is part of that registration cost, and thus the money should go to the Highway Trust Fund. The bill also increases the cost for personalized message plates and redistributes funds derived from the Cornhusker Spirit plates that I will discuss in the committee amendment. Finally, LB110 redirects the \$5 extra fee charged to all existing military plates to the Nebraska Veterans Cemetery System Fund. If we are charging our veterans an extra fee to obtain these plates, I feel it is more appropriate that they would go to this Nebraska Veterans Cemetery System Fund. Thank you, Mr. President.  
[LB110]

SENATOR STUTHMAN PRESIDING []

SENATOR STUTHMAN: Thank you, Senator Fischer. As the Clerk has stated, there are amendments from the Transportation Committee. Senator Fischer, as Chair of the committee, you are recognized to open on these committee amendments. [LB110]

SENATOR FISCHER: Thank you, Mr. President and members. The committee amendment, AM181, strikes the original sections and becomes the bill. The amendment accomplishes several changes to the original bill. In regard to the speciality license plate the fee is being decreased from \$100 to \$70. This puts the specialty license plate in line with the Husker Spirit plate fee. The Department of Motor Vehicles believes more specialty plates will be sold at this lower price. In the requirements for an organization to qualify for a specialty plate the provision prohibiting the purpose of the organization from promoting a specific religion, faith, or antireligious belief is removed. This provision could prohibit certain organizations, such as Creighton University, from qualifying for a plate when that is certainly not the bill's intent. The committee amendment also raises the requisite prepaid application number from 150 to 500. The committee feels the higher number will ensure that an organization applying for a specialty plate has some legitimacy to it. The amendment increases the message plate fee from \$30 to \$40, with the DMV Cash Fund receiving 75 percent of the revenue, and the Highway Trust Fund getting 25 percent. The original bill had increased the message plate fee from \$30 to \$60. In discussing this issue with the legislative Fiscal Office and the DMV, it was determined through a statistical analysis that \$42 is the ideal price to sell message plates and maximize the state's revenue. The committee settled on the round number of the \$40 fee. The amendment strikes Section 11 of the original bill that increased the fee for Husker Spirit plates. The price for Husker plates will remain at \$70. A portion of the current fee is going to the Spirit Plate Proceeds Fund. The proceed fund is used to provide financial support to former University of Nebraska athletes to pursue undergraduate and graduate degrees and for academic services of the University of

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

Floor Debate  
February 26, 2009

---

Nebraska System's Athletic Departments. In a compromise worked out with the university, the first \$5 million raised from the Husker Spirit plates will go to the university to establish the two endowment funds outlined in current statute. That will not change. After the \$5 million is collected, the university's portion of the fee will be directed to the Highway Trust Fund. Thank you, Mr. President. [LB110]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Clerk, for an announcement. [LB110]

CLERK: Mr. President, I do have an announcement. General Affairs will meet in Exec Session under the south balcony at 10:30; General Affairs at 10:30, south balcony. I also have hearing notices from Health and Human Services, Judiciary, and Business and Labor Committees, signed by the respective Chairs. And Judiciary Committee, chaired by Senator Ashford, reports LB260 to General File with amendments attached. (Legislative Journal pages 570-575.) [LB260]

Mr. President, I have an amendment to the committee amendments. Senator Nordquist would move to amend the committee amendments with AM276. (Legislative Journal pages 575-576.) [LB110]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Nordquist, on your amendment. [LB110]

SENATOR NORDQUIST: Thank you, Mr. President. AM276 basically says that if the specialty license plates are for a nonprofit private university or for a state college, that the revenues generated from that would be put into the Nebraska Scholarship Fund on a split similar to the Husker Spirit plate, of which 43 percent goes to the Department of Motor Vehicles Cash Fund, then the remaining 57 percent would go to the Nebraska Scholarship Fund. Right now, the Nebraska Scholarship Fund annually has a total allotment of about \$12.7 million which is distributed on a formula calculated based on the number of Pell Grant-eligible Nebraskans, and it goes to every, pretty much every form of higher education in the state. Of the \$12.7 million, the University of Nebraska System gets about 38 percent of that; community colleges, 16 percent; private for-profit and nonprofits, 17 percent; independent colleges...I'm sorry, private for-profits, about 17 percent; private nonprofit is about 20 percent; and then the state colleges, around 7.5-8 percent. So this amendment would take a piece of the revenues that people are spending to get these specialty license plates and say, we're buying license plates to support our alma mater or our kid's college, and we are going to take that money and put it towards higher education in this state. I support the underlying bill with the amendment. I'll support the bill either way. I appreciate the administrative ease of the bill that Senator Fischer has worked on. I know there were a lot of these, you know, different causes and there are a lot of good causes out there. But I believe if we're going to move forward as a state, the two areas we really need to invest in are infrastructure

Floor Debate  
February 26, 2009

---

and higher education. And that's what this amendment recognizes. All other license plates, all of the specialty plates will remain in the Highway Cash Fund except for these plates that are higher education-associated plates. That money would go to the Nebraska Scholarship Fund. So with that, I would appreciate your support of AM276. [LB110]

SENATOR STUTHMAN: Thank you, Senator Nordquist. Those wishing to speak on the amendment are Senator Harms, Senator Louden, Senator Fischer, and others. Senator Harms, you are recognized. [LB110]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of this amendment because I have before the Education Committee, next week, LB21. And its entire intent is to address the issue of the Scholarship Fund. And the issue is that we have discovered that a large majority of lower-middle class families who may have an income of \$40,000 to \$55,000 cannot send their children to college. They don't qualify for federal aid. They're just below that level of a Pell Grant. They need assistance. And I can tell you right now that if we continue to go the way we are presently with the economy, there will be more students who will not be able to go to college because they cannot afford. They don't qualify. If you're a Pell Grant recipient, you qualify for everything. If you're just above that line, you do not qualify. And we've got to find a source of income that will provide that opportunity for these students to go to school. And I do have that legislation coming forward, hopefully to the Education Committee, and hopefully it will be out on the floor if we can have discussion. So I rise in support of this bill or this particular legislation. I wonder if Senator Fischer would yield, please. [LB110 LB21]

SENATOR STUTHMAN: Senator Fischer, would you yield to a question from Senator Harms? [LB110]

SENATOR FISCHER: Yes, I will. [LB110]

SENATOR HARMS: Senator Fischer, I noticed on the committee statement that opponents was the University of Nebraska. Could you share with us what that concern is with the university? [LB110]

SENATOR FISCHER: The concern with the university dealt with the original bill, and that was that it took the money from the Husker Spirit plates and put that fee into the Highway Trust Fund. We worked and came up with a compromise, which was described in the committee amendment, that the university will continue to receive the money that they are getting now from the Husker Spirit plates for their fund, until that fund reaches \$5 million. And at that time the money from the Spirit plates will then go to the Highway Trust Fund. And they are supportive of the amendment. [LB110]

Floor Debate  
February 26, 2009

---

SENATOR HARMS: Thank you, Senator Fischer. I have one other...I have several other questions I'd like to ask. I noticed that the Department of Motor Vehicles were neutral. I always have to think about when people say neutral, they really aren't neutral. I've never yet had the opportunity to hear anyone speak neutral. It's always moving towards one side or the other. Could you tell me what their conversation was about? [LB110]

SENATOR FISCHER: Senator Harms, the Department of Motor Vehicles, they truly were neutral on this bill--you need to come to my committee and we do get neutral testimony--because they were there just to provide information on the cost of producing the plates, what the plates would look like, and again that was similar to what Iowa is using. That is what they are thinking these specialty plates would look like. And that would be a generic Nebraska plate, and then on one portion of the plate would be a symbol of the organization that is requesting the plate. [LB110]

SENATOR HARMS: Thank you, Senator. I stand corrected. Maybe people can speak neutrally. Senator, I also have a question for you in regard to the personalized message plates are increased from \$30 to \$60. Do you believe that in an economy like it is today, that this is really for some people discretionary dollars? That you'll actually gain in this process? Do you think that we might lose more money than you're going to gain from this? [LB110]

SENATOR FISCHER: Senator Harms, the amendment also dealt with that. And the amendment puts it from \$30 to \$40. I received a number of e-mails from people who were upset with the increase in specialty plates from \$30 to \$60. One family wrote that they had... [LB110]

SENATOR STUTHMAN: One minute. [LB110]

