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Floor Debate  
February 28, 2012

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[LB541 LB633 LB686 LB723 LB734 LB737 LB751 LB768 LB773 LB774 LB794 LB799  
LB805 LB817 LB820 LB821 LB824 LB831 LB845 LB849 LB871 LB874 LB881 LB882  
LB887 LB904 LB907 LB920 LB926 LB941 LB943 LB949 LB957 LB961 LB985A LB993  
LB998 LB1018 LB1064 LB1091A LB1118 LB1136 LB1160 LR37 LR40CA LR401  
LR429 LR430]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-fifth day of the One Hundred Second Legislature, Second Session. Our chaplain for today is the Reverend ValJean Warman of Fullerton United Methodist Church and Pierce Chapel United Methodist Church in Fullerton, Senator Dubas' District. Would you all please rise.

REVEREND WARMAN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Reverend Warman. I now call to order the thirty-fifth day of the One Hundred Second Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Your Committee on Enrollment and Review reports LB882 and LB985A to Select File. Enrollment and Review also reports the following correctly engrossed: LB541, LB686, LB723, LB773, LB794, LB831, LB849, LB871, LB887, LB904, LB943, LB1018, LB1064, LB1118, and LR40CA, all reported correctly engrossed. That's all that I have, Mr. President. (Legislative Journal pages 675-676.) [LB882 LB985A LB541 LB686 LB723 LB773 LB794 LB831 LB849 LB871 LB887 LB904 LB943 LB1018 LB1064 LB1118 LR40CA]

PRESIDENT SHEEHY: Mr. Clerk, we will now move to Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, we will now proceed to LB633. The first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB633]

ASSISTANT CLERK: 38 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB633]

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Transcriber's Office

Floor Debate  
February 28, 2012

---

PRESIDENT SHEEHY: The at-large reading is dispensed with. Please read the title. [LB633]

ASSISTANT CLERK: (Read title of LB633.) [LB633]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB633 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB633]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 677.) Vote is 42 ayes, 0 nays, 1 present and not voting, 6 excused and not voting, Mr. President. [LB633]

PRESIDENT SHEEHY: LB633 passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB633 and LR401. Speaker Flood, you're recognized for an announcement. [LB633 LR401]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. You'll note that we're having some trouble with the speaker system in the Chamber. So what the plan is this morning is we're going to keep the speakers at a lower level so as to avoid the interference that you heard before from the speakers that are above the presiding officer above the voting board. So we're going to need everybody's cooperation today to keep all conversations to a minimum to allow the speaker system to make sure everybody can hear what you're saying. We're not going to have the speakers at their normal volume level. So if there's a lot of extracurricular conversation going on while we're listening to debate, it's going to make it difficult for other members to hear and understand what's being said. So we'd ask for your cooperation as the Clerk's Office is going to make sure everything gets settled and will get those speakers checked out. But that's just where we're at. Technically it should be resolved soon, but in the meantime we'll have a lower volume, so please help us make sure everybody can hear debate. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Mr. Clerk, we will move to the first items under General File, 2012 priority bills, LB821. [LB821]

ASSISTANT CLERK: Mr. President, LB821 was introduced by the Health and Human Services Committee and signed by its members. (Read title.) The bill was read for the first time on January 5 of this year. It was referred to the Health and Human Services Committee. That committee reports the bill to General File with committee amendments attached. (AM2138, Legislative Journal page 644.) [LB821]

Floor Debate  
February 28, 2012

---

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Campbell, you're recognized to open on LB821. [LB821]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. And so it begins. Today, we begin the process of building a stable foundation and a bridge to the future for the benefit of children and families of the state of Nebraska. The goals of a child welfare system are to provide for the safety and well-being for children and youth who have been abused and neglected and to find permanency for them. On January 21, 2012, 6,072 Nebraska children and youth were state wards, and action taken by our court system. As a state, we assume responsibility for these, our most vulnerable children. A little over a year ago, this body adopted LR37 which directed the Health and Human Services Committee to review, investigate, and assess the effects of a new child welfare initiative undertaken by the Department of Health and Human Services in 2009. From February of 2011 through December of 2011, the Health and Human Services Committee conducted research and interviews, two public briefings, five public hearings across the state in Scottsbluff, Norfolk, Grand Island, Lincoln, and Omaha, generating over 50 hours of public and closed testimony from 90 individuals. And, if you have your blue books today, a synopsis and summary of each of their comments is in Chapter 4. Our study represented a broad range of stakeholders, judges, prosecutors, foster children, foster parents, CASA volunteers, services providers, biological parents, lead agencies, guardians ad litem, and department administrators. Information for the LR37 report also included investigation, cooperation, support, and work from many collaborators. And without the help of these collaborators, this report would not have been possible. Perhaps one of the most important of those collaborators was the Legislative Performance Audit Committee and its staff, followed by the Auditor of Public Accounts, the Legislative Fiscal Office, surveys of key groups across the state with deep experience within the child welfare system, surveys conducted by the court improvement program project, the Ombudsman's Office, and Appleseed. A special report analyzing the data regarding privatization is also in LR37. We had a tremendous amount of help on the foster care compensation with the assistance of Senator Dubas and her staff. And the history that is in your blue book was put together by Voices for Children. We had extensive help from the Legislative Research Office. The data, information, and cooperation from lead agencies and the administrator's current and past from the department. I would be remiss in not having special thanks to the Health and Human Services Committee themselves who travelled across the state, had numerous meetings, never complaining, never saying why are we doing this. And all of us on the committee owe a special thanks to Michelle Chaffee, who is the legal counsel to our committee and who was the prime writer of the report, after listening to hours of concerns and debate and we want to make sure this is in preliminary writing by the committee. I would like to reiterate as we start this debate the three tenets that emerged to form a context for the findings and recommendations. The first is that child welfare is not synonymous with privatization. The reform effort is not the same. Privatization is a tool, not an end in itself to child welfare reform. In the report, we state: The success of

Floor Debate  
February 28, 2012

---

states in addressing child welfare is primarily predicated on ensuring that all three branches of government are involved in developing a strategic plan and the implementation of it. What did the Health and Human Services Committee find? We found that there had been no strategic plan at the beginning of this process. There was no financial cost-benefit analysis done. There was little financial oversight by the department, little performance oversight by the department. There was no legislative involvement. There was no evaluation at critical junctures in the last two years. Colleagues, our findings are in the first 50 pages of that report and it goes on and on. I would particularly draw your attention to look at the time line of events in Chapter 2 of the report because that time line will give you an idea that the department forged ahead again and again after warnings from any number of stakeholders in a group with, I might add, after all this time and effort and money with little appreciable results and a litany of concerns from border to border in the state of Nebraska. But the LR37 study will be for naught if we don't build a reform framework for child welfare, take what we have learned to set a pathway for the future. And that is what the five bills ahead of us represent. I realize we can dwell on the past, but our job in these two days is to plan for the future. Our job as a Legislature is to pass bills that set a policy direction, to appropriate money to carry out those policies. But our job also entails oversight. Are state agency's doing what we intended? Are they addressing the policies of reform? Is the money being spent as we intended? Recent examples that would illustrate our oversight responsibilities are: why we have a Performance Audit Committee; why we conducted the BSDC report; why we establish the LB603 oversight committee following safe haven; and why we introduce every single year interim studies. It is time for the Legislature to fulfill its responsibility and establish a framework for a strategic plan and put into place the oversight to ensure a better child welfare system for the protection of our children. I cannot emphasize enough that we need to muster every possible oversight to look at this effort. If you have your blue books with you, I would ask that you take a look at the introduction to Chapter 1. And we tried to number the pages so that it would be easy for you to follow. And so actually it is page 1-1 and it's a blue page, and on that page we quote Grace Abbott. Grace Abbott was probably one of the most prominent child advocates in the United States. And at the turn of the twentieth century... [LB821 LR37]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR CAMPBELL: ...she made this statement, and we think that it is a very fitting statement, that justice for all children is the high ideal in a democracy. Grace Abbott is from Grand Island. And if you walk down the halls of this Legislature, you will see that she is in the Hall of Fame. It's our job in the next two days to find justice for Nebraska's children. Thank you, Mr. President. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Campbell. You've heard the opening to LB821. As was noted, there is a Health and Human Services Committee amendment,

Floor Debate  
February 28, 2012

---

AM2138. Senator Campbell, you're recognized to open. [LB821]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. What I'm going to try to do in this is to give you just kind of step you through LB821. The amendment to LB821 actually becomes the bill. And as amended, LB821 includes amended versions of the Nebraska Children's Commission which was in the original LB821, and the Office of the Inspector General which was originally in LB957. LB821 carries the emergency clause. The intent of LB821 through the committee amendment is to create a process for collaboration, coordination of all three branches of government and entities that are directly responsible for child welfare in the state through the Nebraska Children's Commission, and for the legislative's oversight through the Inspector General of the Nebraska child welfare within the Office of the Public Counsel, which we all probably know most commonly as the Ombudsman's Office. First, the Children's Commission. The commission's purposes are (1), to create a statewide strategic plan for child welfare reform of programs and services by December 15, 2012. Through LR37 hearings, it became abundantly clear that there was no strategic plan, and to this day there is still not a strategic plan. (2) To provide a permanent leadership forum for collaboration for child welfare reform among the three branches of government, state, local, community, public, and private stakeholders. Those who are in the direct day-to-day services to children must have a voice in child welfare reform to be successful, and that's what we heard in the public hearings as we went across the state. Child welfare reform is extremely complex. It involves all branches of government, many different levels and types of providers, city and county law enforcement, and multiple state agencies. Child welfare is a major system. Change must take into account systemic issues. The members of the commission--and you can follow certainly in the little reference sheets that we gave you--we have members appointed by the Governor, and then nonvoting members from the Legislature, and from the judiciary. In creating the strategic plans, the commission will recommend to the Legislature whether the goal of a child-focused, integrated, seamless, children's governmental entity for services and programs for Nebraska's children is best reached through establishing a new division within the department or a whole new department. We decided that rather than create this through statute, we would allow the commission to discuss the merits of it and bring back a recommendation to us. So we could do it within the department or a separate department. The commission is to look at: to create committees and collaborative issues on issues such as psychotropic drugs for children who are wards of the state, which was Senator Howard's bill; to look at applying for Title IV-E demonstration project, which is federal money, and we'll certainly be glad to fill you in on the specifics if you have questions; to look at foster care compensation, crossover youth, which Senator Ashford talked about yesterday, and the Douglas County project; as well as to facilitate conferencing to continue that practice in the courts. The commission can contract for an independent cross-system analysis of current Medicaid services. And while we thought this was important going into this, in the last week when we were told about how we're going to transfer money from Medicaid to cover child welfare, we think it's fairly

Floor Debate  
February 28, 2012

---

important to find...to bring in someone to take a look at Medicaid and the funding sources to determine our options. Because at this point when we transfer that money, we lose the federal matching funds. To consider contracting with a nonentity as a lead agency. The Health Committee has not nor is now opposed to the lead agency concept, but we think that it needs to be looked at and studied and how would we proceed if we we're to ever use it again in the future. Funding for the commission's work would come from the General Fund. The second focus of the committee amendment for LB821 is the creation of the Inspector General. And I hope that Senator Christensen might talk about this in his remarks because he came to me this summer and talked with me about that concept. So it will be interesting to hear his reflections. The intent of the Inspector General within the Ombudsman's Office is to establish a full-time program of investigation and performance review to provide increased accountability and oversight of the Nebraska child welfare system. As the legislative oversight is paramount in successful child welfare reform, we see this position as a way to have an ongoing oversight and work with the legislative committees to bring that forward. It provides a mechanism and a very lengthy...the very lengthy amendment for investigation and review. And we worked with all the concerns expressed by the County Attorney's Association, special committee by the department themselves, and certainly from Mr. Marshall Lux from the Ombudsman's Office. It provides for an independent form of inquiry for concerns regarding the actions of individuals and agencies. It is not the intent of the Legislature enacting this that it in any way would interfere with criminal investigations that might be going on nor does it create a new entity for reporting child abuse. As I said yesterday, there's two entities reporting child abuse through law enforcement and also through the state hot line. The Inspector General will provide an ongoing legislative oversight process located within that Ombudsman's Office and will conduct investigations, audits, inspections, and other reviews, and most likely spend a lot of time in research. The importance, it seems to me, of the Inspector General can be seen in our discussion of term limits. In the years ahead, we will all leave and new people will sit in our places. And yet will we continue the good oversight? Will we have someone who's watching over the child welfare system as we now know that it needs it? It has seemed to the committee that this position is a good investment at ensuring that someone is watching the system and advising the Legislature. Thank you, Mr. President. [LB821 LB957 LR37]

PRESIDENT SHEEHY: Thank you, Senator Campbell. You've heard the opening of AM2138 to LB821. Members requesting to speak: Senator Gloor, followed by Senator Dubas, Senator Nordquist, Senator Christensen, Senator Coash, and others. Senator Gloor. [LB821]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. I ask that you understand something about the committees work and where we come from on the recommendations we've brought forward to you in bill form, and that is that they are predicated on a lot of fact finding not emotion. And I will speak for myself when I tell you

Floor Debate  
February 28, 2012

---

that I was lost and now am found when it comes to issues of child welfare reform, to quote an old hymn. I prioritized myself when I ran an organization. Brought in outside entities to run components of my facility, and I know that there is resistance to this. And falling back on what I know, I was a hard-sell, that the problems that were being identified three years ago, two years ago, were nothing more than what normally happens when significant change happens. And that is that change has many enemies and few friends. Felt that that push-back was common, I'd seen it before. And I also understand that we are bad as individuals and as a collective in making episodic decisions. We get a bad report, something bad happens, and we rush to judgment and rush to action. It's one of the reasons that a couple of years ago when somebody we knew's dog got caught in a roadside trap, we spent two days debating it passing legislation. We're as guilty as anybody. And so I was a hard-sell and I will tell you I was even an apologist for the department two years ago and three years ago, and some of you in here who visited with me about this going back a few years know that's the case. But we spent a lot of time looking at information and data. And when we began our community meetings, and we held one in my community of Grand Island, and the testimony that we heard from a wide branch of people from the judiciary, from county attorneys, from law enforcement, from CASA volunteers, from families, from foster families, from children who had been in the system, when that theme from location to location to location to location around this great state was the same, I certainly had my eyes opened and realized we've got a serious problem here and it's a systemic problem, it's not an episodic thing. This isn't working for a variety of reasons. I'm not big into finger pointing. I am...it solves nothing. And we spent very little time as a committee worrying about finger pointing. What we tried to do, what I hope this book lays out for you, what I believe the bills that we have laid out for you do is point a way to the future; lay out a plan and approach and things that we can do to make a difference. These bills aren't based upon emotion. They aren't based upon the tugging at our heartstrings, although that certainly happens when we deal with child welfare reform issues. It was a hard-nosed look by the committee on the things that need to be done and the changes that we need to realize if we're going to work our way out of the problems that we have. Serious deliberation. I look forward to the debate. I hope there will be questions. I hope we get a chance to dig deep into this so that you will begin to feel... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR GLOOR: Thank you, Mr. President...you will begin to sense what we sensed, and that is we have systematic problems and it's going to take a systematic approach in problem solving to work their way out of it. And the host of bills we have in front of us try to lay out that way. Thank you, Mr. President. Thank you, members. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Dubas. [LB821]

Floor Debate  
February 28, 2012

---

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. Good morning, colleagues. I really want to thank the health committee for their hard, hard work on this issue and the great plan to move forward that they have put forward. But things...when you think things can't get any worse, they still do. The quote that Senator Campbell read this morning from Grace Abbott about it being uphill all the ways, it's not even uphill anymore. It's turn around and go back down, and that's what our providers are being told to do. In the last several days, our providers have been called into meetings and told that they have to...we've got to all pull together. You know, we've got to make this work. This is, you know, going to be a tough transition but we're really going to need your help and support. And now they're being told that the rates that they've been paid through their contracts with KVC are not going to be honored and that we're actually going to take you back, in some instances take you back to levels from 1990. How many of us could run our homes and raise our children on the wages that we made in 1990? We're talking about a lot of tax cuts and proposals. I mean, I know things haven't made it to the floor yet. But we have a crisis on our hands, and we've seen it coming. It's been building and building and building. And now we're talking about cutting our revenues. This house of cards called child welfare reform has fallen down around our heads, and it's the children and the foster parents who are buried beneath this rubble. And thank goodness we have the bills that have been brought out to the floor for our discussion for the next two days because in no way, shape, or form are they going to take us where we need to get at the end of it, but they're a great place to start. I think most of you, if not all of you, have received e-mails from Mr. Tom McBride and from Leigh Esau talking about what is going on with rates. KVC is no longer going to be a lead agency. They're going to receive a golden parachute to turn these children and families back over the state or back over to NFC or someone else. It's just they're getting pushed off on someone else. And in order to have access to the database and the information about these children, we have to give KVC money? We have to pay them for the information that we need to try to help these children! I don't get it. I don't track. I don't follow it whatsoever. These providers have been saying since before privatization even came into being, they've laid out very clearly what the problems are going to be. A group out in my area were planning on submitting an RFP to be a lead agency, and as the information began to unfold about what they were going to be required to do and what it was going to cost them, they said it can't be done and they pointed out why it can't be done. We forged forward anyway. These providers, these Nebraska providers, these Nebraska citizens who work in this field, and they certainly don't work in this field because they think they're going to get rich, they work in these fields because they care about the kids and they care about these families and they want to bring some kind of stability into their lives. And we've created one of the most unstable environments that could ever be in existence for them to try to carry out their work. One of the agencies who at one time was a lead agency... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

Floor Debate  
February 28, 2012

---

SENATOR DUBAS: ...CEDARS, realized into the contract they couldn't do it. They said they couldn't do it. But when they left, they made sure that everybody was whole. They lived up to their responsibility even though they couldn't move forward with what they were doing. Now they could potentially lose a half-a-million dollars to keep doing the work that they're doing. They don't know how they're going to keep their doors open. They're ready to say, okay, state of Nebraska, come get our kids because we can't do it anymore. These people have stretched and contorted themselves into every shape they could imagine to try to take care of these kids while the department has turned a blind eye and a deaf ear to the issues that they have brought forward with them. They have totally ignored every flag that has been raised about the problems we're going to encounter. I've sat through hearings where one after another provider and family... [LB821]

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR DUBAS: Thank you. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Nordquist. [LB821]

SENATOR NORDQUIST: Thank you, Mr. President and members. First, I obviously have to lead off with thanking Senator Campbell and members of the Health and Human Services for their diligent work on this issue for multiple years now. And thank you on behalf of the children of this state who encounter troubled situations in their lives and rely on us as state government on the services that we fund and provide to try to help them out. You know, I think this effort, privatization effort, was doomed from the beginning. And it gets back to Senator Harms that said it time and time again: there just wasn't a plan, and you can't make a significant transformation like we did with this effort without having a plan. And thankfully the bill brought forth by the Health and Human Services Committee, LB821, puts us on a pathway to actually have a strategic plan, to know what our goals and objectives are, lay those out clearly so we know how to measure them. That's what you have to do and that's what we should be doing with every agency in our state government, but certainly when agencies make a tremendous, significant transformation like this. We should be able as policymakers and the general public to access easy information on specific measurable points to say, yes, this is working or, no, this is isn't. And we ran into this full steam ahead without asking those questions, without setting out the benchmarks. We ran into this without saying, is there a better way than moving to privatization? We are now going to be going to a case ratio of about 16 to 1. Before privatization, we were at 23, 22 or 23 to 1, according to Health and Human Services. Well, if we would have put the money in to get to 16 to 1 with our old system before making this, how would we have been serving kids then? Probably a lot better. But we went down this road without asking, is there a better way. So that's what we have to do now. But the two issues through my time in the Legislature

Floor Debate  
February 28, 2012

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that keep coming up on privatization are: we need a strategic plan and there should have been a pilot. Well, now we're going to get a strategic plan. And thinking about where we are after KVC leaves, we're down to one provider in a very small geographic area which is essentially now a pilot. So a few years later we're at probably where we should have been three years ago. It's time to forge ahead and forge ahead with input from stakeholders and to make sure we have an accountable system for the indicators but also on financial matters. I think the bill coming up Senator Harms is carrying on behalf of the Performance Audit Committee will make sure that the Appropriations Committee gets the reports that they need. For the last few years, you know, the Fiscal Office has been working their tail off to get their hands around this. The dollars that shifted in the program between subprograms is almost untrackable. But I think LB949, is the bill number, I think will put us on a pathway to get answer there. One piece that I really appreciate in this bill is Section 5, which will require a cross agency or cross program within HHS study to see if we're maximizing our General Fund dollars. We've heard in the LB603 committee from Director Chaumont that our definition of medical necessity probably isn't as broad or as loose as it could be. It's probably more restrictive than it could be. And I know Senator Cook has legislation pending on that. And the fact of the matter is when we squeeze Medicaid down and kids don't get services there, we end up providing those services in child welfare with General Fund dollars, and we leave the 60 percent federal match for those services we're already going to provide... [LB821 LB949]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR NORDQUIST: ...on the table. So that is going to be critical also. If Senator Campbell--she's off the floor--if she had a second just for a quick question. [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Nordquist? [LB821]

SENATOR NORDQUIST: Sorry, should have grabbed you before while you're...okay. [LB821]

SENATOR CAMPBELL: Yes. [LB821]

SENATOR NORDQUIST: I probably just have a few seconds here, but one concern over a long time is the Legislature wasn't brought into this process. I know on the commission, we have three nonvoting members, the chairs of the committees. In the original bill, there was those members and then three others that did vote. Just wondering why that changed to the amendment. [LB821]

SENATOR CAMPBELL: We made the change through the amendment to address the separation-of-powers issue... [LB821]

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

Floor Debate  
February 28, 2012

---

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR CAMPBELL: ...in the Nebraska Constitution. [LB821]

SENATOR NORDQUIST: Thank you. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. (Doctor of the day introduced.)  
Senator Christensen. [LB821]

SENATOR CHRISTENSEN: Thank you, Mr. President. First of all, I want to thank  
Senator Campbell and the committee. I personally sat through some of them interim  
studies and hearings they went through and had the privilege of being in Chadron  
during that one...or not Chadron, maybe it was Scottsbluff. But anyway, I appreciate  
their work and their discussion. Would Senator Campbell yield to a question, please?  
[LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Christensen?  
[LB821]

SENATOR CAMPBELL: My apologies. Certainly. [LB821]

SENATOR CHRISTENSEN: Senator Campbell, I'll apologize up-front. I'm going to have  
you on the mike a lot today and a lot of questions, but hopefully we can work through  
this. Did you ever call Maine and visit with them about their system, because they had a  
system similar to ours, and get any of their input? [LB821]

SENATOR CAMPBELL: You know what, we did because of the Governor's changed  
there, Senator Christensen. We took a look at the Casey Family Programs had put out  
a report, and we also made an inquiry through them of the changes. Unfortunately,  
some of the changes in Maine have been rolled back. But, yes, we did. We tried to do  
as much investigation as we could there, but some of the personnel, in fact, the major  
driver of that had been let go. [LB821]

SENATOR CHRISTENSEN: Okay. First question, I think having the foster care system  
underneath HHS is too big of a structure which prohibits the accountability that we  
need. Would you agree with me that we need to step back and maybe move the foster  
care review out of...or sorry, the foster care division out from under HHS so we have  
more accountability? Would that make it better? [LB821]

SENATOR CAMPBELL: Senator Christensen, I think that's what we're trying to propose  
that the Children's Commission take a look at. Is it better to stay looking across the  
board at children's services as a division or is it better to look at it as a department?

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

Floor Debate  
February 28, 2012

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There's just so many logistical points that have to be taken care of in making it a separate department. And we didn't want to go down that road and get bogged down in the weeds, so we said, let's have the commission take a look at this. But there are some very good reasons why you might look at what you're talking about. [LB821]

SENATOR CHRISTENSEN: Thank you, Senator, because I agree. I think we really need to go down that road right now that we get more accountability to this. I don't think there's anybody here that would not agree that we've got a major problem, that it has not improved in the time that we've served here as senators. It's been kind of a stalemated, bad process. And, unfortunately, we've not been able to find the golden nugget that will improve the system. But Senator Campbell talked about the Inspector General. I'm going to hit on it before I ask my next question. But Inspector General I asked her about this summer if she was going to bring it or if I needed to bring the bill, and I appreciate that she has put that in this legislation. What we have seen in other states that I inquired of and looked into was they're having problems getting the real information out, and our Foster Care Review Board is set up for that. But I'll tell you that our Foster Care Review Board is too political, and it gets controlled too well, and it has changed from a system that could put out the factual information to one that now if you do that, you're going to get fired. And... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR CHRISTENSEN: ...that has been done in a political direction. It really disappoints me. But in an Inspector General, if we can equip this properly and equip them so that they can get in and get the information they need, they can take each an individual case that we tell them that they need to, by our guidelines or they find that there's been abuse, death, different things this way, and come in and investigate it, give us a report so that we can better the system. Unfortunately, if we don't have an empowerment here for them that allows this information to be exposed, allows the departments to correct it, we'll never have the system that we need. And unfortunately we weren't able to empower the Foster Care Review Board to do all it needed to, and that's why I looked at the empowerment of an Inspector General... [LB821]

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR CHRISTENSEN: Thank you. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Mr. Clerk, items for the record. [LB821]

CLERK: Thank you, Mr. President. Amendments to be printed: Senator Karpisek to LB824. New A bill: LB429A by Senator...or new resolution, excuse me, LR429 offered by Senator Avery. That will be laid over. Senator Fischer offers LB1091A. (Read by title

Floor Debate  
February 28, 2012

---

for the first time.) Bills read on Final Reading were presented to the Governor at 9:25 (re LB633). Agriculture Committee, chaired by Senator Carlson, reports LB907 to General File. Reference report regarding a communication received in the Clerk's Office. And, Mr. President, two announcements: Revenue Committee will meet in Exec Session at 10:00 in 2102; and General Affairs Committee, an Exec Session at 10:00 in Room 2022. That's all that I have. Thank you. (Legislative Journal pages 678-680.) [LB824 LR429 LB1091A LB633 LB907]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Continuing with floor discussion on the Health and Human Services Committee amendment AM2138 to LB821. Members requesting to speak: Senator Coash, followed by Senator Price, Senator Wightman, Senator Krist, Senator Hansen, and others. Senator Coash. [LB821]

SENATOR COASH: Thank you, Mr. President. Colleagues, this is number one. What Senator Campbell laid out in her opening, this is number one for us this year. It's the most important thing we will do this session, is to put a framework in place that begins to right this ship. If we do nothing else, let's do this. We always say, when I speak to constituents and they ask, what are you going to work on this session, I tell them child welfare is number one. And I say we always get done in the Legislature. We only have 60 days. People say, how are you going to get this done? I say we get done what we prioritize and this is a priority. The system as it's broadly stated, HHS, will go where we, in this body, focus it. LB821 focusses the system on planning and leadership. If we focus on accountability, the system will be accountable. If we focus on kids, the kids will be safer. After I hit my button, I started to write some notes, and my first notes were focused on the analysis of failure. And I had a whole page of things that I wanted to talk about with regard to what didn't work. And then Senator Campbell said, you know what? We need to look forward. We don't have time this session and the children do not have time to play games about the lack of planning or the lack of leadership that LB821 seeks to address. They brought us a thoughtful approach. I appreciate it. We're integrating three systems of government. And we've got a strategic plan. And I think the key word here, colleagues, is strategic. There was a plan, there's always been a plan. You can't run an agency like HHS without a plan. But what Senator Campbell and the committee has done is put together many branches of government and say, how are we going to strategically move this forward, and I appreciate that. With that, I would like to ask Senator Campbell some questions about the amendment which becomes the bill. [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Coash? [LB821]

SENATOR CAMPBELL: Yes. [LB821]

SENATOR COASH: Thank you, Senator Campbell. My first question, Senator Campbell, has to do with the Inspector General portion of this bill... [LB821]

Floor Debate  
February 28, 2012

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SENATOR CAMPBELL: Okay. [LB821]

