

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

Floor Debate  
May 15, 2013

---

[LB34 LB66 LB104 LB125 LB140 LB194 LB195 LB196 LB197 LB198 LB199 LB200  
LB216A LB216 LB266 LB308 LB341 LB366A LB366 LB407 LB497 LB503 LB536  
LB556 LB561 LB561A LB563 LB568 LB577 LB583 LB583A LB634 LB634A LR199  
LR200 LR201 LR202 LR203 LR204 LR205 LR206 LR207 LR208 LR209 LR210]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventy-eighth day of the One Hundred Third Legislature, First Session. Our chaplain for the day is Vicar LuRae Hallstrom from the American Lutheran Church in Filley, Nebraska, Senator Watermeier's district. Please rise.

VICAR HALLSTROM: (Prayer offered.)

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

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

SPEAKER ADAMS: Mr. Clerk, are there corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER ADAMS: Any messages, reports, or announcements?

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

SPEAKER ADAMS: We'll now proceed to the first item on the agenda. Mr. Clerk, we'll move to Final Reading. Members, you should return to your seats in preparation for Final Reading. Mr. Clerk, the first bill.

CLERK: Mr. President, the first bill, LB407. I have a motion. Senator Chambers would move to return the bill for a specific amendment. [LB407]

SPEAKER ADAMS: Senator Chambers, you are recognized on your motion. [LB407]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, this is a motion crafted to say return the bill for the purpose of striking the enacting clause. That is not the purpose that I have in mind for putting the motion up there. Senator Lautenbaugh throws hand grenades, then he doesn't show up. But he and his clique

Floor Debate  
May 15, 2013

---

and claque had said they're willing to give me the rest of the session if they refuse to allow a vote to come up on the death penalty bill. On that matter, as soon as they started, I made it clear that they are entitled to take that approach, namely extended debate, and acknowledge that's something that I do myself, but that there can be consequences as a result. Now if a vote had been taken and the bill did not get enough votes to advance, then that's one of the consequences of having a bill that a majority of the senators do not support. So I wanted to clear that up. I have no intention of abandoning my tactic of going all out to stop bills that I don't think ought to pass. This is not one of those bills, but it gives me the opportunity to start my project for the rest of the session. And I will not tell in advance, unless it's somebody that I have a great amount of regard for, what I intend to do with bills or the bill, as in today's case, could have such significance that I would not want anybody to get the impression that I'm opposed to that bill, and some such bills I will not even touch. But, see, it's nice to be the angel of death or the angel of possible death where if you see the right mark above the door, then you pass over. But those in the house cannot detect that door and they will not know until the angel passes over without anything falling on the house. And if you think that I can't tear up a session, I've got some things I'm going to share with you even though Senator Gloor said that you all don't have time to read what I offer you. Well, maybe he doesn't, but there are people who do because some assured me that they do read what I offer. Senator Kintner even referred to some of it as a history lesson, and that doesn't mean he reads all of it. But if somebody publishes a newspaper, how do they know it will be read? The sower went out to sow, didn't know whether any seed would grow but his job was to sow. It doesn't matter what I say right now because I'm not talking about the bill. But I do have a question or two that I was going to put to Senator Lautenbaugh, but he was smart enough to bug out. So let me find somebody else. Is Senator Janssen...he's gone too. (Laughter) Well, Senator McCoy is here. I'd like to ask Senator McCoy a question or two if he would yield. [LB407]

SPEAKER ADAMS: Senator McCoy, would you yield? [LB407]

SENATOR McCOY: I would. [LB407]

SENATOR CHAMBERS: Senator McCoy, do you support LB407? [LB407]

SENATOR McCOY: I do, Senator. I think it's an important piece of our state budget. [LB407]

SENATOR CHAMBERS: And would you vote to return it for a motion to strike the enacting clause whoever offered such a motion? [LB407]

SENATOR McCOY: No, I would not. [LB407]

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

Floor Debate  
May 15, 2013

---

SENATOR CHAMBERS: No, you would not. Are you aware that in that bill, there is funding for programs that might contribute to the early education of children? [LB407]

SENATOR McCOY: Yes, I am aware of that. [LB407]

SENATOR CHAMBERS: Do you support that? [LB407]

SENATOR McCOY: I do. [LB407]

SENATOR CHAMBERS: Tell me why you support early education for children if you don't mind. [LB407]

SENATOR McCOY: Well, Senator, I think it's an important part of what we do with our education system here in our state to prepare the children of Nebraska for the challenges that they're going to face in their lifetimes. [LB407]

SENATOR CHAMBERS: If I had any doubts, you would have just removed them, but I'm in 100 percent lockstep in agreement with what you said. Are you aware that there are programs in schools that provide lunches either free or at reduced rate for children whose families are in such impoverished or near impoverished conditions that they cannot provide adequate lunches and, in some case, a breakfast for their children? Are you aware that such programs exist in the public schools right now? [LB407]

SENATOR McCOY: Yes, Senator, I am aware of that. [LB407]

SENATOR CHAMBERS: Do you support those programs? [LB407]

SENATOR McCOY: I do. [LB407]

SENATOR CHAMBERS: Senator McCoy, are you aware that there are nurses in public schools, elementary schools, and maybe middle schools, maybe even high school? Are you aware of that? [LB407]

SENATOR McCOY: Certainly, Senator. [LB407]

SENATOR CHAMBERS: Why are those nurses there, if you have an opinion? [LB407]

SENATOR McCOY: Well, I think it's to provide for the, hopefully, optimal health and well-being of the students and probably the faculty as well at the schools across our state. [LB407]

SENATOR CHAMBERS: Why should the state be concerned about the health of these children in school and not let their family find some way to take care of that and take

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

Floor Debate  
May 15, 2013

---

that burden off the state? [LB407]

SENATOR McCOY: Well, I think when you have the number of hours that the young people of our state spend in our schools, certainly my children, two of our oldest children go to school, when you have that length of hours, from time to time, children, as do all of us which is why we have a physician here in the Legislature, Senator, when you spend enough hours in one spot, from time to time you may have an ache or a pain or not feel well and need the services of a medical professional. [LB407]

SENATOR CHAMBERS: But the ache or pain that most people feel here on occasion that doctor cannot cure because I...and I refuse to go away. Senator McCoy, those nurses are paid, aren't they? I mean, they're not volunteers. They are... [LB407]

SENATOR McCOY: I don't know the status of all of them, Senator. I would assume that they are all paid. There may be some schools that enjoy the services of volunteers. I don't know the exact answer of that as it applies to all schools across the state, Senator. [LB407]

SENATOR CHAMBERS: But those who are paid would be paid probably out of the school's budget. [LB407]

SENATOR McCOY: I would assume that to be the case, although I don't know the...Senator Sullivan may be a better person to ask that question to, Senator. I would assume that is the case though. [LB407]

SENATOR CHAMBERS: Which children do you think should not be...should not have medical care available to them? [LB407]

SENATOR McCOY: I guess I don't understand the question you're asking. [LB407]

SENATOR CHAMBERS: Are there any categories of children who would need medical care who you think should not have that medical care available to them? [LB407]

SENATOR McCOY: I don't know that that's a question that's able to be answered, Senator. I don't know what...in reference to what you're speaking. [LB407]

SENATOR CHAMBERS: Then let me ask it a different way. Do you think all children who need medical care should have that care available to them? [LB407]

SENATOR McCOY: I don't think that's a question that you can answer in one specific way, Senator. [LB407]

SENATOR CHAMBERS: Well, how many specific ways do you need, and you can take

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

Floor Debate  
May 15, 2013

---

some of my time to give that answer? [LB407]

SENATOR McCOY: Oh, I don't think I need to take any of your time to answer that question in that many ways, Senator. I think that healthcare is important. [LB407]

SENATOR CHAMBERS: Then let me ask it a different way. Let me ask it a different way. [LB407]

SENATOR McCOY: School nurses provide an important function in our schools. [LB407]

SENATOR CHAMBERS: Let me ask it a different way. Are you unsure whether there are some children who should not have access to medical care? You're not...you're unsure whether that would be the case, correct? [LB407]

SENATOR McCOY: I don't know how that applies to FA79, Senator, and to LB407. [LB407]

SENATOR CHAMBERS: But you know how it applies to something else, don't you? [LB407]

SENATOR McCOY: I don't know what something else you're referring to, Senator. [LB407]

SENATOR CHAMBERS: Thank you, Senator McCoy. Members of the Legislature, Senator McCoy is a slippery fish. Everybody else knew where I was going right away and he didn't. I'm talking about LB577 in case you didn't get it. I believe there is no child who needs medical care who should not have it available. I don't have a problem with that because I'm not a moral person or a religious person as some of my colleagues are. Those questions are difficult for them to even understand what is being asked. But because I have not a molecule of religion in me, I don't have to think way down the line and say how am I going to get in trouble if I say all children should have medical care. How...I might get in trouble so I'll just say I don't understand that question. It can't be answered. No matter how I phrase that question, it came to Senator McCoy what I'm talking about. And when a position that a person takes is such that he cannot answer a question based on morality, the answer to which is clear-cut, indicates that he is... [LB407 LB577]

SPEAKER ADAMS: One minute. [LB407]

SENATOR CHAMBERS: ...conscious that his position is wrong, unsupportable, and unjust. And I feel morally superior because I have no problem saying and trying to do everything I can to bring it about that every child, even if you hate adults, every child is

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

Floor Debate  
May 15, 2013

---

entitled to medical care. Those who are for...who are against abortion say it's not the child's fault until the child comes into the world. Senator McCoy would have no problem answering a question about abortion because we're dealing with a fetus, a zygote, or an embryo. But when we have a walking, talking child in pain, he's unsure whether that child... [LB407]

SPEAKER ADAMS: Time, Senator. [LB407]

SENATOR CHAMBERS: ...should have medical care. Thank you, Mr. President. [LB407]

SPEAKER ADAMS: Thank you, Senator Chambers. You are in the queue. [LB407]

SENATOR CHAMBERS: Thank you, Mr. President, and this is right on cue, c-u-e. These are the issues that need to be discussed, and I'm going to discuss it for the rest of the session. You liberated me yesterday. You took from me the only thing that people were hoping would settle me down and make me quiet. I wouldn't even settle down and be quiet while my bill was being discussed. There are bigger fish to fry. There are more important issues to be addressed. And if there is too much moral cowardice on this floor to do it, I will do it. And if I had religion or could be hypocritical enough as my colleagues are to pretend I had religion, I'd be a chaplain every morning and I'd tell you what you ought to do. And some of these preachers try to tell you, but that preacher also knows that any prayer anybody on this floor prays is in vain. It means nothing. It goes no higher than this ceiling. And there are people quoting the Bible trying to justify killing people, depriving children of medical care, and saying the government shouldn't do this or that, yet they want the government to do things for them and their ilk and their kind. If they can pay for the treatment of their children, then they say to Hades with everybody else's children. Which of you all cannot afford to provide medical care for your family in any kind of medical emergency, any kind? And you want sympathy when something happens to you and yours. Well, there are thousands like you and yours out there that you don't care a fig for. And I care about all of them. And some of you will stand on this floor and suggest that I don't care about children. You can vote and shut that nonsensical talk by backing it up with the action that we as a Legislature not only are empowered to do but have an obligation to do. If you don't take seriously your oath as a member of the Legislature, take seriously all of that religious talk you give. Why do you want somebody up here to give prayers in the morning? You don't even come up here for them. I watch you all on my set downstairs. The place is virtually empty. But if I try to change the rule, which I shall, to strike having a chaplain and a prayer, you all will cry to high heaven we need that. You need it for what? Hypocrites. That's what you are. There's a guy you all claim to worship, and he went in the synagogues and called the people hypocrites, called them sons of vipers. Who warned you to flee? And they went right back after him. In the black community, there is one of what I consider the most reprehensible activities that can occur is called playing the dozens where you try to see

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

Floor Debate  
May 15, 2013

---

who can insult somebody's parents the most. You've got a mother and you're going to insult somebody else's mother, and sometimes that has led to killings. Senator Ashford dropped some money out of his pocket. And ordinarily I wouldn't even worry about it, but considering the lack of morality of my colleagues--they won't even give medical care for children--somebody would steal that money that he dropped. They would steal it. You can give... [LB407]

SPEAKER ADAMS: One minute, Senator. [LB407]

SENATOR CHAMBERS: ...health and you deny it. Did you say time, Mr. President? [LB407]

SPEAKER ADAMS: One minute. [LB407]

SENATOR CHAMBERS: Thank you. You will withhold it. You will withhold it. Then you'll boast about it. I could never go from being the Governor's chauffeur to being the Governor's gopher. In case you didn't hear, I'll never go from chauffeur to gopher. You want to get on the fighting side of me, tell me you're going to deny to children what they need. You all can walk down these halls sometime and see your little white children collected around my door wanting to take pictures of me and with me. I'm not like you all. I don't have your complexion. Why don't they cluster around your door? Children know. And you all don't care about these children. You wouldn't give them the time of day anyway. But when it's appropriate, you invoke the fetuses, the embryos... [LB407]

SPEAKER ADAMS: Time, Senator. [LB407]

SENATOR CHAMBERS: ...and the zygotes. Thank you. [LB407]

SPEAKER ADAMS: You're next, Senator. [LB407]

SENATOR CHAMBERS: Is this my last time? [LB407]

SPEAKER ADAMS: Before closing, yes. [LB407]

SENATOR CHAMBERS: Thank you. And I know everybody is breathing a sigh of relief. But I've got bills galore today. I didn't say bills Gloor. I don't want Senator Gloor to take umbrage. I said galore. We're not in a hurry. You all did not care about taking time yesterday, Senator Nelson and others. You like to take a lot of time. You convinced me that that's a good thing. My good friend Senator Bloomfield wanted more time taken. I might stop calling him Johnny Cash and call him Kris Kristofferson. They hung out together--Johnny Cash, Kris Kristofferson--and there were two more. They were called outlaws. And I'm not going to give you their names except one of them was Willie Nelson. Am I right, Senator Bloomfield? Um-hum. Now all you have to do is pick the

Floor Debate  
May 15, 2013

---

fourth one. I gave you three out of four. People think I don't like country music. They think I don't like what they call hillbilly music, bluegrass music. I feel like Ray Charles and Louis Armstrong that there are only two kinds of music--good music and bad music. When it's what people call country music, they play guitars. Somebody might like George Santana, and he can play a guitar. Same instrument that they use when they play country music. If you play the instrument skillfully and well, then it's good music. A concord of sweet sounds, that's what constitutes music. But you're entitled to like what you like and dislike what you dislike. There can be no arguing of taste. But when it comes to what I'm talking about where it's not a matter of taste but a matter of morality, then it's different. I'm sure if Senator McCoy goes to church, he's got a preacher who says morality is not relative. So-called lifeboat morality does not work. The end does not justify the means. And there are people around here who listen to Catholic preachers all the time. You hear that all the time, probably more time than you want to. But you've managed to block it out and tune it out and not apply it to your own life. You all are the ones who pretend to be Christians. And your...the one you worship told me to judge you by your works. He said, Chambers, I'm going to tell you how you know whether somebody is right. A tree is known by the fruit it bears. I say, well, are you talking about trees? He said, Chambers, you're smarter than that. You know I'm talking about people. I say, well, suppose there are people who say they're one thing and they're not another...and they're another? He said they're hypocrites. I said, so there are people who can call you by name and they don't follow what you said and you call them a hypocrite? He said, read more carefully. I asked the question to them, why do you call me lord, Lord, and you don't do what I say? I said, Jesus, you said that? Yes. Well, are you just sharing that with me? Is this a well-kept secret? He said, no. [LB407]

SPEAKER ADAMS: One minute, Senator. [LB407]

SENATOR CHAMBERS: I said, well, where can these people find these words that you uttered to me? He said, have you ever heard of a book that you call the "bible" and Senator Carlson calls the Bible? I said, yes. He said, those words are in that book. I said, you mean those hypocrites on the floor of the Legislature who call themselves Christians can read these words that you put in your book and they carry on like that? He said, uh-huh. I said, well, suppose they go on like that and then the end comes, what's going to happen? He said I'll tell them, depart from me for I know you not. You know why I don't know you? Because you didn't do what I told you to do. And he didn't say what you have to puzzle your way through; what I told you to do. Clearly. So clear that a fool cannot err. I said, so then they have no excuse? He said, that's in the book, too, therefore thou art inexcusable, old man, whoever thou art. [LB407]

SPEAKER ADAMS: Time, Senator. [LB407]

SENATOR CHAMBERS: Thank you, Mr. President. [LB407]

Floor Debate  
May 15, 2013

---

SPEAKER ADAMS: And I believe that was your third time. Senator, there are no others in the queue. You are recognized to close then on your motion. [LB407]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, you may as well gird up the loins of your minds and get ready because I'm going to do more of this. You know what? I kind of see why preachers like to stand up there and tell all these people you're going to hell. You're a wrongdoer. Stop lying, cheating, and stealing. It gives you...but, see, they do it too. They don't even work for a living. At least I work and I don't pretend to be religious. And I tell people if there's any religion that accidentally attached to me, you take it and make use of it. I don't need it. If it's going to make me like the people around here who have got it, I sure don't want to be like them. And then somebody will say, well, they don't have religion. I say, they say they do. I can only go by what they say. Quoting and spouting and stuff about the Bible. And we have the opportunity to provide medical care for those who cannot take care of themselves. What about the strong bearing the infirmities of the weak, Senator Nelson? What about those who have providing for those who have not? I don't know why those things can have so much impact on me who have no religion and none on you who are religious and pray up here every morning or have somebody praying every morning. It's preposterous and it's ridiculous, and I'm not going to stop talking about it. If there's a record kept somewhere, I'll stand by what I say and I'll be judged by my record. And if there is what you all talk about, I don't really have anything to fear because you don't fear it and you say you believe this stuff. Here's how you can make me straighten up and fly right according to your standards. Give me a vote on LB577. That's what I'm saying. That's what I'm asking. I'm asking that we minister to the sick, to all of the children. Senator Carlson tried to foul up my bill because he's worried about the unborn. I say to Senator Carlson and his buddies, worry about the born. Show me the concern about the born, Senator Carlson. You stand up here and help me get your Christian brothers and sisters to be worried about the born, like Senator McCoy and Janssen and the rest of these politicians talk about worrying about the unborn. You know why you worry about the unborn? Because you don't have to feed them. You don't have to give them medical care. You can spout and yap and not back it up with action. You should be ashamed to talk about the unborn and the children who are here. I see Senator Hansen looking at me. He's concerned about the unborn, all of them. If I brought a bill to say let's take care of the unborn, you know I'd get more votes than on any other issue. But the born? Forget them. Next time somebody stands up here talking about the unborn, I'm going to jump right into the discussion, too, and say let's talk about the born. You want to say that a human being exists from the point of conception. Aren't human beings entitled... [LB407 LB577]

SPEAKER ADAMS: One minute, Senator. [LB407]

SENATOR CHAMBERS: ...to medical care? Well, if at the point of conception you see a human being, what about these little tots running around here? Runny noses, torn

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

Floor Debate  
May 15, 2013

---

clothes, shoes with holes in them if they've got shoes. And you don't care. You religious hypocrites. That's what you are. Nothing but heartless hypocrites whose consciences are seared. You cannot counteract what I'm saying today, can you? You can't stand up and say Senator Chambers is lying because you know I'm telling the truth, and from your "bible," your Christ, your god, your dogma, your creed, whatever you call it. And it doesn't affect your conduct, so how's it going to affect me? [LB407]

SPEAKER ADAMS: Time, Senator. [LB407]

SENATOR CHAMBERS: And, Mr. President, I would withdraw that motion. [LB407]

SPEAKER ADAMS: So ordered. (Doctor of the day introduced.) 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. [LB407]

CLERK: 42 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB407]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB407]

CLERK: (Read title of LB407.) [LB407]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB407 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB407]

CLERK: (Record vote read, Legislative Journal page 1366.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB407]

SPEAKER ADAMS: LB407 passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB407. [LB407]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Continuing with the agenda, Mr. Clerk.

