

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

Floor Debate  
May 07, 2013

---

[LB14 LB23A LB25 LB42 LB44 LB59 LB68 LB69 LB79 LB103 LB104 LB107 LB125  
LB141 LB154 LB166 LB169 LB172 LB192 LB194 LB195 LB196 LB197 LB198 LB199  
LB200 LB205 LB208 LB217 LB222 LB223 LB240 LB243 LB269A LB277 LB296 LB303  
LB306A LB306 LB329 LB332 LB344 LB345 LB349 LB361 LB375 LB377 LB384A  
LB384 LB386 LB407 LB410 LB420 LB423 LB435 LB442 LB458 LB459 LB476 LB477  
LB487 LB493 LB500 LB505 LB507 LB533 LB533A LB538 LB545 LB549 LB553  
LB553A LB577 LB583A LB585 LB589 LB595A LB595 LB613 LB634A LB634 LB643  
LB646 LB647 LR171 LR172]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventy-second day of the One Hundred Third Legislature, First Session. Our chaplain for today is Pastor Ryan Lewis of the St. Thomas More Church in Omaha, Nebraska, Senator Mello's district. Please rise.

PASTOR LEWIS: (Prayer offered.)

SPEAKER ADAMS: I call to order the seventy-second day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER ADAMS: Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER ADAMS: Are there any messages, reports, or announcements?

CLERK: There are, Mr. President. Bills read on Final Reading last Thursday were presented to the Governor on Thursday, May 2. (re LB166, LB154, LB141, LB107, LB103, LB59, LB42, LB646, LB595, LB595A, LB589, LB585, LB487, LB423, LB240, LB205, LB69, LB68, LB44). Enrollment and Review reports LB296, LB384, LB384A, and LB476 as correctly engrossed. Enrollment and Review also reports LB410, LB306A, LB545, to Select File, some having Enrollment and Review amendments. I have an amendment to be printed to LB507 by Senator Watermeier. And a communication from the Governor to the Clerk. (Read re LB169, LB172, LB192, LB208, LB222, LB223, LB243, LB277, LB303, LB329, LB332, LB344, LB345, LB349, LB361, LB377, LB386, LB420, LB435, LB442, LB458, LB459, LB493, LB500, LB538, LB549, LB643, LB647, LB42, LB59, LB103, LB107, LB141, LB154, and LB166). That's all that I have, Mr. President. (Legislative Journal pages 1257-1259.) [LB166 LB154 LB141 LB107 LB103 LB59 LB42 LB646 LB595 LB595A LB589 LB585 LB487 LB423 LB240

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

Floor Debate  
May 07, 2013

---

LB205 LB69 LB68 LB44 LB296 LB384 LB384A LB476 LB410 LB306A LB545 LB507  
LB169 LB172 LB192 LB208 LB222 LB223 LB243 LB277 LB303 LB329 LB332 LB344  
LB345 LB349 LB361 LB377 LB386 LB420 LB435 LB442 LB458 LB459 LB493 LB500  
LB538 LB549 LB643 LB647 LB42 LB59 LB103 LB107 LB141 LB154 LB166]

SPEAKER ADAMS: Senator Haar, for what reason do you rise?

SENATOR HAAR: Mr. President and members of the body, I rise to a point of personal privilege.

SPEAKER ADAMS: You can proceed.

SENATOR HAAR: Thank you. First of all, I want to thank everybody for your calls and your prayers and your letters, and one basket of fruit that was really well-accepted, some flowers, and so on. So I just want to take just a minute, I hope you have a sense of humor here. So before we left on Thursday I told Senator Davis, I promise to go home and cut some red cedars. So on Arbor Day, (laugh) Arbor Day--I hadn't thought of that--I took my chain saw down to the woods and cut some trees and, wow, all of a sudden I was exhausted, (laugh) and had this feeling something was really wrong. So...so and then there was a bright light, a bright light appeared and it was my father and he said, Ken, I've come to take you home, and I said, Dad, I can't go. I said, you know, I have three years in the Legislature and I want to tell you, Dad, if, you know, if I go with you, probably, probably the governor would not appoint another Democrat to this seat. (Laughter) And he was a lifelong staunch Republican and he smiled just a little bit, but...and unlike me, my father was stubborn and impatient. And so I knew in a minute that I was in trouble, when you know you have those funny moments, I thought what would Walt Radcliffe charge to get me out of this mess. (Laughter) But he wasn't there, so my Dad and I argued and wrestled for what seemed an eternity. And then it came to me, I said, what would Speaker Adams do in this situation? He'd compromise. So I threw my father an offer I knew he couldn't refuse. I said, Dad, I will change my party registration to Republican, I swear. And he said, okay, okay, but I'm going to be watching. So Monday, actually, I changed my party registration, and I bring this up just because I wanted to put this on the record. I want Senator Janssen to know that I will be voting in the Republican primary and if he wants my vote in the Republican primary, he's going to have to throw me a few votes in this session and the next few. (Laughter) So, anyway, the truth is, there was no operation, no stents, no balloons, no aerobics for a month, some of those things. I came home with a handful of, of course, miracle drugs. He said more R and R. He said something like less emotion to your passions. I'm not sure what that means. (Laugh) But I'm going to try. And just yesterday I got a bill, and this is just the hospital bill. I was in at 9 o'clock, on Thursday night I was out by 2, and \$22,000, that doesn't include the doctors. I hope Medicare covers most of that. So, anyway, I wanted to just say I'm glad to be back with all of you to do the people's business. Thank you so much. Thank you, Mr. President.

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

Floor Debate  
May 07, 2013

---

SPEAKER ADAMS: Thank you, Senator Haar. Mr. Clerk, we'll move to Final Reading. Members, you should return there to your seats in preparation for Final Reading. Mr. Clerk, the first bill is LB553.

CLERK: Mr. President, I have a motion on the desk. Senator Lautenbaugh would move to return LB553 to Select File for specific amendment, AM1302. (Legislative Journal page 1259.) [LB553]

SPEAKER ADAMS: Senator Lautenbaugh, you are recognized to open on your amendment. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I think the amendment is very straightforward and it is my intention to spend very little time discussing it, but there is something that I do want to discuss that is related to this topic in a way, I guess. And that would be a bill I did introduce this year dealing with charter schools. And something that surprised me, I guess, is that there was a substantial amount of misunderstanding regarding what charter schools actually are. Charter schools are tuition free, nonselective, public schools that operate with greater autonomy and accountability than regular public schools. There are 4,936 charter schools in 39 states and the District of Columbia. Charter schools serve a higher percentage of low income, minority, and urban students and a lower percentage of special ed students and English language learners. As with regular public schools, the quality of charter schools varies widely. Any charter school that is doing...that is not doing a good job should be shut down. I believe the same should be true, in some way, with any public school that is not doing a good job. We don't do that. States with strong charter school laws have had good results with charter schools. States without good charter school laws have done poorly in some instances. Of the few hundred best schools in America that are truly changing the life trajectory for low-income minority children, a wildly disproportionate number are charter schools, such as KIPP, Achievement First, and Uncommon Schools. Now, why am I talking about this today? Because I went to a presentation on Sunday from a gentleman named Whitney Tilson, founder of Democrats for Education Reform, and the presentation was called, A Right Denied. And I sent all of you three e-mails today that have many of the slides from the presentation attached. And it's difficult for me to overstate the importance of this. We talk a lot about education and, unfortunately, it's always in the context, or usually in the context of, we need to increase funding. But that's not the only solution, that's not even a realistic solution anymore. It's not even a solution anymore, I would argue. But there's some things you need to keep in mind that affect my school district perhaps more than any of yours, but that doesn't make them unimportant. Male high school dropouts are 47 times more likely than a college graduate to be incarcerated, 47 times more likely. While this may not be happening in your district with the higher dropout percentages that I have in mine, you are paying for it, rest assured. Despite massive spending increases,

Floor Debate  
May 07, 2013

---

educational outcomes have largely stagnated in the United States. One of the slides I sent you, screen shot 4, shows that overall K-12 education spending has grown rapidly over time, more than quadrupled in the past 50 years, adjusted for inflation. We spend more per pupil than any country other than Switzerland. Please understand that statistic one more time. We spend more per pupil than any country other than Switzerland. The rise in spending has been driven mainly by a tripling in the number of public school teachers over the past 50 years, which has led to a 43 percent reduction in the student teacher ratio. So we hear that frequently. Well, we need to worry about classroom size. We've addressed that. The average class size in the U.S. is slightly below the average of the larger economies against which we are measured. Despite a doubling of spending since the '70s, educational attainment has stagnated. SAT scores haven't budged since the early '70s. There are a lot of reasons why we haven't gotten good results for increased spending. A lot of that, again, as you all know and as we all point out, comes from social economic factors, from what the parents are doing and what the parents are not doing from the resources available to these kids growing up. That can't be denied. A lack of reading. Our kids don't read like they used to, for pleasure. That's become a thing of the past almost for too many kids. This sounds like something we've been hearing for decades now but too much television, an increasing amount of television at the expense of reading. There's something important to be noted here though about the achievement gap that we do see. If you look at African-American students and white students, the achievement gap is one year in kindergarten, and that can be explained entirely by demographic factors. And it begins widening immediately, and continues to widen over the course of education. By fourth grade, the majority of black and Latino students struggle to read a simple children's book. This has devastating consequences for the future. After fourth grade, you're supposed to start learn from reading. Prior to fourth grade, you're supposed to be learning to read. If you haven't learned to read, you cannot then learn from reading. You can see how this becomes a trap for these students, and this falls disproportionately on minority students and students of lower economic income. And that achievement gap widens every year. By twelfth grade, the achievement gap between African-American students and white students is 28 percent. It's 24 percent for Latinos. Fourth grade...well, sufficed to say, it widens over time. This was a statistic that kind of slapped me in the face at this presentation. Black and Latino twelfth graders read and do math on average at the same level as white eighth graders. That's a four-year disparity, folks. There are tremendous gaps in high school graduation rates between African-American students and Hispanic students and white students. The gap between African-American students and white students is 25 percent. In some cities, the African-American male dropout rate is 80 percent, Indianapolis and Detroit; 69 percent, in Baltimore and Buffalo; and 66 percent in Atlanta and Cleveland. Omaha isn't that bad, but it's bad in particular for African-American males. So, in summary, for that particular point, black and Latino children start one year behind and fall further behind every year in traditional public schools. That is the reality that we are seeing and we are tolerating. And there is a slide here, screen shot 18, that shows a certain type of charter school, the KIPP schools that

Floor Debate  
May 07, 2013

---

are closing that gap, that have closed the gap between black and Latino students. From fourth grade up to about eighth grade, they've caught up with the average. And these are not statistics that I can just recite to you and then we can go on with our business. These are not statistics that you can hear from me because I live in OPS and think, well, I live in the--I don't want to name a city because you'll think I'm picking on you wherever you happen to live--I live in a district in the Panhandle, so this doesn't affect me. It affects all of us regardless of whether or not you're looking at lost economic opportunity, incarceration rates, general societal ills... [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR LAUTENBAUGH: ...all of the things that we pay for. It affects us all. So I brought a bill this year that would have allowed for a maximum of five charter schools in OPS, five of them, and that bill died in committee. When we have one of our debates earlier in the year where Senator Chambers and I were discussing pull motions, I said, well, I'd like to pull that one but it would take a seance at this point, not a pull motion because it's dead. And so we'll not be discussing that. We're not going to be working on amendments on it. We're not going to be trying to emulate the successful states, and there are slides here that show what other states have pursued. Not every charter school works. Not every charter school is a model. Not every public school is a model. Not every public school fails. [LB553]

SPEAKER ADAMS: Time, Senator. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB553]

SPEAKER ADAMS: (Visitors introduced.) We continue with discussion. Senator Chambers, you're recognized. [LB553]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, what Senator Lautenbaugh says is correct, except when it comes to charter schools, and I'll get to that later. I have been railing against the racism in Omaha Public Schools. I have talked about the inappropriate assignment of teachers, those with the least training and qualifications are put in the district where I live, where I went to school, where my children went to school, and I did it for over 30 years in this Legislature and people did the ho-hum. Maybe hearing it from a white man will catch your attention. This is not a new issue. Before I was married, before I had children, I was going to schools in the black community where children were physically beaten by teachers and I went up there to physically confront the teacher and they would always have the teacher gone by the time I got there. That was one of the reasons I succeeded in getting corporal punishment out of the schools. I confiscated paddles. Except for the fact that we don't have displays on the floor, I would bring some down and show you, but they are so huge I might do it anyway, and if a red coat or even a trooper would come to try to take

Floor Debate  
May 07, 2013

---

one, I would be better armed than that trooper. And these are the things that they beat those black children with and the teachers--I have articles--went on record publicly in favor of corporal punishment in the district where I live and where black children go to school. This achievement gap is old news. I've talked about it. I've presented information on the floor of this Legislature, copies of letters, handouts. I've done consulting work for the U.S. Department of Education when I was much younger than I am now. White people don't care about our children. And when the case was before the U.S. Supreme Court to challenge mandatory segregation in the schools, a judge even said at one of the lower levels, those who control the money are going to make sure their children are taken care of and others not. And that was demonstrated. I have done everything a human being could do to try to catch the attention of those in the Legislature to get something done. I finally got some people's attention when I brought a bill to divide OPS into three districts. But I'm not going to go into all that now, I don't have enough time. I want to say something about these charter schools. They're operated a lot of times by business people. They're similar to for-profit schools and those that fail, let me tell you what happens. The children who went there were disadvantaged and they get into one of these operations and when it fails, the children are worse off than before. They will never catch up. With all of the problems in the public school system, the vast majority of children will attend public schools. So I've given all of the time that I have to give to try to improve the public school system, not find tack-ons, not try to find add-ons. That is not going to work for the majority of the children. Let's say you get two charter schools that indeed work. What about all the other children who are left behind? Those two charter schools will be pointed to, people's bad conscience, if they have one, will be assuaged. They will feel that everything is all right now and everything is not all right. I have fought against teacher salary increases. I will never support paying teachers extra money for doing the job they're paid to do. [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR CHAMBERS: They have been coddled, they have been spoiled, they have been given the impression that they're the greatest people in the world, which they indeed would be if they did their job. But they're always talking about more salary, more time off, more para professionals. And they don't talk about the children and that's all that I will talk about. So, I say that Senator Lautenbaugh is totally correct on what he has said about the achievement gap and the problems in the schools. He's 99.9 percent wrong by suggesting that charter schools will be the answer. They won't, in my opinion. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Larson, you're recognized. [LB553]

SENATOR LARSON: Thank you, Mr. President. Charter schools have been something

Floor Debate  
May 07, 2013

---

that have interested me for a number of years. I first heard of the idea when I was in college, at the university Senator Chambers so often named here on the mike, and I had a class with a local priest who was a fellow at Georgetown in our theological library and he brought in the head of a charter school system called KIPP in New York and I'll get to that. And I think that will address a lot of Senator Chambers' points, but to talk about charter schools real quick, I just went to the U.S. News & World Report, top high schools in the nation. Three of the five top high schools in the nation are charter schools, numbers two, three and five. Six of the top twenty-five are charter schools. To say that these don't work, at least at the high school level--and then we can get into the middle school level and I'll get there with KIPP--I think is disingenuous. And I think Senator Lautenbaugh said it well, not all charter schools work, but there are systems out there that do work. I want to talk about KIPP because that's kind of what piqued my interest in charter schools and it stands for the Knowledge is Power Program. A lot of their schools are on the East Coast and I'm reading from their executive summary and then I'll kind of go into a few other things and this is coming from them. Today, 30.6 percent of all Americans aged 25 to 29 have earned bachelor degrees or higher. For students of low-income families, that college completion rate is even lower. Only 8.3 percent had earned a bachelor's degree by their mid-20s. And then I'll skip a few paragraphs. As of March, 2011, 33 percent who have completed the KIPP middle school program, ten or more years ago, have graduated from a four-year college. This means that the original KIPP students, because KIPP started about ten years ago, who are 95 percent African-American or Latino with more than 85 percent qualifying for federal free and reduced priced meals have a higher college completion rate than the average of all students across all income levels nationwide. Senator Lautenbaugh addressed the achievement gap and there are charter schools out there in this country that are achieving...or addressing the achievement gap that Senator Lautenbaugh addressed, and this is something that we as a state are blocking in our state to address that achievement gap. Senator Chambers might say that charter schools don't work. I think we have evidence that charter schools do work. Six of the top twenty-five, three of the top five. We have charter schools and a middle school charter school in New York and I learned a lot about this charter school. They go to school ten and a half months a year to address the achievement gap. They come in, they have summer programs. Their teachers, you know, they're not trying to say, I want to work less hours. Senator Chambers brought up that he fought against that because they want to do less work than they currently are. And I just...I think Senator Lautenbaugh is on to something. And I'm going to continue on a little bit, and kind of going off of KIPP's Web site. KIPP has 41,000 students across the country. Eighty-six percent are eligible for free and reduced lunches; 9 percent are special educational services; 15 percent are designated as English language learners. So that kind of gives you a demographic of who they are. And KIPP focuses on middle school students bringing kids that have been in these low performing districts up to standard by the time they get to high school. Eighty-eight percent of KIPP's students returned for their second year. After they had done one year, 88 percent returned. [LB553]

Floor Debate  
May 07, 2013

---

SPEAKER ADAMS: One minute. [LB553]

SENATOR LARSON: By the eighth grade, 96 percent of KIPP classes outperformed the local school districts in reading, 92 percent do in math. Move on. KIPP students graduate from college at four times the rate of their average student from a low-income community. I think, and I can go on, I know my time is short, but I think...I'm using one example, one system of charter schools in KIPP but these are charter schools across the country. Of the best high schools, a few of them are in Arizona called BASIS. Again, a great program. I'm not saying that every charter school is great. I'm not saying every charter school is going to work. I'm saying, let's give an opportunity for an educational success to our students across all ranges. I think these are important things that... [LB553]

SPEAKER ADAMS: Time, Senator. [LB553]

SENATOR LARSON: ...have been proven to work. Thank you. [LB553]

SPEAKER ADAMS: Senator Lautenbaugh, you're recognized. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Continuing on and responding in some ways, Senator Chambers and I agree on the problem. We don't agree as to whether or not charter schools are a solution. That much is certain. But, again, I'm taking this from one of the slides at the presentation to underline the thing and the problem that we do agree on. In summary, the color of your skin and your zip code are almost entirely determinative of the quality of the public education this nation provides. Think on that for a moment. The color of your skin and your zip code are almost entirely determinative of the quality of the public education this nation provides. That's staggering, but that is true. But it is true. Senator Chambers mentioned inappropriate teacher assignments. This is not the first time we've talked about that this legislative session. In the hearing on LB125, which I'll talk about in a moment, additionally or more, Senator Chambers made that same point that the newest and inexperienced teachers all too often end up in schools in east Omaha, predominately northeast Omaha. A school board member from OPS, a current school board member, Bambi Bartek said, no, Senator Chambers is absolutely wrong, absolutely wrong. Senator Chambers is not absolutely wrong. The statistics don't lie. If you look at the years of experience of the teachers in the poorest schools and the years of experience of the teachers in the wealthiest schools, there is a demonstrable and distinct gap. We are not sending the best teachers and the most experienced teachers to where the kids need the most help, where they may start a little behind. And the problem gets worse as the years go by. I don't understand why a board member wouldn't be aware of that, but it is true and it's demonstrable. Senator Chambers asked what would happen if two of these schools succeeded, if we allowed them. Well, then



Floor Debate  
May 07, 2013

---

we should build two more, or charter two more. Understand, we are not pioneers on this. We are behind on this. So many states have done charter schools. We've seen what works and what doesn't. In the aftermath of Hurricane Katrina, New Orleans pretty much redid its education system. It's almost entirely charter schools now in the city of New Orleans and they have made tremendous strides compared to the rest of the state. Where there was a huge gap before, that gap is closing. And the parents are involved and the parents get to rank which schools they want to chose their kids to go to and guess what? The parents, the ones they choose in order of ranking for their preference, tend to reflect the ones that perform the best. And that's where their kids go to school via some sort of a lottery program and the results speak for themselves. Seventy-some percent of the parents say the system is better. The tests results demonstrate unequivocally that the system is better. And it's helping those kids have a better future. And don't make a mistake of thinking that all parents in Omaha are somehow disengaged. We just had an OPS meeting last night where you would be amazed at the number of parents who showed up and said, don't move our principal, we like our principal. Don't reassign our principal, we're having some success with this person. Parents want their kids to do well in general. Parents want their kids to do better than they did and that's not unique to any part of the state. But we have to give them a chance. Charter schools again are public schools. These would be another choice... [LB553 LB125]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR LAUTENBAUGH: ...where they're most needed. Thank you, Mr. President. Simply another choice, open to the public at no cost, to people who choose to attend them. They've seen successes in Chicago, they've seen successes in New Orleans, as I indicated. President Obama himself is a big supporter of charter schools. I don't usually agree with a lot of the things that the president advocates, but he's right on this one. We've seen what succeeds with these and we've seen what fails with these and we know which path we can take to create successful charter schools for kids that are at-risk. I don't really see failure as an option based upon all the examples, good and bad, that others have provided for us. We are one of the few states that doesn't authorize charter schools. We miss out on federal funds because we don't authorize charter schools. [LB553]

SPEAKER ADAMS: Time, Senator. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Senator Kintner, you're recognized. [LB553]

SENATOR KINTNER: Well, thank you, Mr. President. I got to tell you, Senator Lautenbaugh has certainly got my attention on this. I...absolutely intrigues me. So

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

Floor Debate  
May 07, 2013

---

Senator Lautenbaugh, I'd like to hear the rest of what you were going to say so I'd like to yield my time to you, Senator Lautenbaugh. [LB553]

SPEAKER ADAMS: Senator Lautenbaugh, you are yielded 4 minutes 40 seconds. [LB553]

SENATOR LAUTENBAUGH: Thank you, Senator Kintner, you caught me off guard there. It's fortuitous, I had to start my laptop because that's where the slides are and it came back to the slide that I want to underline the most. The color of your skin and your zip code are almost entirely determinative of the quality of public education this nation provides. We did a good thing here with LB125. Overwhelming majority of us advanced that, and that special election is underway right now and will be concluded next Tuesday in OPS, and it will hopefully be the start of a new day. And I think we can be optimistic. Good candidates have come forward. Some of the incumbents that were there are running again and have done a good job, a few of them, and should be retained as well. And that's a reason for hope. That's a reason to hope for a better future for OPS because we certainly have focus on what the board is doing and what the district is doing. But the first thing that board is going to have to do is find a way to cut through the morass of bureaucracy that keeps good teachers from doing well, keeps good board policies from getting down to the school level and actually succeeding, and that's a huge task. And I believe that nothing succeeds like competition. And what I'm talking about here is providing public school choices in the parts of town where they're most needed because we always hear, well, you have to understand the background that these students come from. You can't expect us to do better because of the background these students have come from. And I don't accept that. People can rise above the background, but I think you have to be innovative in education where there's a problem. And I don't think anyone will come to you with a straight face and say the Hallmark of OPS has been innovation and trying to reach out and do what's best for the most at-risk kids with any measure of success. That is the point of authorizing this alternative on a small scale where it is needed the most, because if it succeeds, and I believe with the examples we have of what works and what doesn't on a national basis we know how to succeed, then there's no excuse anymore, OPS. There's no excuse for bad outcomes. Emulate what has been done. Emulate what succeeds. Don't tell us it can't be done so we shouldn't try. And I think we've been hearing that for too long. I'm excited again that we're going to have a new school board, very excited. I've got to learn to put more inflection in my voice when I say, very excited. I realize that because it doesn't sound very excited, but excited on the inside. But this is another piece to the puzzle. I cringe when we use the cliches. We always use another arrow in the quiver, another tool in the toolbox, but we always say that. This is an option, an option that has succeeded with so many at-risk kids elsewhere. It's failed also. But we have failure now in too many places, too many identifiable schools... [LB553 LB125]

SPEAKER ADAMS: One minute, Senator. [LB553]

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

Floor Debate  
May 07, 2013

---

SENATOR LAUTENBAUGH: Thank you, Mr. President...which really underlines the point. We know where failure is in OPS, but try to bring change to those schools. Try to get a principal taken out or administrators taken out of that school and assigned somewhere else. Try to bring change to a school that's part of the OPS district that is failing. It is worse than difficult. And that is something I think Senator Chambers and I can agree upon. And we'll probably continue to disagree about the solution because there is not one solution, and I'm not standing here and telling you that charter schools are the only solution, but they certainly have worked in places and we are behind the curve in giving them a try. And so that is why I bring this before you today. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator Lautenbaugh. Senator Chambers, you're recognized. [LB553]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I believe Senator Lautenbaugh is very sincere. So with that out of the way, don't take...well, you can take what I say any way you want to, but I think Senator Lautenbaugh will understand that we basically are going in the same direction. I'd like to ask Senator Larson a question if he's here. [LB553]

SPEAKER ADAMS: Senator Larson, do you yield to a question? [LB553]

SENATOR LARSON: Yes. [LB553]

SENATOR CHAMBERS: Senator Larson, you were talking about that school in New York City, is that correct? [LB553]

SENATOR LARSON: They have a number of schools throughout the nation but the one that I talked most about is basically New York, yes. [LB553]

SENATOR CHAMBERS: Yes. Who is the man who has organized that activity, if you know his name? [LB553]

SENATOR LARSON: The gentleman that came and talked to...that I met and talked to us, his name is Ky Adderley. [LB553]

SENATOR CHAMBERS: Okay, well, he's not the one I mean. I meant the one in charge of it all. What is the budget that they have for a year? [LB553]

SENATOR LARSON: I'm not completely familiar with the school's budget, like I said when we... [LB553]

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

Floor Debate  
May 07, 2013

---

SENATOR CHAMBERS: Okay. Do you know how many businesses in New York backed that program, big businesses? [LB553]

SENATOR LARSON: I do not, Senator Chambers. [LB553]

SENATOR CHAMBERS: Corporations? [LB553]

SENATOR LARSON: I'm not sure of the financials of the KIPP program, no. [LB553]

SENATOR CHAMBERS: Would you...thank you. Members of the Legislature, that program if you read about it, a book was written about it, the huge amount of support was available there that is not available to the public schools or even private schools. There were business people who were going to make sure that it worked. And when the effort was put into it, it did work. But the problem was that they could serve so few children that when they had the lottery, it virtually destroyed people in communities because their children could not be accepted. There is a meal spread. They say, come over here and eat, but not all the children eat. White people mean well and they experiment on us and not realize that they create a situation that's worse than it was at first because we live among, with, next door to each other. And we see the cherry-picking, the privileges granted by white people to certain ones of those they favor, and it generates division in our community. But aside from that New York school, the national head of the charter school organization, I don't know his name but you all use the gadgets can find it, he was on public radio two or three months ago mentioning that they do have a lot of failing charter schools and that organization needs to acknowledge this, point it out themselves, because too many examples can be found of the failures while those who are supporting charter schools give the impression that they're always successful and they're not. In New Orleans, the whole education system was so bad, all of the education in Louisiana is so bad, it wouldn't take much to improve over what was happening there. So if you took poor white children, you took poor Cajun children, poor any children and give them a school environment, they will achieve more and better in the way of results than what's happening in the rest of New Orleans and the entire state of Louisiana. The problem, as Senator Lautenbaugh mentioned, has been acknowledged. I think the focus should be on the public schools. Why are we not, as the Legislature, demanding that in view of the fact that this problem exists, something needs to be done about it? You all will never do it, you don't care, so I'm not going to pretend that I think you will. From time to time, I will bring up the issue, but I don't expect anything to happen. When you have these deprived communities... [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR CHAMBERS: ...and people want to say that the parents don't care, why will a bureaucratic formula take from those schools the principal whom the people in those schools whose children are there will talk about the trust, the achievement of their

Floor Debate  
May 07, 2013

---

children, and then some administrator white will say, well, we change principals every so often so they've got to go. When white people control...when white people control, things don't go well for us because they don't live it. They don't care. I'm going to bring you all a rhyme I wrote about the wise Mr. Jefferson, meaning Thomas Jefferson and the ignorant slave. And maybe you'll get what I'm trying to say to you this morning. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator Chambers. (Visitors introduced.) Senator McCoy, you're recognized. [LB553]

