

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

Floor Debate  
April 30, 2009

---

[LB16 LB16A LB63 LB97A LB112 LB136 LB136A LB172 LB173 LB186 LB187 LB195  
LB241 LB249 LB263 LB288 LB315 LB342 LB346A LB346 LB356 LB356A LB358  
LB371 LB380 LB390 LB421 LB462 LB469 LB474 LB480 LB494 LB503 LB521 LB545  
LB568 LB588 LB599 LB601 LB601A LB603A LB603 LB616 LB617 LB618 LB626  
LB630 LB632 LB640 LB671A LR92 LR93 LR94 LR106]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for this, the seventy-first day of the One Hundred First Legislature, First Session. Our chaplain for today is Pastor Aaron Householder from Southview Baptist Church here in Lincoln, Senator Campbell's district. Would you please rise. []

PASTOR HOUSEHOLDER: (Prayer offered.) []

SENATOR LANGEMEIER: Thank you. I call to order the seventy-first day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR LANGEMEIER: Thank you. Mr. Clerk, are there corrections for the Journal?  
[]

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

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements? []

CLERK: Mr. President, your Committee on Revenue, chaired by Senator Cornett, reports LB421 to General File with committee amendments and the following bills indefinitely postponed: LB186, LB249, LB380, LB469, LB474, LB480, LB521, LB616, LB617, LB618, LB632, and LB640. I have a report of registered lobbyists for this week, Mr. President, to be inserted in the Legislative Journal, and an announcement that the Judiciary Committee will have an Executive Session today at 10:00 in Room 2022, Judiciary at 10:00 in 2022. And that's all that I have, Mr. President. (Legislative Journal pages 1269-1271.) [LB421 LB186 LB249 LB380 LB469 LB474 LB480 LB521 LB616 LB617 LB618 LB632 LB640]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on this morning's agenda. Mr. Clerk. []

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

Floor Debate  
April 30, 2009

---

CLERK: Mr. President, LB545. (Read title.) It was discussed on April 20. At that time, the committee amendments were divided. The first component and an amendment thereto were adopted by the body on April 20. Senator Adams then presented the second component of the committee amendments, AM1119. An amendment to that was adopted on April 21. When we left the issue, Senator White had pending a priority motion. Senator White had moved to bracket the bill. Senator, I have a note now that you wish to withdraw that bracket motion. [LB545]

SENATOR WHITE: That is correct. [LB545]

SENATOR LANGEMEIER: It is withdrawn. [LB545]

CLERK: Mr. President, I then have a new amendment to the second component of the committee amendment: Senator Adams, AM1232. (Legislative Journal page 1241.) [LB545]

SENATOR LANGEMEIER: Senator Adams, you are recognized to open on AM1232 to the second division of the committee amendments. [LB545]

SENATOR ADAMS: Thank you, Mr. President. Ladies and gentlemen of the body, as you well know, last week we spent nearly the entire week debating this bill and specifically this division of the bill that has to do with the averaging adjustment. As we left it, since that period of time I took careful note of what I was hearing on the floor, the arguments that I was hearing, and since that time spent the weekend, this last weekend talking with Senator Ashford, Senator Council, Senator Fischer and we have put together a compromise on this matter. And I'm anxious to present that. I'm going to yield a few moments of time right now to the Speaker. [LB545]

SENATOR LANGEMEIER: Speaker Flood, you're recognized. [LB545]

SPEAKER FLOOD: Thank you, Mr. President. Thank you, Senator Adams. Well, last week the message was delivered, and Senator Adams, to his credit, worked very hard with some members of his committee to try and address what he heard on the floor. And being a good legislator means being an excellent listener. And he worked very hard to examine what could be done within the parameters to make this acceptable to the Legislature. Today we have an amendment, a concept. We don't have numbers and we won't have numbers. We won't have numbers until the end of next week, through no one's fault or it certainly wasn't intentional. What we do have is a good faith effort on the part of the Education Chairman, together with a committee that's worked very hard to try and address this issue. What I'm asking this Legislature to do today and the parties have agreed, the ones that have been prominently involved in the discussion of LB545, is to move this from General to Select, to adopt this amendment, move this to Select File. And I do this while recognizing folks that have been very involved in this debate

Floor Debate  
April 30, 2009

---

that have invested a lot of themselves personally. Senator Tom White was one of those that I consulted yesterday who does a great job for his district and for the community that he lives in. He's agreed to move forward. Senator Brenda Council spent a considerable amount of time on this. She was in discussions with Senator White. Senator Deb Fischer, an ardent supporter of rural schools in Nebraska has worked very hard; Senator Mike Friend, Senator Brad Ashford, among many, many others. The plan is to adopt this, hopefully if the Legislature agrees, and move this bill to Select File. I will not schedule this bill next week. Instead, I promise to each of you that you will have not less than 24 hours with the numbers after the Department of Education puts them together, for you to review personally and your school districts across the state to review. I fully understand that on Select File it may be a new day. We never know what the numbers will show in a formula this complex. But everybody preserves, obviously, the right to do whatever they feel legislatively has to be done after they review the numbers. But I would hope that those decisions on Select File are made in the context of doing what's the best for the state and what we can afford. Some ask why do we need to move this today? We are in a critical period in the session where we're going to take up the budget on Tuesday at 10 a.m. at this point. We are going to be making decisions as to how the state will spend money. My general feeling is that there's a sense we want to stay on that \$234 million number. I respect that. I feel the same way. We need to send a message that we're going to work on this between now and Select. You are going to get the numbers. And the Education Committee will continue its good work to determine what is going to happen and how we're going to deal with this on Select. In a perfect world, the numbers work out as they are intended, and everybody is satisfied and we move this bill further. But this is a critical step for us this session. It's critical, in my opinion, that this bill move and that we place it on Select. And every step that I can afford each one of you in this Legislature will be taken to ensure that you have the numbers and you have the time to discuss this and give it the attention it deserves on Select File, with the understanding it will not be scheduled next week. I just want to thank Senator Adams again, members of his committee. They've worked really hard. And everybody in here, regardless of our differences, in my opinion works hard to do the best job they can. And so with that, it's my hope and I intend to support AM1232 to AM1119; AM1119; and LB545. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Speaker Flood. Senator Adams, 4:40. [LB545]

SENATOR ADAMS: Let me begin now by explaining to you the compromise, And I'm going to do that by, first of all, framing for you what the parameters were. First, we have \$234 million to work with. And I believe in light of the revenue forecast last Thursday, that has become ever so clear to all of us: We have \$234 million to work with. Secondly, I personally believe it is critical that we stay within an equalization framework; that we stay as much within the framework of LB988, the formula, as we possibly, possibly can, and we be as fair as we can. You also remember that last week probably the greatest bone of contention was the \$60 million savings, coming down from \$295 million to \$234

Floor Debate  
April 30, 2009

---

million, that was predominantly coming from the 26 schools that have the averaging adjustment. There's another factor here. It's sustainability of TEEOSA long beyond this year, long beyond this biennium. So here's the compromise and here's what we can do. If you recall, what we had intended was for this first year of the biennium, and the second, there was \$30 million that would go to school districts in a form of retirement aid. And what that was meant to do was to cover a 2 percent increase in retirement on the part of the employer: the school districts. And at the time that we developed LB545, at the time that we developed the committee amendment, 2 percent was the number. The Retirement Committee since that time has arrived at a new number. And the new number is not 2 percent; it is 1 percent over five years. Now by cutting in half that retirement obligation to school districts, what we have done, in effect, in round simple numbers is to free up half of the \$30 million in the first year, the other half of \$30 million in the second year: a total of \$30 million. The next thing that happens is, with that money, if we amend the averaging adjustment from what you saw in the committee amendment, we can amend the averaging adjustment so that absorbs that \$30 million over two years. Now what that does, in effect, we have found...we have some additional money that we can push towards the averaging adjustment. We amend the way the averaging adjustment looks to absorb that. And what it in effect does, is say, all right, to those 26 averaging adjustment schools, there's some more money coming your way, and to everybody else, the loss is the retirement money that they were going to have to pay and now will only have to pay half of. So if you had a spreadsheet in front of you, one of the things that you'd see is that your school district has less aid. Well, that's partly because they will have less retirement obligation. [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR ADAMS: That's the understanding. We're also slowing the growth of state aid. We're slowing the growth of state aid. These are difficult times, and next year probably won't be any better. We don't know what year three and four are going to be looking like. So we are slowing the growth of state aid, using our cost growth factor. Now let's go to the averaging adjustment. If you recall, in the committee amendment what we were going to do was to compress the averaging adjustment, very simply, to say that if your school was levying over \$1 and you were under the statewide average, the state would reimburse you 50 percent of the difference. [LB545]

SENATOR LANGEMEIER: Time. Thank you, Senator Adams. You have heard the opening on AM1232 offered to the second division of the committee amendments to LB545. Those wishing to speak, we have Senators Ashford, Fischer, Sullivan, Adams, and others. Senator Ashford, you are recognized. [LB545]

SENATOR ASHFORD: Thank you, Mr. President and members. And I will give the vast majority of my time to Senator Adams, who I commend for his incredible tenacity and commitment to this issue and hard work. But I want to make a brief comment about a

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

Floor Debate  
April 30, 2009

---

couple of things, and it really comes down to people in this body and that's why we are here today. And I want to commend Senator White for his passion. Senator White is my friend. We have districts very similar. And he showed, exhibited great passion for his issue. And I think that I commend him for that. But I also want to talk about a conversation that I heard during these discussions on this amendment and on this bill between Senator Council and Senator Fischer in Senator Adams' office. And I've been here awhile. I had some time off, came back, but what I heard in that conversation was such an incredibly...such incredible feeling about education and about the similarities between rural schools and urban schools and how...and Senator Council, of course, 11 years on a school board; Senator Fischer with extensive experience in the same sort of thing in rural schools, Senator Council in a very heavily concentrated poverty urban district. And the conversation that went on was the most positive conversation I've heard on the issue. I wish everyone had had...and I wish we had it on tape. It was...we don't use tape anymore, whatever we use, but it was really phenomenal. And I commend Senator Fischer and Senator Council, because it's through that dialogue, urban and rural people--which obviously we all are in this state; we are a mixture of urban and rural--thinking about issues involving educational opportunity that affect all our children, whether they live in Senator Fischer's district or Senator Council's district. It was really something, and I commend both of them. And I don't think we would be here today without certainly Senator Adams' very, very hard work and that of his staff and the other members of the committee that I serve with in the Education Committee. But I want to give special thanks to Senator Council and Senator Fischer for what was a very enlightening and promising conversation for the future. Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Adams, 2:20. [LB545]

SENATOR ADAMS: Let me go back to something more boring, the averaging adjustment, where I left off (laugh). What we were going to do in the committee amendment was to compress the averaging adjustment down to if you were at or above \$1, there would be a 50 percent reimbursement of the difference times 75 percent of your students. What we would do now in this amendment is to go back to the current schedule, which would in effect say that if you're levying at \$1, there would be a 50 cent reimbursement, and we would ratchet up so if you were levying at \$1.04 to \$1.05, there would be a 90 percent reimbursement of the difference. And I want all of you to listen very critically to this if you would, please. This amendment says that we will reimburse at 75 percent of the formula students. I want to make it very clear right now that we don't know that 75 percent is the number. It may really be 80 or 85 percent, maybe higher. We need to adjust that number to absorb this \$30 million. And without the modeling tools that we would typically use, we're not sure exactly until Select File either if the correct number is 75 percent of the formula students or something in between 75 and 100 percent of the students. So give us... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

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

Floor Debate  
April 30, 2009

---

SENATOR ADAMS: ...in the committee that latitude. Finally, the other thing we do to the averaging adjustment, if you remember there was a lot of discussion on the floor about sustainability--and maybe I thought there was a lot of discussion; maybe it was all coming from me--about sustainability of the averaging adjustment. When we use the statewide average, and use that and nothing else, that statewide average and trying to pull schools up to it, that statewide average has a curve that shoots up. And so we're playing this catch-up game, a costly one. What I propose that we do in this amendment is to bring that down just a little bit, and we can do it in this way. What the amendment says is we'll continue to look at the statewide average every year. With all schools in the state thrown in on a per student basis, we're going to look at that statewide average. [LB545]

SENATOR LANGEMEIER: Time. Thank you, Senator Adams and Senator Ashford. Senator Fischer, you're recognized. [LB545]

SENATOR FISCHER: Thank you, Mr. President and members. As you've heard, there was a meeting held with Senator Adams and Senator Ashford, Senator Council, myself, Senator Heidemann also participated in that meeting. Senator Adams spent a lot of sleepless nights trying to come up with a proposal to please everyone. And I think he realizes that's not possible when we're dealing with children, especially when you tie in money to that. I do support this proposal at this time. But I think everyone in here needs to be aware that when you make a change in the state aid formula it's not just that you put in \$15 million and things happen across the board. That's not how it happens. So when you see the printout that we will be receiving, there will be districts that will see increases, there will be districts that see decreases, and there will be districts that are held harmless in this. Then we're back, I think, to square one because we all are concerned about our districts. I do thank Senator Adams, Senator Ashford, and Senator Council on the discussion that we had, because it was a policy discussion, and we don't always hear that on the state aid to schools. And those folks committed, as I did, we pledged that we would start looking in this state at education policy, at what the state can afford to fund in education policy, and not to try to squeeze money out of certain districts so other districts can benefit. I felt that was progress and I felt that was a very important pledge that the four of us made to each other. I would urge you to advance this bill at this time, but I would also urge you to try and gain a basic understanding of the formula, past the needs and resources and state aid that we all hear, because it's very complicated. Every time you tweak it, somebody loses, somebody gains, and there's a few that are held harmless. But hopefully we can get past that. We can start looking at education policy in this state and determine what it is that is the state's obligation to fund in the state. We all talk about equalization and we all have needs in our districts, and Senator Ashford alluded to that. Whether it's urban, whether it's suburban, whether it's rural, there are needs for students across the state. But when you look at equalization, you need to look at what's being offered to students too. You

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

Floor Debate  
April 30, 2009

---

need to look at facilities, and what districts that have more students, what they are able to offer in their facilities. You need to look at curriculum and what is offered in curriculum across the state. You need to look at programs, what's offered in programs. You need to take into account faculty, our teachers, and the quality of those teachers, their background, their educational background, and what they offer the students in their districts. So I look forward to continuing these discussions on education policy. I look forward to working with... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR FISCHER: ...my counterparts within this body. But I am not so naive as to think the plan may be perfect at this point. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Fischer. (Doctor of the day and visitors introduced.) Returning to floor discussion on AM1232, those wishing to speak, we have Senators Sullivan, Adams, White, Avery, Fulton, Haar, and others. Senator Sullivan, you're recognized. [LB545]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. I stand in strong support of AM1232, AM1119, and the underlying bill of LB545. And I certainly hope all of my colleagues will follow in line as well. I salute Senator Adams because I think he has done a very good job of trying to find some common ground and a compromise that we all need to look at very carefully. I have to, though, say one thing about an issue that really none of us in this body had any control over, because if we pass this bill, one of the things they're waiting for...or pass this on to Select File, one of the things we'll be waiting for are the numbers of how this will impact all of our respective districts. And for the life of me, I cannot figure out because we have a schedule that's been in place as far as when the Legislature meets and the critical times that it's in session, why we are faced with a situation of a staff person in a state agency having been on vacation and not being available to provide the numbers for us. So I'm a little perplexed and concerned about that. I don't think we'd let that happen in school districts, that a teacher would be gone at a critical time. I don't think we would have let that happen at our own business in Cedar Rapids, and so I'm a little perplexed by that. In this whole process, as a new senator I think perhaps I'm feeling the impact of the lack of institutional knowledge. There have been some significant things that have taken place with respect to educational policy that I think needs to be kept in back of all our minds. Forty of us were not here when the Class I's in rural Nebraska were dissolved. I was not here when sparse and very sparse was removed from the state aid formula. Sixteen of us were not here when LB988 was passed and all the discussion of the learning community. So I guess basically I want to say that there has over the years been a lot of good and important discussion relative to educational policy that has taken place in this body, and we need to remember that. We need to value it and do our homework to a certain extent. And then as we go forward, yes, we're all going to reach

Floor Debate  
April 30, 2009

---

out for those numbers when they come forward and how this new amendment will impact our districts. And you can be sure that I will be doing that along with the school administrators in my district. But also as state policymakers, I hope that we will all keep what's in the best interest of our state in mind as we go forward. So with that, if Senator Adams would like, I'd yield any of my time to him. [LB545]

SENATOR LANGEMEIER: Senator Adams, 2 minutes. [LB545]

SENATOR ADAMS: Thank you, Senator Sullivan. Let me go back to averaging adjustment again--sustainability, sustainability, sustainability out over time. It's one thing for us to get through this biennium, but we need to be looking outward, good times or bad. What we are now proposing with the averaging adjustment is that we begin at 50 cents or 50 percent when we're at \$1 and we go up. Here's another change in this amendment. Rather than just using the statewide average, which includes every school, large and small, what we would do is this. Each year we would calculate the statewide average per student, and we'd look at that number and then we would also look at the number in the prior year; take the basic allowable growth rate, which is right now... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR ADAMS: ...1.5 percent, plus another half which would make it 2 percent. We would take the lesser of the two numbers, either the current statewide average or last year's statewide average grown by 2 percent. I think that that may begin to impose some sustainability to the averaging adjustment. And down the road, we're going to have to continue to look at this. If we want to even keep the averaging adjustment as part of the total package, we're going to have to look at it and let our decisions be data driven. But I believe this imposes some sustainability on it. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams. Your light is next and you're recognized on your time. [LB545]

SENATOR ADAMS: I'll use this time just to very quickly review what the amendment does. The amendment slows growth and it slows growth all the way across the continuum of all 254 school districts, not something we like to do but something that we must do during this biennium given the economic circumstance that we live in. It finds \$30 million. But that find, remember, is based on this body saying that the employer's contribution to state aid is going to be a 1 percent rather than a 2 percent increase. That bill will come later. So we then take that savings, and the average adjusting schools, those 26, will be the ones to absorb most of that. And we change the way that we calculate the averaging adjustment. We're actually sweetening it a little bit over what the prior committee amendment was so that it can absorb this money. And again I say, it's

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

Floor Debate  
April 30, 2009

---

set at 75 percent of the formula students; it will probably have to go up. We won't know that until Select File when we have numbers. And we're also changing the way, moving forward, that we look at that statewide average so that it doesn't get out of control on us. And then the 26 schools that advantage from the averaging adjustment, it maybe says to them, hey, we can sustain this, but only if we find a different way of calculating it so we have some control over it. That's the amendment. And I'll yield at this point and let everyone else speak. And if there are questions, I'll try to answer them. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator White, you're recognized. Excuse me. Sorry, Senator Adams. Senator White, you're recognized. [LB545]

SENATOR WHITE: Thank you, Mr. President. I do urge the body to advance the amendment at this time. I appreciate Senator Adams' and Senator Flood's hard work, Senator Ashford's and Senator Council's very skillful negotiating. But like other senators, I want to see the numbers. I want to be careful that what we're doing is, in fact, looking and working our best towards an adequate education for all students, wherever they're located, whether it's in the Sandhills or in north Omaha. Now one thing that I want everyone to carefully listen to because the \$30 million that was found came from the good faith negotiations of the teachers. They agreed to step up and help the state with additional contributions to relieve the pressure on the retirement fund. They've been getting bashed about in some blogs and even in some newspapers that they demand money in hard times, they don't contribute. That's so far from the truth it almost shouldn't be necessary for someone to stand up and defend them. But every member of this body should recognize that the legal situation on how our retirement funds are set up, they could have insisted that all shortfalls be made up by the state. They did not do that. They asked their members to make substantial contributions over many years. And it is altogether just and fitting that we take the sacrifice that they made and turn it back into the educational fund to allow us to try to move to a good, substantial education for all of our children. But that \$30 million did not appear out of thin air. So please remember the teachers, that they too have been a participant in hard times. I look forward to the debate on Select File. I'm hopeful that this will solve our problems. And, Senator Fischer, I understand your concern for your students. I share a concern for mine. And we will try to find an accommodation that allows for a real future for all the students. Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Avery, you're recognized. [LB545]

SENATOR AVERY: Thank you, Mr. President and colleagues. I want to echo a bit of what Senator Ashford said earlier about the work of the committee. The committee came together on this latest amendment. We did that in the spirit of cooperation and

Floor Debate  
April 30, 2009

---

compromise. The amendment actually came about, as Senator Ashford pointed out, through a lot of hard work. I personally know that Senator Adams was spending the Friday recess day in his office, hunkered down with staff, working on something that could bring everybody together. I believe he has succeeded in that. All of us on the committee realize that we had to make this amendment work, that we had to find something that we could do that would preserve the budget, provide enough funding for schools, at the same time answer many of the questions that came up in the more than 14 hours of debate that we had on LB545. It is quite clear to me, as I said in that debate a few days ago, that without LB545 we can't make the entire budget work. Without doing this, we can't have a budget unless we want to raise taxes, and I don't think anybody here wants to do that. So what the committee was faced with was a very, very tough situation. And what we've come up with now is frankly our last idea. If we can't get this done, we're out of ideas, and there's probably no other way we can do it. We've exhausted our options. It's important to remember this amendment does not add to the overall total spending. We're still going to stay within the \$234 million. We're trying to do the best we can to be fair. We're trying to spread the pain as evenly as we can. I think that you ought to be happy with the work that the committee has done. This has been perhaps the toughest issue that I've faced in my two and a half years on that committee, and that includes the learning community that we worked on two years ago. I would urge you to keep all of this in mind when you are looking at this option and when you are deciding your vote. I urge you to vote for it. If Senator Adams needs any more time, I'd be happy to yield the remainder of my time. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Senator Adams, would you yield? 1:50. Senator Adams, you waive the time? [LB545]

SENATOR ADAMS: I waive the time. [LB545]

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

SENATOR FULTON: Thank you, Mr. President, members of the body. First, and to be clear, I rise in support of AM1232 to AM1119 and LB545. From the appropriations standpoint, this is an integral part to the jigsaw puzzle that is our state budget, which we will begin debating next week. Senator Heidemann has already handed out copies. You have books on the proposed budget that we'll be debating, and he has also arranged for a briefing. I believe it's on Tuesday morning. This is a pretty important aspect of that budget, and so I rise in support and with thanks to Senator Adams and the Education Committee for striking this compromise. The reason why I put my light on to talk is because I think something has to be said about the complexity of the TEEOSA formula. My background involves equations. I've talked to Senator Haar about this and he has some similar background--spreadsheets, math--and I enjoy that. I like it. It's strange, I know, but it's true. When I first got started in the Legislature, I heard a lot about the complexity of the state aid formula and I saw it as a challenge. Well, by golly, it can't be

Floor Debate  
April 30, 2009

---

that complex; I deal with complex numbers all the time. I want to get an idea of what's in that formula--and so I delved into it. And I stand here, a man defeated. I still do not understand that formula, and what I am gleaning is that a lot of us don't understand this formula. Senator Sullivan, when you stood up and spoke, you struck a chord with me. We have to wait for an individual to come back to give us numerically what our districts, which we represent, expect in this formula. That's problematic. There was a newspaper article in the local paper here. A math professor had endeavored to explain the state aid formula algebraically and it was 600 pages to do so. I actually...I'm not going to hand these out. I thought I would hand them out, but I've decided not to. I'm going to yield some time to Senator Adams. But if anyone is interested, I have an algebraic expression, a picture expression of how the state aid formula works. It is mind-boggling to look at this thing. I have them over here at my seat here on the floor. If anyone wants it, you can take it. But I have to take this opportunity to say that there has to be some way to make this formula more understandable, simplified somewhat such that we, who are policymakers, have an idea of what's going on with the formula and such that school districts can have some predictability so they can set their budgets going forward. I don't have the answer, and that's somewhat embarrassing. I wish I did, but I don't. It is a very complex formula, but something has to be done and I think that something has to be said about it; thus I stand up to speak on it. If you want copies, I've got them over here. I'm going to yield the remainder of my time to Senator Adams. We talked about this previously and he would like to respond. [LB545]