SENATOR COASH: ...and specifically the fiscal note. How much of the fiscal note is a function of the Inspector General? [LB821]

SENATOR CAMPBELL: The Inspector General's position, and we had great discussion with the Ombudsman's Office because it would be located there, and they actually did much of the research for us on this. But we anticipate that position would run around probably \$85,000 to \$95,000 based on what currently is there. And it would be under the direction, the day-to-day operation, of the director of the Ombudsman's Office. [LB821]

SENATOR COASH: Okay. Thank you, Senator Campbell. So \$85,000 and whatever is left is what it's going to take to run the Nebraska Children's Commission. With regard to the duties of the Inspector General, you said they're going to work under the Ombudsman's Office. How will the Ombudsman know and direct the Inspector General to say, here's an issue you better go out and take a look at? We've...is it complaint-driven, as is many of the things that we in this body use the Ombudsman's Office for, or is it driven by a plan in the HHS Committee to say, here are things we want you to inspect? [LB821]

SENATOR CAMPBELL: Senator Coash, that's an excellent question, and I think it can be both. What you are looking for in an Inspector General is someone who can see a pattern, who can analyze the data, analyze complaints, analyze plans, and begin to see where there are problems in the system. We saw over and over again that individual senators in this body would get a call or a complaint, but it wasn't until we began connecting all of those to see a pattern. And that, we see, as the major effort of this position. [LB821]

SENATOR COASH: Thank you, Senator Campbell. I'm going to ask this question, Senator Campbell, and maybe at the next time...if I have any time I'll yield it to you. With regard to the office of an Inspector General, I do have a concern. And my concern is we've got... [LB821]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Coash. Senator Price. [LB821]

SENATOR PRICE: Thank you, Mr. President, members. As the other members have stated, we have a yeoman's task ahead of us. We have people who are depending on us and we really can't afford to focus on what we all agree--it didn't work. We can't make campaign speeches, or we shouldn't I should say. We shouldn't castigate and point fingers. We need to look at the lessons learned, figure a way ahead, and make sure that

Floor Debate  
February 28, 2012

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we take the time to review the bill line-by-line, page-by-page. Try to get some historic perspective. It's awfully hard to build a trajectory of where you're going if you don't look back at things. But as Senator Campbell said, as Senator Coash said, what we can't do is get caught in a finger-pointing situation, what we all agree is failure. When I decided to look at the past, I decided to look beyond the creation or the enactment of the privatization. What I decided to look at was the CFSR of 2008, which is available in our library and it's available on-line. And when I looked through the 45 areas, we had 18 satisfactory areas, and we had 27 areas that were needing improvement. And they generated a process, a PIP, if you would, a Process Improvement Plan, to address those 27 areas, ladies and gentlemen, that was before privatization. As we've heard, we have a systemic problem. And I try to boil things down to the easiest way, because if you have to talk to your constituents, you could spend a lot of time going through multiple volumes like this and not convey anything to your constituents, not help the children involved. I'm concerned that we get caught in a process where we change jockeys and we don't change the horse. That's what I'm concerned about. Are we properly measuring what we need to? So in looking at this, see if it's on report in these areas I began to wonder what do successful states do different than what we have been doing for years. And I'm mindful of the comment that's attributed to Albert Einstein about if you continue to do the same things expecting different results. So my question is, how is it that we are on board in identifying children? How is it that they get into the system, stay in the system, and get lost in the system? And how is it that what we use for measurements are different from other states? My understanding--and I would love to be proven wrong--is Nebraska is the second-worse state. And I find conflict in that statement because I believe Nebraskans are fundamentally good people. Report after report after report is put out about the cities of Nebraska that are voted the best to live in. And how do we resolve this dichotomy of being the second worst and being the best? And if you take away the finger pointing, you take away the issues of maintaining a livelihood and you look at the fundamentals, it comes down to what are your measurements, what are your criteria, and how are they employed? And that is what I'm looking for in this bill here, in this bill we have in LB821 and the amendment there and AM2138. We're going to set up a commission and the commission is going to have oversight and going to look at these things. What I hope the commission is going to do, what I hope these other bills will do is they will look at these fundamental criteria and see what is different. How do we stack up against successful states? When I went into the metropolitan area a couple of years ago and I asked some questions and I did a visit, I was astounded to hear that they have 500 employees or so, that they utilize approximately \$70 million a year between their budget and their services, and have 2,600...I hate to say it, 2,600 children and clients. [LB821]

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR PRICE: Thank you. [LB821]

Floor Debate  
February 28, 2012

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PRESIDENT SHEEHY: Thank you, Senator Price. Senator Wightman. [LB821]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I want to join those colleagues who have already spoken to thank Senator Campbell and members of the Health and Human Services Committee. I know that they started out with a Herculean task when you consider all of the problems that were wrong with our child welfare system. With that, I have several questions I would ask of Senator Campbell if she is available. [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Wightman? [LB821]

SENATOR CAMPBELL: Yes, of course. [LB821]

SENATOR WIGHTMAN: Thank you, Senator Campbell. There's been major changes in the makeup of this commission between the original bill and the amended version, is that correct? [LB821]

SENATOR CAMPBELL: That is correct. [LB821]

SENATOR WIGHTMAN: And it started out with 28 members, 12 of which I think were to be appointed by the Legislative Council, is that right? [LB821]

SENATOR CAMPBELL: That's correct. [LB821]

SENATOR WIGHTMAN: And now it's smaller than the 26 members. There's 16 members to be appointed by the Governor, is that... [LB821]

SENATOR CAMPBELL: That's correct. [LB821]

SENATOR WIGHTMAN: How many total members would be on that commission? [LB821]

SENATOR CAMPBELL: 24. [LB821]

SENATOR WIGHTMAN: Twenty-four, so it's still about the same size, just a different makeup as far as how it is...how the members are selected more than anything else. Is that correct? [LB821]

SENATOR CAMPBELL: That's correct, Senator Wightman. [LB821]

SENATOR WIGHTMAN: Maybe more identification of the people that are to make up the commission? [LB821]

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Floor Debate  
February 28, 2012

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SENATOR CAMPBELL: I think, Senator Wightman, we tried to address as we always do in this body over the last couple of years, I think the Speaker has tried to be very helpful in advising people in terms of how to put together commissions and committees and so forth. And we just felt with the separation of powers in the Nebraska Constitution that this would provide much more clarity and not run into those problems. [LB821]

SENATOR WIGHTMAN: I understand what you're saying. I think I agree with that, that if we're going to maintain a separation of powers, we probably can't have it overloaded with the number of members that were going to be under the supervision of the Legislative Council. A little bit about the funding, and I realize funding can't be the major consideration when we're talking about such a situation as we have here that is so direly in need of fixing. With regard to the funding, you make reference to the fact that you're going to explore funds, cash funds and federal funds I think, and see what programs may be available, is that correct? [LB821]

SENATOR CAMPBELL: That's correct. Because at this point what we're trying to do is to maximize the General Fund resources that we have. And other states, Senator Wightman, who have gone through a similar reform effort have gone through this kind of, you know, sort of look-see into the system to give good advice to the commission. [LB821]

SENATOR WIGHTMAN: Thank you. So hopefully there would not be a big increase in general funding, at least that's what is indicated in the supposed bill. [LB821]

SENATOR CAMPBELL: That is correct, Senator Wightman. What we're trying to do actually is to maximize the General Fund dollars to make sure that we're utilizing every possible federal resource to match that. And we're going to talk about that to a greater extent when we get to the Title IV-E portion in LB1160, I think we touch upon that. But I'd surely answer questions about that for you now. [LB821 LB1160]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR WIGHTMAN: Thank you, Senator Campbell. If Senator Campbell would desire to use the remainder of my time, I would yield it to her. I know there's not much. [LB821]

PRESIDENT SHEEHY: Senator Campbell, you're yielded 45 seconds. [LB821]

SENATOR CAMPBELL: I'll waive the 45 seconds because I'd rather get at people's questions. Thank you, Mr. President. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Thank you, Senator Wightman.

Floor Debate  
February 28, 2012

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Additional members requesting to speak on AM2138 to LB821, we have: Senator Hansen, followed by Senator Carlson, Senator Louden, Senator Lathrop, Senator Campbell, and others. Senator Hansen. [LB821]

SENATOR HANSEN: Good morning, Mr. President, members of the Legislature. I don't know if...am I supposed to talk quietly, too, or is that okay? Thank you. I want to thank the Health and Human Services Committee for working on this. I served two years on the HHS Committee my first two years down here. Been on the tours, been on the special meetings where we've had this...not this particular project but others very similar, and I know the amount of time that they put in. I know Senator Lambert, as a new member, found out that what noon meetings are all about and cancelling prior engagements to do this. I have a concern about the very front page in Section 1. And it is...Senator Gloor stated just a few minutes ago that this was not based on emotion. This...the amendments to LB821 were not based on emotion. But I read emotion into Section 1 where you're talking about a "fragmented, poorly coordinated," "duplication of effort, service gaps," shifting, disagreements about payment responsibilities. It goes on to talk about a "dysfunctional system." Those are not...well, they're not relative terms. They're not relative terms in the way that we're trying to make legislation. I don't think this belongs in the state statute. Say it on the floor, say it in the press, say it to other senators, but I don't think this belongs in state statute. Would Senator Campbell yield for a question? [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Hansen? [LB821]

SENATOR CAMPBELL: Certainly. [LB821]

SENATOR HANSEN: That you, Senator Campbell. Do you see any of my concerns being legitimate or do you think that these actual descriptive words need to stay in the statute? [LB821]

SENATOR CAMPBELL: Senator Hansen, I was alerted and that's part of the discussion and I was off the floor regarding your concerns, and I would understand them completely. I think the language was taken from Sections of the LR37 report to underscore what we had viewed the system to be. But between General and Select, I would be more than happy to sit down with you and discuss this. Our importance here has always been, we've gone through the hearing process, every process we could think about, and we've learned from every single person and we've made those adjustments. And I'd be glad to visit with you. [LB821 LR37]

SENATOR HANSEN: And I read most of the report, the big blue book that really makes a good paperweight too. But it's also full of very good ideas and a lot of the comments you've taken at the interim hearings, and that's the place to use this type of wording. I just have a problem with putting those conclusions, if they're conclusions, in the state

Floor Debate  
February 28, 2012

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statute. I would make a very simple suggestion. It...leave Section 1, eliminate (1), and just start with (2). I was afraid that once that started out in that tone that it was going to be through the entire amendment and it's not. It's just in that one section. So that would be my suggestion if you would consider it. Talk to the rest of the committee between now and Select and feel in favor of taking that out, I would be very appreciative. Thank you, Senator Campbell. Thank you, Mr. President. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Carlson. [LB821]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. Senator Hansen's testimony was interesting because I completely agree with what he just said, and in statute it's not important about criticism but it is important about a plan to go forward and make things right. And I think that he's got a good suggestion there. In a minute I'm going to ask Senator Campbell if I could address her. But I am rising in support of LB821 and AM2138. I think back to some difficulties that arose on the Foster Care Review Board and how that that board was made up of voting members which included providers, and I have a problem with that. And so with that, I do have a question for Senator Campbell if she would yield. [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Carlson? [LB821]

SENATOR CAMPBELL: Yes, certainly. [LB821]

SENATOR CARLSON: Senator Campbell, on this commission, there are 12 voting members and, if I counted right, there are 6 nonvoting members. Does that sound correct? [LB821]

SENATOR CAMPBELL: That's correct, Senator. [LB821]

SENATOR CARLSON: Okay. Now one of the voting members is a children's services provider. And that's an even number of voting members, you've got 12. I would think that that children's services provider should be in the nonvoting member section because they can still be there, they can have input, they know what's going on, they can make suggestions, and yet they're a nonvoting member would take it down to 11 and you can have some 6 and 5 votes that way. How would you respond to that? [LB821]

SENATOR CAMPBELL: Senator Carlson, I guess I would look at the provider as staying in the group of stakeholders across the state because of the importance of putting together a strategic plan. Those providers are an integral part of the network that has been set across the state in the history. And it would seem to me that what we're asking of the commission and all of their recommendations would certainly come back to the Governor, to us, the Legislature. They're not setting those in place. They're going

Floor Debate  
February 28, 2012

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to have to come back. And I think the voice of the provider network, as we listened to hearings across the state, would give some valuable information. I would have to say I'd leave them as a voting member given the intent of the commission. [LB821]

SENATOR CARLSON: Okay. Thank you, Senator Campbell. And I meant to start my testimony here, again, thanking you for the work that you've done as well as the committee because this is a big challenge and a difficult one and I appreciate the work that you've done. But I would ask as you go forward and perhaps other members can weigh-in on this as well, I think those voting members of that commission would function better if we don't have a person in there that can vote that has a direct interest in how money is spent and perhaps a conflicting interest. So those are simply my thoughts, and thank you, Mr. President. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Louden. Senator Louden. [LB821]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As Senator Hansen and Senator Carlson both brought up some ideas, and I'm concerned on the people that are being put on the board. Would Senator Campbell yield for questions? [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Louden? [LB821]

SENATOR CAMPBELL: Yes, certainly. [LB821]

SENATOR LOUDEN: On page 3 there they mention who's going to be on this, appointed to the board, and I see where a youth currently or previously in foster care. Now when they say "youth currently," that would probably be someone under 18 years of age I would presume, is that right? [LB821]

SENATOR CAMPBELL: That is correct. [LB821]

SENATOR LOUDEN: Yeah, and I'm wondering if that should be...the way I understand it that would be a voting member, so I kind of have a problem with that. Now previously if those...if that's been a person that's been in foster care and of voting age, then I don't have a problem with it. But I'm wondering if that needed to be clarified. And then as we get back to I think on page 17, Senator Campbell, when, "The Inspector General may issue a subpoena, enforceable by action in an appropriate court, to compel any person to appear, give sworn testimony," is that...do you think that that's probably a little bit more power than somebody from an agency should have? I don't know if we have agencies in the state of Nebraska that can compel people to subpoenas or not. I always thought you kind of had to go through court or I think some of the Legislature at times can have a subpoena power. But for the most part, I'm wondering if this is a little bit

Floor Debate  
February 28, 2012

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too...something that's never been done before. [LB821]

SENATOR CAMPBELL: Senator Louden, that's a very good question. Currently, the Ombudsman's Office does have that power. And actually in the LR37 study, the Health and Human Services Committee would have had that power and I'm assuming that the BSDC committee might have had that power. That power is granted to a legislative committee in consultation with the Executive Board, but the Ombudsman already has that. [LB821 LR37]

SENATOR LOUDEN: Okay. Well, I'm wondering if that should be clarified then if they're...if they should be a member of...whether they should be a member of some court proceeding or something like that. Then on the next page on page 19 where they have to give "an unannounced visit to a foster home" and private agency and that sort of thing. Should that be someplace where there should be some kind of subpoena authority required if they're going to do that? Do they actually have the authority to just walk into anyplace without a subpoena or anything at the present time? [LB821]

SENATOR CAMPBELL: You know, Senator, I would think that in the course of their doing a report that most of the agencies or the foster parents that would be involved would understand why that visit was taking place. If they objected, then obviously the Inspector General, and in consultation with the director of the Ombudsman's Office, would most likely have to then consult a court if they wanted to proceed further. But I think you do want that. I think you want the ability for this person as well as being able to visit agencies, visit places, and not always make an announced and say I'm coming in three weeks. I think this would be used pretty judiciously. But it needs to be there in case there's a complaint. [LB821]

SENATOR LOUDEN: Well, I see when it says where circumstances of an investigation... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR LOUDEN: ...require, and I agree to that. But then when you start...as this day and age, start marching into some places unannounced, I would think that somewhere in here you should also have if they were also would be escorted by some law authority or someone like that. I would think that when you go start walking into somebody's place that you would want some type of law person in the vicinity or with you. And that's...I have a kind of concern with that paragraph right there that if that should be clarified to what they're going to do and if they have to have a subpoena or if they have to have...what does this, nowadays this no-knock subpoenas, you know, and that sort of thing. People can get killed over things like that... [LB821]

PRESIDENT SHEEHY: Time, Senator [LB821]

Floor Debate  
February 28, 2012

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SENATOR LOUDEN: ...when they don't know who is coming in and knocking the door. Thank you, Mr. President. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Lathrop. [LB821]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. I'm standing in support of LB821 and I want to begin my remarks by once again expressing my appreciation for the work of the Health Committee. This has been a significant undertaking because it is a significant problem. We all have brought our blue books today and hopefully everybody has had a chance to read them, and they chronicle the problems that we face with child welfare. When I started here six years ago, I think it was, we restructured HHS. The first year I was here, I believe, and that seems to be historically, it seems to be a...something that happens in this state every five to ten years, depending on the administration. They come in and they say, I have a way to run HHS better. And we restructured HHS to make it more responsive so that it will provide the services in a better way, more efficiently, save money, do a better job, and meet the needs of the people it was intended to serve. And today we are here with what can only be described as a mess on our hands. And LB821 takes a stab at that and it does it, I think, obviously by creating the Nebraska Children's Commission and the Inspector General. And I want to talk for a minute about the Nebraska Children's Commission. After the Health Committee has done all of its work and put together the book and spent what is undoubtedly countless hours working on this subject matter, they have begun to scratch the surface of the problems created and the situation we now find ourselves in with child welfare. And what the Nebraska Children's Commission does is say, we're going to bring people together to find a solution. What the first part of this bill does in creating that commission, in my observation, would be to recognize the problems. They don't have all the solutions. It's too big. The mess is too big to tender to this body all the solutions we need, notwithstanding all the work that's been done by the Health Committee. And so we've restructured the Health and Human Services. The Health Committee has spent countless hours trying to get to the bottom of the problem and I think they've done that. But what we now are going to move forward with is a commission that will bring together...and what I think is a relatively short time line, bring together the people who will help bring some coordination to this process. And I think that part of the bill is important. It is a step in the right direction. And what it tells me is, we're not going to have all the answers this year. That next year we'll probably be dealing with a great number of child welfare issues which will involve the fixes that will be offered by this commission. And I respect that part of the bill. I appreciate that we are working towards a solution, but also we must recognize what the problem is. And Section 1 of this bill sets out what those problems are. Why is it important to leave in there? I would take exception with Senator Hansen and Senator Carlson's remarks that it should be removed. [LB821]

Floor Debate  
February 28, 2012

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PRESIDENT SHEEHY: One minute. [LB821]

SENATOR LATHROP: I think these are important findings for the Legislature to make. We stand here and talk about accountability all the time. We talk about accountability and transparency all the time and Section 1 delivers some measure, some measure of accountability and transparency. It also lends itself to some context for what we're trying to do here, with not only LB821 but the bills that will follow. These findings suggest what the problem is and the solution that we have put into law, and it allows a court that might have to interpret one of these provisions to say, the findings are right here, it gives some context for the solution in the legislative intent, and I think it should stay there. I support LB821. I support AM2138, and again I express my appreciation to the Health Committee. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. (Visitors introduced.) Continuing with floor discussion on AM2138 to LB821, members requesting to speak: Senator Sullivan, followed by Senator Dubas, Senator Harms, Senator Christensen, and Senator Fulton. Senator Sullivan. [LB821]

SENATOR SULLIVAN: Thank you, Mr. President and good morning, colleagues. I've heard on this floor, as we try to determine what our priorities are, that one of the roles of government is to help those who are most vulnerable and to help those who cannot help themselves. And I think, who most definitely fits that description if it's not the children of our state. And as we look at the report that we have before us, perhaps it appears we've fallen woefully short in that regard. In our discussion a few days ago about term limits, Senator Lathrop commented that we sit on our respective committees and oftentimes we get immersed in those and so then we aren't as knowledgeable in other areas. And I will admit that I am one of those. I, first of all, will commend and appreciate all of the work by the members of the Health and Human Services Committee and I respect the results that they've come up with. But it's also incumbent on all of us to delve into their findings ourselves and ask some questions. So to that end, I wonder if Senator Campbell would yield for some questions. [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Sullivan? [LB821]

SENATOR CAMPBELL: Yes. [LB821]

SENATOR SULLIVAN: Thank you, Senator Campbell. First for all, with the Nebraska Children's Commission, this is a brand new commission that we're creating, is that right with this legislation? [LB821]

SENATOR CAMPBELL: That is correct. [LB821]

Floor Debate  
February 28, 2012

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SENATOR SULLIVAN: Have we ever had something similar to this before? [LB821]

SENATOR CAMPBELL: I think the closest to this would come, the Governor's Committee on the Protection of Children, and certainly the Governor would have the appointments. I mean, he may want to combine some of those appointments. I don't know. That's under his direction. [LB821]

SENATOR SULLIVAN: And do you envision this as basically a first step in this whole reform process, is that correct? [LB821]

SENATOR CAMPBELL: Yes. [LB821]

SENATOR SULLIVAN: And one of the things that I...in looking at the amendment, it said, one of the charges is restructuring of the goals of the child welfare system. So that's one of the things that the commission will take on, right? [LB821]

SENATOR CAMPBELL: That is correct. [LB821]

SENATOR SULLIVAN: How will the commission be organized? I know you outlined the membership of the commission, but will they pick their own head or how do you envision that commission being organized? [LB821]

SENATOR CAMPBELL: Yes, they will come together and pick their own chairman and vice chairman. [LB821]

SENATOR SULLIVAN: I don't know how...if this is the correct term, but I guess I have it written in my notes. What sort of clout do you see this commission having? [LB821]

SENATOR CAMPBELL: I think the clout of this commission is in its composition in the sense that it brings together those people who directly day-to-day work and gives voice to them. We heard that over and over in the hearings. Secondly, those recommendations that they are coming up with will go to the Governor, the Chief Justice, and the Legislature. So their clout comes in being able to provide for us that road map, that strategic plan, and answer some vital questions. But the Legislature, the Governor, and the Chief Justice, no doubt, will have to take action from that report. [LB821]

SENATOR SULLIVAN: And it's quite possible then that this body would have before it, possible legislation that will come from this commission, is that right? [LB821]

SENATOR CAMPBELL: Absolutely. [LB821]

SENATOR SULLIVAN: Another feature of this commission is collaboration. Do you think

Floor Debate  
February 28, 2012

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that's possible? Do you think it's possible to get outside of all the silos that exist and really achieve some collaboration? [LB821]

SENATOR CAMPBELL: Let's put it this way. If we're going to make headway in child welfare reform, it's imperative. And that's why we've suggested in each of the service... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR CAMPBELL: ...in each of the service areas for them to come together also, Senator Sullivan. [LB821]

SENATOR SULLIVAN: In the role of the Inspector General, in your response, I think it was to Senator Wightman, you said that, okay, this individual is going to be responding to complaints, but in part it's also going to be data driven. So is the data that he or she collects going to be based on the complaints, or is the charge to expand beyond that to make some decisions and recommendations? [LB821]

SENATOR CAMPBELL: I would assume that they will be looking at outside data in addition to that. An individual complaint would still, most likely, be carried and completed by a member of the Ombudsman's staff. [LB821]

SENATOR SULLIVAN: And with respect to the commission, I know they have to issue a report by the end of the year, but do you...do I assume correctly that this commission will continue on after that? [LB821]

SENATOR CAMPBELL: Yes, I think they will have additional questions that may not have been answered that we've asked them to do in this report. I don't see them as a long-term, forever and ever, but I do see them. [LB821]

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR SULLIVAN: Thank you. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Dubas. [LB821]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. The first time I stood up to speak I talked about the department possibly slashing provider rates substantially. I don't know if you've seen your e-mail yet or if you received it, but did receive an e-mail that...stating that the department will honor the existing rates that were paid by KVC for a 60-day period while the transition is being made. So I would like to thank the department for at least making that overture, but you also shouldn't need to be thanked for doing the right thing. But I think it needs to be on the record that if the department

Floor Debate  
February 28, 2012

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plans on, after this 60-day transition, continuing to move this direction with the reduction in rates, this is going to be a real problem for these providers. And if we want these providers to continue to be out there providing services for these children, we have to make sure that they're being paid a rate that allows them to keep their doors open. We cannot, nor should we, take corrective actions at the expense of our local providers, who again have been there since day one. They're in the trenches. They're the ones that are providing probably the one constant in the lives of our foster children and their families. I have sat through not nearly as many hearings as the Health Committee has, but my share of hearings that have dealt with foster care, dealing with problems with ACCESSNebraska, child welfare in general. I'm a member of the 603 Committee. And I have sat there as person after person after person has come forward outlining their experiences, the real problems, very specific problems that they are experiencing, and then the department comes up, typically in opposition to the bill or at best in neutral capacity, talking about things are fine, things are working. We're moving forward. Things are working. You don't need a report this thick or of this magnitude to say that things are okay and things are moving forward the way that they should. Again, I appreciate the work that the Health Committee has done and the bill that we're talking about this morning I think is a very important component. Oversight is what has been sorely missing and if we don't have that as we start this climb back up the hill, nothing is going to work. So I do support the bill. I'd like to read to you an e-mail that I received from a woman who I consider very much a hero and she represents, I think, all of the people out there who are working so hard to take care of our children. Leigh Esau runs the Foster Care Closet here in Lincoln and there isn't a person that I know who has a bigger heart than she has. And as she learned about the cuts that Health and Human Service Department was going to do, she's going to lose out, but her first...her first concern is about the kids. She sat in on meetings with providers as they were being told that their rates were going to be paid. She's referencing foster care payments here. As you are aware, child specific placement and relative placements through KVC receive \$10 a day to meet the needs of foster children. Did you also know that 40 percent of KVC's foster homes were child specific or relative placements? I find it absolutely horrid that as a society we expect to pay more to board a cat or a dog than we do to meet the very real needs such as food, shelter, transportation and clothing for a foster child. Now with the agencies facing another cut, we're in danger of seeing those rates drop even lower. Speaking with one agency in the southeast service agents area, they said with the latest changes, and again those changes have been pushed back for 60 days... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR DUBAS: ...we won't even be able to meet the minimum requirement of clothing for these children. How are we going to pay to take care of these children? Does this sound right to you? She's tried to remain professional and she has, but what she is seeing happening she cannot just remain silent anymore. We have to show to these families and their children that we as a state are willing to step up and do what we

Floor Debate  
February 28, 2012

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need to do. And again she says, this isn't about the Foster Care Closet and some minor contract, it is so much bigger than that. It's about a whole generation of children who will have spent their formative years feeling unwanted, uncared for, and worthless. We face many difficult decisions in this legislative body. I think this is one that we can take definitive action on and try to let these children know and those families that are taking care of these children... [LB821]

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR DUBAS: ...know that we care. Thank you. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Harms. [LB821]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of AM2138, then which becomes the bill for LB821. First, I'd like to take a moment to thank Senator Campbell and the Health and Human Services Committee for all the work that you've done. I know that this has been pretty stressful for the committee and for you as the Chair and I know how difficult this has been to put together a document like this. But the nice thing about this is you've had Performance Audit look at the management side of things, and you've had the State Auditor look at the fiscal side of things, and then Senator Campbell went across the state of Nebraska having hearings. And so this committee has a great deal of information available. And I think what we are accomplishing with these bills that we'll debate today as we begin to put a frame and a foundation together, but we will not reach all of the problems and the decisions and we'll be dealing with this for several years. Senator Campbell, I wonder if you would just yield for a couple of questions for me. [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Harms? [LB821]

SENATOR CAMPBELL: Yes, certainly. [LB821]

SENATOR HARMS: Thank you very much again, Senator Campbell, for what you've done. I notice under the Nebraska Children's Commission you're talking about them doing a long-range plan for you or for us to try to get a handle on these issues. Do you know how that's going to be established and dealt with, and do you think that they have the ability to do that on their own, or will we require them to bring someone in to help them so we can get to the heart of this and so that it's easier to understand that we know at least we're on the pathway to try to resolve some of these issues? [LB821]

SENATOR CAMPBELL: That's an excellent question, Senator Harms. We have suggested that there be an evaluation of the system by an outside third party that may come in to provide them some expertise, but we feel these are the front-line people and the logistics of how they will put all this together. They may need a facilitator and if such,

Floor Debate  
February 28, 2012

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we will try to find someone who can help them. But I think we're very confident that with the outside evaluation and the Medicaid look, that we're giving them a lot of tools to be able to put that plan together. [LB821]