CLERK: Mr. President, Select File. Senator Murante, LB341. I do have Enrollment and Review amendments, Senator. (ER54, Legislative Journal page 990.) [LB341]

SENATOR GLOOR: Senator Murante for a motion. [LB341]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB341]

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

Floor Debate  
May 15, 2013

---

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB341. All those in favor say aye. All opposed say nay. The amendments are adopted. [LB341]

CLERK: Senator Wightman would move to amend with AM1161. (Legislative Journal page 1163.) [LB341]

SENATOR GLOOR: Senator Wightman, you are recognized to open on your amendment. [LB341]

SENATOR WIGHTMAN: Thank you, Mr. President. Good morning, members. AM1161 is a technical amendment intended to clarify that the issuance fee for a tax sale certificate is included within the costs that must be paid by a property owner, occupant, or lienholder to redeem the property. Under existing law, these costs include the delinquent taxes shown on the certificate, including accrued interest and any taxes subsequently paid, including accrued interest. AM1161 enumerates these costs and adds an issuance fee as a specific item that must be paid by the property owner, occupant, or lienholder to redeem the delinquent taxes. When payment of these costs has been received by the county treasurer and the tax sale certificate holder has returned the certificate, the costs are paid to the holder of the certificate. Thus the holder of the certificate is refunded the issuance fee. Likewise, the issuance fee is also refundable to the certificate holder pursuant to a decree of foreclosure. If the tax sale certificate is assigned, the assignment fee is not included within the cost of redemption. This cost was not under the control of the property owner. So I would urge you to adopt AM1161 and advance LB341. Thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senator Wightman. Members, you've heard the opening on the amendment to LB341. Are there senators wishing to be recognized? Senator Chambers, you are recognized. [LB341]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I support Senator Wightman's amendment. I support Senator Wightman's bill. But before I discuss some things that I want to discuss, I'd like to ask Senator Wightman a question, if he's willing to answer. [LB341]

SENATOR GLOOR: Senator Wightman, would you yield? [LB341]

SENATOR WIGHTMAN: Yes. [LB341]

SENATOR CHAMBERS: And this question...this answer by Senator Wightman might lead me to ask another question or two. Senator Wightman, have you ever heard of a guy called Mentor Graham? [LB341]

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

Floor Debate  
May 15, 2013

---

SENATOR WIGHTMAN: Give me the name again. Mentor...? [LB341]

SENATOR CHAMBERS: Mentor Graham. [LB341]

SENATOR WIGHTMAN: It seems like I have, but I couldn't tell you... [LB341]

SENATOR CHAMBERS: Think about Abraham Lincoln. [LB341]

SENATOR WIGHTMAN: Okay. [LB341]

SENATOR CHAMBERS: Okay. Now Abraham Lincoln was a person who didn't have much formal schooling, would you agree? [LB341]

SENATOR WIGHTMAN: I would agree. [LB341]

SENATOR CHAMBERS: But he did a lot of reading, a lot of listening. And if you would read the things that he writes, you'd never know that he didn't have one of the topflight educations. Could you agree with that statement? [LB341]

SENATOR WIGHTMAN: I would agree with you. I think he maybe had about as high an IQ as anybody could have. [LB341]

SENATOR CHAMBERS: And do you think that this could be used, if it were to be used in the schools, not only to show that Abraham Lincoln did various things that most children are taught, but that a person whose mind is active will take advantage of books that may be available in libraries and other places and do some self-educating, perhaps more could be achieved than in a classroom if a person is just there because he or she has to be there? [LB341]

SENATOR WIGHTMAN: I agree that could be the case. [LB341]

SENATOR CHAMBERS: Thank you, Senator Wightman. Members of the Legislature, Senator Wightman and I have been in the world a long time, so we know what we're talking about. You don't need to have somebody telling you what you need to know. But because people are not self-starters, you need schools. Not everybody knows how even if he or she is going to undertake a course of study, how to arrange and organize the subjects that will be studied so that there will be a coherence and a value to it so you don't come away with just a lot of miscellaneous facts like you might find in the newspaper. You can get all the information you want out of the newspaper, but you cannot get an education by reading the newspaper. You cannot get ideas discussed at any length or to any depth, because that is not the role of newspapers. The role of newspapers is to sell newspapers. If they think that an approach they're taking is not

Floor Debate  
May 15, 2013

---

going to sell as many papers as if they took a different approach, they would take a different approach. So merely presenting the news is not the primary goal. When a bill of the kind that Senator Wightman is offering here today is presented, it's an opportunity for us to all improve our education, because it's a subject that nobody voluntarily would give time to paying attention to. But since we're going to be here anyway, why not learn what there is to be taught to us by our colleagues who are better informed? You know why I'm taking this approach on Senator Wightman's bill? To show you why you need to stop condemning these kids when they sit in a classroom and don't pay attention to the teacher. Now you all are experienced and you don't pay attention. You don't learn when the opportunity is presented. So leave these children alone. Hey, teacher, leave them kids alone. Why? [LB341]

SENATOR GLOOR: One minute. [LB341]

SENATOR CHAMBERS: We're only just another brick in the wall. Teacher, leave them kids alone. Be an example. Learn as much as you can about as many things as you can. And if you present yourself to a child through knowledge, which can be conveyed through storytelling, then you will ignite something in that child's brain. I call it an itch in the brain that can only be scratched by knowledge. And I like to give object lessons to my colleagues and other adults. The ones who preach in church, I would--when I used to go to church--I'd have these thoughts, but I was such an obedient child I wouldn't think of second-guessing an adult out loud. But in my mind,... [LB341]

SENATOR GLOOR: Time, Senator. [LB341]

SENATOR CHAMBERS: Thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Schumacher, you are recognized. [LB341]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Would Senator Wightman yield to a question? [LB341]

SENATOR GLOOR: Senator Wightman, would you yield? [LB341]

SENATOR WIGHTMAN: Yes. [LB341]

SENATOR SCHUMACHER: Senator, how much is this fee that we are seeking to have the taxpayer reimburse? Is that 10 or 20 bucks? [LB341]

SENATOR WIGHTMAN: I didn't hear you. [LB341]

SENATOR SCHUMACHER: How much is the fee that we are seeking to have the

Floor Debate  
May 15, 2013

---

taxpayer reimbursed to the tax certificate purchaser? [LB341]

SENATOR WIGHTMAN: I think about \$25. [LB341]

SENATOR SCHUMACHER: Okay. Thank you, Senator Wightman. The tax sale process, this is what happens: If you don't pay your taxes, they sell a certificate to an investor. And then the investor sits on the certificate for three or four years while the clock ticks off a statutory required period of time. During that time the tax sale investor or...yes, tax sale investor is collecting 14 percent interest--14 percent in this market. Big interest. That tax sale, in almost all cases, is secured by real estate. So it's a pretty secure and pretty good investment. Nobody in their right mind voluntarily is paying the 14 percent. This 14 percent hits folks who are poor, who are not bright enough to figure out what is going on, who for some reason or another can't go down to the local bank to get the thing refinanced, for whatever reason it might be. So after this tax sale investor gets this outrageous interest rate of 14 percent, we want to give them another 25 bucks just for being charitable? I think they've got enough at 14 percent. Thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Chambers, you're recognized. [LB341]

SENATOR CHAMBERS: Thank you, Mr. President. And Senator Schumacher raised himself above the horizon, so I'd like to ask him a question or two. [LB341]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB341]

SENATOR SCHUMACHER: Yes, I will. [LB341]

SENATOR CHAMBERS: Senator Schumacher, it's very clear that you understand very well what this bill does. But in case anybody missed it, what does this bill do in the context of what you've just discussed and do you agree with it? [LB341]

SENATOR SCHUMACHER: As I understand it, when the tax sale is paid off for the person to redeem their property and get it back out from under the tax burden, they've got to pay off the taxes to the person who purchased the tax sale certificate. They've got to pay them 14 percent interest for the whatever, two, three, four years that they held it, and this little amendment says, oh by the way, the fee that the tax sale purchaser had to pay to get this certificate in the beginning, we're going to ask them to reimburse that last \$20 or \$25 too. The 14 percent is clearly out of the market range. The people that are affected are either not bright enough or not able to get a loan, because nobody is going to pay 14 percent voluntarily--knowingly, voluntarily. And we're now basically asking them to throw in an extra 25 bucks to make the person who bought the tax sale certificate reimbursed for the initial \$25 fee they paid. [LB341]

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

Floor Debate  
May 15, 2013

---

SENATOR CHAMBERS: So to whom will that \$25 go? [LB341]

SENATOR SCHUMACHER: As I understand, it'll go back to the guy who got the 14 percent interest. [LB341]

SENATOR CHAMBERS: So he gets that 14 percent, and then on top of that this \$25 that this amendment is offering. [LB341]

SENATOR SCHUMACHER: The cherry on top of the cake. [LB341]

SENATOR CHAMBERS: Thank you. Now, with that explanation, I'd like to ask Senator Wightman a question. [LB341]

SENATOR GLOOR: Senator Wightman, would you yield? [LB341]

SENATOR WIGHTMAN: I will. [LB341]

SENATOR CHAMBERS: Senator Wightman, this amendment was not obviously...this amendment was not a part of the bill that we had discussed up to this point. Is that correct? [LB341]

SENATOR WIGHTMAN: That is correct. [LB341]

SENATOR CHAMBERS: Who requested this particular amendment? Because as I said, your underlying bill I'm not going to mess with. I'm surprised Senator Lautenbaugh who was upset about a 14 percent amount on something else is not all over this, but he's not. Who requested this particular amendment? [LB341]

SENATOR WIGHTMAN: The county officials did. [LB341]

SENATOR CHAMBERS: Well, why would they have an interest in this person getting an additional \$25? [LB341]

SENATOR WIGHTMAN: First of all, because they sell the property, the county officials, in order to get the tax money for schools and for people who share in the property tax, would be schools; cities, primarily; and counties. And so they have an interest in being able to sell them. I'll agree that in many instances, if you were talking about \$10,000 or \$2,000 or \$3,000 taxes, that it would not be that big an issue. But when you're talking about some taxes on homes in small towns where the people are gone, nobody will buy that tax sale certificate, in some instances; and they really want to sell them and to be able to reimburse them for the costs so that it's more likely that it be sold and the county doesn't have to take the property and then sell it on its own. [LB341]

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

Floor Debate  
May 15, 2013

---

SENATOR CHAMBERS: Now, Senator Wightman, I have a motion pending on your bill, because this amendment I could not offer a motion on the amendment. But there can be an attempt to defeat the amendment. Are you tied to this amendment to the same extent that you're tied to the underlying bill? [LB341]

SENATOR WIGHTMAN: Well, probably not. But I think what the county is attempting to do is get all of those... [LB341]

SENATOR GLOOR: One minute. [LB341]

SENATOR WIGHTMAN: ...expenses that were paid...one minute? [LB341]

SENATOR GLOOR: One minute. [LB341]

SENATOR WIGHTMAN: Thank you...to get all of those that were tied to the sale of this bill up for reimbursement, and this is necessary for that effect. And apparently, it was not noticed on General File. [LB341]

SENATOR CHAMBERS: I will turn on my light. Thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senator Chambers and Senator Wightman. And Senator Wightman, you are next in the queue. [LB341]

SENATOR WIGHTMAN: Well, basically I was just going to say what I said in response to Senator Chambers' questions. This is far more for small tax sale certificates that probably would not sell, and the county wants to sell as many of them as they can. If they can't reimburse the people on these smaller ones, people are not going to be willing to buy them or not as likely to be willing to buy them. And so it is important, in my opinion and in the opinion of county officials, that they increase the number of sales as much as they can. We've had bills earlier in this session with regard to the county taking over these and having to...or not being able to recover their money. There was one with regard to Omaha, I know...or Douglas County, that this is the case on. So all of these bills don't...all of these tax sale certificates do not sell. There are these small ones that do not, and the county would like to sell as many of those as possible. I know that 14 percent sounds like a lot of money, but I don't think that this bill is the best chance of doing that. And I know that Senator Schumacher has, in the past, attempted to have bills passed that got rid of the 14 percent, and I don't know that I would oppose that. But I'm not sure this is the place to do that. Thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senator Wightman. Senator Chambers, you're recognized. This is your third time, Senator. [LB341]

Floor Debate  
May 15, 2013

---

SENATOR CHAMBERS: Thank you, Mr. President. Senator Wightman, I'm talking about the amendment. Now this bill is on Select File. Do you think the county people did not know what this bill...I'm talking about the underlying bill now, because as I started, I said your underlying bill I don't have a problem with. Why didn't the county have this put in the bill initially, or did it occur to them, hey, here's something we can just...well, why? Why did they just now come up with it? [LB341]

SENATOR WIGHTMAN: I think they just left it out, not intentionally but unintentionally, and didn't realize that they weren't allowing the purchaser of the tax sale certificate to recover all of his costs. And as I said earlier, if there's an assignment by the purchaser of that tax sale certificate, they're not asking that that be included. They're only asking that what was originally geared to the tax sale certificate itself should be reimbursed. [LB341]

SENATOR CHAMBERS: Thank you, Mr. President. And Senator Wightman, I would support your bill as I supported it before, but I won't support it with this amendment. And this is not a part of my time-taking effort, and I tried to alert the body to the fact that this could be a learning experience, that there is a very important idea embodied in this bill; but people won't pay attention to it. But I'm paying attention to it. And you won't understand why I would fight the bill if this amendment is attached. Ordinarily, it makes me no difference. But we're reaching the point now where we ought to start paying attention to these bills. And when legitimate issues are raised, if you support the amendment, support it because you support it and not just because it's on a bill that has made its way to Select File. I will stop here, but I wish Senator Wightman would reconsider offering this amendment. Thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Murante, you're next in the queue. [LB341]

SENATOR MURANTE: Thank you, Mr. President. I'll yield my time to Senator Lautenbaugh. [LB341]

SENATOR GLOOR: Senator Lautenbaugh, 4 minutes 54 seconds. [LB341]

SENATOR LAUTENBAUGH: Thank you, Senator Murante. I'm sure this is a great bill and I was looking forward to voting for the amendment and the bill, in short order. Senator Murante has done something that I'm famous for doing from time to time, which is yielding time to someone who is not expecting it and really has nothing whatsoever to say or contribute at this point, so. But I'm undeterred by that and I'll forge on ahead. I'm in a good mood today, and that's great, because were I in a bad mood and I'd been here for the start of the day, I could have been offended at some points. And I'm not. I'll be the last person to say much about religion unless Senators Carlson and Chambers are using me as an example of some sort of back and forth. I remember Senator Kruse

Floor Debate  
May 15, 2013

---

was so excited when I came to the body to have another Methodist in the fold, until he got to know me and then it was just, well, oh well. I didn't like his bow ties either, so we just agreed to disagree. And that carries on to this day, just not with Senator Kruse, so. I do have a problem though with some of the things that are said sometimes in here, when we're told that we're accused...we're just accused of listening to people outside the glass or just having positions that are morally wrong. Sometimes we just disagree. And I can think of a bill that was referenced earlier this morning that we just disagreed upon; and I did not support and still don't support and won't support, to be clear. And it doesn't mean that I was listening to someone outside the glass. Quite the opposite. The people outside the glass were way on the other side of this one as a group. But an article came around just yesterday that talked about how the objective of what that bill sought to accomplish could have been accomplished much more cheaply in a different way, and we're just supposed to look away from that. And what we're told all the time is that we can't be adequately pro-life if we don't favor doing everything for children. I guess if I don't favor having a health insurance policy that's mandatory with a very low deductible, then I should just favor repealing child abuse laws and making murdering children legal, because if I'm not willing to do everything you want me to do for children and everything you think I should do for children, then I shouldn't do anything for children ever; because some of you cannot concede that it is possible for people to just disagree. That's not possible. The people you disagree with are either morally wrong or have just been bought off by people outside the glass; and that is not the case. As the old song goes, to emulate a friend of mine and quote a song lyric, "There ain't no good guy, there ain't no bad guy, there's only you and me and we just disagree." But you're not necessarily being told to disagree with me by someone outside the glass and I'm not being told to disagree with you by someone outside the glass, and I'm no less pro-life because I don't want to spend an extra billion dollars on education or because I don't want to spend an extra billion dollars on something you might want to spend it on. We disagree on what should be done. I'm not a cradle to the grave kind of guy. But I do tend to worry about the cradle and before the cradle, and I don't apologize for that and I don't shrink from it. So on balance, I guess I had something to say after all. So thank you, Senator Murante, for the time. [LB341]

SENATOR GLOOR: Thank you, Senator Murante and Senator Lautenbaugh. Senator Schumacher, you are recognized. [LB341]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Very rarely is there a tax sale certificate for less than 100 bucks, and those things usually have three or four years on them. So even if it were for just 100 bucks, times three or four years, you have 14 percent times four times the \$100, you're well over a \$20 or \$25 fee. That tax sale investor is getting great plenty on interest. And in the typical case, on a poor person's house where it might be \$500 or more a year taxes, all of a sudden that person, for whatever reason or another, who had neglected their taxes, gets a letter from some investor, chances are out of state. And that investor says, I'm selling your

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

Floor Debate  
May 15, 2013

---

house and you better come up with money within the next, I think it's 90 days, or you're out of there, buddy. And that poor person wakes up, maybe he should of woke before, but maybe he couldn't and is now under the gun to go down to a bank to file an application for a loan, or maybe two or three banks, to go through all the hassle and all the expense of loan origination fees or filing fees for a new mortgage, or maybe taking off work in order to get the mortgage to pay off those taxes; and he's paying a premium in interest to this out-of-state investor, in many cases. And then we're asking him, oh, by the way, would you reimburse that investor the 25 bucks or 20 bucks, whatever it is? Don't think it's fair. This is just simply pushing it too much. If we were paying market interest at 4 or 5 percent and that's what the investor was getting, I'd say, yeah, let them have the 25 bucks. But this is a gravy train on this 14 percent. It's something we should address at some point. There is no bill before us this year to address it, but it is clearly there's no lack of investors for these certificates. Their payback is extremely good. And at some point you say, you know, do we need to jab somebody that's down for an extra 25 bucks? Thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Wightman, you are recognized. This is your third time before closing, Senator. [LB341]

SENATOR WIGHTMAN: Thank you, Mr. President. We have visited with that. We will withdraw AM1161. [LB341]

SENATOR GLOOR: Seeing no objection, so ordered. Mr. Clerk. [LB341]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB341]

SENATOR GLOOR: Senator Kintner, you are recognized. [LB341]

SENATOR KINTNER: Okay, thank you, Mr. President. Senator Schumacher, may I ask you some questions? Will you yield? [LB341]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB341]

SENATOR SCHUMACHER: I will. [LB341]

SENATOR KINTNER: So if I understand this right, I'm going to kind of have you walk me through it very slowly. I've got no experience in this at all. So you have someone who doesn't pay their taxes, and...right? [LB341]

SENATOR SCHUMACHER: Right. [LB341]

SENATOR KINTNER: There is a tax sale certificate. How does that work? How is that generated? [LB341]

Floor Debate  
May 15, 2013

---

SENATOR SCHUMACHER: Okay. Real quickly, because basically, don't pay your taxes. The county treasurer runs a thing in the paper saying I've got a whole list of people who didn't pay their taxes and I'm going to give certificates out through various processes to people who pay those taxes. If they come in...if a person comes in through this process, pays the tax, they get a certificate saying that they own the tax. At the time they're issued that certificate, I think they must pay the 20 or 25 bucks. Then what happens is the person holding that certificate, it's like a note, they get 14 percent interest on whatever that tax is, and that...they've got to hold on to that for a maturity period of, I think it's right around three years. Then once that hold-on period finishes, they go out and they find the homeowner or the property owner and they say, okay, pay me off what I paid for these taxes plus the 14 percent interest. [LB341]

SENATOR KINTNER: If they do not pay; the next procedure, what happens next, is what? [LB341]

SENATOR SCHUMACHER: There are I think two routes that are still in the law as to what happens. The person holding the tax sale certificate can cash out and go to the county treasurer and get a deed to the property. There are problems sometimes with that because that deed may or may not be a clean title deed that a title company will insure. Or they can take it through a foreclosure action and get their money that way. Lots of times, if there's a first mortgage on the property that's held by a bank, the bank will pay off the tax sale certificate holder in order to be able to deal with the debtor themselves on the original first mortgage. But whatever way, the county has got his money up out-front. [LB341]

SENATOR KINTNER: Okay. Is there a secondary market for these? Once you have bought one, is there a secondary market you can sell it on? [LB341]

SENATOR SCHUMACHER: You don't...I don't know, but I think they are assignable; so I assume that if somebody could figure out how to develop a secondary market, if they haven't, they could. Fourteen percent is a hot item. [LB341]

SENATOR KINTNER: Thank you, Senator Schumacher. I hope I'm not the only one that had questions. I hope there were other people that were asking the same questions. And thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senator Kintner. (Visitors introduced.) Returning to discussion, Senator Chambers, you're recognized. [LB341]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I want to thank Senator Wightman for pulling the amendment. That can be attempted on a separate bill and then we can just deal with it in that way, and the 14 percent interest

Floor Debate  
May 15, 2013

---

can be dealt with. Any one of these other things that has been discussed can be dealt with. And I want to thank Senator Schumacher--he would make a good teacher or preacher--for explaining that for the fourth time. I listened the first time. But what happens with a lot of people who will get that notice from the one holding the certificate that you need to check with whomever you check with to see what taxes you owe and pay these taxes within a certain number of days or your property is going to be sold. And maybe the one holding the certificate has no interest in selling it, really, at that point, because what they do, they collect as many of these as they can wherever they can. There are some companies who operate on a national basis. And when you do it on a large scale, if some of them don't pay you, you're not losing anything, because most of them will. Most people who have a house and in some cases they don't realize that they're behind on these taxes. And as Senator Schumacher said, that clock is ticking and that's to give the homeowner time to settle this up. But after a certain amount of time, then foreclosure can legitimately be threatened by the holder of the certificate, whether there will be a foreclosure or not. And for people who are not knowledgeable about what might be available, they're going to do everything they can to deal with that person or go down to the county and pay. But if you pay your taxes to the county, you pay the interest when you pay your back taxes. So that guy holding the certificate doesn't have to do anything other than get that certificate, hold it, and have somebody in the office put a little alarm on each one of these certificates. And when they hear all these little alarms going off, they track down to where the alarm is and they see that this certificate is now ripe for action against the homeowner; and usually that takes the form of a threat. And if a person can find any way to redeem or pay off those taxes, plus the interest, that's what the person will do. Members of the Legislature, I wish you all would listen to what I tell you, but I know you don't like what I say. So much of the time, you don't want to hear any of it. I try to tip you off in advance and you don't pay attention. And you don't pay attention. I said, and I'll say it again, that learning experiences are available, that Senator Wightman is presenting something that can teach us all something if we pay attention. And people didn't pay attention. Senator Kintner didn't pay attention. But here's what Senator Kintner said that was true and correct: There were probably others asking the same questions that he had in his mind. And at least he was willing to ask the question. He had that intellectual itch, that itch on the brain that could be scratched only with knowledge, and he went to the person who had the knowledge and asked him. Fortunately, among our number, are people with knowledge and they're willing to share it. And if we don't get it the first time, we can ask follow-up questions. And we can approach it any way we need to, to try to get that person to make clear what he or she is saying or to answer so that we understand what is being said. [LB341]

SENATOR GLOOR: One minute. [LB341]

SENATOR CHAMBERS: These kind of bodies, meaning legislative bodies, are places where we do debate, and sometimes just ramble and wrangle; but that's to be expected.