SENATOR LANGEMEIER: Senator Adams, 1:40. [LB545]

SENATOR ADAMS: Thank you, Senator Fulton. Complex; not complicated. Complex. Not complicated. And why is it so? I'll hypothesize. Because we have 254 school districts in a state that is demographically and geographically very different from one end to the other. If all schools looked alike, if they all had the same needs, cookie-cutter, we could really make a complex formula much simpler. That's not what we face. The concept of equalization: The state has a dollar,... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR ADAMS: ...and we're going to decide how to hand out that dollar and we want to be as fair about it as we can, and we wanted to give it to those districts that have the need and not the resource. Now we have to define the need. I've joked with superintendents when they say, it's too complicated, it's unpredictable, we don't like it. And I said to them jokingly, more than once as I crossed the state: Okay, let's have a meeting and let's all get together and let's just shake the whole state aid formula down to nothing, and then I'll ask you what we should put on it. It's like shaking a Christmas tree, all the decorations off, and then asking them which ones they want to put back on. I'll bet before we're done we've got all the decorations back on and a little bit more, because I could hear: Well, in our school district we have this unique feature and in ours

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

Floor Debate  
April 30, 2009

---

we have this unique feature, and in ours and in ours...and pretty soon we're back to a complex formula that tries to distribute money in a fair way. I, like Senator Fulton,... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR ADAMS: ...wish it was easier. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams and Senator Fulton. (Visitors introduced.) Returning to floor discussion on AM1232 offered to the second division of the committee amendments offered to LB545. Those wishing to speak, we have Senator Haar, Wallman, Council, Carlson, Howard, and others. Senator Haar, you're recognized. [LB545]

SENATOR HAAR: Mr. President, members of the body, I rise to support LB545 and the amendments. I, too, want to commend Senator Adams and the Education Committee for their work and their patience and all members of the body. One of the things that's surprised me about this body is that through debate things get better, bridges get built, relationships that are built get stronger through trust. And I think that's happened here. Again, just a reminder, we're one state, and equalization is an important part of that concept. The thing that...and Senator Sullivan brought it up and I was going to bring it up, too, I think it's outrageous that we have one programmer that can give us the numbers and that that person is on vacation in Ireland. I think we deserve better. This has nothing to do with the members of this body in any way. But it's only one of the biggest items in the budget, and yet there is one person who can run the numbers to give us those numbers. That must be changed. I am going to try to understand the TEEOSA formula this summer. I've devoted some time to that. But we've...in computer language, I always called it the Mack truck theory. You know, if you have one programmer and that person gets hit by a Mack truck, what do you do then? I mean we're lucky this one programmer that can give us the numbers is only on vacation and didn't die of H1N1 or something like that. That needs to be changed. I am outraged. Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Wallman, you are recognized. [LB545]

SENATOR WALLMAN: Good morning, Mr. President, members of the body. Education committee and those who worked on this with Senator Council, Senator Fischer, Senator White, and others, I want to commend them for what they did. And as Senator Adams realizes, I struggled with LB988, and I will vote green on this. And I appreciate what they went through. It's compromise. It's working hard together. And I feel comfortable that they will get the job done for us as a body, and then we can deal with that with our local school districts and explain it to them and they will be somewhat

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

Floor Debate  
April 30, 2009

---

happy. They will never be happy. As Senator Adams knows, superintendents, school boards are never happy. They always want more money. Where does the money come from? Sales and income tax. And that's supposed to run our state also. We have lots of things that we fund out of sales and income tax. And having a meeting with some administrators the other morning, one of my local school districts decided to freeze administrative salaries. And God bless the teachers for what they've done here, like Senator White said, the frontline workers. They will sacrifice. Will people at the top sacrifice? We've seen it in General Motors. We've seen it in Chrysler. We've seen it in Ford. Do they want to sacrifice some of their big wages? No. They want the wages lower on their employees who lost their retirement funds through whichever corporation they were in. So when we have leadership that sacrifices, we will truly have a good school system. And I yield the rest of my time to Senator Adams. [LB545]

SENATOR LANGEMEIER: Senator Adams, Senator Wallman has yielded you 3 minutes if you'd like it. Senator Adams waives the time. Thank you, Senator Wallman. Senator Council, you're recognized, followed by Senator Carlson. [LB545]

SENATOR COUNCIL: Yes, thank you, Mr. President. I will be brief. Good faith, fairness, equity--those were the principles that governed the negotiations that resulted in AM1232. And I appreciate the efforts of all of the members of this body, and I want to follow up with Senator White's comments because the good faith that was displayed during the negotiations that occurred among members of this body was also evident in the discussions that occurred by the representatives outside of this body. Good faith, fairness, and equity prevailed because all of those players had a part in arriving at AM1232. Senator White spoke to the teachers. Certainly there were the interests of both small schools, the large school districts, urban/rural school districts. Everyone, I believe, came to the table motivated by arriving in good faith at what we believe would be in the best interest of all of the children of the state of Nebraska with regard to this state's provision of state aid. I want to specifically thank Senator Adams for extending the invitation to me to participate in the process and understanding that the amendments that I had introduced when LB545 was originally debated were all intended to arrive at a fair and equitable allocation of the state aid dollars. The commitment has been made to make this amendment work and recognizing that there may be adjustments, there may be alterations. I share Senator Haar's concern that we only have one individual to handle the calculation of the effects of this amendment, but I don't begrudge that individual taking a vacation that he had planned for two years. The problem I have is that, as Senator Haar stated, that we don't have the capacity within the department to have someone else step up and provide that information at this critical time in the session. So I want to thank all of the staff members who have participated and assisted in this process, again all of the individuals outside these Chambers who assisted, and assisted in a genuine good faith effort to try to arrive at a workable solution to a very complex problem. And with that, I will yield the balance of my time to Senator Adams. [LB545]

Floor Debate  
April 30, 2009

---

SENATOR LANGEMEIER: Senator Adams waives the time. Thank you, Senator Council. Senator Carlson, you are recognized, followed by Senator Howard. [LB545]

SENATOR CARLSON: Mr. President and members of the Legislature, I appreciate this time. Certainly I'm in support of AM1232 and AM1119 and the underlying bill, LB545, based on what I've heard this morning. I also appreciate that \$30 million has been freed up over the next two years to be applied to LB545 and applaud Senator Adams and Senator Pankonin for their work in this regard. We all understand we need to provide an opportunity for a quality education to every student in Nebraska. That's much easier said than done. Over the years, we as a society have shifted too much responsibility from the family to the school. This is unfair. This has increased the cost. This has mandated responsibilities to the school that should not have gone there, but it is what it is and we must move forward. State aid is awarded to districts based on mandates that sometimes have little to do with student achievement. And more money does not guarantee student achievement. I hope that as time goes along we can work towards some incentives to distribute to districts on two bases: first of all, gross student achievement in the district; and secondly, improvement in student achievement in the district. To a degree, money should follow success. Achievement and improvement. My other point this morning is that I strongly believe that teacher salaries should increase. We need to improve our position as a state, nationally, in where our teacher salaries are. I think there's a source and I've talked about this before: school lands. We had some discussion yesterday about increases in rent on farmland, increases in income, increases in value of land. And so in that regard, school lands have part of the answer to our need for teacher salary increases. Next session I'm going to bring a bill to increase the income from school lands, and this increase should go expressly to teacher salaries. Former Senator Tom Baker is a member of school lands board, commission. I've had a conversation with him, and he said keep up the pressure on us. For the record, that's part of what I'm doing today. Dick Endacott is the chairman of school lands. We need proposals that come forward to increase the income from school lands, either by selling the land or by increasing the rents. We need more income for education. That bill will come forth, and hopefully it will go toward teacher salaries. Thank you, Mr. President. [LB545]

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

SENATOR HOWARD: Thank you, Mr. President and members of the body. I'm going to make this brief because I want to see this come to a vote as soon as possible. But I was one of the two Education Committee members who voted against this bill coming out on the floor. And as the Vice Chair of Education, it was very troubling to me to vote against a bill that my Chairman had worked so diligently on. But I was concerned about the effects that the original LB545 would have on the Omaha Public Schools system. I want

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

Floor Debate  
April 30, 2009

---

to thank my Chairman, Senator Adams, for his work on this; for his never saying it can't be done. These aren't easy times, and I think as we get into the budget we're going to find that out more and more that this is going to be a true test of who we are. But education should be our primary concern, and it certainly is with Chairman Adams and all the members of the Education Committee. I will say I support this. I wish we had the numbers. It would make it less of a guess, but I would never question Senator Adams' integrity or certainly working on this issue. I will be voting green on this, and I urge you to do that as well. Senator Price asked me for 30 seconds of my time so he can bat cleanup on this issue. So with that, I would offer that time to him. Thank you. [LB545]

SENATOR LANGEMEIER: Senator Price, 3:30. [LB545]

SENATOR PRICE: Thank you, Mr. President. Thank you, Senator Howard, for the generous gift of time. I did turn out my light so we wouldn't take much time and I won't. I just wanted to take a moment to say, while many have commented on the status of a person being on vacation at this time, again as I stated yesterday and I think many people really feel, to this individual I extend a sense of apology. We are not angry with you. I hope your vacation goes great. I think we're talking more about a systemic problem when you have one single point of failure it would point out to management not understanding their processes, management not having backups, and that we would engender that that is what's corrected, not that one person can't take a vacation. With all the changes to dates and times, this person may have had this planned out for three years. So again, there's no sense of bitterness or anger towards one individual but more towards the situation. Thank you, Mr. President. Thank you, Senator Howard. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Price and Senator Howard. Seeing no other lights on, Senator Adams, you are recognized to close on AM1232. [LB545]

SENATOR ADAMS: Thank you, Mr. President, members of the body. I'm not going to go through all the elements again. I think you've heard enough for right now. And I appreciate the positive statements that people have made about the work of the committee on this. Let me just conclude by saying this: This compromise amendment falls within the conceptual framework that I personally had, that the Education Committee had, and that I think possibly Senator White and, I think more confidently, Senator Council, Senator Ashford had for this. But let me just say this in quick conclusion. This is a very sensitive compromise. We don't have the numbers, you don't have the numbers. And until we do, we can't be absolutely sure. But we're trying to balance. And I've said this over and over again: With this compromise we're trying to balance urban and rural interests within a \$234 million pie, on the end of a pen. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams. You have heard the closing on AM1232 offered to the second division of the committee amendments to LB545. The

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

Floor Debate  
April 30, 2009

---

question before the body is, shall AM1232 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB545]

CLERK: 46 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments. [LB545]

SENATOR LANGEMEIER: AM1232 is adopted. We return now to floor discussion on AM1119, the second division of the committee amendments. Seeing no lights on, Senator Adams, you are recognized to close on the second division. [LB545]

SENATOR ADAMS: The second division is what you just moved a moment ago. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams. You have heard the closing on AM1119, the second division of the committee amendments to LB545. The question before the body is, shall AM1119 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB545]

CLERK: 47 ayes, 0 nays, Mr. President, on adoption of the second component of the committee amendments. [LB545]

SENATOR LANGEMEIER: AM1119 is adopted. Mr. Clerk, next item. [LB545]

CLERK: Mr. President, now I have amendments to the bill: Senator Council, AM1165. Senator, I have a note you want to withdraw. [LB545]

SENATOR LANGEMEIER: Seeing no objection, it is withdrawn. [LB545]

CLERK: Senator Council, AM1166. A similar note to withdraw, Mr. President. [LB545]

SENATOR LANGEMEIER: It is withdrawn. [LB545]

CLERK: And finally, Senator Council, AM1167. A note to withdraw, Mr. President. [LB545]

SENATOR LANGEMEIER: No objection. It is withdrawn. [LB545]

CLERK: Senator Ashford, AM1178. I also have a note you'd like to withdraw that, Senator. [LB545]

SENATOR LANGEMEIER: Seeing no objection, it is withdrawn. [LB545]

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

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

Floor Debate  
April 30, 2009

---

SENATOR LANGEMEIER: The floor is now open for discussion on LB545, the bill itself. Senator Pahls, you are recognized. [LB545]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I will vote for this bill, but I do have a couple of questions. My question: What is next? Are we going to come up with the same thing next year, more money? Are we going to use the same formula that we historically have taken a look at? If we make a mistake one year, we build on it year after year? That's a question. But I am really concerned about the accountability factor. I was pleased to hear Senator Fischer and Senator Carlson say they had some issues with education, not only paying for teacher salaries, but just some other pieces of education that we need to take a look at. And I do think we need to get back to the area of accountability, and I'm going to tell you why. Every school that wants money in the area of poverty must submit a plan. So I took a look at the poverty plans of the learning community and also Lincoln, and I read them. They send these plans to the state department, and what happens with those plans, they check over and make sure that the schools answer to 13 parts of that poverty plan. One part is evaluation, and I will get to that in a little bit. But just to give you a feel of that, all they do is they just check it out. Now I'm assuming this summer when they do hire the person who's going to take a look at all these plans, will really look at these and delve into the meaning of them. Just to give you an idea: OPS, their plan was about 23 pages long; Millard's was about 13 pages long; the rest of them around 6 pages long. I'm not saying the quality of the plan has anything to do with the plan, but I could see where some of the school districts were really spending some time in that. And a lot of them were telling us some of the programs that they already were doing, which is logical. But I was a little bit disturbed at the evaluation part of that, of those plans. And the reason why I am, just to give you an idea: In this upcoming year, OPS is going to receive--now these numbers may move--around \$32 million in the area of the poverty allowance; Millard will be receiving \$62,000; Bellevue will be receiving \$933,000; Lincoln will be receiving \$9 million. Now the part that...I'm going to say, well, then from now on out every year we're going to increase that. I'm concerned, are we going to make any changes? Will our graduation rates go up? And you know some of the...the two largest school systems, our graduation rates do need to be taken a look at. What are we going to do? Just say, the next year we're going to just give more money? I'm not saying that they do not need money. I'm not being critical of that. But we need to be finding out how they are going to evaluate their programs. Year after year after year, do we do the same thing? I've heard that we need to take a look at reform. I've also heard one of the senators who has a background in education say money is not always the answer. So we need to start reflecting on what is happening in those classrooms. Now I realize, financially, the teachers of the state of Nebraska are one of the lowest paid in the United States. They're not up to the top by any means. I'm not blaming or I'm not laying it on the classroom teachers. I may be...let's take a look at the system. When you can turn in a poverty plan and get \$30-some million or \$9 million or several thousand and not really

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

Floor Debate  
April 30, 2009

---

have what I call a true component of evaluation other than just student achievement, I question that a little bit. And I'm just saying, are we going to perpetuate that? Again, I have nothing against LB545. But after listening to some of the senators, it just caused me to think, well, okay, the money is needed, but are we just going to historically increase that year after year without saying... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR PAHLS: Thank you...without saying let's take a look at what we're doing? And the interesting part about it, in one of the schools they said, if we get money for our poverty plan, what we are going to do, we probably are going to hire an outside agency to come in and take a look at our schools. Because sometimes when you work inside that system, you may be so blind to some of the things...you're working your tail off, but you may be blind to what's happening. There are states that do this. They send in a team--and I'm not talking about North Central or any of those--a team of trained people to take a look at their schools and say, hey, here are some things that you may be missing. That may be--even though spending a little money--that may help us out, because sometimes it's hard for us to look at ourselves. An outside agency who has no ownership to anybody takes a look at what's going on. That's just one of those things. So I'm hoping the Education Committee will start taking a look at some of these things in the future. A good example...and I said 65 cents of the dollar... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR PAHLS: Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Seeing no other lights on, Senator Adams, you are recognized to close on LB545. [LB545]

SENATOR ADAMS: Thank you, Mr. President. Body, I'm just going to run through the components very quickly without a great deal of explanation just as a reminder of what this entire bill encompasses. Number one, it creates reorganization incentives, again to the tune of about \$800,000, to help some of those smaller schools that are looking to consolidate, give them the up-front money to do that. Number two, it reformulates the hold harmless provision in the learning community. It would create the early retirement exceptions. For those schools that had entered into voluntary agreements with teachers, we're going to allow those things to be outside of the spending, but it won't be calculated into GFOE which helps us out. We phase in the retirement dollars, these increased contributions, the 1 percent. We put a 1.5 spending limitation on schools--painful, but necessary for us and for them and the taxpayer to realize that in the time that we live we have got to slow things down. So we go from 2.5 to 1.5. We have just amended the averaging adjustment. We're going to change the way that we calculate instructional time allowance in the formula. We have language in this bill that

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

Floor Debate  
April 30, 2009

---

accepts the stimulus money. And then if you remember, the final component is we have four different bonding programs, and we create the language to make those bonding programs, through the federal stimulus, available to schools. That's the essence of LB545, and I certainly would appreciate your support. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams. You have heard the closing on LB545. The question before the body is, shall LB545 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB545]

CLERK: 47 ayes, 0 nays, Mr. President, on the advancement of LB545. [LB545]

SENATOR LANGEMEIER: LB545 does advance. Mr. Clerk, items for the record. [LB545]

CLERK: Thank you, Mr. President. An amendment by Senator Rogert to LB195. Banking, Commerce and Insurance reports LB358 to General File with amendments, that signed by Senator Pahls as Chair. Enrollment and Review: LB342, LB568, LB630 have been reported to Select File, some of which have Enrollment and Review amendments. And Senator Cornett offers LR106 as an interim study. It will be referred to the Executive Board. That's all that I have, Mr. President. (Legislative Journal pages 1272-1275.) [LB195 LB358 LB342 LB568 LB630 LR106]

SENATOR LANGEMEIER: Thank you. (Visitors introduced.) Mr. Clerk, next item on the agenda. []

CLERK: Mr. President, LB187 is a bill by the Retirement Systems Committee and signed by its members. (Read title.) The bill was introduced on January 12, referred to the Retirement Systems Committee, advanced to General File. There are committee amendments, Mr. President. (AM1180, Legislative Journal page 1233.) [LB187]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Pankonin, as Chair of the Retirement Committee, you're recognized to open on LB187. [LB187]

SENATOR PANKONIN: Good morning, Mr. President and members. First, I would like to thank Speaker Flood for agreeing to special order LB187. I appreciate his willingness to work with the Retirement Committee in providing a vehicle to address school retirement funding this year. I also want to thank the school representatives who have worked with us throughout this process to craft an agreement to address the plan's funding needs. I think we have come up with an agreement that is a good start in addressing the shortfall we are facing in the school retirement funds. I also appreciate the counsel and expertise of Kathy Tenopir and Tom Bergquist in the Legislative Fiscal

Floor Debate  
April 30, 2009

---

Office throughout this process. Their assistance has been invaluable. And finally, I want to thank the members of the Retirement Committee, with a special thank you to Senator Heidemann in his role as Chair of the Appropriations Committee and a Retirement Committee member. All committee members have put extensive time into this process and I appreciate their commitment and dedication. I have handed out a chart which summarizes the changes contained in LB187. The committee amendment strikes the original bill and becomes the bill. The changes include, (1) Beginning September 1, 2009, through August 31, 2014, the Nebraska School Retirement System member contribution rate will increase 1 percent from the current 7.28 percent to 8.28 percent. (2) The employer contribution rate is a 101 percent match of the member contribution rate so the employer rate will also increase from 7.35 percent to 8.36 percent for the same five-year period. (3) On September 1, 2014, the member contribution rate returns to 7.28 percent, which will also return the employer contribution rate to 7.35 percent. (4) The state currently deposits .7 of 1 percent of the compensation of all members of the Nebraska in Class V Omaha School Retirement Systems into the School Retirement Fund. Beginning September 1, 2009, and ending August 31, 2014, this percentage will change to 1 percent. (5) Beginning September 1, 2014, the percentage will change back to .7 percent for both the Nebraska and Class V School Retirement Systems. (6) Beginning September 1, 2009, the Class V School Retirement System member contribution rate will increase from the current 7.3 percent rate to 8.3 percent rate. (7) The Omaha School District employer rate is also a 101 percent match of the member contribution rate so the employer rate will increase from 7.37 percent to 8.38 percent. (8) There is no sunset on the Class V contribution rate increase. Even though the 1 percent increase is drafted with a five-year sunset, we have an understanding with the school representatives that we may have to revisit this agreement in two years and further adjust the contribution rates depending on the strength of the economic recovery. I also have included, besides the chart on the details, a chart about the U.S. equity market returns in perspective, and I'd like to have you take a look at this chart. It's the color one. And it starts in the 1930s, and I think it's educational for all of us to understand what has happened. This chart pertains to the S&P 500 returns, a market basket of stocks. And our plans have other investments in them, but I think this does illustrate what we're facing in this decade. If you look at this chart and start at the top, you'll notice that two of the three best decades since the 1930s were the 1990s and the 1980s when the return on the S&P 500 was between 15 to 20 percent, and it was very, very good. You'll also note that the average decade that goes through the 1990s delivered a return on the S&P 500 in excess of 10 percent. It was about 12 percent through the 1990s for many decades. Then you'll come down to where you see the year 2000-2007. The return in the earlier part of this decade was also very subpar: about a 1.8 percent return in total for the S&P 500. And you'll go over to the right and you'll see the 1930s, which was basically a flat decade for stock returns. Now if you go further to the center and below, you'll see that the 2000s through February of 2009 is actually in negative territory. So the decade we're in for stock returns is actually now worse than the 1930s. This is why our retirement plans, among with all others, are having problems

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

Floor Debate  
April 30, 2009

---

because of these subaverage returns. And I think it's important to note this is why we are trying to correct our plans and make them actuarially sound. They were in very good shape as of June 30 of last year, but the market decline since then has made a difference. The second thing I want to point out is that when you had good decades of the 1990s and 1980s, that meant that plans were enhanced because, human nature being what it is, it was assumed that those type of returns would go on and on. And as we know, they have not in this decade. The future is unknown. And even situations like the flu epidemic, potential pandemic that we're dealing with right now on an international basis, can affect economics and stock returns. So that's why we are starting to make the corrections to our plans. We don't know what future returns will be. We can hope that there is a v-shaped return and that we get back to double-digit returns, but we don't know. So we are taking the proper actions, in my opinion, to address these plans and make them sound again. Thank you. [LB187]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. As the Clerk has stated, there are committee amendments offered by the Retirement Committee. Senator Pankonin, as Chair of that committee, you're recognized to open on the committee amendments. [LB187]

SENATOR PANKONIN: The committee amendments become the bill, and they are as I've described. And as you can see from the chart, the Nebraska school retirement member contribution rate will increase. That increase will generate, over that period of time, approximately \$75 million over the next five years, as will the employer contribution rate increase, for a total of \$150 million. The state is also contributing lump sum payments of \$20 million in fiscal year 2010-11 and \$40 million in '11-12. With the .7 to 1 percent increase in the lump sum payments, the state will contribute an additional \$87,500,000 in the next five years. In total, these contribution increases will result in a total of \$237.5 million approximately in additional funding over the next five years. I believe these increases are very equitable. It works out that employees will pay 32 percent of the additional funding; employers will pay 32 percent; and the state will pay 37 percent. Thank you. [LB187]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. You have heard the opening on AM1180, the committee amendment offered to LB187. The floor is now open for discussion. Senator Nordquist, you are recognized. [LB187]