SENATOR FISCHER: ...six vehicles and they did not want that to increase. And when I responded to every e-mail I got on that and explained that the amendment raised it instead from \$30 to \$40, all of them except one said they would continue buying their plates. I think it's on the fiscal note, Senator Harms, where it shows that Laffer analysis, that the \$42 would be an optimum and people would still buy it. And that came from the Fiscal Office. The committee decided on the \$40 for that. I would inform the body that any citizen in Nebraska or every citizen in Nebraska is required to license their vehicle. Those who choose to use regular Nebraska license plates, as I do, our plates cost us \$6.50. It is a choice when people... [LB110]

SENATOR STUTHMAN: Time. [LB110]

SENATOR FISCHER: ...want to have the specialty plates, which would increase to \$40. Thank you. [LB110]

Floor Debate  
February 26, 2009

---

SENATOR STUTHMAN: Thank you, Senator Harms and Senator Fischer. Senator Louden, you are recognized. [LB110]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I, of course, rise in support of AM181 because that would overhaul the bill and did some work on the original bill and we pointed out the personalized plates did raise \$10. And Senator Harms and myself and some of us will have to pony up another 10 bucks if we want to have those personalized plates, which I don't want to. If we don't want to have them, we can go back and buy a regular license plate. It's as simple as that. This isn't a forced deal. But anyway I have no problem with that. One thing I did want to point out in Sections 6 and 7 in this bill is there is money being set aside to fund the Nebraska Veteran Cemetery System. And this is really important to get some funding for that operation fund on that so we don't have to go into appropriations in the future for that funding. And this is something the veterans all wanted. The veterans are willing to put up some money for that and also in the Gold Star license plates is involved in there. One thing I would point out that Senator Nordquist's AM276, that was his bill that was in committee, and the committee didn't act on that bill. Now I'm not saying that they didn't kill it or they didn't think about it, but the question was about how far are we going with our license plates to what we're doing right now. The university has some Spirit license plates, and as Senator Fischer outlined how that will be handled. So I think really Senator Nordquist's amendment probably should be thought about a little bit closer before that's put onto this bill. I won't support the amendment at this time because I think it should be more along the lines of what goes with the university Spirit plates rather than just categorically put some of the money out for higher education. There is a fund available for that but...and I'm sure it needs funding, but I don't know if the full discussion has been on that issue. With that, thank you, Mr. President. [LB110]

SENATOR STUTHMAN: Thank you, Senator Louden. Senator Fischer, you are recognized. [LB110]

SENATOR FISCHER: Thank you, Mr. President and members. While I certainly appreciate the sincerity of Senator Nordquist in proposing this amendment, and I do support education and scholarships for students that are in need, I must rise in opposition to this amendment. I can tell you that my office has already been contacted since this amendment was filed. We've been contacted by other organizations who said, if this amendment passes they will come forward and want amendments on so their organization can have funding also from the plates that they would be having their members buy. The purpose of this bill, members, was to stop that discussion. Hopefully, we will move forward, we'll have license plates which are part of our motor vehicle system, part of our motor vehicle registration, and have that funding go to the Highway Trust Fund as it should because it deals with vehicles and it deals with roads. The purpose of this bill was to have the discussion that if organizations want to have speciality license plates their members would be able to have those plates on their

Floor Debate  
February 26, 2009

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vehicles. Senator Nordquist introduced a bill that is similar to this amendment and it is sitting in committee. It sits in committee along with several other license plate bills, from the Volunteer Firefighters for an example. The committee felt that those bills were not appropriate to move forward to the floor. We have not IPPed them as of yet, but they are sitting in committee. This is the bill that we moved forward with amendments that I, too, believe were very appropriate for the bill. We moved this bill forward for your consideration. I would hope that you would not vote for Senator Nordquist's amendment because we are just opening the door to that license plate discussion that we have had in the past that the Shriners, the volunteer fire departments, different veterans associations, all are very, very worthy associations. But they, too, would step forward and want to have the funding go to their groups. I don't believe that license plates should be a bake sale for funding an organization. License plates are to identify a vehicle and specifically to help law enforcement identify vehicles. So I hope you will not vote for this amendment. Thank you. [LB110]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Haar, you are recognized. [LB110]

SENATOR HAAR: Mr. President and members of the body. Could I ask Senator Fischer a question? [LB110]

SENATOR STUTHMAN: Senator Fischer, would you respond to a question from Senator Haar? [LB110]

SENATOR FISCHER: Yes. [LB110]

SENATOR HAAR: Just a question about this bill. Would this allow religious organizations to do license plates? [LB110]

SENATOR FISCHER: It could, Senator Haar, because of...it will be up to the DMV. I think if you look at the bill on the green copy on page 8, and in order to have a specialty license plate designed there are certain requirements there that the DMV will have to go through. One is the organization would have to provide a copy of its articles of incorporation; another, a copy of its charter or bylaws; any IRS rulings on the organization's nonprofit tax exempt status; the certificate of existence that should be on file with the Secretary of State's Office. So those documents would have to be provided to the Department of Motor Vehicles in order for an organization to qualify. I would assume that many church groups or probably all church groups would qualify. Private religious colleges, they would qualify. I would think that many of our school booster clubs could even qualify for these license plates if they wanted to move forward on them. [LB110]

SENATOR HAAR: So, for example, it could be an individual congregation or... [LB110]

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

Floor Debate  
February 26, 2009

---

SENATOR FISCHER: If that individual congregation met the requirements and had 500 prepaid applications, they would, I guess, be under consideration by the Department of Motor Vehicles that they would qualify for the plates. [LB110]

SENATOR HAAR: Okay. Well, I guess, it's going to be...our license plates are going to become very colorful. [LB110]

SENATOR FISCHER: No, no, not really. That's...when I was explaining...I need to get the example, and I hope to have that on Select File if anyone is interested in seeing it. But the example that the director brought, it is a very basic generic plate. There is no design on it like you see in other states. We're going after the model that is used in Iowa. It's a generic plate, and in one corner of it, perhaps, there will be a seal like for the Veterans of Foreign Wars. There will be their seal or their symbol that symbolizes their organization. And so they're very generic, very plain. We won't see billboards on our license plates across Nebraska, that's the hope of this. [LB110]

SENATOR HAAR: Okay. Thank you very much for that information. [LB110]

SENATOR STUTHMAN: Thank you, Senator Haar and Senator Fischer. Senator Lautenbaugh, you are recognized. [LB110]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I, too, rise in opposition to this amendment. And simply put, these funds, if left alone and the committee amendment passes and the bill passes, would be funds that will go towards roads and things at least related to automobiles. And I just...I don't think it's a wise course for us to go to make another diversion, another exception where I think the public expects these funds go to roads, but then they don't. A little bit of it goes here, a little bit of it goes there. I just think for clarity sake the bill as it is proposed with the committee amendment makes much more sense than to start adding on these additional amendments and diverting funds hither and yon. And I would ask you to oppose the amendment. [LB110]

SENATOR STUTHMAN: Thank you, Senator Lautenbaugh. Senator Wallman, you are recognized. [LB110]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I rise in support of Senator Nordquist's amendment. And a bake sale for license plates, I agree, Senator Fischer's comments, I get a kick out of that. I have no trouble with a bake sale for license plates, I guess. It would still have to have Nebraska on there and a number someplace. So I support Senator Nordquist's amendment and I'll think about the bill. Thank you. [LB110]

Floor Debate  
February 26, 2009

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SENATOR STUTHMAN: Thank you, Senator Wallman. Those wishing to speak are Senators Adams, Campbell, Harms, Carlson, Nordquist, and others. Senator Adams, you are recognized. [LB110]

SENATOR ADAMS: Thank you, Mr. President, members of the body. Senator Nordquist, I'm probably the odd man out to stand up and say that I oppose this amendment as the Education Committee Chair, but I do. I'd love to see funds rain from all over into the world of education and scholarships and K-12, but I'm also a realist. And in my limited opinion, good tax policy means that you have a tax that is fair, that is simple, that is easy to understand. And whenever you can have a user fee, that's a good way to go and that's what we've got here. And what I don't want to see is education robbing roads anymore than I want to see roads robbing education, and for that reason I would stand in opposition to this amendment. Thank you, Mr. President. [LB110]

SENATOR STUTHMAN: Thank you, Senator Adams. Senator Campbell, you are recognized. [LB110]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. I, too, rise in opposition to AM276. And I'd like to just follow what Senator Adams, because that was a part of what I was going to say, but to add onto that. I think it's very important that the principle in the Transportation Committee was to begin setting a framework for all specialty plates that would come in the future. And Senator Fischer brought forward a very good plan to do that. We tried to address what we might say to those that had gone before for the university or for the veterans. But I would urge the body to think about the fact that we really did try to set a direction for a uniform procedure for all future plates. Thank you, Mr. President. [LB110]