SENATOR MCCOY: Thank you, Mr. President and members. I rise in support of Senator Lautenbaugh's bill that's being talked about this morning, LB553. And in addition, then I'll talk and perhaps need to have further time on the microphone later to talk about LB14, which Senator Krist introduced and we heard in the Revenue Committee as well this session because I think both of these bills tie together in many ways. You've heard some discussion this morning by Senator Larson, Senator Chambers, Senator Lautenbaugh, and others on charter schools. And you've heard talk about the fact that we are, which is a fact, one of the last remaining states to not have charter schools. Many of you know, I spend a great deal of time, more out of session, being very deeply involved with Council of State Governments. And I recall a conversation I had with an education committee chairperson from another state at the Council of State Governments annual meeting, annual conference in Austin, Texas, at the end of last year. And this education committee chairperson, I was sitting next to them at a executive committee meeting and we happened to start talking about education issues. It was one of the focal points of the meeting, and this person asked me in a kind of sidebar discussion, well, you know, what are your charter schools like in Nebraska and I said, we don't have any. And he said, really, you don't have any? Well, what do you attribute that to? And they said why? And I said, well, probably for a host of reasons, one of which, most of our public schools in Nebraska provide an excellent education for students, and children have historically received a rich and vibrant education, and parents and families and communities are very, very involved in their schools. I said that's probably honestly one of the biggest reasons why charter schools don't exist here. They said, well, surely, you have some schools where there's an achievement gap. I said, we do, as all states do. As all...you know, that's just a fact, unfortunately, of education across the country. They said, well, how do you plan to ever address that, long term? And I said, boy, therein lies the proverbial million dollar question, a lot more than a million dollars, quite honestly. And this person continued...we continued to have a conversation. We talked about what charter schools are like in their state. And they said, well, how can you really say that you're doing everything you can to address the achievement gap for students if charter schools isn't an option? That's not part of the repertoire, one of the tools in your tool bag as a Legislature and as a state. I said, boy, you hit on a good one there. That's a good question. And they said, well, in our state we just felt like we couldn't really say we

Floor Debate  
May 07, 2013

---

legitimately are addressing the achievement gap, that we're doing everything we possibly can for educating the children of our state if we don't have charter schools as a potential option. And that conversation, members, has really stuck with me the last six or so months since it occurred, and why I think this discussion this morning is a good one, because we did do something historic with LB125 earlier this session. [LB553 LB125 LB14]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR McCOY: Thank you, Mr. President. With the leadership of Senator Chambers, Senator Lautenbaugh and others, we advanced LB125 and we are in the middle of something transformative, hopefully, for the city of Omaha and for Omaha Public Schools, which ought to mean something and ought to matter to all of us, and I think it does. Perhaps in a future time I'll talk about why I believe LB14 also is a key focal point of this discussion and ought to be discussed further at length. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator McCoy. Senator McGill, you're recognized. [LB553]

SENATOR MCGILL: Thank you, Mr. President and members of the body. I decided to jump up since I've been missing...I haven't been here a lot in the last week, been spending time with mom, and would like to thank you all for your thoughts and prayers as that's meant a lot to me and my mother and my entire family. But listening to this debate, I thought I'd get up and share a few thoughts. In December, I went to an education council, if you will, policy council with some other progresses from around the country and we spent a lot of time learning about charter schools. And it was presented to us in a way that wasn't charter schools versus traditional public schools, but in a way that said, this is what charter...some charter schools are doing that have been very effective. How can we then transition that into our public schools? We don't need to just have one or the other. We can take what is working in some of these locations and implement it in our own school districts. And if that meeting hadn't been in December, I would have and session being so close...I plan to sit down with my own superintendent and talk about some of those ideas. For instance, one of them is a school day in which half of the school day is spent in a traditional classroom learning from a teacher in the way that students currently do, but the other half is in a special computer lab where the kids are measured on how they're learning on a specific issue and they're not brought...they're not pushed on to the next issue until they fully understand the concept that is before them. So they're learning at their own time at their own speed. If they don't get two plus two equals four, then that system and paras surround them with the support they need to understand that before they move on to fractions. You know, right now we're just pushing kids through all at the same time, and we could be learning from concepts like this in charter schools. Sure it will mean a lot of change for our

Floor Debate  
May 07, 2013

---

administrators and our teachers unions, but we're seeing effective results and we should be working on how to integrate these ideas into our current public school structure. And also Elliott Elementary here in Lincoln was fortunate enough to be the recipient of some of the federal government school improvement grant funding, and they've seen remarkable results just by increasing the number...the fabulous use of technology in the classroom with iPads, and special projectors where kids can interact with them. It's amazing and it's amazing to see the outcomes they've had and that has included some teacher incentives to have better performance in their classrooms. There are some creative things going on out there. We don't need to just open the floodgates and say, here are charter schools, but we can and should learn from the ones that are very effective. And with that, I'll yield the rest of my time to Senator Nordquist. [LB553]

SPEAKER ADAMS: Senator Nordquist, you're yielded 2 minutes 20 seconds. [LB553]

SENATOR NORDQUIST: Thank you, Mr. President and members. I don't want to carry on this conversation, but I just do want to rise and bring up a word that I don't think we've heard enough in this discussion and that is poverty. Senator Lautenbaugh said that the color of your skin and your zip code determine the quality of your education. It very much determines the quality of your life. Those children are living in poverty, they're coming to school hungry, they're going home...they're going home to families that are struggling to get by to put food on the table at night. You talk to teachers or people who work with kids in the Omaha area, you hear about how there's programs that send kids home with backpacks of food because that's all they get all weekend. These kids...there's a high rate of homelessness among these kids. There's high rates of mobility among kids, and the idea that we're going to solve this problem by creating some new building over here with some new administrators, and maybe some different policies on how we treat the staff, that's going to take care of all those problems? It's not. Omaha, in 2009, I don't know what the current number is, had the highest rate of African-American children living in poverty amongst all of the hundred biggest cities in the country. [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR NORDQUIST: You think that's affecting the educational outcomes at OPS? It certainly is. And until we are serious about addressing hunger, homelessness, healthcare for these kids, we can elect all the new boards we want, we can set up all the new schools we want, and we're not going to get educational outcomes we want as a state or the educational outcomes those kids deserve. Thank you. [LB553]

SPEAKER ADAMS: Thank you, Senator Nordquist. (Visitors introduced.) Senator Wallman, you're next in the queue. [LB553]

SENATOR WALLMAN: Thank you, Mr. President, members of the body, friends all.

Floor Debate  
May 07, 2013

---

This is close to my heart. I've got, you know, in-laws teachers. My brother was a teacher. And we passed up in here like assessments and all these things. Did we deal with the real issues of things? Our children do not have the same IQ all across the board. So what are we encouraging them to do? To stay in school? Probably not. And so this is a...new charter schools the answer? Probably not. My brother taught overseas for many years, year-round school. Our granddaughter goes to Des Moines, downtown, in an old factory building. They don't build fancy buildings. Year-round school. Year-round school is one issue we can handle, but I'm not for charter schools for that simple reason. If we can't make public schools work, how can we make charter schools work? And I'd yield the rest of my time to Senator Chambers. [LB553]

SPEAKER ADAMS: Senator Chambers, you're yielded 3 minutes 55 seconds. [LB553]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Wallman. It's difficult for a black person to listen to himself and his people being discussed by people who know nothing about us. Maybe they mean well. They've read this, they've talked to somebody, but they don't listen to us. When it comes to white people, local control is the catchword. Everybody wants local control. When I wanted to divide OPS into three districts to allow the people in each of those districts to exercise local control of the schools that their children attended, white people hit the ceiling. It was impossible. Everything that was as American as apple pie when it was white people, suddenly became anathema when it was black people. We would have hired our own superintendent. We would have hired the teachers. We would have established the curricula within the confines of what the State Board of Education requires in all of that, and there would have been direct involvement of the community and the parents. We would know the teachers, the teachers know us. But that idea was totally unacceptable because white people had to keep their thumb on the scale and their foot on our back and say, we're incapable. For you all's information, you think I'm arrogant. You don't know what arrogant is. When I was going to leave the Legislature, there was a priest at Creighton who was trying to persuade me to teach a class at Creighton. There was a professor at the University of Nebraska law school who wanted me to teach a law class. I have people interested in a private school who wanted me to run the school. I've got no training formally in education courses but I have an education. I have sense. I have intelligence and I know what it would take to teach children, four of my own, my wife and I have four of ours. But I wanted none of that. That's not my inclination. I don't have the disposition, I don't have the temperament for that, so I come down here and I battle trying to get something done. And on occasions like this...by the way it's where I'm glad Senator Lautenbaugh offered his motion, there need to be more discussions like this. I'm going to tell you the real reason why I stayed out of the school issue. I told the Speaker that there are people on both sides of the issue, so I don't have to say anything. We'd still be talking about it today with me documenting the wrongful criminal things that have happened in the public schools in Omaha to our children. Whereas, these white people said it's a terrible thing to have a black district and that my plan



Floor Debate  
May 07, 2013

---

would segregate the schools. They've always been segregated. They superimpose a segregated school system... [LB553]

SPEAKER ADAMS: One minute. [LB553]

SENATOR CHAMBERS: ...on a segregated residential system. But you know what they did by statute and it's still there? They carved a white district out of OPS and it's called Westside. They carved out a white district which exists as a white district now, always has, and nobody talked about segregation because white people wanted their local control and they didn't want their children going to school with children in OPS. These are things I know. You don't know because you won't read. You don't know because you won't listen to me. And I waste my time talking to you, but since the opportunity is there, I'm going to take it. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator Chambers. (Visitors introduced.) Senator Lautenbaugh, you are recognized and this is your third time. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I'd be remiss if I didn't say how happy I am to give Senator Chambers a chance to talk. That doesn't happen enough, so I'm glad he has a chance to avail himself of it today. Folks, I've tried to be very modest in my comments here. I don't think any of you heard me say charter schools are the answer, the answer. They are an answer, and in many places, they are having success. In 2010, a lobbyist for the NSEA stated, while testifying on LB1028, "I think it would be intellectually dishonest for me to sit here before this committee and say that charter schools have been a failure in places like Chicago. That's just not true, nor am I here to make that statement." Charter schools have success. And Senator Nordquist is a friend of mine and I called him last night and said, hey, I'm going to be talking on your bill, not really on your bill, may be talking during your bill, on this topic. But understand, Senator Nordquist just set up the same straw man type argument that we heard in the committee hearing. A witness came before the committee and said, we don't need charter schools, we need to end poverty. And I responded, well, I hope they've set a date because that will take care of everything. Folks, you don't just end poverty. You don't just end hunger. You don't just end lack of opportunity. You don't just end core education. You try to do what you can. You try to do what you can, try to do what makes sense. And charter schools have been found to make sense nationwide. We're one of the few states again that does not allow them. Say more on that in a moment. But I never stood here and said this was the solution to everything. I said this was an "a solution" for some at-risk kids. And education is a way out of poverty, but it's not going to solve poverty tomorrow. And it can address hunger by solving poverty, but it's not going to happen tomorrow. But arguments like that are just an argument for not trying. Why bother to try? If this doesn't solve all issues facing those who are disadvantaged, why should we do anything? Why should we worry about hunger if people aren't going to have money and jobs? Maybe we should just let them

Floor Debate  
May 07, 2013

---

starve. Is that the argument we're hearing here? No. You take these issues as they come, and we still should worry about education even if that isn't going to change the lives of kids tomorrow because in the long run it will. That's the point of this. And Senator Wallman who said, well, if we can't do it with public schools, why do we think we can have successes with charters? Because if we do it right, charters aren't subject to the same strictures that make public schools, especially OPS, since that's what we're talking about here, somewhat less nimble and agile in the areas where something different or something extra is needed. The charter schools, while still public, would not be under the thumb of the bureaucracy and the administration of OPS. That would be the beauty of them right there, getting out from under that morass out at the TAC building that is almost imperviable, and allows, not by design, but just as a reality, bad results to continue. I never said we should open the floodgates with charter schools. My bill would have authorized, at most, five, not five tomorrow, at most five. [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I think it would be helpful if we actually talked about what was being talked about here, which is ironic since I'm talking about something that's not part of the bill, it's on Final Reading. But understand, I'm not trying to say this is a panacea and I'm not trying to say it will solve all problems. I'm not trying to say every school should be a charter tomorrow and I'm not saying every public school is bad. I've said none of those things. But this is an option, an option that so many students across the nation have succeeded with. Some have failed, just as some have failed with public schools, but we're seeing successes and we know what works. And we're going to hear more about how we're falling behind on federal programs and incentives that the president has supported that we haven't qualified for. We simply don't have charter schools. Some say the Learning Community can already do this. Well, no, they can't, at least not by the federal standards and... [LB553]

SPEAKER ADAMS: Time, Senator. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Senator Brasch, you're recognized. [LB553]

SENATOR BRASCH: Thank you, Mr. President and good morning, colleagues. I do rise to speak on...the conversation this morning we're having, the thoughts on charter schools this morning, and I would like to speak on some different levels of this. We all want our schools to be successful because we do know that with successful schools we do have rewards, rewards in our society, in our state, in our families with those children. The cost to failing students is a...there is great consequences. The costs can go on for generations. So is it money? Is money the solution? I wonder because...I do support the first five, you know, conversation, the funding things we've been talking about because I

Floor Debate  
May 07, 2013

---

do believe it goes back to the families. I don't think that we can point a finger at the schools and say the schools are to blame for this or that when children do grow up in an environment, whether it's poor or whether it's rich, that there can be problems. Different types of problems. I believe that Senator Chambers could have been talking about Ron Clark with the Ron Clark Academy in New York, perhaps. That school, that academy has a lot of support from corporate, from many, many angles, but Ron Clark when he went in to make a difference, he knocked on the door, he talked to the parents, he made sure that the family member, one parent, the grandmother, that the family was engaged in an education. And I also want to address the situation where he talks about the prejudice. I think that also comes from families needing to learn more. Years ago...my daughter is 32, and she spent the first ten years of her life here in Lincoln and our neighbors...great neighbors was an African-American family. The kids grew up together--sleepovers, birthday parties from birth until we moved away. And one day my daughter asked me, she said, mom, am I supposed to not like Susan? And I said, what are you talking about? Well, and this is from a four-year-old. I don't know where she picked that up at. I don't know what happened and I said that's ridiculous. You know, you go tell, you know, so-and-so that I want to talk to their mom. And we can, you know, set a course. Everybody can do that. That's what makes changes is where you start from the beginning, what kids learn, where kids learn, how they learn starts with the responsibility in the homes. I do think charter schools, again, we need to take a look at these moving to a different level. In my occupation working with national companies on education software, when the country as a nation hit the pre-fiscal cliff where schools had no funding, my companies had said, at this point we sell to the charter schools and the private schools because they were fiscally sound. They did have the cash. And we were able to keep our companies running, our sales solid by going door-to-door, not to the public schools, but the... [LB553]

SPEAKER ADAMS: One minute. [LB553]

SENATOR BRASCH: ...charter schools and the private schools. We want a quality education. We want to engage the parents, but we also, as we're looking at the budget, want to be fiscally prudent and look at all ways, every method possible, creatively, collectively, to help our students succeed and at the end of the day help lower taxes, bring more effective education to our schools. Thank you, colleagues, and thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator Brasch. Senator Smith, you're recognized. [LB553]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. I just stand and to applaud Senator Lautenbaugh's position here as expressed in his comments. Colleagues, we have teachers and administrators in our public school system that are working very hard to develop our children. And I don't believe for one

Floor Debate  
May 07, 2013

---

moment that Senator Lautenbaugh's comments or position on charter schools in any way is intended to criticize or conflict with the efforts of our public school teachers and administrators. However, our children are much too important not to pull out all the stops to create improvements in education in our state and to provide every child, every child the best opportunity that is available to he or her. The same old approach, colleagues, produces the same old results. Again, the same old approach produces the same old results. So please, let's make certain all of our children receive the best opportunities available. It's for this very reason that I advocated for early childhood development in my Learning Community reform bill. It is for this very reason that I've asked many, many times, why we are not providing more focus on education in the trades for our children. Every child need not attend a four-year college program or two-year college program to be successful. We need to provide the best opportunity for every child regardless of the path that that child chooses to take after high school. Colleagues, let's look for uncommon solutions in education that support all options for our children, every child. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator Smith. Senator Chambers, you're recognized and this is your third time. [LB553]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I don't want my next comment to be misunderstood, but I have to deal with reality. They talk about conservatives and liberals on this floor. When an issue which in other states so-called liberals speak on, they speak. You see when the so-called conservatives will have an issue, lights come on, they give that person a chance to speak. I say, white people's interest intersect. If one doesn't say it, the others do and they'll help. Where are the...where are the liberals? I will stand. I don't need their help, but I want to call attention to it. You see how these conservatives stick together? You see how they speak up? You see how they take the time? And here I stand. But these so-called liberals know how to come to me on certain issues. My role in this Legislature is not unknown to me. You all want to play like you don't know what it is. You all get uncomfortable, but I live it every day. And I see what happens on this floor every day. I know what your issues are, I know what you'll speak on, and I know how you're going to speak on it. But where the crucial, critical issues are involved, the interest that I have and the people you ought to be interested in, there are poor white people in this state. I was told, as I listened to one of my colleagues speak on the floor, and it wasn't just to me, named a county that's the poorest one in the state. It's a white county. When I speak for poor people, I'm speaking for your constituents too. But you all don't. When Senator Lautenbaugh says that because you can't solve everything today, does that mean you don't do anything? That because children are hungry today, and they'll be hungry tomorrow, you don't feed them today? Isn't that what I said about Medicaid? We have three years of free assistance from the federal government. Oh, and the liberals will pop up on that because there hospital is in their district, doctors. But it's not really the poor people who need that help because it is not only where medical care is needed

Floor Debate  
May 07, 2013

---

that poor people have the problem. But who will speak for the poor? Who and where are they? That's why I wrote my little one-act play for you all. You think you're going somewhere. I can judge you. You can't judge me. You set the standard and I judge you by the standard you set, and I follow your standard better than you do, and I'll continue to do it and I'll do it alone. But I just want to call attention to teach you all and show why that Catholic priest wanted me to be up there teaching white Catholic students because I see things that others may see, but I see them differently, and I'm not afraid to say it and you all are. I'm glad that Senator Lautenbaugh brought this bill. And you know what I can do if I want to? I can make a motion to pull his bill out of committee to resurrect it on the floor. They killed it. I will find my way to speak. If he hadn't brought his bill, his motion, the budget bills would have had smooth sailing. I'm going to find my time to speak on the budget bill until these so-called liberals that they can go take a flying leap into the Legislature and stay there for eternity and work among themselves with each other because they all know what hypocrites they are. They think I'm only talking about the conservatives, huh? Well, this morning, we have an object lesson. And Mr. President, in showing how collegial I am, I won't even take my full five minutes. [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR CHAMBERS: I might have a second...oh, I have 60 seconds. Well, that's too much to give back. (Laughter) I am going to talk about some things that need to be discussed and one of them will relate to why the Learning Community came into existence and although you don't like to hear it, the role that I played, and without which that would not have happened. Without my approval, it would not have happened and I'll get you some articles to prove it, and then you don't even want to believe it. Jesus said, you won't believe it that one came back from the dead. Well, I'm not dead and I'm going to be here, but you won't believe it. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Janssen, you're recognized. [LB553]

SENATOR JANSSEN: Thank you, Mr. President, members. I find it kind of "bizarro world" today that Senator Ken Haar is now a Republican somehow, and the liberals get called out, and I'm the next one to speak. So I just want to set the record straight: still staunchly conservative. This is a big shift, talking specifically to Senator Lautenbaugh's amendment; it's a big shift in education policy. And I am very happy he brought it here today. I believe he mentioned in his opening that he wasn't going to take it all the way; maybe I missed that. But I'm hopeful he does; I'd like to get a gauge on where we're at on this educational policy. I sat on the Government Committee when we dealt with the school board issue in Omaha, not this year but the previous year. And it took a courageous board member, somebody in public office, to come forward and say: This isn't working, we need to change something. Now, size of the board happened to be what it was, but I think there was more to it than that. It was basically showing the

Floor Debate  
May 07, 2013

---

courage to come forward and say, I don't care if I even get reelected to my office, which this individual didn't, is running again, but showed the courage to bring a new idea forward and upset his colleagues on that particular board, which he was successful in doing, upsetting them and getting the legislation changed, of course, with the help of Senator Lautenbaugh and subsequently Senator Chambers and the rest of us on the floor that voted for that. I think Senator Smith kind of referenced it: the definition of insanity is doing the same thing over and over again and expecting the exact same result, or throwing more money at the same problem and expecting a different result, which many times doesn't work. So why not look into this and at least have the discussion today? I think it's a great idea to have this discussion. I fancy myself a fan of charter schools. I'm a fan of home schools. I'm also a fan of public schools, where my two children attend. I think there are good charter schools; I think there are bad charter schools. I think there are good public schools; there are bad public schools. And the same for home schooling; with the wrong intentions, there's bad home schools. Sometimes you have an establishment that pushes against new ideas. And listening to this debate, it reminded me, I want to talk about wind energy, of all things, in the spirit of Senator Ken Haar being back here, who, by the way, has admitted that he was cutting down a tree on Arbor Day when he had some issues, but (laughter)...but wind energy: 2009, I bring forward a bill, net metering bill. Who would ever saw that coming? You probably wouldn't now if you didn't know...I'm a fan of wind energy, the right way. But the establishment said: Oh, no. They worked the lobby really hard on this one; they made sure that Senator Janssen's wind energy bill did not get out of committee, was "illy" received in committee. And why was that? There was an establishment in place; they weren't quite ready yet to give up a little bit of what they had. But now those same people, and I'm not calling them out by names, but those same people were out in that lobby saying, well, you know, let's try this bill this year; let's try this. There was more and more people coming to them saying, we need to change the way we're working. Senator Smith, I should listen to you more often, because two things I took from your speech today. Yeah, I was actually listening. One of...one of many, I'm certain. He had mentioned tech schools. And I'm going to move it to that direction a little bit. [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR JANSSEN: Thank you, Mr. President. I got so disheartened listening to a principal from one of my area high schools bragging about all...X number of his graduating seniors are going on to four-year traditional colleges. Well, it was somewhere around 40 to 50 students. There is no way you can tell me 40 to 50 of those students in that public school, or any school, were prepared for a four-year college, or even right for it, not..."prepared" is not the right word: right for it. I think the program is called "Dream It. Do It." I would have been one of those...if that principal was on the radio, he would have said, well, we had all but Senator...well, Charlie Janssen, he didn't go, he went to the military, oh, shame on him. Oh, Senator Bloomfield, I don't know, maybe he went to a technical school right away; yeah, great, and made a lot of money. I

Floor Debate  
May 07, 2013

---

went to Nucor, lot of people making a lot of money up there... [LB553]

SPEAKER ADAMS: Time, Senator. [LB553]

SENATOR JANSSEN: ...with two-year degrees. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Senator McCoy, you're recognized. [LB553]

SENATOR McCOY: Thank you, Mr. President and members. I want to continue where I left off earlier. You know, when Senator Lautenbaugh's bill was heard in committee, it was talked about when speaking of the achievement gap that exists currently with Omaha Public Schools. And Senator Lautenbaugh's concept of charter schools, you know, it was talked about the different options that parents have, families have, for students, that we don't just have the neighborhood public schools, but there's magnet schools, focus schools, open enrollment within the learning community that we're all fairly familiar with--those of us who not only are new but have been here for a few years--private and parochial schools, and home education. Why would we not want charter schools to be part of that toolbox, that tool kit? You know, Senator Larson has talked about the success of charter schools in other areas of the country. And, sure, there's failures, too, as there is with anything; nothing is going to be perfect. But you know what? We have a lot of faith...we place a lot of faith in parents and in families, as all of us know that have kids in school or near school age or have had kids in school. For you to have successful students, it really requires a lot of effort. Whether that effort is given by parents or grandparents or family, others, you know, care providers, it isn't just the school, it isn't just the effort of what goes in while a child is at school; it's beyond that. Why would we not want charter schools to be a part of that? Furthermore, I mentioned LB14 that Senator Krist...I assumed he'd probably jump up at some point this morning and talk about this. And if not, I'll talk about it a little bit because we dealt with it in the Revenue Committee. LB14, which we probably won't get the opportunity to talk about here on the floor this session, but I wish that we would, would have created...or would create income tax credits for individuals and corporations that donate to organizations that grant scholarships for tuition at private K-12 schools. Novel concept. We had a lot of discussion. It was a pretty lively public hearing in the Revenue Committee earlier this year on this bill. He had a lot of parents that came forward. There was a lot of discussion on what could be done to improve education for all students in Nebraska, public school students and otherwise, because I really do believe that more Nebraska parents ought to be enabled to afford the educational choice they deem best for their children, whatever that is. Charter schools would be one good way, an option, that could avail a lot of parents and families an educational choice that may work for them. What are we scared of, members? Why would we not want to have this as a tool that's available? Why would we not want to do what so many other states have done? And that is have charter schools as an option. Could be a tightly controlled option, there's nothing wrong with that; we do that with a lot of things. We could roll it out

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

Floor Debate  
May 07, 2013

---

slowly--I think that's what Senator Lautenbaugh proposed and see if it works... [LB553 LB14]

SPEAKER ADAMS: One minute. [LB553]

SENATOR McCOY: ...for our state. Thank you, Mr. President. You know, sometimes we, here in Nebraska, we hear a lot from other people across the country, well, you know, we're the last to have good things happen, sometimes we're the worst to have good things happen, whether that's economic downturns, whatever the case may be. But you know, it's not always good to be last, or not, on this issue either, but we're one of not very many states that haven't done something with charter schools. I think it's time. I think it's time to have this discussion more fully and explore it further. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator McCoy. Senator Larson, you're recognized. [LB553]

SENATOR LARSON: Thank you, Mr. President. And I'm going to briefly touch on it, and I think Senator Lautenbaugh mentioned it in passing, was the Race to the Top application that the U.S. Department of Education...well, it was a contest created to spur innovation and reforms in state and local district K-12 education. And Nebraska, in the first round, finished third to the last in that application; in the second round, sixth to last. I think there were 40-some states participating in the first round, 41; and 38 or so participating in the second round. And if Senator Sullivan would yield to a question, I'd appreciate it. I would ask Senator Adams, but--as the former Education Chair--but he's up top; so I'm sorry, Senator Sullivan. [LB553]

SPEAKER ADAMS: Senator Sullivan, would you be recognized? Would you yield? [LB553]

SENATOR SULLIVAN: Yes, I would. [LB553]

SENATOR LARSON: Thank you, Senator Sullivan. And, like I said, I would ask Senator Adams because we...it was when he was the Education Chair that we did the Race to the Top application, but as the new Education Chair, you're the one that gets the question. Why...do you have any--or, you know, I'm sure there was a number of factors--but do you have an idea of why Nebraska was towards the bottom in terms of the applications? Why we were third to last and sixth to last in the two rounds and how we compared in other factors and what really separated us from the other states? [LB553]

SENATOR SULLIVAN: No, I really don't. [LB553]



Floor Debate  
May 07, 2013

---

SENATOR LARSON: Okay. What were part of the factors that were considered in the Race to the Top? If you know. If you don't, that's fine, and... [LB553]

SENATOR SULLIVAN: Well, I think one of the factors was whether or not we had charter schools. And obviously we don't. But I think there were other factors as well. [LB553]

SENATOR LARSON: There were. There are actually six different criteria for the funding. And, going through Nebraska's application, on the U.S. Department of Education, and where they scored well and where they didn't score well, Nebraska actually scored pretty well in the four or five of the...or at least comparable to the other states in four or five of the criteria. There was one criterion that Nebraska received 0 out of 40 points for that really dragged down our application for some of this \$4.35 billion, and it was "ensuring successful conditions for high-performing charters and other innovative schools." Colleagues, there were seven or eight states that got this piece of the pie of this contest from the Department of Education. And it was one of the things that, you know, I disagree on politics with the President on a number of issues, but I really liked Race to the Top. It was performance-based standards for teachers and principals; it promoted charter schools and the privatization of education. I think this was a good program that he was looking to reform education throughout the United States, and I commend him and Arne Duncan for looking to reinvigorate education in this country. Yet it's evident that Nebraska failed those standards. And why? And because we don't have these charter schools, we don't have innovative schools, we lack that. We don't have the capability. I'm going to digress and talk a little bit about another program that we as a state are unable to do, and that's Teach for America. A number of my collegian classmates went into Teach for America. And some people don't like Teach for America because it's a two-year program in which... [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR LARSON: ...young educators go into oftentimes either low-income or disadvantaged schools, teach for two years, and then, the idea is, they go out and they get into politics or business, and they have that understanding of the educational system. Because of the Department of Education and the criteria standards for teachers, we can't attract these people, this program that sends young adults into these low-achieving schools to try to boost them. And, you know, it's things like this that we as a state are lacking in terms of education: Teach for America, charter schools, innovative schools. There's a reason we finished at the bottom of Race to the Top, and it was because we lack this. There's a reason that we don't have access to these contest ones, and it was charter schools. I appreciate Senator Lautenbaugh bringing it, and I hope the body looks long and hard at this, and maybe something can happen next year. Thank you. [LB553]

Floor Debate  
May 07, 2013

---

SPEAKER ADAMS: Thank you, Senator Larson. Senator Kolowski, you're recognized. [LB553]