SENATOR NORDQUIST: Thank you, Mr. President. And thank you, Senator Pankonin, first for your leadership on this issue. It is a tough situation that we're in, and it takes strong leadership to bring people to the table to come up with a compromise that all are agreeable to. Also Senator Heidemann for his work on this as Chairman of Appropriations. It was a...we are in a difficult situation. And luckily, the interested parties...yesterday it was the State Patrol, we have the teachers coming up, we'll be talking about the judges plan. And with Senator Pankonin's leadership, we were able to

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

Floor Debate  
April 30, 2009

---

bring everybody to the table and work out agreements that we think will put us on the right track. I think all parties agree in all three of these plans that potentially we're going to have to come back in two years in the next biennium, we're going to have to reevaluate, depending on the market return. If it's a slow return, we're going to have a lot of work to do. If it's a v-shaped return, as Senator Pankonin said, we're going to be in a lot better shape. But this puts us on the right track. And finally, you know, the parties that did come to the table, specifically in this plan the teachers, we...as Senator White mentioned earlier, there is precedent, legal precedent, that potentially, you know, the state could have the liability for this. But they came to the table. The 1 percent increase for the average teacher in Nebraska is probably a little more than \$400 extra taken out of their check each year. And when we're, you know, in the lower part of our teacher pay for states in the nation, that's a pretty significant hit. So this was a great negotiation. Everyone came to the table and I want to thank everyone involved. Thank you, Mr. President. [LB187]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. Seeing no other lights on, Senator Pankonin, you are recognized to close on the committee amendments. [LB187]

SENATOR PANKONIN: I just want to make one comment that my seatmate, Senator Nelson, pointed out: 32, 32, and 37 does not add to 100, so we will call the state contribution 36 and that does add up to 100. We did some rounding, but I appreciate his question off the mike. I do appreciate everyone's support in this. And as the Vice Chair of our committee, Senator Nordquist had a leading role, as well, and I thank everyone involved. [LB187]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. You have heard the closing on AM1180, the committee amendments to LB187. The question before the body is, shall AM1180 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB187]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB187]

SENATOR LANGEMEIER: AM1180 is adopted. We return now to discussion on LB187, the bill itself. Seeing no lights on, Senator Pankonin, you are recognized to close on LB187. Senator Pankonin waives closing. The question before the body is, shall LB187 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB187]

ASSISTANT CLERK: 38 ayes, 0 nays on the advancement of the bill. [LB187]

SENATOR LANGEMEIER: LB187 does advance. Mr. Clerk, next item, LB603. [LB187 LB603]

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

Floor Debate  
April 30, 2009

---

ASSISTANT CLERK: Mr. President, on LB603 there are E&R amendments. (ER8040, Legislative Journal page 815.) [LB603]

SENATOR LANGEMEIER: Senator Nordquist, for a motion. [LB603]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB603. [LB603]

SENATOR LANGEMEIER: You have heard the motion on the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB603]

ASSISTANT CLERK: Senator Gay would offer AM1171. (Legislative Journal page 1197.) [LB603]

SENATOR LANGEMEIER: Senator Gay, you are recognized to open on AM1171 to LB603. [LB603]

SENATOR GAY: Thank you, Mr. President, members of the Legislature. AM1171 represents an agreement reached under the Speaker's directive to bring together the provisions of five bills on the topic of behavioral health and specifically children's behavioral health. At this time, I'd like to yield a little bit of my time to Speaker Flood. [LB603]

SENATOR LANGEMEIER: Speaker Flood. [LB603]

SPEAKER FLOOD: Thank you, Mr. President and members. Thank you, Senator Gay. The background on this, you'll recall earlier this session we had confusion on the floor because we had so many different proposals attempting to address issues with children's behavioral health, adult behavioral health. There were members in here that didn't know what they wanted to vote for or what they didn't, they didn't know enough about it, and there was confusion. In the senators' lounge, I met with 11 senators. I met with members of the Health and Human Services Committee. And their task, the one that they agreed to, was to package five bills into an effective, affordable response to behavioral health issues confronting Nebraska. This was also done at great risk to those that introduced the bills because, if they didn't get something worked out, all of their bills would be scheduled on Select File or Final Reading after the budget. The result, thanks to folks like Senator Campbell and so many others: a reasonable \$16 million effort over the next two years. That number could have been over \$120 million. They made tough decisions. Senator Dubas made tough decisions. People are invested in this. Senator Nordquist did; Senator Howard did; Senator Avery did; Senator Gay and every member of the Health and Human Services Committee. The result, I'm pleased to say, is one bill,

Floor Debate  
April 30, 2009

---

one unified group. Thank you to each of you, all 11 of you, all the members of the Health and Human Services Committee. Senator McGill was active in this. She and Senator Dubas championed efforts starting back in the special session to address these issues. So I just want to say thank you to everybody that really worked hard on this. Secondly, and I'll be quick, why the IPP motions after this? There's a recognition among the senators involved that we're riding together as one, and that after this bill moves on Select, assuming it moves on Select, we will kill the vehicles that brought this together so that we all have a shared interest as we move to Final Reading, where difficult decisions are going to be made as it relates to funding. So with that, I just want to say thank you, Senator Gay, and to all those involved. This was very impressive. Thank you, Mr. President. [LB603]

SENATOR LANGEMEIER: Senator Gay, 7:30. [LB603]

SENATOR GAY: Thank you, Mr. President. To follow up on Speaker Flood's comments, I couldn't agree more. This was a combination of many people working together. I handed out, I just handed out a list of the different bills that make up this package, this amendment. And it shows the General Funds and federal funds that are being also brought into play here. The package, as we discussed, is a beginning and an end. We have a short term, mid term, and long term is the way I'm kind of looking at this, and I think most of us are. There are bills in there to address immediate needs that we know are out there; long-term needs that we know if we don't address that we will never quite get to the crux of the problem; and intermediate needs that the system needs now in order to function that we found along the way that would be very helpful to make the whole system function. When we talk about behavioral health and children's behavioral health, you just can't separate some of the adult behavioral health because these providers are providing to both parties, kids and adults, and the systems work together. A provider out there has to be able to reach across both. We do have some providers just strictly children; some strictly adults. But a lot of times we have the people in different areas of the state working on...with both children and adults. So this is a comprehensive package that I think goes a long ways. It's a start. And there's other things going to happen this summer that we will talk about along the way. Senator Dubas and Senator Campbell will talk about a committee we had formed in this amendment that I think will be very helpful to address the problem. Let me just briefly give you an explanation of each bill and why it's in there, and then the sponsors can visit on this, too, and give you more information. The first bill is LB136. This is Senator Avery's priority bill. And as introduced, this bill would have raised the eligibility level for pregnant women and children in the SCHIP program, to 185 to 200 percent. Senator Avery was very good to work with, as well as many others, and he understood that we needed to take a step and keep continuing to work on this. He had made some changes in this to help, but they weren't changes that were going to hurt the program at all. Any change you hear is not a killer. It's a compromise and it made good sense and said, you know what, for the good of the cause I'm willing to give up on this now and come back

Floor Debate  
April 30, 2009

---

and keep working on the issue. So I was very pleased with that, and Senator Avery was one of the keys to this bill. This bill right now would go just strictly from SCHIP, 185 to 200 percent. You heard much of this on General File. It expanded Medicaid continuous eligibility requirements for children and raised the eligibility levels for transitional medical assistance and work-related childcare expenses under the Welfare Reform Act from 185 to 200 percent of the federal poverty level. As amended now, this amendment, AM1171, the bill only raises SCHIP eligibility for children to 200 percent of the federal poverty level. The estimated fiscal impact of this change is approximately \$2.5 million savings in General Funds in fiscal year 2010 and \$3.4 million in 2011. This will generally provide a lot of health services for children. The second bill I just wanted to say is a bill that was worked on tremendously by Senator Howard, Senator Pankonin, Senator McGill, and I. We worked on this bill with the department and the Governor's Office, and the Department of Children and Family Services and the Behavioral Health Department. And what we came up with was evaluation components. This is the hot line. It creates a Navigator system, which we had talked about, and it also creates a postguardianship, postadoption piece that I think is key. And Senator Howard was instrumental in working on that. On the 800 line, Senator McGill and I worked together with the others, but that was her bill. She gave up a bill to amend into this bill and was very instrumental in helping with the evaluation of when we find out information, how are we going to use that information, how can we follow up? So as we go through all these bills, that was the first key to say, how are we following up on what we're going to do? If we're going to use assets, hard-earned assets, how are we going to make sure that we're getting some bang for that buck that we're putting in? So her help on that was tremendous, along with Senator Pankonin who had helped on all three of those components as well. But LB346, like I say, is a system where everyone comes in on the 800 line and then we are...the navigators then help. If it's an immediate crisis, they can take care of it right then. On General File, we put in there the piece where we have licensed mental health practitioners are definitely on 24/7 at the facility overseeing these facilities. It would probably be one facility would be put out for bid. The Family Navigator Program would be people who have skills in this, and they would be professional mental health professionals who then can deal with this problem or they have been, in most of the cases, 90 percent, they would have been through the struggle before. And they've been there, they've done that, they know exactly who to call, and they would be very, very helpful. So that's in there. The follow up, and I've asked Senator Howard to talk on this on the postguardianship, postadoption, is an important piece that we feel many of these cases could have been avoided had we had a little help along the way after the fact, you know. They just kind of slid back into a situation where they needed more help than we could give them at that time. So we will be talking about that more. LB356 was introduced by Senator Dubas and amended by the Judiciary Committee. AM1171 provides the legislative intent to appropriate \$500,000 General Funds in fiscal year 2010 and \$1 million in fiscal year 2011... [LB603 LB136 LB346 LB356]

SENATOR LANGEMEIER: One minute. [LB603]

Floor Debate  
April 30, 2009

---

SENATOR GAY: ...for behavioral health services for children in the different regions. The fourth bill, very quickly--and Senator Dubas will talk about that--LB601 by Senator Nordquist was a bill to allow for payments on acute and subacute, and he will be talking on that particular bill and the importance of that. LB603 we've talked about provides behavioral health services long-term, the collaboration with the psychiatrists, and the residency program to expand the residency program, and I will talk more on that later. In general, listen, ask questions. We're all prepared to answer any questions you may have. It's a comprehensive package that goes a long, long ways, and the evaluation piece will be covered as well. I didn't get to that, but Senator Campbell and Senator Dubas worked extremely hard with me on that, and that will be a very useful tool this summer. I will stop there. Thank you, Mr. President. [LB603 LB601]

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on AM1171 offered to LB603. The floor is now open for discussion. Those wishing to speak: we have Senators Campbell, Nordquist, Dubas, Avery, Howard, McGill, Heidemann, and others. Senator Campbell, you're recognized. [LB603]

SENATOR CAMPBELL: Thank you, Mr. President. As many of you know, one of my favorite things as a past English teacher is to look at quotes to illustrate a very important point. In 1942, Winston Churchill said, "Now this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning." It is very critical for all of us in this Chamber to understand that this package represents but phase one of what will need to be done in children's behavioral health. It is not the end statement but it truly is the beginning of what we need to do. Two very important components that I want to cover that are in the bill are evaluation tools. Evaluation tools that have been put on for the hot line and the Navigators for us to know from families what services did they ask for, what services did they receive, what services are missing. The anecdotal information from parents over this past summer was heart wrenching and important. Now we need to back all of this up with good data. The evaluation is also being done on the professional partners, and Senator Dubas will talk a little bit about that and what we will learn from the university. The other important tool in this bill is in Section 11 on page 11, which is the oversight committee that has been put in of nine senators. And it is critical that we understand what their job will be. What is happening with these bills? Are we achieving what we set out to do? Number two, what are we learning from the data that we will collect? And three, what is missing or what needs to be expanded? So often I think we give money and we pass bills and then we go on to the next topic. This oversight committee will keep us focused on what our objectives have been in children's behavioral health. And it will also monitor what is not only happening on the behavioral health side but the child welfare side. And I have mentioned that in several cases, that you need to know exactly how those two intersect and work for children and parents. We hope that this is a very significant beginning for all of the families and children that have touched our hearts and minds with their stories over this past summer. And I

Floor Debate  
April 30, 2009

---

would like to thank all of my colleagues who have worked on this package. It has been a honor to be a part of it, and particularly thank Senator Gay. Thank you, Mr. President. [LB603]

SENATOR LANGEMEIER: Thank you, Senator Campbell. Senator Nordquist, you're recognized. [LB603]

SENATOR NORDQUIST: Thank you, Mr. President. I really think that today, with this issue and issues we dealt with already today, really demonstrates what the visionaries of the Unicam had in mind, where people would...thoughtful individuals, elected to come together, not bound by hierarchy or bound by party structure, but thoughtful individuals who would come together and address the problems that this state faces, and I think that's what we're doing with this package in LB603. And it starts with the leadership of Senator Gay. There are a lot of...all of us felt our bills were important and he was able to pull people together and make concessions, make compromises, to come up with a package that would really address the challenge that was brought about by the safe haven, and leaders like Senator Campbell and Dubas who also really stepped up to pull this together. There are many of us involved. I want to address the bill that I have in the package, quickly: LB601. It would require the Department of Health and Human Services to submit a waiver to Medicaid to cover two services that we're paying for 100 percent out of General Funds right now, and that's subacute services and secure residential services. As I said, completely funded out of the state General Fund. According to the list of the bills here and the fiscal impact, over the biennium this bill is going to save us in General Funds almost \$2.3 million and leverage \$3.7 million in federal funds. That's a net increase of almost \$1.4 million of funds into our behavioral health system. I think that's a critical component that we need. Secondly, it would require the continuation of voluntary secure...or sorry, it's voluntary subacute services. The department had plans to eliminate that. This will clarify that we intend to provide for people who are voluntarily committed, meaning they wouldn't have to be committed involuntarily and give up their rights, to receive the services that they need. I'm a strong proponent of everything that's in this package, especially the SCHIP portion. We know that there are tens of thousands of uninsured children in this state and this bill will go a step towards covering some of them, possibly more than 5,000. And these are families, these are families that are working, that are doing things the right way. If you do the math, 185 percent of poverty to 200 percent of poverty is around \$40,000 to \$44,000 a year. These families are trying to do the best they can and this will give them a chance to provide health insurance for their children. Together this is a comprehensive package and we should be proud as a state. We are in tough times nationally and in Nebraska, but together with this package, with General funds and federal funds, we're going to be making an investment of almost \$34 million in the biennium into these services for Nebraska's children, and I think we should be proud of that. I appreciate the leadership of everyone involved and I appreciate it. Thank you, Mr. President. [LB603 LB601]

Floor Debate  
April 30, 2009

---

SENATOR LANGEMEIER: Thank you, Senator Nordquist. Senator Dubas, you're recognized. [LB603]

SENATOR DUBAS: Thank you, Mr. President and members of the body. Good morning. The legislative process is frustrating, it's slow, sometimes contentious, most often deliberative, but at the end of the day it usually does work. And I think that this collaboration and its end results is proof of that. This was a negotiation, so that means that everybody had to give something. Some gave more than others, some moved a long ways, but in the end it's a package that takes a small beginning step towards addressing the major problems we have in behavioral health services for our children and their families. There is no question that I wanted more money for my portion of the package. My portion steered money towards direct services with the end goal to keep kids from becoming state wards. Some of the concerns that were raised about directing this money towards the regions is: Do we really know this is the best path and the best use of our money? We have a SIG grant that is looking at professional partner. I'm confident that that survey and that study is going to come back showing that professional partner and other services that the regions are providing are giving us the best bang for their buck. But I can understand my colleagues' need and desire for real substantial knowledge about where we're directing these dollars, and so I agree with what their request is, but I cannot stress enough that we are not done once we pass LB603. I support the package because we must move from rhetoric to action. We have had years of rhetoric with the end results what we saw last fall in the safe haven debacle. No more empty promises. It's time for action. The portion of the package which creates the oversight committee in my mind is a critical component. It's not our intention to micromanage the department, but it is our intention to ensure that there is movement in the direction that we are mapping out. It is to create dialogue, communication, action, and understanding. We, as senators, want and need accountability, and that is what we want to provide to you as this oversight committee. This body can hold this committee accountable for the success or the failure of this package. The issues highlighted by safe haven are still alive and kicking. I have a notebook filled in my office with very personal and painful stories of loving and committed parents and guardians who are at the end of their rope trying to find help for their child, and all too often their last resort is to make that child a ward of that state. I just this morning received some additional e-mails talking about the changes that need to be made to mental health behavioral health services. There are many families suffering in silence who do not know where to go. There are schools dealing with these children every day and they don't know how to properly take care of them while they're attending school. Here's an 11-year-old who refuses to go to school, was in foster care for truancy, went to Boys Town, and still the problems go on. This family has left a message for the county attorney to call back to see what he could recommend, since he's been charged with truancy before and been made a ward of the state for foster care. [LB603]

SENATOR LANGEMEIER: One minute. [LB603]

Floor Debate  
April 30, 2009

---

SENATOR DUBAS: This family is hoping he will agree that the uncontrollable youth would fit, and give the green light to police to pick him up. These examples go on and on. I do support the package and I thank my colleagues for their work and their interest in these children and their families. But I pledge, here today, my continued commitment to positive and real change in children's behavioral health services. We owe it to these children, we owe it to these families, and we owe it to all citizens of the state of Nebraska. And I strongly encourage my colleagues to support this package as well. Thank you. [LB603]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Avery, you're recognized, followed by Senator Howard. [LB603]

SENATOR AVERY: Thank you, Mr. President and colleagues. I'm going to just briefly talk about LB136 that is a part of this package. You may recall from the General File debate, that the State Children's Health Insurance Program, otherwise known as SCHIP and in Nebraska known as Kids Connection, was created by the federal government in 1997. It was designed to assist low-income families who were earning a little bit too much to qualify for Medicaid, but they are working families and they don't make enough to afford health insurance for their children. The program was designed to help them cover their children with health insurance. At the time this was passed in 1997, Nebraska joined in 1998 and we were a model program. Other states looked to us for leadership and for guidance. But over time our position as a model program eroded because we didn't update the program. We didn't enhance it as other states did do, so we're no longer a model program. In fact, we now rank among the bottom seven states in providing healthcare for low-income children. As I said on General File, even Mississippi does better, and I don't think that's something we should be proud of. AM1171 is, I think, a very good package of bills, and I think we can take pride in the way that we have gone about putting this together. And I'm not just talking about the senators who have bills in the package. I'm talking about the entire body, the leadership of the Speaker, the leadership of Senator Gay, and everybody who was involved in this. We came together as we should have. The specific bill that I'm talking about, LB136 that is a part of this amendment, raises the family eligibility in the SCHIP program from 185 percent of federal poverty to 200 percent. This will bring Nebraska more in line with other states, and in particular with neighboring states. South Dakota is at 200 percent. Iowa is currently at 200 percent, but July 1 of this year they will go to 300 percent. Colorado is at 205 percent. They're moving that up to 225 percent, July 1 of this year. Wyoming is at 200 percent. Missouri is at 300 percent. Kansas is at 225. They will move that up to 300 percent in 2010. That alone is not the reason why we need to do this. This is an important part of this compromise and part of this package because it will enable families to access the programs that we are including in the package. At 200 percent of the federal poverty level, a family with an income of just over \$44,000 would be eligible to participate. Some will say, well, this ought to be enough to afford health

Floor Debate  
April 30, 2009

---

insurance for your children. But as Senator Fulton and I have been discussing, if families are not...if parents are not managing their money in a way to enable them to buy insurance for the children, that's not the fault of the children. So let's not punish the children for that. The Keyser Foundation estimates that the cost of private insurance nationally for a family of four is about \$12,000 a year or more. Add to that other items in a family budget--of course, food, clothing, utilities, transportation-- [LB603 LB136]

SENATOR LANGEMEIER: One minute. [LB603]

SENATOR AVERY: ...you can see that it's difficult for families to afford health insurance. I'd like to address the fiscal impact a little bit. If you look at the chart that Senator Gay distributed, you'll see that this is a federally matched program. For every \$3 that we in Nebraska put into this from the General Fund, the federal government chips in \$7. And we should not leave that money on the table, especially when we have people in need. It is no surprise that the child health insurance coverage in Nebraska continues to drop because we are finding that more and more of our children are falling into poverty, and it makes this even more significant. I am a realist. I know that our state and the country, of course, are in an economic crisis. [LB603]

SENATOR LANGEMEIER: Time. [LB603]

SENATOR AVERY: We are having to make some tough calls and this is one of them. [LB603]

SENATOR LANGEMEIER: Time. [LB603]

SENATOR AVERY: The coalition of senators that got together on this made concessions. [LB603]

SENATOR LANGEMEIER: Time. Thank you, Senator Avery. [LB603]

SENATOR AVERY: Thank you, sir. Just... [LB603]

SENATOR LANGEMEIER: Those wishing to speak, we still have Senator Howard, McGill, Heidemann, Utter, Gay, and others. Senator Howard, you're recognized. [LB603]

SENATOR HOWARD: Thank you, Mr. President and members of the body. LB346, which is one piece of this package that has been put together, is my priority bill and I was very pleased to be able to work with the Governor to put the pieces in this particular bill. As you're familiar with the hot line piece, which is a single access for families to contact, receive services, have those available, the Family Navigator piece which will be providing hands-on, in-home support services, and the postguardianship, postadoption

Floor Debate  
April 30, 2009

---

services which Senator Gay has asked me to reflect a little bit on for you. This particular service has been long needed. Historically, when the department finalized an adoption or completed a guardianship, the department felt they were no longer involved in that child's life other than to provide a financial subsidy and possibly medical coverage. When a family adopts a child or takes a guardianship of a child, it's because they've invested their love, their affection, and their commitment to that child. And in most cases, they can't see life without having that child in their family. As time goes on and the child becomes older, they run into all the typical adolescent problems that frustrate most parents. But in addition, frequently there are problems that have been simmering under the surface for a long time. And when those reach a point where the family feels they can no longer meet that child's needs, they're in a position where they consider returning that child to Health and Human Services and again making that child a ward, which is a tragedy for the child, the family, and, frankly, for all of us. These postadoption guardianship and adoption services will be available to assist these families when they run into times when they no longer know where to turn; when they just simply don't know what to do. It's a voluntary program. It's going to be accessible. My intention, my desire is for it certainly to be accessible throughout this state. But again, this is going to be a building process. I think this is going to be welcomed by families who have committed themselves to raising a child who has some special needs, some special considerations, special behavioral issues. They won't feel that they're out there alone. I think this will encourage adoptions through our department, so certainly give families the strength they need. They'll know where to turn. In addition to this, I have stressed, in working with the Governor, the importance of an evaluation piece in the hot line, in the Family Navigator, and in the postadoption and postguardianship services. I want to know what's available. I want to know what's out there that's really effective for families, and I want to know what's not there because that's just as important. As we look toward the future, as we look toward continuing to provide services to families and children, to meeting the needs of those in our state, we need to know what direction we need to go, and this will give us that information. I'll just reflect briefly. When I was down here the second year, I put in a floor amendment, and it took a half million dollars out of the Governor's budget and said we don't need another study of foster care, we need to use the information we have. And this will provide information to us. Studies are only as good as you use them, and unfortunately many get put on a shelf. This will give us the information that we need to be effective, to plan toward the future, to meet the needs of children and families in our state. Thank you, Mr. President. [LB603 LB346]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator McGill, you're recognized. [LB603]

SENATOR MCGILL: Mr. President and members of the body. I rise to share my enthusiasm over AM1171. I've just been so grateful to all the members of the body who have really been working to make this package happen. But I want to kind of talk a little bit to members of the lobby and some other folks who have gotten in touch with me,