SENATOR STUTHMAN: Thank you, Senator Campbell. Senator Harms, you are recognized. [LB110]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Fischer, I do support LB110. I'm going to use this as a point, I guess, for discussion in regard to AM276. This is probably not the place to place these scholarship funds in. But what I want you to understand is that we truly have a crisis in this state in regard to the middle class and the lower-middle class families and getting their children to higher education. It's very difficult for these teenagers to qualify for any kind of aid. They miss that very cutoff point. They're right at the lower portion of the middle class. And talking to the financial aid directors in this great state, they will tell you very clearly that a large majority of the students are walking away from higher education because they do not have the opportunity to do this. That's the point. And I hope that we'll give some consideration. If we want to have a strong educational system, if we want to have a system that reaches all students, then we've got to make some changes. This probably



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

Floor Debate  
February 26, 2009

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is not the best way to do this, but I want you to understand that it's an issue that is going to come forward, hopefully, in the future. We're going to have to address it. We're going to have to find a way to make it possible for the students who fall in the lower-middle class, which is \$40,000 to \$55,000, can afford to go to college. Scholarships don't reach those students. Federal aid does not reach those students. And I can tell you, a family of four cannot afford it. And that's the issue. And so, Senator Fischer, I want you to understand that I'm not debating or arguing against your LB110 and I will withdraw my support of AM276. I just wanted to make a point that I think we have a responsibility here to begin to think about that lower-middle class families. Because, quite frankly, they are lost in the shuffle of assistance and aid, and they're the people who are trying to pay our tax bills and they're struggling. So thank you, Mr. President. [LB110]

SENATOR STUTHMAN: Thank you, Senator Harms. Those requesting to speak are Senators Carlson, Nordquist, Hadley, Fulton, Pirsch, and Langemeier. Senator Carlson, you are recognized. [LB110]

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to direct a question to Senator Fischer, if she would yield. [LB110]

SENATOR STUTHMAN: Senator Fischer, would you yield to a question from Senator Carlson? [LB110]

SENATOR FISCHER: Yes. [LB110]

SENATOR CARLSON: Senator Fischer, I looked through the bill, and I can't find it and maybe I didn't look at it carefully enough. But this is a procedural thing. If we have our normal, I'll call them boilerplate license plates, and they are manufactured or printed ahead of time, and I go into renew my license and they're there. I pick them up. Now if I would decide that I sell my vehicle, I don't need that license anymore, that license plate, then those that have been printed, there's an option that they could be used for somebody else. Is that...am I correct on that? [LB110]

SENATOR FISCHER: You know, I don't know, Senator Carlson. But I would assume once you turn back a license plate that you no longer need, it is available then for other people in your county. [LB110]

SENATOR CARLSON: I think conceptually it would be. [LB110]

SENATOR FISCHER: Yes. [LB110]

SENATOR CARLSON: Now what about a specialty plate? Because we talk about the increase in fees and so forth and I have one and all of a sudden I decide I'm not going to pay this extra fee. I go in and the license plate is ready to go and I don't want it. I

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

Floor Debate  
February 26, 2009

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want a regular one. What about the cost, who bears that? [LB110]

SENATOR FISCHER: Do they have it printed up for you every year, your specialty plate, and you just go in and pick it up, or do you have to fill out an application every year? [LB110]

SENATOR CARLSON: I don't know. That's part of my question. [LB110]

SENATOR FISCHER: I'll look into that. [LB110]

SENATOR CARLSON: Okay. [LB110]

SENATOR FISCHER: I'll look into that. [LB110]

SENATOR CARLSON: Okay, thank you. [LB110]

SENATOR STUTHMAN: Thank you, Senator Carlson and Senator Fischer. Senator Nordquist, you are recognized. [LB110]

SENATOR NORDQUIST: Thank you, Mr. President. Thank you, members. You know, I understand the Transportation Committee's position about, you know, tailoring this down. And LB110 makes the administration of this pretty easy. But I don't think the, you know, determining where the money flows is that...should be a roadblock. I think...and it's new money, it's money that hasn't been coming in. So I think we can have a discussion of what...where it goes, what our priorities are. And as I said at the outset, my position is that if we're going to move this state forward, we need to fund and make sure we have quality infrastructure around the state, and we need to make sure that we are funding education at a level that we have skilled workers around this state so we can attract good employers and create quality jobs. This bill, this funding through this amendment, going through the Nebraska Scholarship Fund, will give more opportunities to Pell Grant-eligible kids at Nebraska institutions all across our state, creating more skilled workers, creating more opportunities all across our state. Now I heard the...I heard the, you know, that we don't want education to rob roads, and roads to rob education. We have shortfalls in both, we certainly do. But, you know, the roads shortfall that we have, and someone can correct me on the mike if I'm wrong, it's somewhere, I think, around \$190 million, \$200 million a year that we're not hitting the mark. That's not going to be solved by this bill. That's not going to be solved, you know, having a bake sale for roads. We need to have real leadership that really goes after this problem. We need leadership from the executive branch on this to really address our roads funding needs long-term. This is a drop in the bucket. So I think this funding, we need to have a discussion about what the priorities are. And I would appreciate your consideration of AM276, which puts a little more money in higher education creating those skilled workers throughout our state. Thank you. [LB110]

Floor Debate  
February 26, 2009

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SENATOR STUTHMAN: Thank you, Senator Nordquist. Senator Hadley, you are recognized. [LB110]

SENATOR HADLEY: Mr. President and members of the body. First of all, I would like to say that I completely agree with Senator Harms. I think we have a problem in this state and nationwide with funding of higher education. I'm very worried that higher education is going to be either for the very wealthy or the very poor. The middle class is going to be left out of higher education. But I do not stand in favor of AM276 because I don't believe this is the method we need to try and solve that problem. I very much agree with Senator Adams on tax policy. I think we work hard in the Transportation Committee to do things that promote good tax policy. This is something that we set out to do to help the problems with roads. There are obviously problems with roads. We're always looking for funding mechanisms for roads. While this may be a band-aid, it is at least something. I would agree with Senator Nordquist that we need to take a long, hard look at how we fund roads in the future. As we all know, with the higher mileage cars, the gasoline mileage, the tax revenues can possibly be going down, so we're going to have that problem. Lastly, I think people buy specialty license plates not for the money...where the money is going to go. I think they buy specialty license plates because they want to show their support of whatever organization that they're buying the plate for. I am very concerned if we start opening this up where each individual organization wants a piece of the pie, I think it becomes unmanageable at that point in time. Thank you, Mr. President. [LB110]

SENATOR STUTHMAN: Thank you, Senator Hadley. Senator Pirsch, you are recognized. Senator Pirsch waives. Senator Langemeier, you are recognized. [LB110]

SENATOR LANGEMEIER: Mr. President and members of the body, thank you. I rise in opposition to AM276. First of all, I think we have to look at these license plates in two fashions or one of two ways. First of all, do you want specialty plates out there? Do you want to give people in groups the opportunity to have specialty plates? I introduced LB10, which is now some components of LB110. I want to thank the committee for that hearing. But for me this is about offering groups of people, like volunteer firefighters and others, that want to display their membership to a group with a specialty plate. There's a lot of discussion about fees. This isn't going to pave two blocks of city streets in a community with these fees. And so I really think we have to look and decide today this isn't about saving the Department of Roads with license plates. There's not enough cars in Nebraska, there's not enough money in plates. The question I have is, do we want to offer specialty plates to groups which, in my belief, that is what I want to do and that's why I introduced LB10. I do have some opposition to the fee increases. And you'll see some thoughts on that as we get to them. But at this point, I think the money all needs to go to one place. And I think the bill has got that going where it always has, and I think that's appropriate. So at this time, I would ask you to oppose AM276. Thank you.