SENATOR HARMS: Senator Campbell, I guess one of the things that I found in long-range planning and dealing with controversial issues, which I've had for...in my previous world, sometimes in the midst of the battles that take place it's really hard for you to get on line with exactly what you have to accomplish. And that's what I worry about here because someone who comes in as neutral is not going to be influenced by the outside politics. And I think as I see what happens in this Health and Human Services issue, that's a big issue here. And quite frankly, that's what has driven some of the problems we have that they were unwilling to listen and unwilling to address the issue. And so I worry a little bit about the planning process of making sure that you have someone there that would be in a neutral environment to see it for what it is, can tell us honestly, this is an excellent track, we've taken everything and you get rid of the politics involved in this aspect because if you don't do that, we will struggle again and I'm afraid we might walk a pathway that will not be comfortable for us. That's all I'm just sharing. I'm not being critical here. I think what you've done has been excellent, but I hope that you will give that some kind of consideration and if we have to, we might want to in the future amend this to require this to make sure that it happens. I can tell you when we get into the merger of the Department of Labor and Economic Development, we're going to enter an amendment that's going to require it because you just can't get the job done. You get involved in the politics. One other question, Senator. [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR HARMS: Oh, thank you, Mr. President. We may not be able to do this in one minute. I noticed...I always look at the committee statements. I always like to know the people who have opposition and who spoke for it. I noticed that Kerry Winterer was opposing this. Could you help me understand that or our body understand it since we're in such a ray of confusion, why would he oppose to it? [LB821]

SENATOR CAMPBELL: On the commission, I think Mr. Winterer raised the issue of the separation of powers which was a legitimate concern and a number of people had expressed in the committee took a look at it. On the Inspector General, Mr. Winterer raised what I would consider a number of legal issues. And our counsel, Michelle Chaffee, worked through those and worked through concerns Mr. Lux put forward and he suggested some amendments and the county attorney. So we tried to address those legal questions but most of his questions had to do with the legal issues. [LB821]

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR HARMS: Thank you, Mr. President. [LB821]

Floor Debate  
February 28, 2012

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PRESIDENT SHEEHY: Senator Christensen. [LB821]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Campbell yield to some more questions, please? [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Christensen? [LB821]

SENATOR CAMPBELL: Yes. [LB821]

SENATOR CHRISTENSEN: Well, I guess I've got some questions that Senator Harms had there on why the department would oppose this because we should all be wanting to work for it. Did you get that fully answered? I got bothered here for a second. [LB821]

SENATOR CAMPBELL: I think the department raised issues with regard to the commission on the separation of powers and ensuring that. Their letter indicated an interest in the collaborative nature of coming together. I didn't sense from his letter that he was opposed to the commission from the collaborative sense of it, Senator Christensen. [LB821]

SENATOR CHRISTENSEN: Okay. Thank you. I guess I'd just state I agree with Senator Carlson that I don't think providers should be voting, but I think it's very important to have their input there because as we've seen on the current Foster Care Review Board a lot of self-interest, conflicting interest, led to votes and bad decisions. But to get back into the bill a little further, Senator Campbell, how do we empower the Inspector General to make sure they have all the access and stuff they need to be able to investigate cases? I remember talking to previous Foster Care Review Board persons saying it took a lot of years to generate. How can we ensure that we can empower the Inspector General? [LB821]

SENATOR CAMPBELL: Senator Christensen, that is a great question. And I think that the legal counsel worked extensively with Mr. Lux in the Ombudsman's Office to ensure that this position had within the parameters of the law the teeth that would be necessary to do those investigations. And we worked with the committee, a subcommittee of the County Attorney's to address some of their concerns. I think we've done everything we can to put into place in this position to address concerns that may come forward particularly as they apply to the system itself. [LB821]

SENATOR CHRISTENSEN: Okay. In this report, will they be able to provide guidelines on doing inspections? I guess I'm going to give a case that happened in my district where there was a handicapped child that was put in his wheelchair, fed, dressed, ready to go to school, and a sibling was supposed to stay there and ride with him to school...or

Floor Debate  
February 28, 2012

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I mean, stay there until the ride showed up for school, and that individual left and went to school. And so the individual sat there in his chair for about 15 minutes before the school bus got there and picked up the child. Well, what happened was a full-blown investigation. And two, three days of them talking to teachers and the principals and other siblings and other people in the school who take care of this individual, and to me it was a lot of wasted dollars. I happen to know the family, and all it would have took was a simple phone call to the school, is this something that has ever happened before? Is this an irresponsible family? Was this just an isolated case or is this something we got to be concerned about? Instead we wasted a caseworker's time for over two full days to investigate this which could have been handled by a phone call and the school... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR CHRISTENSEN: ...could answered the questions. Are we going to be able to get that type of information in here? [LB821]

SENATOR CAMPBELL: Senator Christensen, I would certainly hope so in the sense that that is to me the greatest benefit of putting it inside the Ombudsman's Office because they might see those individual complaints and be able to put them together and say, how do we change the system, and that's what the Inspector General should be looking for. In the case you talked about, that may be, what do we need to do to change that system so that we are using our personnel effectively. I think that's what will help us in putting these two...what would I say, processes together. [LB821]

SENATOR CHRISTENSEN: You know, I just want to make a statement here before I run out of time. You know, I certainly hope we don't put this within the same department. Did you say time? Okay. And... [LB821]

PRESIDENT SHEEHY: Time, Senator. (Visitors introduced.) Continuing with floor discussion on AM2138 to LB821, members requesting to speak are Senator Fulton, followed by Senator Nelson, Senator Ken Haar, Senator Dubas, and Senator Lathrop. Senator Fulton. [LB821]

SENATOR FULTON: Thank you, Mr. President, members of the body, good morning. It's good to see some of our future here in the Chamber with us today. I want to start by saying that I do not oppose this bill nor do I oppose the idea behind it. I, as many of you, have struggled with coming up with a solution. What should our child welfare system look like? What should our foster care system look like? And I'll admit it, I don't have any better ideas, and so perhaps this is that moment in time where we can put together a group, an organization, a body that can do that. And so I hold out hope that that's what will happen with LB821. That being said, I do have concerns about what we are doing here partly because I don't know whether this will work. I'll start by explaining a

Floor Debate  
February 28, 2012

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generality and then make that generality more particularized to this bill, and then I'll ask Senator Campbell a question. But generally speaking, most of us in here aren't what I would call big government types. We don't come down here so that we can empower the government. Most of us don't campaign on that and that generally is not the way that Nebraska is wired, so we don't do that. But there are times where in our judgment, credentially, we need to empower government to deal with an ill or a malady that afflicts society such that the private sector or some other sector is not able to deal with it. And that's what we're elected to do, exercise judgment and decide when indeed government would intervene. Certainly government has a responsibility, a core responsibility for those under its charge, the wards that we're talking about here, the children. Under this bill we're going to create a new unit of government, give it powers and hopefully it acts to at least set us on a right course with respect to child welfare. And I'm willing to take that chance and do this. But what will this body look like ten years from now? I don't see that there is a sunset in this bill. We're going to create this commission, an amalgamation of branches of government. The judicial branch of government represented, certainly; legislative branch; and certainly, by and large, the executive branch. Is there a check? I received a letter from a constituent who asked this. We have in our government checks and balances. Is there a check against this particular unit of government? It will be a unit of government that has some authority to exert tax dollars to solve this problem, which we all agree is a problem in need of solving. But ten years from now, what will this look like? I don't know. It's a concern. Would Senator Campbell yield to a question? [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Fulton? [LB821]

SENATOR CAMPBELL: Yes, certainly. [LB821]

SENATOR FULTON: So you've heard my little spiel there, can you give me some assurances? Can you speak to that? Was it discussed in committee? Has it been ascertained or at least entertained how this unit, assuming it can do its job in the near term, what it looks like in the long term? [LB821]

SENATOR CAMPBELL: Senator, I think that's a very good question. And yes, we did discuss this, in the sense that the commission, in and of itself, does not have any powers. Its power is to bring forth recommendations and reports that will be followed by the Governor, the Chief Justice, and the Legislature. And I have to say, Senator, that when this report first came out... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR CAMPBELL: ...we had the opportunity to sit down with the Governor and the Chief Justice and talk a little bit about the framework of the report. And so I feel very confident that this commission is not going to last forever, but it may last for a couple of

Floor Debate  
February 28, 2012

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years. It's hard to put a sunset because we're not sure how long it will take them to go through the whole process of the questions we've asked. [LB821]

SENATOR FULTON: Is it conceivable that a sunset could be put on it with the idea that it's...it could be renewed similar to what we've done with BSDC? [LB821]

SENATOR CAMPBELL: Yes, we certainly could do that, or we looked at that in the LB603 oversight committee, Senator. We had a sunset in the sense of reports that needed to be there. Between General and Select I'd be glad to visit with you about that. [LB821]

SENATOR FULTON: Okay. It may not even be a good idea to sunset but I'm thinking into the future. My life in the senate, Legislature is going to be over soon and I'm thinking more long term about... [LB821]

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR FULTON: Thank you, Mr. President. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Nelson. [LB821]

SENATOR NELSON: Thank you, Mr. President, members of the body. Senator Campbell remains standing and I do have a question or two for her if she would yield. [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Nelson? [LB821]

SENATOR CAMPBELL: Yes, certainly. [LB821]

SENATOR NELSON: Thank you, Senator Campbell. And I do want to thank you for the work of your committee and I want to continue a little bit with the line of questioning here that Senator Fulton made. I notice on here that there was to be a report I think provided and ready by the...on what, the middle of December of this year, which in light of all the time and effort that the committee has put in, and then all these things that have to be considered, that's a pretty short time frame, isn't it for them to get a report together as comprehensive as we may need? Would you agree with that? [LB821]

SENATOR CAMPBELL: Well, I think the committee will have a jump-start in the fact that it's got LR37. That's number one. And number two, I think their most important effort to first bring forward is that strategic plan. And that's really what we do need in place. I feel, Senator, that it is achievable. [LB821 LR37]

SENATOR NELSON: Well, then moving on, what is the goal to...I saw something in

Floor Debate  
February 28, 2012

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here about implementation on July 1. Does this mean that during our next 90-day session we're going to be taking a look at the report that they brought forward and do legislation that we think will be effective as far as combining the three departments of government here, and getting input, and following all the recommendations? Would that be correct? [LB821]

SENATOR CAMPBELL: Yes, Senator, you're going to see other pieces put into place that will bring other information to you in addition to the commission. [LB821]

SENATOR NELSON: So really nothing is going to happen then in the way of any effective legislation in this matter on this strategic plan until July 1 of 2013. Is that correct? [LB821]

SENATOR CAMPBELL: That's correct. [LB821]

SENATOR NELSON: All right. Thank you. That would end my questions at this point. Members of the body, I think there ought to be some things said for the record here. First of all, I agree with Senator Carlson and Senator Hansen that Section 1 here of the bill should be removed. I see no good purpose in that, starting with Section 2. And so I commend Senator Campbell for being willing to work on that. Reference was made to KVC and the fact that they're going to get a golden parachute of \$6 million. I think it's important to know that there's no such thing as that. It is not a golden parachute. This is a matter of contract with these lead agencies. And a contract was entered into with all of them and some experience was gained because of the implosion of, at least one of the lead agencies, and the fact that for a number of reasons there was an underestimate on what the cost of this privatization was going to cost to get it implemented and continued. I think you have to bear in mind that basically we've only gone a year and a half or two years in this. And my understanding is that the state of Kansas, which now has privatization fully, it took them ten years to get it right. Now granted, we might have done a better job in light of some of the experience of other states, but, you know, with a major effort like that with the changeover, I think it takes time. Back to the contract. You could refer to this perhaps as a settlement because KVC decided it could no longer contribute any more. It already has invested \$14 million of its own funds. [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR NELSON: NFC invested \$7 million and might have to do another \$2 million. How do we expect lead agencies to go ahead under those circumstances? I think the \$6 million that they will receive is a settlement type of arrangement because there has to be 90 days notice before you end a contract. It was important that the contract be changed and ended at this time and therefore, we would have had further liability to KVC under the terms of the contract. So this is not a golden parachute anyway. It's a settlement, something that will be to the advantage of the state of Nebraska and cost us

Floor Debate  
February 28, 2012

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less. Child welfare, according to the report, has traditionally been underfunded. We want to do the best we can for our children, but it's going to cost money. And so with this strategic plan, we hope that we can do the best for the children and still do it conservatively and not waste funds. [LB821]

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR NELSON: Thank you, Mr. President. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Ken Haar. [LB821]

SENATOR HAAR: Mr. President and members of the body, I'd like to start with a quote, because I think this issue we're dealing with really focuses in on this. A quote by Hubert Humphrey but other people have said it as well. It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children, those who are in the twilight of life, the elderly, and those who are in the shadows of life, the sick, the needy, and the handicapped. So I want to thank the Health and Human Services Committee and Chairman Campbell for the excellent work they've done, really taking on this issue. So I have a couple questions, though, for Senator Campbell. [LB821]

PRESIDENT SHEEHY: Senator Campbell, would yield to Senator Haar? [LB821]

SENATOR CAMPBELL: Certainly. [LB821]

SENATOR HAAR: Okay. Again, thank you very much. And I got an e-mail and so maybe you can help me answer this in a short way because you're much more familiar, but the e-mail said, this sounds like we're creating just another study that will be put on the shelf as soon as it's done. How would you recommend I respond to that? [LB821]

SENATOR CAMPBELL: I think you can respond to that by saying, what is very fortunate is that we had one study and it's not going on the shelf. And I do not anticipate that the recommendations coming out of the commission will ever be put on the shelf knowing the commitment of this body to do something. [LB821]

SENATOR HAAR: Good. And knowing your commitment. Okay. Thank you very much. That's...that was really the question I wanted to ask is it...it is going to take a commitment of this legislative body to not just turn something over to a commission, but to take those results seriously and in the future we're going to have to do something about this based on that commission's recommendations, or if we're not satisfied that we not let go of the issue, that we'll keep at this. And that's a commitment that I hear from many members in this body today and I'm very heartened by that. Thank you very much. [LB821]

Floor Debate  
February 28, 2012

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PRESIDENT SHEEHY: Thank you, Senator Haar. (Visitors introduced.) Continuing with floor discussion on AM2138 to LB821, members requesting to speak are Senator Dubas, followed by Senator Lathrop, Senator Krist, Senator Mello, and Senator Christensen. Senator Dubas, and this is your third time. [LB821]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. I believe I was the one who made the statement about the golden parachute and I still stand very firm by that statement. Through the course of privatization, which has only been over the last two and a half, three years, lead agencies contracts, KVC contracts have been amended multiple, multiple times to the tune of millions and millions of dollars. And now we're giving them more money to discontinue the contract? To me that sounds like a golden parachute and I will not back away from that. We had another lead agency out in my area of the state, Boys and Girls Home, who were not able to fulfill their contract, who walked away from their contract leaving, I believe, upwards of \$2.5 million. Subcontractors holding the bag for that. We've lost subcontractors. We've lost providers because we were not able to fulfill our obligations. When I say, ours, I mean the state's. Because, ultimately, the buck should stop with the state. We had contracts with these providers. The fact that they could not fulfill their contracts means that the state is responsible. And so now we have providers, families, and children who are again thrown into a state of chaos because financially they weren't taken care of. We should not be apologizing for what's going on here. We should be...actually, we should be apologizing for what's going on here. I mean, saying that this system is in a state of disarray, I think doesn't even begin to talk. It doesn't even begin to define what our providers and ultimately what our children, families, and foster families have lived with over the course of the last three years. So again, I stand by the statements that I made previously. I think one of the most important components...there are many important components, but I think the one that jumped out at me in this particular bill was talking about that collaborative effort between the different branches of government. And, I mean, all of the reports that they based their report off of talked about, if you're going to have a successful reform, you have to have that collaboration between the three branches. I did a presentation to a group in December and I went back through some of my notes and testimony that was presented to the LB603 committee and I found kind of a time line. We haven't just been talking about this issue for the last several years. Since 1970, and probably before, but this time line went back to 1970. All of the reports, all of the commissions, all of the studies that have been done over the course of years, and I looked at the recommendations that came out of those reports. And consistently, in 1970 the Krivosha Commission report talked about improved coordination across the agencies. In 1985 the Child/Adolescent Services System Program grant talked about including innovative service delivery, family involvement, cultural competence, collaboration across the agencies; 1986, an interagency collaboration and coordination team talked about improving the system of care; 1987, Nebraska Family Policy Act, promote prevention and early identification through coordination of services; 1989,

Floor Debate  
February 28, 2012

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Children and Adolescent Mental Health Services plan, identify a need for a fixed point of accountability, flexibility, single point of access, family participation and decision-making. A second grant in 1993 designed to promote interagency collaboration for children; 1994 the Governor's Child and Family Mental Health Search Conference involved 70 stakeholders who identified needs such as local integrated interagency collaboration, coordination of funding streams, single point of entry; 1997, a SAMSA System of Care Grant to look at interagency collaboration family.... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR DUBAS: ...involvement; 2000, The Nebraska Family Portrait, strategic action plan for protection and safety, focus on addressing behavioral health needs of children; 2001, again the Governor's Early Childhood and Mental Health Symposium. Design a comprehensive, integrated, and coordinated system; 2004, we had LB1083; 2007, we had the LB542 Task Force to talk about an integrated system of care. This report is finally listening to all of the things that have been said since the early 1970's and probably before. If you're going to have an effective system of care for children, no matter what their needs are, you cannot do it in isolation. You have to work together. There has to be collaboration. There has to be a well-thought-out, well-developed plan of moving forward. We have not had that through this movement with privatization and until we're able to put what... [LB821]

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR DUBAS: ...the committee has put before us, we won't have it. Thank you. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Lathrop. [LB821]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I have an observation to make about LB821 and generally I support it. And, in fact, I support it enthusiastically. I think it's a good bill and the culmination of a lot of good work by the Health Committee. I do have a concern that I'm going to express here today about a section of the bill, and that's on page 15, line 6. And it deals with the Inspector General and their ability to conduct an investigation at the same time as a criminal investigation is being undertaken. And, essentially, what the bill would allow or the way it's designed is, the Inspector General would have to back off of an investigation if law enforcement or prosecuting attorney asks them to. And I want to tell you why that causes me some concern based on my experience with the BSDC Committee. Remember the way this is set up is the Inspector General works out of the Ombudsman's Office. The Ombudsman's Office is the Legislature's investigative arm. Right? So this Inspector General is our guy. It is the legislative branches eyes and ears and the ability of the legislative branch to inspect, to dig, to investigate. And here's the problem I have. If the

Floor Debate  
February 28, 2012

---

law enforcement or the prosecuting attorney can say to the Inspector General, back off, we've got a criminal investigation, then nothing will happen, and our guy, our investigator cannot get into or examine the circumstances of a criminal matter which is also within the purview of the Inspector General's jurisdiction. Let me tell you what's happened to me. As Chair of what we generally refer to as the BSDC Committee, this has happened a number of times. And most recently, last summer, when you saw that there was some assaults down at the BSDC, right? There were assaults down there. People were choking the residents and it turned into a criminal prosecution. The BSDC Committee wanted to know who they were, what was going on, let me look at the police reports. Now, these are state senators. We wanted to look at them and we were told by HHS, Jodi Fenner, in fact, that we couldn't get to them because there's a pending criminal matter. If you've got a problem with that, talk to the AG. The AG's Office will tell you that they're not going to give you any of the police reports while there's a pending criminal matter. So why is that important? We wanted to know, were these people working overtime? What was their overtime circumstance? All the things that we have looked at as markers of the problems at Beatrice, and their relationship to a criminal assault. That's what we do. What we were told is, you have to wait until the prosecution is over, and that means that the Legislature is being told by law enforcement, executive branch, that you don't get copies of the police reports, you don't get to talk to the witnesses, you can't do an investigation until we're done. The practical effect of that is, if there is some criminal activity, some assault that happens at a licensed nursing home that we would otherwise send the inspector in there for, we can't participate, we can't look into it, we can't investigate it, if law enforcement is there. And they make you wait until the prosecution is complete and the sentence is imposed. Now, you're nine months down the road, ten months maybe. Could be longer than that. And then they'll had you the police reports. [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR LATHROP: The problem with that is, is that it's not timely at that point in time. And I believe we need to change that section so that there is cooperation between the Inspector General and law enforcement, but not exclusion. We cannot exclude our investigator from getting copies of the police report, talking to the witnesses, and I would agree that they need to do that. And in some cases, defer to law enforcement, which should be the paramount concern. But the legislative branch should not be left in the dark and unable to investigate something that we want the Inspector General to look at, just because the executive branch, in the form of the State Patrol or the Attorney General, says there's a pending criminal proceeding so we're not going to share any of this information. And by the way, don't talk to our witnesses, don't do an investigation, you'll wait until after sentencing, ten, twelve months down the road, and then we'll let you start your investigation. I think that's problematic. [LB821]

SPEAKER FLOOD PRESIDING

Floor Debate  
February 28, 2012

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SPEAKER FLOOD: Time, Senator. [LB821]

SENATOR LATHROP: Thank you. [LB821]

SPEAKER FLOOD: Thank you, Senator Lathrop. Senator Krist, you are recognized. [LB821]

SENATOR KRIST: Good morning, Nebraska and colleagues. Thank you, Mr. President. I want to be very brief in my comments. I stood here yesterday and the day before and since the beginning of the session and told you that it was going to be our responsibility to fix a problem that was broken. It was broken before the attempt of reformation. It was broken as a result of privatization even more, and we have an obligation to fix the situation for families and for the kids in the state. And I want to be low-key this morning and tell you that the discussion that's been going on is substantive in the value that it is going to bring good changes to AM2138 and the underlying LB821, and it's the right direction to go. But I wanted to talk to you just a bit about the management oversight. You've heard me say time and time again, bad contracts, bad management, oversight, bad financial oversight, or at least poor. This is all about AM2138, and the underlying LB821, is all about an attempt documented substantively by this report, LR37, that is consistently looking at those metrics, the data, and saying, how do we fix it? To Senator Fulton's question, I'm sorry that he's not here to listen to this one but, Senator Fulton, you are absolutely right. There is no guarantee that this is going to fix the problem. But let me remind you, colleagues, as it's been said over and over again, this is all three branches of the government coming together. We've had each of the branches of the government through the Eyes of the Child, through Family Matters, any number of other programs that are out there to individually try to fix this situation. This is the collaboration of all three branches. This is the first step. I'd invite you to vote green on AM2138, and the underlying LB821, and thank you. [LB821 LR37]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Mello. [LB821]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise in support of LB821 and like others, thank the diligent work that Senator Campbell and the rest of the Health and Human Services Committee has done through the course of the LR37 study and investigation. But I rise not purely to show support for LB821, but have to, unfortunately, raise some of my concerns in contrast to that of my friend and colleague, Senator Nelson, which he just spoke about, some of the challenges that we currently are seeing this week with the elimination or the changing of KVC in regards to ending their contract with the state of Nebraska. Yesterday it was reported that the Appropriations Committee met with the Department of Health and Human Services to

Floor Debate  
February 28, 2012

---

go through what has been, I think, a last minute Appropriations request ranging between \$20 million to \$34 million in new General Fund obligations over the next two years. I used the term in the meeting with the director of calling the agreement that was made with KVC as settlement because that ultimately, in my view, is what it is. That under existing contracts, the state of Nebraska could have ended its relationship with KVC with privatization over a 90-day period. KVC would have continued to provide services, the state would have continued to honor its obligation to pay KVC its monthly costs, while ending that relationship within 90 days. Instead the Department of Health and Human Services issued a settlement of \$6 million and immediately ended their relationship with KVC on March 1. I raised the questions of, how did this come about, and why did we do it this way? Granted, I've had concerns in regards to the transparency of this whole privatization effort for a year of how does this work and why isn't the Legislature getting more information. But I raised concerns both in the committee yesterday and to other colleagues on the floor, that this just doesn't seem right. That somehow KVC is getting a \$6 million settlement for us "choosing to end their contract." Where if we would have simply followed the contract we had with them and chose to end the contract in 90 days, they ultimately would have been the ones who would have lost the funds, so to speak. They would have been the ones not getting a \$6 million settlement. And I raised the question to the director, are we bailing out KVC essentially? Because KVC subcontractors are getting 100 percent reimbursement. Well, I know Senator Lathrop in the Business and Labor Committee is dealing with the state claims bill where Boys and Girls are only getting 35 percent reimbursement. Why is there a difference there? Why is there not uniformity across Boys and Girls and KVC in regards their subcontractors getting fully reimbursed? Now, I admitted that, granted, what may have transpired with this stop deadline of March 1 with KVC in eliminating that contract may have been the best thing for the state in the long run. I'm not for certain if we'll ever know that because this information and this action transgressed so fast with so little information, that even our Health and Human Services Committee sent a letter on Friday to the department requesting more documentation about what's actually transpiring. No one has seen this settlement document with KVC, yet we're expected to rubber stamp a \$6 million settlement. Let alone a lot of the other budget requests that we've heard over the last two days... [LB821 LR37]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR MELLO: ...from the department of reappropriating one-time dollars to spend on ongoing General Fund expenditures. I'm not saying that that's something we shouldn't do, but it comes down to a matter of transparency. It comes down to a matter of accountability. And while I respect my colleague, Senator Nelson, and others who spoke on the floor today, about seeking an action to move forward, you can't move forward in darkness. And when we don't have the appropriate information, we're not giving contracts or documentation about \$6 million settlements, people should stand up and raise questions. People should ask, are we bailing out one contractor over another?