Floor Debate  
April 30, 2009

---

sharing a little bit of disappointment that they think that we're not doing enough right now. And I remind them, especially those who were at the Children in Crisis Task Force meetings we held in November and December, and tell them that, you know, I made it very clear that we were looking for one or two practical things, processwise, that we could do this year to help the problem. But we knew we weren't going to be able to just throw a lot of money at various aspects of the system, but we wanted to find that one or two little things, that was primarily the hot line and maybe something else. In fact, I remember, you know, many people talking about or suggesting increasing SCHIP. And I remember thinking to myself, good luck with that, you know, and finding the money and convincing the body of that. And I look at this package now and see all of the elements in it, and I couldn't be happier. I think that we have met that promise that we made through those task force meetings to come to the body and pass a few things that are the first step to evolving our mental health system for kids. And, you know, people have to be patient with us as we do spend time studying what we need to be investing money in for the future. Senator Howard just spoke about that, and Senator Dubas and Senator Campbell. You know, we are very dedicated to staying on this issue with senators and doing further research and follow-up, so that when we do have more available funds, we can put them in the right place to have the best impact. And right now we don't know where those places are. So I ask that everyone bear with us. I think this package is better. It's certainly better than what I had hoped for when we started out, and so I hope that everyone will find in their hearts the room to support this amendment and the bill. Thank you, Mr. President. [LB603]

SENATOR LANGEMEIER: Thank you, Senator McGill. Those still wishing to speak, we have Senator Heidemann, Utter, Gay, Stuthman, Hadley, Wallman, and others. Senator Heidemann, you're recognized. [LB603]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I thought I would briefly get up and talk a little bit. I have been involved with the group that has put these bills together. I personally want to thank Senator Gay. I have been aware of all the work that he's done on this. And there have been a lot of compromises to get to this point and he has taken the lead in the whole process, so I do want to thank him. And Senator Campbell also has been a large part of this. I want to thank her. It has been an effort to get to this point, there's just no doubt about that. I myself, being part of the group, have committed to supporting this. This didn't come easy for me, knowing the amount of money that is involved. We found out last fall, though, that this is a very important issue. I think the people of this state expect us to try to address this. And I believe that this not only addresses it, but it does it in a fiscally responsible way, and I once again want to thank Senator Gay for that. When this package or if you would have added all of the bills up together that was out there, there was a lot of money involved. And through a lot of thought process and negotiations, we've been able to take a lot of programs that were very expensive and a part of the cost back. But when you look at them, I think we're going to be able to accomplish a lot. And when we're all said and

Floor Debate  
April 30, 2009

---

done, I think that's what we wanted to do. We wanted to accomplish something, and I think we're going to be able to do that when we pass this package of bills. I want to say, the second part of it, that...and as everybody is aware, we are in an economy right now that is not the best. The revenues to the state are down. We have gone through over three months of a budgeting process that is definitely the most difficult time since I've been here, going through, getting a budget passed. We've made a lot of budget cuts to programs that were very important to me and a lot of other people, but it's something that we had to do. Part of our process was to figure out how much money we were going to leave to the floor for A bills such as this--bills that cost money--and we came up with the amount of money that we thought we could afford. The amount of money that we left to the floor in our budget recommendation will accommodate this. I do want everybody to be aware, though, that if you support this package of bills and the cost thereof, that there will not be a lot of money, almost virtually no other money, for any other A bills. And I feel like, as Appropriations Chair, that's my job to tell you that. I want to say one more time that I am going to support this package of bills. I think it's important. But you have to understand, if you support this you are setting this as a priority, and if you have other A bills, whether they're your own or others, you have to understand there might not be money there to fund them. And I thought that was important that everyone would know that. And thank you, Mr. President. [LB603]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Utter, you're recognized. [LB603]

SENATOR UTTER: Thank you, Mr. President, and good morning, members of the body. As you had announced earlier that I was in the queue, I heard my good friend Senator Rogert say, "Oh, my God, the grumpy old man is going to talk." And I just want you to know that I have tried to address the "old" part of that issue, because I'm wearing my Dockers today, and I kind of got what I thought was a preppy tie and I'm wearing a Navy blazer, and so I feel like I'm trying to address the "old" part of it. And I promise, colleagues, that I'll try to address the grumpy part as the session goes along. I do have some questions with regard to this bill, and I applaud the folks that have worked to put together the conglomeration of bills that have addressed this very important issue. And this may seem like a strange question, but I want to be sure that we haven't filled the bag of the sower on the top of the Capitol with feel-good dust and the sower is going to sprinkle this across the state, and the money is actually not going to get to the real problem, is not going to get the job done. Because if in fact that is true, then we're better off not spending the money as we are with doing just a good dusting of feel good across the state. For example, you know, I think that the state is entitled to know that if the hot line, in fact, that is set up under this bill, and somebody calls that hot line, what kind of a response are they really going to get? What is somebody in Broken Bow or Ogallala or Kenesaw or places like that, really going to get from that hot line? Is it really going to accomplish what we hope it to do? Or would that money be better off directed in another area. Another question that I have is whether or not we have fully investigated, in the

Floor Debate  
April 30, 2009

---

Health and Human Services area, all of the nooks and crannies and looked for money that may already be there. One of the interesting things that I've noticed about this body since coming here, is that if we really need money for something and we look hard enough, we can find a cash fund or a little boodle of money here or some money there that serves to salve the needs of those particular things. And I have to say, there may be those funds in all departments of state government. I'm amazed about that to be honest with you. And I think we need to be assured that we have looked in all of those strange places where we pile up money and don't use it. And finally, the final question that I have is one of accountability. And I hope that we are setting up in this, and I haven't had time to read through this in its entirety, a provision where we're going to come back on an annual basis or on a biennial basis or whatever is appropriate and analyze what we're really getting done. Are we really getting the job done with this? And if we are, then we've done a great job, but we're not going to know until we do that. And I think it's important that it be in the bill... [LB603]

SENATOR LANGEMEIER: One minute. [LB603]

SENATOR UTTER: ...that we do have the accountability built into it. And I'm sorry that my questions have taken up my entire time but I would really appreciate Senator Gay or the other senators that worked on this addressing some of these issues. Thank you very much. [LB603]

SENATOR LANGEMEIER: Thank you, Senator Utter. Senator Gay, you're recognized. [LB603]

SENATOR GAY: Thank you, Mr. President. The timing couldn't be more perfect with Senator Utter speaking right before me because I was going to address those issues anyway. I always say, in his short time, there's the Utter factor: Will it pass his test? And it's a tough one. But we had talked about that he's a very conservative member, and I do appreciate his thoughts and input, and I think he reflects many others. This is hard. You're going to see we're starting some new programs and we are spending and investing some dollars into this problem. And I don't think there should be any apologies that there's not enough money in this thing. We spend a lot of dollars on these services. The exciting thing with this whole program to me--Senator Dubas touched on this--there's going to be a group of nine senators, nine of your colleagues who are invested in this issue, who care about this issue, going to look to make sure this is implemented right; that when there is a hot line created, they're going to be helping to create that. We are not going to tell HHS what to do, but we're going to be an active participant, I'll tell you that. I don't know who will be on that. The Exec Board would appoint members. It's in Section 11, so I'm not going to read it verbatim, but look in Section 11, and that to me is a crucial component of this whole thing. We need to make sure it works. We're spending dollars, absolutely. And we need to make sure, prioritize that these programs are working and that the services are actually going to the person

Floor Debate  
April 30, 2009

---

needing the service. And to me, the most exciting thing of this is the collaboration that's been put together, people working on an issue, and this summer they're going to take...actually for two years, they're going to look at these programs and say, can we do it better? Can we take the money we're putting into these programs now and do it better? This addresses some of the things we know right away that we had a shortfall in. Now, if we can complement those and enhance those along the way this summer by shifting a program or maybe, heaven forbid, getting rid of a program and using those resources to enhance a better program, then we will do that. But I'm very excited with that committee and I know the Exec Board will put some great members on there. There will be members from the Judiciary Committee, there will be members from Appropriations and members from Health, and then three at-large members. If you are interested in that, talk to the Exec Board, because I think they're going to put a lot of work in this summer and it's going to be a good thing. Senator Campbell has worked very hard on that, and that's the way this body is supposed to work. One thing we had talked about earlier is, who made up this committee. You know, we had 11 members. Eleven of your colleagues were helping do this and I'm just going to read them for the record: Senator Ashford, Senator Avery, Senator Campbell, Senator Dubas, myself, Senator Heidemann, McCoy, McGill, Mello, Nordquist, and Wallman. That's who was putting this together. And there's some very conservative members on there, there's some moderates, and there may be what some would consider some liberals, I guess. I shouldn't use the word. But, you know, I think it's a reflective body of where we're at. But there's members of Appropriations on this and Judiciary and just...so it's a good makeup. So I wanted to get into that. Real quick, I kind of shortchanged LB603, the main bill. LB603 long-term creates a residency program for Nebraska working with the Med Center and providers. One, Lasting Hope was involved in this and they're a big provider in Omaha. Does a great job. And they said, who is doing this right and what are they doing? Based on New Mexico and that model, what we need to do is get more psychiatrists. Long-term we need more psychiatrists. And if we're not going to get those throughout the state, we're going to be in deep trouble long-term. So how do you address that problem? You address that problem by going out and working and getting more people working here in Nebraska. They go out...that's the time of their life where they're getting married, having kids, deciding what they want to do. They then go collaborate in different parts of the state and work with providers and form a collaboration using our telehealth network. And the idea is, hey, this works; I'm really making a commitment here. They're going to be working in the state and now they're going to stay on. That's the goal there and we need to make that work. But again, like I say, there are pieces to this puzzle and it just will not happen overnight. But with your colleagues working on this issue, rest assured, I think they will do a great job; answer these questions that Senator Utter and many of you, I know, is going through your heads. Are we just sprinkling this dust and... [LB603]

SENATOR LANGEMEIER: Time. [LB603]

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

Floor Debate  
April 30, 2009

---

SENATOR GAY: Thank you, Mr. President. [LB603]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Stuthman, you're recognized. [LB603]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Gay a couple of questions. [LB603]

SENATOR LANGEMEIER: Senator Gay, would you yield? [LB603]

SENATOR GAY: Yes, I would. [LB603]

SENATOR STUTHMAN: Senator Gay, you know and I thank you for being involved in this and your recommendations and the full committee. My main interest is in this crisis hot line. It seemed like when we had the problems with the safe haven, it was an issue of getting services and the availability of services and knowing who to call or what to call and the hot line part of it. Will this creation of this statewide hot line, will that have any effect on the existing hot lines that we have in the regions, the regional hot lines, the crisis navigator teams, or anything like this? [LB603]

SENATOR GAY: The answer is, it could. The idea to have a one hot line that we could promote throughout the state that people could remember and call in a crisis, is the idea. It would be worked on by the committee with the department, put up for bid, and that's where we talked about, Senator McGill, myself, Howard and Pankonin worked on this. How's it going to be set up? That's where this implementation and review committee will be involved in that. Now, if they set up the hot line...sorry to take the time, Senator Stuthman... [LB603]

SENATOR STUTHMAN: No, that's okay. [LB603]

SENATOR GAY: ...but if they set up the hot line, as we're going to set it up...now those regions, they get the funding. They could continue with the regional hot line. We'll need to make sure it doesn't conflict with the other, but if they feel it's in their best interest in their region to do that or to change the model to something else, they could. It won't completely get rid of that, although we probably would encourage...I'll be honest with you, encourage them to be an active participant in the 800 line with licensed mental health practitioners 24/7. [LB603]

SENATOR STUTHMAN: Okay. Senator Gay, in other words, there's not been a definite decision yet as far as, you know, what will happen, but this will be created. But there could be a good possibility that the fact that, you know, some of these crisis navigator hot lines that they have that are 24/7 and in those rural areas are very successful and they're doing their job. Will these crisis hot lines, and I would like to direct another

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

Floor Debate  
April 30, 2009

---

question to Senator Gay and I think he'd be willing to respond, but the fact is that will this hot line that we're creating, is this just mainly a children in crisis hot line or is it going to address all of the issues that these crisis navigator teams deal with as far as drug addictions, possible suicides, or anything like that? Could you respond to that? [LB603]

SENATOR GAY: Yeah, I'll try best I can because it's a work in progress. Mainly directed at children, marketed through...it could be a lot of different ways and this is where the creativity of the Legislature and those doing it, it could be sent to schools, law enforcement, providers that are out there. And you know, Senator Stuthman, being a member of the committee, all the different providers there could be. We need to promote it through there. Now, it would be directed, first of all, towards children. But now if somebody calls in with another issue, that could be an enhancement to the 800 line. That will be decided by the committee that's formed and the department. But I...what Senator Utter said, we don't want to duplicate services. If we could do the same thing as well or better, we'd do that. I cannot promise you right here that every regional hot line would stay or go. That's in flux, but we need to look at that and say the idea of an 800 is to have one line. That is...I don't want to mislead you. [LB603]

SENATOR STUTHMAN: Okay. Thank you, Senator Gay. You know, I totally agree because I was, you know, heavily involved with this crisis problem that we had with the safe haven law. Another situation that I'm very much concerned with is the fact that, you know, and I'm sure this group will look at that, but we have to make sure that the money that we're spending here,... [LB603]

SENATOR LANGEMEIER: One minute. [LB603]

SENATOR STUTHMAN: ...that when we create this crisis hot line for the children in crisis, you know, that there is someone that they can talk to and there is a service provided. I think one of the most frustrating things to a lot of the people was, you know, that their child or their person, you know, needed a service and they were not able to access that service. Yes, they could get the service in six months or turn their child over as a ward of the state. You know that is an issue that I wanted to make sure that didn't happen so that we create something and hopefully there's enough funding in here where we can make sure that there are services available for all of these children that have some mental illnesses or have issues. Because I think, you know, the next biggest issue is the availability of service and that they could access the service within the next day or within the 24 hours. [LB603]

SENATOR LANGEMEIER: Time. [LB603]

SENATOR STUTHMAN: Thank you, Mr. President. [LB603]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Hadley, followed by

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

Floor Debate  
April 30, 2009

---

Senator Wallman. Senator Hadley, you're recognized. [LB603]

SENATOR HADLEY: Mr. President and members of the body, I have to relate one real quick story and then I'll get to my point. My story is I have a niece who is a fourth-year resident at the University of Michigan med school and she just finished her psychiatry rotation. And she made the comment to me that psychiatrists were very important but the ones that were really working, where the pedal meets the metal, were the social workers. You know, for every psychiatrist, she said you have to have 10 or 20 social workers that are there really working with the patients, working with the families, and such as that. We have a program here where we're going to eventually end up with eight more psychiatric residences. But we don't have anything to help us get more people in the social work programs. We have one master's degree in social work program at UNO. I believe it has a statewide framework, statewide responsibility, and I have a concern that isn't enough to help us meet the goals that we're trying to put up with LB603. So I spent 35 years in higher education, a lot of them at the University of Nebraska. They may not like what I'm going to say now, but I challenge the University of Nebraska central administration, their Board of Regents, their faculty, to help us, to look. They're going to be going through some tough times right now. We're going to have a 1.5 percent budget increase for them. They're going to be looking at a lot of programs. I would challenge them to look and see what they can do to help us by maybe looking at an outstate master's degree in social work program so that we can get social workers out in the smaller communities outstate to help us do this. I challenge the University of Nebraska when they're making these hard decisions, just don't look at what could be cut but also look at what could be added. I want you to try and help us solve this problem also. This is a statewide problem. We're trying to do our best to solve that problem. We need your help. Thank you, Mr. President. [LB603]

SENATOR LANGEMEIER: Thank you, Senator Hadley. (Visitors introduced.) Returning to floor discussion on AM1171, Senator Wallman, you're recognized. Senator Wallman waives his time. Senator Pankonin, you're recognized. [LB603]

SENATOR PANKONIN: Question. [LB603]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM1171? All those in favor vote yea; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB603]

ASSISTANT CLERK: 34 ayes, 0 nays to cease debate, Mr. President. [LB603]

SENATOR LANGEMEIER: Debate does cease. Senator Gay, you're recognized to close on AM1171. [LB603]

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

Floor Debate  
April 30, 2009

---

SENATOR GAY: Thank you, Mr. President. I appreciate the comments and I think we do have a comprehensive package. Hearing all those things that were said, we know and anyone that would be on that committee this summer would know, that there's work to be done. We'd all recognize that. For those other people who still have concerns, again I repeat, there's work to be done and we're prepared to get that done, and looking forward to trying to find better ways to deliver services. With that, I would close, Mr. President. [LB603]

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the closing on AM1171 offered to LB603. The question before the body is, shall AM1171 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB603]

ASSISTANT CLERK: 42 ayes, 1 nay on the adoption of the amendment, Mr. President. [LB603]

SENATOR LANGEMEIER : AM1171 is adopted. We return now to discussion on LB603, the bill itself. Those wishing to speak, we have Senator Dubas and Senator Stuthman. Senator Dubas, you're recognized. [LB603]

SENATOR DUBAS: Thank you, Mr. President and members of the body. And thank you to my colleagues for the vote on the amendment. It's been a long time coming. I did want to further address some things as far as employees...service providers, excuse me, to treat these children and their families. And when we passed LB1083 in 2004, it established a Behavioral Health Oversight Commission and they did very diligent work and made quite a few recommendations. And among those recommendations was the very serious shortage of mental health providers, especially in our rural areas. LB603 attempts to address that need for mental health professionals, specifically psychiatrists. And there is no doubt that there is a need for those psychiatrists, but the need really is for those frontline workers and I think Senator Hadley just mentioned that. These are the people that are in the trenches and are giving the extended care to these people. So I'd like to address the concern that was expressed in a letter from the Nebraska Psychological Association that was sent to our Governor dealing with the use of provisionally licensed mental health providers. This association expresses their concerns regarding the decision of the Department of Health and Human Services and Magellan to deny payment for assessment and treatment of individuals and families when those services are provided by a provisionally licensed mental health professional. And a provisional license is not exactly what it sounds like. To be provisionally licensed, all degrees must have been conferred by an accredited institution, and in some disciplines appropriate board examinations must have been passed. The provisional designation exists solely because these professionals have chosen to oversee new professionals for a transition period of a year or two postgraduation. This decision really does have a negative short- and long-term

Floor Debate  
April 30, 2009

---

consequence. Access to trained behavioral health providers is already limited in Nebraska, especially in rural areas of the state. The policy further reduces that access by disenfranchising a significant group of providers. Reimbursement rates for Medicaid patients are quite low. Professionals with more years of education and experience understandably limit the number of Medicaid patients that they serve. Medicaid reimbursement rates simply will not cover the cost of hiring a fully licensed professional to provide these services. Medicaid recipients have for years been able to benefit from the services of well-trained and well-supervised--I want to emphasize well-supervised--healthcare professionals with fewer years of education and experience who are willing to work for a lower level of reimbursement. We have an effective system for credentialing an oversight of this group of professionals. The Magellan policy effectively makes this group of professionals unavailable to Medicaid recipients. As of March of this year, we had a total of 953 active provisionally licensed behavioral health professionals, 41 psychologists, and 912 mental health practitioners. Of these 953 individuals, if they would conservatively treat 10 patients per week, these practitioners are available to serve up to 46,650 individuals or families each year. Eliminating the availability of these services is not in the best interest of those families and individuals. The consequences of this policy are even more severe because it effectively shuts down the pipeline of new providers. [LB603]

SENATOR LANGEMEIER: One minute. [LB603]

SENATOR DUBAS: It's just critical that we examine this policy for the use of provisionally licensed mental health providers. They can and do provide an incredible service for our state. The attention that Nebraska received during the safe haven crisis of '08 and early '09 highlighted the lack of quality behavioral healthcare services for families in need. To resolve this problem there must be a provision for subsidized training and guaranteed reimbursement for provisionally licensed behavioral health professionals, as well as effective delivery models that go beyond the crisis line to assist these families and these individuals. We are losing these people. If they are not able to do their work in the state, they're going to go elsewhere, and that will only exacerbate the problem of attracting quality mental health professionals to all of Nebraska... [LB603]

SENATOR LANGEMEIER: Time. [LB603]

SENATOR DUBAS: ...but again to rural Nebraska. So I'd like the body to seriously consider this issue. Thank you. [LB603]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Dierks, you're recognized. [LB603]

SENATOR DIERKS: Thank you, Mr. President. Well, first of all, I'd like to mention that I

Floor Debate  
April 30, 2009

---

had passed around some information that I got off the Internet this morning from the Nebraska Veterinary Medical Association concerning the swine flu thing and it's got some good information on there for you. It tells you how you can keep yourself healthy and follow the right directions as far as preparing your food, and also dispel any bad feelings about eating pork, because I'm not sure they even have found that this swine flu thing has been isolated from pork. But just for your information, this little circular I put out there for you. I did have my light on before. I wanted to visit a little bit about some of those issues we were going over. I think that Senator Dubas got close to it when she suggested that...when she was going through the shortage of practitioners for these people with...especially with mental problems. And I had cause to make some inquiries about that this week. I had a young gentleman from my district who has been told that his care will stop. He will be getting no more care and his family tells me they just...that he can't get along without care. And I believe he's 40 years old so I was going to ask somebody, and I guess maybe Senator Gay, is he still here? [LB603]

SENATOR LANGEMEIER: Senator Gay, would you yield? [LB603]

SENATOR GAY: Yes. [LB603]

SENATOR DIERKS: Senator Gay, what is the...what role does the Magellan service play in Nebraska as far as healthcare is concerned? [LB603]

SENATOR GAY: On reviewing the claims that come in? [LB603]

SENATOR DIERKS: Yeah. [LB603]

SENATOR GAY: Exactly on which...reviewing the claims and deciding which would be paid, what's going properly according to our rules and regs and proper payment. It's still broad, Senator Dierks, I'm no expert on Magellan's role but they're a contractor with the state to cover our claims. [LB603]

SENATOR DIERKS: So that it would be their decision then, a decision by Magellan that would decide whether one of these people in our state is no longer eligible for service, is that right? [LB603]

SENATOR GAY: On...yeah, on many services or several services. Not only that. We, as legislators, can decide what services are available and what are not. Now, we have waivers in this particular bill of...now we're allowing more things to be compensated through our Medicaid. So, yeah, it's such a broad issue but they have a large say in what's happening. We could always change that or amend that through legislative action. [LB603]

SENATOR DIERKS: Okay, thank you. Thank you very much. I really don't understand

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

Floor Debate  
April 30, 2009

---

that much about the Magellan service. I knew that we were involved with them over a number of years now and I need to find a few more things out about that. Thank you very much, Mr. President. [LB603]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Seeing no other lights on, Senator Nordquist for a motion. [LB603]

SENATOR FRIEND: Board vote. [LB603]

SENATOR LANGEMEIER: There has been a request for a board vote. Senator Nordquist for a motion. [LB603]

SENATOR NORDQUIST: Mr. President, I move LB603 to E&R for engrossing. [LB603]

SENATOR LANGEMEIER: Thank you. You have heard the motion on the advancement of LB603 to E&R for engrossing. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Have all those voted that wish to? Record, Mr. Clerk. [LB603]

ASSISTANT CLERK: 41 ayes, 1 nay on the advancement of the bill, Mr. President. [LB603]

SENATOR LANGEMEIER: LB603 does advance. Mr. Clerk, next item, LB603A. [LB603 LB603A]

ASSISTANT CLERK: Mr. President, on LB603A there are no E&R amendments. Senator Gay would move to amend with AM1206. (Legislative Journal page 1197.) [LB603A]

SENATOR LANGEMEIER: Senator Gay, you are recognized to open on AM1206. [LB603A]

SENATOR GAY: Thank you, Mr. President. AM1206 becomes the A bill for LB603. It represents a total of approximately \$6.5 million in General Funds and \$7.3 million in federal funds in fiscal year 2010, and \$9.4 million in General Funds and \$10.7 million in federal funds in fiscal year 2011. I'd ask for your adoption of the amendment and the advancement of the bill. This was a...you could see that, where those funds come from earlier. I handed out that spreadsheet showing exactly where that money is going. Thank you, Mr. President. [LB603A]