Floor Debate  
February 26, 2009

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[LB110 LB10]

SENATOR STUTHMAN: Thank you, Senator Langemeier. Seeing no other lights, Senator Nordquist, you are asked to close on AM...excuse me. Senator Pirsch, you are recognized. [LB110]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I wonder if Senator Fischer might yield to a question or two? [LB110]

SENATOR STUTHMAN: Senator Fischer, would you yield to a question from Senator Pirsch? [LB110]

SENATOR FISCHER: Certainly. [LB110]

SENATOR PIRSCH: Thank you. And, Senator Fischer, with respect to the amendment that's been offered by Senator Nordquist, what is the percentage split? I assume some of it is going to the universities, but some of it is going to the roads as well? [LB110]

SENATOR FISCHER: Are you talking about... [LB110]

SENATOR PIRSCH: If his amendment was adopted, what is...per this amendment, the...is it a split that he's suggesting? [LB110]

SENATOR FISCHER: Yes, 75 percent would go to the scholarship, and 25 percent then, I think, to the trust fund is the way the amendment is. [LB110]

SENATOR PIRSCH: Okay. Thanks for clarifying that for me. Shifting gears now to a different topic, I had introduced a bill this year and I think last year as well that dealt with certain license plates, specialty license plates that were available for those who had served in the military--Gold Star, POW, Purple Heart, a number of other type of related plates. What it would, in essence, do is put on an equal stage...some of the military license plate holders are allowed to take out an unlimited amount of license plates for any of their cars. While the language in other of the specialty license plates for those who served in the military, and I assume that's through oversight, do not...do you have any objection to...if I was to bring forth an amendment on the next round of debate to put those two classes, I guess they're both military-related plates, but to put the different plates on the same plane and allow for an unlimited amount of plates to be taken out? I don't suppose that that would do anything but allow for more money to be collected to be utilized for the roads. But I just wanted to ask in general if you would have any objection if I were to come next round with that proposition? [LB110]

SENATOR FISCHER: Is that for the current military plates that we have? [LB110]

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

Floor Debate  
February 26, 2009

---

SENATOR PIRSCH: Right, yeah. It wouldn't change anything, it wouldn't create a new military plate at all. The military plates that currently exist, I believe, Gold Star allows four, for example. If you're a Gold Star plate holder you can, I believe, obtain as many license plates for all of your cars that you want. Whereas, I think, for other types of military plates, and I might be off base but I'm going by recollection here, say, POW or Disabled American Vet, for those type of plate holders they can only obtain one, even if they have multiple cars. And so the question is, would you view it as a friendly amendment if I were to bring, on the next round of debate, an amendment that said to those military plate holders who are currently only allowed to have one plate, this bill would change that to allow them to plate all of their vehicles that they have. And so the question is, would you support that amendment on the next round? Would you view that as a friendly amendment? [LB110]

SENATOR FISCHER: I'm always friendly with you, Senator Pirsch, so I think we can work it out. Currently, the Purple Heart plates, they can have more than one, that's in statute. [LB110]

SENATOR STUTHMAN: One minute. [LB110]

SENATOR FISCHER: On the other plates, off the top of my head, I can say that I have no objection to it. I would have to visit with the committee about that because we have a couple of bills in committee that deal somewhat with this issue that we have not taken action on as a committee. And I would need to speak with the members. [LB110]

SENATOR PIRSCH: Very good. I just didn't want to catch you unawares. Did you want to finish? Go ahead. [LB110]

SENATOR FISCHER: Senator Pirsch, I wanted to clarify your first question to me. I did not answer that correctly on the split from Senator Nordquist's amendment. It would credit 43 percent of the fee to the DMV, and 57 percent to the Nebraska Scholarship Fund. And I wanted to clarify that for the record. [LB110]

SENATOR PIRSCH: Oh. Well, thank you for clarifying that. And thank you very much for your time. [LB110]

SENATOR STUTHMAN: Thank you, Senator Pirsch and Senator Fischer. Senator Fischer, you are recognized. Senator Fischer waives her time. Anyone requesting to speak? Senator Langemeier, you're recognized. [LB110]

SENATOR LANGEMEIER: Mr. President and members of the body. I would ask that Senator Fischer, if she would yield to a question. [LB110]

SENATOR STUTHMAN: Senator Fischer, would you yield to a question from Senator

Floor Debate  
February 26, 2009

---

Langemeier? [LB110]

SENATOR FISCHER: Certainly. [LB110]

SENATOR LANGEMEIER: Thank you, Senator Fischer. And I'm a little premature in asking these questions. But I'm going to ask them anyway because I have light time on this. In...and again, I want to reiterate, I'd like everybody to vote down AM276. Now I'm going to jump to the committee amendment. In the committee amendment as well as your bill you have a number of the plates fees go up. You're raising the fees on some of the current plates that are out there. [LB110]

SENATOR FISCHER: Is that a question, Senator? [LB110]

SENATOR LANGEMEIER: That's a question. Is that true? [LB110]

SENATOR FISCHER: We're raising the fee from \$30 to \$40 on the message plates. [LB110]

SENATOR LANGEMEIER: Can you give me some...what's your thought process behind that? I'm not seeing that we're going to generate enough money that today to raise those fees is a wise decision. [LB110]

SENATOR FISCHER: There's a fiscal analysis, and I believe that...I haven't looked on the gadget, but I believe it's available on that. And would you like me to pull that up? [LB110]

SENATOR LANGEMEIER: I'll let this time go and I'll...we'll do some more research as we get further into this. And we'll have more discussion. But I remember sitting in that hearing and I remember, and to be real honest with you I can't remember who said it, but somebody said that every dollar you raise these the sale of these plates decreases. Somebody gave that testimony. And also they made the comment that the Husker plates, which are going up in this, were higher and nobody bought them. They lowered them and then they started to sell. Is that...do I not remember that right? [LB110]

SENATOR FISCHER: That is correct. But with the committee amendment, AM181, the Husker plates are not going up in price, they are remaining at \$70. [LB110]

SENATOR LANGEMEIER: Okay, thank you for that clarification. Thank you, Mr. President. [LB110]

SENATOR STUTHMAN: Thank you, Senator Fischer and Senator Langemeier. Anyone else requesting to speak on AM276? Seeing none, Senator Nordquist, you are asked to close. [LB110]

Floor Debate  
February 26, 2009

---

SENATOR NORDQUIST: Thank you, Mr. President. AM276, just to remind you, takes the funds generated from the sale of license plates to private colleges and state colleges, since...43 percent of that to the Department of Motor Vehicles for administration, and takes the remaining 57 percent and puts it into the Nebraska Scholarship Fund. The Nebraska Scholarship Fund is distributed to all higher education institutions in the state based on a formula that is calculated on the number of Pell Grant-eligible students. This goes to give low-income students a chance in our state to help them out, whether they're going to community college, state college, to universities. And Senator Louden mentioned, he's right, that there is money right now in the bill continuing to go to the university. So I think that already shows we have a precedent here that we've sold license plates in the past for education. I don't know why we think this is a policy that we don't want to consider right now. The underlying bill, LB110, does a good job of administration. They worked, the Transportation Committee and the staff did a good job working with the department to make it...to ease the concerns of the department. So this bill just talks about where the funding is going. And if people who support higher education want to go out and buy a license plate, I think that maybe some of that money should go to education. I don't think that that is, you know, a precedent that is that unreasonable. So with that, members, I urge you to consider AM276 to help out those low-income Nebraskans that are struggling to afford to attain higher education and compete in a knowledge-based technology-driven twenty-first century economy. With that, I urge your support. Thank you. [LB110]

SENATOR STUTHMAN: Thank you, Senator Nordquist. You have heard the closing on AM276. The question is, shall AM276 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB110]

CLERK: 10 ayes, 23 nays, Mr. President, on the amendment. [LB110]

SENATOR STUTHMAN: AM276 is not adopted. (Visitors introduced.) We will continue on the discussion on the committee amendments, AM181. Anyone requesting to speak? Seeing none, Senator Fischer, would you like to close on AM181? [LB110]

SENATOR FISCHER: Thank you, Mr. President and members. Just a few comments. This amendment does become the bill. The specialty plate cost will be \$70, that puts it in line with the Husker Spirit plate fee. The requirements for an organization to qualify are listed in the amendment and in the bill. The specialty, or excuse me, the message plate fees will go from \$30 to \$40. The DMV Cash Fund receives 75 percent of the revenue, and the Highway Trust Fund receives 25 percent. The Section 11, which dealt with the Husker Spirit plates, that is removed. And again, the university, we worked on that compromise together and they are supportive. So I would ask that you vote in support of AM181. Thank you, Mr. President. [LB110]

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

Floor Debate  
February 26, 2009

---

SENATOR STUTHMAN: Thank you, Senator Fischer. You have heard the closing on the committee amendments. The question is, shall committee amendments, AM181, of the Transportation and Telecommunications Committee be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB110]

CLERK: 36 ayes, 0 nays on adoption of committee amendments. [LB110]

SENATOR STUTHMAN: The committee amendments are adopted. [LB110]

CLERK: I have nothing further on the bill, Mr. President. [LB110]