Floor Debate  
February 28, 2012

---

Because as I mentioned yesterday, when you have concerns and questions, you need to ask them. If you feel that there's smoke being raised behind an issue, maybe there is fire and we need to go in and investigate that. This is an issue that will not go away over the next couple of days. [LB821]

PRESIDENT SHEEHY: Time, Senator. [LB821]

SENATOR MELLO: Thank you, Mr. President. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Mello. Members requesting to speak on AM2138 to LB821, we have Senator Christensen, followed by Senator Howard, and Senator Gloor. Senator Christensen, this is your third time. [LB821]

SENATOR CHRISTENSEN: Thank you, Mr. President. Senator Campbell yield to some questions, please. [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Christensen? [LB821]

SENATOR CAMPBELL: Yes. [LB821]

SENATOR CHRISTENSEN: Senator, do you want to try and avoid conflicts of interest on this committee? [LB821]

SENATOR CAMPBELL: On this...on the commission, you mean? [LB821]

SENATOR CHRISTENSEN: Yes, commission. [LB821]

SENATOR CAMPBELL: I would think that you need to understand that everyone of these commission people are the direct front-line people. They work every single day with the system and that's why we placed them there. I think you have to look at the conflict of interest issue from the standpoint of, are they making a decision? At this point, they're making recommendations. The Legislature, the Governor, and the Chief Justice will make the final decisions. [LB821]

SENATOR CHRISTENSEN: Because, I guess, my concern is that we could have some of the same people that hid information on the deaths when we were doing, oh, the Safe Haven, could be hiding information from us again. And the same persons still involved deeply from Foster Care Review Board, a provider, leading the Governor's commission on child protection. I mean, I've got grave concern on this. Does this give you any concerns, Senator? [LB821]

SENATOR CAMPBELL: Senator Christensen, if you took a look at Chapter 4 that's in

Floor Debate  
February 28, 2012

---

the blue book in terms of the people who testified across the state, I guess I feel that there are so many good qualified people who would come to this commission with the best interest at hand, and I have confidence that they will do the job. I want and hope to see many of those people involved in the commission. I'm going to continue to believe that that commission can be made up of people who brought forward some of the best ideas we saw. [LB821]

SENATOR CHRISTENSEN: I, again, just say the concern I have because of the controlled type of management we've had here, and the undue influence of providers sitting on the Foster Care Review Board, hiding death information from senators to make good judgments, providing this information, is going to happen again. How can we have good legislation when we have people that will be appointed, we have people that have self-interest leading this. I think we got to think about what we're doing. I think we got to think about who is doing the appointments. I think it belongs in this body right here. I want to see a resolution to the garbage that's going on. I don't want just another study to cover up all the problems that we had and we say we've done our job. I think you need to think about this bill right here, and the amendment, and the information in it that it's going to be a smoke screen again. I'm tired of bucking certain individuals. And this isn't going to change. We have to get down to where we're in control of this. Senators, it's our responsibility. And I do not think we're on the right path right now. I've waited quite a while to share this because I was hoping somebody else would bring it up... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR CHRISTENSEN: ...in at it, look at it, but I guess I'm going to challenge you. Are we setting this up for failure? I believe we are. I do not believe it can be done the way it's structured. And I challenge you all to look at it, think about it, because we're going down another dangerous path that's going to be looked at again in five to six years because someone had a good idea but wasn't willing to stand up and do it the right way. It's time the buck stops here, with 49 senators to set it up, to get to the bottom of it, and clean house. Thank you. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Howard. [LB821]

SENATOR HOWARD: Thank you, Mr. President and members of the body. And I've listened diligently today to your discussion. I think I had ample opportunity to talk on my priority bill yesterday, which was a precursor to this bill. And I'm going to begin my remarks by saying, I've never worked with a committee as diligent, as focused, and as unified as the Health Committee has been last session and going into this session on this issue especially. It's really been heartwarming for me to be a part of this entire effort. But some of the things that Senator Nelson said on the floor just a short while ago, I think need to be addressed. We've heard it bandied about continually that KVC

Floor Debate  
February 28, 2012

---

has put up \$14 million of their own money in this effort. But I don't believe anyone has ever seen a lick of documentation regarding that. We've all accepted it as fact. They've put it out there continually. But I say to you, we don't know that for certain. The original contract between the department and KVC was written when we were not in session and it was written to extend for five years. So the jump off the cliff was pretty high. I agree with all the senators that have said, \$6 million is a payoff. It is, indeed, a payoff to an agency that's not going to be providing us any services. And we all know, services, in fact, are needed in this state. According to the ninth amendment to the contract with KVC, the HHS and the contractor, meaning KVC, by mutual written agreement, may terminate the contract at anytime. KVC submitted their resignation November 15, 2011. I asked Kerry Winterer if this was accepted. He didn't say it had been. He didn't say it hadn't been. It's my impression that the department has terminated the contract now with KVC, or possibly they've accepted the resignation letter, in which case that's a mutual agreement. But as of last Friday, the department hadn't given KVC written notice, which I find very confusing and their explanation is that they're trying to work out an agreement. So I assume that would be amendment ten to the contract. Now one of the reasons that we've been given in Health Committee for the \$6 million is to make sure that the contractor pays the subcontractor, so that we're not in the situation, a repeat situation, if you remember the Boys and Girls club, the Boys and Girls agency, where many subcontractors have not yet been paid. But according to the contract, it states in here, the contractor shall make payment in full to the subcontractor for all goods delivered or services rendered on or before the 45th calendar day after the date of receipt by the contractor of a bill. So it is their responsibility. It is not the state's responsibility to provide additional funding to pay off the subcontractors, it's KVC's. Now we've also heard as a reason for the \$6 million payoff, that the department wants their records back. That's a good choice because we all know there was one agency that literally destroyed the department's records when the department did not pick them up. According to the contract, the contractor agrees that all information assessed, stored, or processed in the DHHS computer system, N-FOCUS, (inaudible), CHARTS, is the sole property... [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR HOWARD: Thank you...of DHHS. Contractor employees are granted access to the information under the terms and conditions of the contract. All information collected and compiled by the contractor on behalf of DHHS under the terms and conditions of this contract are the sole property of DHHS. We should not be paying to get our own records back, especially where this was agreed upon in advance through contracting. I object to the additional payment of the \$6 million. I support this bill, and the amendment. I say this gives us a chance to move forward. None of us want to reflect on the past, but we should learn from it. Thank you. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Gloor. [LB821]

Floor Debate  
February 28, 2012

---

SENATOR GLOOR: Question. [LB821]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question for the body is, shall debate cease? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB821]

CLERK: 27 ayes, 0 nays, Mr. President to cease debate. [LB821]

PRESIDENT SHEEHY: Debate does cease. Senator Campbell, you're recognized to close on the Health and Human Services Committee amendment, AM2138. [LB821]

SENATOR CAMPBELL: Thank you, Mr. President. And, colleagues, I very much appreciate the discussion this morning as well as your questions and we will continue to work on them. I do want to say to Senator Christensen, I agree with you. And in the next four bills we're going to continue to muster all that we can on the oversight. So let us not think that LB821 is our only oversight or that the commission is. The commission has a different job and one of the most important things that the committee learned was, we could have written the strategic plan. But after five public hearings across the state of Nebraska, and, colleagues, open the blue book to Chapter 4, and all the comments from 90 people, and that just lists the people who spoke to us in an open session, this process started without their involvement. This process in terms of the initiative started in 2009, was not collaborative. The people from Scottsbluff to Omaha said, give us a voice. We care about this system. We work in it every single day. Look at the list of people that would be on that. A foster parent, a prosecuting attorney, a CASA volunteer, and on and on. These are the direct line. It was so important to the committee that we give our citizens across the state a voice. The composition of the commission is the front line of the child welfare system. These are the people that every day work for the protection of children. I'm going to again ask you to look at your blue books, and this time it's the beginning of Chapter 2. And on 2(1) a CASA staff person testified and what's important about all these divider pages, is all the divider pages, except for the Grace Abbott quote, came from those five public hearings. Nebraskans, these are their voices. And the quote was, but I also know that the time we're taking to figure all of this out, maybe would have been better spent on the front line and front end when we were trying all of these incremental changes, to take a step back and say, that didn't work. Why didn't it work? What could we have done better before leaping to the next big change? We've had a system that has lurched forward from one idea to the next. It's time to take the advice of Nebraska citizens and step back and put into place a better framework for the future. Thank you, Mr. President. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Campbell. You have heard the closing. The question for the body is on the adoption of AM2138 to LB821. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB821]

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

Floor Debate  
February 28, 2012

---

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB821]

PRESIDENT SHEEHY: AM2138 is adopted. [LB821]

CLERK: I have nothing further on the bill, Mr. President. [LB821]

PRESIDENT SHEEHY: We will now return to floor debate on LB821. Member requesting to speak, Senator Pirsch. [LB821]

SENATOR PIRSCH: Thank you, Mr. President and members of the body, and this is my first chance to rise and again echo those who have stated their appreciation, especially to Senator Campbell. And I know this has not been a light commitment that Senator Campbell has undertaken, and this has been multiple years and this has, I am sure, doubtlessly enveloped her life. And so for that, I am truly grateful, as well as the members of the Health and Human Services Committee, and other members who have devoted a great deal of time. And toward just having an understanding of a little bit of the details with respect to the amendment that we've just passed, I wonder if Senator Campbell might yield to a question or two. [LB821]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Pirsch? [LB821]

SENATOR CAMPBELL: Certainly. [LB821]

SENATOR PIRSCH: And I do appreciate you're willing to yield to a few questions. Do we know...and I'm going to reference a number...I just have a number of different questions involving the language of the amendment and maybe I'll reference the page number, and we'll see how much time we have here to answer a few of these questions. And we can certainly work on this between General and Select in terms of answering my questions or smoothing language. But with respect to page 7, line 8 through 12, we're talking about the ability...their ability here and they were talking about lead agencies on page 10...I'm sorry, on line 10, on page 7, does that 35 percent level, would that exclude, there's one lead agency that is currently existing in the state right now, the NFC, would that be that level, would that be set at a level, do you know, would that exclude or include NFC at this point in time? [LB821]

SENATOR CAMPBELL: At this stage, what we're trying to do here, Senator Pirsch, is we're trying to set into question for the commission on what conditions we might look at a lead agency. Unless there's a change in that contract, no it would not. [LB821]

SENATOR PIRSCH: Okay. Let me call your attention to page 11, and in this amendment we're...it's defining a number of different terms, malfeasance, misfeasance,

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

Floor Debate  
February 28, 2012

---

on page 12 as well. And malfeasance means wrongful act, that the actor has no legal right to do so...to do, or any wrongful conduct that affects, interrupts, or interferes with performance of an official duty. Could you just give me an example or a flavor of the distinction between malfeasance, misfeasance, and then I think that there's another term that's used, though I don't know that it's defined. I think it's misconduct, misconduct...the distinction between those three, or if you'd like, I know we're short of time. Perhaps, we can talk about the relative distinctions off the mike. [LB821]

SENATOR CAMPBELL: Senator Pirsch, you're the attorney here and I am not. I think what we're trying to do here is to clearly outline in statute those parameters that would legally call in...would be called into play. If you look at 24 on malfeasance, it's a wrongful act, that the actor has no legal right to do. [LB821]

PRESIDENT SHEEHY: One minute. [LB821]

SENATOR CAMPBELL: At this point, that's what we're trying to get at and we're trying to use those terms that would more...most accurately describe the investigation conducted by the IG. [LB821]

SENATOR PIRSCH: Thank you. Do you know was the language, though, defining this borrowed from other...I mean, some other legal mechanism? I know we've encountered those terms before in Government Committee. [LB821]

SENATOR CAMPBELL: Senator Pirsch, we tried to do...tried to look at other states that had put this into place, and we also worked with Mr. Lux out of the Ombudsman's Office to make sure that we had the legal language that was necessary. [LB821]

SENATOR PIRSCH: Okay. Wonderful. And it seems as though there's just some definitional questions I have, but I'll just at this point stop and yield, given the time that we have left, and so I do appreciate it. [LB821]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Seeing no additional requests to speak, Senator Campbell, you're recognized to close on LB821. [LB821]

SENATOR CAMPBELL: I'd like to, again, thank you for all of your questions and we'll continue to take them. And certainly a thank-you to all the people across the state who care about children, who took time to be involved with this. And the last thing I do want to say is, senators, you should be extremely proud of the legislative departments that we have in place. The professionalism and work from the Ombudsman to the Performance Audit staff, Legislative Fiscal staff, Legislative Research, Drafters, the LR37 report would not have been possible and we should be very proud of the people that we have in place. Thank you for your attention to this and your care and diligence. Thank you, Mr. President. [LB821 LR37]

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

Floor Debate  
February 28, 2012

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PRESIDENT SHEEHY: Thank you, Senator Campbell. You have heard the closing. The question before the body is on the advancement of LB821. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB821]

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of the motion to advance LB821. [LB821]

PRESIDENT SHEEHY: LB821 advances. Mr. Clerk, items for the record. [LB821]

CLERK: Mr. President, Judiciary Committee, chaired by Senator Ashford, reports LB734, LB737, LB768, LB805, LB817, LB881, LB941 to General File and LB920 to General File with amendments. Natural Resources Committee, chaired by Senator Langemeier, reports LB845 to General File with amendments. Senator Fischer has two amendments to LB751 to be printed. I have a conflict of interest statement filed by Senator Schumacher. There will be a meeting, an Agriculture Committee Executive Session, Room 2102, following their confirmation hearing today which is schedule at 1:00. So the Ag Committee will have an Exec Session following their hearing. (Legislative Journal pages 681-687.) [LB734 LB737 LB768 LB805 LB817 LB881 LB941 LB920 LB845 LB751]

And a priority motion, Mr. President. Senator Flood would move to recess the body until 1:30 p.m.

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

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please return to the Chamber and record your presence. Mr. Clerk, please record.

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any items for the record?

CLERK: I have one item, Mr. President. Enrollment and Review reports LB993 to Select File with Enrollment and Review amendments attached. And that's all that I have. (Legislative Journal page 688.) [LB993]

Floor Debate  
February 28, 2012

---

SENATOR LANGEMEIER: Thank you. We'll now proceed to the first item on this afternoon's agenda with General File, Child Welfare Division, LB1160. [LB1160]

CLERK: LB1160, Mr. President, a bill introduced by the Health and Human Services Committee and signed by its members. (Read title.) Bill was introduced on January 19, of this year, referred to Health and Human Services for purposes of conducting a public hearing, advanced to General File. I do have committee amendments, Mr. President. (AM2003, Legislative Journal page 645.) [LB1160]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Campbell, you're recognized to open on LB1160. [LB1160]

SENATOR CAMPBELL: Thank you, Mr. President. And good afternoon, colleagues. LB1160 is a bill that focuses on information necessary for child welfare reform, information for appropriate policy determinations and for the legislative oversight and accountability that we talked about. The LR37 investigation showed the dire consequences the lack of information has had on the department's actions. Lack of data is one of the core issues facing the oversight, monitoring, and evaluation of the department. Currently, N-FOCUS is not being kept up to date, in many cases by lead agencies, they have fallen behind. And in both the lead agency's cases did not have confidence in our N-FOCUS system and ran their own computer systems and then the data would eventually have to be put in. And sometimes there was lag time there. And that information is not able to be accessed by the department when and if that lead agency leaves. And that's what we've seen in the past week or so. When KVC leaves, the department wanted to continue to be able to have access to that computer information. And the committee believes that, obviously, we need to turn that around. We need to be able to be in control, and in all fairness to the contractors that come, we need to have a good system to do that. In the 2008 Behavioral Health Task Force Report the department stated: Nebraska currently does not have the capacity to collect and analyze routinely and effectively much of the data required to inform policy decisions, system development, and evaluation of its public behavioral health system, which, as we now know, would also go into other systems. There is no standard set of information that is uniform and collected about all children and adolescents served. Of the information that is collected, some exist only as paper records and are never entered into an automated database. The items of information that have been automated reside on a number, and I repeat, number of computer systems developed for different purposes with different capabilities, file structures, and operating systems. So the data system that we call for in this bill would require the department to submit a report to the Legislature by December 1, regarding a Web-based, statewide, automatic child welfare information system to integrate child welfare information into one system. The system's capacity will include integration across related social service programs. And it is intended to improve the child welfare system's management, tracking, and

Floor Debate  
February 28, 2012

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information sharing, especially in case management, and increase child welfare outcome measurement and oversight through an increased reporting by the agencies and the department. To provide the appropriate decision-making tools for the development of policy requires a good data system and, certainly, an evaluation by an independent third party. As policymakers, we're only as good as the data we are given and is available to us. And that same principle holds true for the welfare system. Let me give you two examples of why this is needed, and almost every person you talk to all across the system, including the department, shakes their head and says, yes, we need integrated data. This summer we requested a list of young people that had been on the behavioral health side and they have moved into child welfare side. And Magellan who handles this for our Medicaid Division gave us a chart. And we followed those kids across that chart and we got to a certain point and we called them back and said, where are the kids? Where did they go from here? And the answer by Magellan was, oh, you have to go to another system. You'll have to look at another computer, you know, how it's set up. That's shouldn't be. We should be able to know where the kids are at all points. And in fact, the state of Georgia has gone to this. And what is impressive about this is that in Georgia a case manager supervisor can be out in the field with what I assume is an i-Pad or smartphone, and at any point she can tell you, or he, where the case manager is, where the kids are located, bring up the case file, know what has been entered into the data. In real time they know where every child and youth are. Now that's a good system. The second part of this bill is reporting and it requires the department to report to Health and Human Services Committee by September 15, and each September 15 thereafter, percentages and/or numbers regarding several elements of the child welfare system. And I'm going to categorize them. We're very specific in the bill, but we want to know about the services for state wards, and behavioral health, substance abuse, how they integrate, how the services come together. We also want to know more figures in terms of expenditures. And we want to know information, more information about the case manager. We also want to know information on placements and residential treatment. This became important this summer when we began to look at and say, why are we placing kids outside the state of Nebraska? Don't we have the residential services here? Why are we spending that money? Part of it is, we don't have enough good data about that. The third part of LB1160 is evaluation. And it requires the department to engage a national entity with the expertise in child welfare programs, and I would say child welfare reform. And the reason we suggest an evaluator, is that all along here it's been recommended by any number of people. What's the system look like? How does it operate? What kind of data does it give out? And importantly for the western, central, and northern service areas who have lost a lot of services, what services do we need? How should we be planning for the future? It would seem to me that a national entity can help us look at our system, look down from above, and to help us know exactly what we have in place. This isn't like the LR37 report, it's much more specific by an expert who knows child welfare reform and systems. And it would allow us to be independent of the department, of the Legislature, or any other agencies. The department should give consideration to evaluate candidates who have expertise in

Floor Debate  
February 28, 2012

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outcome measurement, which certainly the Performance Audit Committee pointed out; data, intervention research and evaluation, dissemination and implementation research, and effectiveness. Colleagues, this is the second in a series of oversight, accountability, and transparency. It gives us the information that we, as policymakers, and the department needs to move into the future to build that better system. Thank you, Mr. President. [LB1160 LR37]

SENATOR LANGEMEIER: Thank you, Senator Campbell. As the Clerk has stated, there are committee amendments from the Health and Human Services Committee. Senator Campbell, as Chair of the Health and Human Services Committee, you're recognized to open on the committee amendments. [LB1160]

SENATOR CAMPBELL: Thank you, Mr. President. Here, colleagues, I will be very brief. What we did here was to amend LB774 into LB1160. And what we found in our research was that we have a number of reports that are required by the department to the Legislature, or the Health and Human Services Committee, "in some cases, on an annual bases." There was no common date. So what we did is harmonize all those dates into September 15 to come to the Health and Human Services Committee in order for us to sift through that information and, perhaps, put legislation forward. But it harmonizes all of them. And we have consulted with the department and I didn't detect from them any great angst that, oh, we could never do this, because a lot of the reports are done by different people from within the department. So, we feel very good about this information giving, again, another tool. Thank you, Mr. President. [LB774 LB1160]

SENATOR LANGEMEIER: Thank you, Senator Campbell. You have heard the opening on the committee amendments and to LB1160. The floor is now open for discussion; those wishing to speak we have Senator Harms, Krist, Dubas, and Price. Senator Harms, you're recognized. [LB1160]

SENATOR HARMS: Thank you, Mr. President, colleagues. As Chairman of the Legislative Performance Audit Committee, I stand in support of LB1160, which we prioritized. As you know, we conducted a performance audit of child welfare privatization as part of the LR37 study and found a need for additional accountability, transparency, and leadership. One of our committee concerns from the audit was the absence of key goals privatization was expected to accomplish or meaningful benchmarks and time frames for achieving those goals. As Senator Campbell explained, LB1160 addresses this concern by emphasizing our need for good information in order to oversee developments in the troubled areas. The reports required under LB1160 would ensure that we get much of the critical information we need to know what is and what isn't working for this legislative body. We also support the bill requirements for the Department of Health and Human Services report back to the Legislature on a plan for upgrading and integrating the child welfare data system. It's critical that the data system function effectively for both the workers who rely on it to

Floor Debate  
February 28, 2012

---

manage their cases, as well as the department management and the Legislature as we move forward to improve the lives of children and families in this great state. We also support the external evaluation of the child welfare system required by LB1160 that is important to get an independent perspective on whether recent changes are resulting in the improvements we expect or not. And, Mr. President, I'd be happy to answer any questions, and I thank you for the opportunity. [LB1160 LR37]

SENATOR LANGEMEIER: Thank you, Senator Harms. (Visitors introduced.) Returning to discussion on the committee amendments to LB1160, Senator Krist, you're recognized. [LB1160]

SENATOR KRIST: Thank you, Mr. President. Hello, Nebraska and colleagues. If you look at 5-1 in the blue book, Chapter 5, I think this quote is most appropriate at this point. This came from a former DHHS administrator: the best example I can give you is that we used to joke that here's a couple of English majors trying to make some financial recommendations. We were supposed to work with the contractors to develop financial reporting forms that they were going to provide to us. I'll let you read the rest of it at leisure. The point of that is, in past life I had a job where I was employed by a four-star general at a major command to do an analysis and review of statistics, vital statistics that were coming from his command so that he could make good decisions. You've heard the old adage, garbage in, garbage out. We had an independent team that was not affected by anything around us to report those factors to the command staff so that they could make educated decisions. This is a very, very, important part of these key pieces of legislation because it is the data systems that report the status of the system that is out there, how best to make decisions regarding a young man or a young woman who is in a terrible situation if we don't know that that situation exists. So please, please think about AM2003 and LB1160 as that key part of the data systems that need to be played in. Unrelated to this, I wish Senator Christensen was here because I sensed his frustration this morning, as we all did, with not doing enough with LB821. So just as an overview and as a reminder as we turn down the volume, declutter this thing and work through it one bill at a time, LB821 was our management oversight key piece; LB1160, the one we're discussing, is data systems and information that help us make good decisions and a reporting/tracking system that is valid and trustworthy. LB949 coming up is internal strategic planning and financial oversight; LB820 is a IV-E waiver funding which is also important in additional funding and compensation standards that Senator Dubas talked about this morning. LB961 is case management, department contract limitations and realigning strategic services and strategic plan and service areas. LB998, my own priority bill is not going to come up in this clutter, but it will...or in this cluster, I'm sorry, but it is representative of another major change that needs to be made and that's to reorganize, redefine the roles and the "interoperability" and reinforced time lines and good information coming from the foster care review process to us. So once again, stay focused on the macro view. We need to change this thing one step at a time; one bill at a time, it is necessary for us to be resolved in our issues

Floor Debate  
February 28, 2012

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and move forward. Thank you, Mr. President. [LB1160 LB821 LB949 LB820 LB961 LB998]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Dubas, you're recognized. [LB1160]

SENATOR DUBAS: Thank you very much, Mr. President. Good afternoon, colleagues. Again, as Senator Krist pointed out, this has to be broken into the components and the bills as it is because there's so much that needs to be addressed. And I think there's an old saying how to eat an elephant, it's one bite at a time, and that's, basically, what we're trying to do here is eat an elephant. But I think if you have had the chance to read the report, even if you only get through the first few pages, the overview, it certainly highlights the importance of what we're trying to do. And one of those things that keeps being repeated over and over in the report is the need for monitoring. Well, you can't monitor if you don't know what you're monitoring. And I think information gathering is a very, very important part of this whole process. And it's hard to know how to move forward if you don't know where you're at, at this moment. Would Senator Howard yield to some questions please? [LB1160]

SENATOR LANGEMEIER: Senator Howard, would you yield? [LB1160]

SENATOR HOWARD: Yes, I will. [LB1160]

SENATOR DUBAS: Thank you, Senator Howard. I should have gave you a little bit of a heads-up that I was going to ask you some questions, but I think, as I just stated, it's hard to know how to move forward until we really understand where we've come from and where we're at. And I think of all the people in this body, you probably have the most experience or understanding of the current N-FOCUS system. Could you...and I will just, basically, turn over the rest of my time to you. Could you kind of walk us through what N-FOCUS is supposed to do, and in your estimation what it hasn't done, and any other things you'd like to add along that line? [LB1160]

SENATOR HOWARD: Thank you for the compliment. I will attempt to explain N-FOCUS. It's the Nebraska information system. And, yes, I was at the department as a case manager when that system was put in place. I'd have to stop and think back. It's been at least 15 years and it was done in kind of a hurried system because it was one of those situations where there was a federal grant and it had to be used or lost. And so they decided on this system; there was a big push with the workers. We came in on Saturdays, got it in. But basically what it does is provide all the information necessary regarding foster care placements, information dictation can be put in there on a child's current situation, just all the basic facts that you would ordinarily find in a case record should be available in the N-FOCUS system which is...the concept is so good, because then other entities such as Foster Care Review Board, who have access to it, can go in

Floor Debate  
February 28, 2012

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there. But keep in mind, it's really only as good as the information that is put in. And because it is so dated now, it's a cumbersome system, window upon window upon window to get to whichever bit of information you want. When payments were done internally through the Department of Health and Human Service system, I, as a case manager, would go back to my case aid and say, Bobby was moved today from XYZ foster home to ABC foster home, we need to enter all this information in. That would ensure that the payment was generated to that foster parent beginning on the date that it should. Foster care payments are terminated through the N-FOCUS system, as are Title XX day care systems set up through that system too. Just in a nutshell, that's what it is. It's really the core of all information; or should be used as the core of all information for foster child history and documentation. [LB1160]

SENATOR DUBAS: To your knowledge, has there been any updates or changes made to the N-FOCUS to try to keep it current and relevant as far as the use of technology? [LB1160]

SENATOR HOWARD: Well, there was a constant updating of the system, per se. Started out with a mainframe system and became more streamlined. I'm not an expert on computer systems, I'm giving you the bare, basic knowledge that I have. [LB1160]

SENATOR LANGEMEIER: One minute. [LB1160]

SENATOR HOWARD: It has been updated, again, it's a pretty cumbersome system. I was real grateful to have a case aide that was good at navigating that. [LB1160]

SENATOR DUBAS: Thank you so much. [LB1160]

SENATOR HOWARD: Sure. [LB1160]

SENATOR DUBAS: Again, I think it just shows, in this day of the technology that we have available to us (inaudible) that is outlined in LB1160, I think, is going to be a critical part of successfully moving this welfare reform forward. And I hope that we can have some good dialogue about this and get it in place. So thank you very much, Mr. President. [LB1160]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Price. [LB1160]

SENATOR PRICE: Thank you, Mr. President. Welcome back from lunch, members. I would like to know would Senator Campbell entertain a question or two? [LB1160]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Price? [LB1160]

Floor Debate  
February 28, 2012

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SENATOR CAMPBELL: Certainly. [LB1160]

SENATOR PRICE: Thank you very much, Senator Campbell. In looking at this, and I have read the bill over, and this does kind of fall under my bailiwick of expertise, when do you see the actual system coming into play, whatever the report tells us? When do we see that coming into play? [LB1160]

SENATOR CAMPBELL: That's an excellent question because what we have asked for in this bill is a plan by the department to bring in an expert in this field to analyze what we have, what it would take to put an integrated system together. And that is, certainly, a big part of the fiscal note to this. [LB1160]

SENATOR PRICE: Right. [LB1160]

SENATOR CAMPBELL: That plan is then to be brought to the Legislature. [LB1160]

SENATOR PRICE: Right. [LB1160]

SENATOR CAMPBELL: At that point, Senator Price, we are under no obligation. Then I would see that plan being reviewed by a number of committees in the Legislature, most importantly the Appropriations Committee, and come forward then with, yes, we accept these recommendations and this is how we're going to pay for it. There are a number of states that have gone this direction, so we should be able to learn from them. This is just getting us a plan. [LB1160]

SENATOR PRICE: Right. And thank you, Senator Campbell. Now I'll let that go at that for you. The reason I said that is, obviously, when you look at the level of effort that's gone through by the committee in the crafting of this bill, and also the bill that was brought into this bill to make this happen, this is an enterprise level effort that's going to be the mother of all systems. You're talking about a relational database that is incredibly complex with a lot of security concerns and a lot of data ports coming in and out. Even after we get the report and we agree on it, and let's just go down that path, we agree and we find the most prudent methodology to get to where we want to go, whether it is in keeping some of the modules we have, or actually having to rewire entire new modules because what we have is based on COBOL or something so old; I doubt if it's actually COBOL, but something so old that we either have to start over again to build what we want to get the integrated capabilities we're asking for in a Web-based platform with multiple portals. So in doing so, I don't know that the system will come on-line soon enough to do what we need to do today. We've seen earlier today, we have some policy issues we're dealing with; now we're looking at the technological complexity and the barriers and we're going to spend a year to get it done. Again, I'm for this; I want us to do this. But my concern is, and I see that Senator Campbell has some information, we'll

Floor Debate  
February 28, 2012

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get right to it in a moment, but I wanted to say in looking at this, it's going to be difficult. And we had an MMIS project underway for Medicaid that went horribly awry and I would say, and I would hope that we have a bill in Government Committee to help to look at performance-based contracting, and things of that nature, tools that will help us to ensure we get what we're asking for and paying for, but that we do it in a manner such that we do a quality job of identifying requirements ahead of time. The last thing you want to do is throw out a contract, an RFP, that you accept saying I want you to build me a system of systems and then later on define that system of systems as you go along. Because that's a requirements creep, scope creep, are you going to contract changes, and that's when you hear, ca-ching, ca-ching, ca-ching, millions of dollars in delays. [LB1160]

PRESIDENT SHEEHY: One minute. [LB1160]