SENATOR KOLOWSKI: Thank you, Mr. President. Good morning, colleagues and good morning, Nebraska. Perhaps some percentages concerning these schools might be of interest to us as we look at what's happened in charter schools across the country. About 16 percent of the charter schools are better than the public schools they're replacing, as we look at some national figures. Forty-some percent are no better or no worse off than the public schools that they were attempting to replace. And the remainder of the percentage are much worse than the public schools they were trying to replace. That's not a really high percentage of successful schools across the country, but you have to consider and keep in mind the number of different models of charter schools that are being attempted across the country. The KIPP program is one that has been recognized here this morning. You could also talk about the Walton dollars and the Gates dollars and what they've done to try to do the same thing. Senator Chambers has touched on what took place in New York City as far as the commercial backing of those charter schools by business and industry that has made them very successful and very elite in that sense, because it's very selective as far as a child being chosen to attend those schools. Senator Chambers also mentioned and is right on target as far as the quality of the New Orleans public schools could not have been worse. And going to charters or going to anything would have been better than what they had previously, prior to Katrina hitting that situation. Senator Nordquist talked about poverty, and he is right. But we can't just throw stones at those kinds of topics all the time when we know there are programs and we know there are systems that we could put in place and we know that there are results that can be gained by the public schools if we would follow some of the precepts that we know makes a difference in putting together and maintaining quality public schools. In most cases that has not been done. My hope for the OPS situation in our own state would be that the new board that Senator Lautenbaugh has led the charge on with the legislation that brought about the new number and the elections for this board and the new superintendent will bring forth an opportunity to change, reinvigorate, and make a difference of the quality of the education that all children receive in the OPS district in the next set of years. If that would not happen, then I would probably be on a different side of looking at the potential for charter schools in our state, if we don't see the changes that we would like to see happening in OPS in our near future. And with that, I'd like to give the remainder of my time back to Senator Chambers, if I may. [LB553]

SPEAKER ADAMS: Senator Chambers, you're yielded 1 minute 35 seconds. [LB553]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Kolowski. Members of the Legislature, somebody mentioned that the Learning Community was supposed to do what...this or that or the other...the Learning Community never was envisioned to replace anything. The Learning Community ran no schools, not a single

Floor Debate  
May 07, 2013

---

classroom; didn't hire a teacher; formulated no curriculum. What unfortunately did happen on occasion was that it served as a pass-through of state funds to OPS. [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR CHAMBERS: Certain programs that appear to be innovative were going to be implemented by OPS as long as they got Learning Community money. I was always saying that the Learning Community's goal could be achieved if we saw OPS adopting these programs that were being funded, that were supposed to be innovative, and incorporate those into the OPS system. But I got about as far as I get in trying to persuade my hardheaded colleagues here to do the right thing. So the Learning Community was not envisioned to do that, and it certainly doesn't do it. I think the ones who push the charter school movement are basically anti-public education, they are anti-teachers union, and they are elitist. And there are actually businesses that run these charter schools. [LB553]

SPEAKER ADAMS: Time, Senator. [LB553]

SENATOR CHAMBERS: Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Senator Carlson, you are recognized. [LB553]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature, and this is the one and only time I intend to speak. I'm going to start out talking about something else, but then I'm going to come back to LB553. Senator Chambers last Thursday made the statement that Medicaid expansion doesn't cost the citizens of Nebraska anything because the federal government is paying it all. And then he repeated that again this morning. But I would remind us all that the federal government's money is our money, our taxes, Senator Chambers' taxes, my taxes. So it's none of their money, whoever "their" is. It's our money. And maybe it's the right thing to do. And maybe LB553E is the right bill. LB553E does, by our Final Reading vote, if I understand it correctly, obligate us to 20 million of our dollars every year for many years. But we are responsible to adequately fund the School Employee Retirement Fund. And I would ask, though, that we remember this decision when we have future requests for yearly commitments from General Fund dollars to accomplish something that's very important, very, very important policy in our state, for every one of the citizens in our state. And I would just ask us to think about this as we make these commitments that may well be the right thing to do. With that, I would yield the balance of my time to Senator Lautenbaugh. [LB553]

SPEAKER ADAMS: Senator Lautenbaugh, you're yielded 3 minutes. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I want to be clear by way of a road map here, the amendment I have here cannot go to a vote; it does not authorize charter schools; it is just a talking point. And it is my intention to get LB553 to a vote before lunch. So I'll be brief. Senator Chambers asked where the liberals are on this issue, why are they not speaking up? Well, I can tell you where some of the liberals are as far as charter school supporters go. We have Barack Obama, Bill Clinton, Hillary Clinton, John Kerry, Bob Kerrey, Al Gore, Andrew Cuomo, Bill Gates, Mayor Bloomberg, Cory Booker, and Mayor Villaraigosa. Well, they're not here, that much is certain, and we may be better for it, Senator Chambers, but...(laughter) but that said, I mean, Mayor Villaraigosa--and I apologize if I'm butchering his name--of Los Angeles was a former union organizer who is now a pretty ardent charter school proponent. I wish this was a full-fledged charter school debate because I think some of the statistics, as far as charter school successes, cited by Senator Kolowski are from a CREDO study that has been shown to not actually be correct. I think that charters have been more successful than those studies show. But again, there have been good charters and bad charters; there have been good public schools and bad public schools. I rattle a little bit...well, I'll save it for closing. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator Lautenbaugh. Senator Price, you're recognized. [LB553]

SENATOR PRICE: Thank you, Mr. President, members of the body. In following the debate I thought of a couple different things. First thing I thought of, I'll say it, it's okay: Follow the money. It's amazing to watch the competing interests when there is money. My first few years down here we were having some fiscal constraints due to budgetary pressures. Everybody worked together, and we picked up the collective couches of Nebraska and shook them out to get all the quarters and pennies, nickels and dimes, and much more to make it work to meet our constitutional obligation. Now there's a little bit of extra--I hate to call it that, it's not really extra--there's more taxpayer funds sitting in our coffers, and now we're looking for ways to spend it. It is interesting, though, to note the ferocious competition for those dollars, particularly amongst...or within even the same family, if you talk about education. Education dollars want their dollars, and they're going to get their dollars, and they're going to be absolutely ruthless for those dollars, notwithstanding the needs of the children. Next, I'm interested in this debate and in the upcoming budget bills. I'm interested in listening and learning why it is that some individuals have a greater burden to shoulder the costs of society than others. And I'm not talking about the wealthy versus those who are financially challenged. I'm talking about single people who have had some success and maybe own a house. You have no tax breaks almost, particularly if you're renting. You pay a full burden if you're a single person without a single child going to a public school. Do you derive benefit? Obviously, you do. But it is interesting to note how we apportion things differently and that those with children, one, will get the breaks, to a point, and have no say. And those without children have no say, and they have no breaks. And it's interesting to note and

Floor Debate  
May 07, 2013

---

as we have the policy investigation this next summer, to see why it is that we burden some more than we burden others and what those reasons are. And finally, in the debate on charter schools, it is also interesting and noteworthy that while there are various statistics being bantered about, about the successfulness of or not, what is interesting is we haven't really had the same time frame allowed to charter schools. Why not give them that opportunity? Why not work with it? If we look at all the time and dollars and effort that we've dedicated to public schools, why can we not give some of that time to bring to fruition the potential? We talk about that out here on the floor a lot, about the potential. And yet in this area, in the education area, there will be no talking of that, there will be no tolerance for that. There's only one way, or it's the highway, with education dollars, and that is to give it to the public schools. And I would say that the diverse nature of our state, as in many other states, demand that we don't use a one-size-fits-all all the time; that doesn't work. And, understanding the time, I would yield my time back to the Chair. Thank you. [LB553]

SPEAKER ADAMS: Thank you, Senator Price. Senator Wallman, you are recognized. Senator Wallman waives his time. Senator Larson, you're recognized. [LB553]

SENATOR LARSON: Thank you, Mr. President. Two things. After Senator Chambers' questioning on where most of the funding is...and I appreciated that because I didn't know, so I went and looked on how KIPP is funded. Eighty-five percent of its funds come from tax dollars, whether that's state, local, or federal governments. He is right: 15 percent come from charitable contributions. I don't think it's as much as he portrayed it to be, that, you know, that these organizations and these corporations made sure these schools succeed, because a majority of their funding is from public dollars. And I just wanted to double-check. I heard Senator Kolowski say something, and if he'd yield, I'd appreciate it. [LB553]

SPEAKER ADAMS: Senator Kolowski, do you yield? [LB553]

SENATOR KOLOWSKI: Yes, of course. [LB553]

SENATOR LARSON: Thank you, Senator Kolowski. I heard you say the selection process with the KIPP schools...do you know what the selection process is, that...or what were you trying to get at in terms of what is their specific selection process that makes it, you know, more geared toward success? [LB553]

SENATOR KOLOWSKI: Well, I know, in having had a son that just moved from New York City to Washington, D.C., and has children, that there's a selection process in the New York public schools, no matter if it's a charter school or regular public schools, that if you're putting your name in the hat, only so many are chosen, and you would not have the opportunity to attend that school if you weren't picked out of the hat. Now I think that applies to charter... [LB553]

Floor Debate  
May 07, 2013

---

SENATOR LARSON: So it's just a lottery. The selection process... [LB553]

SENATOR KOLOWSKI: A lottery selection. [LB553]

SENATOR LARSON: ...is a pure lottery. [LB553]

SENATOR KOLOWSKI: Yes. [LB553]

SENATOR LARSON: Thank you, Senator Kolowski. I think a lot of opponents of charter schools say the reason they succeed is they pick, you know, they get to pick which public school students they take. And that's not the case. Some charter schools, that may be the case. But I know a majority of charter schools, it is a lottery. It isn't, we're going to take the best and brightest out of the public schools and move them into the charters, that's why they have success. And a lot of people try to make that case in point. Now that's not the case for all public schools. We can go into Virginia: Alexandria, the Thomas Jefferson school, number one high school in the nation. That's a public school where they do have an application process, where they do take the best and brightest. Many charter schools, however, are achieving better standards by just a pure lottery. Now I can understand, as Senator Chambers says, the kids that don't get picked are, you know, are the unfortunate ones, the disadvantaged; and we have to figure out ways to bring them up as well. I completely agree with Senator Chambers, 100 percent. We have to have reforms to our educational system across the board in the state of Nebraska. I also agree with Senator Lautenbaugh that charter schools are an answer. His bill only did five charter schools in Omaha. You know, rural Nebraska possibly has an option for charter schools in terms of bringing back Class I's. I don't know if any of us were here when they got rid of Class I's, but I know it was a heated debate. I still would have been in college, and I don't remember the debate a lot. But I hear a lot about Class I's, how all of a sudden you have a Class I close between, let's say, Valentine and Hyannis, because it isn't...the school district...we gave them to all the local school districts, and the local school district says, well, that Class I isn't viable any longer; that kid just has to go to Valentine. You know, there are possibilities for charter-like schools all throughout Nebraska. Could a charter school survive in O'Neill? Could two public schools survive? No. [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR LARSON: But my mother went to a Class I, and that's 34 miles between O'Neill and Spencer, where West Boyd is. That's a long way for kids to ride. Some kids are riding the bus for 70 or 80 miles a day in rural Nebraska. There are opportunities all across, not just in Omaha but in rural Nebraska as well. Thank you, Mr. President. [LB553]

Floor Debate  
May 07, 2013

---

SPEAKER ADAMS: Thank you, Senator Larson. Senator Lautenbaugh, there are no other lights on; you are recognized to close. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And I'll be relatively brief. It's frustrating to hear: If that doesn't work, then maybe. Because while I understand it...you know, well, we just changed the size of the OPS board; if that doesn't bring about better results, well, then maybe charter schools. Or we had a learning community; if that doesn't help the problem, well, maybe we should do something with OPS. There's such a thing as a comprehensive approach, and we don't take it. And I wonder how many kids we lose while we wait, while we say, gee, I hope, you know, this might work, with some reforms at OPS; but if that doesn't work in three or five years, well, then maybe, maybe we'll look at this. Well, how many kids do we lose in those three to five years? How many do we condemn to a life of failure in that time? This is the status quo, folks. Over 40 percent of the OPS fourth-graders are below proficient reading; 57 percent of African-American OPS fourth-graders below proficient in reading; 46 percent of Hispanic OPS fourth-graders are below proficient in reading; 33 percent of white OPS fourth-graders are below. That's a huge disparity. Over 60 percent of free and reduced lunch-eligible OPS fourth-graders are below proficient. The average OPS student becomes less proficient in reading over time. The average OPS student becomes less proficient in math over time. It was a statement made by one of the OPS board members, outgoing board members, in opposition to LB25: And there will always be a gap; in urban schools I can't picture there will ever not be a gap; we can't fix the kids if we can't fix the families. Well, then, do we just give up? Or do we try something different, something different that has worked in many places? That is the point of this discussion. You can't just give up; you can't constantly excuse failure. You have to try. And again, while this is not meant to be a complete and total solution, I think it offers a great opportunity for a lot of children, or could offer a great opportunity for a lot of children who currently don't have adequate choices. And having a kid from north Omaha ride a bus for an hour either way who should be spending that time studying at a neighborhood school, that for me is not an adequate choice. That's just another prescription for failure, because those parents won't be involved in that school that's across town, and we know how it ends up. Good schools that are local are the answer. Good neighborhood schools are the answer. And this would provide a choice. And as Senator McGill, I think, suggested, when you have this choice, this alternative that is doing well, the district itself, the public school district feels compelled to raise its game too. Competition works. And I believe it would work in this instance. With that, I would withdraw my motion and my amendment, Mr. President. [LB553 LB25]

SPEAKER ADAMS: So ordered. Thank you, Senator Lautenbaugh. Members, I'd ask you to return to your seats. We are on Final Reading. And, Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB553]

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

Floor Debate  
May 07, 2013

---

CLERK: 32 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB553]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, would you please read the title. [LB553]

CLERK: (Read title of LB553.) [LB553]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB553 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB553]

CLERK: (Record vote record, Legislative Journal pages 1259-1260.) 27 ayes, 8 nays, 9 present and not voting, Mr. President, 5 excused and not voting. [LB553]

SPEAKER ADAMS: Senator Nordquist, for what reason do you rise? [LB553]

SENATOR NORDQUIST: I'd like to file a motion to reconsider the last vote. [LB553]

CLERK: Mr. President, Senator Nordquist would move to reconsider the final passage of LB553 with the emergency clause attached. [LB553]

SPEAKER ADAMS: Senator Nordquist, you are recognized. [LB553]

SENATOR NORDQUIST: Thank you, Mr. President. The emergency clause is an important issue with our public pension...with this bill, to take effect beginning of the fiscal year. Let me just remind the body, if we do not move forward with these bills, we will have an \$80 million hole in our budget. And it takes enough votes to get the emergency clause attached, and then ultimately we will see what happens with the Governor. But, again, if these votes aren't ultimately enacted, we will have to make a decision on our budget to fill an \$80 million public pension hole. So with that, I would appreciate your vote on the motion to reconsider the previous vote taken. I do know that there were members absent that are supportive of this bill. So that, obviously, is important to reconsider this vote, bring them back, and move forward with the emergency clause attached. Thank you. [LB553]

SPEAKER ADAMS: Thank you, Senator. Senator Janssen, for what reason do you rise? [LB553]

SENATOR JANSSEN: Mr. President, I believe I had a priority motion in ahead of Senator Nordquist. [LB553]

SPEAKER ADAMS: Senator Janssen, would you approach, please. Senator Chambers, you are recognized. [LB553]



Floor Debate  
May 07, 2013

---

SENATOR CHAMBERS: Mr. President, members of the Legislature, this gives me so much pleasure. You didn't know my vote would be needed so soon, did you? I don't count. I'm a zero. Ain't "tryin' to be no hero," 'cause that zero is too close to me. But when you need a vote...but you ain't going to get mine. It's a new session for me. That discussion this morning should not have occurred if you didn't want to get on the fighting side of a black man who is always outnumbered, who sees his people disparaged and dismissed on this floor repeatedly. But I'm going to play with you all like you play with me. You couldn't get 33 votes anyway. And you know it. And maybe you will. I'd like to see it. And I'm going to repeat here what I've said several times. You can't do anything to me to make me change from what I'm going to do. Senator Carlson, bless his soul; although I don't have the power to do that, I wish it for him. He made one of the most ridiculous statements that has been repeated on this floor. When I mentioned Medicaid and said the federal government pays for it and we don't have to pay anything, he said we pay taxes into the federal treasury. It's not our tax money. That connection, if there is one, is so tenuous it does not exist. Nebraska gets far more money back from the federal government than all the taxpayers in Nebraska pay. So that Medicaid money is not Nebraska taxpayers' money. And it's going to go somewhere; that money should come here. And that is a fallacious argument. People ought to just say they don't want to see people who need medical care getting it. They're pro-life, but they're not pro-health. I love to see confusion on the floor like I see this morning, everybody running helter-skelter, all akimbo...well, that's not a good word. Some people think "akimbo" means going every which way. But, actually, all "akimbo" means is that your hands are on your hips and your elbows are pointed outward. That's all "akimbo" means; it doesn't mean "every which way." There's only one way you can be "akimbo." Now I'm going to watch how things play out this session. I'm going to watch how they play out this morning. And I already have an amendment on the first bill coming up this afternoon, on the legislators' salary. You want to get paid? (Laugh) I can't stop you from getting paid, but I can make you pay me with some time. As Edgar Allan Poe said, "Keeping time, time, time, In a sort of Runic rhyme, To the tintinnabulation that so musically wells From the bells, bells, bells, bells, Bells, bells, bells," from the rhyming and the chiming of the bells. That's not written on here, I just want to make you think I have to read things because, as old as I am, I shouldn't be able to remember anything. But I'm going to be disruptive today. Just like you all have disrupted things for me. You've got your agenda. And you always have your numbers. I'm basically one. So I'm going to show you what that one intends to do. And unless Senator Nordquist withdraws his motion, I'm going to talk some more on his motion. You don't need to go eat lunch. Why, you don't even know... [LB553]

SPEAKER ADAMS: One minute, Senator. [LB553]

SENATOR CHAMBERS: ...what hunger is. Did you say, "Time"? [LB553]

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

Floor Debate  
May 07, 2013

---

SPEAKER ADAMS: One minute. [LB553]

SENATOR CHAMBERS: Oh, one minute. Um-hum. (Laugh) I'm responding to the sounds that I hear, which may not come through on the mike. But when my ears are attuned, I hear everything. Old people, I tell you, hear everything they need to hear, remember everything they need to remember; they forget what is convenient to forget. And when you get old, you're entitled to that. We have certain prerogatives. We can even have moods. And I feel that mood coming on. It's settling on me like a wet blanket, which I want to share with all of my colleagues. Thank you, Mr. President. [LB553]

SPEAKER ADAMS: Thank you, Senator Chambers. Mr. Clerk, for a motion. [LB553]

CLERK: I have a priority motion, Mr. President.

Senator Janssen would move to recess the body until 1:30 p.m. [LB553]

SPEAKER ADAMS: There has been a motion to recess. On voice vote, all those in favor say aye. Opposed. Ayes have it. [LB553]

RECESS

SENATOR COASH PRESIDING

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

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

SENATOR COASH: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I do, Mr. President. I have amendments to be printed: Senator Smith, to LB104; and Senator McCoy, to LB104. That's all that I have, Mr. President. (Legislative Journal page 1261.) [LB104]

SENATOR COASH: Thank you, Mr. Clerk. We will return to the agenda.

CLERK: Mr. President, when the Legislature recessed, pending on Final Reading was LB553. The bill failed to pass with the emergency clause attached. Senator Nordquist has moved to reconsider the Final Reading vote of LB553 with the emergency clause. That motion is pending. [LB553]

SENATOR COASH: Thank you, Mr. Clerk. We will return to discussion on the motion to

Floor Debate  
May 07, 2013

---

reconsider. Those senators in the queue: Senators Conrad, Mello, Nordquist, and others. Senator Conrad, you are recognized. [LB553]

SENATOR CONRAD: Thank you, Mr. President. I rise in support of LB553. As a new member of the Nebraska Retirement Committee, I've had the great opportunity to learn a lot more about these systems and a lot more about how they interface with our overall state budget. And I want to be very clear, when we're talking about retirement issues, indeed there is a moral obligation that we have to our retirees in this state who served our state in the educational system, in this instance, or as a State Patrolman or a judge or at the other plans that are out there. But it doesn't end there. And this is where I really start to get concerned with the lack of support that seems to be brewing around LB553, because it's more than just a moral obligation. The courts have been crystal clear that these retirement obligations are legal obligations, based upon a contract theory of law. And if you don't believe it, go check the record, go check the court decisions, visit with the legal counsel from the Retirement Systems, because no one can dispute that. Not only do we have a moral obligation to our retirees, but we have a clear legal obligation to our retirees. And LB553 ensures that we can meet that. So what is a vote against LB553? Or a "not vote," for that matter, which is a soft no, which is a vote against LB553, particularly when we need to garner enough to pass it with an E clause. Well, that's a vote against, in this instance, a balanced budget, which...we all took the same oath, we all operate under the same constitutional parameters to do the right thing in Nebraska, to do the Nebraska thing, to balance our budget. LB553 is critical to our budgetary situation moving forward. Without it, it creates an over \$50 million liability that there is no alternative plan for. And for those of you who are voting against or who are not voting, where is your plan? Because there wasn't one bill introduced that came before the Retirement Committee that would have addressed the immediate budgetary shortfall or the long-term obligations that we are meeting with LB553. What else is a vote against or a "not vote" for LB553? In addition to blowing a hole in the budget, which is fiscally irresponsible, it's a vote to maintain the status quo in regard to the public employee benefits plan at issue. And, folks, the status quo has a richer plan than as envisioned under LB553. So if your concern is about the richness of public employee plans, you should be voting to address this with a conservative, fiscally responsible approach as evidenced in LB553. So what happens if this bill doesn't move forward with the E clause? Folks, it creates a legal liability and a fiscal uncertainty that we are unprepared and ill equipped to deal with. We can certainly backfill with Cash Reserve funds our employment retiree obligations. But that means less for A bills, \$50 million less for A bills. So what goes first? The water study? The tax cuts? What goes first? Because those are questions that we're going to have to be prepared to answer. And if you can't answer those today, you are not meeting your duties in voting against LB553 or not voting for LB553. And you say, go ahead, who cares; we don't care if the appropriations budget takes effect; we have an alternative in our structure... [LB553]

SENATOR COASH: One minute. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR CONRAD: ...and that's the Governor's budget. Thank you, Mr. President. Folks, let me be clear again, the Governor's budget doesn't have one penny for our retirees obligation. It has more money for the university than the Appropriations Committee budget; it doesn't have one penny for the developmental disability waiting list; and the distinctions go on and on. So unless you put forward an alternative in regards to these moral and legal obligations we have to our retirees and the constitutional duty that we've all ascribed to to balance our budget, you are being fiscally irresponsible and reckless by voting against LB553. Thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Conrad. (Visitors introduced.) Returning to discussion, Senator Mello, you are recognized. [LB553]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. An interesting morning this Legislature had today, no doubt, as I think myself and many others had anticipated that we would right now be discussing the mainline budget bill, hopefully, at this moment in time, in the sense that the only statutory obligation we have left this session ultimately is to pass a budget, ultimately to pass a balanced budget. But what we saw, I think, on the LB553 vote--and ultimately, to some extent, I haven't heard an awful lot of discussion, when Senator Lautenbaugh brought an amendment to the bill, actually regarding the bill--is a little bit of what, obviously, Senator Conrad just mentioned. Failure for LB553 to receive 33 votes for an E clause will necessitate a \$52.7 million obligation the state has to pay to our retirement system. It's my understanding that there is members of this body who had met with the administration and are under some kind of illusion from the administration that if LB553 just doesn't pass with an E clause, we just don't have to pay it; we just don't have to pay that obligation, it's not something that's written in stone, it's something that ultimately we can just pay at some other point in time. I would direct any member who is under that illusion to statute 79-966.01. That statute, at the end of that statute, clearly states, "If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the School Employees Retirement Act, the actuary shall determine the added contributions required to be paid by the state of Nebraska that constitute the difference between the actuarially required contribution rate and the rate of all other required contributions." That, colleagues, says, if we don't do this and don't pass this with the E clause, we have to spend \$53 million to make up for what the actuary provided to us prior to session. So as I'm looking at the list here of senators who voted no or didn't vote, I want to make sure they fully understand that if this bill doesn't pass with an E clause, there is no money for A bills, because all we have to do is pass the budget, then we can go home, because there's no money left for A bills. Or we can just not transfer the money to the Cash Reserve and utilize that \$53 million to meet the state's obligation. Colleagues, the reality is this, as I mentioned when we had this interesting debate on Select File, there was no other bill brought forward to deal with our

Floor Debate  
May 07, 2013

---

state pension obligation in the short term. There was no other option; no other bill was brought forward, either by the administration or by any other senator. Now, granted, a senator may have brought a bill moving us somewhere down the road to a cash balance plan. But that didn't deal with the \$2 billion obligation we have to deal with now with our existing defined benefit plans. So I want to make sure that everyone in this body fully understands before I would take it as an effort, ultimately, to try to blow up the budget with maybe the hopes of redrawing a new budget on the floor by some members who feel that's what they want to do. Realize this: LB553 without an E clause goes forward, we owe \$53 million. That's not debatable; that's not negotiable. I don't know what information members may have heard from the Governor or his office or anyone else; statute is clear: we have to pay this. And if for some reason there would be a revolt and we said we're not going to pay it, colleagues, that unfunded liability ultimately has a bigger impact. Senator Carlson knows this in regard to bonding issues. Our triple-A bond rating has a tendency, ultimately, to decrease... [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR MELLO: ...to be lowered a couple ratings. Why? Because it would be the first time in Nebraska history where we did not fulfill our state pension obligation. Colleagues, this is a very serious issue. And I appreciate people who wanted to try to work on this over the interim and with Senator Nordquist and his bill. Failure to adopt this bill gives us a couple options: we don't have to leave any money for A bills or we don't have to transfer money to Cash Reserve, because all we have to do, colleagues, is pass a budget, then we can go home. So if that's the desire of some members of this body is to ideologically stop something that has been compromised, moving forward to try to save the state \$108 million, we can have that debate; that's fine. But realize this, if you have an A bill, it won't pass. Any thoughts of tax reform in the future, we're going to have a very long session this year and probably an even longer one next year. This is part of the budget; it needs to pass, otherwise we are shirking our fiscal responsibility, and we will not be passing a balanced budget. Thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Mello. Senator Nordquist, you are recognized. [LB553]

SENATOR NORDQUIST: Thank you, Mr. President and members. I think Senator Mello and Senator Conrad did a fine job of talking about the impacts of this...if we passed it without an E clause. Again, without any legislation at all, we're looking at a total of \$108 million of an actuarially required unfunded liability this year. And that isn't something we can skip out on. It's something that we are legally obligated to address. And I was talking to someone in the hallway, you know, most of these pension plans are set up before I was born, but yet we're here trying to address the obligation that we have. We've made these promises to these public officials. Many of these public servants are related to members of this body or members of the executive branch, people who have

Floor Debate  
May 07, 2013

---

given their profession...given their lives to education. And these are the benefits that we've promised them on the back end. We need to fund that. That's what this bill does. And the reason we need the E clause here on the bill is really two big issues. First, the benefits for new hires. The bill has a date, July 1; any employee hired after July 1 of this year would start getting a lower calculated benefit. If we don't enact the E clause on this bill, the effective date of the act would be, I think, September 6, is what Bill Drafting told us. So anyone hired between July 1 and September 6 now would no longer be under the lower calculated benefits; they would be in the current system, the current benefit calculation. Well, folks, when we're talking about a school plan here, those that are hired between July 1 and September 6, that's pretty much an entire school year, an entire year of new hires coming into the system remaining at the current benefit calculation. That's going to have, over the life of those people, millions of dollars of impact on our plan, millions. That's the long-term problem. The short-term problem is what Senator Mello said. We are legally obligated to fund what the actuary tell us we need to fund. If you add up the three plans, it combines to \$52 million that would be due July 1, first day of the next fiscal year, \$52 million that is not budgeted for anywhere. That money would have to come from our current budget or off the green sheet, as we call it, or out of the Cash Reserve. We can't skip out on that. That is an obligation of the state. And, you know, if we chose to be irresponsible and skip out on it, we would set ourselves up for compounding failure in our pension plan like we're seeing in other states, like the state of Illinois, where they're bonding, taking out bonds, to pay for their pension shortfall because, you know what, they didn't want to spend the money this year on meeting their pension obligation; they decided to go build new roads, or they didn't want to...ah, we don't need to pay for it this year, let's skip out on it and let's go fund whatever program we want to fund this year. That's the fiscally irresponsible way to budget. And it's not responsible in keeping our obligation to these pension plans. So we would have \$52 million up-front the first year that the actuary says we need to put in, and then we would go into the effects of the bill. The... [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR NORDQUIST: The bill reduces that obligation, and it actually eliminates it in the first year. That's why we wouldn't need that \$52 million, because we keep contribution rates up for employees, we reduce benefits for new hires, and we change the amortization method. Those three combined eliminates that first-year obligation of \$52 million. We either have the choice: we pass the bill to eliminate that \$52 million obligation and have it take effect in year one, or we do it without the E clause, which...it won't take effect in year one and we'll owe \$52 million, or we don't pass it at all and we have a \$108 million obligation. Those are your options that are on the table. And we will see, when it comes time to vote, if we get 33 votes to pass this with an E clause; if not, you're choosing one of the latter two, which costs us either \$52 million in new money or an additional \$88 million--because we have \$20 million in the second year--\$88 million total if there's no bill enacted at all. Those are your options. I think the education