Floor Debate  
May 15, 2013

---

But also if you took all of the knowledge that people have here, collectively, and put it together and organized it, you could probably come up with several volumes of usable information. Mr. President, I spoke on the amendment before, right? [LB341]

SENATOR GLOOR: Correct. [LB341]

SENATOR CHAMBERS: Okay. [LB341]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Nelson, you are recognized. [LB341]

SENATOR NELSON: Thank you, Mr. President and members of the body. I'd like to ask Senator Wightman a question or two, if he will yield? [LB341]

SENATOR GLOOR: Senator Wightman, would you yield? [LB341]

SENATOR WIGHTMAN: Certainly. [LB341]

SENATOR NELSON: Thank you, Senator Wightman. Could you just review for us the bill itself, why this was brought and the necessity and what we're achieving here with the basic bill? [LB341]

SENATOR WIGHTMAN: Well, the basic bill changed the provisions with regard to tax sale certificates. And many of the buyers of these were buying them and then cutting down the interest they took in the real estate because they were far more interested in collecting the money from the taxpayer, which most of them do pay off. And that was creating problems for them, so they eliminated...they're eliminating the provision that you aren't buying the entire right to the property; that you could use that as a bidding process. [LB341]

SENATOR NELSON: Okay. So this made the process a little more fair? [LB341]

SENATOR WIGHTMAN: That was their feeling. [LB341]

SENATOR NELSON: Okay. There's some risks, these investors that are buying up these certificates of sale. I mean, it's not a free ride. They are taking on some risk. Could you just discuss some of those? [LB341]

SENATOR WIGHTMAN: Well, certainly some of those people do never pay. The big problem is with the small tax sale certificates. If they are very small, and Senator Chambers mentioned that, that some of them would be \$100. I guess that was also mentioned by Senator Schumacher. Some of them are not sold and not able to be sold, and then the county ends up...and we had a bill earlier this session on that, in which the

Floor Debate  
May 15, 2013

---

counties weren't able to sell them and what to do with that real estate. And there will probably be a few across the state that won't be sold because of the amendment not being included. [LB341]

SENATOR NELSON: But the purpose...the concept here is to get the tax money in for the county, so...and in some instances, with absentee property owners, you've got problems with deterioration and things of that sort. Doesn't every taxpayer, every property owner, don't they receive an annual notice of the taxes that they owe? [LB341]

SENATOR WIGHTMAN: As far as I know, every county does that. I think they have to do that. In our county, I think sometimes that's only received once, and then two and three years can go by and they never receive another notice. Now, it's a little hard for me to believe that the owner of that property doesn't realize that those taxes haven't been paid, but I suppose that argument could be made. [LB341]

SENATOR NELSON: Well, it's not just from the investor. I mean, when the time comes that foreclosure could be imposed, isn't there a notice from the county, as well, that you're in jeopardy of having the property sold; do you know? [LB341]

SENATOR WIGHTMAN: I do not believe that's true unless they continue to hold it. I think that's all with regard to the owner of the tax sale certificate. [LB341]

SENATOR NELSON: Okay. But the burden is still on the taxpayer to be aware of the fact that they know that taxes are owed and that somehow they're going to be paid. So maybe it comes as a surprise to them when they do get a notice, after being delinquent for a whole number of years, that something is going to have to be done at that point. [LB341]

SENATOR WIGHTMAN: That's correct. [LB341]

SENATOR NELSON: Okay. I support the bill. I probably would have supported the amendment, but that's been withdrawn; but thank you for your answers to these questions for our information. [LB341]

SENATOR WIGHTMAN: Thank you. [LB341]

SENATOR NELSON: Thank you, Senator Wightman. Thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senators Nelson and Wightman. Senator Chambers, you are recognized. [LB341]

SENATOR CHAMBERS: Mr. President, members of the Legislature, on this bill I think

Floor Debate  
May 15, 2013

---

the discussion has been very productive. And one reason I like us to ask these questions, I found out there are people who watch what we do here. They pay attention. And somebody could have had that very problem pending or hanging over his or her head, or knows somebody with that problem. So this information of the kind that was developed for the record this morning went beyond this room. So if other members of the Legislature did not listen, those words were not spoken in vain; and you saw that other senators besides myself got into the discussion. But had I said what Senator Schumacher said--Senator Schumacher pays attention to everything too--it wouldn't have carried any weight because you don't listen to me. However, I do want to thank Senator Schumacher again for presenting the information and I want to thank Senator Wightman for withdrawing the amendment. And maybe this will let some of those county officials and others who think that, for the females in the body, that we're the handmaidens, and for the males in the body, we're the water carriers. And all they have to do is pop the finger and summon us, and at any time of the day or night they say this is something I want you to present, and we present it. They have to know that that's not going to be the case. There are constituents we have who bring bills, ask us to bring bills that are utterly nonsensical, and we have to tell them that is not what the Legislature is about. We have to learn how to say no. No. And senators should stop bringing this kind of bad legislation, then telling the committee I had to bring it because a constituent brought it to me but don't do anything with it. You didn't have to bring it. Let your constituents become aware that you're going to exercise judgment and you are not a taxicab where you have to accept every fare. You don't have to do that. But you make work for people such as myself--and maybe that's what you want to do and I shouldn't tell you--who will take our job seriously and deal with this stuff in committee, or if it makes it to the floor, and say this should not happen. I am pleased that that veto the Governor handed down the other day was so quickly and thoroughly overridden. I didn't say anything because it was unnecessary. But had I said something, I would have pointed out that this goes to the integrity of the Legislature as an institution. That bill had been thoroughly discussed and hashed out. It dealt with a matter that could not be left untouched. The Governor can veto it and then blame the Legislature because he could simply say I don't enact bills; it was their job. But even if it wasn't your intent, you upheld the integrity and dignity of the Legislature as an institution, and I think that was very good. And I don't know if it was mentioned in any newspaper articles in that way, because remember, reporters--or if you never thought of it, I won't say remember--listen, reporters are not interested in dealing with the kind of matters that we think are important. They're interested in doing what the editor wants so that newspapers will be sold. Headlines are written. There are some reporters, however, who are more capable than others, and they do develop a background... [LB341]

SENATOR GLOOR: One minute. [LB341]

SENATOR CHAMBERS: ...to an action by the Legislature; will bring in other matters that bear on it that didn't occur just during this session of the Legislature. So in the same

Floor Debate  
May 15, 2013

---

way that Procrustes bed, because a Procrustes can be made to fit....make everybody fit it, one size does not fit all, whether it's reporters, preachers, or even legislators...and Senator Lautenbaugh is gone again. Is that my third or second time? [LB341]

SENATOR GLOOR: It's the second time, Senator. [LB341]

SENATOR CHAMBERS: Thank you. [LB341]

SENATOR GLOOR: Thank you, Senator Chambers. And Senator Chambers, you're next in the queue. [LB341]

SENATOR CHAMBERS: Now, Mr. President, I'm speaking...or talking. I was speaking before, now I am talking. I am expatiating free. Check it...in the old days they'd say look it up in your Funk and Wagnalls. . That was an encyclopedia set. That was not a bad word. Google it, whatever that means. That's what everybody says. Senator Lautenbaugh made some comments. He always exaggerates. "Because I don't give a billion dollars to children." Who asked for a billion dollars? If that's what he has to say to make his point, he's got no point. "Because I won't give a billion dollars to education, then I should repeal all child abuse laws and all laws against murder." What kind of nonsense is that from a lawyer? And he's gone, but he's listening somewhere. And even if he's not, this will help others and prevent them from making such outlandish, silly statements about a matter which when he stands up and says I'm profoundly ignorant of it, but I'm going to talk anyway. Brothers and sisters, I make hats. Unless I call you by name, I just throw the hat out there and if you pick it up and it fits your head, then don't tell anybody it fits your head. I didn't name Senator Lautenbaugh. I gave a description and he applied it to himself. I gave a description and he applied it to himself. If somebody said every member of the Legislature is a no-good lying dirty dog, a child rapist, a wife molester, and cruel to animals, you think I'm going to jump up and say, I'm not all of those things? As I've told you before, demonstrating it, throw a rock among a bunch of jackasses and the only one that says hee-haw is the one that is hit. The one that is hit is the one that yelps. And the old preacher said, the first hen that cackled laid the egg. So when a description is given and you apply it to yourself, it's on you. If I made a statement that was slanderous and I called the person by name, I can be sued for slander. But if I make a general statement, a description, and a person applies it to himself or herself, I cannot be sued for slander. And that's the way it is and that's the way I'm going to conduct my affairs on this floor. I've spoken three times and I won't make a motion on Senator Wightman's bill to respond to anything that is said. I've had to say all that I need to say and can say on his bill at this point. Thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Lautenbaugh, you are recognized. [LB341]

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

Floor Debate  
May 15, 2013

---

SENATOR LAUTENBAUGH: Thank you, Mr. President. And interestingly, I didn't mention you by name either, Senator Chambers. So if the hat fits, I guess we both wear it. Thank you, Mr. President. [LB341]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. No senators remaining in the queue. Mr. Clerk. Senator Murante for a motion. [LB341]

SENATOR MURANTE: Mr. President, I move to advance LB341 to E&R for engrossing. [LB341]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. Those opposed, nay. LB341 is advanced. Items for the record, Mr. Clerk. [LB341]

CLERK: Thank you, Mr. President. A bill read on Final Reading this morning was presented to the Governor at 9:50 a.m. (re LB407). Two resolutions: LR199 by Senator Mello, calling for an interim study. That will be referred to the Executive Board. Senator Gloor offers LR200. That will be laid over at this time. That's all that I had, Mr. President. Thank you. (Legislative Journal pages 1367-1368.) [LB407 LR199 LR200]

SENATOR GLOOR: Thank you, Mr. Clerk. Returning to Select File.

CLERK: Mr. President, LB563 is the next bill on Select File. I have no E&Rs. Mr. President, Senator Lautenbaugh had FA65. I have a note he wishes to withdraw. [LB563]

SENATOR LAUTENBAUGH: Yes, I (inaudible). [LB563]

SENATOR GLOOR: So ordered. [LB563]

CLERK: Mr. President, Senator Krist would move to amend with AM1392. (Legislative Journal page 1356.) [LB563]

SENATOR GLOOR: Senator Krist, you're recognized to open on your amendment. [LB563]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues and Nebraska. Yesterday morning, Jeremiah Blake of the Policy Research Office asked us on behalf of the administration to put an E clause on this essential piece of legislation. The reason is the Department of Health and Human Services is currently negotiating a contract that would not require unneeded scrutiny as would be in the original forms in the statute. I ask you to please vote to attach the amendment AM1392 and the E clause and move it along. Thank you, Mr. President. [LB563]

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

Floor Debate  
May 15, 2013

---

SENATOR GLOOR: Thank you, Senator Krist. Members, you've heard the opening on AM1392. We move to discussion. Senator Chambers, you're recognized. [LB563]

SENATOR CHAMBERS: Mr. President and members of the Legislature, this little amendment doesn't require any discussion, but I have to say something on every bill. Remember, that E clause is the Ernie clause, so you know I'm going to vote for it; and I thank Senator Krist for memorializing me on this bill. Thank you, Mr. President. [LB563]

SENATOR GLOOR: Thank you, Senator Chambers. There are no further senators wishing to be recognized. Senator Krist, you're recognized to close. Senator Krist waives. Members, the question is, shall the amendment to LB563 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB563]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Krist's amendment. [LB563]

SENATOR GLOOR: The amendment is adopted. [LB563]

CLERK: I have nothing further on the bill, Mr. President. [LB563]

SENATOR GLOOR: Senator Murante for a motion. [LB563]

SENATOR MURANTE: Mr. President, I move to advance LB563 to E&R for engrossing. [LB563]

SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All opposed, nay. LB563 is advanced. Mr. Clerk. [LB563]

CLERK: Mr. President, the next bill is LB561. Senator Murante, I have Enrollment and Review amendments pending. (ER84, Legislative Journal page 1166.) [LB561]

SENATOR GLOOR: Senator Murante for a motion. [LB561]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB561]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All opposed say nay. The amendment is adopted. Mr. Clerk. [LB561]

CLERK: Mr. President, the next amendment, Senator Ashford had AM1327, but I have a note he wishes to withdraw AM1327. [LB561]

SENATOR ASHFORD: Correct. [LB561]

Floor Debate  
May 15, 2013

---

SENATOR GLOOR: So ordered. [LB561]

CLERK: Mr. President, the next amendment is Senator Ashford, AM1394. (Legislative Journal page 1356.) [LB561]

SENATOR GLOOR: Senator Ashford, you're recognized to open on your amendment. [LB561]

SENATOR ASHFORD: Thank you, Mr. President. LB561 is a bill that will reform, as you may all recall, substantially the way we deal with youth who are in the juvenile justice system, whether they be status offenders, offenders, or delinquent individuals. And let me just remind the body again about why we are here with this bill. Our committee, the Judiciary Committee, over the last seven years has struggled with the issue of juvenile justice. We have seen so many juveniles in our system that have been incarcerated unnecessarily that their outcomes have been difficult, and we have seen the lack of attention given to the families from which these juveniles come. And it's this lack of attention to the families which has bothered me over the years and has invigorated me really, and I think our committee as a whole, to figure out a way to remodel or model a system of juvenile justice that will ensure that when a young person gets in trouble that that young person, first of all, that that young person is given every possible alternative to remain in their home and to get the care and treatment they need within their home. To me, that is the essence of this bill. And if it so happens that a young person throughout this continuum of care in the juvenile justice system is unable to make the grade and it is necessary that they be placed in a treatment facility in our state, that that individual remain in that facility until they're ready to come home. And when they do come home, that we have an absolute obligation to make sure that that family, prior to coming home and when they're in that home, that they have an absolute...we have an obligation, in my view, to make sure that that family reintegrates and that that child has an opportunity to succeed. This bill covers juveniles who enter the system in a variety of ways. It can be a simple status offense. Someone who is chronically absent from school and needs help. And...or it can be someone who has committed a violent act and needs to be, for his or her own safety and the safety of others, needs to be placed somewhere other than the home for a period of time until they're dealt with. This bill also deals with mental illness. We know, we know that a number of juveniles in the juvenile justice system and otherwise in the child welfare system have evidence of mental illness, and we need to focus on mental illness for juveniles. This bill does that. It puts a focus on standardizing how we treat juveniles in our institutional settings and in our family settings and puts a focus on mental illness. I am so thankful to the Judiciary Committee, the current committee, and the committees that we've had since 2007 that have struggled, first with the Von Maur shootings, and then with the safe haven law, and constantly being hit over the side of the head with the inability of our system to deal with juveniles in all sorts of situations. And we've tried and we've tried to come up with

Floor Debate  
May 15, 2013

---

something that would work. We are presenting to you LB561 as a comprehensive approach that will expand what Senator Krist has brought us a few years ago, the juvenile justice pilot program which places our youth in the juvenile justice system in the probation system. That program started in Douglas County. It was expanded to North Platte, the 11th judicial district, and the 12th judicial district in Scottsbluff last year, and it has been extremely successful from everything we can tell. Not only is it less expensive, but many, many, many more juveniles have been kept within their family and getting the kind of treatment, and they need to try to begin to succeed in their communities. The judges who administer these...the treatment plans for these juveniles have been very, very positive about the juvenile justice service delivery system. And we're asking the Legislature in LB561 to expand the juvenile justice system statewide. And I'm glad to report that the court system, the probation department, the Department of Health and Human Services, as far as I know the administration have indicated their support for this move. How do we pay for it? We pay for it by transferring money from HHS to the Office of Probation, approximately \$41 million that will enable us to bring in 100 new probation officers statewide to deal with these juveniles. And it will enable us to provide \$28 million in programmatic money that can be paid out to community-based services throughout the state, again, to try wherever possible to keep children within their family units. It's a massive change in how we deal with juveniles, but I believe it is the proper way to do that. In addition to the transfer of the juveniles into the probation system, and remember prior to this probation pilot being initiated, these children were monitored, these juveniles were monitored both by HHS and by probation. And many of them were placed in the HHS system as wards of the court, an unnecessary fiction, or a necessary fiction one might argue, to get the funding to these juveniles. Now we are keeping these children within the jurisdiction of the court. Probation officers that are responsible to the court system will be monitoring their progress. And our goal, our goal here is to...something that we cannot do now...and Senator Conrad has made this point because she's not here, but...maybe she is...has made this point on a couple of occasions dealing with juveniles. How come our data systems don't talk to each other? We need to know where those juveniles that have entered the continuum of care at the earliest stages, the middle stages of the juvenile justice system, or even the latter stages, we need to know how those young people are doing every single day. And if a young person has problems at school and they're in the juvenile justice system or in the child welfare system, that we need to know what that problem is and we need to have the access to the services to address that problem and not wait for it to get worse. And in this regard, Senator Campbell and the HHS Committee have done incredible work to...on the child welfare side to parallel develop our responses to these needs. But I...it's the data-sharing component that Senator Conrad has talked about, which in my view, just needs to get done. We need to stop talking about it. It needs to get done. And this bill provides some ability to do that. The other aspect of this bill really...Senator Christensen, Senator Davis, and Senator Seiler in my committee, when we started talking about this bill early on, the comment was made, we don't have the community-based services in rural Nebraska to deal with all these juveniles. And I get

Floor Debate  
May 15, 2013

---

that. And we spent a lot...quite a bit of time within the committee to talk about how do we deliver systems statewide. And I've sent around to you some information on the county aid fund which goes to provide services for juveniles across the state. The bill as originally advanced off General File had a juvenile...additional juvenile judge for Douglas County. The amendment takes that juvenile judge out of the bill. We made the decision as a committee, though it could be argued that Douglas County could use another juvenile judge, it's our hope that as the prevention and intervention methodologies that we have in LB561 and AM1394 will reduce the number of cases that will have to end up in juvenile court. But aside from that, we recognize that these resources need to be spread across the state right now. We need community-based services in every county of the state in a much more aggressive manner than what has occurred in the past. Therefore, we have \$10 million... [LB561]

SENATOR GLOOR: One minute. [LB561]

SENATOR ASHFORD: ...a year for the community aid fund. And if you look at the map, you'll see the white spaces on the map are those counties that got no community aid funds at all in 2012, and it's a big swath of the state. And if you look at the other handout, you'll see what programs were initiated or funded in 2012 with the \$1.4 million that is available for community aid right now. And there are dollars available, but clearly, clearly not enough. And from every corner of the state, every...I heard, have heard, continue to hear over and over again, we need more assets within our communities to provide the kind of care that these juveniles need, the kind of treatment, the sort of treatment that they need to be successful, whether it's in Valentine or Columbus or in sparsely populated areas, whether it's in Broken Bow. We heard... [LB561]