SENATOR PRICE: Thank you. So I would hope that in this study that we definitely look at making sure that not only do we look at the snapshot of what we have, look at the direction we want to go, but we understand what the requirements that we really want and where we're at because we don't want to get caught in a system...situation like we did with the MMIS where I believe the state was out millions of dollars. And that's what we're looking at here. And I have my light for later to discuss some more about the acquisition process. Thank you, Mr. President. [LB1160]

PRESIDENT SHEEHY: Thank you, Senator Price. Members requesting to speak on the Health and Human Services Committee amendment, AM2003, to LB1160 we have Senator Sullivan, followed by Senator Nelson, Senator Burke Harr, Senator Price, and Senator Wallman. Senator Sullivan. [LB1160]

SENATOR SULLIVAN: Thank you, Mr. President, and I'm...sometimes I think I'm a little bit of a slow learner in all this, but it's beginning to be clear to me how monumental a task this is; and as Senator Dubas says, well, how do you eat an elephant, one step at a time. And I think that that's what these bills that we're looking at attempt to do. Still, be that as it may, it is a huge task. And to that end, I'm trying to pick it apart and analyze it and so I would ask if Senator Campbell would yield for some questions. [LB1160]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Sullivan? [LB1160]

SENATOR CAMPBELL: Yes. [LB1160]

SENATOR SULLIVAN: Thank you, Senator Campbell. Suffice to say the current N-FOCUS, is that what it's called, is that an inadequate, antiquated system that we're currently using? [LB1160]

Floor Debate  
February 28, 2012

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SENATOR CAMPBELL: Yes, we're having difficulty with N-FOCUS and it doesn't integrate with any of the other systems. [LB1160]

SENATOR SULLIVAN: And the goal, as I understand it in this bill, is to seek out a Web-based statewide automated child welfare information system. Now, is achieving that going to be put on the shoulders of the department or with this independent evaluator, or how is that going to be sought out? [LB1160]

SENATOR CAMPBELL: We asked the department to develop a plan, and in the fiscal we authorized them to hire an expert to help them put that plan together. I think the department has done some looking at this, Senator Sullivan, so I don't think there will be without some ready to go, somewhat to say. But the department will be charged to do this. [LB1160]

SENATOR SULLIVAN: So we're looking at them contracting with somebody to do that, but that's separate from the independent evaluator, is that right? [LB1160]

SENATOR CAMPBELL: Absolutely. [LB1160]

SENATOR SULLIVAN: Okay. And it does appear to me that we are expecting quite a lot of the department in a short...fairly short time frame and you indicated in your opening remarks that it appears that they're...that the department is okay with this, but, again, I guess I would just ask you are they fully prepared, not only to do due diligence on what is expected of them in this time line? [LB1160]

SENATOR CAMPBELL: Senator Sullivan, I quoted...I think it's important to note that I quoted from the 2008 report the department's statement, they know that adjustments have to be made. I think they can meet the deadline in terms of looking at the system and the expertise, because they need to just bring forward a plan and some recommendations, then it's going to be our job to take a look at it. Everybody knows we need to do something. [LB1160]

SENATOR SULLIVAN: And as you said, that's a separate thing. The independent evaluator is another thing. Now again, who will be involved in the selection process of that independent evaluator? [LB1160]

SENATOR CAMPBELL: The department will be involved in that and we've laid out some of the criteria in the bill. [LB1160]

SENATOR SULLIVAN: And, as I look at the task of this evaluator, and then I look at the previous bill, is there going to be any relationship and input from this evaluator to the development of this strategic plan? [LB1160]

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Floor Debate  
February 28, 2012

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SENATOR CAMPBELL: Yes, and most likely the work of the evaluator...we've talked about this because we realize we have some tight time lines in through here. And one would expect that the evaluator might be first asked to take a look at those areas that were...that are germane to the commission's work, and perhaps the other then is done in a second phase. We know that the evaluator, probably, has more work on their plate, but they would start with what was needed for the strategic plan. [LB1160]

SENATOR SULLIVAN: Thank you, Senator Campbell. As I said at the onset, this is a huge task and it seems almost, to me, overwhelming. But I think the attempt has been made to break this into parts to make it more manageable and I hope that it can be. [LB1160]

PRESIDENT SHEEHY: One minute. [LB1160]

SENATOR SULLIVAN: Thank you. [LB1160]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Speaker Flood, you're recognized for an announcement. [LB1160]

SPEAKER FLOOD: Thank you, Mr. President, and good afternoon, members. Just two things I want to advise you of tonight...today I see us going until about 5:00 this afternoon. Again, I'm anticipating a 5:00 adjournment today. I want to put on your radar for Thursday that is more than possible we'll be working through the lunch hour on Thursday. Again, we'll be working through the lunch hour on Thursday. We had originally thought, maybe, a noon adjournment, but based on some of the bills that we are working on this week, I'm really thinking that we'll be working through the noonhour on Thursday. Thank you.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Continuing with floor discussion, Senator Nelson. [LB1160]

SENATOR NELSON: Thank you, Mr. President, members of the body. I rise not in opposition to this, but with just some questions, not only on the fiscal side, but also with regard to remarks made during the introduction by Senator Campbell, and perhaps she would entertain a... [LB1160]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Nelson? [LB1160]

SENATOR CAMPBELL: Certainly. [LB1160]

SENATOR NELSON: Thank you, thank you very much, Senator Campbell. And Senator Sullivan asked some really pretty good questions there and I feel a little overwhelmed

Floor Debate  
February 28, 2012

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about this too. I'm not that well-versed in data systems. I appreciate what Senator Price has to say, but in your introductory remarks you said we need better information, and I'm just paraphrasing here, but you referred to...to give us the information that we need to evaluate. Who do you mean by "us?" Is it the Health and Human Services Committee? Who is going to review...how many...let me ask first, how many children do we have in the system, 3,500, 4,000? [LB1160]

SENATOR CAMPBELL: We have...as of January 21, 2012, we have 6,072 state wards. When you add the other children that might be noncourt involved, we're up to about 10,000. [LB1160]

SENATOR NELSON: And what was the final figure? [LB1160]

SENATOR CAMPBELL: Ten thousand. [LB1160]

SENATOR NELSON: Ten thousand, wow. You spoke about the possibility that case managers or supervisors out in the field could input data as to the location of the children. Who is going to, on a fairly current basis, review that and raise any questions or evaluate what that information is about? [LB1160]

SENATOR CAMPBELL: Well, I think the importance of the example from the state of Georgia is that they're able to access it, Senator, at any one time. So, at this point, what we see with N-FOCUS, the data would have to be entered and is currently entered. But this system doesn't work as well as our two lead agencies thought it did. So they ran parallel systems to it. And what we're trying to say to this body is that we need to bring our system up to date so that we don't have to run parallel systems. [LB1160]

SENATOR NELSON: So you want to avoid the parallel systems. With reference to requiring the department to engage a nationally recognized evaluator, and I won't read all of that. Would this information then...all of this information that's accumulated in the database and everything be used for that evaluation? Would that be correct? [LB1160]

SENATOR CAMPBELL: Yes, it could be. Although a lot of...I would think that the evaluator would also start with the current reports that are generated that are given. It was interesting, and Senator Harms made this comment to me as we walked down the floor today...out today, was that, you know, in a lot of cases, the department has a lot of data, but we haven't done as much trend analysis of it and I would hope that the evaluator would look at that. [LB1160]

SENATOR NELSON: All right. Looking at the fiscal note, if we can see here, well, I think it says, if I can read...my recollection is it's going to be about a half a million dollars to do part of this, and then the cost of the data system is unknown and would be identified by the study. And it speaks of some of the additional persons that would have to be hired. I

Floor Debate  
February 28, 2012

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think the statement there says it's not known whether the Legislature will pay for this. If the Legislature doesn't pay for it, then does it come out of the department's funds? Is that the idea? [LB1160]

SENATOR CAMPBELL: I think that the budget and Fiscal Office will relook at that. [LB1160]

PRESIDENT SHEEHY: One minute. [LB1160]

SENATOR CAMPBELL: But their estimate was that it could be done currently within the department. [LB1160]

SENATOR NELSON: Be done internally? All right. And then we would have the additional cost of the data system, which can be expensive. Thank you, Senator Campbell. I guess one concern that I have is that it's all right to evaluate and have oversight, but I think we have to be careful of micromanagement. And that's why I'm asking these questions. Who is going to evaluate this? Who is going to make decisions? Who is going to decide that the department made a mistake here and there in the placement of a child? I guess, perhaps, that's just going to happen at the end of the year, or something like that, because I don't know how they can respond to that immediately. So, there again, I think this is a good start. I do have some concerns about the implementation and whether we're going to be able to handle all this data that comes in satisfactorily. Thank you, Mr. President. [LB1160]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Burke Harr. [LB1160]

SENATOR HARR: Thank you, Mr. President. Colleagues, throughout this session I've been talking about the hardworking middle class versus special interest. And I'm going to change that a little bit. I want to thank the hardworking HHS Committee for all the work they've done in regards to child welfare. This has not been a simple issue or a simple manner and what they've taken is a politically volatile issue. They've taken a very neutral stand based on facts and I think that's very important because that's exactly what LB1160 is looking to do along with AM2003. Those who can't remember the past are condemned to repeat it. We need information; we need to know what went well and what didn't go well and we need to be able to access that information. And that's what LB1160 does. We have a plethora of information; we have the ability to collect that information. The problem is, we aren't using that. And we aren't applying best practices. Having an independent evaluator takes the politics out of this issue. It leaves it to an impartial third party who will allow us to look at this information, who knows how to analyze information. I personally can look at some information and not have any idea what it means or how to apply that information, but that's what an independent evaluator does. Senator Price raised some very good questions. We have to be careful how we go forward on this bill. If we don't, we're going to end up in the same situation we're in

Floor Debate  
February 28, 2012

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right now where we're changing contracts all along and someone may back out at the last second. So, I think he's right to ask those questions. It's important that we ask those questions, that we go in prepared, that we know what benchmarks are on the contract. On the same level, it's important that we have an ability, when we pass all these bills, to know what the benchmarks are and what we expect for our children. And we need to have an outside evaluator who can say, hey, here's what the data is and here's what it says and here's what you can be doing, and here's what you can be doing better. We set the policy in the Legislature. It's up to the executive branch to enforce that policy through its rules and regulations. So it's important that we do set guidelines. It's also important that we have data that if our policy isn't being followed or isn't working to the best of our...the abilities, that we have that information available to us so we can make the changes. My only real concern is that this is just for three years. I'd like to see us get reports and more reports beyond just '12, '13, and '14. But I think once we realize the value of receiving these reports, that we will continue and ask for change...or amend the law and continue to get this information, so. I want to thank very much the department of...excuse me, the committee, Health and Human Services and Senator Campbell for all their hard work that they've done on this and all the other...four other bills to make it comprehensible so that even we can understand what went wrong and how we can correct the problem we have. It's not going to be corrected overnight, but I think we're definitely taking steps in the right direction. So, thank you very much. [LB1160]

PRESIDENT SHEEHY: Thank you, Senator Harr. Senator Price. [LB1160]

SENATOR PRICE: Thank you, Mr. President, members of the body. Like I said, this topic piques my curiosity because it's about acquisitions. First and foremost, Senator Campbell was able to get back, in Georgia, once they got the report, made the decision to execute, it took 18 months to get their CTO, Certificate to Operate, that's 18 months after the report. So we would probably be looking at something in that area if we wanted to baseline it. What I'd like to do now is I'd like to hold a little acquisitions 101 conversation with Senator Krist, if he would yield. [LB1160]

PRESIDENT SHEEHY: Senator Krist, would you yield to Senator Price? [LB1160]

SENATOR KRIST: Absolutely. [LB1160]

SENATOR PRICE: Thank you very much, Senator Krist. What we're going to do here is we're going to make sure we establish in the record an understanding of acquisition processes that I know you're very familiar with and I am, and most of you can probably catch a nap here, but in looking at this, one of the things I'm very concerned about and we need answers, who is going to drive the acquisition? Will it be...do you suspect it will be DAS or would it be the department? [LB1160]

SENATOR KRIST: Well, I suspect that in the current state structure that the department

Floor Debate  
February 28, 2012

---

would be overloaded, encumbered and would have to elicit the aid of the Department of Administrative Services within the government structure. [LB1160]

SENATOR PRICE: All right, great. Let's talk about requirements, generation, and validation, if you would. Can you tell me a little bit about what you would expect that to look like and some of the things that we need to be aware of as a state as we embark on this mother of all systems. [LB1160]

SENATOR KRIST: Well, the first thing I think we need to realize is that this bill in its consolidated mode takes many, many, many existing reports and brings them together into one deadline-structured event that would be presented to HHS, to the Health and Human Services Committee. Then analyzing that data and trying to develop the proper format to either integrate the data systems that currently exist and/or developing our own data system and that's where the structural design would come in. [LB1160]

SENATOR PRICE: Great. And would you foresee that there are probably times in this process where we're going to find that building middleware and reconfiguring existing systems is going to take more time and capital than would be buying an off-the-shelf system that we may just have to buy off the shelf here and there? [LB1160]

SENATOR KRIST: I do think that both of our experiences would tell us that at some point throwing good money after bad is not a good idea. That something off the shelf and then interpret it into a new software database is probably going to be less expensive. [LB1160]

SENATOR PRICE: Great. And finally, would you expound upon what you think the benefits of a performance-based contracting schemer would do for the state in this and some service level agreements? [LB1160]

SENATOR KRIST: I think that, obviously, if we defined those performance data points, if you will, and the integration of those systems on the upside, on the first side of the contract, we are going to save ourselves an immense amount of money by not falling short or creating a problem, as we've discussed off the mike, as have happened with other systems that we've tried to bring into the state. [LB1160]

SENATOR PRICE: Thank you, Senator Krist. Ladies and gentlemen, I know that's kind of dry and maybe technical in a way, but it is particularly germane to this discussion because we're going to ask the state to build a plan and I want to make sure part of that plan is understanding time lines, impacts, how we build requirements. I wanted to be able to say that performance-based contracting which we're putting into another bill will be utilized because what we need to have is a dynamic system that will allow for changes as we need them. What's going to happen if we have one of the databases is no longer supported by a certain contractor? How are we going to handle inputs from

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

Floor Debate  
February 28, 2012

---

rural areas in telecommunications and transportation, we hear things of having a backbone and a fiber backbone, but we need to be able to... [LB1160]

PRESIDENT SHEEHY: One minute. [LB1160]

SENATOR PRICE: Thank you...to take data streams of dissimilar natures, outputs from asymmetrical, if you would, databases and bring them all...integrate them all into something so that someone can hold up to a gee-whiz widget and have that information so we can take care of the children. So again, there's a technical part of what we're trying to do here, and we need to make sure that we understand as we move forward here, we're going to commit to about \$720,000 on a report. And that report, mind you, will generate a requirement for millions of dollars in changes in our systems. Thank you. [LB1160]

PRESIDENT SHEEHY: Thank you, Senator Price. Senator Wallman. [LB1160]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator Krist yield to a question? [LB1160]

PRESIDENT SHEEHY: Senator Krist, would you yield to Senator Wallman? [LB1160]

SENATOR KRIST: Absolutely. [LB1160]

SENATOR WALLMAN: Thank you, Senator. As I know you deal some with contracts with the government; now in databases are there some templates here for states to use and Medicaid and Medicare stuff as well, do you know? [LB1160]

SENATOR KRIST: Yes, sir, I do believe there are templates or somethings off the shelf that we could bring together. But once again, I would caution that the...we're talking about the horse and the cart. The first thing we need to do is get the horse across the line with all those data systems that currently exist and report in a single manner to the committee so we can look at the data. The cart then becomes, as it comes over the finish line, to design or look to design that data system. That system probably won't be in this biennium. May not even be expended in the next biennium when you look at the fiscal note. We may be designing this over a period of years. And yes, sir, I think there are systems out there or off-the-shelf systems that could be incorporated and tweaked to our benefit. [LB1160]

SENATOR WALLMAN: Thank you, Senator. Yeah, we're quick to blame, the blame game, and evaluation, how are we going to do this? It's very important that we evaluate, administrate, and then take care of the problem. And it's pretty easy when you have too many people in different areas that don't quite understand how we're evaluating what we're going to do. And so I'm going to support this and I thank the Health and Human

Floor Debate  
February 28, 2012

---

Services Committee. This is tough stuff. And you hate to micromanage, like Senator Price and some of those have mentioned, but we can...also, we can give advice in here. Thank you, Mr. President. [LB1160]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Members requesting to speak on AM2003 to LB1160, we have Senator Lathrop, followed by Senator Heidemann. Senator Lathrop. [LB1160]

SENATOR LATHROP: Thank you, Mr. President, and colleagues, good afternoon. I support LB1160 and AM2003 and this looks like an ambitious undertaking to me. And I'm pleased that we're thinking big and we're thinking long term and those things are all good. I do have a little bit of a concern after reading the book, and particularly the part from the Foster Care Review Board, where they talk about how many reports they're missing in the files, how much information is not being put into the files or provided, and if we develop a program that requires that we input a bunch of information so we can track what is going on and our progress, and that sort of thing, I want to make sure that we look at the personnel side of this as we go along. When we were doing the BSDC thing, we looked for sort of the common denominator, where was the breakdown? And we had the benefit of the CMS report and the Department of Justice report that pointed the finger at overtime hours. And when I look at...when I look through the book and kind of try to follow this solution that we're trying to create, the thing that seems to come back time and time again is the turnover. The turnover of the people that do this kind of work and I'm looking forward to, and hopefully that comes up in the fourth bill that we'll take up, but I'm looking for--what are we doing with the front-line worker that when we look at the Foster Care Review Board and some of their statistics and we see that the child that has one caseworker is more likely to be...have a successful outcome and a shorter period of time, which is what we all want, but some of these kids have four or five. And then the outcomes get worse and I'm looking forward to addressing that because if we end up having this elaborate program that requires a lot of input and the caseloads don't go down, and we're not compensating the front-line worker adequately, and we just have a whole bunch of turnover, nothing is going to change. So, this...I appreciate the importance of this piece and the solution, but I also think that...I'm looking forward, I'll say, to the conversation that we'll have regarding the employees that do this work at the front line. Thank you. [LB1160]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Heidemann. [LB1160]

SENATOR HEIDEMANN: Thank you, Mr. President, and fellow members of the body. I started to look into AM2003 and I started to see how much money was involved, but then you look at the next page and that's what...I don't want to say concerns me, but I want to make sure that everybody understands what road we're starting to go down. If you look at the fiscal note on this part of it, I believe it's like \$500,000, that is for planning money. But we have to understand that we are spending money for planning

Floor Debate  
February 28, 2012

---

money that will eventually say that we're going to spend \$10 million, \$20 million, or \$30 million for this information system. And I just want everybody to be aware of what they're voting for, that this could get expensive, and I'm not saying bad or good or anything, as long as you're aware that these types of systems are not cheap. And it doesn't appear like much right now, but if you're going to vote for planning money, you better be willing...if that plan says we need to do this, you better be willing to back that up then. This is just the first step. You better be willing to back that up by saying yes then, we're going to fund this information system. And these things, as I've become aware of in Appropriations, get very, very, very expensive. They can do a lot of things, don't get me wrong; and I'm not saying that this is bad, but be willing...if you're...be willing if you're willing to vote for planning money to follow that up eventually with the money that it's going to take to build the information system which could be very, very expensive. Thank you, Mr. President. [LB1160]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Senator Dubas. [LB1160]

SENATOR DUBAS: Thank you, Mr. President, and colleagues. This discussion is very important that we're having about money because if we're going to make the types of changes that we need to make, it definitely will cost and I definitely heed Senator Heidemann's warning, as we all should. But as I stated the first time I spoke, you kind of need to know where you've been and where you're at in order to know where you need to go. And if you look in your blue book, it will talk about what this process has cost us so far. Child welfare grew from \$105.2 million in fiscal year '08-09 to \$127.4 million in fiscal year '09-10 to \$139.2 million in '10-11. Some of the hearings that I sat in on with the LB603 committee where KVC came in, Nebraska Family Collaborative came in, some of the other lead agencies have come in and it's also stated in the blue book about the number of private dollars that have been infused into the system. KVC had contributed up to \$14 million in private funds in the reform effort and have basically said there are no more private dollars left. NFC stated it had provided \$7.5 million and would contribute \$2 million more in private funds. From late 2009 to June 30, 2011, state expenditures for privatization are over \$250 million. Beginning in 2009, many of the lead agencies participating in this privatization by their own estimates have contributed at least \$30 million in private funds. And their subcontractors have either, through contributions in services, or by lost revenue, have provided millions of dollars in private funding also. And despite all of this infusion of millions and millions and millions and millions of dollars, the state still does not have a fiscally sustainable system. So we have been throwing a lot of money into the system up to date and we are nowhere close to having a stable system. And so, yes, it's going to cost us money, but I think the purpose of the LR37 interim hearing, the report that they've brought forward for us to consider, and the dollars that we're talking, we're already spending substantial dollars. We owe our citizens; we owe these children, the families, the contractors, and the subcontractors, and the people who are out there doing this business, we owe them fiscal responsibility also. So I think the direction we're going with trying to create this

Floor Debate  
February 28, 2012

---

database is critical to helping us direct the dollars where they need to go rather than just grabbing handfuls of money and throwing it and hoping it sticks in the right places. So, no matter what we do, we're spending money. We need to make sure that the money we're spending from this point forward is being spent in the most effective...cost-effective manner and that it is actually going to give us some positive results and a much more stable and sustainable financial future for this welfare reform movement. And we cannot have constructive reform happen without this kind of a database system and an information system, so, yes... [LB1160 LR37]

PRESIDENT SHEEHY: One minute. [LB1160]

SENATOR DUBAS: ...the money definitely is an issue we need to talk about. We need to make sure it's our responsibility as the legislative branch, as the branch that appropriates that money that it's going where it needs to go and it's being spent in the manner that it should. Thank you. [LB1160]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Seeing no additional requests to speak, Senator Campbell, you're recognized to close on the Health and Human Services Committee amendment, AM2003. [LB1160]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. And I really welcome Senator Heidemann's comments, because he was kind enough to come down and talk with me about those comments before he went on the mike. And he is raising a very valid issue. But part of what we're trying to do here in LB1160 is to say the information that is in a child welfare system and in the children's behavioral health and children's Medicaid ought to be linked together. And part of what this planning money will do for us is to say, this is how we could begin integrating that. And my concern is unless we have a plan, we're going to just incrementally band-aid and fix N-FOCUS just a little bit and then we're going to look at something for behavioral health, and then we're going to look at something for Medicaid. That's where you don't look long term and make the investment long term to improve all systems across the board. Senator Heidemann is being very wise to say to all of us, know that the price tag here for that system may be large, and we're going to have to face that. But I would say, colleagues, that we can be, you know, penny wise and pound short here if we just try to band-aid this and, as we have heard today, we have a settlement offer with a lead agency and part of that settlement is we need to be able to get the data that's in their computers to be able to put into N-FOCUS. We should not be in that situation. We need to know how to improve our system and move forward. Thank you, Mr. President. [LB1160]

PRESIDENT SHEEHY: Thank you, Senator Campbell. You have heard the closing. The question before the body is on the adoption of the Health and Human Services Committee amendment, AM2003 to LB1160. All those in favor vote aye; opposed, nay. Senator Campbell. [LB1160]

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

Floor Debate  
February 28, 2012

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SENATOR CAMPBELL: Mr. President, I'd like a call of the house. Oh, we're fine, sorry. Withdraw. Oh, yes, I'm sorry, we would like a call of the house. Mr. President, it's just because it's the middle of the afternoon, we're very clear, we do not need a call of the house. (Laughter) [LB1160]

PRESIDENT SHEEHY: Okay. Thank you, Senator Campbell. [LB1160]

SENATOR CAMPBELL: Thank you, Mr. Speaker. [LB1160]

PRESIDENT SHEEHY: Record, Mr. Clerk. [LB1160]

CLERK: 28 ayes, 0 nays on the adoption of the committee amendments. [LB1160]

PRESIDENT SHEEHY: AM2003 is adopted. We will now return to floor discussion on LB1160. Seeing no requests to speak, Senator Campbell, you're recognized to close. [LB1160]

SENATOR CAMPBELL: I think I'm in the best spot to just waive closing. (Laughter) [LB1160]

PRESIDENT SHEEHY: Senator Campbell waives. The question before the body is on the advancement of LB1160. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB1160]

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB1160. [LB1160]

PRESIDENT SHEEHY: LB1160 advances. Mr. Clerk, items for the record. [LB1160]

CLERK: Thank you, Mr. President. Senator Hansen offers LR430; it will be laid over. Judiciary Committee, chaired by Senator Ashford, reports LB799 to General File with committee amendments attached. And a communication from the Governor to the Clerk. (Read re LB633.) That's all that I have, Mr. President. (Legislative Journal pages 688-690.) [LR430 LB799 LB633]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now proceed to LB949. [LB949]

CLERK: LB949 was a bill originally introduced by the Performance Audit Committee and signed by its membership. (Read title.) Introduced on January 11, 2012; referred to the Health and Human Services Committee for public hearing. The bill was advanced to General File, Mr. President. I do have an amendment to the bill. [LB949]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Harms, you're recognized to

Floor Debate  
February 28, 2012

---

open on LB949. [LB949]

SENATOR HARMS: Thank you, Mr. President, colleagues. LB949 would provide additional fiscal accountability and transparency for child welfare spending which we believe are essential in light of the problems we, and others, identified related to the privatization of child welfare services. As you know, we conducted a performance audit of the child welfare privatization and at the Health and Human Services Committee's request as part of the LR37 study. LB949 addressed two concerns raised in this audit. One, the absence of key goals privatization was expected to accomplish, or meaningful benchmarks or time frames for achieving the goals. And two, the difficulties the Legislature had in getting accurate, timely fiscal information from the Department of Health and Human Services funding for the child welfare services contract. Specifically, LB949 requires that for the next two budget cycles, the Department of Health and Human Services include a strategic plan for the CFS in its budget request to the Legislature. Now the plan must identify the main purposes of each program in the division; the goal for measuring the progress and meeting the purpose, as well as benchmarks and time frames for meeting those goals. The bill also requires that in alternate years, which would be 2013 and 2015, the Department of Health and Human Services give the Health and Human Services Committee and the Appropriations Committee an update on its progress towards meeting those goals in the proceeding 12 months. LB949 would also require a CFS to provide the Health and Human Services and Appropriations Committee with quarterly updates starting in October, 2012, on any movement of funds over \$250,000 in the child welfare subprogram from other budget subprograms in the budget Program 347. This requirement addresses concerns raised during the LR37 study that the Department of Health and Human Services moved funds in this manner in the past and it was difficult for the Legislature to identify where the funds were coming from. Finally, LB949 states that the Legislature's intention that the child welfare subprogram within the budget Program 347 be separated out and established as its own program for budget purposes beginning the next biennium. This is another transparency measure which would allow the Legislature to better oversee spending and child welfare. The Performance Audit Committee does not believe that a statutory change is necessary to create a new budget program, but including this intent language will signal to the State Budget Office that we would like to see this done. Thank you, Mr. President. I'd be happy to answer any questions. [LB949 LR37]

PRESIDENT SHEEHY: Thank you, Senator Harms. You've heard the opening to LB949. Mr. Clerk, you have an amendment on your desk. [LB949]

CLERK: I do, Mr. President. Senator Harms would move to amend with AM1995. (Legislative Journal page 659.) [LB949]

PRESIDENT SHEEHY: Senator Harms, you're recognized to open on AM1995, LB949. [LB949]

Floor Debate  
February 28, 2012

---

SENATOR HARMS: Thank you, Mr. President, and colleagues. LB995 (sic) primarily makes some technical corrections to the bill. But I would like to, just briefly, describe one portion of the change that I think is a little larger than normal. LB949 requires that the Department of Health and Human Services, Division of Children and Family Services report to the Legislature on the expenditure including certain transfer for child welfare. As the bill is drafted, the division would not have to make its first report until October, 2012. But my amendment moves...would move up the date of the first report. Under AM1995, the first report would be due by the end of July and it would cover the expenditures from January 1 to June 30 of this year. After that, the reports would be due after every calendar quarter. In addition, in response to a concern expressed by the Department of Health and Human Services, the amendment would make the report due within 30 days of the end of the quarter instead of immediately following the end of the quarter as required in the green copy. With that I would urge you to support AM1995 and thank you, Mr. President. I would be happy to walk you through any individual changes or the smaller changes you would like or I would just be happy to answer any questions. Thank you, Mr. President. [LB949]