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on AM1206 offered to LB603A. The floor is now open for discussion. Seeing no lights on, Senator Gay you're recognized to close. Senator Gay waives closing. The question

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

Floor Debate  
April 30, 2009

---

before the body is, shall AM1206 be adopted to LB603A? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB603A]

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB603A]

SENATOR LANGEMEIER: AM1206 is adopted. Mr. Clerk. [LB603A]

ASSISTANT CLERK: I have nothing further on the bill. [LB603A]

SENATOR LANGEMEIER: Senator Nordquist, for a motion. [LB603A]

SENATOR NORDQUIST: Mr. President, I move LB603A to E&R for engrossing. [LB603A]

SENATOR LANGEMEIER: You have heard the motion on the advancement of LB603A to E&R for engrossing. All those in favor say aye. All those opposed say nay. The ayes have it. LB603A does advance. (Visitors introduced.) Mr. Clerk, next motion. [LB603A]

ASSISTANT CLERK: Mr. President, next bill, LB346. I do have E&R amendments. (ER8028, Legislative Journal page 671.) [LB346]

SENATOR LANGEMEIER: Senator Gay, for a motion. [LB346]

SENATOR GAY: Thank you, Mr. President. I move to indefinitely postpone LB346. The major components of this bill have been amended into LB603 and the bill on its own is no longer necessary. I think we've come up with a good comprehensive package that all members have worked on this issue and agreed to IPP our individual bills. I want to thank Speaker Flood for his assistance in facilitating this process, and also I want to thank Senator Howard for prioritizing LB346. Her dedication to this issue helped ensure that the policy changes that were proposed in LB346 remained part of the discussion and are now in LB603. Thank you, Mr. President. [LB346]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Nordquist, we're going to back up for a motion on the E&R amendments. [LB346]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB346. [LB346]

SENATOR LANGEMEIER: You've heard the motion on the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB346]

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

Floor Debate  
April 30, 2009

---

ASSISTANT CLERK: Mr. President, Senator Gay would now move to indefinitely postpone the bill. [LB346]

SENATOR LANGEMEIER: Senator Gay has opened on his motion to indefinitely postpone. You have heard the motion. The floor is open for discussion. Seeing no lights on, Senator Gay, you're recognized to close on your motion. He waives closure. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB346]

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to indefinitely postpone the bill. [LB346]

SENATOR LANGEMEIER: LB346 is indefinitely postponed. Mr. Clerk. [LB346]

ASSISTANT CLERK: Mr. President, on LB346A there are no E&R amendments. Senator Gay would move to indefinitely postpone the bill. [LB346A]

SENATOR LANGEMEIER: Senator Gay, you are recognized on your motion to indefinitely postpone. [LB346A]

SENATOR GAY: I vote to postpone it. Thank you. [LB346A]

SENATOR LANGEMEIER: You've heard the opening on the motion to indefinitely postpone. The floor is open for discussion. Seeing no lights on, Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is, shall LB346A be indefinitely postponed? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB346A]

ASSISTANT CLERK: 34 ayes, 0 ayes on the motion to indefinitely postpone, Mr. President. [LB346A]

SENATOR LANGEMEIER: LB346A is indefinitely postponed. Mr. Clerk, next item. [LB346A]

ASSISTANT CLERK: Mr. President, on LB136 there are E&R amendments. (ER8054, Legislative Journal page 955.) [LB136]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB136]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB136. [LB136]

SENATOR LANGEMEIER: You have heard the motion on the adoption of the E&R

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

Floor Debate  
April 30, 2009

---

amendments. All those in favor say aye. All those opposed say nay. They are adopted.  
Mr. Clerk. [LB136]

ASSISTANT CLERK: Senator Avery would move to indefinitely postpone the bill.  
[LB136]

SENATOR LANGEMEIER: Senator Avery, you're recognized to open on your motion to  
indefinitely postpone. [LB136]

SENATOR AVERY: Thank you, Mr. President. This is part of the package that we've  
been discussing. I suggest that you vote to indefinitely postpone. Thank you. [LB136]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the motion to  
indefinitely postpone. The floor is open for discussion. Seeing no lights on, Senator  
Avery, you're recognized to close. Senator Avery waives closing. The question before  
the body is, shall LB136 be indefinitely postponed? All those in favor vote yea; all those  
opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB136]

ASSISTANT CLERK: 37 ayes, 0 nays on the motion to indefinitely postpone. [LB136]

SENATOR LANGEMEIER: LB136 is indefinitely postponed. Mr. Clerk, next item.  
[LB136]

ASSISTANT CLERK: Mr. President, the next bill is LB136A. There are no E&R  
amendments. Senator Avery would move to indefinitely postpone the bill. [LB136A]

SENATOR LANGEMEIER: Senator Avery, you're recognized to open on your motion to  
indefinitely postpone. [LB136A]

SENATOR AVERY: Thank you, Mr. President. I move that we indefinitely postpone  
LB136A. Again, it's part of the package that we just discussed. I urge your support.  
Thank you. [LB136A]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the opening on  
the motion to indefinitely postpone. The floor is open for discussion. Seeing no lights on,  
Senator Avery, you're recognized to close. Senator Avery waives closing. The question  
before the body is, shall LB136A be indefinitely postponed? All those in favor vote yea;  
all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk.  
[LB136A]

ASSISTANT CLERK: 35 ayes, 0 nays on the motion to indefinitely postpone. [LB136A]

SENATOR LANGEMEIER: LB136A is indefinitely postponed. Mr. Clerk, next item.

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

Floor Debate  
April 30, 2009

---

[LB136A]

ASSISTANT CLERK: Mr. President, with respect to LB356, there are E&R amendments. (ER8030, Legislative Journal page 687.) [LB356]

SENATOR LANGEMEIER: Senator Nordquist, for a motion. [LB356]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB356. [LB356]

SENATOR LANGEMEIER: You have heard the motion on the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB356]

ASSISTANT CLERK: Senator Dubas would move to indefinitely postpone. [LB356]

SENATOR LANGEMEIER: Senator Dubas, you are recognized to open on your motion to indefinitely postpone. [LB356]

SENATOR DUBAS: Thank you, Mr. President. In light of the negotiated package and the agreement that was reached, I respectfully request to have LB356 IPPed. [LB356]

SENATOR LANGEMEIER: Thank you, Senator Dubas. You've heard the motion to IPP LB356. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB356]

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to indefinitely postpone the bill. [LB356]

SENATOR LANGEMEIER: LB356 is indefinitely postponed. Mr. Clerk, next item. [LB356]

ASSISTANT CLERK: Mr. President, on LB356A there's no E&Rs. Senator Dubas would move to indefinitely postponed the bill. [LB356A]

SENATOR LANGEMEIER: Senator Dubas, you're recognized to open on your motion to indefinitely postpone LB356A. Senator Dubas waives her opportunity to open. The floor is now open for discussion. Seeing no lights on, Senator Dubas is recognized to close. Senator Dubas waives closing. The question before the body is, shall LB356A be indefinitely postponed? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB356A]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to indefinitely postpone. [LB356A]

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

Floor Debate  
April 30, 2009

---

SENATOR LANGEMEIER: LB356A is indefinitely postponed. Mr. Clerk, next item. [LB356A]

ASSISTANT CLERK: Mr. President, on LB601 there are E&R amendments. (ER8055, Legislative Journal page 955.) [LB601]

SENATOR LANGEMEIER: Senator Nordquist, you're recognized for a motion. [LB601]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB601. [LB601]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB601]

ASSISTANT CLERK: Senator Nordquist would move to indefinitely postpone the bill. [LB601]

SENATOR LANGEMEIER: Senator Nordquist, you are recognized to open on your motion to indefinitely postpone. [LB601]

SENATOR NORDQUIST: Thank you, Mr. President. LB601 is included in the LB603 package. I would encourage you to vote to indefinitely postpone LB601. [LB601 LB603]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. You have heard the opening on the request to indefinitely postpone LB601. The floor is open for discussion. Seeing no lights on, Senator Nordquist is recognized to close. Senator Nordquist waives closing. The question before the body is, shall LB601 be indefinitely postponed? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wished to? Record, Mr. Clerk. [LB601]

ASSISTANT CLERK: 37 ayes, 0 nays on the motion to indefinitely postpone the bill. [LB601]

SENATOR LANGEMEIER: LB601 is indefinitely postponed. Mr. Clerk, next item. [LB601]

ASSISTANT CLERK: Mr. President, LB601A. There are no E&R amendments. Senator Nordquist would move to indefinitely postpone the bill. [LB601A]

SENATOR LANGEMEIER: Senator Nordquist, you're recognized to open on your motion to indefinitely postpone. [LB601A]

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

Floor Debate  
April 30, 2009

---

SENATOR NORDQUIST: Again, LB601A is included in LB603A and I would encourage your vote to indefinitely postpone. [LB601A LB603A]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. You have heard the opening on the motion to indefinitely postpone. The floor is open for discussion. Seeing no lights, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question before the body is, shall LB601A be indefinitely postponed? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB601A]

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to indefinitely postpone the bill. [LB601A]

SENATOR LANGEMEIER: LB601A is indefinitely postponed. (Visitors introduced.) Mr. Clerk, next item on the agenda, LB112. [LB601A LB112]

ASSISTANT CLERK: Mr. President, LB112 was introduced by Senator Heidemann. (Read title.) The bill was read for the first time on January 9 of this year. It was referred to the Committee on Revenue. That committee places the bill on General File with no committee amendments. [LB112]

SENATOR LANGEMEIER: Thank you. Senator Heidemann, you're recognized to open on LB112. [LB112]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. First of all, I do want to thank Speaker Flood for designating LB112 as a Speaker priority bill. LB112 would exclude the federal adjusted gross income for state income tax purposes to the loan repayment made to eligible health professionals who practice in state defined medical shortage areas under the loan repayment program established as part of the Rural Health Systems and Professional Incentive Act. The purpose of the Rural Health Systems and Professional Incentive Act passed in 1991 was threefold. The first purpose was to create the Nebraska Rural Health Advisory Commission. The second purpose was to establish a student loan program for students entering certain health fields who agreed to practice their profession in a designated health professional shortage area. The third purpose was to establish a loan repayment program that requires community matching funds and provides financial incentives to be eligible health professionals who agree to practice their profession in a designated health professional shortage area. LB112 pertains to the third purpose of the act, the loan repayment provisions. Nebraska created its own state loan repayment program in 1994 for health professionals who had commercial or governmental educational loans and were willing to practice in state designated shortage areas for three years. Initially, only physicians, nurse practitioners, physician assistants, clinical psychologists, and master level mental health providers were eligible for loan repayments. In 1998, pharmacists,

Floor Debate  
April 30, 2009

---

occupational therapists, physical therapists, and dentists were added to the program. It was decided at that time that Nebraska should select its own criteria to determine shortage areas since many of Nebraska's communities were experiencing a shortage of health professionals and they did not meet the rigid definition for federal shortage area. Unfortunately, the state-funded repayment program comes with a catch. The money that the health professional receives to use for loan repayment is first subject to federal and state income taxes on the same basis as earned income. Consequently, a significant portion of the loan repayment is owed into taxes, thus not available for repayment on the loan. Upon recognizing this unfairness in 2004, the federal government voted to exempt loan repayments to the National Health Service Corps from federal taxes. Later, certain state programs eligible for funds under the Public Service Act were also declared exempt from taxation. However, the Nebraska program does not qualify for these tax exemptions because we do not place health professionals in federally designated shortage areas. We don't require that practitioners use a sliding fee scale when billing their patients, and we allow part-time practice in shortage areas. Approximately 15 other states are in this same predicament. The Nebraska Rural Health Advisory Commission has been working with our congressional delegation investigating the feasibility of expanding the federal law to further recognize successful state loan repayment programs. Our federal representatives expresses support but indicated that we first need to address this issue on a state level to give them more clout at the federal level. Therefore, LB112 was introduced to provide that federal adjusted gross income should be reduced by an educational loan repayment paid under the Rural Health Systems and Professional Incentive Act when calculating Nebraska income tax. The Nebraska Rural Health Advisory Commission has been keeping Senator Nelson's office updated on the status of LB112. Just last week, Senator Nelson announced that he introduced legislation that will improve healthcare in rural Nebraska and at least 15 other states, by providing tax relief for doctors, nurses, and other health professionals who receive state and local funds to help pay off student loans and commit to serving in rural communities. In his press release, Senator Nelson stated that by exempting these state students from loan repayment programs from federal income taxes, Congress will ease financial distress upon participating healthcare professionals. Now a number of these healthcare professionals have taken out additional loans simply to pay income tax on their original student loan benefits. That's just wrong. A representative of the Rural Health Advisory Commission met with Senator Nelson and Johanns earlier this week in Washington, D.C. The recruitment of health professionals to medically underserved areas of the state has been a serious problem for many years. The program put into place by the Nebraska Rural Health Advisory Commission under the Rural Health Systems and Professional Incentive Act has been successful. Since 1994, the Rural Health Advisory Commission has approved 315 loan repayment awards, and 92 percent of the loan repayment recipients have completed their practice obligations and are currently serving in their practice obligation in a state designated shortage area. However, with rising medical school tuition, a loan repayment sum that is significantly reduced through taxation may become insignificant to attract a graduate to

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

Floor Debate  
April 30, 2009

---

an underserved area. I believe that we must do what we can to promote the incentives for health professionals to locate in medically underserved areas. LB112 is a good faith measure signaling our support to our federal representatives. No one testified in opposition to the bill at the public hearing. I urge you to vote favorable on advancement of LB112. I also want to note that this appears to be in a more rural area setting where we're getting help. We actually got an e-mail from someone that is serving at the Charles Drew Health Center in Omaha. They are eligible for this because it's a medical shortage area. It states, while the Nebraska loan repayment is generally considered a rural incentive program, it is also used to place primary care health professionals in medically underserved urban areas such as the Charles Drew and one rural health community centers in Omaha. If there's any questions, I would try to answer them. Thank you. [LB112]

SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Thank you, Senator Heidemann. Members, you've heard the opening to LB112. Members wishing to speak: Senators Wallman and Gloor. Senator Wallman, you're recognized. [LB112]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Heidemann yield to a question, please? [LB112]

SENATOR ROBERT: Senator Heidemann, will you yield to a question? [LB112]

SENATOR HEIDEMANN: Yes. [LB112]

SENATOR WALLMAN: Are there any guidelines as far as income is concerned? You know, some doctors make a lot more than others. It's just blanket? [LB112]

SENATOR HEIDEMANN: Not that I know of. I think it's just helping to repay their loans. Usually when a medical professional graduates, they're under a heavy loan debt and this is just trying to get them back on their feet again. [LB112]

SENATOR WALLMAN: Okay. Thank you. As Senator Dierks and I know, we have to pay income tax if we pay loans back on our cattle, as Senator Heidemann too. But rural healthcare is important. I support this bill. Thank you, Mr. President. [LB112]

SENATOR ROBERT: Thank you, Senator Wallman. Senator Gloor, you're next and recognized. [LB112]

SENATOR GLOOR: Thank you, Mr. President and members of the body. I would provide personal testimony as relates to this being an important issue. And as Senator Heidemann has said and I would reiterate it, the program does not just affect rural

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

Floor Debate  
April 30, 2009

---

areas. It's an issue to address medical shortage areas, which we usually think of as being rural, but as he pointed out can also include more urban areas like Omaha, and has in fact been used as relates to our community of Grand Island. Nothing is more uncomfortable than having to sit down with a physician that you've recruited to your community and you explain to them that there are tax implications. But like many of us, having a conversation at one point in time about tax ramifications, and then having that individual go in before April 15 and have it explained that they need to take out a loan to pay back the benefits of loan forgiveness, is a rather difficult chore to undertake. Clearly, our intent here is to address staffing problems for important medical professionals in the state of Nebraska. And I think this is one small step in that direction and I would ask the membership to vote in favor of LB112. Thank you. [LB112]

SENATOR ROBERT: Thank you, Senator Gloor. Senator Utter, you're next and recognized. [LB112]

SENATOR UTTER: Thank you, Mr. Chairman and ladies and gentlemen of the Chamber. I would like to address a question to Senator Heidemann, if I might. [LB112]

SENATOR ROBERT: Senator Heidemann, would you yield to a question? [LB112]

SENATOR HEIDEMANN: Yes. [LB112]

SENATOR UTTER: Senator Heidemann, I just want to know, have you fully addressed the budget consequences of this legislation? [LB112]

SENATOR HEIDEMANN: I didn't do this lightly because there is a revenue loss that is associated with this. Approximately, I think it's \$70,000, \$72,000. This is something that I probably look at very closely before I would do this, especially in the economy that we're in today and the revenue shortfalls that this state is facing. I don't do this lightly. I do believe that this is very important. I wanted to at least bring it up and see what the body thought about it. It does probably give me a little bit of discomfort but I will say I think it's important enough that we look at it and I believe it's important enough that we should pass this on. [LB112]

SENATOR UTTER: Thank you, Senator Heidemann. And I, too, believe this is very important and I think it helps address some earlier issues that the body talked this morning. But the question, I guess, remains is that this is going to compete also with the other bills, the bill that we passed this morning that you said already used up all of the extra funds that may be in the budget. [LB112]

SENATOR HEIDEMANN: If that was a question, that's true. This bill will compete with that or any other A bill that was out there. Probably, at the very least, I would like to see this bill pass to Select File to Final Reading. And the bills at that time, if there isn't

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

Floor Debate  
April 30, 2009

---

money there to fund them, they have the opportunity to ride over to the next year. It's my hope, maybe, if we don't find enough money this year to do this, that it will still be there next year and we can address it then at that time. [LB112]

SENATOR UTTER: Thank you, Senator Heidemann, and thank you, Mr. President. [LB112]

SENATOR ROBERT: Thank you, Senator Utter and Senator Heidemann. Senator Carlson, you're next and recognized. [LB112]

SENATOR CARLSON: Mr. President and members of the Legislature. Everybody is ready for lunch but I have one quick question for Senator Heidemann if he would yield. [LB112]

SENATOR ROBERT: Senator Heidemann, would you yield to a question? [LB112]

SENATOR HEIDEMANN: Yes. [LB112]

SENATOR CARLSON: Unless we vote on this after I ask my question, if we come back after lunch, I'd prefer and appreciate an example with some dollars of how this actually works and then talk a little bit about, are there any time limits for service and what have you as to whether they lose these benefits. This bill is new to me. I'm not opposed to it but I did have some questions on it. I would hope that we don't vote on it until after lunch. Do you want to respond to my questions? [LB112]

SENATOR HEIDEMANN: Yes, I think we're going to work through the lunch hour and it's my hope that people are going to get hungry here pretty soon and go ahead and pass this. (Laugh) [LB112]

SENATOR CARLSON: Oh, we're working. Let's to go to work then. How much time do I have, Mr. President? [LB112]

SENATOR ROBERT: Four minutes, unless you go to lunch. [LB112]

SENATOR CARLSON: Okay, I'm sorry. I'm not going anywhere. Senator Heidemann, let's just take some figures and give an example of how this would work, if you would. [LB112]

SENATOR HEIDEMANN: Some of this is from memory. I know they have to serve three years in a medical shortage area. I believe it's 17...I'm trying to get some information from the side over here. It's a certain amount of money. For some reason \$17,000 is coming up. The community actually has to come up with half of the amount of money that they're getting the loan forgiven on, so that would be on top of what the state does

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

Floor Debate  
April 30, 2009

---

for them. And then they have to serve in these areas for three years. [LB112]

SENATOR CARLSON: All right. The figure you just gave would be \$17,000. Is that the total that a professional would be eligible for on loan forgiveness, or is it \$17,000 plus the part the community comes up with? [LB112]

SENATOR HEIDEMANN: It's \$17,500. Excuse me, I was wrong by \$500. That's the state's share. The total share is \$35,000, including the state and local match. [LB112]

SENATOR CARLSON: All right. And if they agree to this, then they've agreed to three years of service. [LB112]

SENATOR HEIDEMANN: Correct. That's the way I understand it, yes. [LB112]

SENATOR CARLSON: And if they left before three years of service, would the entire \$35,000 then be subject to state income tax? There must be a penalty if they don't serve three years. [LB112]

SENATOR HEIDEMANN: Actually, I'm not for sure. They might have to go back...and I'd have to look into this a little bit more, they might not be able for that forgiveness on the loan at that time. So then you wouldn't have to...if you don't get it, you wouldn't have to worry about this part of it. [LB112]

SENATOR CARLSON: All right. There may not be any other discussion, but I'm going to stay after this a little bit perhaps with further discussion. Thank you, Senator Heidemann. [LB112]

SENATOR HEIDEMANN: I would expect no less. [LB112]

SENATOR ROBERT: Thank you, Senator Carlson and Senator Heidemann. There are no other lights on. Senator Heidemann waives his opportunity to close. The question before the body is, shall LB112 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB112]

ASSISTANT CLERK: 32 ayes, 0 nays on the advancement of the bill, Mr. President. [LB112]

SENATOR ROBERT: LB112 does advance. Next item on the agenda, 2009 committee priority bills, Pahls division. [LB112]

ASSISTANT CLERK: Mr. President, LB288 was introduced by the Health and Human Services Committee. (Read title.) The bill was read for the first time on January 15, referred to the Health and Human Services Committee. That committee reports the bill

Floor Debate  
April 30, 2009

---

to General File with committee amendments. (AM846, Legislative Journal page 857.)  
[LB288]

SENATOR ROBERT: Senator Gay, as chairman of the Health and Human Services Committee, you're recognized to open on LB288. [LB288]

SENATOR GAY: Thank you, Mr. President. LB288 is what I guess we'd call the annual cleanup bill requested by the Department of Health and Human Services. It's technical in nature and makes the following changes. There will be an amendment to this that I'll just tell the body will add six other bills to this, but this is the carrier for this. But the bill updates the federal law reference to Medicaid statutes. It updates the federal food stamp program which is now called the Supplemental Nutrition Assistance Program or SNAP. It changes relicensure provisions for public water operators under the Safe Drinking Water Act. This bill requires applicants for a license as a public water system operator. If your license or certification is expired two years or more prior to the date of application, you need to take an examination required for an initial license under the act. The department is permitted by rules and regulations to establish more stringent relicensure requirements for an applicant whose license has expired or has been revoked or suspended. The bill changes or eliminates provisions in the Developmental Disabilities Services Act. The bill deletes an obsolete reference to development of an objective assessment process for developmental disabilities services and deletes unnecessary and limiting references to specialized services in the context of utilizing state and federal funds for the provision of services to persons with developmental disabilities. It updates terminology, changing "care" to the word "services" as it relates to the BSDC center. The bill deletes a reference to developmental disability "regions" and replaces them with the term "service areas" to be more consistent with current administrative organization and practices. The bill changes membership provision relating to quality review teams. This bill makes submission of nominations for membership on such teams discretionary rather than mandatory, and it changes and eliminates provisions relating to duties of quality review teams. It deletes a requirement in the act that a copy of an employee's criminal history background record check be provided to the employee. I would just say on that, that's to the employee. It is still required to the employer, so we're not getting rid of background checks. And it also updates disciplinary provisions relating to pharmacy technicians. It deletes obsolete reference to a pilot program that was administered by the Department of Health and Human Services for preadmission screening of persons seeking care in a nursing facility, and outright repeals sections. There will be committee amendments, as I just mentioned. [LB288]

SENATOR ROBERT: Thank you, Senator Gay. As the Clerk mentioned, there are committee amendments. Senator Gay, as Chair of the Health and Human Services Committee, you're recognized to open on AM846. [LB288]