SENATOR GLOOR: Time, Senator. Thank you, Senator Ashford. Senator Campbell, you're recognized. [LB561]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. The tremendous amount of work that has been done by Senator Ashford and the members of the Judiciary Committee to begin working on the whole issue of juveniles who are caught in the juvenile justice system is commendable. And the portion of the bill that I think is really...we need to understand what is in that is the portion that deals with the transition planning as a youth leaves one of the youth treatment centers. We've not had such a heavy emphasis on that and it is very necessary because you can't just send a youth back to a community and say, you know, good luck, hope this works out better than the first time. So I think that is just an excellent part of it. I've talked with Senator Ashford off the floor and I know that they have worked also and will continue to do so to monitor how this whole plan will work with the Children's Commission's efforts and the department's efforts on Title IV-E funding and the demonstration grant that has been submitted to the federal government. I am sincerely hopeful that all of those components will work together because Title IV-E funding that we had used in foster

Floor Debate  
May 15, 2013

---

care outside of the home, if we get the grant that we're asking for from the federal government, we can shift some of that emphasis to in home. I also indicated to Senator Ashford that I had a couple of questions with regard to the bill, and so he knows what I'm going to ask because I think it's important on the record. If you look at inside the bill once all of the OJS kids are transferred over, and this will include the youth with intellectual disabilities, as well as mental health problems, and the youth will remain in the custody of their parents and the parents will obtain services through their private insurance or the regional services or whatever they can come together. Now what I am assuming is that the probation officer will answer the questions of that family. And so my question here is we are transferring \$41 million from the department to this program and will there be additional probation officers, and what level of caseload will they have? Because last year on the floor of the Legislature over and over and over and over again on child welfare, the key...and I think Senator Lathrop talked about this a lot, the key here is for that case manager to have a sufficient lowering of the caseload in order to give attention to the youth. The situation it seems to me will be the same if that family needs support. So if Senator Ashford would entertain a couple of questions. [LB561]

SENATOR GLOOR: Senator... [LB561]

SENATOR ASHFORD: Yes, most definitely. [LB561]

SENATOR CAMPBELL: Senator Ashford, you and I talked about this. So talk a little bit about the number of probation officers and what level of caseload you think they might attain. [LB561]

SENATOR ASHFORD: The Krist plan, which is a major portion of this bill, which the probation pilot program or juvenile service program, juvenile service delivery project we now call it, will go statewide and there will be added an additional hundred or so probation officers in addition to the \$28 million in added dollars for community-based services across the state. But the caseloads are critical and that's why... [LB561]

SENATOR GLOOR: One minute. [LB561]

SENATOR ASHFORD: ...we're phasing this project in over this next year in conjunction with the Children's Commission to make sure that those caseloads...I don't have an exact number on what they will be, but we're very conscious of the work that's being done in child welfare and that we need to parallel those standards as we do probation. They don't know yet because I think they're trying to figure out how that's going to all play out. [LB561]

SENATOR CAMPBELL: Because that will be a key component if the parents retain that custody, and that's a good thing. But sometimes those parents need support and they need to know, well, where should I go if I need to apply for DD services or I need to

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

Floor Debate  
May 15, 2013

---

insure, you know, can I get Medicaid here to cover that? Can I go to the regional offices? [LB561]

SENATOR ASHFORD: Right. And I think you make a great point. And one...the probation officers will be charged with maximizing the other types of insurance that the family can get, whether it's private insurance or Medicaid... [LB561]

SENATOR GLOOR: Time. [LB561]

SENATOR ASHFORD: I'm sorry, Senator Campbell. I apologize. [LB561]

SENATOR CAMPBELL: I'll come back. [LB561]

SENATOR ASHFORD: Okay. [LB561]

SENATOR GLOOR: Mr. Clerk. [LB561]

CLERK: Mr. President, Senator Ashford would move to amend his amendment with AM1401. (Legislative Journal page 1356.) [LB561]

SENATOR GLOOR: Senator Ashford, you're recognized to open on your amendment to your amendment. [LB561]

SENATOR ASHFORD: Thank you, Mr. President. And I would...I'm going to give...it won't take long to introduce this and I'll give Senator Campbell some more time. In order to be consistent...what we're trying to do here in essence, the child welfare reform is moving so positively forward as we bring together HHS and education and now the juvenile justice system. What we want to make certain is that on the juvenile justice side for the approximately 3,000 juveniles in the state each year that touch the system that our system in the juvenile justice side parallel the child welfare side in as many places as possible. And one of the areas that we want to make sure that the...and this is something that the...Senator Chambers has asked of me and others, is that we make certain that the Inspector General, the position set up under the Children's Commission, would have investigative authority over private agencies that contract with probation for the delivery of juvenile services when there is a death or serious injury of a juvenile or a complaint against such agency. The Inspector General would also have authority to investigate deaths of serious injuries occurring at juvenile detention facilities or staff-secured juvenile detention facilities. The amendment would also give the ombudsman authority to investigate juveniles committed to and discharged from a YRTC to the community reentry program. This is an incredibly important amendment. I thought it was in there all along but apparently it wasn't. It was brought to my attention, but it's in there now. And this might be a real good...do I have ten minutes to introduce it or... [LB561]

Floor Debate  
May 15, 2013

---

SENATOR GLOOR: Yes, you do, Senator. [LB561]

SENATOR ASHFORD: This might be a good time to also talk about the YRTC's at Kearney and Geneva because we are charging the Children's Commission to take a hard look at the YRTC's over the next year and report back to the Legislature on how the YRTC's will operate going forward. Clearly, we need juvenile treatment centers in our state, and Kearney and Geneva provide those facilities right now. In addition, we have the Hastings facility for drug use. And that facility, we've already in the budget put dollars in the budget to remodel that facility. So the Hastings facility, and Senator Seiler has worked on that part of the project, are integral. But it is critical that as we move forward, we realize that these facilities in Kearney, Geneva, and Hastings are treatment facilities, and we need not and should not mix populations--violent offenders and less violent offenders--in the same place. And part of this bill talks to that issue that we make certain that the Kearney facilities...and that the Kearney facility at some point be remodeled sufficiently so that it can deal with the more difficult cases as is the case with Geneva and Hastings, so that's part of this. But it is critical, and I absolutely agree with those that have brought this amendment to me, that we do have this investigative part of the bill. And so I would urge that it be adopted. With that, I would...if Senator Campbell would like some more time, I would give it to her. [LB561]

SENATOR GLOOR: Six minutes, thirty seconds. [LB561]

SENATOR CAMPBELL: Goodness, that's more than I would have--thank you, Mr. President--if I'd have put my light on. I do want to comment. I certainly support AM1401 and appreciate Senator Ashford picking up on that. I think one of the things that I am learning in my work with the Inspector General, because we require that person to report to the Chair of the Health and Human Services Committee and then to do an annual report to our full committee, what I am learning is that the Inspector General is beginning to see trends across the services that we provide, or lack of, or what is happening out there, and a number of the situations, and I don't ever know the details fully, I just know the general nature, that a number of them this year have involved OJS kids. So I think Senator Ashford's amendment is very solid and we need to have that. I'm going to go to my last question that Senator Ashford and I talked about off the floor because I feel it's very important that it be on the record and we have a chance to exchange. And that is, last year we changed the foster care office to the Foster Care Advisory Committee, and we have a new director and five members of that advisory committee that are moving forward. I want to have some assurance that the information-sharing process that is discussed in the bill and money is allocated for that information sharing somehow links the information of what is happening to the young people in the OJS system that the Foster Care Advisory Committee can also take a look at what is happening there. The Foster Care Advisory Committee is the Legislature's eyes and ears of what happens in the foster care system. But we are also looking at the

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

Floor Debate  
May 15, 2013

---

other information that comes in from child advocacy centers. So my question of Senator Ashford, would continue our dialogue, Mr. President. [LB561]

SENATOR GLOOR: Senator Ashford, would you yield? [LB561]

SENATOR ASHFORD: Yes. [LB561]

SENATOR CAMPBELL: Senator Ashford, am I correct that the Legislature will get a view of what's happening with these young people through this information-sharing process? [LB561]

SENATOR ASHFORD: Yes. And there will be reports given to the Legislature on an annual basis, but in an operational basis, there will be...hopefully, there will be this sort of real time ability to access relevant information out of existing databases which are out there. They just aren't talking to each other. [LB561]

SENATOR CAMPBELL: Thank you, Senator Ashford. And I think that's really important. The other point that I want to make is we have received the interim study evaluation of the project in Douglas County which I distributed to the Health and Human Services Committee because we've been monitoring that project in addition. And I've been told that in several months, we'll have the full evaluation before us. That should also give us additional information as the plan is put together as required in Senator Ashford's bill and the Judiciary Committee. That plan will also, I think, rely heavily on what the evaluation is. At some point, the Legislature may want to revisit the idea. And I think we let them get it set up, we can come back next year. But we may want to revisit this idea of some outside evaluation looking in which may be helpful for us knowing what other processes we need to put into place to ensure the good services that we need for these young people. We do not want to drive young people further into the juvenile justice system. And I think what Senator Ashford and the Judiciary Committee have put together goes a long way in LB561 to begin that process of keeping kids from going further and further into the system. With that, Mr. President, I'll conclude my remarks and thank Senator Ashford for loaning me the time. [LB561]

SENATOR GLOOR: Thank you, Senator Campbell. Thank you, Senator Ashford. (Visitors introduced.) Members, you've heard the opening on the amendment to AM1394. Members in the queue: Burke Harr, Krist, Ashford, McGill, Karpisek, Scheer, and Campbell. Senator Harr, you're recognized. [LB561]

SENATOR HARR: Thank you, Mr. President, members of the body. I, too, want to commend the Judiciary Committee, Senator Ashford, but more importantly his legal counsel for the hard work and hours that went into AM1401, AM1394, AM1327, all of the amendments that have been issued. Yesterday, AM1327, 108 pages were issued and I made the mistake of reading it because then later on in the day we got AM1394.

Floor Debate  
May 15, 2013

---

This is a very good bill. It has very good intentions. I like where we're going. I have some concerns. I really like, by the way, Senator Ashford, your work on pretrial diversion. It's been in Douglas County for a number of years, probably close to ten now, and it's been an excellent program. And it...the rate of recidivism within those individuals is very low, and I think we are able to save a lot of money. So thank you for doing that. I do have a little bit of heartburn as Senator Campbell talked about as far as caseload limits. This bill dates back, though, turns probation officers into social workers. Last year, Senator Campbell introduced LB961 because we saw the importance of limiting caseloads on social workers because they're inundated. They couldn't keep up. And so the system wasn't working. Even with all the service available, it wasn't working as intended. And while we're adding a number of probation officers here, over a hundred, I worry. I worry because you have two things a probation officer...their role is traditionally is to criminal justice and oversight of their clients. Well, we're turning them from a criminal justice role. This is kind of like what our U.S. military does when we're peacekeepers. We go from being a fighting unit to being more of a mediation unit. And I hope we get these probation officers the proper training. I haven't seen that we're doing that. And so I worry about that. The other side I worry about is, and my LA, Andy Hale, is a former probation officer, and so feel free to talk to him, but a probation officer's role is not the same as a social worker, it's not the same as a guardian ad litem. They are an employee of the judiciary system. So a social worker in what we've traditionally done have been employees of the executive branch. And so they can get into court and they can question and they can...it's a little easier for them to come up and stand against a judge. A probation officer is a member of the courts. And while they can make recommendations on the record, it's a little more difficult when you disagree with a judge. You have no oversight. So...and they have, well, first of all, if they disagree, that judge is going to take paramount, it's going to be paramount because there's not going to be any check and balance on that judge. You're going to have...and it's happened, some juvenile court judges can be overzealous. I think Senator Chambers often references one that he thinks is overzealous. And so the question is, they're going to have complete control over this caseworker. They're going to have complete control over the whole process. So where's the check on that judge? I don't know if there is one. How...once you're in the system, if a judge wants to keep you in there forever, I don't see how you get out under this bill. Is it an improvement? Yes. Do we need to do something? Yes. I fully support this. I wish we'd had this a little earlier so we could have more time to talk about it. I'm going to go ahead and support... [LB561]

SENATOR GLOOR: One minute. [LB561]

SENATOR HARR: ...AM1401 and AM1394, but I hope that we analyze the study that's coming this summer on what we've done in probation in Douglas County and we can come back next year and fine tune LB561, if, in fact, AM1394 and AM1401 pass. Thank you very much, Mr. President. [LB561]

Floor Debate  
May 15, 2013

---

SENATOR GLOOR: Thank you, Senator Harr. Senator Krist, you're recognized. [LB561]

SENATOR KRIST: Thank you, Mr. President, and good morning again, colleagues and Nebraska. The most important thing we did in leading up to LB561--thank you for your support for the pilot project--was to put in a study arm to monitor what was happening within the project and show that either was successful or not. Some of those parameters are included in LB561, and it's a lesson that I continue to bring up on the mike because I think it's very important. As we think of new pieces of legislation and we put them into place, sometimes it's worth the money to put in a study mechanism so that you can monitor and have metrics that prove that what we are doing is correct and ever so important in this area. Secondly, services in the community are reemerging in these three areas. Douglas County, the 11th and the 12th judicial districts, were seeing things that were done away with or were put out of business during child reform and foster care by child services. We're seeing those reemerge. That's testimony to me that our partners throughout Nebraska, nongovernment agencies, 501's, nonprofits, church groups, they're starting to come back because they believe that the money is there. It's not going to make them rich, but they believe the money is there to make these programs work. And let's not kid ourselves. It's all about the money at the end of the day. It's all about the kids to me, but we have to have the money to do it correctly. Third, kids in this program are treated like kids. And where evidence-based training is available for the child, it is also extended to the family because that's our unit. That's what we should be reuniting and that's the strength in the program is to keep a child at home if possible and not have to create another ward of the state. LB561 is indicative of hard work. Thank you, Senator Ashford. Thank you to his committee. It's not a lovefest here though. I mean, it really is attributed to those who rolled up their sleeves and made this happen. Stacey Conroy and your staff did a great job. What we've done here is incorporated OJS and the judicial justice system so the juvenile justice system so that we treat kids the same across the board, across the spectrum. I share Senator Campbell's concerns and the fact that there has to be equality treatment. But I'm going to tell you two names that you need to remember going forward: Tony Green and Corey Steel. Those are the two focal points that will make this come together--Corey in probation and, of course, Tony is currently in OJS but will move across. They're the right people for the right job. All we have to do is give them the tools to succeed and get out of their way. Thank you, Senator Ashford, and I would yield the rest of my time to Senator Ashford if he wishes. [LB561]

SENATOR GLOOR: Senator Ashford... [LB561]

SENATOR ASHFORD: Thank you. Thank you, Senator Krist, and... [LB561]

SENATOR GLOOR: ...a minute, 50 seconds, and you're next in the queue. [LB561]

SENATOR ASHFORD: Thank you. Very briefly, and Senator Krist has...came up with

Floor Debate  
May 15, 2013

---

the idea of the...which is the foundation of this whole plan. And that is to extend across the entire state a methodology administered by judges across the state through probation to make sure that we do not lose any young juvenile. Any kid in this state is going to be monitored and taken care of and watched. We're not going to save every single case, but I can tell you that we have so much commitment to this initiative by, yes, probation and by HHS and up till now by the Legislature. Thanks to them and my committee and HHS that we will be successful. I just want to comment a bit on Senator Harr. The probation officers are a mixture. There are some social workers. Some probation officer have social work backgrounds. Some have criminal justice backgrounds. Some have psychology backgrounds. So it's a mixture. But we are undergoing...they are undergoing treatment now statewide on how to best administer this project. The judges must have the ultimate authority. We do not want...that's been the problem here. The problem is that we...is that oftentimes the judges lose the authority to approve treatment plans and to monitor these juveniles. And that has been one of the things that has been a problem. And we still have the investigative arm here investigating the private agencies that work with these young people. But we will have additional probation officers. They...we've got master's degree people in this field. [LB561]

SENATOR GLOOR: You are on your time, Senator Ashford. [LB561]

SENATOR ASHFORD: Thank you. And so there are a myriad of checks and balances within the system to make sure that we're monitoring these young people. But it is clear and it is true that in order to be effective, this has to be managed correctly. We have the people in place at OJS and at probation to affect this change and to make it work effectively. And we are going to be monitoring this, obviously, throughout the rest of this year. The transition plan, which is in LB561, is there to make sure that we stairstep this transition successfully. But we talk a lot about redundancy in government. And this is an example of how we take the assets that we already have and we consolidate them into one continuum of care from the beginning to the end so that we know where these juveniles are, so that the judges have the authority to make the kinds of orders that need to be made to make sure. For example, at Kearney and Geneva, one of the problems, and this Legislature has heard about this in the past several times, some of them have related to the fact that juveniles go into Kearney and are released from Kearney before their treatment is completed. And they go back to the families and there is no family-intensive therapy to take care of the families. They go back out on the street and they get into trouble again. They do it all the time. And we talk about the most serious violent crimes in our state. Well, if you go...and I've done this, you go back and you look at the histories of these young people, and it starts with not being in school. It starts with being suspended from school. It starts with petty crime, and then it continues through that continuum. We can't do that anymore. We can't have that anymore. We have to be able to identify as early as possible, even in the early years of school, identify those issues which we know...which the professionals know can cause further

Floor Debate  
May 15, 2013

---

problems in the future. That's what this is all about. One continuum of care for juveniles that are in the system paralleled with Senator Campbell and the HHS Committee and HHS and child welfare. We are going to be one of the only states actually, members, that are doing this in this way where we are making a parallel reform in child welfare and reform in juvenile justice at essentially the same time so that we can check and double-check as a Legislature. We can know how many young people are in the juvenile justice system, what have they done, what treatment are they getting, what...is that treatment successful. We don't have longitudinal study information, the kinds of data that we should have to determine whether or not juveniles who go into the juveniles justice system and even go to Kearney or Geneva and are treated there and come out, we don't know where they are until they commit an adult crime. I'll tell you, it drives me crazy, seven years of being driven crazy over this and I think, I think we've got it. We've got it, but we've got to be very careful in how we implement this. We've got to constantly be watching this. We have the processes in place to do that with the Children's Commission and this Legislature that is committed to juvenile issues beyond all others, in my view. So that's where we are. This amendment, though, is simply the amendment that makes certain that the Inspector General can review complaints that are filed regarding private entities and nonprofits that provide services. Exactly the same jurisdiction they have now. Exactly the same jurisdiction they have in the child welfare side. So with that, I would urge the adoption of this amendment. Thank you.  
[LB561]

SENATOR GLOOR: Thank you, Senator Ashford. Senator McGill, you're recognized.  
[LB561]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I just want to continue what Senator Ashford was saying in terms of young people and catching them as early as possible and how important I think this money will be to our counties, our local communities to be able to identify and serve kids at a younger age, in my mind even before they're in the juvenile justice system. But I spent the last year working with school districts across the state, reaching out to everyone who would listen and to collect their stories of what they're seeing in their schools and how overwhelmed they are and overburdened they are with the behavioral health problems they're seeing. I heard from an elementary school principal in Lexington who has a fourth grade boy who was refusing to go to the classroom, so he becomes violent. He's indicated that his father, stepfather, physically and sexually abused the family. He's throwing chairs and other objects. And the principal has had to take over teaching this kid because they didn't have the staff to do one-on-one teaching and he was refusing to enter the building. I mean, this is just one example of how our school districts are being burdened by these problems on the local level because we don't have the services within the communities to best serve those kids. I've been talking to one of the administrators in Scottsbluff about the problems they're having by not having some sort of day center they can send the kids to. They are not equipped to do it. Our schools are being tasked

Floor Debate  
May 15, 2013

---

with something that they're not the experts on how to handle. You know, I've gotten e-mails from York, from David City, from Doniphan. I've been working with LPS here in our capital city. But these county dollars will help set up an infrastructure to get these kids the treatment they need in the right kind of model. Maybe it's partnering with the school. Maybe it's a different day treatment center somewhere within Scottsbluff. I know that's what they would really like to see. This will be life changing I think for our state. And, you know, I have a bill coming up a little further down on the agenda that deals with getting more mental health screenings for our young people and better treatment within the doctor's office, and I feel this bill is instrumental and just very key in making sure we have a comprehensive plan to go forward and get our youth the treatment they need in the right facilities as close to home as possible, and to make sure that our higher level facilities like Kearney and Geneva, that we are studying those and figuring out how we can make them function even better than they are. We have good people out there, you know, working hard to try to, you know, help these kids and their behaviors and deal with their mental illness, but making sure we're being even more effective. There are lots of great models out there, lots of great evidence-based plans at this point, and we need to make sure we're using those as we move forward. With that, I just support this bill and hope for some green votes. Thank you, Mr. President. [LB561]