SENATOR STUTHMAN: Is there any other discussion on Senator Fischer's AM...LB110? Seeing no lights on, Senator Fischer, you are recognized to close. [LB110]

SENATOR FISCHER: Thank you, Mr. President and members. I appreciate the discussion on this bill. I believe we have reached a good policy decision, if this bill is advanced, in dealing with our license plate and message plate issues that we see annually in this body. I would encourage you to advance LB110. Thank you. [LB110]

SENATOR STUTHMAN: You have heard the closing on LB110 from Senator Fischer. All those in favor of LB110 vote aye; and all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB110]

CLERK: 30 ayes, 4 nays, Mr. President, on the advancement of LB110. [LB110]

SENATOR STUTHMAN: LB110 advances. Mr. Clerk. [LB110]

CLERK: Mr. President, LB110A, by Senator Fischer. (Read title.) [LB110A]

SENATOR STUTHMAN: Senator Fischer, you are recognized to open on LB110A. [LB110A]

SENATOR FISCHER: Thank you, Mr. President and members. If you look at the A bill on LB110, you'll see that it's \$20,000. It goes to the DMV Cash Fund. That is for programming and plate issuance. With that, I would ask for your support in advancing LB110A. Thank you. [LB110A LB110]

SENATOR STUTHMAN: Thank you, Senator Fischer. Anyone requesting to speak on LB110A? Seeing none, Senator Fischer, you are welcome to...Senator Fischer waives closing. The question for the body is, shall LB110A be adopted? All those in favor vote aye; and all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB110A]



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

Floor Debate  
February 26, 2009

---

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB110A. [LB110A]

SENATOR STUTHMAN: LB110A advances. Mr. Clerk. [LB110A]

CLERK: LB261, a bill by Senator Rogert. (Read title.) Introduced on January 14 of this year; referred to Transportation and Telecommunications; advanced to General File. There are committee amendments, Mr. President. (AM182, Legislative Journal Page 367.) [LB261]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Rogert, you are asked to open on LB261. [LB261]

SENATOR ROBERT: Thank you, Mr. President. Members of the body, good morning. Currently, Nebraska law permits only the courts or law enforcement to scan and compile information acquired from a driver's license under Section 60-4,111.01, and it's a Class IV felony to scan the machine-readable information and code it on a driver's license, and to compile, store, and preserve, trade, or sell such information right now. Since 2001, every state except Nebraska has passed some sort of legislation allowing for the scanning and storage of machine-readable information on an operator license for some purpose. An important reason for this has to do with better technology that has been developed to protect the safety of the data compiled as opposed to current-day processes that are nonsecure. Federal requirements are also put in place to put limitations on what information can be used and how it can be used by certain entities. LB261, as it stands, first would allow a retailer to scan the barcode on the back of an operator's license, and store only two items: the license number and the age when alcohol, tobacco, or lottery tickets is purchased. This legislative change will help retailers in identifying minors who attempt to purchase alcohol and tobacco products, and assist retailers in keeping these products out of the hands of underage consumers when those that are of age attempt to buy for minors. And I would direct your attention to an article I passed out just recently in the Fremont Tribune that spells out some of the reasons for this bill. Under LB261, retailers will be able to implement software that will control the sale of age-sensitive products by immediately stopping the sale if a fake ID is used or if the purchaser is under age. This software would read and calculate the age. If the age of the cardholder is under the legal age limit for the product, the cash register would actually prohibit the sale and not allow an override of the system. Signage would be posted at the point of sale on a plastic placard that is permanently attached to the register informing consumers that when these products are purchased, their operator's license will be scanned and the information on age and license number only, will be stored. The signage seeks to prevent adults, when minors approach them in retail parking lots, from purchasing alcohol for them, knowing that under a lawful investigation resulting from an accident or crime committed and under the evidence of a receipt, the license number having been stored with that retailer, could be retrieved for

Floor Debate  
February 26, 2009

---

investigatory purposes. We believe that scanning and storing this information and posting notice of the scan will discourage adults from purchasing alcohol for minors, knowing that their information is on file for that purchase and their license number is accessible to law enforcement. Employee policies would not change as to the actual physical check of the operator's license in addition to the scan. However, what the employee may miss due to a human error may be caught in a scan which serves as a crucial safeguard at point of sale. And by human error, I mean by mistake or by, on purposely letting them make the purchase. As such, the chances of an electronic error are zero; and once the system is set up, only a programmer would be able to change it. If by a very remote chance there was corruption in the software, the system would not calculate the age of the retailer, would then notify the programmer that there is a problem so that it could be fixed. The Liquor Control Commission has set training standards for certified training, and if any training deviates from those standards, the training will no longer be certified by the Liquor Control Commission. Retailers are encouraged to provide certified training to their employees through a reduced penalty if the clerk who sold to a minor has attended a certified training course. Thus, it is in the retailer's benefit to have and carry out proper certified training through their employees. The software programmer must certify that only the license number and the age will be stored from the barcode, and the programmer would be guilty of a Class IV felony if that programmer designed the software to store additional information. It is appropriate that the programmer be liable, as retailers would not have the skill to set up a program or calculate or store the pertinent information. LB261, as it stands, second, would allow a retailer with electronic or written permission from the consumer to scan the barcode on the back of the operator's license to store the name, age, address, and license number. The retailer is strictly prohibited from selling the information collected and stored, and would be guilty of a Class IV felony if the information is sold. The committee amendment actually strikes this provision but I'm explaining the whole bill as it is written in the green copy. Consumers, more often than not, may notice that they are on a list from new mail advertisements, and a phone call to the company in question to inquire investigators to the source and exchange of their information to be followed up with law enforcement is all that is required to detect that information is being improperly sold, which would be a Class IV felony as well. It's important to note that many consumers are required to have valid information on file in order for a consumer to be able to cash a check or take advantage of a customer loyalty program, so consumers are currently and already providing via a written document some of the same information that would be obtained in the scan. Some retailers today are actually scanning and storing this information illegally, however they don't know that. By allowing these retailers to scan and store that information, we're providing a more secure environment, and, at the same time, cut down on data entry errors and save on labor costs. When I mentioned that we're providing a more secure environment, oftentimes they require the purchaser to sign a black book, and I think a lot of you have seen this book. You put your entire information off your driver's license on this book that sits on top of a counter for anybody to grab. In terms of a secure environment, a hard copy or written document occupied by

Floor Debate  
February 26, 2009

---

a retail store, it can be susceptible and subject to negligence, even under the most restrictive conditions, but not as safe as it were in a software program, implemented with good intentions and under the appropriate limitations and penalties associated with any violation. Retailers are also allowed to photocopy the front of an operator's license to keep that on file. This is allowed by the state and federal law, and many organizations. Again, this is a less secure system that is electronic scan that would be...than our electronic scan, which would be encrypted and held in a secure format. The information scanned would be encoded into the transaction logs, electronically secured, and would be available for approximately one year before the system would purge the information. The one-year guideline for retailers serves to hold information on all transactions until the books are balanced and more room is needed in the system. The intent behind LB261 is to prevent the sale of age-sensitive products, such as alcohol, tobacco, and lottery, from getting into the hands of minors, and secondly, to provide a safer environment for this data to be stored and better efficiency standards for legitimate and lawful purposes. The amendment from the Transportation and Telecommunications Committee has a few changes, inserted safeguards, and clarifications, and it will address the second portion of the bill by striking the language that allows the retailer to scan and store more information than what we were asking for. I'm inclined to accept that information. I approve of the committee amendment. And with that, I'll relinquish. Thank you, Mr. President. [LB261]

SENATOR STUTHMAN: Thank you, Senator Rogert. As the Clerk has stated, there are amendments from the Transportation and Telecommunications Committee. Senator Fischer, as Chair of that committee, you are recognized to open on the committee amendments. [LB261]

SENATOR FISCHER: Thank you, Mr. President and members. The committee amendment, AM182, strikes the original sections and becomes the bill. The amendment clarifies that any person who trades or sells machine-readable information is guilty of a Class IV felony. The amendment also makes any violation of the exceptions provided in subsections (3) or (4) a Class IV felony. The amendment strikes Section 1(4) of the original bill so that a retailer may not store additional information from the machine-readable information with the written authorization of the license or identification cardholder. The amendment adds a new subsection (4) to allow for a person having access to the machine-readable information to scan, compile, store, and preserve the information for the purpose of providing it to a consumer reporting agency subject to the federal Fair Credit Reporting Act, to administer or enforce a transaction requested by the license holder to protect against fraud or unauthorized claims, or for resolving a dispute or inquiry by the license holder. The new subsection will permit retailers to scan the driver's license so that information may be sent to companies that store driver license numbers in connection with retail transaction. These companies provide information to the retailers about the potential of fraudulent transactions or insufficient funds transactions. Thank you, Mr. President. [LB261]