Floor Debate  
April 30, 2009

---

SENATOR GAY: Thank you, Mr. President. I will read quickly what the bills are so you can write these down: LB172, which is the False Medicaid Claims Act; LB371, Medicaid Reform Council; LB599, regarding itemized building statements; LB462, regarding HIV testing; LB390, which is regarding reimbursement rates for assisted developmental disability services; and LB173, which is dispensed prescription drugs by correctional facilities. LB172, the False Medicaid Claims Act, requires the amounts recovered for the state's cost and attorney's fees under the act to be remitted to the State Treasurer for credit to the State Medicaid Fraud Control Unit Cash Fund. It creates a Department of Justice and administered...the bill creates a State Medicaid Fraud Control Unit Cash Fund maintained by the Department of Justice and administered by the Attorney General. Money in the fund must be used to pay the salaries and related expenses of the Department of Justice from the state Medicaid fraud control unit. This bill directs the one-time transfer of \$215,000 on July 9, 2009, from the Health and Human Services Cash Fund to the State Medicaid Fraud Control Unit Cash Fund. There is an E clause on this bill. LB371 was introduced by Senator Campbell and it changes provisions relating to the Medicaid Reform Council. The current law requires the Department of Health and Human Services to prepare a biennial summary and analysis of the medical assistance program for legislative and public review. LB371 requires that the report be submitted annually. It requires submission of a draft report no later than September 15 of each year. It requires the council to conduct a public meeting on the report no later than October 1 of each year rather than October 15 in every odd-numbered year, and requires submission of a final report of the council no later than December 1. The bill changes membership provisions. It adds the Chairperson of the Health and Human Services or designee as the ex officio nonvoting member of the council. Eliminates the termination date for the council, and provides staggered four-year terms with council members beginning June 30. Revises the duties of the council and requires the council to conduct public meetings at least quarterly. Currently, they were meeting...just only had to meet two public meeting annually. Requires the department to provide to the council with data analysis and other information at least two weeks prior to their quarterly meeting, so they get a chance to review any recommendations that have been made, and they just basically get a chance to review it. It requires the Governor to appoint members of the Medicaid Reform Council rather than the Chairperson of the Health and Human Services, and places the council under the Department of Health and Human Services rather than the Legislature. And Senator Campbell will be discussing this more. LB599 was introduced by Senator Howard about itemized billing statements. And this requires a healthcare facility or a healthcare practitioner, upon written request of a patient or a patient's representative...it could be...to provide an itemized billing statement, including diagnostic codes, without charge to the patient or the patient's representative. The itemized billing statement must be provided within 14 days after that request has been made. LB462 was introduced by Senator Dierks regarding HIV testing. The purpose of this bill is to encourage more testing. This bill changes or eliminates informed consent provisions relating to testing of the human immunodeficiency virus, or HIV, and it adds a new provision requiring that informed

Floor Debate  
April 30, 2009

---

consent for HIV testing must provide the explanation of the HIV infection and the meaning of both positive and negative test results. Provides that a separate consent will not be required if a general consent form for the performance of this test or procedures has been signed which informs a person of the test or the presence of HIV infection may be performed and that the person may refuse to have this test done. Adds and eliminates provisions relating to the substitute consent for HIV testing. Provides that consent be provided by the person's legal representative if the person is unable to make this choice. If a person's legal representative cannot be located or is unavailable, a healthcare provider may authorize the test when the test results are necessary for diagnostic purposes to provide appropriate medical care. LB390 was introduced by Senator Coash, and it deals with reimbursement for assisted developmental disabilities services. The bill as amended, it would change the method of reimbursement for assisted services to persons with developmental disabilities. And the amendment requires that assisted services provided under that act through the community-based developmental disability program shall be reimbursed on a daily rate basis, including such services provided to eligible recipients under the medical assistance program upon approval for such reimbursement from the Centers for Medicaid and Medicare. It also requires the department apply to the Centers for Medicaid and Medicare for approval as necessary for any waiver amendments that may be needed to permit such reimbursement no later than September 1, 2009, and begin reimbursing such services on a daily rate no later than 90 days after that approval if it is granted. And that is to basically make it easier for home-based community services to bill. LB173 is regarding return of dispensed prescription drugs or devices at correctional facilities. It's modeled after legislation relating to community health centers. This is a bill that allows community health...or correctional facilities to reuse drugs if they're in their containers. They could prescribe it in a detention facility, a juvenile detention facility, or a jail. What this does, exemptions are provided...the decision to accept the return of the dispensed prescription drug or device for credit or for relabeling and redispensing rests solely with the pharmacist at the contracting pharmacy. They must agree. A dispensed prescription drug must be properly stored in a controlled facility or jail at all times prior to the return of the drug for credit and redispensing, and must be returned in the original, unopened container dispensed by the pharmacist with the tamper-evident seal intact, and the container must bear the expiration date. The drug or device may not be returned if it is a controlled substance or if the relabeling and redispensing is otherwise prohibited by law. The Jail Standards Board, in consultation with the Board of Pharmacy, is required to adopt and promulgate rules and regulations to carry out this bill. And provides immunity from civil or criminal liability or professional disciplinary action to any person or entity exercising reasonable care in accepting, distributing, or dispensing these drugs under the bill. And that is the amendment and I'd be happy to answer any questions. All these were advanced from the committee unanimously. There's no fiscal impact on these bills. Thank you, Mr. President. [LB288 LB172 LB371 LB390 LB173 LB462 LB599]

SENATOR ROBERT: Thank you, Senator Gay. Members, you have heard the opening

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

Floor Debate  
April 30, 2009

---

to AM846, the amendment to LB288. Mr. Clerk, for an amendment. [LB288]

CLERK: Mr. President, Senator Campbell would move to amend the committee amendments with AM1093. (Legislative Journal page 1139.) [LB288]

SENATOR ROBERT: Senator Campbell, you're recognized to open on AM1093. [LB288]

SENATOR CAMPBELL: Thank you, Mr. President. This is a technical amendment in terms of what happened when we transferred the language of the original bill, LB371, into this one. And I have to say it very clearly could have been my error. I would like to thank the Speaker and his office in their review and suggestions in clarifying this, the Medicaid Reform Council's section of this bill in order to continue its monitoring of the Medicaid Reform Plan. The Medicaid Reform Plan is structured on the word "recommendations," and it lists a series of recommendations. What we want to try to do with this amendment is to reinsert the words "written recommendation" into the portion of the bill having to do with that plan. And I apologize for the error, but it is a technical amendment. Thank you, Mr. President. [LB288 LB371]

SENATOR ROBERT: Thank you, Senator Campbell. Members, you have heard the opening to AM1093, the amendment to the committee amendments. Senator Dierks, you are recognized. [LB288]

SENATOR DIERKS: I will pass for right now, Mr. Speaker. I'm going to put the light on again and testify on behalf of the committee amendments. [LB288]

SENATOR ROBERT: Thank you, Senator Dierks. Are there members wishing to speak? Seeing none, Senator Campbell, you're recognized to close. Senator Campbell waives closing. The question before the body is, shall AM1093 be adopted on the committee amendments? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB288]

CLERK: 27 ayes, 0 nays on adoption of Senator Campbell's amendment to the committee amendments, Mr. President. [LB288]

SENATOR ROBERT: AM1093 is adopted. Returning to discussion of the committee amendments. Senator Dierks, you're recognized. [LB288]

SENATOR DIERKS: Thank you, Mr. President. Members of the Legislature, I rise in support of LB288 which is one of the Health Committee priority bills. One of my bills, LB462, is included in this bill. LB462 changed provisions relating to the testing for the presence of the human immunodeficiency virus, or HIV. Current law requires that a person give specific written, informed consent to have an HIV test. Under LB462, a

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

Floor Debate  
April 30, 2009

---

person would receive information explaining the HIV infection and the meaning of both positive and negative test results. The patient would be asked to sign a general consent form for the performance of a medical test or procedure. This general consent would include consent for the HIV test which may or may not be performed. No specific consent will be required for an HIV test if LB462 passes. This bill was brought to me by the Nebraska Medical Association. The bill was drafted in accordance with the recommendation made by the Centers for Disease Control and Prevention released on September 22, 2006. I think that's probably enough on that issue. I would like to tell you that we haven't changed the confidentiality issues associated with HIV or AIDS. As with all medical issues, privacy is a very real issue and you can't...I don't think we should change the doctor/patient relationship concerning confidentiality. Thank you, Mr. President. [LB288 LB462]

SENATOR ROBERT: Thank you, Senator Dierks. Are there other members wishing to speak? Seeing none, Senator Gay, you're recognized to close. Senator Gay waives his opportunity. The question before the body is, shall AM846 be adopted to LB288? All those in favor vote yea; opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB288]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB288]

SENATOR ROBERT: AM846 is adopted. [LB288]

CLERK: I have nothing further on the bill, Mr. President. [LB288]

SENATOR ROBERT: Returning to discussion on LB288. Are there members wishing to speak? Seeing none, Senator Gay, you're recognized to close. Senator Gay waives his opportunity. The question before the body is, shall LB288 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB288]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB288. [LB288]

SENATOR ROBERT: LB288 does advance. Next item on the agenda. [LB288]

CLERK: Mr. President, LB16 was a bill originally introduced by Senator White. (Read title.) Bill was introduced on January 8 of this year, at that time referred to the Executive Board for public hearing, advanced to General File. There are committee amendments, Mr. President. (AM692, Legislative Journal page 729.) [LB16]

SENATOR ROBERT: Senator White, you're recognized to open on LB16. [LB16]

Floor Debate  
April 30, 2009

---

SENATOR WHITE: Thank you, Mr. President. LB16 is an act designed to give the people of the state of Nebraska the information they need to truly be the second house of the Legislature. It is also absolutely consistent with our duties under the stimulus act in which we are obligated to have a transparent system so citizens can track how the federal stimulus money is being spent by the states. What LB16 does is require that the Legislature, acting through the legislative committee, the Executive Board, prepare and maintain a Web site that is easily searchable and free of charge for use that tracks our expenditures and also tracks any tax incentives that we give to the extent that any information is not already determined to be confidential under state or federal law. Let me restate that. We do not change confidentiality, underlying confidentiality law. What we say, however, if you go through the bill, is everything is presumed to be reportable except that which is already protected by other confidentiality laws. Now there is some discussion, but in our budget right now--and I will defer as we go on, to Senator Nordquist, Senator Mello, since Senator Heidemann is not on the floor--we have provided between \$400,000 and \$500,000 as required by the federal government to put in place a software tracking system that will track the expenditure of various monies. That system will produce information that we can use to put out on a Web site. You'll see LB16 has an A bill. The A bill is \$100,000. That literally was pulled out of a hat. Actual states have found that it is much less expensive to run these systems. We have been assured by various computer manufacturers and other people in the business of providing this kind of information services, that the information we are paying for in the budget for the stimulus money will dramatically reduce the actual cost of preparing and presenting the Web site to the public, and that is because that information has to be gathered into a method anyway, that then all we will be required to do is to take it, put it in the form of a Web site, and present it to the public and regularly update it. That is not very expensive, and that has been the experience of other states that have done this. Now I'd like to talk to you about the mechanics of how this is done. One of my concerns in putting LB16 is I did not want any one person to dictate the content of a Web site. Information truly is power, and it is essential that the public in the state of Nebraska have the right to all information that is fairly available under the law without bias in its selection. And so this bill provides that the Executive Committee shall gather all available information, excluding of course the stuff that's already confidential under law, and then make a determination of what needs to go up on the Web site. The Executive Committee is representative of all areas of the state, rural, political, you name it, conservative, progressive. It represents pretty much anyone in the state's views. That committee will ultimately decide what goes out on the Web site. That is done so that the people of Nebraska can look to this site as the definitive site, fairly representing all available information without bias or political agenda. Now in order to actually carry it out, we had negotiations with the Treasurer's Office. They were reluctant to submit, at least initially, to the Executive Committee's oversight, so the bill is drafted and you'll see an amendment. There will be two amendments. First, I will...the committee amendment, and then I had two. We will withdraw the first. But the final bill that will be presented for your consideration states that if the Treasurer agrees that he wants to carry out...or she

Floor Debate  
April 30, 2009

---

wants to carry out the duties, they may, though the Executive Committee remains in control of the content of the site. If the Treasurer does not want to do that, or the Executive Committee decides not to, after negotiations, entrust the Treasurer with that duty, then the Clerk of the Legislature shall carry it out. This is truly an opportunity to revolutionize state government. It will give the information out in a readily available form for our citizens to understand how we are spending their money. I have been convinced over the years here that I've been here, that we are fiscally conservative. We are generally very careful. We may disagree about priorities, but no one I know has ever endorsed a wasteful program knowing it was a wasteful program. The more information our citizens have about our government, the greater faith, I believe, they will have in their government. And we can also benefit from their knowledge. Nebraska is truly one of the homes of some of the most brilliant financial minds in the world. If they have ready access to our books, to our records, to where we're investing money, what we will get back from our citizens will far exceed the total sum of knowledge in this room. We will literally enable them to share their experience, their business knowledge, and that information will make us a far better government. This opens the door to meaningful discussions with the second branch of government, which are the citizens. It's innovative. It clarifies government. It will make it more efficient. It will revolutionize, hopefully, how we gather information and how we share it and how we pick our priorities. We, just this morning, discussed how we were hamstrung because one individual isn't here today to run numbers through a computer formula. We have talked to a representative of one of the people who will compete to get the contract to create this system, and he assured us that they can create a system that anybody with basic knowledge of the formula can run the numbers through the formula, and that will be on a Web site. That is all technologically available today. What we need is the will to do it. Now one of the questions we'll have is how much will the ongoing costs be to maintain and keep the Web site up, and how much benefit will we get out of the stimulus dollars that we are already required to spend? Personally, from my research, I believe the stimulus dollars are going to carry the vast majority of the expense of preparing this Web site, but we will continue to work so we can give you a clearer estimate of the actual cost. But I would urge the body to look at, carefully, LB16. If we really are the people's government, if we really are the people's house, that begins with sharing all available information with the people so they can understand what we are doing when we go about their business. I really greatly appreciate Senator Wightman and the Executive Committee's work on this. We also had very good support from the chamber of commerce on concepts of how this can be compatible and can be helpful, both making us a better business but also making the state a better climate for business. We also had great input from various citizens' groups who are deeply interested and invested in making sure their government is open to full study. I want to thank all of those groups, and with that, Mr. President, I will close at this time. Thank you. [LB16]

SENATOR ROBERT: Thank you, Senator White. Members, you have heard the opening to LB16. As the Clerk stated, there are committee amendments. Senator

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

Floor Debate  
April 30, 2009

---

Wightman, as Chair of the Executive Board, you are recognized to open on AM692.  
[LB16]

SENATOR WIGHTMAN: AM692 makes several changes in the bill. Number one, it provides a duty for the Executive Board to develop a single searchable Web site, accessible by the public at no cost. That was pretty much in the bill in that form. The information to be placed on the Web site is subject to review and approval by the Executive Board. That is somewhat of a change because the bill itself is far more detailed in what had to be included in the Web site, and after further discussion it was felt that that information and the amount of detail should be determined by the Executive Board. Also it changed the date. The Web site was to be developed by January 1, 2010, under the original bill. AM692 provides that that site will be developed by August 1, 2010, so that would be after the next session of the Legislature. Information shall be updated thereafter no later than 30 days after the end of the preceding fiscal year. So the information for the previous fiscal year would be on the Web site. The amount of updating during the year would be something yet to be determined by the Executive Board. Number two, it provides that information on the Web site shall document the sources of all tax receipts and expenditures of state funds by all agencies, boards, commissions, and departments of the state. It is up to the Executive Board to determine the appropriate level of detail, as I had stated before, to be published on the Web site, so that will be a decision to be made by the Executive Board. And as we zero in on the cost, that might very well have some...play some factor in the determination of the amount of detail to be published. The amendment also clarifies that the information that is not a public record by law is not required to be disclosed. This is in addition to nondisclosure of confidential information. And it does add state aid to political subdivisions to what is included in the expenditure of state funds. Now the original bill provided that we would actually publish, under our Web site, all of the entities receiving state aid, their expenditures and revenues. That has been taken out. We will certainly encourage, I think, and I think they will be encouraged in all steps to publish that information, but it would not become part of the Web site provided under LB16. As Senator White has told you, there is an additional amendment, actually two amendments pending. As I understand it, he's going to withdraw the first and substitute the second proposed amendment by him. So with that, I'll close on the committee amendment. Thank you. [LB16]

SENATOR ROBERT: Thank you, Senator Wightman. Members, you have heard the opening to AM692, the committee amendment from the Executive Board. Mr. Clerk for an amendment. [LB16]

ASSISTANT CLERK: Mr. President, the first amendment offered by Senator White is AM955. Senator, this is the one I have a note to withdraw on. [LB16]

SENATOR WHITE: Yes. [LB16]

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

Floor Debate  
April 30, 2009

---

ASSISTANT CLERK: Mr. President, Senator White would offer AM1061 to the committee amendments. (Legislative Journal page 1029.) [LB16]

SENATOR ROBERT: Senator White, you're recognized to open on AM1061. [LB16]

SENATOR WHITE: Thank you, Mr. President. This amendment is drafted in a way to address a number of different issues. One is if we had a Treasurer who determined that they did not want to participate in this Web site, it gives flexibility to the Executive Board so that the Web site will still be made available to the public but it does not exclude anyone. Now, Senator, I greatly appreciate Treasurer Osborn's Web site, but there are a number of concerns that I have with it and I think LB16 needs to be in its place. Number one, the public's right to this information shouldn't be determined by whether or not one individual official decides voluntarily to provide it. This should be a right protected in law and obligated. In other words, Treasurer Osborn voluntarily has a Web site that provides some information, expenditures of \$500,000 or greater. It doesn't provide smaller expenditures, doesn't provide contracting information, doesn't provide any kind of tax incentive information that's available under the law. I applaud him for his work but I think that it shouldn't be a matter of voluntary decision to do that. The public should have an absolute right to public information in a readily accessible form. It should be a matter of law, and the duty to maintain it and make it available should be protected by law. So LB16 provides that it will be done, as Senator Wightman has said; that we will update it at least yearly; and it allows but does not require the Treasurer to actually administer the site under the direction of the Executive Committee. It also provides clearly about confidentiality. This bill does not overturn any previous confidentiality laws. It simply says that which is available now, if you have the time to go down, file the various paperwork, dig through the files, you're not going to have to do that. We're not going to put those barriers up. We don't need to. We are that confident in who we are as a Legislature, as a government, as a people. You don't need to go through those hoops. So we will make it readily available on its surface. In terms of the cost, I would like, if Senator Mello is available, to ask him a couple of questions, if he would yield. [LB16]

SENATOR ROBERT: Senator Mello, will you yield to a question? [LB16]

SENATOR MELLO: Yes. [LB16]

SENATOR WHITE: Senator Mello, first, I'd like to thank you for your help in the budget with regard to LB16. Can you please explain to the members what is in the budget and how that has an impact on LB16. [LB16]

SENATOR MELLO: I will, Senator White. If...the budget books were presented yesterday to the floor. And in LB315, the mainline budget bill, AM889, on page 122, there is a \$404,356 General Fund appropriation "to address the costs associated with

Floor Debate  
April 30, 2009

---

the implementation, coordination, transparency, and accountability systems as they relate to the American Recovery and Reinvestment Act of 2009," in which we also included, as an Appropriations Committee that voted 9-0 in committee, to include intent language that states, "It is the intent of the Legislature that in making decisions regarding a contract for or purchase of software utilized for administration of the American Recovery and Reinvestment Act of 2009 and any other legislation passed by the Legislature requiring reporting of state expenditures and performance data related to ARRA funds, the Department of Administrative Services shall give preferential status to software capable of performance management through budgeting, planning, business intelligence, reporting, or analysis. In addition, software that has the ability to generate and use dashboards, can interact with metrics and key performance indicators, and is capable of being implemented in every state agency shall be preferred." [LB16 LB315]

SENATOR WHITE: Thank you, Senator Mello. Does that indicate to you then that the baseline information that's necessary to comport with LB16 will be made available under these investments? [LB16]

SENATOR MELLO: Yes, Senator White. Essentially what that appropriation at the request of the Governor and through this intent language states, is that the state will fund the development of the back-end software development that's needed to collect this information for the American Recovery and Reinvestment Act, as well as be able to translate that into all state agencies and collect the data that's needed for LB16. [LB16]

SENATOR WHITE: Thank you, Senator Mello. I have again talked to different software providers, computer and information service providers. It is my understanding that that is the vast majority of the expense in maintaining this. Once that information is available, it's simply a matter of having it posted to a Web site and updating it, which is much less expensive. So I appreciated Senator Mello's help, also his sponsorship of this bill, Senator Nordquist and others, along with the Executive Committee. I do want to ask the members to remember that the knowledge base in our state is great and it's broad, and the more we can invite them into our process the more we can effectively save money. I really truly believe this will transform the state government, making it much more efficient, much more open, much more responsive to the true priorities of its citizens. And therefore I will urge your acceptance of the amendments and then ultimately LB16. Thank you, Mr. President. [LB16]

SENATOR ROBERT: Thank you, Senator White. Members, you have heard the opening to AM1061 to the committee amendments. Speaker Flood, you're recognized for an announcement. [LB16]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. Thank you for your great work today. I think we've made some real progress on some major issues. As I look at the agenda today, I certainly don't expect that we're going to get to the 2009

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

Floor Debate  
April 30, 2009

---

Speaker priority bills, LB626 and LB263. I am willing to adjourn if we can make progress on this Pahls division in its entirety, to give you an idea of where I'd like to go today. I would also add that Monday...Tuesday, my correction, Tuesday at 10:00 we will be taking up the budget bills right away. I believe there's a briefing that morning at 9:00 for senators. Senator Heidemann's office will have more information on that for you. We will be taking up the budget bills and there is a very good chance we'll be working into the night. In fact, I have designated it as a late night, so please keep that in mind, that we could be working well into the night. Again, I'd like to see if we couldn't make it through the Pahls division today and then quit for the week. Thank you, Mr. President. [LB626 LB263]

SENATOR ROBERT: Thank you, Speaker Flood. (Visitors introduced.) Returning to discussion on AM1061, those wishing to speak: Senators Mello, Christensen, Nordquist, Wallman, Pirsch, and Fulton. Senator Mello, you're recognized. [LB16]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in strong support of LB16 for a few of the instances that Senator White described in his opening of the bill. As a member of the Appropriations Committee and going through my first budget process, I was amazed at sometimes the difficulty of seeing more of what our state government spends money on in regards to performance measurements and just general transparency, as well as the accountability that goes with what we spend our dollars on. And, in LB16, essentially what that does is it provides, in statute, through the Legislature's Executive Board, ensuring that all of Nebraska gets to see what their tax dollars are being spent on. And I believe it's good public policy to try to ensure that our government is as transparent as possible, but also I believe that it's good public policy that we ensure accountability through transparency, and I believe that is what also LB16 does. It doesn't just show what state dollars are going towards and make it searchable to the general public. It provides accountability through, as what Senator White so eloquently put it, the Legislature's second house, which is the citizens of Nebraska. They can go through, see where dollars are spent, see what agencies and entities are receiving these dollars, and be able to follow up through us and through the appropriations process various accountability measures to make sure that entities are doing what they say they're doing with these funds, and that if they're not using the funds appropriately, that we can look to realign our priorities through the appropriations process and through the Legislature. So with that, I rise as a strong supporter of this bill. As I mentioned before in Senator White's questioning, the Appropriations Committee voted 9-0 to adopt intent language to ensure that we could reduce any redundancy in regards to what LB16's fiscal note did to what the state's current obligation will have to be with developing software to track ARRA funding. So with that being said, when we get to LB16's A note, that obviously will need to be dramatically revised, because as you see in the budget, we have already reposed \$400,000 in General Funds at the request of the Governor to fund the software development that's needed to track state funding or state spending regarding ARRA funds, but also just general state spending. So with that