SENATOR GLOOR: Thank you, Senator McGill. (Visitors introduced.) The Chair recognizes Senator Karpisek. [LB561]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Here ends the lovefest and some questions. Would Senator Ashford yield, please? [LB561]

SENATOR GLOOR: Senator Ashford, would you yield? [LB561]

SENATOR ASHFORD: Yep. [LB561]

SENATOR KARPISEK: Thank you, Senator Ashford. And I don't mean that it's not going to be a bad thing. But I have a lot of concerns about this bill and you know that and we've talked about them before. But, first of all, I want to make sure and get on the mike again, before I get strung and quartered in Geneva, we are not closing Geneva nor Kearney, correct? [LB561]

SENATOR ASHFORD: Correct. [LB561]

SENATOR KARPISEK: And you realize the stir that that made coming out in the original bill? [LB561]

SENATOR ASHFORD: Yeah, but it also got people thinking about how we can make proper changes to make the system work better, though, Senator Karpisek. [LB561]

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

Floor Debate  
May 15, 2013

---

SENATOR KARPISEK: Well, I don't think that's the way to get people to think about closing and taking away jobs. It really, really, really was a travesty back home. There was quite a list of opponents. Do most of the amendments take care of a lot of those opponents? [LB561]

SENATOR ASHFORD: We don't have any...as far as I know, Senator Karpisek, we have received no opposition to any of...to the bill as amended. [LB561]

SENATOR KARPISEK: So... [LB561]

SENATOR ASHFORD: There was quite...and to your point, I'm not downplaying and we did have quite a bit of discussion about Geneva and they do a great job there and they were quite a few opponents from the Geneva area. And I have...we have not heard anything negative from Geneva or Kearney lately. [LB561]

SENATOR KARPISEK: Okay. I just saw there was others. I don't have it pulled up right now. But I realize that there are things that you've done to work forward in this bill and I appreciate that. [LB561]

SENATOR ASHFORD: And you had a lot to do with that, Senator Karpisek, and I think you brought us together with the officials in Geneva and that made a big difference, so. [LB561]

SENATOR KARPISEK: I wish I'd know which thread it was that made that work. All of them maybe together. Thank you, Senator Ashford. I agree that there's great parts of this bill. There's a lot that does concern me. The funding concerns me. The going to the counties and getting people to work together there, the services, to get the services in these counties. That concerns me. I talked to a good friend of mine, Amy Latshaw, who is in probation and told me what a great deal this is. And Amy and I have known each other for a long time and I know she's a lot smarter than I am on everything, especially this. So I feel much better. However, I am concerned about the funding. I'm concerned about the people coming to the table to do these things. There's just a lot of things that we're changing here and it seems to me a little bit that we're pushing this down to the county level where we might not have the things that we need there to make it successful. I know Lincoln and Omaha and probably the interstate corridor probably has all sorts of people and we can make this work. But I'm worried about out where there aren't a lot of people and how are we going to do that. Maybe it'll work the way it does now. Maybe that's built into the bill well enough. I do agree something needs to change. And I'm glad that we are working on a way to change it. But I do think there...well, there will be growing pains, and we...everything we do has growing pains. We know that. I do think the right people are in place to do these... [LB561]

SENATOR SULLIVAN PRESIDING

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

Floor Debate  
May 15, 2013

---

SENATOR SULLIVAN: One minute. [LB561]

SENATOR KARPISEK: ...to take care of those issues. But we're talking about the right place and the right time. And, boy, if we don't...aren't on it and don't have the people there, then we're going to be in kind of the same kind of mess. I did want to comment on Senator Burke Harr's comment about the judges and we need oversight of the judges and all these sort of things. Not what I've heard on other days here in the Legislature. I just wanted to point that out. I do have concerns. I'm not going to talk on this bill anymore. And I wish it all very good luck. Thank you, Mr. President...Madam President. [LB561]

SENATOR SULLIVAN: Thank you, Senator Karpisek. Those still wishing to speak: Senator Scheer, Dubas, Nelson, Harms, and Gloor. Senator Scheer, you're recognized. [LB561]

SENATOR SCHEER: Thank you, Madam President. I have no problems with the bill itself. I have more of a technical question, and I would ask Senator Campbell if she would answer a few comments that I might have. [LB561]

SENATOR SULLIVAN: Senator Campbell, will you yield? [LB561]

SENATOR CAMPBELL: Yes. [LB561]

SENATOR SCHEER: Thank you, Senator Campbell. In my understanding, and you can correct it because I've been wrong before, we were talking somewhere in the neighborhood of a \$40 million shift from Health and Human Services. Two things: One, as well as the addition of 100 probation officers, and some of this may not be in your expertise and that's fine as well, but the \$41 million shift from Health and Human Services, will that have any impact on any of the services that Health and Human Services are currently providing because I'd hate to see those funds lost and reduce what they're able to provide to whomever they're providing them. And then, secondarily, if we are adding an additional hundred probation officers, is there some type of offsetting reduction in staff with Health and Human Services so that the net may be approximately equivalent in relationship to our employment via the state? And if you can't...if those are areas that would be better addressed to Senator Ashford, I'd be glad to do that as well. [LB561]

SENATOR CAMPBELL: Senator Scheer, I'm going to assume Senator Ashford is going to listen very carefully and if I'm wrong, I'm sure he will come back on the mike. But there's been a great amount of effort gone in to the planning since we started the Douglas County project and since we then went out to the judicial districts in 11th and 12th I believe. And so a lot of oversight has gone into how is this working and the

Floor Debate  
May 15, 2013

---

transfer of services. So I think that between probation and DHHS, they are...they have a better track record than they might have known a year or two years ago. So of the money that's going to be transferred, that will cover the additional probation officers and services. So the idea here is that probation will get a voucher or account for those services. The department, in my understanding, will not need as many staff. But you and I talked to Liz Hruska, and she indicates that she will call a meeting of the legislative Fiscal Office will call that meeting to work out the details. And so we can't tell you that there will be an exact net, 100 minus here and 100 because the caseloads are a little bit different and the department will still have some responsibilities. But we expect that there will be a plan and DHHS will not need as many FTEs, whether it's the exact net they don't know yet. And I'll let Senator Ashford nod if... [LB561]

SENATOR ASHFORD: That's generally correct. Kearney and Geneva will remain within... [LB561]

SENATOR SCHEER: Senator Ashford, would you finish that for me? [LB561]

SENATOR ASHFORD: Right. Sorry. No, she's right. Senator Campbell is absolutely right. I mean, there will be some OJS people that will move over to probation, plus there are OJS personnel that will be still administering Kearney and Geneva facilities. [LB561]

SENATOR SCHEER: Thank you, Senator Ashford and Senator Campbell. And just to clarify, so simplistically speaking, we don't believe that this will have an impact on any of the services currently provided by Health and Human Services that it is basically now being transferred to more the probationary rather than from Health and Human Services, and those services. The 28 million services technically are still going to... [LB561]

SENATOR SULLIVAN: One minute. [LB561]

SENATOR SCHEER: Thank you, Madam President...are going to be still...the dollars flowing through Health and Human Services just paying those vouchers for those services. Would that be a correct assessment? [LB561]

SENATOR CAMPBELL: The money will transfer in order to provide the services from probation. And I don't think it will diminish what the department can do. [LB561]

SENATOR SCHEER: Okay. Thank you, Senator Campbell. So bottom line is the services will remain as they are, just being perhaps funded and distributed in different parts of the government. And we aren't quite to the point where we can have a numerical stance on as far as employment numbers, as far as the state in the two. That would be correct as well? Thank you. And thank you, Madam President. [LB561]

Floor Debate  
May 15, 2013

---

SENATOR SULLIVAN: Thank you, Senator Scheer. And thank you, Senators Campbell and Ashford. The Chair now recognizes Senator Dubas. [LB561]

SENATOR DUBAS: Thank you, Madam Chair. I rise in support of this bill and the underlying amendments. And it's really great to see that there's going to be this cooperative effort between the department and between the judicial branch of government because that has been sorely lacking. And we're dealing with children here who, you know, for whatever reasons may not have been receiving the types of treatment or care that they need to address real legitimate behavioral health issues. Those issues as they grow older almost always have them ending up in the court system. And so to have this collaborative approach I believe will really be an effective means in helping us get the children and, as Senator Ashford mentioned, the families, the type of help and support systems that they so desperately need. I heard from many families in my district, one in particular. You know, this is a young man in foster care who was then adopted by his family. Knew that the child had, you know, had been diagnosed with a very legitimate behavioral health issue. The family struggled to get the help that that child needed, and he is now in the court systems. He was going to be charged as an adult. And I believe that maybe that has been transferred to the juvenile court system. But this is a kid who just, you know, through no fault of his own just the fact that he kept falling through the cracks. He spent time at YRTC. They were never able to put a real good plan in place, treatment plan in place that was going to help the family and help their son so that he could in some manner operate as, you know, a productive member of our society. So I am hopeful that perhaps this bill won't be able to provide this family with the help that they need, but it will provide other families who are facing similar circumstances with the help that they need. Would Senator Ashford yield to a question, please? [LB561]

SENATOR SULLIVAN: Senator Ashford, would you yield? [LB561]

SENATOR ASHFORD: Yes. [LB561]

SENATOR DUBAS: Senator Ashford, my ears really perked up when you talked about making sure that families have the supports that they need so that they're able to support their young person as they move into a treatment and a recovery-type program. Could you explain a little bit more what you envision as far as help for families? [LB561]

SENATOR ASHFORD: That's a huge issue for us. We talk a lot here and we have for all my years here about rebuilding the family and lack of having functional family units and all of that sort of thing. And I believe and I believe that the evidence across the country shows that there are family units that, if helped, can provide the kind of stability for those young people. So not only will the families be dealt with at the very beginning, at the inception of a problem with the juvenile system and we'll start working with the families and with the juveniles, if they are in a treatment facility, that will continue, and

Floor Debate  
May 15, 2013

---

then for at least four months after they...the bill provides four months I believe, four months after they come back into the community, there will be an intensive therapy provided or programming for intensive therapy. It meets...this is a model that's being used across the country. It's something we do not do effectively. We do little bits of it. And I think it's really one of the critical parts of the bill. [LB561]

SENATOR DUBAS: Thank you so much, Senator Ashford. And I really appreciate all the work that you and your committee have done on this issue. And, you know, I think too often when we see kids who are in trouble and in the juvenile justice system, we...either the parents themselves are blaming them or we as a society are saying they're bad parents. And the parents that I've encountered through my experience with working on these types of issues are not bad parents. They're parents who are struggling. They are parents who don't know what they're supposed to do... [LB561]

SENATOR SULLIVAN: One minute. [LB561]

SENATOR DUBAS: Thank you, Madam President...who don't know where to do to get the support to help so that they in turn can help their child. These are parents who are frustrated, who are sad, who are in essence grieving because they see the struggles that their child is...their children are going through and they don't know what to do, where to turn, or how to handle it. And even sometimes when they do reach out for help, we just aren't there to give them what they need and we're too quick to judge and not so willing to help support them in whatever efforts their child needs. So I really applaud the efforts of this bill and hope it will begin to get us down the road to support these parents who then in turn can support their children. Thank you. [LB561]

SENATOR SULLIVAN: Thank you, Senator Dubas and also Senator Ashford. The Chair recognizes Senator Nelson. [LB561]

SENATOR NELSON: Thank you, Madam President, members of the body. I have some questions for Senator Ashford if he would yield. [LB561]

SENATOR SULLIVAN: Senator Ashford, would you yield? [LB561]

SENATOR ASHFORD: Yes. [LB561]

SENATOR NELSON: Thank you, Senator. You passed out a couple of exhibits here... [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR NELSON: ...with regard to 2012 county aid and then the fund request for 2010. You expressed some concern about all the white counties, the counties that had

Floor Debate  
May 15, 2013

---

not asked for any money. And correct me if I'm wrong, but a number of the counties that were shown in color here on the exhibit did request funds for purposes along these lines. [LB561]

SENATOR ASHFORD: Yes. [LB561]

SENATOR NELSON: I guess why did these other counties not ask for...the white counties, so to speak, did not ask for funds? Were they not available? Was there a limit? Or didn't they have any programs there? [LB561]

SENATOR ASHFORD: Well, there's a limit of \$1.4 million currently in the system and they would be entitled to a proportionate share of those funds, but they may not have had programs to fund, or many of these counties have worked together in collaboration with each other. Maybe they had not developed those collaborative models yet. I don't know. But you're right. I mean, there are a number of counties that have not accessed it. [LB561]

SENATOR NELSON: Okay. So under your bill here, what's going to happen? Are we going to decide how much each county gets if they indicate that they want to start up one of these programs? [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR NELSON: Are they going to have to request it? How's this going to work? [LB561]

SENATOR ASHFORD: Right. They will have to request it. And the program would have to meet certain criteria in the bill, and those are prevention-intervention type criteria to help juveniles get help for their issues. The amount of aid that they would get would be based on the number of juveniles in the county. So what that does is incents counties to collaborate with each other, a small county and a larger county or whatever, to access more money. That's the idea. [LB561]

SENATOR NELSON: Now who's going to determine how much they get and who's going to dole out the state aid here? [LB561]

SENATOR ASHFORD: The actual amount is determined by the formula which is essentially the number of juveniles within the area that applies. As far as what programs are funded, that's determined by the Crime Commission and a committee that's made up...it's in the bill, Stacey has probably the... [LB561]

SENATOR NELSON: Okay. [LB561]

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

Floor Debate  
May 15, 2013

---

SENATOR ASHFORD: There are a number of people that are on this Crime Commission planning committee that have juvenile justice experience to determine whether those programs should be funded. [LB561]

SENATOR NELSON: All right. In looking at the 2012 county aid, I see the recommended NCJJ, which is Commission on Juvenile Justice. [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR NELSON: And then NCC, the Crime Commission, right? [LB561]

SENATOR ASHFORD: Correct. [LB561]

SENATOR NELSON: Okay. Are they both still going to be involved? [LB561]

SENATOR ASHFORD: Yes. [LB561]

SENATOR NELSON: Okay. All right. That's fine. Senator Karpisek is concerned about YRTC in Geneva, I have an interest in there too. The mention was made that there are no rehabilitative programs that... [LB561]

SENATOR ASHFORD: There are. [LB561]

SENATOR NELSON: There are? Yes. [LB561]

SENATOR ASHFORD: There are. And actually...and they've improved them lately. [LB561]

SENATOR NELSON: They've improved them lately. [LB561]

SENATOR ASHFORD: Yep. [LB561]

SENATOR NELSON: Okay. And it may very well be, you know, that whatever the period they've been sent there for, six months, it's not possible to complete that. And you're saying that there will be follow up on that... [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR NELSON: ...with intensive care. Okay. [LB561]

SENATOR ASHFORD: Correct. [LB561]

SENATOR NELSON: Your amendment here that we're talking about, AM1401, provides

Floor Debate  
May 15, 2013

---

for the Inspector General to investigate complaints. Aside from complaints, if there are any, and I don't think there have been many out at YRTC-Geneva... [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR NELSON: ...who evaluates their performance out there? Who will evaluate in the future how they're doing out there with their programs, with their rehab? I think I mentioned earlier on an earlier debate that their... [LB561]

SENATOR SULLIVAN: One minute. [LB561]

SENATOR NELSON: ...recidivism is only about--thank you, Madam President--11 percent. So it looks to me like they're quite successful with the people that they work with. [LB561]

SENATOR ASHFORD: I think it's 11 percent at Geneva and 27 percent at Kearney. [LB561]

SENATOR NELSON: Yes. And I'm not familiar with Kearney. But who...ongoing here then, who's going to take a look at their performance and... [LB561]

SENATOR ASHFORD: The courts will be much more involved; the individual judge will be much more involved. And also, right now, recidivism is based only on a one-year look through, so we're going to expand that to look at the juveniles beyond the year to see how they're doing so it's not just one year. And that's going to be done by the probation group that will be charged with evaluating these programs. And the Children's Commission of the Legislature will also be involved in evaluating the programs to make sure they're evidence-based. [LB561]

SENATOR NELSON: All right. All right. Thank you very much, Senator Ashford, for answering those questions. Thank you, Madam President. [LB561]

SENATOR SULLIVAN: Thank you, Senators Nelson and Ashford. The Chair now recognizes Senator Harms. [LB561]

SENATOR HARMS: Thank you, Madam President. Colleagues, I rise in support of the amendments and LB561. I want to thank Senator Ashford for what he's done. You know, for the last seven years this has been, and probably before, it's been a passion of yours. And I appreciate what he has taken care of. The opportunity from last year to make an amendment to one of his bills to help Scottsbluff get established has been just wonderful experience. In rural Nebraska, we have some huge issues with teenagers, and unfortunately a lot of teenagers are falling through the cracks. We've lost them. We don't know what happens to them. The courts have difficulties with them. I think,

Floor Debate  
May 15, 2013

---

Senator Ashford, what you're doing today is a step in the right direction. And I would tell you, colleagues, there are going to be times where we're probably going to have to come back in and fine tune this and not everything is going to work the way we wanted it to work. But the point is we are getting it established. The point is we're starting down the pathway to address the issue that so many of our teens have. And this would not have happened without the passion that Senator Ashford has with teenagers and to do something for Nebraska. I think in the long term it will truly be cost-effective and efficient for us. You'll have less young people into the court system. You'll have kids staying in school, and hopefully we'll find that this turns out to be better for Nebraska totally. So I thank you, Senator Ashford, for what you've done, and thank you, Madam President. [LB561]

SENATOR SULLIVAN: Excuse me. Thank you, Senator Harms. The Chair now recognizes Senator Gloor. [LB561]

SENATOR GLOOR: Thank you, Madam President. Good morning, members. I wonder if Senator Ashford would yield to even more questions. [LB561]

SENATOR SULLIVAN: Senator Ashford, would you yield? [LB561]

SENATOR ASHFORD: Yes. [LB561]

SENATOR GLOOR: Thank you, Senator Ashford. I want to cross some t's and dot a few i's here in terms of questions. And since I've come down here, both Senator Scheer and Senator Nelson have asked some of the questions I've had, but I'll try and focus on those that aren't putting you in a position of answering a question you've already asked. But we're talking of an increase in approximately a hundred probation officers, correct? [LB561]

SENATOR ASHFORD: Correct. [LB561]

SENATOR GLOOR: And the determination of where those officers will be distributed is going to be dependent upon what or whom? [LB561]

SENATOR ASHFORD: It's dependent upon need and in...it's dependent upon need, and it's dependent upon collaboration with the county attorneys that run the diversion programs which is critical to this whole thing. I know that statewide that's run by the county attorneys in consultation with the judges and with the probation and with the Children's Commission to develop a plan where the needs are. A lot of it depends also on how these counties develop their county aid plans. Grand Island is in an enviable position. I mean, Hall County has been really on the cutting edge; Mark Young, as the county attorney, and the programs they have there. So I don't know how many probation officers are in Hall County; five or six, I'm not sure. But it's very successful.