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

Floor Debate  
February 26, 2009

---

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Clerk. [LB261]

CLERK: Mr. President, Senator Fischer would move to amend the committee amendments with AM323. (Legislative Journal page 576.) [LB261]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Fischer, you can open on AM323, and you are recognized. [LB261]

SENATOR FISCHER: Thank you, Mr. President. AM323 corrects a technical drafting error. After the committee amendment was filed, the Department of Revenue contacted my office and informed us that retailers are not issued a license to sell lottery materials. They actually contract with the state. The amendment makes the language change to ensure that the bill is in line with current practice. Thank you, Mr. President. [LB261]

SENATOR STUTHMAN: Thank you, Senator Fischer, on the amendment, AM323. Those requesting to speak: Senators Fulton, Hadley, White, Pirsch, Loudon, and Howard. Senator Fulton, you are recognized. [LB261]

SENATOR FULTON: Thank you, Mr. President and members of the body. I'm going to raise a couple of concerns, one of which I think I can answer based on Senator Rogert's talk this morning, and then I'm going to ask a couple of questions of Senator Rogert. Firstly, on its face, as I was reading through this bill I wondered why retailers and small businesses in the private sector would want to take on the added liability of holding this personal information. Identity theft is a concern, and so it would seem that there is...I'm a small business owner and I recognize that taking on more ownership of other people's identifying information presents more liability, so the concern exists there. But it seems to me that there was probably even more liability in the old order of things. So I...let me, if I could, would Senator Rogert yield to a question? [LB261]

SENATOR STUTHMAN: Senator Rogert, would you yield for a question from Senator Fulton? [LB261]

SENATOR ROGERT: Yes, I will. [LB261]

SENATOR FULTON: Senator, could you repeat...this might answer the question. The way it works right now, if someone comes to purchase a product and the product requires proof of ID, driver's license is presented, driver's license can be laid out in the open or it can be photocopied, is that presently the way it works now? [LB261]

SENATOR ROGERT: Yes. And even more so than that, I think you may have seen it sometime in your post-21-year age, where you've had to sign this little black book. And you put all your information in there: name, address, phone number, Social Security

Floor Debate  
February 26, 2009

---

number; and then you sign the thing and the book goes right back on the desk where anybody can grab it and have any of that information if they want. [LB261]

SENATOR FULTON: Okay. So I noticed that there are a number of retailers and the grocery federation and some others who came and testified in favor of this bill, so my curiosity was piqued, I guess. Why would they want to take on this liability? In fact, by putting this bill forward, is it your understanding that it's more the exchange of information is more secure? [LB261]

SENATOR ROBERT: Yes. It takes away the...it takes away several things. It takes away operator error, either be on purpose or not. I think you can hand somebody your driver's license, if you're 20 and if you know the person on the other side, they look at it and say, yes, that's great, and sell you whatever you need. Or they can look at it, and it's wrong or they just mistake it and say, well, they just glance at it and hand it back, and you might only be 19. And then it also adds a security factor by not leaving these things lay out on top of the desk. [LB261]

SENATOR FULTON: Okay. Well, that's an improvement and I thank you for that clarification. Secondly, this is with regard to AM182, and we talked off the mike. I'm going to go ahead and ask the question here publicly and into the record. Page 2, line 8, "The programmer for computer software designed to store such information shall certify to the retailer that the software is capable of storing only the information allowed by this subsection. Intentional or grossly negligent programming by the programmer..., " etcetera, "...shall be a Class IV felony." So question number one: Who has responsibility to determine whether the programmer has been grossly negligent in programming? [LB261]

SENATOR ROBERT: Okay. Well, that would rely on law enforcement. That...if...any time where you're talking, whether it's a Class IV felony, if a complaint would come through that someone thinks that their information has been compromised, or a retailer would say, wait a minute, I think these guys are doing something they shouldn't, they can be investigated and these programmers would be held 100 percent responsible. [LB261]

SENATOR FULTON: Is...do you know right now if there are...do you know right now if there are random checks...or maybe...well, probably not, because this law hasn't been enacted, but could that be a potential for law enforcement to conduct random checks on some of these programs? [LB261]

SENATOR STUTHMAN: One minute. [LB261]

SENATOR FULTON: Would you comment to that? [LB261]

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

Floor Debate  
February 26, 2009

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SENATOR ROBERT: I think that definitely could be, either by law enforcement or by the identity theft groups and Project Extra Mile and those types of groups that do these operations. I think they would take it under their ability also to do some of these checks when they do their compliance checks for age of sale. [LB261]

SENATOR FULTON: Okay. Thank you, Senator Rogert. I had some apprehension with regard to this bill. It sounds like the bill actually will improve our lot. We just...I think we need to move forward carefully, so I think at this point I'm in favor of the amendment and the underlying bill. Thank you, Mr. President. [LB261]

SENATOR STUTHMAN: Thank you, Senator Rogert and Senator Fulton. Speaker Flood for an announcement, and you are recognized. [LB261]

SPEAKER FLOOD: Thank you, Mr. President and members. Just a quick note on scheduling. Tomorrow, we're going to take up Final Reading. It will probably last about an hour. We will then move to Select File. We will continue with Select File until the bills identified on tomorrow's agenda are completed. That will carry over until Monday. We will return to General File at the conclusion of Select File, and would encourage anybody that has a bill that's out that they have intended to prioritize, to do so. We'd be happy to schedule it. Again, we'll be taking up Final Reading tomorrow, followed by Select File, and we will go to General File when Select is done, carrying over into Monday. Thank you, Mr. President. [LB261]

SENATOR STUTHMAN: Thank you, Speaker Flood, for the announcement. Those wishing to speak: Senator Hadley, White, Pirsch, Loudon, Howard, Harms, Rogert. Senator Hadley, you are recognized. [LB261]

SENATOR HADLEY: Mr. President and members of the body, I agree with Senator Fulton. When we first heard this bill in committee, there is always a concern about identify theft and what happens to the information. I think we have tried to solve those problems. This bill, to me, has two parts. The first one deals with basically the sin type of substances: alcohol, tobacco, lottery tickets, those types of things. This is always a problem of underage people trying to buy. But even as much as that is a problem, we have people of age that go in and buy for younger people. If you watched 60 Minutes last Sunday, they talked about the students who are 21 years of age and older, who go in and buy for younger students. What this bill does is allow the retailer to store the age and operator number of the person purchasing the alcohol. If the sales slip is then caught in possession of a minor, that can be tracked back to the seller and if the seller did use due diligence in selling the alcohol to someone of age. It is just another check to help the underage purchase of alcohol. The predators in the parking lot are the ones that are buying alcohol for minors for a fee. They do it for money. This will try to help stop it. It also helps the retailer, because the retailer has a record of selling the alcohol to a person of legal age so there isn't a question of the seller selling to a minor. The

Floor Debate  
February 26, 2009

---

second part of it deals with stopping a fraud. Bad checks cost society a great deal of money. They cost each of us. Every time we go in to purchase an item, we're paying for somebody else's bad check. Anything we can do to curb that, I believe in. I happened to have a situation the other day where I was behind a person in Wal-Mart who gave the cashier a check. Wal-Mart is big enough that they have the ability. They scanned the check right there and told the person in front of me that it was not good. They're able to do this. What happens to the smaller retailer that doesn't have the resources of a Wal-Mart? Well, the First Datas of the world have set up a legal system that helps these smaller retailers so that they don't get stuck with the bad checks. In summary, I think both parts of this bill are something that helps the citizens of the state of Nebraska. It will help to keep the cost of transactions down. It will help to keep alcohol out and other products out of the hands of minors. I would support AM323, AM182, and, of course, the underlying bill, LB261. Thank you, Mr. President. [LB261]

SENATOR STUTHMAN: Thank you, Senator Hadley. Senator White, you are recognized. [LB261]