PRESIDENT SHEEHY: Thank you, Senator Harms. You've heard the opening on AM1995 to LB949. Members requesting to speak are Senator Mello, followed by Senator Krist, Senator Dubas, and Senator Carlson. Senator Mello. [LB949]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise in support of AM1995, as well as the underlying bill, LB949. Not purely because as a member of the Performance Audit Committee, as we explored this issue throughout the interim as a willing partner to the Health and Human Services Committee as they embark LR37, but as an Appropriations Committee member who has worked with Senator Harms, Senator Conrad, and others in the Appropriations Committee over the last three years, the issue of performance-based budgeting and exploring the ideas of trying to reform our existing budget process has been something that I have put an enormous amount of time, energy, and resources in to see if it's something we could do as a Legislature. My first year down here in the Legislature I talked and spoke with many of you as you cosponsored an interim study that had the Appropriations Committee explore the possibilities of changing our current budgeting system towards a zero-based budgeting or performance-based budgeting system. Ultimately, what we have in front of us is a pilot project that explores what I think is a long overdue process that breaks down the Department of Health and Human Services Program 347 in regards to laying out specific goals, benchmarks, and ways to measure outcomes in determining whether or not the money that is being appropriated to them by this Legislature is actually achieving the outcomes that we so seek in not only some of the bills that we've discussed here today, but some of those bills that we will continue to discuss as we move forward. Change is not easy. Change is not easy when we're trying to reform a child welfare system; and change is not easy when we try to change a

Floor Debate  
February 28, 2012

---

budget system. As a bill that I had in front of the Appropriations Committee last year that explored doing something very similar to what we have on LB949 for all state agencies, it was a testament, so to speak, that change in the executive branch is not easy to come by. And the executive branch does not want to see sometimes the amount of transparency and the performance measurements that we want as a legislative branch to be put forward in the budgeting process, because that then means that that executive branch agency and those programs are held to a higher standard. That they have to be held publicly accountable through the budgeting process for what they are...what they put down on paper to determine whether or not they were successful in meeting specific goals or benchmarks. Senator Harms approached this subject his first year down, as did Senator Conrad as members of the Appropriations Committee. It's been an issue that I took from them and continued to work and push. This is a real, I think, groundbreaking movement that we're going to see in following what the department is going to do over the next four years. We're going to be doing it in conjunction with the Health and Human Services Committee, the Appropriations Committee, but ultimately the Legislature as a whole, will be involved in seeing whether or not this kind of budgeting process works, and whether or not we see value in requiring an executive branch agency, by a specific program, of having them report to us regular benchmarks, goals, and hopefully outcomes to determine whether or not what they're producing day in and day out within this department is actually working. Some may say this is long overdue, but ultimately I'm just glad to see that we have found resolve as a Legislature, both from the Health and Human Services Committee and their work, in LR37, as well as the work from the Performance Audit Committee over the interim to see this idea and concept move forward. My hope is that we can take what we have in LB949... [LB949 LR37]

PRESIDENT SHEEHY: One minute. [LB949]

SENATOR MELLO: ...be able to share those results amongst other committees of jurisdiction in this body, as well as the Appropriations Committee and embark and, hopefully, reform our entire budget process. I want to thank Senator Harms for his leadership on the Performance Audit Committee of helping see this through; Martha Carter the director of the Legislative Performance Audit Division, as well as all the performance auditors, in helping bring this idea full circle. I think we're going to see results. It may take two to four years to see this process work, but I'm convinced we're moving the state, what I would say, in the twenty-first century of how we can yield more outcomes for the money we're putting in certain government programs. Thank you, Mr. President. [LB949]

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Krist. [LB949]

SENATOR KRIST: Thank you, Mr. President. And again, good afternoon, Nebraska and colleagues. You've been referred many times to the blue book which is the LR37 report produced by the Health and Human Services Committee. I would invite you to look at

Floor Debate  
February 28, 2012

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your leisure at the Performance Audit Committee the Nebraska Legislature issued in November, 2011, it's a manila covered, and I have a copy here if you would like to look at it, on page 9 through page 20, you will see a chronology that if you have not read it, and have not digested it, will blow you away because we have pretty much stepped on every land mine we could in this process of trying to do reform and privatization. And I thank, again, Senator Harms for his leadership. I'm also proud to be a member of the Legislative Performance Audit Committee. The point I would like to make though at my time on the mike today is I'm not sure that we can wait till the beginning of the biennium to actually segment that money from the 347 Program. You've heard me refer to the 347 Program as being so large it's the size of a small South American country's budget. And in fact, by transferring money around and allowing for the free flow, we have not seen good financial oversight in the 347 Program. So, I would like to entertain, and this is not a surprise, Senator Harms, I talked to him off the mike about this as well, I'd like to entertain that...and also Liz Hruska about the subject, I'd like to entertain that we all move towards, between now and Select, potentially moving that timetable up so we can take that money out of the 347 subprograms where they're free flow and put them into a program of their own so we can track child welfare and foster care program money to some extent. I'm sure there will be some active discussion on that during that time. But the point of that is, and I don't want to be critical, I want to move forward, but for gosh sake I have asked how much this program has cost from the day that I set foot in the Health and Human Services Committee. And even today if you ask the members of the Appropriations Committee there is question about how much has been spent, needs to be spent, needs to be budgeted through the process. Putting these monies in its own program and tracking them and showing good financial oversight from our perspective is a key to move forward. Remember, it is our job, colleagues, to appropriate. They execute and we supply the oversight to make sure that that money is spent the way that it needs to be. Listen, and listen hard, I think this is a great move with AM1995. I thank the Performance Audit Committee Chair, Senator Harms, for all his hard work and I thank our committee for prioritizing LB949 and let's do a green on both of these, please. [LB949 LR37]

PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Dubas. [LB949]

SENATOR DUBAS: Thank you very much, Mr. President. As a member of the Performance Audit Committee, I've had an opportunity to learn a lot about the budgeting process in general, and in more specifically for HHS. And I think one of the frustrating things that we have run into on this, as well as some other issues, is that ability to get specific questions answered with specific information. Our Fiscal Office works very, very hard to give us that type of information because we are the budget-setting authority of the government. And for us to make the kind of decisions required, we need that very specific information and I know the Fiscal Office has been very frustrated when they continue to run into brick walls when they're trying to answer those questions and give us the information that we need. So I think what we're trying to do through LB949 and

Floor Debate  
February 28, 2012

---

the amendment is to break this down so that we can continue to ask the specific questions, but we can be a little bit more focused on where we're going with those questions. There's been some talk about the Budget Program 347 and that it contains all these different subprograms, 26, I believe, and how...the fact that's it's too large. I think it's important for this body to really understand what that program is and so if Senator Mello would yield to some questions, I'd appreciate it. [LB949]

PRESIDENT SHEEHY: Senator Mello, would you yield to Senator Dubas? [LB949]

SENATOR MELLO: Yes. [LB949]

SENATOR DUBAS: Thank you, Senator Mello. If you would maybe go into a little more detail about really how big this program is. What are the types of programs that are under it? And you kind of alluded to it when you made your comments a little bit ago, but why it's so important that we're pulling some of these things out of this program so we can make better budgetary decisions? [LB949]

SENATOR MELLO: Well, thank you, Senator Dubas, for that question. And without having the complete breakdown that the Fiscal Office has provided me before as the Appropriations Committee recently had our Department of Health and Human Services hearings, Program 347 has everything from child care, to Aid to Dependent Children, to some of the issues that, obviously, we've heard regarding child welfare funding. And the reality is, the question that ultimately is, you have a variety of these subprograms that fall within Program 347. And the concern that has been raised with having a, you know, a subprogram for child care, a subprogram for ADC, subprogram for SNAP, for all these other public assistance programs, is the concern of this unbridled flexibility that currently resides within that program. It's been an issue that's been raised both in the Appropriations Committee, it's been raised in the Fiscal Office to have them provide us a little bit understanding of how, so to speak, the mechanics have been created for the department to operate. And so, right now Program 347 not only has all of these subprograms within it from food assistance to child care to TANF or the ADC Program, I should say. But, ultimately, they have the flexibility to not have these funds be siloed in separate categories where they would be exclusively used, so to speak, for specific program focuses. That's been a concern that's been raised, Senator Krist, actually, has raised that issue to me and other members of the committee as we explored the LR37 report is that right now the department has that flexibility to utilize this Program 347 funding for a variety of different, I would say, programs or priorities of the department that don't always fall in line with the priorities of what the Legislature may say of when we appropriate certain funds, for example child care, that those funds should only be used for child care. That's been an ongoing issue that we have... [LB949 LR37]

PRESIDENT SHEEHY: One minute. [LB949]

Floor Debate  
February 28, 2012

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SENATOR MELLO: ...explored within the Appropriations Committee. And I think it's a great question you ask because it's not purely all of these separate subprograms that fall within the Program 347, but it's this unbridled or unfettered flexibility that the department has to spend money, frankly, on whatever the department really wants to spend money on as they see it. [LB949]

SENATOR DUBAS: So if they're able to move this money around within this program then it makes it much more difficult for us to really get a handle on what it's actually costing us for the child welfare component of the program? [LB949]

SENATOR MELLO: Yes, that's...I would agree with that question. And I would say, yes, that would be the answer. And even I think one side note of that is a fund that I know the Health and Human Services Committee is aware of, too, the TANF rainy day fund, so to speak, separate federal funds that we have that miraculously the department have utilized that to pay for the privatization effort that many of us in this body were unaware of until after the fact. [LB949]

SENATOR DUBAS: Thank you very much, Senator Mello. Again, I think that points out why we need to break this up. [LB949]

PRESIDENT SHEEHY: Time, Senator. [LB949]

SENATOR DUBAS: Thank you. [LB949]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Carlson. [LB949]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I do stand in support of LB949 and AM1995. I think that this is the right plan that brings about accountability that's so important and opportunity for evaluation as time goes along, opportunity to assess progress and better determine if delivered services under a strategic plan are accomplishing what they are meant to do. I do have a question for Senator Harms, if he would yield. [LB949]

PRESIDENT SHEEHY: Senator Harms, will you yield to Senator Carlson? [LB949]

SENATOR HARMS: Yes, I would. [LB949]

SENATOR CARLSON: Now, Senator Harms, this would be in statute. And it indicates that quarterly reports are due according to calendar quarters. So that would make it March 1, June 1, October 1, and January 1. And this is just a technical type question. How do you have a quarter that ends on December 31 and a report due on January 1 for the previous quarter? [LB949]

Floor Debate  
February 28, 2012

---

SENATOR HARMS: That's a good question. I think that's something we're going to have to look at as we roll this into the next step, Senator. [LB949]

SENATOR CARLSON: Because it is in statute so it should be such that that requirement can be met in a reasonable manner. [LB949]

SENATOR HARMS: I would agree with that. [LB949]

SENATOR CARLSON: Okay, thank you, Senator Harms. [LB949]

SENATOR HARMS: Yes. [LB949]

SENATOR CARLSON: Thank you, Mr. President. [LB949]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Lathrop. [LB949]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I know we don't want to spend the day visiting the past, but we can't...I don't think we can debate LB949 without talking about the past, and I'm going to do that for just a moment. And let me explain exactly why this is necessary. In the Appropriations process, as I understand it, and I've never been a member of that committee, but they have the various people come in to testify about programs and the amount of money needed to fund a program. Program 347 was a large program that had several subprograms. In those subprograms we had identifiable programs, if you will, that were contained under a larger program. So instead of saying you have to come in...well, HHS came in and said, we need money for this, we need money for this. They went through each one of the subprograms, they satisfied the Appropriations Committee. The Appropriations Committee then satisfied the body and we passed it. The subprograms were all contained in Program 347. Instead of having each one of those an identifiable, separate program which would have shown up in the budget, they accumulated the money under Program 347 even though the money was specifically intended for particular subprograms. Why does all that matter? Because when they started to amend the contracts to give more money to KVC, they went into other subprograms and started moving money around. Okay? And it made it difficult for our friends on Appropriations, for members of the Legislature, for people over in Fiscal to keep track of what they were doing. And then when we said, let us know what you did, it was like pulling teeth to get the information. Boy, if we don't do anything that's important in the child welfare reform effort it's this because this Legislature, we had \$9 million come from the federal government for TANF, T-A-N-F, \$9 million. It was actually supposed to be to help out a welfare program. But because TANF was a subprogram of Program 347, it went into the pot and got spent amending contracts and giving more money to KVC. And what happens is we are the body that can appropriate money, right? That's the thing that we got going for us. We set policy, we appropriate money, we put the money into these subprograms that were all under

Floor Debate  
February 28, 2012

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347, a program, and they disregarded the subprograms and spent it like they felt like. And why is that an issue? Why is it a huge problem? It's a huge problem because if we wanted money to go to a welfare program, that's where it should have been spent, that's what we directed, that was the law that we passed. And it got spent on whatever they wanted that fell within Program 347. That's a mess. Senator Harms and the Performance Audit Committee have brought a good bill. It will stop this from happening. It is in my judgment unfortunate we are spending the day, and we will spend tomorrow, trying to put more structure on the executive branch and the way they are doing business and maybe that has to be done. Well, clearly, it has to be done. It shouldn't have to be. [LB949]

PRESIDENT SHEEHY: One minute. [LB949]

SENATOR LATHROP: LB949 is a good idea. It will allow for more accountability. It will allow us to say that when we appropriate money for a particular social program that's where it's going to be spent. And if you don't have enough money in a particular program you come back to the Legislature and talk to them about it. You don't rob a different program that we intended to fund. Thank you. [LB949]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Mello. [LB949]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And I appreciate, I appreciate where Senator Lathrop was going a little bit with a point of contention that I was just talking with a fellow colleague of mine from the Appropriations Committee in regards to some of the lack of financial transparency that has existed with this privatization effort. And Senator Lathrop's specific example he used out of the LR37 report I want to expand on a little bit. Through the American Recovery and Reinvestment Act, which our state and Governor Heineman signed multiple requests to pull that money down for a variety of purposes, one of the funds that we did not originally pull down was federal funding for emergency TANF. Senator Nordquist, Senator McGill, myself, I think Senator Dubas was also there, we were at a conference, an NCSL conference where it was raised that Nebraska was one of few states who did not apply for our allocation of emergency TANF funds. We thought anywhere...the NCSL provided us information and said the state qualified for anywhere between \$16 million to \$24 million of emergency, one-time federal funds to be used in regards to our rising unemployment rate, to be used for those Nebraskans who ultimately receive or qualified, potentially, for any Aid to Dependent Children or what is known as the TANF program. Working with the Legislative Fiscal Office we were able to find out exactly how much we qualified for. And ultimately the administration, much to their chagrin, applied for that funding. What other states had done with that emergency TANF funding was they used that funding to help push towards job creation, to help get people who are unemployed, provide them the services and wraparound services they need to get them reemployed. Actually, I have a bill in front of the Health and Human Services

Floor Debate  
February 28, 2012

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Committee, LB1136, which is modeled after a number of states that created a wage subsidy program, to help those individuals who are on public assistance to provide them an opportunity to be able to go work in a job with an employer to provide them the needed services as well as the job skills they need to become employed again and off public assistance. What Nebraska did and what Senator Lathrop so aptly stated was that instead of utilizing these one-time funds for innovative programs, we utilized it essentially to make contract changes and give that money to KVC and other lead contractors for the child welfare privatization effort. Hindsight is 20/20 and I know there are some colleagues on the floor who don't really want to revisit the past on every single issue that we have discussed today or will continue to discuss regarding the child welfare privatization effort. I think this is one, specific example though of when we have a failure in government, there are real repercussions, not just only in the sense of the letter that I'm currently drafting that I know our colleagues in the Health and Human Services Committee drafted something similar, obviously, that wants more information in regards to the \$6 million settlement that KVC wants, more information in regards to the money that's been spent in regards to the privatization efforts since the release of the LR37 report, but ultimately it's a failure on government's part in regards to utilizing federal dollars for purposes that yield outcomes. And these one-time federal funds, emergency TANF funds that could have been used to put people back to work, to help get people off public assistance and into the work force, get them the job skills they need... [LB949 LB1136 LR37]

PRESIDENT SHEEHY: One minute. [LB949]

SENATOR MELLO: ...to be taxpaying contributors again through gainful employment, we instead use money, that money to plug our failures with the child welfare privatization effort. And it's shocking that no one wants to acknowledge that failure. No one wants to acknowledge that we took this money that could have been used for many other good purposes and instead gave it to lead contractors to not yield anymore results that the administration had promised us. Now granted, LB949 I think is a step in the right direction to help, hopefully, ensure this won't happen again, that at least this Legislature moving forward will have more information available to us, our Fiscal Office will have more information available to them to know where dollars go, because too many of us on this floor have clamored to be fiscal conservatives and want to eliminate government waste. But when the time comes, very few of us are willing to stand up and challenge the status quo in the executive branch to clamor for more information. [LB949]

PRESIDENT SHEEHY: Time, Senator. [LB949]

SENATOR MELLO: Thank you, Mr. President. [LB949]

PRESIDENT SHEEHY: Thank you, Senator Mello. Seeing no additional requests to

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

Floor Debate  
February 28, 2012

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speak, Senator Harms, you're recognized to close on AM1995. [LB949]

SENATOR HARMS: Thank you, Mr. President and colleagues. I would ask you to support AM1995. I think it makes all the necessary changes that we need to make to actually make LB949 a better bill. I did want to just bring to your attention, and I don't know if Senator Carlson is here or not, but a question that he asked in regard to the timing. I think we took care of that in the amendment. What the amendment actually says is that will make reports due within 30 days of the end of the quarter instead of immediately following the end of the quarter as required by the green copy. I believe that would clear that up. And, Senator Carlson, if it doesn't, I'd be happy to have a friendly amendment when we get to the next stage and correct that if you would feel strongly about making a different type of an adjustment. So, Mr. President, I thank you very much. And I'd ask you to support AM1995. Thank you. [LB949]

PRESIDENT SHEEHY: Thank you, Senator Harms. You've heard the closing. The question before the body is on the adoption of AM1995 to LB949. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB949]

CLERK: 34 ayes, 0 nays on adoption of Senator Harms's amendment. [LB949]

PRESIDENT SHEEHY: AM1995 is adopted. [LB949]

CLERK: I have nothing further, Mr. President. [LB949]

PRESIDENT SHEEHY: We'll now return to floor debate on LB949. Seeing no requests to speak, Senator Harms, you're recognized to close. [LB949]

SENATOR HARMS: Thank you, Mr. President and colleagues. I would urge you to support LB949. I really believe that this puts everything into place. The very things that we have all talked about over the last five years about health services and the concerns we've had, we will get them in for at least two budget cycles for strategic planning, and I think that's extremely important. I think for the first time we'll be able to track back exactly what has taken place. We are simply asking them to give us benchmarks, give us ways that we can evaluate what's taking place. I've always felt this was necessary and was important in the past, and it will even be more now in the future. In closing, I would like to thank Martha Carter and the Performance Audit Committee staff. I don't know if you're read...I hope you've read this document. But the portion that the Performance Audit Committee did was done by this audit staff. And it was done with being shorthanded. And I can tell you they spent many hours this summer and fall working on this. They did just a marvelous job. It's well done, well written, well documented. And for me it's fun to work with people like that. But you can give them a topic and you can be assured when it comes back that it's exactly the way it ought to be. So thank you very much, Martha and your staff. And, Mr. President, thank you. I would

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

Floor Debate  
February 28, 2012

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urge you to support LB949. Thank you very much. [LB949]

PRESIDENT SHEEHY: Thank you, Senator Harms. You have heard the closing. The question before the body is on the advancement of LB949. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB949]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB949. [LB949]

PRESIDENT SHEEHY: LB949 advances. We will now proceed to LB820. [LB949 LB820]

CLERK: LB820 is a bill by the Health and Human Services Committee. (Read title.) Introduced on January 5 of this year, referred to Health and Human Services, advanced to General File. There are committee amendments pending, Mr. President. (AM2165, Legislative Journal page 639.) [LB820]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Campbell, you're recognized to open on LB820. [LB820]

SENATOR CAMPBELL: Thank you, Mr. President. For this bill, colleagues, I'd like you to look in your blue book to page 9-1. And this is testimony that came to us from a foster parent and was given in Grand Island, our first hearing. And I'm going to read quite a part of this. You were asking about a foster care pay list. That's the foster care pay list and that is how they determine what rate the child, you know, you get paid for. And my children, I had three during the time that Boys and Girls was the lead agency, and all of a sudden my payments were reduced 56 percent per child during a month. The FC pay list had been completed without any of my information, without any of my input. I asked for those to be redone and they were never redone. But I went from \$30 a child to \$12 a child, all three of them were in diapers and one on formula. So there's many, many expenses that I had to provide for those children. I think some of the very best testimony that the committee heard across the state of Nebraska came from foster parents and, without a doubt, from foster youth. LB820, and I'm really going to kind of talk about LB820 through the whole amendment, so we'll kind of start in that phrase. LB820 as amended contains the original LB820, which is the foster care demonstration project, as amended version of LB926, which Senator Dubas had helped us with on foster care compensation, and LB874, foster care licensing, which had been Senator Howard's bill. So now we have brought three concepts together. LB820 has been introduced as a result of a recommendation in LR37. The Title IV-E demonstration project is in response to the LR37 research and the interest of lead agencies. Here is what Title IV-E is, an adoption assistance and foster care program funded by the federal government. The foster care program funds out-of-home care for children. The Title IV-E demonstration waiver is a program to allow the flexible use of Title IV-E funds to reduce the number of children in out-of-home care. And, colleagues, when we started the initiative and even

Floor Debate  
February 28, 2012

---

before that our goal has always been to get more children served in their home. Title IV-E waivers have been utilized by many states across the country in the first round of demonstration waivers to fund a variety of programs. Florida was one of the states that was awarded a five year Title IV-E waiver in 2006. And as a result, Florida was able to utilize their Title IV-E money to fund an array of community-based services for children. Now for fiscal year 2012 through 2014, the federal government is again awarding Title IV-E state demonstration waivers, up to ten states per year waiver. The waivers do not add more money to the state's IV-E funds, but they provide flexibility in how we can use it. LB820 requires us to apply for a Title IV-E waiver. And if you're looking for unanimity on almost everybody from the department to the committee, to agencies to advocacy groups and on and on, almost all of them said we should apply for a Title IV-E waiver. So the department has already started work on this. But we felt that there were certain conditions that we should put into statute and apply for it. And a couple of those conditions were that we would change the application date, and this was at the recommendation of the department, that we would allow them and encourage them to bring in some stakeholders from the state who had expertise in this area. And if needed, and I emphasize if needed, the department could bring in an expert to help write that grant. There are people who actually, that's their expertise. The department testified and was very helpful in putting some assistance in how we would frame this. The second part of LB820 provides for a Foster Care Reimbursement Rate Committee. And this is to develop a statewide standard reimbursement rate structure for children. The structure should include a standardized level of case assessment system and shall link performance with payments to achieve permanency outcomes for children and families. The study showed, our study, that foster care parents are the front-line, direct service providers for the care, safety and well-being of Nebraska children who are placed out of their homes. Foster parents are critical components for a positive transition of children back into their homes in a timely manner. What we saw as we went across the state and what you will see in Chapter 7 is the surveys that were...surveys of foster parents completed by the Ombudsman's Office. We need to have an increased focus on recruiting, retaining high quality foster parents. The Foster Care Review Board report, which is also in your blue book in Chapter 8, indicates a decrease in foster homes available across the state. It was interesting in the surveys that not once bubble up to the top out of foster was: we need more compensation, we need more money, we want a pay raise. Their number one concern was: we need more communication, we need people to explain to us what's happening, we need to be a part of the system, we need to have respect. I think it speaks for the dedication of so many foster care parents across the state of Nebraska that their concern continued to be on the welfare of the children who they cared for and not for their compensation. But the committee felt that we should begin to look at this compensation. And we started working with Senator Dubas to come upon what is a MARC study which helps to set into motion the structure that you would have so that we would have a uniform system across the state. But we felt that it might take too long for us to get all of that work done. So we asked for the committee to be in place and, if you approve the Children's Commission, that committee

Floor Debate  
February 28, 2012

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would be folded under so that we don't have all these little bits and pieces out there but that they come under one body that helps to put this together. The second thing that we decided to do... [LB820 LB926 LB874 LR37]

PRESIDENT SHEEHY: One minute. [LB820]

SENATOR CAMPBELL: ...was that, thank you, Mr. President,...was that we wanted to somehow bridge the compensation that foster parents are getting. Until we can finish the study we wanted to put that compensation into place. And so we looked at a way to do that. If you look at the amended LB820, you will see that what we did was to indicate and put forward a \$3.10 rate increase that would go directly to the foster parents as a bridge payment. For all of you that are following the fiscal parts of these bills, we estimate that this cost would be around \$3 million. But I would hazard to guess it is probably one of the most important investments of \$3 million that we could make into the families across the state. [LB820]

PRESIDENT SHEEHY: Time, Senator. Time. [LB820]

SENATOR CAMPBELL: Thank you. [LB820]

PRESIDENT SHEEHY: Thank you, Senator Campbell. You have heard the opening to LB820. As was noted, there is a Health and Human Services Committee amendment, AM2165. Senator Campbell, you're recognized to open. [LB820]

SENATOR CAMPBELL: Thank you, Mr. President. And I will just continue because I'm covering all of the points in the amendment and the bill as we go along. So we would give them \$3.10 a day and then we would add 25 cents for the agency that works directly with them to process that and to continue the training and support of those families. I do want to mention in particular the last part of what we would add to LB820. And this was Senator Howard's bill, and I'm sure she's going to speak on this as we look at the debate, but it was with regard to licensing of foster parents. And her bill gives a definition to "kinship." And I'm going to let her describe that because I'm sure she's going to have her light on, because she has spent a lot of time in the system and has been a great help to the Health and Human Services Committee as we've put LR37 together. I want to answer the question about, well, what is all of this going to cost us? If you took all of the committee's bills and their recommendations as they stand right now it would be slightly under \$10 million. But because of the changes over this past week in which the department has talked about stepping up caseload reduction, the total of these five bills would be under \$5 million because we looked at compensation a little bit differently under the caseload. I hope that begins to address some of the total as we have given that estimate to the Appropriations Committee. It is...LB820 is a favorite bill of a lot of us on the committee because it gets to the people the direct aid who take care of the children who are placed out of their home until they can either return or find

Floor Debate  
February 28, 2012

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permanency through adoption. Thank you, Mr. President. [LB820 LR37]

PRESIDENT SHEEHY: Thank you, Senator Campbell. You've heard the opening to the Health and Human Services Committee amendment, AM2165, to LB820. Members requesting to speak: Senator Dubas, followed by Senator Howard, and Senator Krist. Senator Dubas. [LB820]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. I want to especially thank the committee for including this in their package of bills. I've been working on foster care payments for the last several years at least. And I have had the opportunity to meet some of the most incredibly giving, warm, caring, loving people across this state who open their homes, open their hearts to these kids and then, basically, you know, have to send them back to who knows what. And they just truly are the unsung heroes of this whole welfare reform issue that we're talking about. I appreciated especially the comments made in the LR37 report. The part where they talk about how the committee was struck again and again by the dedication and commitment of foster parents to do the very best for the children in their care. It was demonstrated in the surveys that foster parents were more concerned about the lack of communication and professional support from case managers and agencies than they were about payment issues. And despite abysmal compensation provided to them, for the most part the providers who were recruiting, training, and supporting foster parents were given higher marks for their contact and general helpfulness. But it's also because of this, and I have been very frustrated with the way foster parents have been treated over the years. And these are the people that are taking care of the kids, that know what is going on in these kid's lives, that are probably providing that one constant, that one soft place to land when everything else is going awry, but yet have their opinions, their input, everything about what they do has been more often than not completely disregarded. And as I had the opportunity to meet with foster parents and I initially was talking to them about their compensation and the rates that they were receiving, they were apologetic, they were, I'm not here to talk to you about the money. It was almost like they felt ashamed that that was even a part of the discussion. But by the same token, we cannot expect these people to take care of these children just out of the goodness of their own heart. And a portion that was in my original bill, and Senator Howard is going to talk about this kinship relationship, it's been the focus for the department as well as the agencies that have been working foster parents to place these children with relatives because many times a relative placement is a better placement for the child, for the family. It keeps that connection to the family. But yet we have treated kinship placements with even less regard than we've treated people who are not related to the children. We've paid them less. Many times these kinship placements are grandparents, aunts and uncles who have children of their own at home, people who maybe are on fixed incomes. But yet we're saying, because you're related, you get less money. It was never something that I could quite connect the dots on. They're still taking children into their home, they're still needing to provide those