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

Floor Debate  
May 15, 2013

---

But it will be a collaborative effort to make sure these people are around the state where they're needed. [LB561]

SENATOR GLOOR: The cost associated with them...with this then are...do we anticipate an immediate ramp up or are we talking about... [LB561]

SENATOR ASHFORD: No. [LB561]

SENATOR GLOOR: ...from and appropriation standpoint we'll get to a hundred over one year, two... [LB561]

SENATOR ASHFORD: Right. I suspect it'll take a year to...they're already ramping up because of the Scottsbluff, North Platte, Douglas County, have already ramped up their probation departments there. And...but I, you know, to be honest, Senator Gloor, I think Hall county is a key place for probation. You know, I know there's a cost associated and technically they can use county aid funds to help defray those costs, so. [LB561]

SENATOR GLOOR: What costs...I mean, one of the costs I'd be concerned about... [LB561]

SENATOR ASHFORD: Well, the only costs that I can think of, there may be other sundry ones, but I mean, the idea traditionally in Nebraska is probation officers are paid by the state. And then the office space is provided at the courthouse by the county or some other building. [LB561]

SENATOR GLOOR: So Hall County and any other county would be looking at the responsibility of office space... [LB561]

SENATOR ASHFORD: Well, to have an office. Yeah. [LB561]

SENATOR GLOOR: Would they be responsible for clerical support? Would they be responsible for... [LB561]

SENATOR ASHFORD: No. [LB561]

SENATOR GLOOR: ...desks and... [LB561]

SENATOR ASHFORD: No. It's office space. [LB561]

SENATOR GLOOR: Okay. Speaking of the issue of cost then, and I want to make it clear I'm supportive of the bill and the amendments and the work that's been done on this. I just want to make sure for the record that there are no surprises. We've got costs that then probably are going to be borne by some of the family members, are we not,

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

Floor Debate  
May 15, 2013

---

if... [LB561]

SENATOR ASHFORD: There...possibly because the probation department is going to work with the families to access whatever insurance and other assets are available for support, yes. [LB561]

SENATOR GLOOR: But the probation officers...understanding they're not case workers, the probations officers we hope will be the contact person the family can go to to say... [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR GLOOR: ...we need substance abuse counseling for the... [LB561]

SENATOR ASHFORD: Right. And it's really the community...that...yes, and that's why this county aid money is so important because it's important that we develop this capacity. [LB561]

SENATOR SULLIVAN: One minute. [LB561]

SENATOR ASHFORD: Yes. And that has to be done by other people. [LB561]

SENATOR GLOOR: Okay. That is part of this that I think we need to make sure we all understand here is that...and I don't think this is inappropriate, that families may be...we want families to be back into this. We don't want... [LB561]

SENATOR ASHFORD: We really want families to be a major part of this, yes. [LB561]

SENATOR GLOOR: But that may also require, in families' cases, they also now are assuming some expense. If the state is no longer responsible for these kids in totality, the courts obviously can order as part of a court order I think some of these services. [LB561]

SENATOR ASHFORD: Yeah. [LB561]

SENATOR GLOOR: Families also are going to be expected to step in here and in some cases that means go to their own pocketbooks, their own insurance plans, whatever the case may be. [LB561]

SENATOR ASHFORD: Yes. [LB561]

SENATOR GLOOR: Okay. Thank you, Senator Ashford. Thank you, Madam Chair. [LB561]

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

Floor Debate  
May 15, 2013

---

SENATOR SULLIVAN: Thank you, Senator Gloor and Senator Ashford. The Chair now recognizes Senator Nelson. [LB561]

SENATOR NELSON: Thank you, Madam President and members of the body. Senator Ashford, I had a couple of other questions I wanted to ask just to clarify if he would yield. [LB561]

SENATOR ASHFORD: Yes. [LB561]

SENATOR SULLIVAN: Senator Ashford, would you yield? [LB561]

SENATOR ASHFORD: Yes. [LB561]

SENATOR NELSON: You've stated that the money for the hiring of the probation, and you figure it's about a hundred, that's already taken care of; it's coming out of Health and Human Services. [LB561]

SENATOR ASHFORD: Correct. [LB561]

SENATOR NELSON: Now we aren't talking about an A bill right here. I know it's coming up a little later. [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR NELSON: So that A bill is going to address this state aid that we're talking about. [LB561]

SENATOR ASHFORD: Correct. [LB561]

SENATOR NELSON: Nothing is coming out of Health and Human Services or anything... [LB561]

SENATOR ASHFORD: Not that...that part isn't. [LB561]

SENATOR NELSON: Oh, okay. So then we'll be talking down the road here about your proposal for the costs of providing state aid. And you have a pretty high figure and I don't want to pre-anticipate anything here, if that's a word, I think that was \$10 million a year. So we'll be talking about this later. Do you anticipate there's going to be some reduction in that amount? [LB561]

SENATOR ASHFORD: Never. [LB561]

Floor Debate  
May 15, 2013

---

SENATOR NELSON: Never. You're going to ask for the whole banana. [LB561]

SENATOR ASHFORD: The whole enchilada. I want the whole thing, Senator Nelson. We'll have some discussions, I'm certain, on the A bill. [LB561]

SENATOR NELSON: All right. Okay. But is that base...was that A bill based on the amount that you feel you're going have to have to get this off the ground? [LB561]

SENATOR ASHFORD: I think that's a fair question, Senator Nelson, without question to ask that. And the...I looked at what the programs have been across the state and in the counties, and what I tried to do was extrapolate from what we have now and to make a robust statewide program it seemed to me that we need...the original county aid program, as I understand it, going back a few years was set at \$6 million. It's now at a million four. So it never was full...well, I don't know if it was never, it hasn't been fully funded for a while. So I want to go back to that original amount and then add on for the years that it wasn't increased. It's not...I don't have an exact correlation between the number and services, but I do know there are huge gaps of the state that need help. So that's... [LB561]

SENATOR NELSON: I guess--thank you--another question is, who helps set up in the various counties these community-based services and get them established? Are the counties going to get some guidance on that? [LB561]

SENATOR ASHFORD: Yes. And what...they are going to get guidance on that, and that's a great question, because the aid will go to those counties...and the...we will have an expert hired in the Crime Commission that will work with the counties to develop programs that are evidenced based, essentially that worked other places. That's the idea of the crime...the Crime Commission has a bit of an expanded role here as well. So they will involve themselves with the counties in setting up those programs. [LB561]

SENATOR NELSON: Where are the people going to come from? Are...is it private agencies that are going to work with the counties? [LB561]

SENATOR ASHFORD: Probably. For example, in Douglas County they've been working on programs to reduce detention. And the budget for those programs, I believe, is \$140,000, or something to that effect. A lot of that money has gone into that, to reducing detention. And they have reduced detention in the detention center in Douglas County as a result of some of those efforts. Each county or consortium of counties will have different ideas, I suppose, on how it should be done. But it is clearly county aid. I mean,... [LB561]

SENATOR NELSON: Okay. [LB561]

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

Floor Debate  
May 15, 2013

---

SENATOR ASHFORD: ...there's no question. It's county aid. [LB561]

SENATOR NELSON: And then one final question, Senator. [LB561]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute. [LB561]

SENATOR NELSON: We're talking about a hundred probation officers. [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR NELSON: Where are they going to come from? I mean, we don't have enough right now. [LB561]

SENATOR ASHFORD: Right. Well, some will come from OJS most likely. There will be new hires. And I know in talking with probation, which I do daily pretty much, is there...they...for example, North Platte and Scottsbluff, they've had to hire...they've gone out and hired additional people. Some of them come from the social worker background. Some of them actually have master's degrees in criminal justice. There are a variety of different places. But they are new. There will be new people added, yes. [LB561]

SENATOR NELSON: And if we're going to spread across the state, some of them are going to have to be willing to locate in... [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR NELSON: ...some of the rural areas, right? [LB561]

SENATOR ASHFORD: Right. We have to provide more support for rural areas, there's no question. [LB561]

SENATOR NELSON: All right. All right. Thank you very much. Thank you, Madam President or Mr. President. [LB561]

SENATOR GLOOR: Thank you, Senator Nelson. Senator Bolz, you are recognized. [LB561]

SENATOR BOLZ: Thank you. Mr. President, I just have a brief question for Senator Ashford if he'll yield. [LB561]

SENATOR GLOOR: Senator Ashford, would you yield? [LB561]

Floor Debate  
May 15, 2013

---

SENATOR BOLZ: I see the provision in the amendment that says the juvenile shall not be detained in secured detention or placed at a youth rehabilitation and treatment center unless essentially immediate and urgent necessity or the appearance of the opportunity to flee the jurisdiction of the court... [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR BOLZ: The way I'm understanding that is that that's a provision to put some additional parameters around when it's appropriate to send someone to those facilities... [LB561]

SENATOR ASHFORD: Right. [LB561]

SENATOR BOLZ: ...based on risk. Is that correct? [LB561]

SENATOR ASHFORD: Correct. [LB561]

SENATOR BOLZ: Okay. And I just thought for the record it might be useful to articulate that a little bit more. Do you feel that those parameters are sufficient and they're achieving the purpose of keeping juveniles who should not be in those facilities out of those facilities? [LB561]

SENATOR ASHFORD: Yes. We think it is. We think that's a recognized standard and we have a lot...we have...especially with...not only, but with young girls, we have flight risk is a big risk and is...in Geneva we have a number of young girls who are...who do flee, have...runaways. And I...so yeah. I mean, I think that's an important criteria. And then the other criteria I think is equally as important, so yes. [LB561]

SENATOR BOLZ: I appreciate that, Senator. I think that discernment about who should be in such facilities and who should not and when and where and why is something... [LB561]

SENATOR ASHFORD: Well, we should... [LB561]

SENATOR BOLZ: ...we need to get right. So I appreciate... [LB561]

SENATOR ASHFORD: We have too many. We have...in Kearney, it's around 500 a year. And of those, there are many of them that shouldn't be there. And that's what we're going to be working on, hopefully, is to reduce that number to a number that can be properly treated. Geneva has fewer girls, but there, too, I think we can...though not as much, we're going to be able to reduce, to some extent, the population at Geneva. [LB561]

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

Floor Debate  
May 15, 2013

---

SENATOR BOLZ: That's right. Very good. Thank you. Thank you, Mr. President.  
[LB561]

SENATOR GLOOR: Thank you, Senator Bolz. There are no senators remaining in the queue. Senator Ashford, you're recognized to close on AM1401 to AM1394. [LB561]

SENATOR ASHFORD: My only closing would be...at this point would be to recall to the body that this amendment simply provides for the oversight that now exists from the Inspector General on services provided at the YRTCs, but also by private contractors, and that it make clear that that is in this...in the bill as it moves forward. Thank you.  
[LB561]

SENATOR GLOOR: Thank you, Senator Ashford. Members, the question is, shall the amendment to AM1394 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB561]

CLERK: 29 ayes, 0 nays, Mr. President, on the amendment to the amendment. [LB561]

SENATOR GLOOR: The amendment is adopted. We return to the amendment, AM1394. Seeing no members wishing to be recognized, Senator Ashford, you're recognized to close on AM1394. [LB561]

SENATOR ASHFORD: Thank you, Mr. President and members. The amendment is the bill, with the last amendment we adopted. I would urge its adoption and, again, thank as profusely as I can the efforts of so many people, starting with my office, the Judiciary Committee, HHS, Senator Krist for coming up with the idea that really I was struggling with for five years going through all these various issues that we were confronting in the juvenile justice system in the Judiciary Committee of saying we've got to get a handle on this, we can't...we just have got to...our side of it, the 3,000 or so juveniles that we deal with every year, we have got to get a handle on that population so they don't get worse. We're not going to save every kid, I know that, but I think we're going to save a lot more kids. And working with the schools, with HHS, we're going to make a big difference in the lives of children. We're going to make a big difference in the lives of families with the passage of this amendment, and I would urge its adoption. Thank you, Mr. President. [LB561]

SENATOR GLOOR: Thank you, Senator Ashford. The question is, shall the amendment to LB561 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB561]

CLERK: 36 ayes, 0 nays on adoption of Senator Ashford's amendment. [LB561]

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

Floor Debate  
May 15, 2013

---

SENATOR GLOOR: The amendment is adopted. Speaker Adams for an announcement. [LB561]

SPEAKER ADAMS: Thank you, Mr. President. Members, the plan for this afternoon will be to continue to work through the agenda until 6:00. However, however, yesterday we sent up the budget bills to Bill Drafting. And what I would like to do is to tentatively say 6:00, but I think we need to stay in session until we get those bills back from Bill Drafters and get them here while we're in session so that we can potentially be in Final Reading on them on Monday. So we'll think 6:00, but we may have to extend a little bit longer until those bills come down to us. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Speaker Adams. Mr. Clerk.

CLERK: Mr. President, new resolutions: LR201 is by Senator Crawford, that's an Executive Board resolution because it calls for an interim study; and LR202 is Senator Avery, also a study resolution that will also be referred to the Executive Board. (Legislative Journal pages 1369-1370.) [LR201 LR202]

Mr. President, Senator Seiler would move to recess the body until 1:30 p.m.

SENATOR GLOOR: Members, you've heard the motion to recess until 1:30. Those in favor say aye. Those opposed say nay. We stand recessed.

RECESS

SENATOR KRIST PRESIDING

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

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

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

CLERK: I have one, new resolution: Senator Haar would offer LR203; that resolution will be laid over at this time. That's all that I had, Mr. President. (Legislative Journal page 1371.) [LR203]

SENATOR KRIST: Thank you. Let's proceed to the first item on this afternoon's agenda.

CLERK: Mr. President, we are back...or the Legislature is back to consideration of LB561. The next amendment I have to the bill is by Senator Coash, AM1351.

Floor Debate  
May 15, 2013

---

(Legislative Journal pages 1371-1373.) [LB561]

SENATOR KRIST: Senator Coash, you're recognized. [LB561]

SENATOR COASH: Thank you, Mr. President. Thank you again, Mr. President. Colleagues, AM1351 is an amendment that stems out of a bill that we have in Judiciary Committee, LB503, and this amendment requires a formal study and a plan for the implementation of alternative response, child welfare system in Nebraska. LB503, which is still in the Judiciary Committee, and that is okay, dictates an alternative response system in our state, and we had a hearing on that earlier this year. The hearing went very well, but here's the challenge that we have. This is a change in the way we approach child welfare and it takes time to make sure that everybody who has to implement the change, oversee the change, has a good plan to do so moving forward, and AM1351 is the mandate of that plan. And my intent is to put this plan in statute. The plan will be devised, submitted to the Legislature and to the Children's Commission, and then next year we can use LB503 as a vehicle to implement that plan. But I want to take this time to educate the rest of my colleagues outside the Judiciary Committee who didn't have a chance to attend the hearing on what alternative response is. Alternative response is defined in this way. It is reform, and that's why this is a very appropriate bill for LB561, it is a reform that structures Child Protective Services to offer a minimum of two responses to screened in and accepted child abuse and neglect reports. Right now, colleagues, we have a one-size-fits-all approach from the department, under the statute, when an investigation needs to occur because a child has been abused or neglected. And that one-size approach is a problem because every child is not treated...every case and every child within that case is not treated necessarily the same. And unfortunately, what we have is a system which goes after the bad guy only. Now I'm going to give you an example of that, that I gave to the Judiciary Committee. You might have a ten-year-old little girl who goes to school and she's fidgeting in her chair and she is struggling to pay attention to class. And the teacher comes up to that little girl and says, what is going on? Why can't you sit still? And she says, I'm hungry, I haven't had anything to eat. That teacher is going to do what is her mandate under the law and call that into Child Protective Services. That investigation track, which is what we have now, is going to result in an interview with the family, figure out why it is this little girl is hungry. Now in this example, if that little girl happens...if the investigation shows that the reason she's hungry is that Mom and Dad are withholding food in an effort to change her behavior, get her grades up, then they're going to come down pretty hard on that mom and she may end up on the child abuse registry. She may lose custody. Her daughter may end up sleeping somewhere else other than her home. That's what the system does. Here's another example. That same little girl, excuse me, a different little girl shows up and she's hungry. Teacher calls, does the same thing. The investigation shows that the reason that little girl is hungry is that Mom is not able to provide food for her. Under the current system right now, the system will treat that family the same as the family I described earlier. And what alternative response does is it allows the

Floor Debate  
May 15, 2013

---

department to treat those two types of families differently. It seeks safety through family engagement and a collaborative partnership. It allows and encourages agencies to provide services without a formal determination of abuse and neglect. It sets aside fault finding in substantial decisions. It is usually applied to reports that do not allege serious or imminent harm. And it links families to services more quickly. The pathway includes family directed services based on the strength of the family rather than punitive sanctions for their weaknesses. An HHS-led alternative response, in contrast to a law enforcement-led investigative response, provides families an assessment of their needs and the appropriate interventions to address them by building on the family strengths. In other states who have used alternative response, such interventions have included aid through existing community resources, assistance in navigating services, and assistance in strengthening a family's self-sufficiency. Outcomes in these states include greater involvement of families' natural support systems, less recurrence of child maltreatment and removal from the home, and greater cooperation and information from parents all lead to better safety outcomes for children. That's what alternative response does. That is not what this amendment does. This amendment simply directs a plan. Currently, DHHS has convened a statewide alternative response task force, which has been meeting monthly for the past year to implement alternative response here in Nebraska. Members include various Children and Family Services administrators, Voices for Children, Nebraska Appleseed, OMNI Behavioral Health, Project Harmony, Nebraska Foster and Adoptive Parent Association, the Nebraska Foster Care Review Office, and Child Advocacy Centers, and Casey Family programs. So in other words, colleagues, there are a lot of groups already working on this. My intent here with AM1351 is to put some muscle behind that work and ask them to submit to the Legislature and the Children's Commission a plan for implementing this response that I just described for you. My intent is to use that and, with the Legislature's support, to use that as a framework, along with a bill that we have in Judiciary, to move forward on this response approach. This is important, colleagues, for a couple of reasons. You've heard Senator Campbell, myself, others talk numerous times on this floor about the challenges that Child Protective Services has in pulling kids out of the home. We're not in a good ranking when it comes to that. One of the reasons we're not is because we don't have many options. If your only option is to investigate and look for bad guys and not to support families, you're going to end up with higher rates of out-of-home care. Alternative response has to look different in each state, because every state has their own needs. Every state has their own structure and their own resources. We need to have a response that fits for Nebraska. This is the future of child welfare services in our state. I would have loved to have brought LB503 to the floor this year, but the stakeholders are not quite there yet. And what I'm asking from you today, colleagues, is your support on AM1351 to continue that work, to put some deadlines in place to get that work completed so that we can continue to reform the system in a way that needs to be reformed. With that, I'll be glad to answer any questions. Thank you, Mr. President. [LB561 LB503]

Floor Debate  
May 15, 2013

---

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Coash. Senators wishing to speak included Pirsch, Dubas, and Krist. Senator Pirsch, you're recognized. [LB561]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Coash would yield to a question or two. [LB561]

SENATOR CARLSON: Senator Coash, will you yield? [LB561]

SENATOR COASH: Yes, I will. [LB561]

SENATOR PIRSCH: Thank you, Senator Coash, for your discussion there. With respect to your proposal, so there is...this particular amendment would call for the results of a study that are going to be...that will be taking place this summer or fall to be distributed to the Legislature. Is that what you're...the aim of this? [LB561]

SENATOR COASH: Yeah, I...yes, Senator Pirsch, that is the aim. I wouldn't call it so much as a study as a framework and a plan to be submitted to the Legislature. The study has been done. We know that this is an approach that we need to do in Nebraska. This takes it a step further and says how will we implement this, and that's what this amendment will do. [LB561]

SENATOR PIRSCH: How was the...the participants in this study, were they determined by...through private decision making or was it this body at a previous time that assembled that? [LB561]

SENATOR COASH: Well, I think there's two entities that are driving this, one...and they're from different branches here, one is the department. They are the ones that have to implement this, right, HHS, and so they are part of this and they are bringing to bear the people and resources that can speak to this issue. And the other one is a creature of this Legislature, which is the Nebraska Children's Commission, and so that's why we've involved the Children's Commission in this. [LB561]

SENATOR PIRSCH: Okay. So two governmental entities we're requesting to...or ordering through this legislation to examine and have a plan for us. Is that correct? [LB561]

SENATOR COASH: Yes. [LB561]

SENATOR PIRSCH: Okay. Wonderful. And I do appreciate. And by alternative response, is that somewhat akin to voluntary services, families receiving voluntary services? [LB561]

Floor Debate  
May 15, 2013

---

SENATOR COASH: Families receiving voluntary services can certainly be a part of alternative response. Alternative response is really just giving another response, an additional response. Right now, as I said, we have one response. Another alternative response dictates that you have a different approach that can meet families where they are. That can include voluntary services. [LB561]

SENATOR PIRSCH: Okay. And so we anticipate then, should this amendment be adopted, that there would be a plan set in place to increase the volume of alternative responses as opposed to the traditional court intervention method. Is that correct? [LB561]

SENATOR COASH: Well, I don't know if "increase that" would be the right word, Senator, because we haven't done it yet so we don't have anything to increase. We'll still have the same number of calls coming in to Child Protective Services prior to and after having an alternative response. The idea behind this plan is we'll know which kind of situations the families find themselves in would be more appropriate for a support track versus an investigation track. [LB561]

SENATOR PIRSCH: Yeah. I had thought that you had stated in your opening that it would result in substantively less removals. [LB561]

SENATOR COASH: That's the hope. [LB561]

SENATOR PIRSCH: Okay, so... [LB561]

SENATOR COASH: And that is what other states have seen by implementing this approach, is that you don't see less abuse or neglect going on, but you do see less removal as a result of that. [LB561]

SENATOR PIRSCH: Okay. I would just urge...is there any part of this bill that asks for, in asking for this plan, attendant with that, a plan of accountability? If with respect to a court intervention, this seems to be a...this alternative seems to be an alternative to court intervention. And I don't have any fundamental disagreement with that approach, but, you know, the key is in the details. And so is there, inherent in this... [LB561]