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

Floor Debate  
April 30, 2009

---

being said, Mr. President, I'd like to yield any of the remainder of my time to Senator Nordquist. [LB16]

SENATOR ROBERT: Senator Nordquist, 2:20. [LB16]

SENATOR NORDQUIST: Thank you, Mr. President. I'd just like to echo some of the thoughts of Senator Mello, Senator White. I'd like to thank Senator White and Senator Wightman for their work on this and the entire Exec Committee to pull it together and try to work it out as much as possible. There's still...you know, any time we're talking about software, I don't know if there's many experts around here, except probably for Senator Fulton, that know exactly the infrastructure that needs to be in place. But fundamentally, I think taxpayers should be able to have the ease of access to track state expenditures. It's difficult for policymakers to get our hands around the budget. It's even more difficult for the general public when that information is not available to them. So this puts us down the track so government can have that openness and that ease of understanding its budget. You know, it's similar...I think I said it last week when we were talking about Senator Harms's bill, which I see as kind of bills that kind of go together and go hand in hand, that, you know, we talk about running government more like a business. Well, I think that starts with Senator Harms's bill--planning; and Senator White's bill here--opening the books, being transparent. [LB16]

SENATOR ROBERT: One minute. [LB16]

SENATOR NORDQUIST: And it's about having an accountable budget. And the language that we put into the budget bill will put us down the road. We're looking at about \$400,000 that will be used. DAS will contract and purchase software to track expenditures and ARRA funds, but also in that intent language, that contract, that software should be capable of being implemented across state government. And just for a few examples, I was doing a little research earlier, a couple sites that I came across that are good examples of what can be done here. If you Google "Texas Window on State Government," it's a Texas government Web site, or if you go to [Kansas.gov/KanView](http://Kansas.gov/KanView), that's with a K, they're a couple good examples of transparency Web sites that will open the door to the public and let them see their state books. Thank you, Mr. President. [LB16]

SENATOR ROBERT: Thank you, Senator Nordquist and Senator Mello. Senator Christensen. Appears not to be available. We'll move on. Senator Wallman, you are next and recognized. [LB16]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator White yield to a question? [LB16]

SENATOR ROBERT: Senator White, would you yield to a question? [LB16]

Floor Debate  
April 30, 2009

---

SENATOR WHITE: Yes, I will. [LB16]

SENATOR WALLMAN: Thank you, Senator White. In regards to transparency I'm all for that, because it says outside the door, one of these doors, you know, good government is the watchfulness of its citizens. So are our citizens well-informed? I don't know. Is this also regard to economic development monies? [LB16]

SENATOR WHITE: Absolutely. I mean one of the things the citizens can see in the Web site is what are our various tax incentive programs. If you're seriously...even if you're not in Nebraska but you're thinking about coming here, all right, what do we do for our schools, how are they doing? What do we do if you want to relocate a new business? Look at the numbers. What have we done for those guys? Absolutely it will be very helpful in that way, I hope, Senator. [LB16]

SENATOR WALLMAN: Thank you. I hope so too. I was in the office down here, LB775 issues. When did that ever pay for...return the investments? And it's hard to get those kind of numbers but they said the statute had run out before we got any gains from this bill. So I think the public should know. I think we have a lot of astute bankers, young businessmen, young tigers out there who know the numbers. They look at the numbers. We don't always look at things the way they do, but we should take advice from their e-mails, constituents. This is another tool where they may give us some good ideas, out of this body. And so I appreciate Senator White's bill here and I urge strong support. Thank you. [LB16]

SENATOR ROBERT: Thank you, Senator Wallman. Senator Pirsch, you are next and recognized. [LB16]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. And I guess the idea that's coming across here is, you know, there's an existing Web site, [NebraskaSpending.com](http://NebraskaSpending.com), that the State Treasurer's Office has set up, I think it was a year or two ago, that ensures transparency, lists a number of different factors, including state dollars received, state dollars to be spent, yearly contracts, yearly expenditures, property tax, state aid, state dollars received, historical information. And so if my understanding is correct that the idea here is, though this Web site exists, we want to make sure it exists currently, because an executive officer has unilaterally taken action a couple years ago to put it on-line, and what we want to do here with this bill is just require that whether or not that officer leaves office or not, that a Web site of that type stays on the air, so to speak. I agree with that. I actually looked into...I agree with...we need to have greater transparency and I'm glad that the Web site is there. I actually looked into, you know, a measure, into the amount of transparency that we have, this past summer. And if it does...if the Web site needs a little tweaking here and there, then I think we should look at that. And I think it's not a bad idea to make it a permanent type

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

Floor Debate  
April 30, 2009

---

of feature. I wonder if Senator White might yield to a question. [LB16]

SENATOR ROBERT: Senator White, will you yield to a question? [LB16]

SENATOR WHITE: Yes, I will. [LB16]

SENATOR PIRSCH: Currently, the State Treasurer's transparency Web site says that contract information...I'm sorry, goes to a certain level. Is that correct? [LB16]

SENATOR WHITE: Yes, that's my understanding. My recollection is \$500,000. [LB16]

SENATOR PIRSCH: Starts...or I should...I should phrase it differently. Starts at a different level. [LB16]

SENATOR WHITE: Right. [LB16]

SENATOR PIRSCH: It has to be a big enough contract. What is that level currently? [LB16]

SENATOR WHITE: Well, my understanding is the State Treasurer's starts at \$500,000. I think he reports above \$500,000, the last I looked. [LB16]

SENATOR PIRSCH: What's... [LB16]

SENATOR WHITE: I can't swear that's right, Senator, but I think that's accurate. [LB16]

SENATOR PIRSCH: Okay. At what amount do you suggest tweaking that down to, to capture smaller contracts then? [LB16]

SENATOR WHITE: Oh, I don't...I don't think any one number will ever be the right number forever. I wouldn't tweak it down. What I think we need to do is have a policy position, like the Executive Committee, to evaluate the cost, evaluate whether it's useful, and then make...my bias, make as much information available reasonably as possible. But I think that should be a judgment not made by one person because they want to. It should be required by the law and it should be made by a spectrum of people involved in government that represent a large number of different views. [LB16]

SENATOR PIRSCH: Okay. But the...I see. You're saying it might change from year to year, is essentially what you're saying. [LB16]

SENATOR WHITE: Oh, absolutely. I mean as the... [LB16]

SENATOR PIRSCH: But you don't want to get rid of that category that the Treasurer

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

Floor Debate  
April 30, 2009

---

has now, correct? [LB16]

SENATOR WHITE: Oh, no. No, no, no. [LB16]

SENATOR PIRSCH: Okay. [LB16]

SENATOR WHITE: If anything, the bias is for more information. [LB16]

SENATOR PIRSCH: Okay. [LB16]

SENATOR WHITE: But things change, Senator, and you need a law that's flexible as things change. [LB16]

SENATOR PIRSCH: Okay. [LB16]

SENATOR WHITE: And as the technology changes, more may be available. [LB16]

SENATOR PIRSCH: And then as far as the other information on some of the...on the items that I have spoken before that exist on the Treasurer's Web site right now, you don't have...you don't, in your bill, envision getting rid of any of that information, correct? [LB16]

SENATOR WHITE: No. And understand something. My bill doesn't in any way restrict the Treasurer, the Secretary of State, or anybody from running a separate Web site. I mean that would be a violation of the First Amendment. All this bill says is there will be, as a matter of law, not as a matter of whim, a Web site and it will contain all nonconfidential information as edited by the Executive Committee. That's all it does. It doesn't stop any other Web site or in any way restrict anybody else's Web site. I do think, if this Web site is done properly, those will be redundant. [LB16]

SENATOR ROBERT: One minute. [LB16]

SENATOR WHITE: But that's still up to them. [LB16]

SENATOR PIRSCH: Okay. And that's my concern there, is when it comes to redundancy, making sure that we are utilizing the wheel that has already been invented as opposed to...and piggybacking on that which exists already, where the up-front cost for that design and putting it on-line has already been done. If we have minor tweaks that we want to add to it at this point in time, you know, that should be incremental costs, as long as we use that already existing wheel. What I fear is that we discard the wheel and that we go back and reinvent something that will cost...start from square one as far as costs are concerned. [LB16]

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

Floor Debate  
April 30, 2009

---

SENATOR ROBERT: Time. [LB16]

SENATOR PIRSCH: Thank you. [LB16]

SENATOR ROBERT: Thank you, Senator Pirsch and Senator White. Senator Fulton, you are next and recognized. [LB16]

SENATOR FULTON: Thank you, Mr. President, members of the body. I wonder if Senator White would yield to a question. [LB16]

SENATOR ROBERT: Senator White, will you yield to a question? [LB16]

SENATOR WHITE: Yes, I'd be happy to. [LB16]

SENATOR FULTON: Senator, the committee statement indicated there was opposition, and I don't have it in front of me. I think it was the Nebraska Chamber. Can you... [LB16]

SENATOR WHITE: Oh, initially they had a concern about whether or not the bill actually repealed previous confidential information. We had a meeting and I explained to them that the structure of the bill--and it is a logical mechanism of how you structure it--the structure of the bill is you assume everything is reportable. There is nothing that any agency doesn't have an obligation to report to the Executive Committee. You start with that assumption, and we do that because this is America. We assume all information in the government is free to the people. We are an open society. And then you restrict it by saying--and this bill does: unless otherwise confidential under federal or state law. And that restricts it down. You know, for example, private tax information of an employee has no business on a Web site. That's confidential under both state and federal law and we don't mess with that. But we start with the presumption that everything is reportable because we don't want a bureaucrat that doesn't want a failure of their area to say, well, it doesn't say I have to give this. You assume it must be given and then it shrinks down. We then worked with the chamber of commerce, at length, and they were wonderful, both the Omaha and the state chamber, and worked through that concept. And then said, okay, add some more language in, a belt and suspenders, about confidentiality of business information; put that language in. And they said they were very fine with it. They're very comfortable. [LB16]

SENATOR FULTON: Okay. And that's...I assume then that appears...that work appears within the form of AM1061 then. [LB16]

SENATOR WHITE: Yes. [LB16]

SENATOR FULTON: Okay. Thank you, Senator White. The reason I have some interest in this, I brought a bill three years...when I first got in here, three years ago I

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

Floor Debate  
April 30, 2009

---

think it was, was LB698 in 2007, and it's something similar though it took a different approach. The approach that I took was from the revenue side, those taxes which Nebraskans pay. We were not able to move that forward, Senator White, because it was described to us that there's no way to know how much this is going to cost, there's no way to know how much personnel was going to be involved. And ultimately we couldn't...we couldn't pursue this, for lack of information. I had planned on pursuing this in the following year. It was about that time that the State Treasurer came up with his Web site, which I was also happy to see, and I think that provided some level of transparency. But the fact that we need transparency...I applaud Senator White because he hits the nail right on the head. Generally, the public doesn't know, I think, what goes on with a lot of our money, so this is important. I do still have a question, though, on...the concern that Senator Pirsch brought up is that there's some redundancy, and so I still have some question here, and I think I can get it in if I have time. About how much time do I have? [LB16]

SENATOR ROBERT: You have 1 minute, 40 seconds. [LB16]

SENATOR FULTON: Okay. Would Senator White yield to a question then? [LB16]

SENATOR ROBERT: Yes. Senator White, will you yield? [LB16]

SENATOR WHITE: Certainly. [LB16]

SENATOR FULTON: Page 3 of AM1061, there is a clause here that says the Clerk of the...say we're in line 6 now, "assigned to the Clerk of the Legislature or to the State Treasurer." [LB16]

SENATOR WHITE: Yes. [LB16]

SENATOR FULTON: Okay. Then later, line 8, "If the provision allowing assignment of such duties to the State Treasurer is deemed to be unconstitutional..." [LB16]

SENATOR WHITE: Right. [LB16]

SENATOR FULTON: Can you explain that a little bit? It's not clear to me who's running the show here. [LB16]

SENATOR WHITE: It's...the content of the Web site must be determined by the Executive Committee of the Legislature... [LB16]

SENATOR ROBERT: One minute. [LB16]

SENATOR WHITE: ...because one of the deep philosophical points that I want to make

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

Floor Debate  
April 30, 2009

---

clear in this bill is no one person...I mean, how you release information--what you release, what you don't release--can have real political impact, and I don't want any one person controlling the release of that information. I want the assumption that all information shall be released, and then for practical purposes we have to edit some. Okay? But I want the decision on how that's edited to be representative by a group, representing different aspects, who are not going to want to nail one person and protect another. They're just...I mean if you look at the Executive Committee, it's everybody. It's us. And so they will dictate the content. If the State Treasurer chooses to actually administer it, I want to do what Senator Pirsch raised. I want to use that efficiency there, okay? If he won't or if he says, I'm not going to do it and I'm not going to be dictated to by the Executive Committee, therefore it's unconstitutional... [LB16]

SENATOR ROBERT: Time. [LB16]

SENATOR WHITE: ...then we sever. [LB16]

SENATOR ROBERT: Thank you, Senator Fulton, Senator White. Senator Carlson, you are next and recognized. [LB16]

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to engage in a little conversation with Senator White, if he would yield. [LB16]

SENATOR ROBERT: Senator White, will you yield to a question? [LB16]

SENATOR WHITE: Certainly. [LB16]

SENATOR CARLSON: Senator White, on a 12-inch ruler, in terms of where I am of being computer savvy, it's probably about number two. So I'm going to ask some basic questions here. But Senator Fulton asked you a question on the bill itself. I'm going to ask you that first. On page 2, in line 16 of AM1061,... [LB16]

SENATOR WHITE: All right. [LB16]

SENATOR CARLSON: ...it says there that the Executive Committee could appoint the State Treasurer... [LB16]

SENATOR WHITE: Correct. [LB16]

SENATOR CARLSON: ...and then it says if the State Treasurer agrees. Now why is the State Treasurer mentioned specifically there as an officer of the state versus anybody else? Is it because he currently has a Web site? [LB16]

SENATOR WHITE: Yes. [LB16]

Floor Debate  
April 30, 2009

---

SENATOR CARLSON: Okay. [LB16]

SENATOR WHITE: Just a practical matter, and also in other states, the state treasurer actually does administer some of these Web sites that are like this. So it's, (1) he was there, and (2)...I mean I think he should be commended for what he did and I don't want to take that away, but I darn sure want to make sure that we control the information that goes out and it be as broad as possible and it not be on the whim of any one elected official. If he left the office and the next one said, I'm going to save money by not maintaining this, they'd just quit and then the public is in the dark again. That's not acceptable. [LB16]

SENATOR CARLSON: Okay. So if he decides that he doesn't want to do it, then you just find somebody else. [LB16]

SENATOR WHITE: Well, then the Clerk of the Legislature is designated by the Executive Committee to do it. [LB16]

SENATOR CARLSON: Now, from a practical standpoint of understanding this process--because conceptually it sounds good, and the Executive Committee has jurisdiction over what is on the Web site and what isn't and that's your intent... [LB16]

SENATOR WHITE: Correct. [LB16]

SENATOR CARLSON: From a practical standpoint, how does this work? Because every day, every day we've got to have this updated, correct? [LB16]

SENATOR WHITE: No, it doesn't have to be updated every day. Once a year, and then thereafter as they want to. So we update it...we must update it at least 30 days following the close of the fiscal year. We lay our budget out. If it's possible, if for example the Executive Committee goes and says, look, we can just plug the computers in, so as we write checks and stuff they can appear updated, and the Executive Committee determines, one, that's appropriate and, two, that's the most feasible, then that's what happens. [LB16]

SENATOR CARLSON: Okay. Thank you. Now this...I'm going to ask you something else though. So this is not a dynamic Web site that changes as things change within this body. This is an annual report really. [LB16]

SENATOR WHITE: It may. I mean I want the law to be flexible, Senator, so if it becomes practical, my personal bias, I would make it change every day with every piece of updated information. Now that may or may not be practical. It may or may not have problems with agencies saying, we can't do that. For example, if you're reporting

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

Floor Debate  
April 30, 2009

---

how far along you are in buying certain land in a certain area, it will kill us in getting other land cheaper, you know, those kind of things. Those are the kinds of considerations we want the Executive Committee to be able to say, yeah, we'll update you at the end of the year but you don't need to know that now. And that's why it's meant to be flexible. [LB16]

SENATOR CARLSON: Now you're looking at this Web site, it's primarily financial information. [LB16]

SENATOR WHITE: Yes. Almost all we do, really, if you think about it, Senator, almost all of our actions on this body are either to grant spending or to grant tax incentives. That's pretty much the only way we really act. The other law information, the "thou shalt not" laws, they're already available on a Web site. It's really our financial stuff that would primarily be represented on this Web site. Anybody can look up any law we've passed already on numerous Web sites. [LB16]

SENATOR CARLSON: Okay. I don't have any qualms with accountability from a financial standpoint. [LB16]

SENATOR ROBERT: One minute. [LB16]

SENATOR CARLSON: And actually hoping that this might be a site where there could be some more oversight on some other divisions of government in terms of how they operate and provide information that's available to the public. But at this point, that's not really a part of this, correct? [LB16]

SENATOR WHITE: Well, actually it says that all of the agencies have to provide us their information. I mean they have to provide it to the Executive Committee and I think it could be a very healthy dose of oversight. We've had problems with, you know, with different agencies being...telling us where they spend their money or how much money they have on hand or where it is, I mean we as legislators. This makes that available to the Executive Committee. [LB16]

SENATOR CARLSON: Thank you, Senator White. And I think this is going to come up on Final Reading of a bill where we'll look into a little bit of hesitancy to provide information and it could tie back to something this could help with an answer to. Thank you, Senator White. Thank you, Mr. President. [LB16]

SENATOR ROBERT: Thank you, Senator Carlson and Senator White. Senator Wightman, you are next and recognized. [LB16]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I did want to get up and say that Senator White worked with the committee with regard to his

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

Floor Debate  
April 30, 2009

---

proposed amendment, AM1061. I do think that probably makes it a better bill. I am in support of AM1061. It at least allows us the flexibility of working with the Treasurer's Office. As far as our developing this site, it gives us the extension of time, under AM692, gives us time to work with the Treasurer to see if that's going to be a workable solution. So there's certainly the potential to hold down any costs that we may have. So I do urge the body to support AM1061 and AM692, as well as the underlying bill. Thank you, Mr. President. [LB16]

SENATOR ROBERT: Thank you, Senator Wightman. Senator Pirsch, you are next and recognized. [LB16]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I...as I am discovering about the bill, it seems to me it's a very limited bill, limited in scope, if I'm correct. It's just saying we're taking what exists and mandating that in...you know, I don't think that there's a high likelihood that a future Treasurer would come in and not view that spending Web site as an asset and would disband it, but, you know, technically, theoretically, I suppose it could happen. I don't think it's likely but in that, you know, in that, you know, one in a million chance, I suppose having a law that just says you...you know, taking the Web site, what exists, and requiring that that stays as a permanent fixture isn't a bad idea. I wonder if Senator White might yield to a question. [LB16]

SENATOR ROBERT: Senator White, will you yield to a question? [LB16]

SENATOR WHITE: Certainly. [LB16]

SENATOR PIRSCH: Have you made, Senator White, any overtures to, you know, we...I guess the question is, you know, would the Treasurer's Office be interested in working, you know, with the Legislature in, you know, keeping the Web site up as opposed to we're starting from square one? Has the Treasurer's Office indicated they'd be...they're interested in working with us and keeping their site up? [LB16]

SENATOR WHITE: Well, we started out, Senator, we put this in and then I reached out to the Treasurer. We met with Treasurer Osborn and a member of his staff. We suggested and talked about it. One of his concerns is whether or not the Executive Board could tell him what had to go on his site, and I said I understand that there's separation of powers issues, but we don't want to exclude you. So what I said is, look, if you want to play, if you decide that you want to administer this site and you agree that the Exec Committee determines what goes on it, you're in. So he can opt in or out and that's what it was designed to. If he says, no, you know, I want to have my own site, I want to determine what's on the content of that site, well, certainly nothing in this law stops him. It doesn't stop that at all. What this law says, Senator Pirsch, is, look we are going to have a site, as a matter of law. That's one. Number two, we're going to presume all information in the state is eligible except that which is confidential. Three,

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

Floor Debate  
April 30, 2009

---

we're not going to let any one elected official determine what goes on the site. We're going to try to put it in the hands of the Legislature so that the broadest possible spectrum will decide what's available. Okay? Four, we're going to try to be as efficient as we can in using it. If the Treasurer wants to administer that site, I welcome it. I welcome it under those rules. If he says, no, it's too invasive, then okay, I get that, but then the Legislature will do it through the Clerk of the Legislature. First, my first preference is that the Treasurer agrees and he agrees to those terms. I hope he does. [LB16]

SENATOR PIRSCH: Yeah. And that's my concern, is that, you know, we have a site that's already incurred the up-front costs, the Web designer cost, the advertising cost, because quite a bit of information. It might be distracting to the public then if there's two competing Web sites, this new one, if there is a new one added here and we're not...and we don't utilize the existing Web site, then there's two Web site addresses, competing Web sites that are being advertised. The existing one has incurred already those up-front Web development costs and, you know,... [LB16]

SENATOR ROBERT: One minute. [LB16]

SENATOR PIRSCH: ...and so that's what I'm hoping that we don't do, is reinvent the wheel and that we kind of piggyback on, you know, the site that's already up and running. So thank you. [LB16]

SENATOR ROBERT: Thank you, Senator Pirsch. Senator Utter, you're next and recognized. [LB16]

SENATOR UTTER: Thank you, Mr. President and ladies and gentlemen of the body. I would like to address a question or two to Senator White, if he will yield, please. [LB16]

SENATOR ROBERT: Senator White, will you yield to a question? [LB16]

SENATOR WHITE: Certainly, I will. [LB16]

SENATOR UTTER: It won't be any surprise to you, Senator White, that I'm concerned about the money, and I'm...if I'm hearing everything correct that we're saying today, it's kind of a moving target right now. I'm looking at the fiscal note on the bill and it's talking from \$40,000 to over \$300,000 and...but it says on the last line \$50,000 to \$100,000. And then if I heard Senator Mello correctly, he said \$400,000. And let me assure you right off of the bat that I'm in favor of accountability and transparency. I think that's very important in government. The question I have to ask is what price, transparency and accountability, and exactly where at this particular time does the \$400,000 come from, if in fact it is \$400,000? And then the next question I have to ask is, is why \$400,000? [LB16]

Floor Debate  
April 30, 2009

---

SENATOR WHITE: Okay. Let me handle them one at a time. First of all, where does the \$400,000 come from? It comes from the federal stimulus money and we don't have a choice about spending an appropriate amount of money to ensure transparency. That is a mandate from the federal government that we must make the expenditures of the stimulus dollars available to the public in a transparent method. So that's money we must spend, Senator. We have no choice if we want their money. Thankfully, the money we have to spend to do that, to track that money, is going to be available to track all of our money. So when we put that system into place, it should gather all of our information and that will...personally, I think that will bear almost all of the expense and I mean but for a few thousand dollars. Second, ALEC, which is a conservative legislative group, this is...this is based on one of their model legislations. The states that have employed this, ALEC reports, have uniformly implemented it at a far lower cost than the initial estimates; that a lot of the bureaucracy doesn't like the idea of this and one of the ways they try to block it is say you can't afford it, and that the reality has been, when we've talked to ALEC, we've called them to see how it worked out--Kansas has one, for example--that it costs far less than they thought it would initially. So what are we...I mean, what is the number? Personally, I think we're going to find the number is overwhelmingly covered by the \$400,000 federal stimulus dollars that we must spend. There may be a small amount for sometime every year to update it if the Executive Committee chooses to update it once a year. I will tell you, however, when we've talked to some of the vendors who have looked at this, they talk about, for the prices of in the neighborhood of a quarter of a million dollars, this completely almost self-sufficient system that updates constantly, including things like having the formula to determine school aid on-line so a citizen could plug in different numbers. So, you know, it's a marvel. Do we know exactly? We don't. Do we know we have to do it because of the feds? Yes. Does this piggyback on it? Yes. [LB16]