SENATOR WHITE: Thank you, Mr. President and members of the body. Just yesterday, a fine institution in this state had to announce that secure information protected by a host of electronic measures, safety measures, and serious criminal penalties, had been revealed and allowed to escape. Four hundred thousand people are now exposed to identity theft. Once information is gathered, it cannot be protected. That's the lesson over and over again that we have learned. I understand that people want to keep alcohol out of the hands of minors. I have two minor children; I want to keep alcohol out of their hands. I understand Senator Hadley's concern and I appreciate it. However, all an illegal purchase by an adult needs to do to frustrate this is not give the sales receipt to the minor and just tear it up. We are rapidly, with the ability to gather and then interpret and access information, coming to the point that we literally manned up requiring people wear microchips in their hands so that they can more conveniently buy things and we can then figure out what they're buying. I reject it. I reject that in a free society, government has the right, much less the obligation, to gather, store, amass, crunch, parse, pass out, sell, resell, not sell, prosecute for, not prosecute for, this kind of information. The first right of a citizen in a free society is privacy and the right to be left alone. You cannot safeguard this information. It is specious to argue you can. And this kind of information can be massively abused. Can our State Patrol officers scan this information to see about our movements inside of the state? If you're pulled over, we can scan you, and then we pull you over later and we see where you've been? Is that okay? Why not? We require...once the barcodes are on the licenses, why not? There is no end to the intrusions that can arise from this kind of information, and always, always, those kinds of infringements on personal liberty start with the best intentions. I rise in opposition to the amendments and to the bill, and more importantly, to the entire concept that Nebraskans need to have more of their personal lives exposed to the scrutiny of government. I reject it utterly. Thank you, Mr. President. [LB261]

Floor Debate  
February 26, 2009

---

SENATOR STUTHMAN: Thank you, Senator White. Senator Pirsch, you are recognized. [LB261]

SENATOR PIRSCH: Well, thank you very much, Mr. President and members of the body. I wonder if Senator Rogert might yield to a quick question or two? [LB261]

SENATOR STUTHMAN: Senator Rogert, would you yield to a quick question or two? [LB261]

SENATOR ROGERT: Yes, I will. [LB261]

SENATOR PIRSCH: Thank you, Senator Rogert. I understand there was, at the committee hearing, some testimony of concern with respect to Project Extra Mile. I would assume that came within the purview of...well, compliance checks. Is that what it related to? [LB261]

SENATOR ROGERT: I would...I actually (laugh) missed part of the hearing due to the other bills up, but I believe that is true. Yes. [LB261]

SENATOR PIRSCH: Okay. Could you--well, let me ask you that--can you address the concern of those--and I was a prosecutor for a long time and actually enforced many of these compliance checks, and it is quite true, they would send in confidential informants or CIs who were under age and did not use...would use their actual ID which indicated that they were under age, and you know, some of the time, a very limited part of the time, it was intentional selling, but most of the time, when it dealt with...when they would hand their actual IDs, most of the time it was unintentional: clerks in a hurry, whatnot, busy days, that kind of thing, and it's the inability to calculate, you know, ages based on a date of birth, you know, in '84. And so this does come up quite often and, you know, it would be a helpful tool if you could have something that would just electronically be accurate and could, you know, tell clerks who are in a hurry, yes or no, without them having to calculate, in their own mind, ages. But in any case, with respect to the concern then though, a couple of concerns that were at the committee, that somehow when these confidential informants are used at one establishment, they're used at many establishments by law enforcement to check enforcement. And I guess the concern, as it was expressed to me at least, was that somehow by utilizing an electronic system, that somehow through the grapevine, other establishments may be able to learn the identity of the confidential informant and the fact that they'd be perhaps coming to their retail establishment to check enforcement of that measure. And I wonder if you could comment about that? Is there something about making the system electronic, as opposed to manual, that would tend to allow...you know, if there was just kind of collusion, would there be anything about this bill that would tend to enable or make more speedy that collusion? [LB261]



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Transcriber's Office

Floor Debate  
February 26, 2009

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SENATOR ROBERT: Senator Pirsch, I want to congratulate you on asking the longest question in the history of the Legislature. (Laughter) I love it though. [LB261]

SENATOR PIRSCH: I can go longer. I've got it in me. But thanks. [LB261]

SENATOR ROBERT: Let me try and address a couple of things you're mentioning. First of all, what you mentioned is one of the big reasons why we're bringing this: busy days, not able to quickly calculate the age, and an unintentional sale to a minor. This would immediately eliminate that and that's a great point. In terms of compliance checks or sting operations on a retailer, here's what happens. If you pass a compliance check, you'll never...you won't even know the compliance check was made until some time later when you get a letter that says, congratulations, we were there are some point in time and you passed your compliance check. The concern, I think, Ms. Riibe has in Project Extra Mile... [LB261]

SENATOR STUTHMAN: One minute. [LB261]

SENATOR ROBERT: ...that folks that find out right away that there was a compliance check, they send this information to all their partner stores, and say, whoop, there you don't have to worry about...this will keep you from getting in trouble. And if they don't even know there was a compliance, then that would not happen. If they fail, that's obviously a different situation and they wouldn't have used the system anyway. Also, in concerns to the ability to share that information among stores, they don't have that today. I don't know that they will have that but I also think that goes against the provisions in the bill that say what it can be used for, and I think that should answer that concern, as well. [LB261]

SENATOR PIRSCH: Okay, great. Thank you. So the use of it is limited in the bill, so I appreciate that. [LB261]

SENATOR ROBERT: Yes. Absolutely. [LB261]

SENATOR PIRSCH: Very good. Well, I thank you for your time. [LB261]

SENATOR STUTHMAN: Thank you, Senator Pirsch and Senator Rogert. Senator Louden, you are recognized. [LB261]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As you noticed on the committee report that I voted against this bill, and I have real concerns with several issues here. As I look at the bill, this isn't so much as something that is going to do much to stop procuring alcohol for minors or bad checks; it's going to be more of rules for what retailers can do to have a scanning machine in their place of

Floor Debate  
February 26, 2009

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business. For those of you who may not know, but there is less than 17 states right now that use your driver's license as a federal ID. If you will look on your driver's license, there's a number on there, and if you went from Nebraska to Colorado and got a driver's license, that same number would follow you along. It isn't your Social Security number but it's your number on your driver's license. If any of you have had a driver's license as long as I have, you've had that same number all your life, no matter where it is. So we're talking about using something that is going to be your federal ID for probably in the future, and we're going to allow every, you might say, every retail store that sells liquor or alcohol or any of that, which nowadays is many stores, to have that material stored in their scanning machine. As Senator White has mentioned here, some outfit lost 480,000 people's identification. Well...and so what do you say? Tough? So now, there you are. Your license, driver's license, and the whole bit went down the tube. So I think I have a problem with the whole concept of the thing, and as far as anything that has to do with bad checks, this will not have a thing to do with bad checks. A bad check is a bad check. Right at the present time, most places, if you want to write a check and they don't know you, they take your driver's license and write that number down. That's all a driver's license is for with this bill or any other bill. It's just a method of identification so they can know where to send the county attorney to pick you up. This will do nothing for bad checks. As you mentioned, some of these businesses have something that scans your check and tells you whether or not it's any good. Well, what that amounts to is you're using your check as a debit card. It didn't matter whether you had a piece of plastic or whether you had that blank check. It worked the same way. They scanned that routing number and everything that's on that check, and it comes back out whether or not you have any money or not, which, as they say, you can always write checks but you ought to have money in there if you do. This is...as it goes on, it mentions what the felonies are on some of these, and I think Senator Fulton asked, you know, who was going to decide whether or not these programmers had the right information in there or whether there was negligence on the way their programming was done. Right there, that should be a red flag right there. Whenever you say about negligence and what the programming by the programmer, well, right there, there's room for a huge problem right there. They push the wrong key someplace along the line and there you have a program that's probably going to let somebody else come in there and get to it. The hackers, nowadays are very great to pick up this information somehow or another. So I voted against the bill in committee. I'm still not sold on it. I think there's better ways of doing this. I don't see that this is going to improve our situation any. I'm certainly in favor of doing things to shut down the procurement of alcohol for minors. [LB261]

SENATOR STUTHMAN: One minute. [LB261]

SENATOR LOUDEN: That is something that's been going on since I was a teenager, and that's been a long time back and it's still going on today. So no matter what is done, there will always be some way or another that that'll happen. That is something that has to be more controlled by family and common sense from the family. So I again...I will not

Floor Debate  
February 26, 2009

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vote for this bill. I think there's better ways of doing it and I will not support the overlying bill or the amendments that go with it. Thank you, Mr. President. [LB261]

SENATOR STUTHMAN: Thank you, Senator Louden. Senator Howard, you are recognized. [LB261]