SENATOR CARLSON: One minute. [LB561]

SENATOR PIRSCH: ...inherent in this approach, and I'll give you the rest of the time for your response, but accountability with respect to gauging the outcomes and monitoring and seeing? Since there won't be this formal but rather more of a...and by "formal" I mean court intervened, but non-court administered, what type of accountability will be built into that in terms of asking for that in the plan? Thank you. [LB561]

Floor Debate  
May 15, 2013

---

SENATOR COASH: Thank you, Senator Pirsch. Accountability is part of this plan. It is part of how alternative response must be implemented. Some of the reasons we were unable to get LB503 moving as quickly this year is through those discussions about who's going to be watching over that. I'll be glad to say on the record that it is my intent that there is appropriate oversight by the courts and appropriate involvement, and that is part of what we are hoping to flesh out through this plan. Thank you, Mr. President. [LB561 LB503]

SENATOR CARLSON: Time. Thank you, Senator Pirsch and Senator Coash. Senator Dubas, you're recognized. [LB561]

SENATOR DUBAS: Thank you, Mr. President. I stand in strong support of this amendment. I supported Senator Coash's bill. This is an issue that I had taken some interest in and started to do some of my own initial research, thinking about potential legislation, but knew that Senator Coash was maybe in a better position to carry this through. And so I've just watched from afar as to what he's been doing. But what this amendment...certainly is not doing everything that his bill would have done, but it's certainly a step in the right direction. This is just a natural progression of all of the work that the Health Committee did as far as the improvements in our child welfare system. And what I have found through my work with foster care and the work that the Health Committee did, we are leading the nation in the number of children that are being removed from their homes and there's got to be a better way of determining when it is appropriate to actually remove those children from their homes or when those families just need that little bit of extra support, that little bit of extra ability to keep their family intact. You know, sometimes it's just making sure that there's food in the kitchen cupboards. You know, we're very quick to judge these families as being bad parents and not caring about their kids, but often it's just circumstances that, you know, whether they've lost their jobs or, you know, their jobs just aren't able to allow them to meet all of their family's needs, you know, you've got both parents working. There are so many different circumstances that again don't lead...don't mean that these are abusive parents or that they don't care about their family. It's just the circumstances surrounding how they live and how they're able to take care of their children. You know, sometimes kids are sleeping on a mattress on the floor. Well, they couldn't afford a bed. That doesn't mean they're a bad parent. They're doing the best that they can within the means that they have. And so if we are able to give law enforcement and social workers and others who come into the homes and who are having to make the decisions about whether that child is actually...is in physical danger and needs to be removed immediately, or whether just with a little bit of extra help that family can remain intact, we can take care of the children's needs. We can get those parents pointed the right direction and hopefully help them get a little bit more control of their lives. We all win. We all win. It's going to keep families together. It's going to reduce those children who are being removed from home. It's going to take that pressure off of foster care and

Floor Debate  
May 15, 2013

---

finding foster families and making sure that we're putting these kids in the appropriate places. It's going to hopefully alleviate some of the more costly things that we're having to do to meet these children's needs. It's just...I just see this as an incredible step in the right direction, a win-win for everybody. Certainly is going to be a beneficial tool for those law enforcement and social workers who are being required to make a decision. And of course they're always going to err on the side of the child in making sure that that child is being taken out of a dangerous situation if it exists. But if they have alternatives, if they have another way of responding to the situation that is less stressful, that is less traumatic. You know, even if a child is being removed from a dangerous situation, it is still a trauma for that child to be taken out of their home. That's their home. That's the only place they know. And so if we can kind of alleviate the trauma of children being taken out of their home who, again, aren't necessarily in immediate danger, but just need to make sure that their basic needs are being taken care of, and we can provide some parenting training or whatever it takes to keep that family moving in the right direction. I just...I'm just in strong support of the work that Senator Coash has been doing on this and really encourage you, colleagues, to lend your support to this issue as well, because it just, again, goes into what we talked about this...what we've been talking about with Senator Ashford's bill,... [LB561]

SENATOR CARLSON: One minute. [LB561]

SENATOR DUBAS: Thank you,...what Senator Campbell has been talking about in terms of child welfare reform, what I've been talking about as far as how do we make sure foster families have all the resources that they need to take care of children who are being...these are all just pieces of a really big puzzle. And slowly but surely we're getting there. We're getting that puzzle all put together and hopefully when that picture all comes into place we have families who are able to remain intact in healthy environments, parents who feel good about what they're doing, children who feel good about the families that they live with. And, you know, we won't get there overnight, but we are getting there. And I think the work that is being done by this committee and that Senator Coash is having this formal report done will give the Legislature some additional information and tools as we continue to look at what is the best policy for the state of Nebraska. So thank you, Senator Coash, for your amendment. [LB561]

SENATOR CARLSON: Thank you, Senator Dubas. Senator Krist, you're recognized. [LB561]

SENATOR KRIST: Thank you, Mr. President, colleagues. And good afternoon, Nebraska. I, too, stand in strong support of AM1351. We were confronted several years ago with a mosaic of disjointed...I think the picture was completely disjointed, and we have succeeded through the pilot project and through efforts Senator Campbell and her committee...in Health and Human Services Committee I serve on, as well as Judiciary. We're now at a point where we're starting to pick out those pieces that can be corrected.

Floor Debate  
May 15, 2013

---

We've already said that it is...with LB561 and the pilot project, we've already said it is no longer necessary to remove a child from the home in order to qualify them for the services that they may be required. That's a huge step in the right direction. But having alternative plans includes having places that provides safety for a child, yet minimize the trauma involved with the child being removed. Imagine yourself three, four, five years old; it's a while ago, but I'm sure you can put yourself back there or look at your children or your grandchildren. Imagine that in the middle of the night they are yanked from their bed and taken to a strange place. There used to be an old black-and-white detective show on television and he would say there's a million and one stories in the naked city and I've heard them all. Well, I think when I'm on Health and Human Services, we've heard a lot of horror stories, all the way from a point of a police officer responding to a domestic violence and there is cocaine lines on the table, where we did not remove a child because the cocaine wasn't in their bedroom--imagine that, okay--to a point where a child is removed just for the suspicion that is called in from the school. We have to have a plan. We have to have some alternatives. We can't keep closing down our emergency shelters that exist out there. It's all part of the equation. Senator Coash's amendment would say--find us the plans, put something in place, let's start working in that direction. And I believe that the study with the Children's Commission and others will be a starting point and it will be a dynamic environment where we adjust and we go forward. And I think we're all part of that dynamics. It is extremely important that we find alternatives, because to yank a kid from their home is probably one of the most traumatic things that could happen. Now let me stop and just say it is the safety of the child that we are concerned with, so there are reasons why. But even in that situation, to place them with a family member to provide that safety so that things can be looked at is a far better alternative than throwing them into a facility or an unknown place. I ask you to support AM1351 and, when the time comes, LB561. Thank you. [LB561]

SENATOR CARLSON: Thank you, Senator Krist. Senator Pirsch, you're recognized. [LB561]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Coash would yield to a couple more questions. [LB561]

SENATOR CARLSON: Senator Coash, would you yield? [LB561]

SENATOR COASH: Yes. [LB561]

SENATOR PIRSCH: So thanks. And I think, from what I was able to glance over at the amendment here, AM1351, that what you say, there is express language in that amendment, as I see it, and it's on page 3, line 1, with respect to having oversight and accountability. So I appreciate your previous answers. With respect to...now this Children's...well, it's the Health and Human Services that is going to be working on this, correct? [LB561]

Floor Debate  
May 15, 2013

---

SENATOR COASH: Well, we're charging Health and Human Services with pulling together the stakeholders on this, and although it's not in this amendment, those stakeholders, as I said, have already been working together on a statewide alternative response team. The devil is in the details on how you do this, and so those details are...and working them out was the barrier in moving forward with LB503. And so what this amendment is going to do is kind of...it's going to put some heat on those folks to work out the details, as I've outlined them in this amendment. [LB561 LB503]

SENATOR PIRSCH: What's the product you anticipate? What is it that you're requesting them to produce? [LB561]

SENATOR COASH: Okay. So this is not a study, because a study would lead you to...should we do this or should we not. That has been done. The Children's Commission, the Casey Family Foundation, the department, everybody...the right people have got together and say this is an approach we ought to take. What I want to get out of AM1351 is a model for implementation under the guidelines that I've outlined here. [LB561]

SENATOR PIRSCH: And I'm sorry, it's kind of loud in here. Did you say model for implementation? [LB561]

SENATOR COASH: Yes. [LB561]

SENATOR PIRSCH: Okay. And so with respect to that, could you tell me in...per the language of your amendment, would that request...to what specificity would you be...would this be addressing, say, a SDM, structured decision-making tools? Is that asking for them to develop one or to recommend the adoption statewide one, or perhaps multiple different tools depending on which region of Nebraska you're in? Or can you comment on that? [LB561]

SENATOR COASH: Sure. The structured decision making is part of...if you look at it this way, alternative response is kind of the umbrella term to say we need a different way of doing our work when it comes to child abuse and neglect. When you decide which track you take, you need a model to do that. You need some guide that says this is a case that is more appropriate for an alternative response than this case over here. And in the amendment you will see on page 1, line 15, that is part of this--the eligibility criteria of alternative response. And so you have to determine which family is eligible for this and a structured decision-making approach will be the tool used to determine which family is more appropriate for this versus another one. [LB561]

SENATOR PIRSCH: And will the adaptation or the adoption of that SDM, the particular SDM, will that be part of the review, part of the accountability looking at how that SDM

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

Floor Debate  
May 15, 2013

---

performed... [LB561]

SENATOR COASH: Yes. [LB561]

SENATOR PIRSCH: ...in the final (inaudible)? Okay. [LB561]

SENATOR COASH: Yes, it will, Senator Pirsch. [LB561]

SENATOR PIRSCH: Okay. Thank you. I'd yield the balance of my time to Senator Coash, should he desire to use them. [LB561]

SENATOR CARLSON: Thank you, Senator Pirsch. Senator Coash, 1 minute. [LB561]

SENATOR COASH: Is there anybody else in the queue? [LB561]

SENATOR CARLSON: No. [LB561]

SENATOR COASH: Okay. Then I'll waive this and move to the closing. [LB561]

SENATOR CARLSON: Thank you. We do have senators wishing to speak now: Senator Nelson and Senator Kintner. (Visitors introduced.) Senator Nelson, you're recognized. [LB561]

SENATOR NELSON: Thank you, Mr. Speaker. I'm sorry I was slow in hitting the button there before you spoke. I would like to ask a question or two of Senator Coash, if he would yield. [LB561]

SENATOR CARLSON: Senator Coash, would you yield? [LB561]

SENATOR COASH: Yes. [LB561]

SENATOR NELSON: Thank you, Senator. Senator, I stand in support of this amendment. I do think maybe this is an occasion to address instances we've read where Child Protective has come in to a home on the basis of what turned out to be absolutely wrong allegations and suggestions of abuse and caused a lot of problems, removed children from the home, when it turned out that it was a vindictive neighbor or something like that. What's the protocol now? What are they doing now when instances of like come up? Do they do some checking of some sort first before they take that kind of action, if you know? [LB561]

SENATOR COASH: Yes. Anytime that there's an allegation of a child being abused, the department has a statutory responsibility to investigate that every time, 100 percent of the time. So there is never an instance where the department can say, you know what, I

Floor Debate  
May 15, 2013

---

think somebody is trying to get somebody in trouble here, we're not going to look at it. They can't do that. They won't do that. They'll investigate every single instance. It is their responsibility to fish those allegations out and that process won't change should we implement alternative response. What will change is if they find the source of the abuse or neglect happens to be reasons related to poverty, for example, then they have a different way of approaching that family than the family who truly is neglecting or abusing their child. [LB561]

SENATOR NELSON: All right. But if the allegations are physical abuse or things of that sort, is this going to affect that at all or are they just going to remove the children for a doctor's examination and...or can they do some primary investigative...if it's a parent that at least on the surface that nothing is wrong, is... [LB561]

SENATOR COASH: They, yeah, yes, they can...they can, and that really won't change through this. What will happen now, and they just have to get better at it maybe, but what will happen now is if a worker goes in to investigate that and they find that the allegation is unsubstantiated, and I carried a bill three years ago to change those...that criteria, and they can find that there's no evidence of that and they have to prove or, you know, find evidence that a child has not been abused. And then hopefully they won't remove that. But they do have to go through the motions of making sure that the child wasn't hurt. [LB561]

SENATOR NELSON: Okay. But is the burden placed on the parents to show that everything is all right? And does that have to be done through court and obtaining a lawyer and things of that sort? [LB561]

SENATOR COASH: It does not have to be proven through court, and that won't change here either. The workers are trained to look for signs of abuse and to fish those out. And many times when you talk to workers now, they find that now and they don't open a case. They close it. They find...but they do log it in case it comes up again so that they know if there's a pattern here. They can go back and look at that. [LB561]

SENATOR NELSON: All right. Thank you. Thank you, Senator. I appreciate your experience and knowledge about what the procedures are now. Thank you. Thank you, Mr. President. [LB561]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Coash. Senator Kintner, you're recognized. [LB561]

SENATOR KINTNER: Thank you, Mr. President. Senator Coash, would you yield to a question or two? [LB561]

SENATOR CARLSON: Senator Coash, would you yield? [LB561]

Floor Debate  
May 15, 2013

---

SENATOR COASH: Yes, I will. [LB561]

SENATOR KINTNER: You know, I'm inclined to support this. Looks pretty good. But you did say something earlier that I about fell out of my chair when I heard it. And I...you know, we created this huge welfare state. We take care of people from womb to tomb. And so I'm still trying to wrap my mind around a lot of the stuff that we do here. But you said if a girl comes to school and says she's hungry, that would trigger an investigation. Is that correct? [LB561]

SENATOR COASH: Yes. [LB561]

SENATOR KINTNER: You're kidding me. I think I spent my entire childhood playing baseball and chasing food around. I was collecting pop bottles at 2 cents a bottle, cashing them in so I could go buy candy. I was cutting grass to go buy ice cream. My parents would never, in my opinion, from age 6 to 18, feed me enough money so I was always trying to earn money to go get more food. So if you would have asked me at any time in my life, I would have said, yeah, I'm hungry. [LB561]

SENATOR COASH: Well, Senator Kintner, if I could, maybe I could expand on that. If a child came to school and told their teacher...in the example I gave you, children are fidgety and, you know, you could see in a situation where a child may be having trouble concentrating on the work. And the teacher may pull that child aside and say, what's going on here now? If the child says, well, I'm hungry, teacher is going to...that in and of itself is not going to trigger an investigation, but if the follow-up question was, tell me why you're hungry; did you just get...sleep in and skip breakfast? Yes. Okay, that's not going to do anything. But if the answer was, no, it's Monday and we didn't have any food all weekend and I haven't eaten since I left school Friday at lunch, and that happens in our state, that instance is going to trigger an investigation, not in and of itself, I'm hungry. So I hope that clarifies the record a little bit. [LB561]

SENATOR KINTNER: That helps a lot. Let me ask one more question. From time to time when I was a little shaver, I'd mouth off to my mom and, hey, I don't want this broccoli, give me some pudding or give me some ice cream or give me some meat, I don't want these vegetables. And she'd tell me to shut up, and if I kept talking she might say, go to your room, you're not going to eat. Is withholding food because a kid mouthed off, is that child abuse? [LB561]

SENATOR COASH: I think in the...I think that would be subject to investigation, and you're going to look at not only the act but the outcome, okay? The act is withholding a meal. Now if the outcome is...or the act of withholding a meal, and let's say that happens breakfast, lunch, and dinner, breakfast, lunch, and dinner, then the outcome is you've got a pretty hungry kid, right? And so the department, and you can talk to them,

Floor Debate  
May 15, 2013

---

they will tell you that they train their workers to try to fish out what is a pattern and what is an isolated incident, what is within a parent's purview of raising their child versus what constitutes abuse. And they kind of have to...they going to have to fish that out. And some of those will turn into investigations and a lot of them won't. [LB561]

SENATOR KINTNER: Okay. So I, you know, I'd probably go to bed, reach under my bed, grab my stash of Tootsie Rolls, eat a few Tootsie Rolls, wake up in the morning and say, well, don't complain about vegetables anymore. So I learned my lesson. But we have no child abuse there, right? [LB561]

SENATOR COASH: That's right. That's right. [LB561]

SENATOR KINTNER: Okay. I understand. I feel a little bit better. Thank you very much. Thank you, Mr. President. [LB561]

SENATOR CARLSON: Thank you, Senator Kintner and Senator Coash. Seeing no other senators wishing to speak, Senator Coash, you're recognized to close on AM1351. [LB561]

SENATOR COASH: Thank you, Mr. President. I want to just wrap this up a little bit. Not too long ago there was a policy, it wasn't really written there. Senator Kintner, you'd be interested to hear this. The policy wasn't written but it was certainly a culture in the department, and the culture was when in doubt, pull them out. Okay? And workers across our state were formally and informally trained that, you know what, if you're not sure whether a kid is being abused or neglected, you just pull them out. And I used to be a supporter of that, and I'll tell you why, because that made me feel better knowing that at the very least the kid who is pulled out is safe and fed. But I've changed and that is not a good approach. The approach should not be when in doubt, pull them out. The approach should be assess the family, make sure you know what's going on. And the only reason you should pull a kid out of the home is if it's not safe for that kid to be there. But our current system makes that decision, in a lot of cases, impossible. In some cases it makes it difficult. And what we have to do is we have to give the department some work, some alternatives to doing that and assessing the family. Senator Pirsch, I wanted to make sure you understood that the reason LB503 came to the Judiciary Committee is because the courts have oversight on these children. When a kid is pulled out, the courts have oversight. That's why we saw this in the Judiciary Committee. The department, our branch of government, through the Children's Commission, we've got the right people on board. I want to make sure that that's clear for the record as well. We've got a lot of very committed people that want to see this implemented and they want to see it implemented in the right way. We've seen in our own child welfare system hasty decisions lead to unintended consequences. And the devil is in the details on this, and so what we have to do is we've got to get these folks together and we've got to say, work out the details so that we can hit the ground running on this approach. AM1351

Floor Debate  
May 15, 2013

---

simply does this; it states the intent of us, the Legislature, to authorize the department to begin using this no later than July of '14, which gives the department and these stakeholders time to develop a plan for implementation. This mandated components...the mandated components of this plan comprise the bulk of this amendment. It directs DHHS, stakeholders, and families to develop a model that include 13 areas, which are in the amendment, to be decided on. And a lot of these 13 areas are ones that we couldn't hash out in the committee hearing and subsequent meetings. We couldn't get them hashed out, and that's why I can't bring you LB503 this year. But through AM1351, we will get those details worked out and they will be something that will be of public record, which I think is important. It will be available to all of us in the Legislature for our review. And following that, we're going to implement this in a planned way, and I think that is the best outcome we can get out of this amendment. Imagine this, we're planning, colleagues, for the change in our child welfare system. We're not setting a goal, figuring it out as we go. And I think that is a model that we need to implement in a lot of different areas of government, specifically within the child welfare system, because we've seen what happens when we don't plan. We've seen the fallout when we kind of shoot first and ask questions later. And we got a lot of people...good people trying to do good things, but without a good framework and a good model to do those things,... [LB561 LB503]

SENATOR CARLSON: One minute. [LB561]

SENATOR COASH: ...we struggle. And so with that, AM1351 is the plan. It's the mandate of the plan. And it's not a plan that will be set in stone. That's still up to us as the Legislature. But what we will have in front of us by this...in a very short order is a model that we can all look at, give our input to, and make sure that this is the direction we want for our state. And with that, I will close and ask for the body's support of AM1351. [LB561]

SENATOR CARLSON: Thank you, Senator Coash. Members, you've heard the closing on AM1351. The question is, shall the amendment be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB561]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB561]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk. [LB561]

CLERK: Senator Ashford would move to amend with AM1438. (Legislative Journal page 1373.) [LB561]

SENATOR CARLSON: Senator Ashford, you're recognized to open on AM1438. [LB561]

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

Floor Debate  
May 15, 2013

---

SENATOR ASHFORD: Very briefly, Mr. President and members, this simply is a technical change in line 26 of AM1401, and it simply adds...I'm sorry, line 27, adds the words...deletes "or to any other" and adds the words "and a." And that refers to the investigatory jurisdiction of the Ombudsman and the...over this process, and it's simply a technical word change. I used the word "or"; it should be "and," not "or." So that's the reason. [LB561]

SENATOR CARLSON: Thank you, Senator Ashford. You've heard the opening. Are there senators wishing to speak? Seeing none, Senator Ashford, you're recognized to close on AM1438. Senator Ashford waives closing. The question is, shall the amendment be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB561]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB561]

SENATOR CARLSON: The amendment is adopted. [LB561]

CLERK: I have nothing further on the bill, Mr. President. [LB561]

SENATOR CARLSON: Senator Murante for a motion. [LB561]

SENATOR MURANTE: Mr. President, I move to advance LB561 to E&R for engrossing. [LB561]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk, next item. [LB561]

CLERK: Mr. President, may I read some items?