Floor Debate  
May 07, 2013

---

community came together... [LB553]

SENATOR COASH: Time, Senator. [LB553]

SENATOR NORDQUIST: Thank you. [LB553]

SENATOR COASH: Thank you, Senator Nordquist. (Visitors introduced.) Returning to discussion, Senator Lathrop, you are recognized. [LB553]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I watched that vote right before lunch. And I was a little surprised at the people that took a red light or "non-voted," because as I looked at that I thought, I'll bet you every one of those guys, with perhaps the exception of Senator Chambers, sent some lit out in their district that said: I'm a fiscal conservative. Right? Probably did. Probably went to the Chamber of Commerce and had on Chamber of Commerce or Rotary Day or some opportunity you had to speak in your district and bragged about being a fiscal conservative. What does that mean? Is it...have we gotten to the place where "fiscal conservative" means "I'm not going to vote to spend any money anywhere, even if it's a bad fiscal decision"? Or does "fiscal conservative" mean "fiscally responsible"? That was an irresponsible move, I'll just tell you. And you've heard why. I don't know what's going on on this floor right now. A bunch of people upset about how the session has gone through 78 days and now we're going to show somebody and make a point? You're messing around with \$50 million, \$50 million. I don't know who's running the show or who's encouraging you to do it. It was probably the people that weren't here when we had this debate on General File, because I noticed a lot of them were missing. The people sent us down here to do their work, to be responsible, to leave partisan politics at the door, and get the work done. Now we take a vote, and I can read the tea leaves. That was clearly partisan; it was clearly some version of sour grapes. And now we're not going to take advantage of an opportunity, a sacrifice that the retirees or the new hires are willing to make to make this work and save the state money, save the state money. So we're going to do some stick-our-head-in-the-sand. Let me tell you how that works, because they did it up in Omaha: \$500 million deficit in their pension, \$500 million deficit. And I heard Senator Kintner stand up and say on General File, he was here, and say, you know what, we need to switch these over to defined contributions. Guess what, you can't do that when you're running a deficit in your pensions. I was doing the CIR stuff, had all kinds of people come down with this fantasy that we can legislate our way out of a legal obligation. We cannot. It is unconstitutional. It will not happen. We cannot erase the deficit you're willing to dig the state into with legislation. We'll have to pay. At some point we'll have to pay. We'll have to pay; we'll have to write the check. And why? What is the motivation for the last vote? Who told you to do it? Who told you it was a good idea? Are you trying to get a star on your card? Because this is fiscally irresponsible, fiscally irresponsible; you are passing on an opportunity to take advantage of sacrifice by the people who would benefit from this plan. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR COASH: One minute. [LB553]

SENATOR LATHROP: You are going to cost the state over \$50 million. And for what purpose? For what purpose? What will be gained? To what advantage have you put us financially? And how does that meet the definition of "fiscally conservative"? It is irresponsible what we just did. Irresponsible. It wasn't a debate we had on the floor. It wasn't policy. It was some little chain letter that went around or a e-mail that went around to a bunch of people. And they all got on the same page and said, "Watch this." That's not the way we run this place; it's not what we were sent here to do. And it is nothing if it's not financially irresponsible, waste of taxpayer dollars. Thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Lathrop. Senator Janssen, you're recognized. [LB553]

SENATOR JANSSEN: Thank you, Mr. President and members. And I don't have much to say left on this. I meant to speak to the bill this morning, but we were talking about charter schools at that point in time. And so I'm learning more and more about LB553. And I was here on General File. Of course, we had a lot going on in General File. And this is a great opportunity to pay more attention to this specific bill. And so if Senator Nordquist would yield to a question...would Senator Nordquist yield to a question? [LB553]

SENATOR COASH: Senator Nordquist, will you yield? [LB553]

SENATOR NORDQUIST: Yes. [LB553]

SENATOR JANSSEN: Thanks. Thank you, Mr. President. Not much in the way of questioning. I'm looking for more of clarifications, Senator Nordquist. And I was paying attention to when you were speaking on the floor. So we're legally obligated to pay this, and I...totally genuine question: How so? I mean, what is the actual reasoning behind that? [LB553]

SENATOR NORDQUIST: Well, I'm not an attorney, and I can certainly put you in touch with my legal counsel, but, essentially, this is a contract. Our Supreme Court has interpreted: the day you start as an employee, your benefits cannot go down, your contributions cannot go up, and any unfunded liability that that contract would create for the state of Nebraska is a state obligation. [LB553]

SENATOR JANSSEN: So if I'm hired in a private industry, I could sign a contract that says my benefits could never go down, and then my employer is legally obligated to pay that? Or what is their recourse? [LB553]



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

Floor Debate  
May 07, 2013

---

SENATOR NORDQUIST: Well, in...are you talking private sector? [LB553]

SENATOR JANSSEN: Yeah. I'm just looking for... [LB553]

SENATOR NORDQUIST: That's...that's... [LB553]

SENATOR JANSSEN: Probably apples to oranges, but I'm just...yeah. [LB553]

SENATOR NORDQUIST: Well, that's covered under ERISA, which I'm not an expert on, I know very little about. Our public pensions are covered under a different legal theory than ERISA; that's private pension plans. [LB553]

SENATOR JANSSEN: Okay. And it wasn't a "gotcha" question. I'm just curious, because as an employer of people...but if somebody came to me and said, "You are legally obligated to pay me this much," and I could not afford it anymore unless I could increase business somehow, I just wonder how that would work if I couldn't increase my business. But I suppose that increasing taxes could happen, to cover that. So we owe \$52 million. The question...I'm sorry, Senator Nordquist. We owe \$52 million. If we don't pass it with the E clause, what's the immediate ramification this year for the people paying into the program? [LB553]

SENATOR NORDQUIST: For those paying into the program, nothing, because we pay out their benefits. But to keep pace with our pension plan, we have to pay in that \$52 million that is required. And it's also required in statute, that we pay the actuarially required contribution, which is \$52 million. [LB553]

SENATOR JANSSEN: So if we don't pay it, we're going against our own statute? Is that...? [LB553]

SENATOR NORDQUIST: Yes, which would certainly open us up for legal challenges. [LB553]

SENATOR JANSSEN: Okay. That was the question, and you were kind of talking on and on. I have no more questions for you. I appreciate cleaning that up for me and would like everybody to know that I was paying very...very close attention during the debate this morning, and I was getting a little bit more interested in the charter school amendment and what we could do in the way of that. So I have no further questions. And since I'm in a "giving" mood today, I would yield the balance of my time to Senator Chambers. [LB553]

SENATOR COASH: Senator Chambers, you've been yielded 1 minute 20 seconds. [LB553]

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

Floor Debate  
May 07, 2013

---

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature and, Senator Janssen, at a time when I can garner all the time that I want on my own, you give me a minute. This morning when I could have used it and you introduced your comments by saying that now that Senator Haar is a "Repelican"... [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR CHAMBERS: ...I thought you were going to say, now you're going to give me that time. Did you say, "Time," Mr. President? [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR CHAMBERS: Oh, one minute. However, I will take the minute, because I'm going to take more minutes, but I will save for my own time the things I really intend to say. But I just want to rub it in on my colleagues. You all don't listen to me. You're doing all of this logical Mr. Spock presentation--Mr. Spock on "Star Trek," not the baby doctor, although you're dealing with babies now when it comes to intellect--and it's not going to work. They're not paying attention to you. They're not hearing you. And it's such a joy for me to watch. Thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Chambers. (Visitors introduced.) Senator Bolz, you are recognized. [LB553]

SENATOR BOLZ: Thank you, Mr. President. When we first started discussing this bill, I was so proud because this bill came together in a Nebraska way. The Retirement Committee did their homework, they worked with the Fiscal Analysts in the office, they worked with the State Patrol, they worked with the teachers, they worked with the judges. This bill came together in the Nebraska way. And this debate is not the Nebraska way. This is not the responsible, reasonable, honest way that I expect from Nebraskans. And so I'm disappointed. And I would remind folks, especially those of you who are in my freshman class, that in the era of term limits we really have an obligation to be forward-looking. We can't kick this can down the road. The rules tell us we can't even debate this issue next year. This issue will only get worse. There's no turning this issue on in two years and having a reasonable solution like we have right in front of us today. And, ladies and gentlemen, I think also from a first-year senator's perspective, it's worthy of noting that putting a hole in the budget puts a hole in so many things that we care about that we forget about in the terms of the bigger budget contexts and the bigger debates. We all believe in the homestead exemption. We all believe in making sure that nursing homes have the resources they need to care for our elderly individuals. That's the Nebraska way. This isn't the Nebraska way. And I will yield the remainder of my time to Senator Nordquist should he have any further comments on the way that this bill did, in fact, come together in a reasonable, responsible manner.

Floor Debate  
May 07, 2013

---

[LB553]

SENATOR COASH: Senator Nordquist, 3 minutes 10 seconds. [LB553]

SENATOR NORDQUIST: Thank you, Mr. President and thank you, Senator Bolz, for those comments and for talking about how this really was the Nebraska way. We've seen in a lot of other states when it comes to pension issues, if you go to any meetings of NCSL or CSG, you see, you know, the knock-down-drag-out fights to try to bring these plans back into balance after the worst stockmarket performance since the Great Depression. I think that's also something we need to keep in mind here. This isn't just a typical ebb and flow that we're trying to right. We are trying to right the worst market performance since the Great Depression. It's a very unique time. And because of that, we are working diligently to address that under LB553. How this came about, we knew at the end of last session that we would see shortfalls due to the absorbing. Still, we smooth our investment returns out over five years. So one year you don't...you're up high and everyone thinks the plan is funded at 100-and-some percent, and then the next year you're down at 50 percent. It smooths it out so you get a more long-term view. We are finally absorbed, the last year, of the market downturn. So that is...it'll fall off now over our five-year smoothing going forward. We knew we would have challenges, so we introduced an interim study like we do. We do it every year, but this year was really focused on how do we right these plans. In November, we received the actuarial report which said in the first year we have combined \$52.7 million shortfall in the next biennium, starting payment due July 1. And then the following year, it's about another \$67 million. We said we can't afford to do that. We can't afford to just dump General Funds into the tune of \$110 million, \$115 million over the biennium. That would take everything away from TEEOSA. That would take away money from the DD... [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR NORDQUIST: ...waiting list. So we sat down with all of the school groups, the teachers association, the administrators, and the school boards who are essentially the local employers here, and we talked about how we can right the ship. And we didn't have those knock-down-drag-out fights. We negotiated in good faith and we came to an agreement. Current employees are going to continue contributing a contribution rate that went up a couple of years ago under Chairman Pankonin from 7.28 percent to 9.78 percent. We are going to maintain that contribution rate at 9.78 percent. So current employees are contributing a good amount. New employees are going to contribute that amount and, starting July 1 with the E clause, they are going to get a lower benefit on the back end. It is a significant amount that helps us with the long-term obligation. And we changed the amortization method which gives us some short-term... [LB553]

SENATOR COASH: Time, Senator. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR NORDQUIST: ...breathing room. Thank you. [LB553]

SENATOR COASH: Thank you, Senator Nordquist. Senator Chambers, you are recognized. [LB553]

SENATOR CHAMBERS: Mr. President, members of the Legislature, friends all, let's just be glad we have this time to spend together. Isn't it nice? Now I can be like some of you all. Things are not going your way. So what. Senator Lathrop is going to stand up here and ask...say who told him what to do. We know who told him what to do and we know who they are. You all know who they are. I'll tell you the problem. You so-called liberals and Democrats sit back here and let these few people act like they think they're acting in Washington and they get away with it. You don't have any push back. You don't have any blow back. They don't suffer anything. They know you're not going to do anything. They know that I'll do something, so they don't mess with me like they mess with you all. The ones who mess with me are those who shouldn't. And then they get upset when I react in the way that they know I'm going to react. So I'd like to ask Senator Mello a question. [LB553]

SENATOR COASH: Senator Mello, will you yield? [LB553]

SENATOR MELLO: Yes. [LB553]

SENATOR CHAMBERS: Senator Mello, I've heard it said several times this is a legally binding obligation on the state. [LB553]

SENATOR MELLO: Correct. [LB553]

SENATOR CHAMBERS: And a legally binding obligation can be enforced. Isn't that correct? [LB553]

SENATOR MELLO: Correct. [LB553]

SENATOR CHAMBERS: So those who would benefit can enforce that right... [LB553]

SENATOR MELLO: They can. [LB553]

SENATOR CHAMBERS: ...if the state chooses not to go along. And the only argument given is that if this doesn't pass with the emergency clause, \$50-something million more dollars will have to be expended by the state. Is that correct? [LB553]

SENATOR MELLO: Well, this current...the current first year of the budget, yes, there would be a \$53 million expenditure that would need to occur to meet our state obligation. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR CHAMBERS: Thank you. That's very logical. Now the federal government for three years is willing to give the state money and they don't want it. Now here you're going to have to fit a \$50 million expenditure you don't have to make but you're going to make it. You see why I tell you it's foolish to try to use logic on these people. You think they're listening to you. You think your argument means anything. They were told what to do before they came here today. I got in on Senator Lautenbaugh's conversation because of the nature of it. You can look at who leads the pack. When the lead wolf says, owwrrr, then the other one, yap-yap-yap-yap-yap, and here they come running right behind. They don't even know where they're going. As long as they can see his tail swishing, they know they're on the right track because they're going to run wherever he takes them. I give my time to Senator Lautenbaugh. Oh, I'm so interested in charter schools. I even heard Senator Kintner say, this intrigued me. I listened to what Senator Lautenbaugh, as if he listened, and I give my time to Senator Lautenbaugh. They don't want to be called out. They do it out here in the open. I'm not like you all. I see who they are. I'm like the exorcist. I call the demon by name. You all won't do it because you know that I will. But they know you won't. They don't care about you. You're not going to punish them. You'll whine. You'll beg. You'll plead. You'll reason with, if you don't do this, the state won't do that. This is not the Nebraska way. Senator Bolz, this is exactly the Nebraska way. This is exactly the Nebraska way. Anything they do here is the Nebraska way. You all want to pretend that this state is so intellectual, that they believe in fair play. You use that kind of conversation when you're campaigning. You're in the belly of the beast with the little beasties and they don't listen to that. They laugh at it. The Nebraska way? That's used as an argument on me? Do they know who they're talking to? Look around. These are politicians. They do take orders. That's one thing that Senator Lathrop had right. Somebody tells them what to do and they do it. [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR CHAMBERS: You could make out the list as I make out the list. You know what they're going to do. You know what they're going to say when they stand up. You know where they're going to go when they vote. Why are you trying to reason with them? It's foolish on your part. Answer a fool according to his folly and thou art like him. Solomon said something like that and he's supposed to be a wise man. But you all think of him as a wise guy. Well, I'm just enjoying you stewing in your own juice, trying to persuade these people to do something. I'm going to go down in my office and listen down there and enjoy it and watch the expressions on your faces, and maybe I can do a rhyme that will be therapeutic for me like that one-act play. Put Senator Kintner right in the middle of it. He saved everybody because all it was was a nightmare. All these people are going to go to heaven anyway. Ha! Don't you wish you could be like me? You wish. [LB553]

SENATOR COASH: Time, Senator. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR CHAMBERS: Thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Chambers. Senator Carlson, you're recognized. [LB553]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And before I get into what I'm going to say, remember, it's coming from the same guy that made the ridiculous statement this morning that when I pay taxes to the federal government, they're not my dollars. And the federal government, when they send back money to Nebraska, it's not my dollars. It is my dollars and we all understand and know that. I'm going to talk a little bit about this bill and the retirement plans. And I do understand and I like to consider myself a fiscal conservative, but in retirement plans you can't indiscriminately change benefits. You can't do it. I'm the recipient of a pension plan. And since we've had some discussion on this bill, over the weekend I got a letter from my company. It was just a form letter, but I got a little bit afraid because it said in there that it was possible that that guaranteed benefit could go down. And I got alarmed. Well, it can go down if the company goes broke. But if the company doesn't go broke, it's not going to go down. And that becomes pretty important. Now, a defined benefit plan is what the words imply. It defines a benefit by a formula. And it can't be changed on any current member contributing to the plan. That's the contract. It can't be changed. And you can't change a defined benefit plan to a defined contribution plan and make it retroactive. There's a reason for that. It can be changed on a new employee. And a new employee that might be 22 or 23 years old and won't receive benefits for 40 years, but it's not going to be changed on somebody that's 50 years old and a part of the plan. Now I think another thing that's important is to look back in this particular plan, how do we meet the funding requirements? Well, I'm going to take off in a little different direction here. You know, part of this bill is to increase the state's contribution from 1 percent to 2 percent. Now where does the money come from that the state contributes to that extra 1 percent? They're General Fund dollars. They're tax dollars. And we can say let's not do this. Let's put it back on the school districts or the teachers. Let's increase their formula by 1 percent. Where does the money come from that goes to the school districts? General Funds. Well, let's put it on the teachers. Where does the money come from that pays the teachers? General Funds. And the...I don't like the idea that we're going from 1 percent to 2 percent, but it doesn't matter whether it's General Fund dollars or whether it's the school districts or whether it's the teachers. It's all the same, same pot. Now people that are coming behind me if someone feels up to it and can do it, I need a little more understanding of this difference between making the E clause on here and doing this now or waiting because of the \$50 million to \$53 million. Help us all understand that as a fact. Now so how does a plan not have to pay benefits, not have to pay all the benefits? [LB553]

SENATOR COASH: One minute. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR CARLSON: Pardon? One minute? Go broke. We don't want that. That's how other states get into trouble. We're not in trouble. We have the per capita debt, state debt, the lowest in the nation. A couple of years ago it was \$15. Iowa was second at \$75. California has 37.2 million people; it's about \$3,000 per capita. We don't have that and we don't want to go there because we make good on our contracts. I'm about out of time. Thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Carlson. Senator Harms, you're recognized. [LB553]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of the reconsideration. I've been on the Appropriations Committee for seven years. And when Senator Nordquist brought this issue into the Appropriations side, it...this is a tough issue for us to address and we need to find a way to do this. I voted for it, voted for the spending of it, funding of it because I think it's the responsibility. But you know, colleagues, when I came down here I really didn't understand the Democrat versus the Republican side. I came here as a moderate. And I don't understand the politics that's occurring here, and to be honest with you I don't want to be a part of it. What I want us to do is to make the right decision, not because you're a Republican or not because you are a Democrat, but the right decision for the people that we represent. When I came here, that's the pledge I made to myself, that I would not side up on either side of the political parties. I would do what I think is the right thing. And that's what I would urge you to do because this is the right thing to do. Extending this out any further is not the right thing for us to do. We can fill this hole now. We can start the process and we can further negotiate with new people that are coming in. But it bothers me with what I see happening here. We're divided. And in the seven years I have been here, I don't think I've ever seen this floor divided as much as it is today. And, you know, I don't know what the reason of that is. All of us ourselves can have our own thoughts and our own views. But the thing I want us to remember here is that we're here representing the people. We're not representing parties. We're representing the individuals who sent us here. And so what I'm asking you to do is reach down and decide who you are. Why are you here? Who sent you here? Who are you representing? Are you representing the people? What about the teachers? What about the people this is going to have an impact on? Listening to this debate and this discussion and watching the divisions occurring on this floor, you know, I asked myself often as I've watched this from where I sit, I'm not very proud that I'm a Nebraskans because this is not the Nebraskan way. And if I was going to depend upon this retirement, I'd be worried that I'm in Nebraska. Maybe I should have spent my time being somewhere else that might care about whether or not I can retire appropriately and have the funds that I deserve appropriately. So what I'd ask for you, colleagues, is for you to decide what's the best thing for Nebraska? What's the best thing for the people you represent? You know, I remember on our Appropriations Committee some of the people...two of the people that are

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

Floor Debate  
May 07, 2013

---

arguing on this particular issue that's from our... [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR HARMS: Thank you, Mr. President...committee that if I recall right I think they may have very well voted in favor of this \$53 million. So I don't know what's happening and I really don't care. But what I want us to do is make the right decision for the people we represent. And you make the right decision by not outside influences, by what you think is the appropriate thing to do. We have a responsibility here. We need to fill that responsibility. I would urge you to support the reconsideration and I thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Harms. Members, those still wishing to speak include Senators Krist, Karpisek, Kolowski, and others. Senator Krist, you're recognized. [LB553]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues, and hello, Nebraska. Senator Harms always speaks the truth and I appreciate his words. He stole much of what I wanted to say so I will not be redundant. I don't understand what's going on on this floor. I don't understand a group of people that are, in my opinion, shanghaiing most of what's going on, any productive going on in this body, in this Legislature, and I think they're working at odds with the Legislature and I think I know who's pulling the strings of the puppet. But even having said that, I would be complacent if I wouldn't acknowledge the fact that some people can look in the mirror and see someone that they respect and others will have to look the other way, because at the end of the day we all know that we don't write checks that we don't have money to back up, we don't spend money we don't have--how many times have you heard it--and we don't run away from our obligations. Now if you just heard the three things I said, my caution to you is this. You can use a white-board approach in a classroom and you can wipe it off and you can start all over again. You might be able to do it with your home budget. You certainly can do it with the way you raise your children and run your home. But you cannot stop in the middle of an obligation, a contractual obligation, with the people of this state. And if you think you can, let me put it in terms I think you can all understand, particularly those that either voted red or did not vote on this bill. In 2014, there will be people going to the ballot box. They will be teachers. They will be administrators. They will be people who are counting on you to make the right choice. So if all you're worried about is your political persuasion or what you've been told to do or you've been told is the correct thing to do, think about that. If that's what motivates you, think about those teachers that are going to go to the ballot box in 2014 and ask them for their support because they're going to look for you here. And this record vote will mean something to them. Think about it, those of you that will be running again in 2014 if that's what motivates you only. The last thing I will say about this is, I heard Senator Kintner's words when we debated this on General File and I challenge him to



Floor Debate  
May 07, 2013

---

stand up and say here's the answer, this is what we should do. Because we have to get to the point where we can make those changes and this has to be done this year and then we can talk about it. If you don't want defined benefits, if you don't want to provide retirement at all, you can't just stop in the middle of the stream and say I don't want to get wet. Is that clear? I mean, do people understand where I stand on this? I hope you do. I think we can change the world, but you can't change it by stopping the obligation that you currently have. Take a deep breath, step away from the politics, look at what's happening, ask some pertinent questions. I have and I'm convinced this is the right answer, for what that's worth. Thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Krist. Senator Karpisek, you're recognized. [LB553]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I thought I'd stay out of this argument but I thought maybe I should talk a little bit. I am the longest standing member on the Retirement Committee, and that may be scary to most of you and also to myself. But I will admit that a lot of the issues in that committee have been far over my head at times, but we've worked through it and understood it. I do agree that this has to be done, statutorily needs to be done. If it's not done, as Senator Nordquist and others have said, it will come out of General Funds. Now we've got...Senator Nordquist has another bill as you recall from last week that will deal with judges, and I'm not happy about that whole thing and I think that I was very clear on that in how we moved another bill into it. However, it's how we do these things. It statutorily needs to be done. Here, the teachers have come in and they said, look, we'll put some extra in. But through no one's fault, these funds just aren't there because of returning on investment. We'll put more in as long as the state says they will put more in. Now if you like it or don't like it, you better remember when the next Retirement bills come up because it's the same thing. But it's a promise that we've made and we don't have much choice. It's going to come out of somewhere. And now I'm stuck between a rock and hard place because I thought Senator Chambers was going to be in his office and I said I'd give him time and Senator Nordquist needs some time. So Senator Nordquist, I'm sorry but I promised Senator Chambers first and he's meaner than you, so (laughter). Mr. President, I'd like to yield the balance of my time to Senator Chambers. [LB553]

SENATOR COASH: Senator Chambers, 2 minutes 40 seconds. [LB553]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Karpisek, a man of his word. That's what we need more of around here, don't we? People of their own word who are self-determiners. But, again, I'm falling into the very pit I just ridiculed my colleagues for falling into, trying to reason with people when reason has nothing to do with it. If they had reasoned themselves into the position they are taking, you could try to use reason to reason them out of it. Since they did not reason themselves into the position, you're wasting your time. The state is going to deliver on its obligation. Stop

Floor Debate  
May 07, 2013

---

saying the state is backing out of an obligation. Whatever the obligation of the state is, the state is going to pay. I'm just going to put it out there like it is. You might prefer that some aspects of that obligation be altered while there's a window through which you can go to alter it. But whether you do anything or not, the state is going to pay, you think. But if the state says we're not going to pay and somebody goes to court and the court says, well, you will pay. And the state says, no, we're not. And the judge says, the Chief Judge of the Nebraska Supreme Court, we said you'd pay. And the state says, make us. [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR CHAMBERS: You don't expect those kind of conflicts to happen and develop, do you? You see in Washington, don't you, they went over the cliff and they did it. And now gauges in Nebraska are turning off. They're begging to try to get some money for these little rinky-dink airports in Nebraska, begging now when they were so bold before. We're going over the cliff at the state level. I want to see you do it and I want to see what happens. And if, in fact, \$50 million more comes due than is necessary if you pass this bill, I'll probably be here when those are whining and crying and having to come up with the money. And I'll say your kind are the ones who put you here and you're just like them because you're facing problems and you won't deal with them. So I'm in a no-lose situation, but I feel sorry for you all. Thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Chambers. Senator Kolowski, you're recognized. [LB553]

SENATOR KOLOWSKI: Thank you, Mr. President. Fellow senators, I find this to be a very embarrassing conversation to say the least, and I want to talk about it from a couple of different angles, one especially. As a member of the Retirement Committee, I do want to thank Senator Nordquist for all the work and leadership that he put into the solutions that you have before you and I hope we'll have green lights on the reconsider and then on LB553E as we move through this situation. As we look at the three categories we're dealing with--State Patrol, judges, and school employees--I hope we are realizing the potential damage that we're doing. Yesterday...excuse me, from the State Patrol aspect, I know that position fairly well because my brother, my younger brother, was a state trooper in the state of Illinois for 20 years. So I know what they live with, they go through, and what they do every day to put their lives on the line for public protection and safety. From the judges' aspect, I spent yesterday's recess day at the Douglas County Courthouse in Omaha visiting with three judges in their chambers and listening to their challenges, especially I asked the question, where do you find judges? Where do you find recruits to fill the judges' positions that you have that come open and how difficult is that to do? And it is a challenge for them and I think we just made it a little harder today. From a school employees' aspect, I spent 41 years in public

Floor Debate  
May 07, 2013

---

education hiring from the very first year that I was in the districts that I served. And we are doing damage, whether we realize it or not, by the mere fact of having this conversation. When we go...when I've been to many universities and the guest lecturer and doing public speaking with the different classes, I keep asking the classes, you're the best and brightest we have. We'd like you to stay in Nebraska, to be teachers here, to teach our students to be part of the educational community. The mere fact that we're having this conversation is putting doubt in the minds and the hearts of possible candidates that would teach in this state. That's a detriment to us when they start thinking, I can go to Kansas, I can go to Colorado, Wyoming, South Dakota, or in Iowa and do much better because it looks like Nebraska is having doubts about what they're going to do as far as the retirement plan. That's unhealthy. It's an embarrassment to have this happen. We should be ashamed of it. With that, I'd yield the rest of my time to Senator Nordquist, please. [LB553]

SENATOR COASH: Senator Nordquist, 2 minutes. [LB553]

SENATOR NORDQUIST: Thank you, Mr. President and members. I just want to respond. And thank you, Senator Kolowski, for yielding your time. Senator Carlson had a question about why the E clause. And I'll do my best to express why we need the E clause, because of two main reasons here. The first is, every year when we conduct an actuarial study, our payment toward the actuarially required contribution that we are legally obligated to contribute to the plan is due July 1. If we don't enact changes, if these changes are not taken...take effect to reduce that actuarially required contribution, July 1 we need to pay \$52 million, \$52.7 million. If we have this bill in place because of the three main changes I talked about--contribution rate staying up, amortization method changing, and new benefits--that... [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR NORDQUIST: ...eliminates the actuarially required contribution for this year. That means we do not have a payment July 1. That's where the \$52 million number comes in. The second piece is important that will cost us millions over the long run is all new school employees starting July 1 would go...under the bill with an E clause, would go towards a lower...into a lower benefit calculation at the end of their career. If we don't do this, anyone hired between July 1 and then the normal operative date of the act, which would be September 6, anyone hired in that time frame--which is pretty much all school employees, new employees hired this year--will stay in the current benefit package, the higher tier of benefits. So over their careers, we are going to pay millions more than if we would enact this bill with an E clause so when they're hired in that time frame from July to September, they would then be in the lower benefit. Those are the two key pieces that are going to cost the state millions in the long run... [LB553]