SENATOR HOWARD: Thank you, Mr. President and members of the body. In my district, we have a big problem with the proliferation of liquor outlets, especially with an inner city area of District 9. I had originally signed on to LB261, believing the intent and the mechanism to address this identity problem to be good. However, the more I learned about the possible flaws in the system regarding the storage and the access of personal information, I became increasingly concerned. And I'm going to share some information with you that really is very pertinent to this and in my making this decision. In District 9, as well as in other areas of Omaha, stores formerly known as Kwik Shops have been bought by a concern now known as Infinite Oil. You may recognize this name as the location where a 27-year-old girl was shot and killed while leaving her job as a clerk at 11:30 p.m., where she worked alone. Infinite Oil has now walked away from this location, simply shutting the door and leaving the store, and has left, among other things, unpaid property tax--and I will have to say property tax which they have never paid since they have been in that location--all the ongoing bills and the merchandise simply locked in the store. A month ago there was a water pipe that broke and there was no one to be able to contact to report that. There is simply...the owner has--Mohammed Ali is the identified owner--has simply...is not available; cannot be found. This property was purchased with money borrowed from Small Business Administration, which will probably never recover the money. Why should we think a Class IV felony penalty will prevent an individual who has thwarted all other penalties, all other rules, all other requirements, to abide by rules set out in this bill? I believe that this is an invitation for unscrupulous individuals to steal information and to simply run. This is the first time--this is the first time that I've withdrawn my name from a bill. I appreciate you considering this bill carefully and looking at the possible ramifications of this information being available. Thank you. [LB261]

SENATOR STUTHMAN: Thank you, Senator Howard. Senator Haar, you are recognized. [LB261]

SENATOR HAAR: Mr. President and members of the body, I believe we too easily give away our freedoms, and I think any time there's a possibility of letting go of another one of our freedoms that we have to be very, very careful. There has to be an exceptionally good reason for doing this. And any time I believe that we store more personal information, that we're giving up some of our freedoms. I am a computer programmer, analyst, and all. I've worked with computers and programming for 25 years. And there is absolutely no way to keep information, computer information, absolutely secure. For example, if you take a Wal-Mart or some kind of larger store, the question would come

Floor Debate  
February 26, 2009

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up, you know, can they share information between...well, even between counters? And any time you have...you're sharing information between checkout lines, you can connect into that information in another way. Any time you're sharing information between storage devices, you will probably want to back it up at some point. Why collect all this information if some kind of glitch could destroy it? So there will be a backup mechanism. Very often, backups of confidential information are not protected in the same way that that information is protected initially. And then if you can connect two or three aisles in a store, why not connect two or three or 100 stores? And we've seen lately, some of the vendors of information, I believe YouTube was probably one of them where people, you know, signed up for this and all of a sudden they realized that their information was being used differently than what they thought it was. And, you know, how many of us actually read all that small print every time you load a program? You know, it says you agree with this agreement and then you scroll through screens and screens, and, at least, usually I say I agree and I go on. I don't question that agreement. And so even though you're saying, okay, all you do is you store the driver's ID number and the age now, but however if you give, apparently, approval, then they can also attach your name and address to that. You know, there are all these ways that computer data can be connected. We know that. I think this is a very important policy change. I think it's very dangerous to store that information when there are other ways of doing it. When, if properly trained person selling at the checkout counter can check the photograph, can check the age, if they need a calculator to calculate the age or whatever, then they have to do it. But I think this is going to be actually easier because now there's going to be a great deal of confidence. All you have to do is you have to go through the line and, you know, put your card through there, and I think the checking will probably deteriorate. So I certainly stand in opposition to this amendment and I stand in opposition to LB261. I think any time Big Brother wants to gain more information on us, we have to have a very, very good reason to do it. Thank you. [LB261]

SENATOR STUTHMAN: Thank you, Senator Haar. Those wishing to speak are Senators Rogert, White, Gloor, and Hadley. Senator Rogert, you are recognized. [LB261]

SENATOR ROGERT: Thank you, Mr. President. I fully appreciate the concerns of Senators White and Haar, and they were gracious enough to come talk to me before we got started this morning about their concerns, and I fully understand them. I'll address a couple things that Senator Haar talked about just recently. You mentioned that with written permission we can add more information to what can be stored. That's in the green copy. We struck that provision in the amendment, so that's no longer a possibility as we move forward, so that should take care of that--hopefully, take care of that. Big Brother does seem to be watching us. Senator White and I have had fun conversations about what they store and what they don't, and I find it interesting. Sometimes I wonder if maybe they shouldn't watch over folks like me a little more once in a while. But it's also interesting to tell you that 49 states have legislation that allows you to use the

Floor Debate  
February 26, 2009

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information on the back of a card in some form or another. We are the last, again. For a lot of reasons we are the last on a lot of issues, and this is part of my bill package for the year, and I try to move us forward, cautiously, into the world of the rest of the country. Recently I was at a casino, and to get in you have to give them your driver's license and they stick it in the little machine and they scan it with a barcode, and if it doesn't come off right, you don't get in. Senator Haar, you mentioned if we've got to get those guys a calculator to help them get the age up right, the Liquor Commission actually gives them the calendar that all they have to do is look right over there and it shows the date. And for some reason, we still have kids getting alcohol and tobacco when they shouldn't. I don't think it's the fact that they always can't get the date right...or the age right. I think it's the fact that they don't by either...they intend to sell to a minor. I think that's often a pretty often...I think Diane Riibe would be the first one to admit that often there are mistakes made as folks sell to underage people, but I think there are...they're not always mistakes. They are selling them on purpose. Senator Loudon had some questions about what's stored. Once again, we do not store the address. We do not store the name. There is no Social Security number in regards to that information on a driver's license. No phone, no e-mail. And this will help with bad checks. The TeleCheck system can be delayed and I'll give you an example of what happened. I had a couple checkbooks stolen. I had my vehicle stolen a couple three years ago, and there were a couple checkbooks in it. And the folks who stole it, they wrote almost 30 checks in two days, for anywhere from \$1 to \$300. And some of the stores where they wrote the checks, on the latter part of the first day and all during the second day, already had the information come through the system that said these are closed accounts because of a theft. To avoid the confrontation of the person on the other side of the counter, they made the sale anyway. With this technology and the storing of the number and attaching it to the check, if you give a driver's license number and that check comes through, it stops the register from even making the sale. Which, that's where it's going to help with bad checks and it will also help with alcohol and tobacco sales. I think those are most of the issues that I saw coming through. I'll yield the rest of my time to Senator White. I know he's next, so Mr. President, I'll yield. [LB261]

SENATOR STUTHMAN: Senator White, you have one minute and three seconds.  
[LB261]

SENATOR WHITE: As always, I appreciate Senator Rogert's courtesy. I will tell you, literally, if we knew what is technologically possible between satellites and other information, I think we would be horrified. I grew up in a world where a person's business was their own, and they were assumed to be law-abiding. That world seems to be shifting away from us, where a person's business isn't their own and the government has the right to double-check to see if they're law-abiding. That's not consistent with a free society; at least, not the kind I understood. The day will come, believe it or not, the day will come when we will be the last state to refuse to implant microchips in people because after all, it's much more safe. We can tell from a satellite where they are all the

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

Floor Debate  
February 26, 2009

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time, and we can make sure they weren't there and involved in that bank robbery. We can just scan and make sure. And you know what? The best of intentions... [LB261]

SENATOR STUTHMAN: Time. [LB261]

SENATOR WHITE: ...will be served by that, and freedom will disappear with it. Thank you. [LB261]

SENATOR STUTHMAN: Thank you, Senator White and Senator Rogert. Mr. Clerk, items for the record. [LB261]

CLERK: Mr. President, your Committee on Health and Human Services, chaired by Senator Gay, reports LB458 to General File, and LB172 to General File with amendments. Senator Gay would like to withdraw LB668. That will be laid over. I have a motion with respect to LB184 to be printed; an amendment to LB167; and an amendment to LB432. I have a Reference report referring LB680. Senator Hansen would like to add his name to LB153; Senator McGill, LB356; Senator McCoy, LB507; and Senator Fischer to withdraw her name from LB184. (Legislative Journal pages 577-578.) [LB458 LB172 LB668 LB184 LB167 LB432 LB680 LB153 LB356 LB507 LB184]

And a priority motion, Mr. President. Senator Flood would move to adjourn until Friday morning, February 27, at 9:00. []

SENATOR STUTHMAN: Thank you, Mr. Clerk. You have heard the priority motion. All those in favor of adjournment say aye. All opposed, nay. We are adjourned. Thank you. []