Floor Debate  
February 28, 2012

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extra needs that children have: food, clothing, transportation, all the other things that go along with raising kids, but yet for some reason we didn't feel that they needed to be treated the same or compensated the same. So I'm hoping that through this whole process we're going to be able to address that particular problem. You know, I said I've been working on this for a couple of years... [LB820 LR37]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB820]

SENATOR DUBAS: I've been working on this for a couple of years, and it was because these foster families were coming to me and saying, you know, we were paid X amount of dollars previously. And now for whatever reason our rates have been cut. They weren't being contacted, they weren't being talked to, they weren't being informed when things were going on in the children's lives. They were very, very frustrated. So, as Senator Campbell pointed out in her opening just how important these people are in the lives of these children and how important it is that we treat them as such. So Senator Campbell referenced the MARC report, and that's something that I used a lot in my research. And Nebraska is among the lowest in the nation as far as the rates that we pay our foster families. So I'm very pleased to see this component in the bill. And I think we're going to be able to really get a good sense of where we need to go in putting out a standard methodology... [LB820]

SENATOR COASH: Time, Senator. [LB820]

SENATOR DUBAS: ...to create those foster payments. Thank you. [LB820]

SENATOR COASH: Thank you, Senator Dubas. Senator Howard, you're recognized. [LB820]

SENATOR HOWARD: Thank you, Mr. President. And thank you, Senator Campbell and Senator Dubas. When I began looking at this issue of kinship care I was astonished to learn that the private agencies were in fact using, in their terms, someone known to the child but in the most loose definition possible. And as I said to the committee when I presented the bill, unfortunately, this someone known to the child could be as insignificant a relationship as maybe the janitor in their school, not to say that school janitors are any less worthy of being foster parents. I know we do have some. But a casual, passing relationship in the hall does not constitute a relationship for the child. When we went to draft this bill we found the statute is so old that there is not a definition of kinship care itself in the statute. So we had to not only do a definition but also kind of paint a picture of what kinship care is. And I was doing case management in 2003, when Senator Jim Jensen put the amendment in regarding a kinship care relationship with a child. And his intention at that time, and I've talked with him about this, was if a

Floor Debate  
February 28, 2012

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grandparent stepped forward in regard to their grandchild being a state ward and they wanted to take that child, that they would not have to go through training for that one specific child that they wanted to care for because it was their grandchild. Now I think that's very legitimate. When you start to loosely define "kinship care" you run into all kinds of problems, not the least of which is that an unlicensed home will not be eligible for federal reimbursement. That means it's paid for strictly by state dollars, which technically are called IV-B funds. But you can imagine how that can quickly mount up. And I learned just recently that KVC had qualified 40 percent of their foster homes as kinship care, the loose definition of "kinship care," which meant that 40 percent of their foster homes were being reimbursed through state dollars only. Now LB874 would require that all foster parents not related to the child by blood, marriage or adoption be licensed foster parents. A couple of reasons for this. Number one, these foster parents would receive the training, the support, the information, the things that they need to be able to care for those or that child who is placed with them. And I can tell you from my experience, none of these children come without their fair share of issues to be dealt with. Number two, the foster parent will receive adequate reimbursement for the care of that child. Right now with the definition of "kinship care" these foster parents are paid less than licensed foster parents, usually \$10, maybe \$11 a day, no clothing allowance, no food voucher for when those children initially come in and the foster parents aren't prepared and don't have additional groceries, they need to go out and buy some food to have on hand for these children, none of that. None of the things that the state used to do, strictly \$10 a day. I don't have any young children in day care, but I am quite sure a day care arrangement... [LB820 LB874]

SENATOR COASH: One minute. [LB820]

SENATOR HOWARD: ...costs much more than this. Unlicensed foster homes, also known as approved homes or child specific placement homes, are exempt from some environmental requirements, for example, how much square footage is allowed per child. With licensed foster homes we're very specific. I didn't operate in the licensing division, but I know those things are spelled out, each child has their own bed. Now that seems pretty basic to any of us, but that's not really a requirement if you're not licensed. You can put those children together in a bed. With a licensed foster home children of the same sex are placed in a bedroom together. In an unlicensed foster home, you know, we don't have the same requirements. So you can easily see that by cutting corners to save money to pay foster parents less you're not doing justice to the child. [LB820]

SENATOR COASH: Time, Senator. [LB820]

SENATOR HOWARD: Thank you. [LB820]

SENATOR COASH: Senator Krist, you are recognized. [LB820]

Floor Debate  
February 28, 2012

---

SENATOR KRIST: Thank you, Senator Howard, for both your guidance and mentorship through this whole process. You have been a wealth of information and your experiences have been tapped upon many times within our Health and Human Services Committee. I'll be very brief on this particular subject. But I wanted you to know that I had a conversation with the highest level in the contracting world of a contractor that used to do business with this state. And I said, I am appalled at the constant degradation of the payment that is given for a foster child in a foster home. And he said, and I quote, I can't control what the subcontractors are paying. I want you to think about that for a second. Something is backwards in this system. There should be a minimum level, it should be the minimum care, it should be an acceptable level. I'm not talking about a gold-plated Cadillac here, I'm talking about the minimum that's acceptable in terms of human dignity to take care of a foster child in a foster home. That to me is one of the strongest pieces of this piece of legislation. You need to support AM2165 and you need to support LB820. I plead with you that you support this particular bill because it fixes one more additional problem in this process. It sets up a minimum acceptable standard and takes Nebraska out of the basement, we're the worst state taking care of these particular kids in this way. Vote green on AM2165 and LB820. Thank you.  
[LB820]

SENATOR COASH: Thank you, Senator Krist. Senator Dubas, you are recognized.  
[LB820]

SENATOR DUBAS: Thank you, Mr. President. I really want the body to pay attention to this bill. I mean, all of them are important. I really want you to understand how important these parents are in the lives of these children and how much they've been disregarded over the last few years, so much so that we have lost exceptionally good, qualified foster families because they've said, I just can't do it anymore, I can't keep opening myself up to this. And again, it's not about the money. They're willing to make those kinds of financial sacrifices. But to be treated the way that they've treated over the years, they've just...I mean, just the total chaos and disrepair that the whole system is in, they've just said, I can't do it anymore. They've thrown up their hands, they've turned around and they've walked away. If we lose...foster families are the hub that holds this whole wheel together. If we lose those foster families, what do we do with the children? Do we go back to the orphanages? Do we go back to the Little Orphan Annie's? What do we do with the children? These homes are the one, like I said, they're the safe place to land for these kids. What happens when we don't have these foster families anymore? My bill sought to just create that standard methodology of payment, that base rate to take us, as Senator Krist said, out of the cellar and just elevate it a little bit so that they can provide clothing, so that they...transportation, that's a huge issue for these families. They're required to take kids to doctors, dentists, therapists, family visits. If the foster family lives in a different school district than that child, if the family wants that child to continue to go to the school district that they come from that family is required to

Floor Debate  
February 28, 2012

---

deliver those children to that school district. And they do it on the lowest pay in the nation, they do it. We're simply seeking...what this bill is seeking, creating that pilot program, it's how do we establish that base rate of pay so that we can at least help these families meet the minimum, minimum standards for taking care of the children, providing the clothing. One of the people that I want to talk to you about, and I mentioned her this morning, Leigh Esau, she runs the Foster Care Closet. I would love to take you there and show you what she's been able to do. She previously had a contract with KVC which allowed her to go out and work with different stores across the Lincoln area and other places where she could buy brand new clothes. This is a place...oftentimes these foster kids shows up on the doorstep of the families with nothing but a paper sack and the clothes on their back. And so these families are required to go out and get these children suitable clothes. The Foster Care Closet provides these clothes for these children and families at no cost, new and gently used clothing. And I've seen these families come in and what these kids are so (laugh) excited because they get a brand new pair of jeans and a new shirt, you know, the things that our kids don't even give a second thought to. I don't know that I can fully convey to you just how important this particular bill is to making the whole child welfare system work, because again those foster families, those people are truly the front-line workers, those people that are in the trenches. You know, one of the reasons why we decided to pull back with the bill and go with how the committee has put it together was I wanted this standard pay to go directly to the foster families. Well, if they were operating through a subcontractor, that subcontractor was fearful that that money was going to be taken out of the money that they were receiving to do the work. And one of the, as I stated in my first time at the... [LB820]

SENATOR COASH: One minute. [LB820]

SENATOR DUBAS: ...mike, the support that they offer to these families is just so important. And these families have told me how much that means to them to have that person to call when they've got questions or aren't quite sure what to do. And so we need to be able to create that standard methodology without putting these subcontractors at risk of not being able to continue to provide those all important support services. So, you know, again it's my hope that through this kind of a pilot program we're going to be able to build a pilot program that we probably should have done from the very start in this entire reform. This kind of foster care pilot program now will help us decide the direction we really need to go. And again, that extra \$3 a day, I mean, we spend that on a latte at a coffee shop. And these people are trying to pick up the pieces of a reform that has gone oh so bad and be that one person in these children's lives who they know they can trust and that they can count on. [LB820]

SENATOR COASH: Time, Senator. [LB820]

SENATOR DUBAS: Thank you so much. [LB820]

Floor Debate  
February 28, 2012

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SENATOR COASH: Senator Lathrop, you are recognized. [LB820]

SENATOR LATHROP: Thank you, colleagues. Just...I think I'll be brief this time. I support LB820. And, you know, we've talked about this book a lot today, as we should. And now we're talking about the compensation rate of foster care parents, and we've talked about how they're the lowest in the country. I would encourage you to open your book to 8-40, where they have, in appendix G, what everybody else is paying. It isn't even close, it isn't even close. You know, I can't help but listen to the debate today and see the similarities to some of the things that we went through with developmental disabilities. You can't help but see the similarities between the problems we have with the child welfare and with the developmental disabilities, and particularly community services. And there is a correlation between what we're paying people and the quality of people that you're going to get to come forward. And when we had hearings in the BSDC committee and we had the providers coming in and talking about this, the families were coming in, the providers were coming in, we know that it makes a difference. And in the name of fiscal responsibility, we cut these things back. And when we have tough times we cut provider rates and we cut pay and we don't give raises that would keep people in an industry. And then we get to a crisis and look back and say, how did we get here? We have to compensate fairly the people that do this kind of work, we really do. And I think LB820 is important because you'll see Nebraska, it's not even close. I mean, it's half, it's half of what probably these people ought to be getting. And in some respect this might tie into what we're going to talk about next, which is the caseworkers. But, you know, if we spent the money to get good caseworkers and we get their caseload to a level that we don't burn them out on, and we slow the turnover down, what you're going to see is kids will stay in foster care for a shorter period of time and the money we're spending on foster care at a small, low rate, probably could be increased without costing us anymore money as a state. But I really believe that it starts with the caseworkers. And we'll save money on foster care if we have the workers in there with a reasonable caseload. And that said, I think these folks deserve more than what we're paying them. And I appreciate the pilot program and the opportunity to find out what fair compensation is so we can take that up at the appropriate time. Thank you. [LB820]

SENATOR COASH: Thank you, Senator Lathrop. Senator Dubas, you are recognized, and this is your third time. [LB820]

SENATOR DUBAS: Thank you. And I want to leave my colleagues with this last impression as you think about what we're dealing here. We spend more to take care of our dogs and our cats than we spend to take care of our children who are in the most vulnerable positions of their lives. We have doggie day cares, we have pet hotels where we leave our pets when we go on vacation. We pay more for those types of services than we are willing to pay to the foster families who open their homes, who open their

Floor Debate  
February 28, 2012

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hearts and bring these children in to provide some kind of stability, some kind of consistency in their lives. So when you look at the dollars and the dollar signs that are in front of the numbers, and we're talking about what it's going to cost to take care of these foster children and what it's going to cost to take us out of the cellar and create some kind of fair compensation for these families, I want you to think of what we pay as a society to take care of our dogs and our cats. And if these children aren't worth at least that much money, enough said. [LB820]

SENATOR COASH: Thank you, Senator Dubas. Those still wishing to speak: Senators Council and Sullivan. Senator Council, you are recognized. [LB820]

SENATOR COUNCIL: Yes, thank you, Mr. President. This is the first time on the mike for me today. I want my colleagues to know I've been listening from my office and listening from my home before I had to appear in court today. And I concur with much of the commentary that I've heard regarding the need for all of the bills that have been discussed today. I am particularly interested in LB820 as it relates to foster care reimbursement rates. The points have been aptly made with regard to where Nebraska stands, the issue with regard to kinship placements. And what's really critical in understanding kinship placements is that the research shows that kinship placements are the most stable for children and also result in the least likelihood of reentering the system after reunification. So that's really important. But if Senator Campbell would yield to a couple of questions, because I'm not concerned about the bill or the intent and purposes of the bill. I guess, based upon much of the commentary I've heard, I'm just concerned about our ability, because much of this rests on the department, to carry out all of the conditions to obtaining the waiver. In reading the bill and the committee amendment one of the things I noted was that the proposal that is submitted requesting the waiver must include some indicia of the department's ability and capacity to carry out the project, develop new policies and procedures. Was there any discussion of that noting that the department came in neutral on the bill? [LB820]

SENATOR COASH: Senator Campbell, will you yield? [LB820]

SENATOR CAMPBELL: Yes, certainly. There was discussion about that, Senator Council. And I think the department was very clear to the committee that Title IV-E waivers are very difficult to obtain, and that they have been working on this. They have sent some people to a conference. And that's why you see in the committee amendment that we have suggested that they bring in some stakeholders. We have a number... [LB820]

SENATOR COUNCIL: Right. [LB820]

SENATOR CAMPBELL: ...of people in the state who have expertise and a lot of research and would hopefully put us in a better stand to apply. I think at this point, if

Floor Debate  
February 28, 2012

---

they utilize the stakeholders and if they need that expert to write the grant, they have a much better chance, but they have a lot of work to do. [LB820]

SENATOR COUNCIL: Right. And what is the relationship though, Senator Campbell, then between the ability to put together a worthy waiver application and the effort to increase the reimbursement rates? Is there a direct correlation or is this something that can occur pending application or does our ability to pay that additional stipend depend on the granting of the waiver? [LB820]

SENATOR CAMPBELL: Oh, that's an excellent point. No, to pay the increased stipend that we're talking,... [LB820]

SENATOR COUNCIL: Right. [LB820]

SENATOR CAMPBELL: ...is not related to the Title IV-E. [LB820]

SENATOR COUNCIL: Okay. And that's very important because I didn't want to leave the impression that that was dependent upon successfully receiving the application, the waiver. But what can result from successful application... [LB820]

SENATOR COASH: One minute. [LB820]

SENATOR COUNCIL: ...is our ability to develop a reimbursement rate that is more comparable to what other states are paying. Am I correct, Senator Campbell? [LB820]

SENATOR CAMPBELL: Exactly. [LB820]

SENATOR COUNCIL: Okay. And for those reasons I would urge unanimous approval of the committee amendment and the underlying bill. [LB820]

SENATOR COASH: Thank you, Senators. Senator Sullivan, you're recognized. [LB820]

SENATOR SULLIVAN: Thank you, Mr. President. Again, it's been very helpful to listen to the testimony and just trying to piece together all these parts. And to that end again, Senator Campbell, hope you don't mind, but I would like to ask you some questions. [LB820]

SENATOR COASH: Senator Campbell, will you yield? [LB820]

SENATOR CAMPBELL: Yes. [LB820]

SENATOR SULLIVAN: Thank you, Senator Campbell. You mentioned in your remarks earlier that in terms of this total package, initially the expected cost was \$10 million, but

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

Floor Debate  
February 28, 2012

---

now it looks like it's more like \$5 million. Could you explain that a little bit more of what the department weighed in on that? [LB820]

SENATOR CAMPBELL: Senator Sullivan, I'm not trying to evade your question. But the answer to your question is going to be in our discussion of LB961. [LB820 LB961]

SENATOR SULLIVAN: Ah ha. Okay, very good. With respect to the foster parents and increasing their payments starting in July of this year, what about, and correct me if I'm wrong, are there foster parents out there right now that have not been paid for services they've rendered? [LB820]

SENATOR CAMPBELL: To my knowledge, I think the foster parents have pretty much been covered. Senator Lathrop might be able to answer that to see if there's any individual claims from foster parents that have come forward. But I think that when Visinet left and Boys and Girls, I think there was a real emphasis to try to make sure the foster parents were paid. [LB820]

SENATOR SULLIVAN: And also with respect to the rate committee, what sort of time line will they be operating on? [LB820]

SENATOR CAMPBELL: They will have a more extended time, Senator Sullivan. We're hoping to bring that committee under the Children's Commission and work through that. But it might take us a period of time to do all of the research and detail that that committee might look. So I'm not as concerned that's about their finishing in a particular time line as much as I feel that that's why we put the bridge money in there. [LB820]

SENATOR SULLIVAN: Thank you, Senator Campbell. And so following up on what you had commented on, Senator Lathrop, would you yield for a question? [LB820]

SENATOR COASH: Senator Lathrop, will you yield? [LB820]

SENATOR LATHROP: Yes, I will. [LB820]

SENATOR SULLIVAN: Thank you, Senator. Just to clarify, to your knowledge have all foster care parents who have rendered services, have they been reimbursed for their efforts? [LB820]

SENATOR LATHROP: I think, you know, I'm trying to think of the list, and there's about 50-some people on it or 50-some organizations on it, separate claims that came in the wake of Boys and Girls Home terminating the contract. And I can't...I'll confirm for you, but I don't think there's foster parents on there. [LB820]

SENATOR SULLIVAN: Thank you very much. [LB820]

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

Floor Debate  
February 28, 2012

---

SENATOR LATHROP: I may find out that I'm not right, but it's more organizations, as I recall, certain doctors and therapists. [LB820]

SENATOR SULLIVAN: Thank you very much. You know, these bills are beginning to look almost like a stool, I guess, that we can sit on. And it's fair to say that maybe the legs have been broken or are way too short for us. And I certainly think we are headed in the right direction. We've got a tremendous amount of work to do. It concerns me that we are directing the Department of Health and Human Services to do a tremendous amount of work, and it will require probably stretching their resources. And I hope it all can be managed. Thank you. [LB820]

SENATOR COASH: Thank you, Senator Sullivan. Seeing no other lights, Senator Campbell, you are recognized to close on AM2165. [LB820]

SENATOR CAMPBELL: I want to clarify... [LB820]

SENATOR COASH: Sorry, Senator Campbell, I'm sorry. Senator Nelson, you are recognized. [LB820]

SENATOR NELSON: Thank you, Mr. President, for recognizing me. And I do...I would like to get a little more handle on the projected cost here, if I could ask either Senator Campbell or perhaps Senator Dubas, whoever...let's go with Senator Campbell, I guess. [LB820]

SENATOR COASH: Senator Campbell, will you yield? [LB820]

SENATOR NELSON: Campbell, I'm sorry. Will she yield to a question? [LB820]

SENATOR COASH: Senator Campbell, will you yield? [LB820]

SENATOR CAMPBELL: Yes, of course. [LB820]

SENATOR NELSON: Did I understand you, I'm looking, we don't have a revised fiscal note as a result of the amendment where, if I read what you have here in AM2165, during a period, a year's time, while this is being implemented and we get a standard rate, there would be a payment of \$3.10 per child per day, which comes to about per child \$93 per month, if I figure it right. And if we're talking about a year's time then we're talking about \$1,100 per child that the foster parent would receive, assuming they have that child for the year. Would that be about correct, \$1,100? [LB820]

SENATOR CAMPBELL: I think you're right, Senator. We estimated that this cost, and we will check it between General and Select and get a revised fiscal note for you, we

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

Floor Debate  
February 28, 2012

---

estimate it around \$3 million. [LB820]

SENATOR NELSON: Right. Do you know about how many foster children we have that are receiving payments, I mean the foster parents are receiving now? We've got certainly less foster parents than we do children in foster care. Do you have any knowledge about that figure? [LB820]

SENATOR CAMPBELL: I'm being given a piece...I'm sorry, we're having difficulty seeing over here. [LB820]

SENATOR NELSON: I am, I have, too, here. The lamps aren't high enough, are they. [LB820]

SENATOR CAMPBELL: Two thousand two hundred and eight as of, this date was run on January the 8th of 2012. [LB820]

SENATOR NELSON: Well, \$1,100, I don't do the math, but it sounds to me like that adds to considerably more than \$3 million over a year's time for 2000 kids at \$1,100. [LB820]

SENATOR CAMPBELL: Senator Nelson, we'll have to check for you. [LB820]

SENATOR NELSON: All right. [LB820]

SENATOR CAMPBELL: I'm really sorry. We're trying to go off a different report than we might of estimated on. [LB820]

SENATOR NELSON: Okay, okay. These, and I recognize that these are rough figures. But that's about, and I'm not saying that foster parents don't deserve this. But we're raising probably like 30 percent at this time over a year's time to help them out. But we've...you've stated that \$10 million initially you thought could be reduced to below \$5 million or below. And that doesn't, from a mathematical standpoint and what we're proposing here just for this year's time, doesn't figure out. Unless there are quite a few less children in foster care than we're anticipating. So I just ask that question. I think we ought to try to nail down those figures before, assuming this passes, before it comes up on Select so we have a little better idea what the fiscal costs would be at that daily rate of \$3.10 per child. And thank you, Senator Campbell. And thank you, Mr. President. [LB820]

SENATOR COASH: Thank you, Senator Nelson. Senator Howard, you're recognized. [LB820]

SENATOR HOWARD: Thank you, Mr. President. Just a brief comment. This may be a

Floor Debate  
February 28, 2012

---

bit of information that's helpful to Senator Nelson. Right now we have a number of unlicensed foster homes. I believe the number I was or the percent I was given earlier today was 40 percent of the children who were placed with KVC are in unlicensed homes. Those homes are paid for strictly through IV-B dollars; IV-B dollars means state dollars. They're not eligible for federal reimbursement. The homes that are licensed receive federal reimbursement. By adopting the amendment that is in this bill more of our homes will be...will receive federal reimbursement. We will receive federal reimbursement for more of those homes, which may be in some ways you can consider an offset for the additional money that we are putting in here. I don't know the exact figures, but you have to look at that as bringing revenue into the state rather than costing us our own state dollars. Thank you. [LB820]

SENATOR COASH: Thank you, Senator Howard. Senator Campbell, seeing no other lights to speak, you're recognized to close on AM2165. [LB820]

SENATOR CAMPBELL: Thank you. And, colleagues, I much appreciate the questions. I was just visiting with Liz Hruska from the budget, Fiscal Office. And we will get the answer for Senator Nelson. But at some point, we think the \$3 million is probably within that range, but we'll verify the numbers and definitely get back to you. The importance of the sequence that we have gone through this afternoon I want to emphasize. We started out with a broad framework in the commission. We moved to oversight, accountability, transparency in LB1160 and then in LB949. We are narrowing our focus here to try to deal with some specific problems that the committee identified that thought we needed to address. So we are narrowing down our focus as we get to LB961. It is so important I think that we recognize the contribution of foster parents across the state. And I particularly want to mention it's difficult for all of them, but we particularly need foster parents for adolescents. The fastest growing number that are coming into the foster care system are teenagers. And sometimes it's very difficult to find homes for teenagers, but in many cases we have also seen where those homes also can provide and be adoptive parents for those teenagers. So once again, thank you for your diligence in listening to the issue, and certainly would appreciate your support on both the amendment and LB820. Thank you. [LB820 LB1160 LB949 LB961]

SENATOR COASH: Thank you, Senator Campbell. Members, you've heard the closing to AM2165. The question before the body, shall AM2165 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB820]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB820]

SENATOR COASH: The committee amendment is adopted. Returning to discussion of LB820. Seeing no members wishing to speak, Senator Campbell, you're recognized to

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

Floor Debate  
February 28, 2012

---

close on LB820. Senator Campbell waives. Members, the question before the body is, shall LB820 advance? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB820]

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB820]

SENATOR COASH: The bill does advance. Next item, Mr. Clerk. [LB820]

ASSISTANT CLERK: LB961 was introduced by the Health and Human Services Committee. (Read title.) The bill was read for the first time on January 11 of this year, referred to the Committee on Health and Human Services. They report the bill to General File with committee amendments. (AM2159, Legislative Journal page 644.) [LB961]

SENATOR COASH: Senator Campbell, you're recognized to open on LB961. [LB961]

SENATOR CAMPBELL: Thank you, Mr. President. And good afternoon, colleagues, on what is the fifth in our series of child welfare bills. LB961 provides a number of provisions relating to very specific issues that we took a look at. One of those issues is case management of child welfare services. Our investigation identified that the state of Nebraska has the legal responsibility for children in its custody and should maintain the decision-making authority by direct case management of child welfare services. Training and longevity of child welfare service case managers and caseworkers directly impact the safety, permanency, and well-being of children receiving child welfare services. Meaningful reform of the system can occur when competent, skilled case managers and caseworkers, educated in evidence-based child welfare practices are providing care of and services to children and families and high quality evidence to the courts relating to the best interests of the children. This position deals not only with the families, the foster families, the department, agencies, but with the court system. Privatization of case management has resulted in dependence on private entities for the provision of an essential specialized service, that is extremely difficult to replace. The risk of a private entity abandoning the contract, either voluntarily or involuntarily, creates a very high risk to the entire system of child welfare services. Case management of child welfare services relating to caseloads, placement, turnover, communication, and stability affect outcomes and permanency for children and families. Private lead agency contracts require complex monitoring to ensure compliance and oversight of their performance and increased resources are expended on administration and oversight rather than on services to children and families. The Auditor of Public Accounts in his report, and we certainly give you a good flavor of that report in the LR37 study, and I quote, allowing the providers themselves to oversee the management of the cases that they handle gives rise to a potential conflict of interest offering the opportunity, if not an actual incentive, for them to base decisions regarding the provision of services more upon cost

Floor Debate  
February 28, 2012

---

criteria than upon the best interest of the recipients. Such a situation threatens not only to undermine the effectiveness of performance under the service contracts, but also to provide...prove harmful to the welfare of those receiving the services. To avoid those potential consequences, the department should discontinue the practice of allowing service providers to also assume case management functions, end of quote. LB961 states that on or after September 1, 2012, the department shall directly provide case management to children. Direct case management of children includes wards of the state, noncourt, and voluntary cases. The case manager shall be responsible and directly oversee case planning, service authorization, investigation of compliance,... [LB961 LR37]

SENATOR COASH: (Gavel) [LB961]