SENATOR COASH: Time, Senator. [LB553]

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

Floor Debate  
May 07, 2013

---

SENATOR NORDQUIST: ...and in the short run. Thank you. [LB553]

SENATOR COASH: Thank you, Senator Nordquist. Members, those still wishing to speak, Senators Burke Harr, Nordquist, Wallman, Johnson, Schumacher, and others. Senator Burke Harr, you're recognized. [LB553]

SENATOR HARR: Thank you, Mr. President. I planned to stay out of this debate, and this morning I didn't vote and I think I need to explain why. It's very simply. My wife pays into the fund. And God willing and the storm waters don't rise, she'll be with me still and she will stay teaching, we'll maybe get some money out of this retirement plan. That's all. That's the only reason I didn't vote on it. I'm not sure if it's a conflict because it's pretty far down the road with a lot of ifs and buts. But that's why I didn't do it. I think it's a good underlying bill. I do worry about a lot of the issues brought up about fiscal responsibility and about border bleed, teachers leaving to other states. We already have a tough time out in Chadron holding onto those teachers we pay, subsidize their education, and then they go to Wyoming almost 100 percent because they pay better. And now we're raising more uncertainty. I don't blame those teachers for going to another state. I just hope we vote for this. And with that, I would yield the remainder of my time to Senator Price. Thank you. [LB553]

SENATOR COASH: Senator Price, 4 minutes. [LB553]

SENATOR PRICE: Thank you, Senator Harr, members of the body. Okay. So here we are. I'm charged as a elected official for District 3 to take the considerations of the state and my constituents under consideration, read the bills, ask questions. I've been over there, talked with the committee clerk or the committee staff, pardon me, to get a better understanding of what we are doing here. When you hear on one hand, if you don't pay now and you...don't pay anything now and next year pay \$20 million, don't do anything and pay \$50 million now. If you're not paying real close attention, you could slip a gear and pop that clutch and end up stalled on that hill. And that's where I am or was, so I asked the questions. The mathematics make sense. The concept makes sense to me. But in this debate, first and foremost, we are a deliberative and "debative" body. This is what we do. I am not ashamed. I am not afraid nor concerned when we have conversation. That is our function. I'd be remiss if I didn't say there is a concept that my grandmother taught me that you'll catch a lot more with honey than you will with vinegar. And I'm concerned that people are being vilified and I don't know how that works for later on when we get to tough subjects. And I would remind...I would also like to remind the body that no contract is broken. No matter what we do, we're going to pay our obligations. We're contractually obliged to do so, so we will. Just the question is how much are we going pay and what are the considerations there. Again, I begin to see and understand here what we're doing. We're going take some people by virtue of the E clause and move them to another policy so that buys down some of our debt. And the

Floor Debate  
May 07, 2013

---

actuarialists--and if you want a tough science to follow, be an actuarial scientist, it'll blow your head--the actuarialists are saying based on behavior patterns that over time they know how much this will cost and they can prognosticate what's going on here. So with this in mind, I'm going to go ahead and vote for this reconsideration. I'll be voting for the underlying bill and the chips fall where they may. Because what we're doing here is we're going to meet our obligations one way or another. It's just how we're going to meet those obligations. And with that, I appreciate the time from Senator Harr and yield back the balance to the Chair. [LB553]

SENATOR COASH: Thank you, Senator Price. Senator Wallman, you are recognized. [LB553]

SENATOR WALLMAN: Good afternoon. Some people are drinking out of my cup, my tea cup, folks, and then they're kicking it down the road. You know, we're honorable people in Nebraska. We pay our taxes and we also sign contracts with our teachers and our other...and the State Patrol. These are obligations. Some of these were set in place years ago so we could keep the salaries down and we'd have a little better retirement. So was it good deal? Yes. But now we complain. And why should we complain? Because we have to put some money out. And nobody likes to spend money but we...and they're willing to come forth like Senator Nordquist said. And are we willing to come forth? It doesn't sound like it but we'll see. And so I'd yield the rest of my time to Senator Chambers. [LB553]

SENATOR COASH: Senator Chambers, 3 minutes 45 seconds. [LB553]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Wallman. Members of the Legislature, I often hear that expression you catch more...now Senator Price did not say you catch more flies with honey than vinegar because most people don't want flies anyway. Hitler referred to wine as vulgar vinegar. But there's some people who love that vulgar vinegar more than they do honey. What we're dealing with here this afternoon is raw politics for the record, which people will read in days, years, eons to come. What is presented by way of those who are trying to be reasonable will play very well because it makes sense based on what has been said before on this bill. How did it get here if there were not people supporting it who have decided not to do so now? And why did they decide not to do it? The children's feelings were hurt. They didn't get their way so they decided they'd punish, and they picked Senator Nordquist's bill. Use a little child psychology. Tell them go ahead and vote against the bill, then they'll vote for it. But see I tipped it off, now they won't do it. They're somewhere licking their little wounds, wondering if they made a wise decision. Their names will be on the voting sheet. Now personally I don't care about the teachers. They spent over \$10,000 trying to keep me out of here. So I don't care about any group. I alienate preachers, teachers, even people in my district on occasion. I'm for same-sex marriage. I'm for protecting the rights of gay and lesbian people and I tell them that. I don't go to church.

Floor Debate  
May 07, 2013

---

It's a waste of time. They got too many dispensers of spirits: the alcoholic kind and the religious kind. The community is infested with churches and taverns and bars and saloons and they ought to get rid of all of them and the world would be a better place. But I'll tell you what. If you all had been allowed to bring John Barley Corn onto the state premises and plied some of your opponents with John Barley Corn, you might be making more inroads than you're making now. You put them in a mellow mood. [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR CHAMBERS: But I see in on their part. They know who they are. I even made a list of them. You all are afraid. They are petty. They are childish. They're dishonest. They contradict themselves. And one of them...well, no, I shouldn't single them out. They're all the...I'll leave them all in that lump together. But you all need to not get mad, you need to get even. And Senator Nordquist is a magician. Mandrake. Who's that...David Copperfield, not that writer's David Copperfield, the magician who can walk through the Wall of China or maybe even Houdini. They think they have you in the box, when they open it, you'll get out. Well, I'm going to tell you all something but not right now. I'd like to ask Senator Davis a question. [LB553]

SENATOR COASH: Senator Davis? [LB553]

SENATOR DAVIS: Yes. [LB553]

SENATOR CHAMBERS: Senator Davis, when you're called upon to speak before you get rid of all your time, would you... [LB553]

SENATOR COASH: Time, Senators. [LB553]

SENATOR CHAMBERS: ...would you yield me a few seconds? (Laughter) [LB553]

SENATOR COASH: Senator Johnson, you are recognized. [LB553]

SENATOR JOHNSON: Thank you, Mr. Speaker and to the body. I have to speak on my life experiences because that's been my life and it's been my background and that's what I know the best and talk about a defined benefit program. Pension programs in general, it is an obligation of the sponsoring body and we are the sponsoring body. As I have said before, I am a beneficiary of a defined benefit plan. I was a manager of the company that I was a beneficiary of. I was on that same plan and we had to work through some struggles. We had to make some adjustments back in the 1990s, in early 2000. We had to make some adjustments to the plan and we came together. Our employees gave up a little bit. The plan I was on was adjusted and even the time I put money into the plan for about three more years, my benefits were adjusted down, so we all participated in that, we all made concessions. In that plan, we looked at it as

Floor Debate  
May 07, 2013

---

somewhat that commercial that was popular, and I've used it before, pay now or pay later. That company handled it right, made the adjustments, took care of the obligations, and it's still a successful company. We even found out in a different situation an employee that had embezzled money from this company. The company, in trying to recoup funds that he had embezzled, could not even touch the pension fund that the money that the company had put in. It is protected for the employees and we have to continue to work to protect that. After a company had filed bankruptcy, it was a Fortune 500 company, I was elected to that board partly because I guess of my background in being a fiscal conservative, risk management, managing the balance sheet. One of the things that we had to work through as we settled up with the creditors, we settled up with the investors and the owners, the top thing on the list was settling up on the pension plan. We had to make sure that we had money for that before we could come up with any kind of an agreement in order to try and come out of the bankruptcy. I believe I am fiscally responsible. I think part of the reason I like what we're doing here is because we're able to work with a balanced budget. The last time I spoke on this mike I closed my comments by saying we need a vote. Citizens need to know where we're at. And I encourage you, everyone, to vote as I will consider...vote to consider the reconsideration of the vote and also support LB553E. Thank you. [LB553]

SENATOR COASH: Thank you, Senator Johnson. Senator Schumacher, you are recognized. [LB553]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. Would Senator Nordquist yield to a question? [LB553]

SENATOR COASH: Senator Nordquist, will you yield? [LB553]

SENATOR NORDQUIST: Yes. [LB553]

SENATOR SCHUMACHER: Thank you, Senator Nordquist. I'm trying to size up our legal obligation here and get it clear in my head. First step, the teachers or their union enters into a contract with the local school board. Is that correct? [LB553]

SENATOR NORDQUIST: Yes. Yes, to be hired. Yeah. [LB553]

SENATOR SCHUMACHER: And then that contract has retirement provisions in it? [LB553]

SENATOR NORDQUIST: You know, that I'm not completely sure with. All I know is that the day they're deemed to be hired, they are then members of the state plan, they're new members coming into the state plan. I'm not sure if their local contracts have those provisions. My legal counsel is saying they do not. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR SCHUMACHER: So the state's plan, that's a statutorily adopted plan. I mean, a previous Legislature adopted a bill that says... [LB553]

SENATOR NORDQUIST: Yeah. [LB553]

SENATOR SCHUMACHER: ...all teachers who are under contract or employed in this state are entitled to these particular benefits. [LB553]

SENATOR NORDQUIST: That's correct. The state plan was created in the 1940s. Omaha had a plan starting in 1919, I think. [LB553]

SENATOR SCHUMACHER: So that's kind of the same kind of thing as if the state were to deed out land to you or a license to you, it's a commitment the state has made to somebody who meets those qualifications as of a certain date. [LB553]

SENATOR NORDQUIST: That's correct. Yeah. [LB553]

SENATOR SCHUMACHER: And that's how we get on the hook for this deal. Is that correct? [LB553]

SENATOR NORDQUIST: That's right, and that's how our courts have interpreted it. It's been challenged to the Supreme Court in the state and that is their interpretation. [LB553]

SENATOR SCHUMACHER: And has the Retirement Committee gotten what you'd consider to be sufficient legal opinion that there's no way we can get off this hook? [LB553]

SENATOR NORDQUIST: I think from legal counsels both in-house and the Legislature and at the Public Employees Retirement Board and also occasional consulting with the Attorney General's Office, I think that is the consensus around here that that is...that we are legally...the courts have interpreted that we are legally obligated. [LB553]

SENATOR SCHUMACHER: So we either pay the bill as it's presently calculated or we go back and try to negotiate an alternative method going forward. [LB553]

SENATOR NORDQUIST: That's correct, yes. And we are, you know, we are keeping contribution rates up for current employees and that is through an agreement with the school associations, the teachers and the administrators. We did that with the State Patrol and we had some patrol members who currently have a suit pending against the state because of an increased contribution. [LB553]

SENATOR SCHUMACHER: So, Senator, if we do this, then we've got a new deal going



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

Floor Debate  
May 07, 2013

---

forward. Are we sure of that? [LB553]

SENATOR NORDQUIST: Yes, yes, statutorily laid out agreement. [LB553]

SENATOR SCHUMACHER: Okay. Thank you, Senator Nordquist. You know, one of the hardest things you do when you practice law is you sit down with a client who is guilty or a client who you know has hooked himself on a contract or herself or a client who's just going to lose the battle. And you have to say, you know, we can pretend and we can appeal and we can fight, but in the end you're going to owe the bill, you're going to go to jail, you're going to pay up. And that's not a happy, happy scene in anybody's office in any part of the world, was why I was so reluctant... [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR SCHUMACHER: ...to push green on this thing. But we have an obligation. We can rethink and rethink and rethink just as we can rethink the national debt whether it was smart to get ourselves in that position, how much we really value the services of these teachers, whether or not we are as committed to education as we wanted to talk about this morning or not, but that's the past. We got a bill. And unless somebody tells me otherwise, that there's some opinion out there, some scholarly study of this that says we don't have a bill, we got to pay it. Because if you don't pay a bill, it just gets worse. And, folks, these kind of issues are going to become more frequent in the future as the baby boomers start cashing out their chips than they are now, so we just as well own up and pony up. Thank you. [LB553]

SENATOR COASH: Thank you, Senator Schumacher. Senator McCoy, you're recognized. [LB553]

SENATOR McCOY: Thank you, Mr. President, members. Would Senator Nordquist yield, please? [LB553]

SENATOR COASH: Senator Nordquist, will you yield? [LB553]

SENATOR NORDQUIST: Yes. [LB553]

SENATOR McCOY: Thank you, Senator. You know, throughout this discussion on LB553 back when we had it in earlier rounds of debate here on the floor, I don't know that this question got asked but I had written it in my notes and I don't think I ever got the opportunity to ask you, but could this change wait to be made until 2017, Senator, what you're proposing in LB553? [LB553]

SENATOR NORDQUIST: Senator McCoy, we could wait for the next 30 years and not make this change but we would have over that time period a \$3.6 billion obligation to

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

Floor Debate  
May 07, 2013

---

pay. That would be the cumulative total. If we waited until 2017, we would have \$108 million over this biennium and about \$80 million to \$90 million over the following biennium, and then another \$46 million after that that we would have to come up with. So, yeah, we could wait, but we would have to come up with about \$300 million to \$400 million of straight General Fund appropriation to address the pension shortfall over that time period. [LB553]

SENATOR McCOY: Could we though, Senator, could some additional time be taken to look into, you know, hybrid cash balance plan? Could it be restructured, understanding the obligation that we have, and I don't believe that as far as I can tell anyway unless I've missed it, I don't think anybody's saying that that obligation doesn't exist, but could that plan, could this be restructured to a cash balance plan and could that result in long-term significant savings to the state? [LB553]

SENATOR NORDQUIST: At any time we could, for new hires, create a new plan that would create short term, significant short-term obligations over the long term. It depends on market performance. Our investment consultants are telling us, including the Nebraska Investment Council with investment experts like Gail Werner-Robertson and others, they are telling us that over the long term, 7.75 percent is a reasonable goal to shoot for. They're telling us that that's, in their expertise, where we'll land with all the consultants that they hire to make that determination. So a hybrid plan doesn't...it doesn't eliminate our liability as a state. It reduces it. But it does have significant short-term costs. It would be hundreds of millions of dollars. In addition to funding our old plan, we would have hundreds of millions of dollars of additional up-front cost because right now new employees, some of their contribution is actually going to retire the obligation we have from current employees and retired employees. So any retired teacher that's out there or retired principal receiving their benefit, they're actually getting some of that subsidized a little bit by new employees. And this lower benefit package will even increase that a little bit more. So this is trying to right the ship, again, coming out of the worst market performance since the Great Depression. [LB553]

SENATOR McCOY: Thank you, Senator. Have there been other states that have moved to a cash balance plan for new hires or all their employees recently? I mean, is there a model that can be looked at anywhere in the country, Senator? [LB553]

SENATOR NORDQUIST: I cannot speak for school employees. I do know that some states are looking at moving away from their defined benefit plans toward the hybrid cash balance model for their state employees, and some states, I think school employees are state employees. So I don't know for school employees, I haven't heard any...I cannot say I've heard any specifically but there very well may have been. I know... [LB553]

SENATOR COASH: One minute. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR NORDQUIST: ...I was on a panel at NCSL last fall with some folks from Louisiana who did a...moved their state employees from a defined benefit plan to a hybrid plan which is the opposite. When we did a hybrid plan, we actually did it to improve benefits for state employees. Most states at this point are looking at moving from defined benefit to cash balance to reduce benefits. But I cannot say that I have heard specifically for school employees. [LB553]

SENATOR McCOY: And we may run out of time, Senator, but I may have to address this a little bit in the future, but how do you...I don't want you to have to look in your crystal ball, but how would you guess, how would they have answered the short-term, heavier obligation, if you will, there may be a better way to phrase it, for those new hires to move to a hybrid plan? How would you...how would a state address that if you were to go about trying to do that? [LB553]

SENATOR NORDQUIST: Well, that I don't know specifically, but I would say that some state... [LB553]

SENATOR COASH: Time, Senators. [LB553]

SENATOR NORDQUIST: ...courts have interpreted differently. [LB553]

SENATOR COASH: Thank you, Senator McCoy and Senator Nordquist. Senator Smith, you are recognized. [LB553]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. We've heard from some of our colleagues ridiculing others of us for the nonvote on the last vote and calling it reckless. And here's something that's reckless, Senators. Not to ask the questions and challenge the spending, like Senator Janssen did in his earlier comments in his exchange. And you know what's also reckless is throwing things out there such as, who told you to vote that way. That's a partisan vote. There must have been a chain letter that went around that told you how to vote. Well, I for one, colleagues, I can think for myself. In 2011, there was a joint interim study between Retirement and Business and Labor. And I want to read you a little bit about the intent of that interim study and why it was introduced, what the purpose was. In my introductions before the Retirement Committee, I'm just going to read some of my introduction. During the 2011 legislative session, I introduced LB688. Now this was in 2011, again. LB688 was heard and subsequently held at my request by the Retirement Committee. The bill was broadly drafted and included language that would increase the age of certain public employees and also prohibit elected officials from participating in public retirement plans. LR216, which I was introducing that day, in my opinion, was a better approach to the issue. Rather than assume certain solutions as was in LB688, LR216 sought to understand the level of risk to our state of unfunded benefit plans,

Floor Debate  
May 07, 2013

---

particularly pension plans, and then to determine what solutions were best for Nebraska. I continued my introduction that day and I said, recent budget problems experienced by local governments and the CIR, which was in the previous session, debate alone made it clear that now was the time to take serious look...take a serious look at the cost and sustainability of our public pension plans. I feel it is our responsibility as legislators to work to protect the retirement funds of our public workers. But it is also our responsibility, colleagues, to ensure that the funding obligations of such plans do not break the backs of future generations. Our state's population is aging and a growing portion of that population is now employed by a government entity, therefore, maintaining a sound public retirement system is only going to continue to become more and more challenging. Nebraska is not alone in facing an uncertain retirement system. According to a report by the Center for Retirement Research at Boston College, our nation's public pension plans are underfunded by--at that time--\$700 billion. And these estimates increased significantly if more reasonable earning rates are used. It is, therefore, no surprise that at least 27 states at that time had made changes to their retirement systems. And a total of 39 states had made significant changes over the past two years, in 2011, according to the National Conference of State Legislatures. So there was an interim study, LR215/LR216, hearing on September 26, 2011. Again, it was a joint hearing between the Business and Labor Committee and the Retirement Committee. It was held at Metro Community College south campus. [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR SMITH: Was that time, Mr. President? [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR SMITH: The goal of the interim study was to collect data and present information regarding political subdivisions defined benefit retirement plans. There was to be an overview of political subdivision retirement plans, a comparison of defined benefit and defined contribution plans. The goals and objectives continued on and on, but in closing, we were to examine the conversion of defined benefit plans to defined contribution plans. We worked very hard that day to listen and to understand and to hopefully take away with us some solutions long term. Conclusion. Let's do what Nebraskans expect of us, colleagues. Challenge the same old solutions so that we may arrive at fresh solutions that benefit all Nebraskans. [LB553]

SENATOR COASH: Time, Senator. [LB553]

SENATOR SMITH: Thank you. [LB553]

SENATOR COASH: Thank you, Senator Smith. Senator Davis, you're recognized. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR DAVIS: Thank you, Mr. President, members of the body. Just first of all, I want to rise in support of LB553. As a members of the Retirement Committee, it's the logical conservative thing for us to do as a body. I would like to take exception to a few things that were said earlier. Senator Lathrop referred to this as a partisan effort. I'd like to have him look at the voting card and notice that half the people that voted for that happened to be Republicans and half Democrats. So I'd say it's a completely nonpartisan vote. However, there have been some recalcitrant people that don't want to look at the real facts, and I would urge them to really reconsider what they're doing because a fiscal conservative is one who weighs and weighs the balance and decides what is the logical and most conservative approach and it's what we have done in LB553. Now let's look back at time. We've heard talk about the 8 percent or the 7.75 percent and why that's a challenge. And it is in this environment. But if you go back to earlier times, we were looking at rates of 12 percent or 15 percent or 20 percent and an increase every year. And so...and we also had inflation in those days, so an 8 percent or a 7.75 percent was probably looked at as a fairly conservative approach in those days. We do seem to be moving back towards full employment in this country and I think that means rates will probably move up and we will be able to sustain this. Now if we decide to put this off and renegotiate it next year, and if the state is in a little better position in terms of its resources, we might have a harder time doing the negotiating and we might have people that say, no, we're not going to do that, the state needs to kick in more and help out more. So everybody is put some resources on the line and it's important for us to step up now. I do respect the people that have put some thought into this. I respect Senator Price for getting up and saying what he had to say. It's refreshing to know that people are willing to look at all the facts and not just throw down the gauntlet on this, to stand up for an individual that doesn't happen to be in this room who I think has some politics in the fire. But I just would urge you to support the bill when we get to that point. And I will yield the rest of my time to Senator Chambers because he asked for it. Thank you. [LB553]

SENATOR COASH: Senator Chambers, 2 minutes 45 seconds. [LB553]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the man who just spoke and I have had a conversation, several of them. No matter how forcefully I state a position, and that is the position that I mean at the time, I've also said if I'm given a persuasive basis for altering that position, that's what I will do. Senator Davis has put me in a position where I'm rethinking. And here's where I've come to at this point. If "Mandrake" Nordquist gets 32 votes, then I'll be the 33 vote. Thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Chambers. Senator Janssen, you're recognized. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR JANSSEN: Thank you, Mr. President and members. Would Senator Kolowski yield to a question? [LB553]

SENATOR COASH: Senator Kolowski, will you yield? [LB553]

SENATOR KOLOWSKI: Yes. [LB553]

SENATOR JANSSEN: Thank you, Senator Kolowski. I don't believe I've had the opportunity to discuss anything with you on the mike. Maybe we have. Just that one time. That's right. What...were you a school teacher earlier in your career? [LB553]

SENATOR KOLOWSKI: Yes. [LB553]

SENATOR JANSSEN: Well, I would like to wish you a happy Teachers' Day because I believe that's today, May 7. [LB553]

SENATOR KOLOWSKI: Thank you very much. [LB553]

SENATOR JANSSEN: So happy Teachers' Day. And that's all I had for you. [LB553]

SENATOR KOLOWSKI: Thank you. [LB553]

SENATOR JANSSEN: And any other teacher that may be here or out in the Rotunda or listening to...fives of tens of people that may be listening to us today that have nothing better to do on a beautiful, beautiful day. I want to read, I heard the 7.75 percent and somebody said that is reasonable, a reasonable amount of return is the way I took it. Okay. If you want to buy that I could sell you some other stuff. Seven and three-quarters percent. Maybe in the last three days that the markets were open, but that's not reasonable right now. And I think...I would think most people on the floor that are reasonable don't think that is reasonable right now. I will take what I call the brilliant mind of this floor, no offense to Senator Chambers, but Senator Schumacher who follows these numbers, I don't think he thinks that's reasonable. You can shake yea or nay if you think it is or not. But I've heard him speak before and served on committees and I don't think that's reasonable. And so this is a discussion of what's reasonable, an obligation, what we're obligated to, and perhaps a learning experience for many if not all. How Stockton, California, went bust. When the city of Stockton, California, voted to enter prebankruptcy mediation with its creditors and large stockholders in February 2012, it took a step that was historic in more than one sense. Stockton is one of California's 20th largest cities, and its bankruptcy would be the nation's largest in history. One of the reasons--excessive optimism and unsustainable compensation promises. This optimism contributed to the city's willingness to sign several generous employment agreements during the mid-2000s, including a 2005 contract with the police union and a 2008 contract with the Stockton City Employees Association. These

Floor Debate  
May 07, 2013

---

agreements locked in increasing expenditures on salaries, pensions, and other benefits which together compromised the bulk of the city's budget. At the time, revenue sustainability, really not a concern. In California, some are familiar with, California, the California Public Employees' Retirement System, referred to as CalPERS, handles most pension funds. CalPERS manages the investments, distributes payments, and determines the liability size of each employer group. With each paycheck given to an employee, the employer sets aside money, as we're aware, to pay the incurred future liability in the year based on the expected rate of return of investments. In many cases, the employees contributed an amount out of his or her paycheck as well. The amount of these contributions is based on the employers (sic) age, number of years worked, amount earned at the highest salary level, and other factors as described by the MOU, memorandum of understanding, and applicable state law. But the retirees continue to earn their... [LB553]

SENATOR COASH: One minute. [LB553]

SENATOR JANSSEN: Thank you, Mr. President. The retirees continue to earn their guaranteed retired amount of benefits regardless of CalPERS investment success. Taxpayers ultimately make up any difference between CalPERS investment returns and the benefits the state guaranteed its retired workers. Now that plan obviously didn't work. And I just wonder if at any point in time they said, let's just take a comprehensive look at this. Not begrudging anybody for their retirement or the contract they signed into, but let's look for solutions that's fair for both sides: taxpayers, employees, public servants, teachers. We're talking teachers. Obviously it's Teachers' Day. Let's look for something that's more fair. Let's make sure something sustainable for the future instead of necessarily just saying, let's do this. And I'm not saying what we're doing here today is wrong, but we are having a discussion so that is right. And we are doing the right thing today by discussing LB553. Thank you, Mr. President. [LB553]

SENATOR COASH: Thank you, Senator Janssen. Senator Lathrop, you are recognized. [LB553]

SENATOR LATHROP: Question. [LB553]

SENATOR COASH: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB553]

CLERK: 28 ayes, 3 nays to cease debate, Mr. President. [LB553]

SENATOR COASH: Debate does cease. Senator Nordquist, you're recognized to close on your motion to reconsider. [LB553]

Floor Debate  
May 07, 2013

---

SENATOR NORDQUIST: Thank you, Mr. President and members. I think we've had a thoughtful debate here on the motion to reconsider. And the reason we need to pass this bill with an E clause, the main reasons again, if we don't, we have an actuarially required contribution due July 1 which is in the amount of \$52.7 million that is not budgeted for. We would have to make major changes to our budget or remove that money from the Cash Reserve to meet that obligation. Secondly, we've talked about the new hires. We would miss, you know, an entire year of new employees going into a lower benefit tier. And I just, you know, we came to this point with all the education groups to try to right this ship. We are in still unprecedented times. I know we're all continued to be bruised because of the market performance just a few years ago and it's all still clear in our memory about how poorly the markets performed. But the Governor's appointees on the Nebraska Investment Council are assuring us, giving us their expertise. I shouldn't say assuring us, but they are giving us with their expertise some comfort in believing we can achieve that 7.75 percent to 8 percent range over the long run. And this bill prevents us from getting in a situation like Senator Janssen was just talking about in Stockton, California, where they...to make their plans look good they assumed even higher rates of return, and they don't...they didn't bring down benefits like this plan does. This is a short-term solution and a long-term solution. Short term, it eliminates the unfunded liability, the \$108 million over this biennium, and in the long term with the new benefits coming in will help us get this plan on a much more sustainable path. So with that, I'd appreciate your motion to reconsider...appreciate your support of the motion to reconsider and support of the bill with the E clause. Thank you. [LB553]

SENATOR COASH: Thank you, Senator Nordquist. Members, you heard the closing to the motion to reconsider. Members, this vote requires 33 votes. The question for the body is shall...Senator Chambers, we can check in. We are on Final Reading. All members please check in. All members are present or otherwise accounted for. Members, the question for the body is, shall the vote last taken be reconsidered? This motion takes 33 votes. All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB553]

CLERK: 34 ayes, 0 nays, Mr. President, to reconsider the final passage of LB553 with the emergency clause attached. [LB553]

SENATOR COASH: The motion to reconsider is adopted. We will now proceed to Final Reading. All provisions of law relative to procedure having been complied with, the question is, shall LB553 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB553]

CLERK: (Record vote read, Legislative Journal pages 1261-1262.) 34 ayes, 0 nays, 13 present and not voting, 2 excused and not voting, Mr. President. [LB553]



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

Floor Debate  
May 07, 2013

---

SENATOR COASH: LB553 does pass with the emergency clause attached. Next item, Mr. Clerk. [LB553]

CLERK: (Read LB553A on Final Reading.) [LB553A]

SENATOR COASH: All provisions of law relative to procedure having been complied with, the question is, shall LB553A pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB553A]

CLERK: (Record vote read, Legislative Journal pages 1262-1263.) 34 ayes, 0 nays, 13 present and not voting, 2 excused and not voting, Mr. President. [LB553A]

SENATOR COASH: LB553A does pass with the emergency clause attached. You have items, Mr. Clerk. [LB553A]

CLERK: I do, Mr. President, thank you. I have a conflict of interest statement from Senator Avery. That will be on file and acknowledged in the Legislative Journal. Senator Dubas offers LR171, Mr. President. Resolution will be laid over, although communication from the Speaker directing that the resolution be referred to Reference Committee for a referral to standing committee for public hearing purposes. Senator Hansen offers LR172. That will be laid over. New A bill: LB583A, Senator Ken Haar. (Read LB583A by title for the first time.) I have a hearing notice from the General Affairs Committee, that's signed by Senator Karpisek. Explanation of vote from Senator Hadley (Re LB166, LB154, LB141, LB107, LB103, LB59, LB42, LB646, LB595, LB595A, LB589, LB585, LB487, LB423, LB240, LB205, LB69, LB68, and LB44.) I have a confirmation report from the Transportation and Telecommunications Committee. And a communication from the Governor to the Clerk. (Read re LB477.) That's all that I have, Mr. President. (Legislative Journal pages 1263-1266.) [LR171 LR172 LB583A LB166 LB154 LB141 LB107 LB103 LB59 LB42 LB646 LB595 LB595A LB589 LB585 LB487 LB423 LB240 LB205 LB69 LB68 LB44 LB477]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB553 and LB553A. [LB553 LB553A]

SENATOR COASH PRESIDING

SENATOR COASH: We will now proceed to General File, budget bills. Mr. Clerk.