SENATOR UTTER: And are we anticipating doing the minimum that is required by the federal stimulus package or is this the Cadillac or at what level are we in this process? [LB16]

SENATOR ROBERT: One minute. [LB16]

SENATOR WHITE: LB16 isn't the federal stimulus reporting, Senator. That is in the budget. LB16 just takes the information that must be done through the budgetary process and puts it on a Web site searchable by the public. That's all it does. So I assume the Appropriations Committee has decided to comply with the federal government's laws. I am sure they have. And we will take that information, make it available to the Executive Committee, and then that will be pushed out. I will tell you ALEC also says that these save money; that by making this public, efficiencies, inefficiencies are exposed, efficiencies are realized, and that their experience thus far is this type of system saves a lot of money. [LB16]

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

Floor Debate  
April 30, 2009

---

SENATOR UTTER: Well, I don't think there's any question but what transparency is important, and I don't want you to get me wrong, but I think that we do, if we're being prudent, have to measure the cost of that transparency and to make sure that we have the appropriate controls... [LB16]

SENATOR ROBERT: Time. [LB16]

SENATOR UTTER: ...that will cover the expenditure of funds. Thank you, Mr. Chairman. [LB16]

SENATOR ROBERT: Thank you, Senator Utter, Senator White. Seeing no other lights on, Senator White, you are recognized to close on AM1061. [LB16]

SENATOR WHITE: Thank you very much. Ladies and gentlemen, I urge your support. And Senator Utter makes a good point but I would tell you that in a \$6 billion biennium budget, \$400,000 for transparency is nothing. That is just by virtue of it, it is the minimum we can do. I would also urge you that this is our constitutional obligation, our moral obligation, our obligation under federal law, and we need to discharge it. And if we do that, we will not only save dollars and cents, we will reaffirm the citizens' faith in the integrity of their state government, and in fact build greater faith. Because nothing builds better and greater faith than a real true understanding that your business is being handled in a responsible fashion, and this will more than anything further that. It will work hand in glove with Senator Harms's long-term planning. It will help all of us deliver a better, more efficient government, and through government a better life, a more prosperous economic life for our citizens. So I urge your support of the amendment and the underlying bill. Thank you. [LB16]

SENATOR ROBERT: Thank you, Senator White. Members, you have heard the closing to AM1061, the amendment to the committee amendments. The question before the body is, shall AM1061 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB16]

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of Senator White's amendment to the committee amendments. [LB16]

SENATOR ROBERT: AM1061 is adopted. Returning to discussion on AM692, the committee amendments, are there members wishing to speak? Seeing none, Senator Wightman, you're recognized to close on AM692. [LB16]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I believe that LB16 was...it will be improved by AM692. I think AM692 was improved by the last amendment, Senator White's amendment to it. So I do urge the body to...it certainly gives us much more flexibility as an Executive Board to control the content and to

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

Floor Debate  
April 30, 2009

---

somewhat gear that content to the cost. So I do urge your support for AM692. Thank you, Mr. President. [LB16]

SENATOR ROBERT: Thank you, Senator Wightman. Members, you've heard the closing to AM692, the committee amendments. The question before the body is, shall AM692 be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB16]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB16]

SENATOR ROBERT: AM692 is adopted. [LB16]

CLERK: I have nothing further, Mr. President. [LB16]

SENATOR ROBERT: Returning to discussion of LB16, are there members wishing to speak? Seeing none, Senator White, you're recognized to close on LB16. [LB16]

SENATOR WHITE: Thank you very much, Mr. President. Members of the body, I thank you for your attention and, thus far, your support for this bill. This is a bill in the most...is perhaps the most democratic of bills you can imagine. This is a place where I have disagreed with any number of you on different issues at different times, but I've never doubted anybody's integrity. I truly believe if the people of the state of Nebraska understood completely how hard people work to use their money responsibly to create a better life, their estimation of us and the rest of government would rise considerably. Let's open the doors and show them, because after three years of being inside, I've never seen anything I'm ashamed of in terms of lack of integrity, in terms of failure to try to do your best. We may disagree, I may disagree with you, but there's no question we in the main do a wonderful job. Open the doors. Let the people see exactly what we're doing. Please support LB16. [LB16]

SENATOR ROBERT: Thank you, Senator White. Members, you have heard the closing to LB16. The question is, shall LB16 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB16]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB16. [LB16]

SENATOR ROBERT: LB16 does advance. Next item on the agenda. [LB16]

CLERK: LB16A by Senator White. (Read title.) [LB16A]

SENATOR ROBERT: Senator White, you're recognized to open on LB16A. [LB16A]

SENATOR WHITE: Thank you, Mr. Speaker. LB16A, literally, we had to pick a number

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

Floor Debate  
April 30, 2009

---

out. I mean we have had states that, according to ALEC and our research, say that they spent \$10,000 on a Web site to do this, that's all, and I mean that's from scratch because most of their information was already readily available. Given the money available in through the stimulus money, I really think we're not going to spend anywhere near the amount of this A bill. I'm going to work with the Appropriations Committee between now and the time of Select File to try to hone that number down, not because I think we need to--I think it's actually going to be quite low--but because I want to make sure any other money is available for other A bills or other necessary purposes. We have so many needs. I recognize that. But I would submit to you, ladies and gentlemen, the number one need we have, the number one need we have is to keep faith with our citizens, explain to them how we're using their money that is a sacrifice for them to give to us, and show them that we're using it responsibly. That's the first job. The first job we have as elected representatives is to hold faith with those who entrusted the power of government to us, and this does that in the purest way. It let's them look at what we're doing. Thank you. And I ask for your support. [LB16A]

SENATOR ROBERT: Thank you, Senator White. Members, you have heard the opening to LB16A. Are there members wishing to speak? Seeing none, Senator White, you're recognized to close on LB16A. Senator White waives his opportunity. The question before the body is, shall LB16A advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB16A]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB16A. [LB16A]

SENATOR ROBERT: LB16A does advance. Next item on the agenda. [LB16A]

CLERK: LB241, it's a bill by Senator Pahls. (Read title.) Introduced on January 13, at that time referred to the Agriculture Committee for public hearing. There are committee amendments, Mr. President. (AM428, Legislative Journal page 630). [LB241]

SENATOR ROBERT: Thank you, Mr. Clerk. Senator Pahls, you're recognized to open on LB241. [LB241]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I would like to thank Senator Carlson and the Ag Committee for making this one of their priority bills. The Commercial Dog and Cat Operator Inspection Act became law in the year 2000. The concept behind this, LB241, is to strengthen the state Department of Agriculture's authority to enforce the provisions of the Commercial Dog and Cat Operator Inspection Act. Here are some of the attributes: The Ag Department's current authority to enter a premise is broadened. The department shall be authorized to inspect buildings, vehicles, equipment, cages, kennels, containers, and pens but not a private residence unless the dogs or cats are housed therein. The department shall be authorized to

Floor Debate  
April 30, 2009

---

inspect all records. The department shall have the authority to gather evidence. The department should have the authority to obtain inspection warrants. When the department has reasonable cause to believe unreasonable sanitation of housing conditions exist it shall have the authority to issue and enforce written stop-movement orders. A stop-movement order may require a violator to maintain dogs or cats, do an inventory, provide the identification documents, and to notify the department of any deaths or births. The definition of a...is added for a stop-movement order. It means a legal directive issued by the department to prevent the movement or removal of any dog or cat from a premise. A stop-movement order is an addition to the Agriculture Department's current authority to enforce the act. There are some new definitions. One of the new definitions for a commercial breeder is defined as any one of the following: a person who sells, exchanges, leases, transfers, or offers to sell, exchange, lease, or transfer 31 or more dogs or cats in a year. Another one is a person engaged in the business of breeding four or more dogs or cats which he or she owns or harbors, intended for breeding, in a year. Another one is a person whose dogs or cats produce a total of 4 or more litters within a year. Another one would be a person who sells, exchanges or leases dogs or cats for any later retail sale or brokered trading. There's some new requirements are added to any commercial breeder, dealer, boarding kennel, animal control facility or animal shelter. They are as follows: If a facility is not located at a owner's residence, the name and address shall be posted on the premise. (2) Each licensee shall make its premise available for inspection during normal business hours. Each dealer or pet shop owner shall maintain a written veterinarian care plan in conjunction with an attending veterinarian. Each control facility, animal shelter, or boarding kennel shall maintain a written emergency veterinarian care plan. Another definition is that a definition is added for premise, which means all public or private buildings, kennels, pens, and cages used by a facility and the grounds upon which a facility is located if the buildings, kennels, pens, cages, or grounds are used in the course of the business. The definition of an animal control facility is changed to include a facility under contract with the state or any political subdivision. The current definition refers only to a facility operated by a state or a political subdivision. A definition of a boarding kennel is changed to specify that it does not include training, grooming, or nonveterinary services unless the dogs or cats are housed overnight. There are committee amendments. The committee amendments contained a technical change that could be potentially important if the department issues notices or orders. Also there's a committee amendment that strikes the portion of the bill that places a cap on the number of unaltered dogs or cats that a commercial breeder may have. That concludes the opening. [LB241]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Thank you, Senator Pahls. You have heard the opening on AM428, the...excuse me, as the clerk has stated, there are committee amendments offered by the Ag Committee. Senator Carlson, as chairman, you're recognized to open

Floor Debate  
April 30, 2009

---

on the committee amendments. [LB241]

SENATOR CARLSON: Thank you, Mr. Speaker and members of the Legislature. AM428 and LB241 advanced from the Agriculture Committee by an 8-0 vote. The committee amendments to the bill make three important revisions: First, the amendment strikes the original Section 8 of the bill which placed a cap on the size of breeding operations. As introduced, LB241 prohibited breeders from owning more than 250 unaltered adult dogs or cats. We heard testimony in committee from breeders themselves, as well as receiving communications from pet breeder organizations who generally supported the bill, but identified themselves as neutral or in opposition to the bill with a cap but would support the bill without it. The testimony and information we received did not support a general conclusion that the welfare of animals necessarily declines as the size of the operation increases. In fact, the evidence of complaint responses and inspection enforcement activity suggests that the higher percentage of noncompliance with breeder operation and facility standards of the act occurs at smaller sizes, those with ten or fewer adult animals, the more or less hobby or part-time operators. That's not to imply that all or most smaller operators do not care for animals well or that all larger breeders do. It is that we did not have the evidence that there's a correlation between size and the conditions in which animals are kept. And therefore the committee agreed that this was an arbitrary limitation. The committee amendment also makes the clarification in the definition of commercial breeder. As Senator Pahls stated in his opening, the restatement of the definition of commercial breeder proposed in the bill is intended to codify current interpretation and application of the existing definition. However, the committee amendment restores an important qualification that a person who keeps four or more breeding animals is a commercial breeder only if such person is actually engaged in the business of breeding cats or dogs. This is a qualification of existing law that we believe has worked well in distinguishing persons who are active breeders for commercial purposes from hobbyists such as sportsmen and others who may only incidentally sell a litter of pups or kittens from time to time. To be a breeder under this definition, a person would have to keep four or more animals intended for breeding and be found to be engaged in the business of commercial breeding. Committee amendment makes it unambiguous that the department may continue to exercise the discretion. Lastly, the committee amendment adds a procedure for accommodating a request for immediate hearing in the event a person served with a stop-movement order wishes to challenge whether or not they've actually violated the act. The committee amendment inserts a new Section 8 which amends Section 54-632 of the Commercial Dog and Cat Operator Inspection Act. This section currently specifies the procedure for carrying out other hearings that are required or may be requested by the regulated public. Revisions to this section in certain procedure for immediate hearings that may be requested under Section 6 of the bill that are modeled closely after procedure provided for immediate license suspension. Under the amendment, the department is obligated to set a date for a requested hearing within three days of the receipt of the request. The amendment inserts language for providing notifications and

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

Floor Debate  
April 30, 2009

---

disclosures to persons served with an order of the right to request a hearing. Companion revisions are also made in Section 6 of the bill to clarify that a request for immediate hearing be in writing and be submitted within two business days. Revisions further clarify that a stop-movement order is final upon its service unless rescinded or modified after the requested hearing. With that, I would ask for your support of AM428 and the underlying bill LB241. Thank you, Mr. President. [LB241]

SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Thank you, Senator Carlson. Members, you have heard the opening to AM428, the committee amendment to LB241. Those wishing to speak, Senator Gloor, you're recognized. [LB241]

SENATOR GLOOR: Thank you, Mr. President. I'm always looking to expand my vocabulary. I wonder if Senator Carlson would be willing to yield for a question. [LB241]

SENATOR ROBERT: Senator Carlson, will you yield to a question? [LB241]

SENATOR CARLSON: I will try. [LB241]

SENATOR GLOOR: Would you explain "unaltered" to me, please? [LB241]

SENATOR CARLSON: (Laugh) They haven't been messed with. [LB241]

SENATOR GLOOR: So are we talking about neutering and spaying? [LB241]

SENATOR CARLSON: I believe so, amongst other possibilities. [LB241]

SENATOR GLOOR: Well, you know, I'm trying to get a handle on what we're trying to prevent here and I'm guessing that part of this is that we don't have sort of a rapid proliferation of growth of cats or dogs that are in some commercial breeder's care, which ultimately end up running free and cause public hazard and so on and so forth. I mean, I'm looking to understand the problem we're trying to prevent here, and that's why I'm really asking the question. I don't mean to ask it lightly and it is kind of what I suspected it meant. [LB241]

SENATOR CARLSON: The Department of Agriculture is responsible for overseeing the professional dog and cat breeders that we have in the state, and I've found out with my position as chair of the Ag Committee there are more than I thought. And it's a good practice to oversee this operation so that animals are treated humanely. And when there are complaints and when there are reasons to inspect a facility and then make a judgment to stop, a stop order means you're out of business. This bill kind of clarifies that, under what conditions, and helps the Department of Ag with their inspection

Floor Debate  
April 30, 2009

---

system, and then gives them the leeway to make a determination whether, in fact, a violation has occurred. [LB241]

SENATOR GLOOR: That helps me considerably. Thank you, Senator Carlson. [LB241]

SENATOR ROBERT: Thank you, Senator Gloor and Senator Carlson. Senator Nelson, you're next and recognized. [LB241]

SENATOR NELSON: Thank you, Mr. Chairman, members of the body. My good friend, Senator Carlson, I'd like to ask a question or two. [LB241]

SENATOR ROBERT: Senator Carlson, will you yield to a question? [LB241]

SENATOR CARLSON: Yes. [LB241]

SENATOR NELSON: In listening to your explanation here on some of the changes, you said that the size of the operation does not necessarily dictate how well the animals are taken care of. And did you mention that operations with ten or more or ten or less animals sometimes were more in violation than the larger operations? Was that the figure that you used? [LB241]

SENATOR CARLSON: Apparently the frequency of complaints involved animals of ten or less more often than those with a higher number of animals. [LB241]

SENATOR NELSON: Okay. In your amendment, page 3 there, I think it's on line 20, you amend the underlying bill so that it will read, a person "engaged..."--and perhaps for a reference here on the green bill it's page 3, line 18--a person "engaged in the business of breeding dogs or cats" who owns or harbors four or more dogs or cats, intended for breeding, in a 12-month period. Could you describe a little bit about is that solely for breeding purposes? They're just breeding and for nothing else, is that how they would determine that? [LB241]

SENATOR CARLSON: They would be keeping this number of animals or more for the purpose of breeding so that they could sell the product. [LB241]

SENATOR NELSON: All right. Let me give you a hypothetical which I am sure probably exists in fact, and that would be that there are probably--and I'm sure there are--persons that breed dogs for hunting. And as the puppies are...as they raise them, then they go to a great deal of effort and expense teaching those dogs how to hunt and become...and then they're for sale. Now, I don't know about the size of operation, but is that what...would they come under that category of persons that are engaged in the business of breeding dogs or cats if they're basically trying to raise animals and then train them so they can sell them to hunters? [LB241]

Floor Debate  
April 30, 2009

---

SENATOR CARLSON: Well, if their intent is to raise animals and sell to hunters, they may be hunters themselves, but their degree of activity proves over time they, in fact, are in the business of professional breeding and selling, yes, they fit under this. We had hunters that came to the hearing that were very concerned about this because they don't raise dogs for the purpose of selling, but they may sell them once in a while. [LB241]

SENATOR NELSON: Right. [LB241]

SENATOR CARLSON: And our intent is that that would be okay. And it's somewhat at the discretion of the department. It gives them leeway in determining whether someone in fact is a professional breeder or an individual that happens to have four or more dogs and once in a while sells one to someone. They would not be considered a professional breeder. [LB241]

SENATOR NELSON: All right. There is a discretion vested, then, in the department and they would probably adopt some rules and regulations, and there could be some flexibility in this if they could be persuaded that an occasional sale was just because they had more dogs than they wanted to train. All right. My final question is, why the figure four? Why not permit someone to breed, if that's what you want to call it, and then train seven, eight, nine or ten? It seems to me that that's, as you call it, quite an arbitrary figure. And isn't this going to increase the number of inspections that are going to have to be made if you've got that small of number there... [LB241]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: One minute. [LB241]

SENATOR NELSON: ...that you're involved with? [LB241]

SENATOR CARLSON: Okay. The current law says three. [LB241]

SENATOR NELSON: Three? [LB241]

SENATOR CARLSON: And we expanded it to four, and then put in the wording of being in the business of breeding and selling. And that's not occasional selling. So it does give the department some leeway. And really it doesn't matter whether they're in the business or not, they need to treat the animals well. [LB241]

SENATOR NELSON: All right. Okay. Thank you very much, Senator. Thank you, Mr. President. [LB241]

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

Floor Debate  
April 30, 2009

---

SPEAKER FLOOD: Thank you, Senator Nelson. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR92, LR93, and LR94. Continuing with discussion on AM428 to LB241, Senator Price, you are recognized. Senator Price waives his opportunity. There are no other lights on. Senator Carlson, you are recognized to close on AM428. [LB241 LR92 LR93 LR94]

SENATOR CARLSON: Mr. President, members of the Legislature, thank you for the questions and inquiries into this bill. I would ask for your support of AM428 and the underlying bill, LB241. Thank you. [LB241]

SPEAKER FLOOD: Members, you've heard the closing to AM428. The question before the body is, shall this amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk. [LB241]

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB241]

SPEAKER FLOOD: The committee amendments are adopted. Returning to discussion on LB241. Mr. Clerk, another amendment. [LB241]

CLERK: Yes, sir. Mr. President, Senator Dierks, I have AM947 with a note you want to withdraw that particular amendment. [LB241]

SPEAKER FLOOD: It is withdrawn. [LB241]

CLERK: Senator Dierks would move to amend with AM1028, Mr. President. (Legislative Journal page 1001.) [LB241]

SPEAKER FLOOD: Senator Dierks, you're recognized to open on AM1028. [LB241]

SENATOR DIERKS: Thank you, Mr. Speaker, members of the Legislature. I'm bringing AM1028 to LB241 with the permission of Senator Pahls and the approval of the Ag Committee. AM1028 contains the provisions of my bill, LB588. The bill was officially called the Dog and Cat Purchase Protection Act, but it was also known as the "puppy lemon law." LB588 was heard by the Ag Committee and advanced with amendments on...I forgot the date. It consists of the Ag Committee amendment to LB588 with just a few changes added. Section (b) was added to the definition of serious health problems as found on page 2 of my amendment. On page 4, under (3), we added language that a seller of a dog or cat must disclose to the buyer that the Dog and Cat Purchase Protection Act exists in Nebraska statutes and they may include a copy of this act if they so choose. This bill was designed to help people who buy animals from a seller. The definition of seller includes pet shops, commercial breeders, casual breeders, and dealers. Animal control facilities and animal shelters are not included in the definition or

Floor Debate  
April 30, 2009

---

under this bill. It covers serious congenital and hereditary defects in dogs and cats that cause illness or death up to 15 months from the date of the animal's birth. It also covers a diagnosis of parvovirus within seven days after delivery of the pet to the purchaser or any other contagious disease in a dog or cat that causes serious illness or death up to ten days after delivery of the pet to the purchaser. This bill was also drafted to help reputable breeders and dealers. A licensed veterinarian must examine a dog or a cat and issue a health certificate before that animal may be sold out of state. The purchaser must have the dog or cat examined by a licensed veterinarian within seven business days after the date of purchase for the Dog and Cat Purchase Protection Act to apply. Section 14 outlines remedies that exist under this act if a dog or cat has been declared unfit for sale by a licensed veterinarian or if it dies. If the animal is returned because it has a congenital or hereditary illness, the retail purchaser can receive a refund of the full purchase price and exchange for a dog or cat of equivalent value or receive reasonable reimbursement of veterinary fees not to exceed the full purchase price of the dog and cat. Similar remedies exist when an animal dies, with a full refund or exchange for an animal of equivalent value, plus reasonable veterinary fees up to one-half of the full purchase price of the animal. Section 15 covers situations when there would be no refund, replacement, or reimbursement under this act. Section 16 covers court proceedings if no remedy can be agreed upon. Section 17 makes clear the Dog and Cat Purchase Protection Act does not limit any other rights or remedies otherwise available under the law. It also makes clear that the rights under this act cannot be waived by signing another agreement or contract. The operative date of this act is January 1, 2010. I believe this language is a good addition to LB241 and is helpful to buyers and sellers alike. With that, I thank you for your attention and would ask for your support. [LB241 LB588]

SPEAKER FLOOD: Thank you, Senator Dierks. Members, you're heard the opening to AM1028. Returning to discussion on the amendment. Senator Carlson, you are recognized. [LB241]

SENATOR CARLSON: Mr. President and members of the Legislature, Senator Dierks's bill was presented to the Ag Committee. We had a hearing, and with the amendments that he has referred to it was voted out of the committee 8-0. I think it's a reasonable bill. It is some protection for those who purchase pets and if they follow the procedure they have a recourse in the event there's sickness or death of the pet that they've purchased, and we do support AM1028. Thank you. [LB241]

SPEAKER FLOOD: Thank you, Senator Carlson. There are no other lights on. Senator Dierks, you're recognized to close on AM1028. Senator Dierks waives his opportunity. The question before the body is, shall AM1028 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB241]

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

Floor Debate  
April 30, 2009

---

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Dierks's amendment. [LB241]

SPEAKER FLOOD: AM1028 is adopted. Returning to discussion now on LB241. There are no lights on. Senator Pahls, you're recognized to close. Senator Pahls waives his opportunity. The question before the body is, shall LB241 advance to E&R Initial? All those in support vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB241]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB241. [LB241]

SPEAKER FLOOD: LB241 advances to E&R Initial. Mr. Clerk, items for the record. [LB241]

CLERK: Mr. President, Government, Military and Veterans Affairs Committee, chaired by Senator Avery, reports LB503 to General File with amendments attached. Senator Lautenbaugh offers LB97A. (Read by title for the first time.) LB671A by Senator Pirsch. (Read by title for the first time.) Senator Wightman, an amendment to LB494 to be printed; Senator Ashford to LB63. Announcement, Mr. President: Education Committee will have an Executive Session upon adjournment...15 minutes following adjournment, in 1126; Education Committee, 15 minutes following adjournment. Senator Mello and Nordquist would like to add their names as cosponsors to LB16. (Legislative Journal pages 1279-1282.) [LB503 LB97A LB671A LB494 LB63 LB16]

And I have a priority motion. Senator Heidemann would move to adjourn the body until Tuesday morning, May 5, at 10:00 a.m. []

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel) []