SENATOR CAMPBELL: ...monitoring and evaluation of the care and services provided to children and families, decision-making as required in current statutes, direct preparation of the proposed plan filed with the court for the care, placement, services, and permanency of the juveniles as required by current statutes. The state can never contract away its responsibility for these children. They always, we always have that responsibility. In addition to that portion of LB961, we have put in the bill to ensure appropriate oversight of noncourt and voluntary cases when services are provided as a result of a child's safety assessment. The department shall develop a case plan that specifies the services to be provided to the child and family by the department and the actions required. And we spoke about this condition in Senator Ashford's bill the other day. And I indicated that you would see it not only in his bill, but in this one because of its importance. Service areas in the central, western, and northern service areas will be redesigned in a judicial district not included in more than one service area. And this suggestion actually came from one of the judges. And we thought it was an excellent suggestion. Another component of LB961 is that lead agencies will not be reinstated in the central, western, and northern service area. Our findings, and I wish to conclude with that. When case management is returned to the department, the department must commit to improving case management. Those improvements should include enhanced training, independent, informed decision-making, accountability, and appropriate caseload sizes. A stable work force will help expedite permanency and provide consistent adult mentors who personally know and support the children and the foster care system. The case manager is the pivotal position in the child welfare system. And I'd like to conclude with giving you the exact quote that Senator Lathrop keeps sort of hinting at that. And it's in your blue book in little Roman numeral ii, page 23, and it's the findings, it's the first finding of the committee on a summary of Chapter 8. Children with one case manager achieved permanency in 74.5 percent of the cases. However, for children with two or more case managers, it drops to 17.5 percent, down to .1 percent for those who had six or more. Accordingly, the committee is deeply concerned that an average of 21 percent of children in the first six months of 2011 had four or more case managers. This is a critical issue. It is an issue upon which this body should deliberate

Floor Debate  
February 28, 2012

---

and speak forward. It has been certainly one of the issues that the committee has debated and discussed over the entire year of the LR37 report. Thank you, Mr. President. [LB961 LR37]

SENATOR COASH: Thank you, Senator Campbell. Mr. Clerk, you have a committee amendment? Or as the Clerk has stated, there is a committee amendment. Senator Campbell, you are recognized to open on AM2159. [LB961]

SENATOR CAMPBELL: Thank you, Mr. President. And I will be brief. I want to describe to you the committee amendments. LB961, as amended by AM2159, includes provisions on caseloads, case management, moratorium on lead agencies, and a definition of "case" for caseloads. LB961 carries the emergency clause. And here in, Senator Sullivan, is where we begin to show the difference in the two plans in terms of reducing the caseloads. And I want to acknowledge the work of Senator McGill and her staff, because we incorporated some of the language in her case manager bill in our amendment. But the amendment requires an annual reduction of 25 percent in the average caseload of each case manager beginning September 1, 2012 and each September 1 thereafter until case manager caseloads are within the standards established by the Child Welfare League of America or what you will hear talked about is CWLA. It requires the department to include in its annual caseload report, beginning September 15, 2012, and they do, the department does an excellent job on that report. If you haven't...and you might not have taken a look at or gotten copy, but certainly the Health Committee does, the status of LB961's requirements. And then we lay out in the bill how the children are to be counted for purposes of determining caseload size, and that comes from those national standards. It also prohibits the department, the amendment does, from extending past July 1, 2014 the contracts with lead agencies in existence on the effective date of LB961 in the eastern or southeastern service areas. And we needed to make that correction because the current contract of the lead agencies runs to July 1, 2014. The original bill was incorrect. Mr. President, that concludes my comments on the amendment. Thank you very much. [LB961]

SENATOR COASH: Thank you, Senator Campbell. Members, you've heard the opening to LB961 and the committee amendment. Senators wishing to speak: Senators Flood, Krist, and McGill. Senator Flood, you are recognized. [LB961]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon. And I appreciate the Legislature's work on this issue all day today. And I also want to compliment the Health Committee for the treatise they put out on child welfare. And I've never seen a debate so closely tied to the work of an actual committee with a report like this. It is somewhat similar to BSDC, but also complicated in the variety of the issues that we have here. This is a question that we have to be very careful answering as a Legislature. The first thing I want to say, if you are a state employee, if you are a private employee for one of the lead contractors or if you are an actual provider, we have spent the last seven hours

Floor Debate  
February 28, 2012

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outlining all of the problems in the system. But let's also take a moment and recognize that there are people that get up every day in every one of these jobs and they do the best job they can for these kids. And I don't want those employees or those contractors that are on the front lines to think that we have blanketed their entire effort by saying you have not performed up to your level. There are problems, but let's remember a lot of these people in these jobs do the best job they can in an environment that's very tough and deal with very difficult problems. And so I want to say thank you. Next, if we take away case management, I'm only going to speak once at this point, but I'd like these questions answered by people on the floor. If we take away case management, now that we only have the private system in the Omaha area, does NFC say, this makes it very difficult for us to continue and we have yet another contract that we have to deal with the transition, and transition equals money. When the KVC contract ended, the Appropriations Committee will tell you that's 20 million bucks or round about to deal with moving folks back into the state system. I think we have to remember that. We're in the middle of one very big transition from KVC to state government. What does it cost? The last bill we talked about a pilot program. Can we allow this to continue in the Omaha area as a pilot for the balance of the year and see where we're going as long as reasonable safeguards are in place and we've got the commission looking at where we need to go? Is that a reasonable solution? Next, should we grandfather this one in, in Omaha, and prohibit it for the rest of the state? I'm not saying that's the right answer. And I'm not up here saying that privatization is the answer. I'm just saying logistically you vote this bill and you place it on the Governor's desk, if it's signed or if the veto is overridden, you have a new wrinkle that has dollars attached to it that you will not see in the fiscal note, in my opinion. You have made a decision that we have to deal with as a Legislature on the back end. You can put a provision in here that says we will not do privatization in any other area of the state and we will terminate the Omaha area June 30, 2013, give the Legislature next year a chance to checkup on this whole process. I want to be clear that some provisions of LB961 and the amendment need to be passed because they build in protections in the future. So an IPP motion is not the answer if you want to answer this question one way or the other. I think the Health Committee has provisions in this bill that have value, even if you don't agree with the case management. And so I want to make that clear. Next, the concern I have about keeping...this bill does not answer the privatization question. It says if you're going to be privatized the state will take back the case management. [LB961]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB961]

SENATOR FLOOD: This isn't an indictment on all of privatization, it just says you're not going to manage the cases. Does that leave us with a state case manager? Does that leave us with a lead agency case manager and a private provider case manager? The kitchen is going to get pretty crowded in the juvenile courtroom if that's the case. And

Floor Debate  
February 28, 2012

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that's one of the problems with the state keeping control of the case management when they employed it up in the northern services area, you couldn't get into juvenile court because you had too many cooks in the kitchen. Finally, I think it's important to note under the existing contracts, and check my...check reality on this if you want, verify this, I think the director of DHHS still has the ability to override or veto a decision made a lead contractor doing case management. Those are the questions that I think we have to go through on this bill. I think this should take some time. I appreciate where the committee is going. I'm not out to kill this bill. I just want to know from the pros on the committee, where does... [LB961]

SENATOR CARLSON: Time. [LB961]

SPEAKER FLOOD: ...this take us? Thank you. [LB961]

SENATOR CARLSON: Thank you, Senator Flood. Senator Krist, you are recognized. [LB961]

SENATOR KRIST: Thank you, Mr. President. And again, hello, Nebraska. And thank you, Speaker Flood, for both your confidence and support in this effort. I want to tell you a story and it's verifiable in many different sources. In Lancaster County Court a young man came in before a judge and he had a caseworker. The judge continued. The next week the young man came before the judge, yet another caseworker, two weeks, two caseworkers. We'll continue. The third week, the young man comes before the judge, same young man, same judge, third caseworker; three weeks, three different caseworkers. Next week, continue. Fourth week, same young man, same judge, different caseworker--four, four weeks in a row, four different caseworkers. The continuity of caseworker and the relationship that that caseworker has with that young person is critical, critical to this system. When we went through this effort and traveled all over Nebraska, we heard the same thing, the quality, the continuity, the care. And Speaker Flood is absolutely right. There's an awful lot of good people out there that are trying to do the right thing. They may be young, they may be inexperienced, they may not have the education, the certification, or the training to do the job. That's what management and oversight is for. We've eliminated a prime contractor in this state as of March 1, and we are now left with the dilemma that the Speaker proposes. We have four service areas around the state that belong to the state. Caseworker responsibilities have been given back to the state. We have one service area, that would be the eastern service area, my home, that has a contractor in place. NFC, the Nebraska Family Collaborative, is made up of some of the best names in 501 nonprofit care and for-profit care in the country. Say the name "Boys Town" any place in this country and they will know exactly what you're talking about and where you're talking about. So our dilemma today is to say, caseworker responsibility in LB961 would stay with the state in all five areas, or would stay with the contractor as it's been suggested, negotiated...not sure where they are because they're really not talking to us. But if it's renegotiated in the

Floor Debate  
February 28, 2012

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eastern area and as we've been told, caseworker responsibilities, case management responsibilities will rely with the contractor, then it is indeed another contract renegotiation and another issue. Now I would propose to you that this is the way we should have started out. We should have started out in 2008 with a pilot program. CEO Landry should have said, I'm going to pick a service area out there and I'm going to start out with a pilot program, and you know what, there's so many good providers and so many different kinds of providers in the Omaha eastern service area, that might be the place to start that pilot program and here we go. [LB961]

SENATOR CARLSON: One minute. [LB961]

SENATOR KRIST: So, my proposal today, having been through this for the last year, is it possibly that is our negotiating point? Not because somebody told me that I have to do it. I take great offense to the fact that it was negotiated without going through the committee, without us being able to weigh-in on it, knowing full well that LB961 was written the way it was, but let me again turn down my volume, calm myself, and say that that is probably the negotiated point that we need to think about. Colleagues, we need to have a fair and honest debate on LB961 and LB961 is extremely important to this package. It needs to be moved. The Speaker is absolutely right. We need to do it sensibly, soundly, and logically. Thank you. [LB961]

SENATOR CARLSON: Thank you, Senator Krist. Senator McGill, you're recognized. [LB961]

SENATOR MCGILL: Thank you, Mr. President and members of the body. I've kept quiet all day so I thought it was time to chime in. I'd like to thank Senator Campbell for listening to some of the language that I brought before the Health and Human Services Committee dealing with caseload. I'm sure the HHS Committee is sick of hearing me say this, but I have felt all along that it's not about privatization or not privatizing. In fact, part of this bill that deals with case management, I don't think is the core of this issue. It's about how to get the best services to the kids in a system that we can have moving forward. And that's looking at the caseworkers that are one-on-one with those kids and making sure that they're not so overly burdened that they can't do a good job, that they're so worn out that they're quitting and leaving for other employment that they can return phone calls in a timely matter. That's what parents and families need, is a caseworker that can actually pay attention to their individual case. So within this amendment is language that would bring us into standard with the Child Welfare League of America and their best practices in terms of what a caseload should be. And here's something very important, members. We often talk about caseloads or, you know, instead of the number of children that a caseworker is working with. There are...I've heard stories now of social...are workers out there who are managing over 50 children. Sure, their caseload may sound like it's 20, but that's really 50-some children. In fact there was a letter to the editor or an article in the Omaha World-Herald today

Floor Debate  
February 28, 2012

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where Heartland Family Services, which is part of NFC, was touting that they're down to 16 cases, which is close to the 17 standard. And really, they're not realizing that that 16 in the standard is children, not cases. And so we really need to start talking about this caseload in terms of children and not just the families because that case someone has could be three children in three different homes which need three different types of care. And so when a caseworker has multiple families like that, there's a lot on their backs, which is why this fall, and even this year, I've gone...I went and visited KVC a number of times to talk to all staff meetings to let the caseworkers know that when we're criticizing the department and we're criticizing how child welfare reform is played out, that we're not talking about them. And, you know, that we have legislators here that care about the work they do and that think that they've been doing the best they can do. I mean, it hurts to see your agency and the work you do beat up in the press every day. That hurts morale as well on top of the horrible caseloads. And so, I feel that at least the caseload part of this bill is critical, maybe the most important part of all of this, except on top of also providing better technology to monitor just how our dollars are being spent and the effectiveness of our dollars. But this will mean the most to the children and the families that are affected by child welfare. And I do want to note, as an aside, that the Department of Health and Human Services has not been in our lobby all day to answer any questions that we might have about the transition they're currently going through with KVC employees, about how any of these bills could impact the department, and yet last year they were here on a bill dealing with oversight and allowing them a little more flexibility in who they hire. There were like four of them out there. But here we are discussing an enormous change and they're nowhere to be seen. I guess I shouldn't be surprised since every day we're hearing... [LB961]

SENATOR CARLSON: One minute. [LB961]

SENATOR MCGILL: ...new things about that transition from those employees from KVC to the state. You know, we're told that they'll have jobs temporarily if they want them. No, they weren't. I was out there talking to a member of the union who said they're getting lots of calls from people who aren't being offered temporary jobs. They're...we're hearing that, oh, union contract is preventing them from hiring them permanently more quicker than six months. No, it's not. That's a lie. We're hearing the provider rate changes. Every day there's something going on that's basically a slap in the face to everything we're trying to work on here. They're not communicating with us still. They're not showing up to be in the lobby to answer our questions. I will end that aside now. (Laugh) And thank the body for their consideration and their thoughtfulness today in moving forward on child welfare. Thank you. [LB961]

SENATOR CARLSON: Thank you, Senator McGill. Senators still wishing to speak include Fulton, Coash, Dubas, and others. Senator Fulton, you're recognized. [LB961]

SENATOR FULTON: Thank you, Mr. President and members of the body. This...we

Floor Debate  
February 28, 2012

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have before us, at least there's been a request anyway, in front of the Appropriations Committee, and it's public. I think it was a letter that was made public, a request for additional funding for child welfare reform. And I'll just speak with some generality here. Some of what is being requested of this Legislature is contemplated in this bill. And so that's a point that I'm going to make here that we in the Legislature, certainly there have been missteps in the reform of child welfare. There's no question about it. I think anyone, any reasonable person with eyes and ears can see and understand that. Are we stepping into an area of government that's reserved for the executive branch? That's a question that I have with this bill. And I probably...maybe not to the same degree that each of us has, there is...I would like to do that because there are things that I would like to do differently were I calling the shots, but I'm not. We're senators and while, yes, we have to appropriate the money, there is a reality that it's executed in another branch of government. And so having a request in front of us with an intent for the expenditure of money, that's something we could do in the appropriation process, but is it legitimate to put forward a bill that makes it statutory and manifests for years to come? That's possible that it's appropriate to do that. I don't know that it is and so I'm hesitant. To that end, I remember what was going through my mind as a new senator on the Appropriations Committee hearing these horror stories involving children under our watch. And my colleagues on the Appropriations Committee would probably echo, some of these stories were just infuriating. And what for me made this a personal issue is, these are kids to which these things are occurring on my watch. I was first appointed, then I was elected. Either way I have a certain responsibility and to have this happening on my watch really made me mad. And so what we did at the time was, we were going to express ourselves by cutting. And as I recall, it was the Foster Care Review Board. Senator Harms, I think that's the first thing, we cut them, because clearly you guys aren't doing your...well, we came to understand that that's not the Foster Care Review Board's purview but we were getting noticed, we were getting heard. And so, I go to page 3. Now, I'll put some meat on the bones of this...of my time on the microphone. Page 3, line 20. Private lead agency contracts require complex monitoring capabilities to ensure compliance and oversight of performance including private case managers to ensure improved child welfare outcomes, accordingly increased resources are expended on administration and oversight of such lead agency contracts rather than on improvement of the child welfare system. It goes on, etcetera. This is a pretty apt explanation of what I saw in 2007, only instead of private lead agency contracts, you could easily substitute the word "government," because there was lax oversight. In fact, the question I asked was how much money is actually getting to its...to the end? We're putting \$10 into a box, is \$10 getting to the child? And no one could answer that. [LB961]

SENATOR CARLSON: One minute. [LB961]

SENATOR FULTON: There was shared outrage here among ourselves at that reality. And so, hopefully, that bill we passed just a little earlier, the Performance Audit bill,

Floor Debate  
February 28, 2012

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hopefully that will take some steps under our own authority as legislators to see that there's some accountability in the expenditure of money. But I want to caution this body that while I have some concern that this is an overreach by our branch of government, the very reason child welfare reform was instituted in the first place was for problems that existed with the system. And what I see here, the bottom of page 3, existed back in 2007. So I'll stop there. Thank you, Mr. President. [LB961]

SENATOR CARLSON: Thank you, Senator Fulton. Senator Coash, you're recognized. [LB961]

SENATOR COASH: Thank you, Mr. President. I want to spend my first time at the mike here talking about caseloads because LB961 attempts to address that. Colleagues, we need to talk about the root cause of why we're even discussing mandating sizes of caseloads. And the root cause of that, colleagues, is, we've got more kids coming into the system than we can handle, and it doesn't matter if it's state government handling those kids coming into the system, or if it is a lead agency or private contractor handling these kids coming into the system, none of that has changed. The entity that has always been the gatekeeper as to whether or not a child becomes a state ward has never changed, it is HHS. The cost that we are discussing in all of these bills is all driven by the fact that in Nebraska we have twice as many per capita kids coming into the state's care as any other state. That is the cost driver. And we can spend a lot of time talking about, well, with all of these kids coming in, how much is appropriate for a caseload? We can talk about who it is that ought to handle that caseload. Should it go into the state's hands? Should it go into a private entity's hands? But the costs, colleagues, are going to continue to grow unless we get ahold of that. And I want to give you my opinion on this. When I started to work in this field, and I used to run two shelters for kids, and these kids were placed in these shelters by the state of Nebraska. Some of these kids were placed there because of horrible things that had happened to them. Some of these kids were placed into the state's care because of things and bad choices that they had made, but at some point the state said, you know what, being a ward of the state is in your best interest. And there was an old saying that I used to hear from caseworkers that said, when in doubt, pull them out. And what they meant was, if you're not sure if the kid is safe, you'd better just pull them out because you don't want to be the caseworker that left a kid in an unsafe environment and all of a sudden something bad happened to him. And that's the culture, cultural mind-set, unfortunately, that led to our great ranking of something like 48 out of 50 states, we pull kids out of the home. Let me tell you what the science says and it will be a little contrary to what your heart might tell you. And I agree with this science because I've seen it with my own eyes. The science will tell you that a child is better off, unless it is an immediate threat to their safety, it is better off that you leave them in the home. And you try to put some services in there if you can, but if you pull that kid out, colleagues, they never come back. Children that are pulled out of their homes and become state wards have such a high hill to climb to get back with their families, you can't even imagine. There's court date after court date after

Floor Debate  
February 28, 2012

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court date. Caseworkers change, people in their lives change, providers of services change. And what happens with these kids is they get in with kids who are not like them. And they start running with the wrong crowd. And they get in more trouble. And sometimes the services that they need are so far from their family, they lose that family connection. So because they have to go halfway across... [LB961]

SENATOR CARLSON: One minute. [LB961]

SENATOR COASH: ...the state to get services, they lose that family connection and then all of a sudden, reunification becomes that much more difficult. And then, we put an entity in place that's supposed to reunify them. And here's what plagued that system, colleagues, whether it was the state, and I was there when it happened, and Senator Campbell has mentioned this, lots of people have mentioned it, turnover. And I will tell you, colleagues, the department has bad turnover, our lead agencies had bad turnover. And we can adopt LB961 and the amendments and mandate caseloads, but we can't mandate how people run their businesses. What we have to focus on, colleagues, is that front door. If we don't fix that, and if we don't change the mentality of how children come into the system, we will be discussing this again in three years. And we'll have to have another bill... [LB961]

SENATOR CARLSON: Time. [LB961]

SENATOR COASH: Thank you, Senator. [LB961]

SENATOR CARLSON: Thank you, Senator Coash. Senator Dubas, you're recognized. [LB961]

SENATOR DUBAS: Thank you, Mr. President. I really want to take off from the comments that the Speaker has made and several others and talk about thanking the caseworkers because they, too, are the ones that are in the trenches and they're the front-line workers and I've heard many of their frustrations and concerns about not being able to do their job the way they know they want to do it. So, you know, what we're talking about here today is not a direct indictment of their work, but just of the system that they're in and how that system is not working. And so, you know, I'm not sure about this bill myself either. I know we need to address case management. If this isn't the way to do it, then we need to, through this process, put ideas out on the table and make sure we find what is happening. But if we are stepping into the executive branch's territory, it's because we have a mess and no one else is stepping forward except the Legislature to try and pick up the pieces. Right now we are the only voice. We are the only game in town to bring these issues forward and to try to find a way to pick up the pieces, get this train back on its track, and move it forward. As I stated before, I've been at hearings and the Health Committee has been at far more than I have where person after person after person has come forward and talked about what's not working, and how this has

Floor Debate  
February 28, 2012

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impacted them, and the problems that they're seeing. And then have the department get up and say, it's all good, it's all fine, we're working through the problems, we're on top of this. When we were dealing with the Boys and Girls issue, and that was an issue that impacted my district and my areas of the state, I was in regular conversations with the department asking them, what's going on? Are you getting these guys on track? You know, we've got problems with accounting and paying their bills and everything else. I was constantly assured, we're working with them, we're getting things in place, it's going to work out. It worked out all right. It worked out for Boys and Girls who were able to walk away. It worked out for the department because they said they weren't responsible so they didn't have to pay those subcontractors who were left with bills and the very real threat of closing their doors and not being able to provide services anymore. And now those subcontractors and individuals are having to come through the Legislature, through our claims process, to try and get restitution for what they were left holding. We can play the blame game, and I know that doesn't get us very far, but in my estimation it is abundantly clear that it's the Health and Human Services Committee and the Legislature that are the only ones that are putting solutions on the table, that are trying to get this...like I said, this train back on track, moving it forward, making it work. And it's not going to happen today or tomorrow or even by the end of this session, or even into next year. It's going to be a long, long process because we didn't get here in a short amount of time, we certainly won't get out of here in a short amount of time. So as I said, you know, this is a bill that I understand we need to address case management, and Senator Coash, you know, I thought brought forward a lot of very valid points. But if it's not this bill, then what is it? And again, it's the Legislature that is trying to find those solutions. I think the fact that Senator McGill pointed out, the department is very noticeably absent during this debate, I think speaks volumes to their willingness to try to be a part of the solution and try to help us figure out ways to not only help them be successful, but everybody that has any kind of contract or contact with them be successful also. So I don't think it's wrong that we're doing what we're doing and if we're overstepping our bounds... [LB961]

SENATOR CARLSON: One minute. [LB961]

SENATOR DUBAS: ...I think we are the people's branch of the government. We are that...the people's voice and if we aren't going to speak out, if we aren't going to bring these things to the attention of the public and everyone else, then who is going to? It's our job to make sure that these issues are addressed and that they're taken care of. And I, for one, will not back away from that responsibility. Thank you. [LB961]

SENATOR CARLSON: Thank you, Senator Dubas. Those still wishing to speak include Howard, Krist, Lathrop, and others. Senator Howard, you're recognized. [LB961]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I'm going to speak to you as the voice of a person who has been there. I did case management for a

Floor Debate  
February 28, 2012

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long, long time. There were many nights that I couldn't leave the office, I couldn't get home, I couldn't get to the day care to pick up my kids. Fortunately, I had a day-care provider that would take them home with her and feed them. And I would have to be out...I'd have to answer calls on the weekends to move a child that the foster mother said couldn't stay there any longer. My caseload would continually increase when someone else would quit, because that's what they did. They shifted cases around and if you started out with a caseload of 23, you probably had a caseload of 40. It's a very, very hard job and a lot depends on what you do. Every decision you make has potentially a very serious consequence and I had a lot of sleepless nights thinking about little, little kids in situations that I wasn't completely comfortable in. I want to clear up one thing that Senator Coash had said that you need to be aware of. In this state, only the police do pick-ups. Only the police remove children from their biological homes. We do not. Case managers may be available to go out if it's a situation where the police would call them to go out. Project Harmony and...has the police and the initial assessment workers housed together which is really, really good. But in these emergency situations the police get a call, they go out. They make the determination how serious the situation is. And you know what, I don't blame them if they err on the side of safety because nobody, nobody wants to have a dead child on their conscience. And I'm not exaggerating. We went through a series of tragic, tragic events, about...or 2002 or 2003, and the Governor at that time, Governor Johanns convened a committee to look at why there were so many child deaths in this state. No one wants to have to feel that they in any way allowed that to happen. Another issue of this that you look at is, the state has the ultimate responsibility. The state has to give permission for any sort of medical treatment for a child who is in foster care. A child falls on the playground, injures their arm, they go to the hospital. The state worker has to give permission. That can't be delegated off. In the court, the state is responsible. State worker must be present for all court reviews. So right now what we've got is another layer, another layer of bureaucracy sitting in the juvenile court. They're called the CFOMs. They sit there all day in the court hearings. They don't know the cases individually. That's not their responsibility. Their responsibility is to be present. This is another part of it that we're paying for and I don't see much good sense in it. There's only one reason that a private agency would want control of case management. When they've got that, they call the shots. They control the money, they control what happens. The state cannot delegate off this responsibility. I am adamant that this needs to return, this case management needs to return to the internal system. [LB961]

SENATOR CARLSON: One minute. [LB961]

SENATOR HOWARD: Thank you. If we look at it down the road, there's a pilot project put in place, there's serious consideration. This is no easy decision, but at this time case management needs to return to the state where the ultimate responsibility rests. And as you've had it pointed out to you, Health and Human Services administrators are not here today. They haven't come over and it's only a short walk across the street and this

Floor Debate  
February 28, 2012

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is a critical bill. I'm going to take that as their affirmation that we should move ahead with this issue, and I thank you all for staying and being diligent on it. Thank you.  
[LB961]

SENATOR CARLSON: Thank you, Senator Howard. Senator Krist, you're recognized.  
[LB961]

SENATOR KRIST: There's another critical part...thank you, Mr. President. I'm sorry. Hello, Nebraska and colleagues again. There's another critical part of this bill and that is something that Senator Fulton and I talked about off the mike and then he spoke to during his time. Overreaching and doing something that the executive branch should be doing, I think that's a fair characterization. I've seen what they can do over the last year. I've watched what they have done and there's some great people that are trying to do a great job, but I don't think there's been management oversight. I don't think there's been financial oversight. And I believe that in the transition, if you want the proof in the pudding, Senator Fulton or others who would criticize that we should not do this, if you want the proof in the pudding, look at, listen to, ask the department if they were out there, what their case ratio is in the contract with NFC. They're proposing within the next several months to go to a 1 to 16 case ratio. Gee, where did they get that number? Is that a good standard? I think so. I think the industry says that it's a good standard. I think that all the science and all that we have heard about taking care of kids in a system, in the foster care system where a caseworker has the time to dedicate to the individual. This isn't a unit. This is not a widget. This is a child. The case ratio, the standard should be 1 to 16. So if we're worried about giving them mandates that they will follow from this branch of government, they've chosen that on this contract. It's not unrealistic. There are those that have said that privatization should never have happened because we should have spent the money that we threw at privatization to make that case ratio that good for the people who were in the state working for the state at the time. There's great creditability in that statement, you know that? There's huge creditability in that statement. I don't think we're overreaching. I think we're setting a bar, a standard by which we expect that the execution of the funds that we are allocating, those funds are executed at a certain level and this bar is this high for a reason. You'll notice in this bill, we don't expect to get to 1 to 16 right away. We expected to phase this in. We expected to take our time and do it right and tell the department to phase it into that standard. The department has chosen to go to the Appropriations Committee and ask for all that money right now because they want to rush to that point. I think there's something wrong with rushing. We've been rushing for a while, not the ethic persuasion, but rushing to get there and I don't think we've done a very good job of doing that. So I would remind you tonight, because we're obviously not going to get a vote on this this afternoon, take a look at the parts of this bill, dissect it. The Speaker was absolutely right on the money. We have to pass this piece of legislation, but like we always do, there will be amendments, there will be concessions and we will come to a consensus of what needs to be done. Take a look at this bill tonight. Take a look at some of the

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Floor Debate  
February 28, 2012

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history. Take a look at LR37. Take a look at the Performance Audit report and come tomorrow with that kind of attitude in terms of making those concessions and having fair and honest debate. Some piece of LB961 needs to be passed tomorrow. Thank you, Mr. President. [LB961 LR37]

SENATOR CARLSON: Thank you, Senator Krist. Mr. Clerk, items for the record. [LB961]

ASSISTANT CLERK: Mr. President, I have a priority motion. Speaker Flood would move to adjourn until Wednesday, February 29, 2012, at 9:00 a.m.

SENATOR CARLSON: Members, you've heard the motion to adjourn. All in favor say aye. Opposed, nay. We are adjourned. Thank you.