CLERK: Mr. President, the first bill, LB196, was a bill originally introduced by the Speaker at the request of the Governor. (Read title.) The bill was introduced on January

Floor Debate  
May 07, 2013

---

15, referred to Appropriations, advanced to General File. At this time I have no amendments to the bill. [LB196]

SENATOR COASH: Thank you, Mr. Clerk. Senator Mello, you're recognized to open on LB196. [LB196]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Good afternoon. LB196 is the first of seven legislative bills that collectively represent the Appropriations Committee budget recommendations for the next biennium, fiscal years '13-14 and '14-15. With the exception of LB196, each of the budget bills will have a white copy amendment so that the amendment becomes the bill. In addition, there are two other amendments that were submitted by myself on behalf of the Appropriations Committee. These are offered as amendments to the committee amendments, but are considered part of the committee's overall recommendations. These two items are in LB199, the fund transfers bill, and LB195, the mainline budget bill. As we begin the debate on our state budget, I refer everyone to their blue budget books that were distributed last week, as well as the General Fund financial status that is attached to today's agenda. The green sheet on today's agenda contains the most up-to-date budget information and includes the two items that were acted upon by the committee after the budget books had already been printed. The status on the agenda also includes the higher revenue forecast from the Forecasting Board's April meeting. Before discussing LB196 specifically, I would give the body a brief overview and summary of our total budget picture. For the biennium, the Appropriations Committee budget provides for an average growth of 5.2 percent, which is slightly higher than the Governor's recommendation of 4.9 percent. By way of comparison, which is very important, the last postrecessionary state budget in the biennium starting with fiscal years '05-06 and '06-07 saw an average spending growth of nearly 7 percent. As you can see from the chart on page 2 of the budget book, the variance between the Governor's recommendation and the Appropriations Committee budget is almost exclusively the result of two items that were not included in the Governor's overall budget recommendation--increased funding in state aid to education through LB407 and the need to address our actuary shortfalls in our defined benefit retirement plans in LB553, which we just passed. I would also note that should either LB407 or LB553 not be signed into law, the General Fund financial status would be changed to reflect the significant additional expenditures that would be required under current law to fund those two state requirements. With that said, it's been a distinct pleasure and honor to be able to serve as this body's Appropriations Committee Chairman this year. But ultimately, no one person does it alone. And I would say I have been blessed to have, I feel, a very thoughtful, a very hardworking, and ultimately I think a very future-oriented committee that is focused on key areas that is part of our overall budget, primarily on key investments in early childhood education and in higher education as well as meeting our needs for the state's most vulnerable through various programs in the Department of Health and Human Services. But also outside of the work that our

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

Floor Debate  
May 07, 2013

---

committee did over the last four months, our committee ultimately knows that we would be unable to make the decisions we make without the information, the guidance, and I would say the hard work that they put in as much, if not more than, the committee does from our Legislative Fiscal Office. Our Legislative Fiscal director, Mike Calvert, our deputy director, Tom Bergquist, and all the fiscal analysts provide a backbone for us as a committee and for our Legislature to be able to make our own independent fiscal policy, aside from the executive branch, because ultimately our Fiscal Office serves, I would say, as not only the gatekeeper of information but ultimately, I would say, part of the final I would...best way to describe it, they provide some finality in regards to what information is accurate, what information is inaccurate, and then to provide that independent analysis that's needed for us to ultimately produce a budget document and ultimately as a Legislature pass a final balanced budget. Returning to LB196, the bill provides funding for the salaries and benefits of the 49 state senators. A separate appropriation bill for these salaries is required by Article III, Section 22 of the Nebraska State Constitution. This appropriation funds the \$12,000 annual salary of each senator and the corresponding employer payroll contribution for Social Security. LB196 does contain an emergency clause. I would urge the advancement of LB196 as the first of our several budget bills. With that said, I know that a number of the committee members ultimately have their lights on, colleagues. They will also speak to the budget. And as we move through the budget document or the budget bills, I want to be able to provide the body ultimately kind of an overall estimate or an overall, I would say, road map for possible discussions. The first bill that we're discussing is the state senator salary bill. The second bill we will be discussing is the salary bill and the benefits bill for our constitutional officers. That does have a slight committee amendment simply because of different calculations that were provided in the Governor's original proposal. The third bill we will discuss, LB195, is the mainline budget bill. That is where overwhelmingly 85 percent of the budget is located is in LB195. LB198 is ultimately our capital construction bill. That involves a number of capital construction projects currently that we are reaffirming and/or projects that we are appropriating new funding towards. LB199 is a fund transfer bill. LB200 is our Cash Reserve Fund transfer bill. And LB194 is our deficit appropriation bill that deals with a variety of different agency deficit requests that were brought forward to the committee that requires a separate bill and requires an E clause so that those deficits can be funded this immediate biennial budget cycle. With that, I'd urge the body to adopt LB196. Thank you, Mr. President. [LB196 LB199 LB195 LB407 LB553 LB198 LB200 LB194]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the opening to LB196. Mr. Clerk, you have an amendment. [LB196]

CLERK: Senator Chambers would move to amend. (FA75, Legislative Journal page 1266.) [LB196]

SENATOR COASH: Senator Chambers, you're recognized to open on FA75. [LB196]

Floor Debate  
May 07, 2013

---

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, the first thing I want to do is tell you what Senator Davis told me that persuaded me to vote the way I did. He said, if I'd vote and this bill would pass, the E clause would stand for the "Ernie" clause. Now, I'm in the rule book, I'm in the constitution by way of term limits, and now I'm on a...this wasn't a budget bill, whatever kind of bill that was, I'm there too. But on this bill, I have a reason for doing what I'm doing. If you will look at it, there's only one-half page of text and it does not state how much our salary is to be. The constitution...by the way, some people think that we cannot raise the salary of anybody during their term. They think we can't diminish it, but we can diminish it, but not during their term. We can actually reduce salaries of people from the court on down. And when you have an office where people take that office at differing times, as soon as a new person takes that office, for the purpose of setting a salary whether it's to raise it or diminish it, that constitutes a new term from which point you can do whatever you want to do. And that's found in Article III, Section 19, but in Section 7 of Article III, which deals with the Legislature, the constitution does not say we get \$1,000 a month. I know people think that's what it says, but it says, we shall get an amount not to exceed \$1,000 a month. So, if a Legislature comes along and is going to be completely honest and pay us what we ought to pay, then maybe we'd get a nickel, if we're lucky. But the constitution does not guarantee us \$1,000 per month. And when you look at the law that sets our salary, it's at 50-123.01. And it does not give a dollar amount either. I wonder how many people knew that the statute does not give a dollar amount for us. So, how is it determined that we will get \$1,000 a month? The constitution doesn't say we'll get that. We cannot get any more than that. The statute does not say we get that amount. There's no dollar amount in the statute for us. But the statute says that we will be granted the maximum that is allowed under the constitution. So, since the maximum allowed is \$1,000, that's what the current statute says our salary will be. A person must receive that salary. And if somebody doesn't want it, then when they receive it, they do what they want to with it. But we had some senators trying to grandstand in the early days by saying they would not accept the full amount of their salary. Well, the law will not allow a warrant to be drawn for a member of the Legislature for an amount less than what the law says. Here's what we're looking at in my amendment. Starting in line 6, total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed \$588,000 for fiscal year 2013-14 and fiscal year 2014-15. I would strike 58..."\$588,000" and insert "\$700,000." That's what I'm doing. I would like to ask Senator Wightman a question or two since he's chairperson of the Executive Board. [LB196]

SENATOR COASH: Senator Wightman, will you yield? [LB196]

SENATOR WIGHTMAN: Yes, I will. [LB196]

SENATOR CHAMBERS: Senator Wightman, who determines the amount of the per

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

Floor Debate  
May 07, 2013

---

diem which members of the Legislature receive during session? [LB196]

SENATOR WIGHTMAN: Well, the Legislature does it to some extent, including the Executive Board on the mileage and the per diem. [LB196]

SENATOR CHAMBERS: Did the Executive Board decide on \$123 per day? I was not here. [LB196]

SENATOR WIGHTMAN: I don't know that we did this term. I think it's been left the same as it was the previous term. [LB196]

SENATOR CHAMBERS: Could it be set at a higher amount? [LB196]

SENATOR WIGHTMAN: I...you got me lost. I don't know. [LB196]

SENATOR CHAMBERS: If under the law it could be set at a higher amount, should the Exec Board set it at a higher amount, in your opinion? [LB196]

SENATOR WIGHTMAN: I suppose they could. [LB196]

SENATOR CHAMBERS: Thank you. Members of the Legislature, the limitation, and I haven't looked at the Internal Revenue Code at Section 162, but that is what places the limit on what we can receive by way of that per diem. It's not called actual expenses for us. The code was set a maximum amount per day for business expenses, those that are necessary and that are accumulated pursuant to us carrying out our duties. So, I would ask this question of...I don't know who is even in the Chamber. I ought to ask Senator Sullivan. She's the only one paying attention unless she can sleep with her eyes open, but I'm not going to ask her. Is Senator Mello in the Chamber? I'd like to ask Senator Mello a question. [LB196]

SENATOR COASH: Senator Mello, will you yield? [LB196]

SENATOR MELLO: Yes. [LB196]

SENATOR CHAMBERS: Senator Mello, I'm trying to create some legislative history now. Are you aware of how the \$123 amount per diem was arrived at? [LB196]

SENATOR MELLO: My brief understanding...of the historical understanding of the Legislature's per diem comes about from an issue that I believe you raised, Senator Chambers, I may be mistaken, in the 1980s in the sense of filing all...I believe was some kind of...I don't know if it was a lawsuit against the state or a legal...some kind of legal challenge in the state in the sense of why senators were not entitled to per diems outside of our legislative salary. [LB196]

Floor Debate  
May 07, 2013

---

SENATOR CHAMBERS: Right. I don't mean that. That was what I was able to get, but what I'm talking about is the amount that has been settled on so that it now is \$123 per day when we're in session. [LB196]

SENATOR MELLO: Senator Chambers, my understanding is that the Executive Board makes that determination. I've not...this is the first year I've sat on the Executive Board so I'm not fully aware of the internal workings of how they come to that exact calculation. [LB196]

SENATOR CHAMBERS: Thank you. I'm trying to see somebody who was on the Exec Board last time. Anyway, the question is whether or not the amount that should be made available for the per diem would be the amount which under Section 162 of the Internal Revenue Code would be made available. I've been told that the amount could exceed this \$123. Now, it has never been the will of the Executive Board to allow actual expenses to be reimbursed. So, an arbitrary ceiling was put on that amount. It could not exceed what the Internal Revenue Code lists for expenses. I presume that if you exceeded that amount, whatever was in excess of that amount could be paid, but it might be considered income, and you might have to pay taxes on it. But the Internal Revenue Code would not restrict what the state can pay by way of actual expenses. [LB196]

SENATOR COASH: One minute. [LB196]

SENATOR CHAMBERS: And most people will accumulate more in actual expenses than the amount that is offered now. That amount covers from the time you're in this session on through next interim until next year. So you are still accumulating expenses against the amount that you're receiving while you're in session. And since I'm running out of time, I'll turn on my light. [LB196]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the opening to LB196 and FA75. The floor is now open for debate. Senator Conrad, you are recognized. [LB196]

SENATOR CONRAD: Thank you, members. Good afternoon. I rise in support of LB196 and just to provide a little overview about the budget package that is before this body this afternoon, I rise as a seven-year member, veteran, if you will, of the Legislature's Appropriations Committee and it's been my only home during my time in this Legislature, with the exception of a few special committees and leadership assignments otherwise. But it's definitely been a challenge and also a very rewarding experience to serve as a member of this committee as we are taken to task to prepare our state's budget, which I believe very clearly and have said on multiple occasions, a budget is indeed a moral document. It sets forwards our priorities about what we care about as a

Floor Debate  
May 07, 2013

---

state and it forces us to, literally, put our money where our mouth is. So as we begin the debate on this legislation and the bills that will come after that compromise the overall budgetary package, I just want to say this. Number one, thank you to the Fiscal Office which serves this body so well in a nonpartisan manner, and to our chairman, who in his first year in this leadership position, has done a very good job of managing between very divergent interests, as you can imagine, looking at the philosophical and geographical makeup of the Appropriations Committee itself. I also just want to provide a little perspective of out-process as a seven-year member. For the past six years on the Legislature's Appropriations Committee, I probably lost more votes in committee than I won. Senator Harms is shaking his head yes, so there's verification. But we do our hard work at the committee level. We fight like cats and dogs and we bring forward our ideas and our perspectives. And we do the hard work of forging compromise. We do the hard work of finding consensus. And once we put together that budgetary package, we, as members, work diligently to support it at each stage of debate. So despite the fact that I lost more votes probably than I won over the past six years, go back and check the record and go and visit with now, Lieutenant Governor Heidemann, if you will, you would find no more ardent supporter of the state budget once it hit the floor and came before this august body. Now, to be clear, I think in some ways having no debate on a budget has been a disservice to the state and to this body as a whole because it's critical that we dig into these issues. And thoughtful debate should be something that we should all welcome, particularly on something with paramount importance like the state budget. But let's make sure it's that as we move forward. Let's make sure it is thoughtful debate. Let's make sure as members bring ideas forward that they're responsible ideas, that they have alternatives in mind as they propose their questions or other ideas so that we can move forward with a balanced budget. And let's remember that we're all aware of how our committee structure works and there's strength in that unity. And it's a special part of serving in the Nebraska Legislature because you're called to do the hard work of bringing forward ideas that can find consensus among a group that is philosophically diverse, that is representing geographically diverse districts. And it's your job as a committee member to make your case in the committee. So I look forward to having a unified front as we move forward in the course of this budget debate... [LB196]

SENATOR COASH: One minute. [LB196]

SENATOR CONRAD: ...as has been our proud practice in history. I think it serves not only our committee well, but our state and our institution well, and there should be no exception or departure from that tradition moving forward. So with that, I'd like to thank the other committee members who have worked as diligently as the chairman has, and the Fiscal Office has in crafting the state budget, our ultimate moral document which makes key and critical priorities for issues like education, like early childhood, like developmental disability aid, and keeps our promises to our retirees. I'm proud of this balanced budget. I'm proud of our committee process and look forward to your

Floor Debate  
May 07, 2013

---

thoughtful debate. Thank you, Mr. President. [LB196]

SENATOR COASH: Thank you, Senator Conrad. Senator Harms, you're recognized. [LB196]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of LB196, and I don't know enough yet about the AM75 for Senator Chambers and I'm sure that he'll continue to talk on that and give us a little more information so I can better understand it. I support the entire legislative bill that we presented to you, the bills that we've presented to you. I'm a seven-year member of that committee and I can tell you that it's a grueling experience. We spend a lot of time and hours going over the budget and looking at what's best, and when those doors are shut, there's no one there for an Executive Session. Sometimes there's not always the best friendship there, but when we're done, we're done, we're finished, and we stay together with that particular aspect. We probably had more bills this year than I can remember in a previous six years that was introduced, that we heard. Our committee listened very carefully and made the best decisions we could with the information that we have. I would tell you that this budget is really setting a course for where we're going to go this next two years in this great state. So think very carefully about what you're looking at, what you're thinking about. If you have any questions, please don't hesitate to come and visit with anyone of the Appropriations Committee members. We've been through this a lot and we'd be happy to answer any questions you have. This is a well laid-out plan. It's a good budget and it's a budget that we can support very easily and I would urge you to do that. I would urge you to support the budget. I'm sure there will be challenges and that's fine. This is not the Appropriations budget, it's your budgets. It's our budgets as colleagues. So you have every right to get your input in, but just remember what the goal is. And that goal is to make sure we move Nebraska forward, that we represent the people well. We've done a work for the people, now it's time to put this into action and move us forward. And I would urge you to support it. As I said before, please pick out anyone of the committee members. We'd be happy to answer. The questions that we don't know, we have our Fiscal staff is here. They've been a great support for the committee. That's probably the best part of building a budget as you have such really outstanding Fiscal staff that have been here for a long time, have a great deal of history. They really understand what's taking place and there's nothing better than having a little bit of a historical review of what's happened in the budget and the process, and how we got to where we are today, historically. So they're here. I know that they would be happen to answer any questions. Please feel free to go over and visit with them. I do quite often when I don't understand something in regards to the Appropriations Committee. When you look at that budget...I don't know if any of you took it home this weekend, but I did and I went back through it again. It's not the most fun to read but it's overwhelming. When you look at that budget overall, it's overwhelming. Have to try to comprehend it, try to put your whole arms around the budget to understand it. I can understand how you might feel the first time you look at that because I remember the blank look on my



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

Floor Debate  
May 07, 2013

---

face when I first saw the budget six years ago. If you get one penny, it's going to come through the Appropriations Committee. And so, I hope that you'll look at this carefully and understand... [LB196]

SENATOR COASH: One minute. [LB196]

SENATOR HARMS: Thank you, Mr. President. I hope that you'll understand that we spent a lot of time on this. We've done the best we can and now this is our budget and I hope that you will support it. Thank you, Mr. President. [LB196]

SENATOR COASH: Thank you, Senator Harms. Senator Wightman, you're recognized. [LB196]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I also stand in support, not only of LB196, but also the general budget that we'll be presenting to you. We've had a lot of work on the committee as Senator Harms has told you. There have been a lot of issues that have come up. These are the decisions that we've made that we feel would be the best support of the overall Legislature. We hope that you will support it. LB196, which we're looking at right now, is only a very small part of the budget, probably the lightest of the budget bills that you'll be faced with here today. As far as the amount, it is set by statute. There may be some questions as to what senators raised with regard to the expense money that is paid, the reimbursement. But it is the amount that is in statute as far as the annual salary of the legislators. And \$688,000, I believe, but whatever the figure is, that is the salary set by statute and the expenses that go along with that including the employer's share of the Social Security. But going on, I support all of the budget that we've come out with. Certainly, it probably didn't exactly coincide with what anyone of us may have wanted as we went through. There were areas we might have decided should be cheaper or should be somewhat less. Submitted to it, but it's the one that the Legislature adopted by a majority vote and usually by unanimous vote. So I would ask that you as well support the budget. I know there may be questions that come up and we will try to answer that. Certainly the Fiscal staff will be here and available to give you information as you need it that you may want to raise on the floor. But I do ask and would hope that you would support the budget generally and get whatever questions you have asked and that we can move forward. So there will be a number of different bills that will come before you. Certainly, this one that we're looking at is the smallest or among the smallest. But there will be some that have a lot more Fiscal requirements than are required by LB196. So it will be an interesting next three or four days and I hope that we can answer the questions that you may have with regard to the budget. Thank you. [LB196]

SENATOR COASH: Thank you, Senator Wightman. Senator Nelson, you're recognized. [LB196]

Floor Debate  
May 07, 2013

---

SENATOR NELSON: Thank you very much, Mr. President and members of the body. As a seven-year member of the Appropriations Committee along with Senator Conrad and Senator Harms, Senator Wightman and there are four of us, and myself, I guess, I stand in support of the LB196 and also the main budget bill. It's been an extreme pleasure to serve on the Appropriations Committee all those years. You get through two years, then you think I'd like to get out of here, and stick around for longer and pretty soon as you get to know the ropes a little bit and understand the finances, you're kind of locked in. It's a lot of hard work, a lot of time. It takes you away from other things on the floor, the Legislature sometimes that you should...would hope to and like to pay more attention to. But, it is a good experience and in my estimation with the leadership of Senator Mello as our chair this year, the committee has done a very solid job of presenting a budget that is reasonable and fair and equitable. And I want to commend Senator Mello especially at this point because he followed the chairman who served six years and he's followed pretty much in his footsteps in the way that he has managed the committee and given everyone an opportunity to speak so that everyone could be heard and then we take our vote. And because of the strong relationships we have with each other, we support each other in the end and we support the budget, which I said is good. Let me tell you a little bit about where I was this morning. I'd been invited to attend the groundbreaking ceremonies for the comprehensive cancer center up on the campus of the University Medical Center. A year ago, the Appropriations Committee made a rather bold move. We committed a little more than \$80 million to projects such as the cancer center up there in Omaha to the tune of \$50 million; also to expansion on the Kearney campus and also the diagnostic center. There were a large number of people at the groundbreaking this morning. The \$50 million that we appropriated and the Legislature approved was the seed money for over \$300 million of other donations that came in. And most of those donors were there and it was an exceedingly happy time for everyone that the goal had been reached. There's going to be a research tower, a hospital, and also outpatient there. They showed pictures of the building. It's going to be a great thing for Omaha, for the state of Nebraska, and for our country and even for people that come from abroad. It will be a major facility. There will be many, many jobs. I think the labor representative said that it's going to provide jobs over a three-year period for probably 3,500 laborers there in Omaha. So these are the things that we can do through Appropriations and through this body. And we have to do a big balancing act. Sometimes it's harder when we don't have the money that we'd like to have and to meet the needs of a lot of needy persons. We spend a lot of time hearing about needs and where the money should be spent and who should have priority. Our committee, I think, has done a good job over the years of balancing those and coming out... [LB196]

SENATOR COASH: One minute. [LB196]

SENATOR NELSON: ...with a good budget. I think as we go forward I also want to say that I stand in support of the main budget bill. One of my priorities is to build up a big, or a good substantial Cash Reserve. We did that five years ago. We had, I think, close to

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

Floor Debate  
May 07, 2013

---

\$500 million at that time. That brought us through a couple of years of recession that we experienced and it's kept us in a much better position than other states. I was just in Chicago at a CSG meeting. The state of Illinois is in complete disarray. In fact, they're talking about having to reduce defined benefits for their teachers there, which I didn't have an opportunity to discuss earlier on Senator Nordquist's bill. So, once again, I think we have a... [LB196]

SENATOR COASH: Time, Senator. [LB196]

SENATOR NELSON: ...good budget before us. I urge you to ask questions and... [LB196]

SENATOR COASH: Time, Senator. [LB196]

SENATOR NELSON: Thank you very much, Mr. Speaker. [LB196]

SENATOR COASH: Thank you, Senator Nelson. Senator Carlson, you're recognized. [LB196]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'm disappointed that Senator Chambers is not in the Chamber. If he hears this, I wish he would come back because I'm trying to make a point here that I think is important. We're talking about LB196 and certainly I will support LB196. I won't support FA75, which is Senator Chambers' amendment. But my point is that Senator Chambers, his amendment brings right into this because his amendment is an expansion of government. And by and large, we need to be very careful when it comes to expansion of government. But since he isn't in here I'd like to address Senator Lautenbaugh, if he would yield. [LB196]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB196]

SENATOR LAUTENBAUGH: Yes, I will. [LB196]

SENATOR CARLSON: Now, I'm going to talk about expansion of government. I'm going to ask you a question in a minute, but first of all, I want to preview that by saying that my staff...I have a great staff and they're government employees. I think I have the best staff in the Legislature and certainly we have need for a number of government employees, so if my staff is listening, this is not directed at them at all. They're great. Senator Lautenbaugh, are you...do you think that you're an asset to the state of Nebraska? [LB196]

SENATOR LAUTENBAUGH: (Laugh) Well, some might lop a few letters off that, but yeah, I think so, yeah. (Laughter) [LB196]

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

Floor Debate  
May 07, 2013

---

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Do you think that you're a fiscal asset to the state of Nebraska? [LB196]

SENATOR LAUTENBAUGH: The same answer, yes. [LB196]

SENATOR CARLSON: Okay. Well, thank you, Senator Lautenbaugh. And now I see Senator Chambers is here, I'd like to address him, if he would yield. [LB196]

SENATOR COASH: Senator Chambers, will you yield? [LB196]

SENATOR CHAMBERS: If you address me as "your majesty." [LB196]

SENATOR CARLSON: I'm sorry. [LB196]

SENATOR CHAMBERS: Yeah. [LB196]

SENATOR CARLSON: I'm sorry, Senator Chambers. Senator Chambers, do you consider yourself an asset to the state of Nebraska? [LB196]

SENATOR CHAMBERS: No question about it. [LB196]

SENATOR CARLSON: Okay, and thank you. And that was a short answer. I appreciate that. Are you a fiscal asset to the state of Nebraska? [LB196]

SENATOR CHAMBERS: Any kind of way you can attach that word to something that's beneficial, the answer is yes. [LB196]

SENATOR CARLSON: Okay. Thank you, Senator Chambers, that's all I'm going to ask you. Now I can try and make my point. You are not a fiscal asset to the state of Nebraska and I am not a fiscal asset to the state of Nebraska. Both of us are fiscal liabilities. And we receive...we get a \$12,000 annual salary and if we pay income tax on that \$12,000, that brings back to the state about \$780. And now, Senator Chambers is going to press his light so that he can get back at me here. If we spend that money and pay sales tax, that's about another \$660, so between income tax and sales tax on a \$12,000 salary, the state gets back about \$1,440. So the net cost to the state in paying us \$12,000 apiece is \$10,660. That's a net cost. It's not a gain. Now, if somebody in private industry provides somebody with a \$12,000 salary, they're going to pay income tax and they're going to pay sales tax. So instead of being a net cost to the state, they contribute \$1,440. That's why we need to be very careful in the expansion of government. And so certainly on Senator Chambers' floor amendment here, that's an increase of \$112,000 and the income tax and sales tax on that \$112,000 is about \$13,000, so really increasing salaries by \$112,000 is a cost of \$98,000 to the state. But

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

Floor Debate  
May 07, 2013

---

if that same \$112,000 was paid out in private industry, it's a contribution of \$13,000 to the state and not a reduction in state revenue. That's why we do need to be careful and there are times when it's very necessary... [LB196]

SENATOR COASH: One minute. [LB196]

SENATOR CARLSON: ...to expand government, expand state government, but we've got to be careful when we do it because it is a net cost, it's not a net gain. Thank you, Mr. President. [LB196]

SENATOR COASH: Thank you, Senator Carlson. Senator Mello, you're recognized. [LB196]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature and I appreciate the dialogue that other committee members, Senator Conrad, Senator Wightman, Senator Harms, and Senator Nelson have given the body in regards to a little historical perspective. That ultimately, though, that Senator Wightman, Harms, Conrad, and Nelson are our longest serving members in our committee, they've been there for six years prior to this year and have been through an awful lot, both, I would say to some extent two good years on the committee economically and four really tough years. I would say to some extent the two-year cycle we're entering into right now is a recovery period in which, ultimately, there's some key investments the committee felt we could do both in regards to General Fund operations, the capital construction, as well as other key investments I would say, and other priorities that senators have brought in front of the committee. But, colleagues, no doubt we have seven bills that will take, so to speak, the entire budget process that we'll debate. So I know when we get to LB1...ultimately when we get to LB195, the mainline budget bill, that is where we have some amendments that have been filed. We'll address those amendments accordingly. But I can't say enough in regards to the uniqueness of our Unicameral, particularly in light of how our budget is developed. I probably should have given a little historical perspective for some of the new members, both today at the budget briefing, so I'll try to do a little bit now. Our state is unique not only with the Unicameral but, ultimately, how we bring nine members of a nonpartisan Unicameral together from different geographic boundaries, different areas of the state, different political ideologies, and different political persuasions to try to forge a document based on compromise, based on consensus, understanding not every senator will be the victor when they propose a motion or propose a solution that they want to see in the budget. As Senator Conrad said it so directly, which I would agree with her in my time on the committee, I've probably been on the losing end of more motions than on the winning side. But through that process I learned an awful lot in the sense that while we ultimately may have disagreements in the committee, for the last four years the committee has ultimately forged a document that we all felt would move the state forward. There may not have been aspects of the budget that we all agreed with, but I have yet to see a state budget

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

Floor Debate  
May 07, 2013

---

that's perfect. I've yet to see actually a piece of legislation that's perfect. And what the committee has presented this Legislature, I feel, is a good foundation to build on in the future. It's a moderate proposal, has moderate spending growth. It makes key investments in education. We try, ultimately, to rectify some of the problems we've seen in the Department of Health and Human Services. We address our obligation as we did this morning on our pension system. We ultimately worked out compromises with two other committees, both the Retirement Committee and the Education Committee in regards to funding TEEOSA. And as Senator Nelson mentioned, I have an amendment to the committee amendment on the Cash Reserve. We transfer \$53 million to the Cash Reserve for two reasons: One, we don't ultimately know what the drought will do economically, how it impacts the state in the summer and the fall, but ultimately we know that the Legislature more than likely will engage in a tax study that will produce recommendations that may reduce revenues next year or the years to come. And speaking with Senator Hadley, he understands, as does Senator Schumacher, that with those recommendations, we need to be able to utilize... [LB196]

SENATOR COASH: One minute. [LB196]

SENATOR MELLO: ...some of the Cash Reserve to be able to move us forward without reducing the key investments that we have in the budget this year. But more importantly, colleagues, this budget, I believe, represents the best of this institution. And what I'm referring and what I mean by that is that we had new members, we had some relatively experienced members and members like Senator Nordquist and myself who kind of fell in the middle in regards to understanding the budget, but there's always aspects that we can learn from, always areas that we can dig into more and learn more about. My hope is that when we continue this budget debate you'll ask members of the committee questions, you free to ask me a question on the mike. I'll do my best to answer it, but the document we produced is a good document. And ultimately I plan on defending that document, every aspect of it, because that's what the committee when we voted 9-0 on the mainline budget decided to do. [LB196]

SENATOR COASH: Time, Senator. [LB196]

SENATOR MELLO: Thank you, Mr. President. [LB196]

SENATOR COASH: Thank you, Senator Mello. Senator Bolz, you're recognized. [LB196]

SENATOR BOLZ: Thank you, Mr. President. I add to...I rise to add my support to the budget package as a whole and to add my voice of thanks to the Fiscal Office. This freshman senator couldn't have gotten along without you. And as a first-year senator, I wanted to point out that while Senator Conrad might describe this document as a moral document, and I agree, I would describe it as a historical document. And I want to

Floor Debate  
May 07, 2013

---

spend just a minute pointing out all the things that we're retaining our commitments to in this budget document. We continue to retain our commitment to fair taxation for Nebraskans. We retain the homestead exemption and the property tax credit and this is the first year of the full implementation of legislation that was passed in 2012 to create tax relief and change our tax bracket. So that's the foundation that we're building this budget on. Further, we're retaining our commitments in terms of capital construction. Folks, you made do, and fixed things up and made things work for years while we had difficult budget times. Now, finally have the opportunity to fix up that library or expand services in our veterinary diagnostic center. Those things are things that we have made a commitment to and we're able to build on now that we're facing better budget times. That's also true in terms of service providers and I think that's a really important aspect of our budget that should be pulled out. The past few years we've had to make really difficult decisions and tighten our belts in terms of providing services and finally this year, we're able to give a modest increase to some of those folks that are caring for our most vulnerable. So I just want to point out that we have a historical foundation for this budget document that we're bringing to you. We also have a very pragmatic approach where we're doing things such as filling the gas tanks for the State Patrol and making sure our elevators are safe. And while those things may seem simple or even dull in comparison to some of the other budget debates that we have, I'm proud of the document that we've put together that retains our commitments and makes sound practical solutions to our state's problems. So I look forward to continued budget debate and thank you. Thank you, Mr. President. [LB196]

SENATOR COASH: Thank you, Senator Bolz. Senator Kintner, you're recognized. [LB196]

SENATOR KINTNER: Well, thank you, Mr. President. I thank the members of the committee, Chairman Mello, who I think I have never called Mello, I always call him Mr. Chairman, all the senior members that sat through all my questions. The members that listened to my rants about government being too big and needing to make it smaller. I'm not sure they wanted to hear that all the time, but they would sit patiently and indulge me when I went into one of my rants. And it's never an easy process. There were times you could go by the office and hear us yelling and screaming at each other, but then the next day, Senator Conrad would bring in cookies and it would be okay. We would be working back together with each other. You know, we have some tough votes, we made some tough decisions. To be honest with you, we're going to spend a boatload of money. I think we're going to spend a little more than I'm actually comfortable spending, but you know what? You don't always get what you want. Actually someone should write a song about that some day. I think it would be a hit song probably. But, you know, we came together. We disagreed on some things. We finally found some ground that a majority could support and we came up with a document that I don't think anyone is entirely happy with, but it's a document that makes some concessions all the way around. I lost quite a few votes, I won a few votes. I got a few of the things I wanted, lot

Floor Debate  
May 07, 2013

---

of things I didn't want. But, you know, that's the way it goes. So I voted for this and I think that we're going to have a good lively discussion and I think in the end I think when you look at this budget, I think it will accomplish the things that we need to accomplish to make our state run for the next two years. And once again, I want to thank all my fellow members, especially the four senior members who probably heard in their first three or four years or five years here, all the questions I asked, they probably asked at one time and they patiently sat through as I asked the questions. So I appreciate all the members of the committee and the hard work that they put in and the staff and how hard they worked and now it's time to get busy on the budget. Thank you, Mr. President. [LB196]

SENATOR COASH: Thank you, Senator Kintner. Senator Larson, you're recognized. [LB196]

SENATOR LARSON: Thank you, Mr. President. As was with Senator Bolz and Senator Kintner, this is also my first year on the committee. I think...I guess, I'd have to double-check. I think I'm also the only member that served on another committee other than Appropriations, which obviously I try to bring a different perspective as somebody else, somebody that's been through the committee process on a different standing committee perspective. I voted for LB196 and actually six of the seven budget bills that came out, including the mainline budget. However, as Senator Kintner said, I, too, was concerned about spending and our growth. I was concerned when the Governor released his biannual budget at 4.9. I know Senator Mello and other members will say coming out of recession that that's below the historical average and...but when I look at it and we're right at 5.2 right now, and that is with the Retirement bill that just passed, as well as the added TEEOSA money, that puts us at 5.2. If you go down on the green sheet to the next thing, estimated revenue growth, our two-year average is only 4.2 percent, which is concerning. We're spending 5.2 and our revenue growth is only projected to be 4.2. I think that's something that we have to address. I think we look at worldwide markets and yes, we are coming out of recession but looking at what's happened not only in this nation but worldwide, if you want to talk about the Euro crisis or other things happening across the world, we've had good budget forecasts. We had 125 million extra come in, that one-time spending...or one-time influx, it wasn't one-time spending. And it gives us reasons to be hopeful and reasons to grow spending, but that's why I didn't vote for one of the bills which was a capital construction bill and it will be coming up, because I think there are things in that bill that we could hold off on to see where we move forward. Also, maybe it's my time on other committees, but I told the committee and I told the paper that I will keep an open mind during all of this debate. I don't believe that the document that we send out should be the end-all, be-all. I know other members of the committee disagree with me. It's been the precedent that the committee holds together no matter what. I want to listen to people on the floor and make the best decision for what I view as my district and the state of Nebraska and I understand the concept that the Appropriations Committee and now Lieutenant



Floor Debate  
May 07, 2013

---

Governor Heidemann operated under in nothing in, nothing out, we hold together no matter what. And I guess that's just...I want to keep that open mind and see what other members in this body have to offer because I don't...as smart as everyone of the nine of us on the Appropriations know we are, that doesn't necessarily mean we've created a perfect document. And I'm open to anything that I see makes a better....I don't think every amendment that's going to be coming makes this budget better. Some will, some won't. And I'll make those decisions as we come, but I am concerned about the overall growth, especially when we look at our estimated revenue growth. But I did vote for the mainline budget. It has a lot... [LB196]

SENATOR COASH: One minute. [LB196]

SENATOR LARSON: ...of positives in there in terms of early childhood education, something that I supported in the committee and I commend Senator Harms and Senator Conrad for really pushing things like that. The developmental disability wait list, again, something that I know a number of senators have prioritized and something...and things that are help moving the state forward, especially for those that can't always help themselves. There are good things in the mainline budget. There are things that I'd like to see taken out. There are things that I'd like to see added in, but I'll keep an open mind and I appreciate all the hard work. The committee put in a lot of long hours and it was definitely a learning experience. Thank you, Mr. President. [LB196]

SENATOR COASH: Thank you, Senator Larson. Senator Chambers, you're recognized. [LB196]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'm going to pull that amendment that's up there. I wanted the opportunity to discuss a bit on the per diem. I got some information from chairperson of the Exec Board, Senator Wightman, but I have to respond to Senator Carlson, as he knows that I will. He said that he's a fiscal liability to the state and that I am too. Well, every man knows what he's worth. Senator Carlson is best in a position to say what he's worth. I know that I'm not a liability. First of all, by me doing the hard work that I do, not just improving legislation but killing off bad bills, stopping them from coming out here, saves the Attorney General's Office far more money in terms of litigating to try to defend bone-headed unconstitutional legislation. That's part of what I contribute, "Parson" Carlson, so I know what I'm worth, but you're not around to see everything that I do, especially in the Judiciary Committee. But there are other bills that will come out here perhaps before we're through that are unconstitutional. There's some bills so poorly drafted that they would not withstand analysis. So I think that if I were to take a job with a law firm, Senator Carlson, I could make a six figure salary. And this may boggle your mind, but before I got out of the Legislature, even four years ago, when I was younger, that's what I could have gotten if I would have gone to work for a high-powered law firm and they know that I'm not a member of the bar association. But because of the work that I could

Floor Debate  
May 07, 2013

---

do in research, editing, reviewing briefs, giving consultation, which would be on the proper side of not the unauthorized practice of law, I'd have been worth more than that. So just because I'm in this place, don't think this is the only place that I could be. I am poor, not because I want to be, but by choice. I have chosen what I wanted to do with all these years of my life which, in effect, have really been wasted. Not in terms of money I could have made but haven't made, but the futility of trying to accomplish the things that I've tried to accomplish means that all that time was wasted. Those years were wasted but I chose to do it that way. Nobody ever put a gun to my head and said I have to be in the Legislature. What I do, I do by choice. But I couldn't help taking issue with Senator Carlson who thinks that because he's not worth anything, I'm not worth anything right along with him. When I was a barber, one of the most difficult things to do was to get barbers to raise the price of haircuts. And that was the favorite expression we had. When some of these guys who have been around forever said, well, we don't think a haircut is worth that, we would say, every man knows what he's worth. And you can apply that. Now, Senator Carlson, I would agree with you that some people in here are overpaid, but if you look at that pay stub, we don't make minimum wage. I don't know if they calculate that amount of \$5.70-something cents an hour based on however many workdays there are in the year. But Senator Carlson, I come down here when we're not in session... [LB196]

SENATOR COASH: One minute. [LB196]

SENATOR CHAMBERS: ...on holidays, weekends, stay late, because I take the work seriously, even though a lot of what I do it futile. The things that I'm trying to achieve never will be achieved, but I have to do what I think I ought to do having taken this job. And I think it entails far more than merely stopping the enactment of bad legislation and seeking the enactment of good legislation. I'm going to encumber you all with some of the things before the session is over that I've done, which I'm not required to do by virtue of being a member of this Legislature. Thank you, Mr. President. [LB196]

SENATOR COASH: Thank you, Senator Chambers. Senator Wightman, you are recognized. [LB196]

SENATOR WIGHTMAN: Thank you, Mr. President, fellow legislators. Since I couldn't answer the question when I was asked by Senator Chambers earlier, I was trying to do that at the present time. Looking back on when we've had per diem raises, when I first came into the Legislature, which would be six and a half years ago, that was \$99 when I came in but right at that time that was increased to \$109. It stayed at the \$109 clear up until 2011 in the first session. Actually it would have gone to \$116 under federal standards in the year 2009..or, yeah, 2009. We elected not to take that increase because we were in the middle of and toward the start and maybe in the middle of real financial problems at that time. It would have gone to \$123 on that day. We didn't go to \$123 until July 1, 2011, and it has stayed at that rate and is presently at that rate. So

Floor Debate  
May 07, 2013

---

that will give you a little more history and background on what has happened with regard to the per diem. So I wanted to give you that information even though that really isn't on this bill, but will be on the second bill, or the third bill down from this. Thank you, Mr. President. [LB196]

SENATOR COASH: Thank you, Senator Wightman. Seeing no other members wishing to speak, Senator Chambers, you're recognized to close on your floor amendment. [LB196]

SENATOR CHAMBERS: Thank you. Mr. President, as I said, I will pull it and some of these bills won't require much, as far as I'm concerned, in the way of debate. For example, the salaries for the constitutional officers. My only quibble with that is I think those salaries ought to be higher than what they are and naturally we cannot do that on these Appropriation bills. But one thing that led me talk with that amendment, the Legislature travels cheap. When I came back here I looked at the research facilities and I don't think my colleagues recognize the value of readily at hand information. And I think we should be very cognizant of the need to have an adequately funded research unit. I do a lot of reading and researching. You all have the gadgets so maybe you don't need what could be available in that office. But what I used to do and I'll probably do it again now that I'm back, instead of buying all the books that I would buy, they will borrow books from libraries for you and some of the books, once I read them, I'm through with them. I don't need to keep them. So that's a service which I don't know whether the members knew is available and also I don't know that there's many publications available as used to be. But again, people are going to value us as we value ourselves. If we travel cheap and you think that the public is going to respect the Legislature because we don't adequately pay our employees, we don't adequately fund our own operations, then you're out of your mind. You are not going to ever get respect overall as a Legislature because the Legislature is the whipping person for everybody in the state who is upset with any branch or department of government, state or even national. This Legislature's salary will be set by the public. When they're angry at Congress, you don't get an increase. You vote for a bill they don't like, you don't get an increase. I thought when I got out of here you'd get a salary increase because of me, but then by the time you were to...they were to vote for that, it was clear that I was going to come back. So they went right back to their old ways and said, no, you're not going to get it, three to one, no. They don't hurt anybody but themselves as a society when they travel cheap and they will not pay an adequate salary. I have never offered a bill to increase the salary of the legislators. I used to, wouldn't even vote for it. Not that I'm against it, but I know what the public is not going to do. However, now that term limits is here, you all may not have been around here long enough to see how devastating that ill-advised decision was. Not only did they get rid of me which made them happy, they got rid of everybody. So I'm the only person who could deliver on the threat that when I go, I will take everybody with me. And all those who will have served with me prior to term limits will be gone, but I will still be here. Everybody is gone. They decimated a

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

Floor Debate  
May 07, 2013

---

branch of their government because they didn't like one man, which is sheer stupidity. [LB196]

SENATOR COASH: One minute. [LB196]

SENATOR CHAMBERS: I can't live forever anyway, as far as they know. Maybe they knew something that the rest of the people didn't know and something that I didn't want to get out. But the fact is, we have to start showing that the Legislature is not only an important branch of government, it is the most important. Look at these seven bills and that will tell you why. In Watergate "follow the money." I believe Senator Lautenbaugh referred to that today. Who controls the purse strings? The hand that feeds controls, but the Legislature does not know how to use the prerogatives it has to achieve goals that are legitimate. Mr. President, I withdraw that motion to amend. [LB196]

SENATOR COASH: Thank you, Senator Chambers. FA75 is withdrawn. We return to discussion on LB196. Seeing no other members wishing to speak, Senator Mello, you're recognized to close on the advancement of LB196. [LB196]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Once again, LB196 is the first of several budgetary bills. This specific bill deals with the funding of salaries and benefits for the 49 state senators as well as it incorporates the corresponding employer payroll contribution for our Social Security, so with that I'd urge the body to adopt LB196. Thank you, Mr. President. [LB196]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the closing to LB196. The question for the body is, shall LB196 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB196]

CLERK: 44 ayes, 0 nays on the advancement of LB196, Mr. President. [LB196]

SENATOR COASH: LB196 does advance. Next item, Mr. Clerk. [LB196]

CLERK: LB197 was a bill introduced by the Speaker at the request of the Governor. (Read title.) The bill was introduced on January 15, referred to Appropriations, advanced to General File. There are committee amendments, Mr. President. (AM1059, Legislative Journal page 1200.) [LB197]

SENATOR COASH: Thank you, Mr. Clerk. Senator Mello, you're recognized to open on LB197. [LB197]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I'd like to waive closing on LB197 and open on the committee amendment, if possible. [LB197]

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

Floor Debate  
May 07, 2013

---

SENATOR COASH: Senator Mello, you're recognized to open on the committee amendment. [LB197]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. LB197 provides for the funding of salaries and benefits of certain state officers as required by Article III, Section 22 of the Nebraska State Constitution as well as current state statutes. The bill includes appropriations for the salaries of all judges, elected constitutional officers, the parole board, and the tax commissioner. LB197 does contain the emergency clause. The Appropriations Committee amendment, AM1059, would become the bill. The amendment provides for the Appropriations Committee's recommended funding levels with most adjustments from the green copy amounts being minor differences due to the calculation of benefits. I'd urge the body to advance AM1059 and LB197. Thank you, Mr. President. [LB197]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the opening to LB197 and the committee amendment. The floor is now open for debate. Senator Avery, you're recognized. [LB197]

SENATOR AVERY: Thank you, Mr. President. Good afternoon, colleagues. I just want to call your attention to the fact that the constitutional officers' salaries are unchanged despite the fact that they have not received an increase in salaries since 2007. I did have a bill this year to give the constitutional officers a 20 percent increase. That bill's number was LB217. We discussed this in committee, the Government Committee, of which I am Chair, but have no influence because they turned it down. This bill would have brought Nebraska's constitutional officers closer to the average nationally for each of those positions. The last salary that was received was in 2007, as I indicated, where the average raise was 34 percent. That did not take our constitutional officers up to a competitive salary compared to the national average and we remain behind. I bring this to your attention because it has traditionally been the responsibility of the Government Committee and the Chair of that committee to visit this issue every four to eight years. And I put you on notice that I'll probably be...bring it back next year a bill that would request an increase. The increase would not take effect until 2014. It will be in the next biennium, but I do think that this is something we need to take seriously and give some serious attention to in the coming years. With that, Mr. President, I intend to support LB197 and this underlying...or the underlying bill with the amendment. Thank you. [LB197 LB217]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Thank you, Senator Avery. Senator Karpisek, you're recognized. [LB197]

Floor Debate  
May 07, 2013

---

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I plan also to support this and I would like to fire a shot across the bow to Senator Avery that if he wants to bring it again next year, I will stand in the way. When the Governor went out and absolutely told everyone not to vote for our pay raise because of what we did on one bill, that was a line drawn in the sand. I realize that that has nothing to do with what he wants to do with the next Governor, but if that isn't speaking enough, I will make it clear. I will not vote for anyone's pay raises, number one, because of what the Governor did by going out and throwing this Legislature under the bus because of one bill. And I also will not vote for any judge's salaries at 10 percent in two years. It's ridiculous. The people spoke. They didn't want to give us a raise, now we want to turn around and give judges a 10 percent? No. And in any way, shape, or form to give the Governor, current, or the next, a raise, I will block. Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Thank you, Senator Karpisek. Senator McCoy, you're recognized. [LB197]

SENATOR McCOY: Thank you, Mr. President and members. Will Senator Mello yield, please? [LB197]

SPEAKER ADAMS: Senator Mello, would yield for a question? [LB197]

SENATOR MELLO: Yes. [LB197]

SENATOR McCOY: Thank you, Senator. In regard, I have a couple of questions on AM1059 to LB197. First, can you help me understand, just refresh my memory, when we talk about judges' salaries in LB197, what is the relationship between this bill and earlier this session when we talked about judges' salaries? My memory is a little bit fuzzy on that, on the interplay, or is there one in-between these pieces of legislation? [LB197]

SENATOR MELLO: Senator McCoy, there is no interplay between, I believe it is LB306, Senator Nordquist's bill that incorporated the judges' salary increases with the judges' retirement. Ultimately, that's a separate A bill and that carries a separate A bill that the floor ultimately has to make the determination which would increase their ability to receive more salary if that bill passes. The unique thing with that bill that ultimately we had discussed, I had questions for Senator Lathrop and the state bar and the chief justice is those salary increases through that bill are not directly...are not directly, I would say, accounted for in the appropriations bill because we are not appropriating money for that specific purpose. We're appropriating money now for the current judges' salary. That bill seeks to increase that, thus, raising the amount and appropriating more money for it. [LB197 LB306]

SENATOR McCOY: So when the taxpayers were looking at this, Senator, from what

Floor Debate  
May 07, 2013

---

you're telling me is, LB197, we're looking at the current situation, I think you're correct. I think it is LB306, is the future salary situation for the judges. Is that the correct way of thinking on it? [LB197 LB306]

SENATOR MELLO: That would be an increase. LB306 would provide an increase outside of where the current statutory appropriation in LB197 is for judges, correct. [LB197 LB306]

SENATOR McCOY: Thank you, Senator. In addition, we're actually talking about the pay, the salary for constitutional officers. What is the...what's the rationale? I know some of our constitutional officers, the pay is \$85,000 annually, for the Attorney General, it's \$95,000. Is there...and I think that's always seems like it's been a little bit of a difference between the Attorney General and some of the other constitutional officers. Is there a rationale behind that? [LB197]

SENATOR MELLO: Is that question directed to me? [LB197]

SENATOR McCOY: Yes, thank you, Senator, it is. [LB197]

SENATOR MELLO: Senator McCoy, I believe you and I've served in this Legislature the same number of years and we've not seen a pay increase bill brought forward on behalf of state constitutional officers, so I would have to say my limited knowledge in regard to the historical perspective of why an Attorney General is paid slightly more maybe than a Lieutenant Governor, I think that question is probably better directed maybe to Senator Avery who introduced a bill on this specific issue. I think he could probably give a better historical perspective of maybe why the salaries are maybe different than for different offices and, ultimately, if that was a decision that the Legislature made, or was that something that executive branch agencies seeking out raises may be made on their own. [LB197]

SENATOR McCOY: And I appreciate that, Senator, and I may direct a question to Senator Avery at a future time. But when you look at these constitutional, was there a discussion in the committee on, are we competitive with constitutional officers' salary? Is that something that is a consideration? I know sometimes we look at things from some sort of a business standpoint, or we definitely do when it comes to tax incentives, like competitiveness. Is there such a factor that you consider as a committee when you look at a piece of legislation like this as far as a competitiveness standpoint? [LB197]

SENATOR MELLO: Well, once again, Senator McCoy, to change ultimately the constitutional officers' salary, that would be a bill that needs to be passed out of another committee... [LB197]

SPEAKER ADAMS: One minute. [LB197]

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

Floor Debate  
May 07, 2013

---

SENATOR MELLO: ...which is the Government Committee. So, ultimately, the Appropriations Committee had very little, if any, conversation about increasing salaries for constitutional officers, in part because there was no bill brought to us because we understand that bill goes to the Government Committee. So I think in regards to your first question of whether or not it was a lengthy debate in regards to whether or not that's something we want to consider, it was not something we discussed at length in committee. Ultimately, as Senator Avery and Senator Karpisek, you just heard a little disagreement between the two of them in regards to what they think should be done, the Appropriations Committee ultimately is bound by what's in current statute, what's in our current constitution, and that ultimately is what's laid out in AM1059 and ultimately will be LB197. [LB197]

SENATOR McCOY: Thank you, Senator. I think that highlights a common concern that I hear a lot. I'm going to go back to the fact that I've had the opportunity to talk to a lot of constitutional officers around the country from other states. [LB197]

SPEAKER ADAMS: Time, Senators. [LB197]

SENATOR McCOY: Thank you. [LB197]

SPEAKER ADAMS: Senator Carlson, you're recognized. [LB197]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I would like to address Senator Mello, if he would yield. [LB197]

SPEAKER ADAMS: Senator Mello, would you yield? [LB197]

SENATOR MELLO: Absolutely. [LB197]

SENATOR CARLSON: Senator Mello, I think that this just would clarify things for me, but whether we look at the Governor or any of the state office holders, there's a salary limit and then there's a program total. What's included in the program total that's not included in the salary? [LB197]

SENATOR MELLO: The program total, Senator Carlson, incorporates the benefits that also are received whether it's retirement, also health insurance being primarily the two main benefits that are in conjunction with the salary. [LB197]

SENATOR CARLSON: So, it is really those two items, isn't it, that makes the difference? [LB197]

SENATOR MELLO: Yes. [LB197]



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

Floor Debate  
May 07, 2013

---

SENATOR CARLSON: Okay. Thank you, Senator Mello. Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Thank you, Senator Carlson. Senator Mello, there are no other lights on. You are recognized to close on the committee amendment. [LB197]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Thank you, Senator McCoy and Senator Carlson, for your questions regarding AM1059. What AM1059 is ultimately is the white copy version of the Appropriations Committee proposal which is a slight variance from the green copy of the bill, LB197, as I mentioned before, basically due to some minor changes in calculations for benefits. That, ultimately, is the small differences between the committee amendment and the underlying bill and I'd urge the body to adopt AM1059 and LB197. Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Thank you, Senator Mello. Members, the question is, shall the committee amendments to LB197 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB197]

CLERK: 40 ayes, 0 nays on adoption of committee amendments. [LB197]

SPEAKER ADAMS: The committee amendment is adopted. We return to discussion on the advancement of LB197. Senator Mello, you're recognized to close on the underlying bill, LB197. [LB197]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. With the adoption of AM1059, now that is the copy of the bill. That is the constitutional officers' salary and benefits as well as judges, the tax commissioner, and the pardons board. I'd urge the body to adopt LB197. Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Members, you've heard the closing. The question is the advancement of LB197 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB197]

CLERK: 40 ayes, 0 nays on the advancement of LB197. [LB197]

SPEAKER ADAMS: LB197 advances. Next bill, Mr. Clerk. [LB197]

CLERK: LB195 is a bill introduced by Speaker Adams at the request of the Governor. (Read title.) Introduced on January 15, referred to Appropriations, advanced to General File. There are committee amendments, Mr. President. (AM656, Legislative Journal page 1200.) [LB195]

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

Floor Debate  
May 07, 2013

---

SPEAKER ADAMS: Senator Mello, as Chair of Appropriations, you're recognized to open on LB195. [LB195]

SENATOR MELLO: Thank you, Mr. President. I'd like to waive my opening on LB195 and move directly to AM656. [LB195]

SPEAKER ADAMS: Senator Mello, you are recognized to open on the committee amendment, AM656. [LB195]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. LB195 is the mainline appropriations bill for the biennium that begins July 1, 2013, and ends on June 30, 2015. This measure includes the budget recommendations for all state operations and aid programs. In addition to the new appropriations set forth in the bill, language is included providing for the reappropriation of unexpended General Funds June 30, 2013, balances remaining for operations with some exceptions for fiscal years 2013, 2014. The bill includes the appropriate transfers from Cash Reserve cash funds to General Fund as well as between specified cash funds. Finally provides for the necessary definitions for the proper administration of appropriations and personal service limitations. LB195 does contain an emergency clause, an operative date of July 1, 2013. The Appropriations Committee in front of you, AM656, would become the bill. The amendment contains the Appropriation Committee's recommendation for a bulk of appropriations to be made during the budget biennium for state operations and state aid. Statutorily authorized transfers among funds are made in conformance with budget requirements as are transfers from the General Fund. I would again refer everyone to their blue budget books for more detailed information regarding the mainline budget bill. Included is a list of significant increases and reductions from the current year on page 29 of the blue book, a narrative description of budget highlights starting with state aid on page 31, and operations on page 48. A narrative description of the recommendations for each individual state agency begins on page 91 and members may find those narratives particularly helpful. I would, however, recommend and emphasize, in the printing of the budget book there was some technical errors in regards to some IT issues of being able to fully transfer the narratives for every budget item for every agency. So as you read through your budget book, you may start to read a narrative and a sentence seems to be cut off in midpoint. If you have concerns or would like further explanation on that, the Fiscal Office is here underneath the balcony, can walk you through those individual narratives as a number of members have approached me in regards to trying to find out what was some clarification points in those specific narratives. Colleagues, when I ran for the position of Appropriations Committee Chair back in January, I spoke about the importance of being able to make compromises, of being able to build consensus and ultimately trying to make sure the Appropriations Committee budget would reflect the priorities of this entire body. While there may have been disagreements internally in the committee on one issue or another, ultimately the

Floor Debate  
May 07, 2013

---

goal, I believe, the majority of the committee day in, day out, was to find common ground and to try to seek consensus on the important issues facing the state. The committee worked tirelessly this session to focus on the priorities, not just of this entire Legislature, but particularly in the entire state. And one issue that primarily has been an overriding importance to the committee is in an area of education. As I mentioned earlier, both an early childhood education, K-12 education, and higher education. The committee proposed a budget that also recognizes the need to maintain a very healthy Cash Reserve balance because while we may be out of the Great Recession and moving towards a recovery, which I would remind everyone the Forecasting Board provided a \$53 million revenue cushion outside of what is currently being proposed spending in the budget, we all know that the next economic downturn is never too far away around the corner. As I would argue that Senator Nelson, Senator Wightman, Senator Harms, and Senator Conrad did their due diligence in 2007, 2008, of building that Cash Reserve Fund that ultimately this body has used over the last four years to bridge what we knew as the Great Recession. I look forward to a very healthy debate on LB195, AM656, and other amendments that may come up. Ultimately, once again, I stand ready to answer any questions you may have about the proposed budget and the proposed amendments and would urge the body to adopt AM656 and LB195. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Mello. Mr. Clerk, there an amendment to the committee amendment. [LB195]

CLERK: The first amendment, Mr. President, is Senator Mello would move to amend the committee amendments with AM1229. (Legislative Journal page 1209.) [LB195]

SPEAKER ADAMS: Senator Mello, you're recognized to open on your amendment. [LB195]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. As I mentioned in my opening on the first of the budget bills, LB196, AM1229 is one of two amendments filed to the committee amendments to make changes that were adopted by the Appropriations Committee after both the amendments and the blue budget books had already been finalized. AM1229 revises the total appropriation for TEEOSA to reflect the compromise that emerged from LB407 on General File reducing the appropriation approximately by \$8.6 million. With the adoption of the amendment, those dollars will flow to the ending balance for the General Fund or the minimal reserve amount on your green sheet, thus increasing the amount of money available for any potential A bills and/or tax expenditure bills for the entire Legislature to consider. I'd urge the adoption of AM1229. Thank you, Mr. President. [LB195 LB196 LB407]

SPEAKER ADAMS: Thank you, Senator Mello. The floor is now open. Senator Nordquist, you are recognized. [LB195]

Floor Debate  
May 07, 2013

---

SENATOR NORDQUIST: Thank you, Mr. President and members. I think I may be one of the last Appropriations Committee members to rise and I want to first start by thanking our chairman for his leadership and moving the dialogue along. At times, certainly in the committee, as you probably all well know, in your Exec Sessions, you know, the dialogue can get stalled on contentious issues and we can go round and round and not see them resolved. But in the Appropriations Committee it's a unique process because we start essentially with an Exec Session that lasts nearly a month and then we go into public hearings and then we start another Exec Session of three weeks to a month after a public hearing. So, you know, the process is very much about a dialogue amongst each other about, how do we determine our priorities and we all come with different priorities, different issues that we care about, that our constituents care about, and ultimately try to come together on what is LB195, the mainline budget. This budget really, folks, is on investment in the future of our state and investments in education. Starting with the bill Senator Harms brought that many in the body care about deeply and that is early childhood education, investing \$4 million a year in the Early Childhood Education Endowment Fund to serve at-risk kids with high quality, high quality early childhood education in the years that matter most and that is zero to three. We also made a little additional investment in four to five-year-old preschool of about \$250,000 a year to continue that. Working closely...I know Senator Mello had many discussions over this session with Chairwoman Sullivan on education on K-12 funding to work with the Education Committee to kind of let their process go forward but also find a number that worked within the overall budget. And then finally, the higher education number, a 4 percent annual growth over two years for the university, 4.5 percent the first year and 4 percent the second year for state colleges, and I believe 4 for the community colleges. For state colleges and the university system, that means a tuition freeze for students. That's probably a couple hundred dollars a year of tuition that is not added on to their burden, whether it's a loan burden or whether they're trying to pay it as they go, or whether their families they come from try to help them afford the cost. So an entire continuum of education was really the focus of this budget. And I'll give the Governor credit, it was the focus of the budget that he brought to us too. We did add a little more ultimately into TEEOSA. We ultimately...we did add more to early childhood and we actually came out a little bit under on higher education but still achieved a tuition freeze. So when you think about this budget as a whole, outside of the other big driver of the costs, I would say are probably twofold, the Affordable Care Act mandatory provisions, we are providing coverage. We are increasing essentially utilization dollars for people who...most of these people are already eligible for our services. There's an assumption nationally and in our state that a lot of people who are eligible are going to come out of the so-called woodwork to seek services. So we added some money to that and we were a little bit lower than the Governor's number on that, but we know that was an obligation we had. We had the retirement obligation which we took care of. We reduced the obligation from \$108 million... [LB195]

Floor Debate  
May 07, 2013

---

SPEAKER ADAMS: One minute. [LB195]

SENATOR NORDQUIST: ...to \$20 million with the passage of LB553. But outside of those two issues, the investments...the focus of the budget really was investing in the education continuum from cradle all the way to higher education. And I think that's where are focus really needed to be this year to ensure that we aren't leaving kids behind at an early age, that we get them into the system, that we get them the education they need in the early years. And, ultimately, I think it will make our state much stronger in the long run. So when you look at the overall numbers, the 5.2 percent growth Senator Mello talked about, the historical perspective of that, but when you back out the retirement issue and also a little additional that we gave to TEEOSA, we are right in line with where the Governor's budget was. We nibbled around the edges on some priorities. We put a little more towards early childhood, you know, but essentially, we're not that far off either in content... [LB195 LB553]

SPEAKER ADAMS: Time, Senator. [LB195]

SENATOR NORDQUIST: ...or in spending growth. Thank you. [LB195]

SPEAKER ADAMS: Senator McCoy, you're recognized. [LB195]

SENATOR McCOY: Thank you, Mr. President and members. Would Senator Mello yield, please? [LB195]

SPEAKER ADAMS: Senator Mello, would you yield to a question? [LB195]

SENATOR MELLO: Absolutely. [LB195]

SENATOR McCOY: Thank you, Senator. As I look at AM656, which obviously you're amending with AM1229, but it questions the underlying amendment, I guess it would be page 4 of AM656. I'll give you a moment to look at that. It would appear, and perhaps this has been this case for sometime, I don't know, that the Health and Human Services Committee of the Legislature has appropriated \$75,000 of cash funds, is that for interim study resolutions? What is that...what is that amount for? Is that something that's new? Is that a continuing amount of money? What's...would you elaborate on that, if you would? [LB195]

SENATOR MELLO: Senator McCoy, that's a great question and, ultimately, it was an issue that was raised, I believe, two years ago in regards to an Appropriation that comes from the Health Care Cash Fund for the Health and Human Services Committee specifically to assist them with any research and/or contracts that they may need to do in regards to doing any of their interim studies. Obviously, Health and Human Services Department is the largest department in state government and a policy decision that this

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

Floor Debate  
May 07, 2013

---

Legislature has made years ago felt that it was necessary to provide some of this cash fund authority from the Health Care Cash Fund specifically to the HHS Committee in case they wanted to use it. There's been at times, like I say, two years ago they didn't use...at one point it was \$300,000 and it was reduced down, I believe, to \$75,000 and we utilized an additional \$200,000 reduction and used it for other A bill related issues that were brought in front of this Legislature. So, ultimately, that number was a much higher number at an earlier point in time, a couple years back when we were doing the budget, that number has been reduced. It's still right now at \$75,000. If Senator Campbell and her committee chooses not to utilize that money, it would simply go back to the Health Care Cash Fund. [LB195]

SENATOR McCOY: I appreciate that information, Senator. Has there been...I guess a continuation of that question, have there been other of our major committees, would it be a committee that I serve on, the Revenue Committee or the Appropriations Committee, any other committees that deal with some weighty issues, Judiciary, so we all, the standing committees deal with some weighty and complicated issues, but there are a handful of committees that deal with a lion's share of the sheer number of bills that we deal with. Have there been any other of those committees that have asked for something like this or have received something like this? [LB195]

SENATOR MELLO: Senator McCoy, I think at least from my historical perspective, and once again you and I have both only been here for five years, so I'd have to relay back more, be more on the Clerk's Office, the Legislative Research Office, and the Fiscal Office. I'm not aware of any other committee that has a cash fund similar to the Health Care Cash Fund in which there's been policy drafted and/or statutes created that appropriates a certain amount to a legislative committee on a consistent basis. Now, I think we could probably spend eight to ten hours just on the Health Care Cash Fund, you and I alone, as well as other members who brought bills on the importance of that fund. But that fund, ultimately appropriates roughly almost \$60 million a year to a variety of different healthcare related priorities, both within the department and outside of the department. In regards to the committee's use it on, whether it's the Revenue Committee, Transportation and Telecommunications, I think that's a policy discretion and decision that those committees may want to consider if the Transportation and Telecommunications Committee wants to set aside and try to appropriate money from the Highway Cash Fund for potential interim studies, that's a policy decision that will require a bill. So I can only speak, ultimately, to the... [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR MELLO: ...historical perspective of Senator Campbell's committee and what has been the current practice since the creation of the Health Care Cash Fund. [LB195]

SENATOR McCOY: Well, I appreciate that, Senator. I'm thinking in particular of

Floor Debate  
May 07, 2013

---

LB...particularity of LB613 with our Tax Modernization Committee that the Revenue Committee along with yourself and others in the Legislature will undertake here during this interim and into the future. I just thinking of ways that if, perhaps, other funds are needed down the road, if there are other committees that could form similar situations to help fund those endeavors. Thank you, Mr. President. [LB195 LB613]

SPEAKER ADAMS: Thank you, Senator McCoy. Senator Sullivan, you are recognized. [LB195]

SENATOR SULLIVAN: Thank you, Mr. President. I stand in support of this amendment, AM1229, and I'm very appreciative of the fact that we're looking at about a 5.2 percent increase in TEEOSA this year. But you know what, I still don't like it (laugh) because the Appropriations Committee and with my AM1044 would have resulted in some more money and I'm giving that up, this \$8 million that Senator Mello referred to. And maybe it's helpful to remind you of where we've been in getting to this process. LB407 which seems eons ago when I introduced it and was borne out of a summer long of discussions on how to make the formula more predictable, more simple, more equitable. And in the process, it proposed to eliminate instructional time, teacher education allowance, averaging adjustment, and of course, we had a long, hard discussions in the committee. And in the process a committee amendment came out that reinstated the teacher education allowance bringing out part of it as allowance and part of it as aid. And then the intense lobbying effort began, the likes of which, some have told me, they've never seen. And in this whole process that day that LB407 was introduced, I offered AM1044 which, in my estimation and I still believe, would have sent more money to TEEOSA totally and more money to more school districts. But, of course, it didn't have instructional time allowance nor did it have averaging adjustment. It lost by one vote. There were numerous amendments offered. I don't know for a fact but I'm guessing perhaps that maybe none of those may have had the 25 votes either. But so began the compromise, a week long or at least several days. I didn't like it but I did it. So we heard Senator Mello said, that's one of the things we do in this body, we compromise. We try to build some consensus. And so, this committee of senators included the Education Committee but some others as well. We worked on it all week long, and as a result we reinstated the teacher education allowance. We reinstated the instructional time allowance. We reinstated averaging adjustment taking effect 2014-15. We also added 2 percent additional budget authority for this coming year, 2013-14. The committee was on board. Those senators who sat in Speaker Adams' office for hours were on board, and this body gave your support to it with 42 votes on General File. But guess what? That is not enough. A 20 percent increase for some school districts is not enough. And a 11 percent increase for a school district is not enough. They didn't win enough. They want it all. And so, if you've checked your gadgets, you will see an amendment that's been introduced to LB407. So where's the compromise? I can't do it anymore. I cannot turn my back on the majority of school districts in this state for the benefit of a few that are already getting the bulk of the increase. That is not what I was

Floor Debate  
May 07, 2013

---

sent down here to do and I will not do it. And if you jump on board with this, then you have to ask yourself, who is running this show? Are there 49 senators or there's some people on the other side of the glass. I'm standing here and I'm ready to fight for this compromise in spite of the fact that I don't like it, but I did it and I want to stick with it. [LB195 LB407]

SPEAKER ADAMS: One minute, Senator. [LB195]

SENATOR SULLIVAN: I'm not going to turn my back anymore than I feel like I already have on so many school districts in this state. So at the end of all this, yes, I urge you to support AM1229, but I certainly urge your support for LB407 and the compromise that it represents. Thank you. [LB195 LB407]

SPEAKER ADAMS: Thank you, Senator Sullivan. Senator Harms, you're recognized. [LB195]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of both the amendments and the underlying bill and I would urge you to do this. This is the mainline budget, colleagues. And I know that you're paying a lot of attention to what's taking place here but this is what is really going to drive our system. And I hope that you will be supportive. This is the time to ask your questions. If you don't understand it, make sure you talk to one of the Appropriations Committee members or go over and talk to our Fiscal staff, they're here. That's why they're here is to help us get through this information. I think that this is a good budget, this mainline budget. There's been a lot of give and take, particularly in the Appropriations Committee when we got right down to deciding what direction we wanted to go and what our priorities should be listening to all the bills that we heard in the Appropriations Committee listening to people here about what they thought their issues were, what their concerns were. We tried to incorporate all that the best we can. And as I said earlier, this is not the Appropriations Committee's budget, now. It's our budget. We now take ownership of this together. We need to make sure that we make the right decisions for the right reasons and I would urge you to support these two amendments as well as the bill itself. Thanks, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Harms. Senator Wightman, you're recognized. [LB195]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I, too, rise in support of LB195 through the amendments, AM656 and AM1229. As you've already been told, our committee spent a long time, about...most of the last three and a half to four months in setting this proposed budget that we're bringing to you and this is the primary part of it, LB195. I know the Governor had submitted an increase that would have only been 4.9 percent. As you've been told, our overall budget increase will be 5.2 percent but there were things that were not included in the Governor's budget that we



Floor Debate  
May 07, 2013

---

think are absolutely necessary and that did raise it to the 5.2 percent. Did any of us have things that we probably didn't support? Certainly that was true, I think, of almost all of us that maybe we didn't support certain items of the budget, but it was a vote of the overall committee and a lot of compromise took place in arriving at that position on behalf of all of the members of the Appropriations Committee. So with that, I urge your support for LB195 and the amendments. If you have questions, again I think request answers from the Fiscal staff. And with that, thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Wightman. (Visitors introduced.) Senator Dubas, you are next in the queue. [LB195]

SENATOR DUBAS: Thank you, Mr. Speaker. If Senator Mello would yield to some questions, I'd appreciate it. [LB195]

SPEAKER ADAMS: Senator Mello, would you yield to a question? [LB195]

SENATOR MELLO: Yes. [LB195]

SENATOR DUBAS: Thank you, Senator Mello and thank you to you and your committee for all of your hard work on what we are talking about today and over the course of the next several days. I see under the Secretary of State there are some significant dollars budgeted to deal with the Help America Vote Act and I know there's some changes that will be coming in regards to that particular program. Could you give us some more specifics on why we are now budgeting these kinds of dollars for this project? [LB195]

SENATOR MELLO: I'll do my best, Senator Dubas, and for members if they want to take a look at their blue budget book, page 100, gives a little bit more detail. Ultimately, the Secretary of State is losing federal funds in regards to the implementation of the Help America Vote Act. And for us to continue utilizing the voting tabulation machines that are currently being used statewide, we will have to replace that funding. Now, to some extent, what we've seen before is we have been utilizing cash funds over the last biennium to help deal with the ongoing maintenance of the vote tabulation machinery across the state in an effort to reduce General Fund obligations due to, obviously, the large almost billion dollar budget shortfall we dealt with the last biennium. The Secretary of State's Office ultimately had come in and requested a replacement of those cash funds to ultimately General Funds, which the committee made the decision working out, I would say, a compromise, so to speak, with the Secretary of State's Office of utilizing for the first year partial cash funds from within the Secretary of State's Office for the first year funding partial General Funds. And ultimately, part of the funds that are left available from what Senator Avery's bill, LB97, I'm sorry, LB79, I apologize, that utilizes the Campaign Finance Limitation Act, the Campaign Finance Cash Funds in the Nebraska Accountability and Disclosure Commission. So what we had kind of come to

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

Floor Debate  
May 07, 2013

---

an agreement with the Secretary of State in his budget proposal was that we would fund the total amount over the two years. The first year would be a third essentially General Funds, third cash funds, and a third of the funding comes from NADC. In the second year we'd fund it with full 100 percent General Funds so that becomes a General Fund obligation moving forward. The reason why is that the committee, I think, heard a very overwhelming evidence from the Secretary of State that this needs to be a General Fund obligation if we're going to have vote counting machines whether it's in Boone County or whether it's in Nance County or Douglas County, wherever it may be, they need to be funded. We need to make sure we have uniformity across the state and not rely on, ultimately, try to push the dollar down to the local property taxpayers and their county officials to pay for that machinery. [LB195 LB79]

SENATOR DUBAS: Thank you, Senator Mello, and that's kind of the answer that I was hoping to hear from you. So this will be an ongoing expense, is that correct? [LB195]

SENATOR MELLO: Yes. The \$990,000, the second year of the budget that is 100 percent paid for with General Funds and that \$990,000 is built into their future base for their election administration division. [LB195]

SENATOR DUBAS: And this is to ensure the accuracy and that the machines are all working and that the machines are all uniform across the state, correct? [LB195]

SENATOR MELLO: It's to provide uniformity as well as ensure we have integrity in our election's process in the sense of making sure all 93 counties utilize the same machinery and not let one county machinery break down and they end up doing hand count, hand counting, so to speak, or use some other kind of machinery to count their ballots. It's for uniformity and integrity purposes. [LB195]

SENATOR DUBAS: Again, I appreciate the answer to those questions and I had had a conversation with the Secretary of State's Office probably a couple of years ago where they gave me this, kind of this heads up about what would be happening with the Help America Vote Act. [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR DUBAS: Thank you, Mr. Speaker. And what the requirements would probably be financially coming from the state and if it didn't come from the state, it could potentially have some real financial impacts on our local governments and so to protect the integrity of our election process, it's going to be very important that as a state we step up and make sure that these machines are doing what they're supposed to be doing and that they're all working and that we don't leave any county, no matter their size or location, so to speak, in the lurch when it comes to the election process. So I appreciate Senator Mello's explanation about what's going on with the Help America

Floor Debate  
May 07, 2013

---

Vote Act and this is something that as a legislative body we will have to continue to be very cognizant of and willing to put our financial resources where they're needed. Thank you. [LB195]

SPEAKER ADAMS: Thank you, Senator Dubas. Senator Campbell, you are recognized. [LB195]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. I do want to answer before I go to my questions, I do want to answer Senator McCoy's question with regard to the Health Care Cash Fund. And the money that has been set aside in the Health Care Cash Fund has been used by the Health and Human Services Committee on major studies, not interim studies. And the last time that we used some of these funds, Senator McCoy, was on LR37, the major child welfare review that we did. I think prior to that it might have been used on behavioral health as there were some studies done. But each of the Health and Human Services Committees have very...looked at this as very sparingly because it is meant to look at major studies or major research that needs to be done on the Health and Human Services horizon. So it's not used for our regular interim studies. But my question, if Senator Mello would yield to a question. [LB195]

SPEAKER ADAMS: Senator Mello, would you yield? [LB195]

SENATOR MELLO: Yes. [LB195]

SENATOR CAMPBELL: Senator Mello, as I reviewed the budget, and I want to commend you and the Appropriations Committee. I thought you did an excellent job on the budget, but the question comes, the Department of Insurance is adding 15 FTEs for the federal exchanges and the Department of Health and Human Services is adding 172 to deal with the ACA. My question is, that is a 90-10 split so we're taking the federal dollars primarily to pay for these FTEs. But how do the FTEs then figure in the base budget in years to come? Will we stay at that level? [LB195]

SENATOR MELLO: Senator Campbell, that's a great question and I'll try to do my best to give a little perspective first on the Department of Insurance and ultimately the Department of Health and Human Services. First, the Department of Insurance is a cash-funded agency. So ultimately the Appropriations Committee appropriated roughly, I see here, about \$776,000 in cash funds to match their federal funds they would draw down. They would get 100 percent federal funds the first year for those 15 employees and, ultimately, that is an ongoing expense as long as the state is part, ultimately, of this federal exchange. If the state ultimately at one point in time would obviously choose to move to a state-based exchange or maybe a federal state hybrid exchange, I can imagine the Department of Insurance would come back and maybe request further Appropriation authority for more employees. For the Department of Health and Human Services, you're right, it's a 90-10 split. Ultimately, those employees are covered with

Floor Debate  
May 07, 2013

---

General Funds and federal funds and as long as, once again, those funds for the administration is based on the mandatory components of the affordability...the Affordable Care Act. Nothing to do with LB577 or any other bills in front of the Legislature. It's the mandatory components that the department felt needed these employees moving forward. So as long as the Affordable Care Act is law of the land and this woodwork population that we've had, I think a very lengthy conversation about in previous bills about, continue to be part and moved into the Medicaid system, those employees will be permanent. Ultimately, the increases that the body sees with the Medicaid program based on the mandatory components of the ACA will be part of their ongoing base operation. [LB195 LB577]

SENATOR CAMPBELL: Thank you, Senator Mello. I would just have to say that I would hope the Appropriations Committee would continue to monitor this because at some point, we're going to reach a level in which there is some stability to the number of people coming into the ACA and the federal exchange because the Department of Insurance will review... [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR CAMPBELL: Thank you, Mr. President...will review a number of insurance companies that are already in existence. And so my concern is that the Appropriations Committee watch, maybe not in this biennium, but certainly the next. Do we need 172 employees and 15 at the Department of Insurance? That's really what I would say we need a watchful eye on. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Campbell. Senator Hadley, you're recognized. [LB195]

SENATOR HADLEY: Mr. President and members of the body, I was going to thank Senator Mello and the committee, but you know what, they've been thanked a lot already so we'll pass on that. The one thing I was thinking about is that Senator Heidemann, Senator Mello must wave a magic wand. They get nine to zero votes. If I had a vote in the Revenue Committee that today was Tuesday, it would come out five to three on my committee. Senator Mello, would you yield to a question? [LB195]

SPEAKER ADAMS: Senator Mello, would you yield? [LB195]

SENATOR MELLO: Yes. [LB195]

SENATOR HADLEY: Am I correct that our increase for the universities and state colleges based...is based on the fact that they will freeze tuition the next two years? [LB195]

Floor Debate  
May 07, 2013

---

SENATOR MELLO: That is correct, Senator Hadley. The Appropriations Committee for the university ultimately appropriated a 4 percent, 4 percent General Fund increase both years and for the state colleges a 4.5 percent the first year and 4 percent increase the second year, which ultimately in a negotiation, I really do appreciate and thank the committee members for helping do this. We were able to negotiate a tuition freeze for both institutions or both systems at a lower amount than what was previously proposed in the Governor's budget. [LB195]

SENATOR HADLEY: Well, I really think that's really a great deal for our students going to our higher education institutions. I'm not very good with numbers, but I did run some numbers assuming a 6 percent increase in tuition which has been a pretty common increase. If we have a tuition freeze for the first two years, ten years out a student going to the University of Nebraska system or the state college system will save about 11 percent that year in tuition because of the compounding effect. So this is a significant future savings for all of our students going to the university and state college system. I will say this to the university and state college system, I would guess that myself and the rest of the body will be looking two years from now to see what kind of tuition increase we get two years from now so that we're not sitting there that suddenly we have a huge increase three years out to try and make up for two years of no tuition increases. So I think that's very important to look at. I think we need to significantly look at that. Would Senator Mello yield to another question? [LB195]

SPEAKER ADAMS: Senator Mello, would you yield? [LB195]

SENATOR MELLO: Yes. [LB195]

SENATOR HADLEY: Am I correct, Senator Mello, that the Forecasting Board's 50-some-odd-million increase has been basically put into the Cash Reserve? Is that a correct...? [LB195]

SENATOR MELLO: Senator Hadley, that will be an amendment I bring to the committee amendment in regards to the Cash Reserve of transferring the \$53 million we received in increased revenue projections this biennium and move that to the Cash Reserve for this biennium. That's correct. [LB195]

SENATOR HADLEY: Okay. I will hold my speaking on that, but I do applaud the committee. I think it...someone said when I first came down here, the hard years are when you have money. The easier years sometimes are when you don't have money because you can say no to everybody. I think the hard part of this is going to be not only this, but when we turn around and look at the A bills and the Fiscal notes we have on some of the other bills that will be sitting out there the next 18 days, that will be significant in the decision we make. And I would just appreciate everybody looking at where we're spending money and the increases here in order to look at the fiscal notes

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

Floor Debate  
May 07, 2013

---

and A bills when we look at the bills later. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Hadley. Senator McCoy, you are recognized. [LB195]

SENATOR McCOY: Thank you, Mr. President and members. Would Senator Mello yield, please? [LB195]

SPEAKER ADAMS: Senator Mello, would you yield? [LB195]

SENATOR MELLO: Of course. [LB195]

SENATOR McCOY: Thank you, Senator. I want to go back to a question that seems like it was maybe a week ago, but in reality it was just this morning when you very ably presented members of the Legislature a briefing this morning on the budget, which I very much appreciated and a lot of work went into that by yourself and by legislative Fiscal Office staff and a great number of people. I think Senator Campbell, as I recall, asked a question that would have pertained to page 72, I believe it would be to AM656, on the developmental disability aid. I believe, anyway, that would be where it would fall. And if you wouldn't mind...I know it's been a good number of hours ago, but I think Senator Campbell asked a question about, is there a duplication, if I'm remembering correctly. I just want to make sure I had that answer correctly. Do you recall, Senator, what that question was and if you don't, I'd completely understand. It was the first thing this morning. [LB195]

SENATOR MELLO: I believe Senator Campbell's question was in reference to aid for the waiting list in determination of whether or not that funding was outside of the current appropriation that is made out of the Health Care Cash Fund, which I believe in the Health Care Cash Fund, I just looked at the page number, it says that there's \$5 million each year out of the Health Care Cash Fund for ultimately DD waiting list services. The Appropriations Committee because it's been such a priority of the committee over the last four years and ultimately, Senator Karpisek, Senator Coash, Senator Lathrop brought bills before us before, we continued that process of putting more money in that waiting list with General Funds outside of what has been done over the previous four years and outside of what Senator Campbell asked in regards to the Health Care Cash Fund. [LB195]

SENATOR McCOY: Thank you. Senator, is that...am I looking at the correct place in AM656 to address what you just described or is that program, number 424, is that a different program or area that I ought to be looking at? Because as I read that, part of what we're talking about there would be a bill I think that Senator Lathrop introduced, which would be LB375, at least that would fit on page 72. Am I looking in the right place in AM656 to address what you just described, the DD waiting list? [LB195 LB375]

Floor Debate  
May 07, 2013

---

SENATOR MELLO: You are, Senator McCoy, line 25, through ultimately line 25 to line 27 on page 72, and line 1 through 4 on page 73 appropriates...roughly it's a little less than \$6 million total for the waiting list which we appreciate Senator Lathrop bringing the bill. It was in the committee's preliminary budget prior to his proposal of the bill, but we did take that into consideration knowing it was an issue passionate to him and other members of the committee who served on the special investigative committee for Beatrice. So that is the General Fund increase that we provide are those lines at the bottom of page 72, and at the top of page 73. [LB195]

SENATOR McCOY: And are we meeting the full obligation of the entire waiting list, Senator, or are there still those on the waiting list that won't be served through, ultimately, through AM656 and LB195? [LB195]

SENATOR MELLO: Ultimately, Senator McCoy, not everyone will receive services on the waiting list even with, I would say, our modest attempt to try to increase funding for the waiting list this year. I think the underlying total cost to completely at least on the basis of, I think Senator Lathrop's bill had the Fiscal note, it would roughly take I thought close to \$80 million give or take, \$41 million each year, if I'm not mistaken, to cover the entire waiting list when the bill was introduced. So we tried it to, once again tried to move forward of trying to reducing that list... [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR MELLO: ...as well as providing services to those who had been waiting for a longer period of time on the list. And we know, ultimately, I think the committee in our dialogue realizes we still have more work to do moving forward as a state. [LB195]

SENATOR McCOY: Is there any move, Senator, I mean, did you have discussions as to, should we fund this more fully, I should say, or in a better, more robust way, might be a better way to put it and phrase it in order to further reduce the numbers of those that are still on the waiting list waiting for services? [LB195]

SENATOR MELLO: Senator McCoy, we discussed in the committee in regards to looking at different appropriation amounts for the entire developmental disabilities division. In light of the Governor not putting anything in his budget over the last six years for the DD waiting list, and so it was something that we ultimately had to wrestle with as a committee. Two other issues that we ultimately had to also consider was the change in provider rates as well as the rate methodology study in regards to the DD services. And so in talking... [LB195]

SPEAKER ADAMS: Time, Senators. [LB195]

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

Floor Debate  
May 07, 2013

---

SENATOR MELLO: Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Mr. Clerk, are there messages, motions? [LB195]

CLERK: Mr. President, a bill read on Final Reading earlier today was presented to the Governor at 3:28 (re LB533 and LB533A). Amendments to be printed: Senator Hadley to LB23A; Lautenbaugh to LB198; Krist to LB407; Campbell, LB269A; Coash, LB199; Davis, LB634 and LB634A; Krist, LB195; Price, LB195; McCoy, LB195, Hansen, LB195. I have a name add: Senator McGill would like to add her name to LB505. [LB533 LB533A LB23A LB198 LB407 LB269A LB199 LB634 LB634A LB195 LB505]

And Senator Schumacher would move to adjourn the body, Mr. President, until Wednesday morning at 9:00 a.m.

SPEAKER ADAMS: Members, you have heard the motion to adjourn. All in favor indicate by saying aye. Opposed. We are adjourned.