SENATOR CARLSON: Please do.

CLERK: Thank you. New resolutions: LR204 is a resolution by Senator Brasch and others. It will be laid over at this time. And then LR205 and LR206 are two study resolutions by Senator Avery. Those will be referred to the Executive Board. [LR204 LR205 LR206]

Mr. President, the next bill is LB66. Senator, I do have Enrollment and Review amendments, first of all. (ER90, Legislative Journal page 1195.) [LB66]

SENATOR CARLSON: Senator Murante for a motion. [LB66]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB66]

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

Floor Debate  
May 15, 2013

---

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The amendments are adopted. [LB66]

CLERK: Mr. President, the next motion I have was from Senator Chambers. Senator Chambers would move to indefinitely postpone the bill. Senator Schilz, you'd have the option to lay the bill over or take the motion up at this time. [LB66]

SENATOR CARLSON: Senator Chambers, you're recognized to open on the motion. [LB66]

SENATOR CHAMBERS: To withdraw it. [LB66]

SENATOR CARLSON: So ordered. [LB66]

CLERK: Mr. President, Senator Chambers would move to amend the bill with FA80. (Legislative Journal page 1375.) [LB66]

SENATOR CARLSON: Senator Chambers, you're recognized to open on the floor amendment. [LB66]

SENATOR CHAMBERS: Mr. President and members of the Legislature, when I heard them taking a vote on that bill that just went by, I was in the middle of a dead sleep. (Laughter) And I had primed my mind that when those words were given to move that bill forward, I should snap awake, and speed to this Chamber faster than a speeding bullet. I just made it. What I intend to do is something that I had not planned on when offered that kill motion. I was going to hound, harry, and harass Senator Schilz's bill for the dastardly work he participated in yesterday in denying a vote on a bill that I had introduced. Circumstances alter cases. I looked at Senator Schilz. That's him sitting back there trying to blend into the background. (Laughter) He has a mustache and a goatee which creates a certain degree of commonality. So instead of just going after the bill for no purpose other than revenge, I began to look at it and I saw a very uncomplicated amendment that would be appropriate. And as I considered looking through the bill to see if there were any other places where I would amend it, I became aware of a question that I have about the bill, but I should tell you first what this amendment is that I'm going to offer. And, Mr. President, am I recognized for the purpose of offering this amendment? [LB66]

SENATOR CARLSON: Yes, you are. [LB66]

SENATOR CHAMBERS: Thank you. Whenever we have a comprehensive law, and it's going to be given a name, the word that we use is such and such an "Act," rather than such and such a "Law." This that Senator Schilz is amending was put into the statute

Floor Debate  
May 15, 2013

---

sometime ago, so instead of using the word "Act" they put the word "Law." There are three places where I would strike the word "Law," and insert "Act," and I discussed it with Senator Schilz and he has no difficulty with that, but I will let him speak for himself. Since I do have sometime and I've looked at the bill, I will have some genuine questions as to just what this bill is doing, why it's structured in the way that it is. But before going into all of that, I will ask you to adopt this amendment and that's my opening. Thank you, Mr. President. [LB66]

SENATOR CARLSON: Thank you, Senator Chambers. You've heard the opening on FA80. The floor is now open for debate. Senator Schilz, you're recognized. [LB66]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. And Senator Chambers is correct. We had a conversation before. I thank him for pulling the IPP motion. Of course, I'm not sure yet exactly where that puts me with him, but I guess we're going to find out. But I do appreciate the IPP motion being pulled. I see no problem with the amendment that he has. And in our conversations, we had the discussion. And as I told him, I understand why he's doing this. I understand the reasons for that and I told him that just as I'm made up the way I am, he's made up the way he is, and he has certain beliefs and certain things that he's willing to fight for, as do I. And sometimes, I'm guessing we're probably just not going to agree. So that being said, I think I understand that this isn't necessarily about this bill per se. But with that, I would be more than happy to move forward and answer some of the questions when his time is up. And I think just so that everybody knows as a refresher, LB66 would allow the communities to utilize tax increment financing in order to redevelop formerly used federal defense sites. And the committee amendment that was adopted on General File, AM784, it replaced the original bill and allows any community, not just a community of the first-class, to do such redevelopment through creating a Sanitary Improvement District rather than using the skip annexation that we had first talked about. And then...and so as this came together, I can tell you that the first concept included skip annexation which as we went to the committee hearing in the Urban Affairs Committee, everybody saw that that was...and we got the message real quick and real fast that skip annexation was not going anywhere. It was a nonstarter. But I have to commend and I have to thank members of the Urban Affairs Committee, especially Senator Krist and Senator McGill and staff, for their hard work in finding an avenue that actually fits much better than the original bill was. And so, once again, I was thankful that the Urban Affairs Committee didn't just look at it as the bill itself and what the bill did, but they looked at it as an idea of what would be good policy for the state of Nebraska at these sites. And I am thankful for that again because I think as we have all noticed here, what we do on the floor, and when we introduce bills, it's not necessarily up to us whether or not they move forward. It's up to a group of 49 to decide what the best policies are. And just because you have an idea and you introduce it in the bill, doesn't mean that's the best way to get things done. And I think that's the one thing that I take away from this is that you have to be able to collaborate, you have to be able to move forward, and you

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

Floor Debate  
May 15, 2013

---

have to be able to have give-and-take in order for this to work. But there will be certain issues that we're just...that myself and others in this body, perhaps, may not agree with, and that's okay too. So I'm here. I'm ready to defend LB66 because I think it is the right thing to do. And I'm also here to indulge Senator Chambers because it is his right and he has every right to do what he's doing right now and act in this fashion and I... [LB66]

SENATOR CARLSON: One minute. [LB66]

SENATOR SCHILZ: ...I'm okay with that and here we go. Thank you very much. [LB66]

SENATOR CARLSON: Thank you, Senator Schilz. Senator McGill, you're recognized. [LB66]

SENATOR MCGILL: Thank you, Senator Carlson. Would Senator Chambers yield to a question? [LB66]

SENATOR CARLSON: Senator Chambers, would you yield? [LB66]

SENATOR CHAMBERS: Senator McGill, that's a difficult question to answer the way you asked it? (Laughter) Could you rephrase it, please? [LB66]

SENATOR MCGILL: Can I...would you be willing to answer a question I pose to you? [LB66]

SENATOR CHAMBERS: Senator McGill, I will try if I understand the question when you ask it. [LB66]

SENATOR MCGILL: Fair enough. Thank you, Senator Chambers. I see you're striking the word "Law" and changing it to "Act." My Urban Affairs counsel has pointed out to me that the actual TIF statute is Community Development Law that this bill is referencing. And so do we also need to go into Chapter 18-2101 and change that to "Act?" [LB66]

SENATOR CHAMBERS: If I understand the question, there is another series of statutes, which taken together would be called this, whatever the introductory words are and then "Law," rather than the... [LB66]

SENATOR MCGILL: It says Community Development Law in statute. [LB66]

SENATOR CHAMBERS: Well, then, I still think...and that's why I wanted to get the amendment resolved before I went into other aspects of the bill. I believe that it should be "Act." And whenever something comes before us, even if it's existing law, then I try to amend it in the way that I think it should be amended. But if I do understand your question, in all seriousness, those other references would not be within the confines of

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

Floor Debate  
May 15, 2013

---

LB66. It would appear in places other than the portions of it that are addressed by LB66, is that correct? [LB66]

SENATOR MCGILL: I believe so, but I think the language in the amended version that we passed the other day says this would create an exception to that Community Development Law. And so we're going in and changing language that is referencing something else previous, already in statute. [LB66]

SENATOR CHAMBERS: So, that law that you're mentioning is found someplace else and it's known as, by that, with the word "Law," and since you're referring back to that, you want it to remain consistent? [LB66]

SENATOR MCGILL: Yes. [LB66]

SENATOR CHAMBERS: And is that the question you're asking me? [LB66]

SENATOR MCGILL: Yes. [LB66]

SENATOR CHAMBERS: What is the question you're asking me now that we've come to an... [LB66]

SENATOR MCGILL: (Laugh) If you feel that we need to keep it consistent, Senator Chambers, with the referencing the statute that already exists calling it "Law." Perhaps, that should have been named "Act" in the first place, but since it appears in statute as Community Development Law in Chapter 18, if we should go ahead and leave it as it is. [LB66]

SENATOR CHAMBERS: I do not want to create an unnecessary difficulty in the law itself, so based on what you've told me, I will answer your question, yes. If I understand your question or if you remember it. [LB66]

SENATOR MCGILL: (Laugh) Now I've forgotten what the question was. (Laughter) [LB66]

SENATOR CHAMBERS: Do you want to ask me now that it's clear to me, what it is, the question that you'd like me to answer? [LB66]

SENATOR MCGILL: Should we adopt your amendment since we're addressing a different part of statute where it's called Community Development Law? [LB66]

SENATOR CHAMBERS: Not at this time, but what I would like to do is maybe craft an amendment where anyplace that that appears it would be "Act," but since that is not going to alter what is being attempted here one way or the other, then I will not ask the

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

Floor Debate  
May 15, 2013

---

body to adopt the amendment that I have pending. [LB66]

SENATOR MCGILL: Thank you, Senator Chambers. [LB66]

SENATOR CHAMBERS: You're welcome, Senator McGill. [LB66]

SENATOR MCGILL: Thank you, Mr. President. [LB66]

SENATOR CARLSON: Thank you, Senator McGill and Senator Chambers. And Senator Chambers, you're now recognized. [LB66]

SENATOR CHAMBERS: Mr. President and members of the Legislature, in view of the exchange that I had with Senator McGill, I would withdraw that amendment. [LB66]

SENATOR CARLSON: So ordered. [LB66]

CLERK: I have nothing further on the bill, Mr. President. [LB66]

SENATOR CARLSON: Senator Murante for a motion. [LB66]

SENATOR MURANTE: Mr. President, I move to advance LB66 to E&R for engrossing. [LB66]

SENATOR CARLSON: Members, you've heard the motion. All in favor...excuse me, Senator Chambers, you're recognized. [LB66]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Senator Schilz when he began to explain the bill...and now I'm on the bill itself, and if I decide to go on a tangent, I will. But I think this is an important matter that he is bringing to us. And he pointed out that in the original version of the bill, the committee probably would not have allowed it to go anywhere. And I didn't follow all of the intricacies that he mentioned, but changes were made to put the bill into the form that it should be in and the white copy of the amendment is that form. I'd like to ask Senator Schilz a question or two. [LB66]

SENATOR CARLSON: Senator Schilz, would you yield? [LB66]

SENATOR SCHILZ: I would be happy to. [LB66]

SENATOR CHAMBERS: Senator Schilz, what change was made from the green copy to the white version that was offered by the committee and what was their rationale for making that change did you say? [LB66]

Floor Debate  
May 15, 2013

---

SENATOR SCHILZ: Sure. And thank you for the questions, Senator Chambers. I think the main change that was made in that when I introduced the green copy, what we were looking for was a way for some of these formerly used defense sites to get some funding to do some infrastructure repair, and to have some economic development happen there. And the first thing that the folks that I was talking with brought up was, let's just use annexation because once something is annexed, then we could use tax increment financing on it. But as we came to the hearing and basically, you know, were told in no uncertain terms that isn't going anywhere, being from rural Nebraska, we haven't had as many experiences with Sanitary Improvement Districts and Senator Krist, through his diligence and work, thought that that would be a better way to go. It doesn't require annexation, it doesn't change anything about who would provide electrical utilities, or who would provide other sorts of utilities, and so it keeps things much cleaner and that was the reason and those were the changes. And all those changes are manifest within that. And I'm kind of summarizing for you a bit. [LB66]

SENATOR CHAMBERS: That gives me enough to ask my next question. I saw in the bill where agreements would have to be made with the supplier of utilities, communications, and so forth. So are you saying that none of those services will be provided unless the current provider of those services would agree to do so? And if that's correct, at what point would that agreement be made? [LB66]

SENATOR SCHILZ: That's another good question, Senator Chambers. And the main thing was...the main thing was, as I understand it within the bill, was that they didn't even want to have that conversation as to whether they would change it or not. They wanted to make sure that...because what happens with annexation, as I understand it, is that, let's say a community annexes another area that's outside of town that could possibly be in an electrical utility, a different electrical utility. Well, the city proper is under one utility. This could perhaps be under another utility. Those two utilities didn't want to have to haggle that out. So that's why it is the way it is. [LB66]

SENATOR CHAMBERS: Now, how many sites are there of this kind that you're aware of which exists right now, these formerly used military sites? [LB66]

SENATOR SCHILZ: I believe there's somewhere over sixty, sixty-eight, sixty-two, something like that. [LB66]

SENATOR CHAMBERS: Do you have a specific one in mind... [LB66]

SENATOR CARLSON: One minute. [LB66]

SENATOR CHAMBERS: ...and that's what led you to bring this bill? [LB66]

SENATOR SCHILZ: I brought this bill because of the...my constituents. There's one of

Floor Debate  
May 15, 2013

---

these. In fact, there's about ten of these it looks like within my district. But it was brought to me by the folks from the city of Sidney that have the Sioux Army Depot outside of their community. [LB66]

SENATOR CHAMBERS: And what benefits would be derived...let me stop, Mr. President. Let me stop and turn my light on again. [LB66]

SENATOR CARLSON: Yes, Senator Chambers. Thank you, and you are recognized again. [LB66]

SENATOR CHAMBERS: Thank you. I didn't want to have to cut off in the middle. Senator Schilz, what are the benefits now that it's a bit clearer as to why the bill is in this form, what are the benefits that would be derived by...first of all, who currently owns these sites? [LB66]

SENATOR SCHILZ: Right. Well, in the situation that I'm familiar with, these sites, at least the one that I have the experience with, they are now in private hands, including a number of different hands because some of the parcels were carved off and sold to certain folks. Some of the parcels were sold to other folks, but it's a conglomeration of all private ownership now. [LB66]

SENATOR CHAMBERS: And what are the benefits that would be derived by the owners of these sites or a particular site that you might have in mind? [LB66]

SENATOR SCHILZ: Sure. The benefits are many. The first one and foremost is a lot of these sites have rail, have warehousing, have other possibilities to be able to place business there. This one actually has a short line rail between Burlington Northern and UP, so that this specific site could be a logistics company that could ship all over the United States and be a service. They've also been named a port of the U.S. through the port of Houston, so there's a lot of things going for it. But the other thing is, is that a lot of times the federal government is on a forty, fifty year plan for clean up. And the one thing that this does is this would provide some of those TIF dollars possibly to be able to be used for some clean up of shrapnel, of unexpended ordinance, all of that that exists out there today. [LB66]

SENATOR CHAMBERS: For the record, where do the tax increment financing money, where does that come from, the federal government? [LB66]

SENATOR SCHILZ: No, it would come through...it would come through what is paid in, I believe, in this sense, and the folks in Urban Affairs and staff can correct me on this, but I think it would come through the sales tax and other taxes that are generated from this site. [LB66]

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

Floor Debate  
May 15, 2013

---

SENATOR CHAMBERS: This is a sales tax bill, isn't it? [LB66]

SENATOR SCHILZ: This is a...this is an economic development bill, Senator Chambers, that happens to use and take advantage of sales tax opportunities, if you want to put it...yes. [LB66]

SENATOR CHAMBERS: But it implicates sales tax, doesn't it? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: I could offer an amendment to repeal the authority to levy a sales tax. I could offer that amendment on this bill, couldn't I? [LB66]

SENATOR SCHILZ: I suppose you could. (Laughter) [LB66]

SENATOR CHAMBERS: That is not what my original intent was, but in discussing the bill with the introducer, it offers possibilities. And now I would like to ask the introducer a question, which I'm very serious about, if he would yield. [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: Senator Schilz, you were opposed to advancing my sales tax repeal bill, the repealer of that local option tax, LB266. No, you're not on the Revenue Committee... [LB66 LB266]

SENATOR SCHILZ: No. [LB66]

SENATOR CHAMBERS: ...you're Chair of the committee of which I'm a member. [LB66]

SENATOR SCHILZ: Correct. [LB66]

SENATOR CHAMBERS: We're co-committee colleagues and we help each other, don't we? [LB66]

SENATOR SCHILZ: We try where we can, yes, Senator Chambers. [LB66]

SENATOR CHAMBERS: Would you be opposed to that amendment if I were to offer it to this bill? Would you vote against adding that amendment to this bill? [LB66]

SENATOR SCHILZ: I would...I have to tell you that I would probably...I would probably have to vote against adding that amendment to this bill. [LB66]

SENATOR CHAMBERS: Would you tell me why? [LB66]

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

Floor Debate  
May 15, 2013

---

SENATOR SCHILZ: I could tell you... [LB66]

SENATOR CARLSON: One minute. [LB66]

SENATOR SCHILZ: Thank you. I can tell you that because of my district, the way it's set up with tourism and things like that, the amendment that you would be talking about would actually take dollars away from my district that would be paid by others that are coming in and spending money on recreation and tourism. [LB66]

SENATOR CHAMBERS: Well, the way this bill is structured, would there be money that ordinarily would go into the tax coffers which will go back to these people who are trying to develop...make this development? [LB66]

SENATOR SCHILZ: I'm sorry. I believe so, yes. [LB66]

SENATOR CHAMBERS: In other words, there are tax dollars that would ordinarily come to the state which will not come to the state based on the way this bill is structured, is that correct? [LB66]

SENATOR SCHILZ: Yes, and Senator Chambers, I just got a note. We have to...I need to change what I told you before and I'm probably going to steal your thunder and make you not very happy, but I guess it is on the property tax increase... [LB66]

SENATOR CARLSON: Time. [LB66]

SENATOR SCHILZ: ...not on the sales tax, so. [LB66]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Schilz. (Visitors introduced.) Senators still wishing to speak include Bloomfield and Chambers. Senator Bloomfield, you're recognized. [LB66]

SENATOR BLOOMFIELD: Thank you, Mr. President. I was kind of liking the direction this was headed and I didn't want Senator Chambers to run out of time, so I would yield the remainder of my time to him. [LB66]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Chambers, 4 minutes 50 seconds. [LB66]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Thank you, Mr. President. Now this has become one of those bills that I think needs to be discussed in the way that we discuss Senator Wightman's bill. I do not think that Senator Schilz meant to mislead me when the mention was made to sales tax in the involved property taxes he

Floor Debate  
May 15, 2013

---

was just informed. So, that would take away my thinking about offering my amendment, although I think it would be germane to what this bill does because it has to do with these taxes. But now that we are clear on that issue, I'll ask the question, but make it a matter of the property tax. Senator Schilz... [LB66]

SENATOR CARLSON: Senator Schilz, would you yield? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: The state does not collect property taxes, is that true? [LB66]

SENATOR SCHILZ: That is correct. [LB66]

SENATOR CHAMBERS: Which political subdivision would receive less in property taxes if this bill were to be put in place and a development were undertaken pursuant to this bill? [LB66]

SENATOR SCHILZ: Thank you, Senator Chambers. And if you believe...and if you believe that this development would happen, no matter what, then it would be the counties that would receive less. [LB66]

SENATOR CHAMBERS: And the counties in your area, where this bill is aimed, would be in favor of this bill, is that your understanding? [LB66]

SENATOR SCHILZ: Yes, it is. [LB66]

SENATOR CHAMBERS: Have they expressed such an agreement? [LB66]

SENATOR SCHILZ: When you say expressed...in the bill? [LB66]

SENATOR CHAMBERS: Approval? Have they spoken in favor of this bill, the county that would be affected? [LB66]

SENATOR SCHILZ: As far as I know, I believe they have, but I can't say that for sure. [LB66]

SENATOR CHAMBERS: That is really a positive answer--as far as I know, maybe they have, but you can't say for sure. So would you understand if I'm not sure whether the county is in agreement? [LB66]

SENATOR SCHILZ: I can tell you this that I have heard that they...I have not heard that they are not in agreement. [LB66]

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

Floor Debate  
May 15, 2013

---

SENATOR CHAMBERS: But that doesn't mean that they are in agreement. Do you think they were aware of this bill? [LB66]

SENATOR SCHILZ: I believe they were, yes. [LB66]

SENATOR CHAMBERS: Did anybody from any political subdivision, anywhere in the state, testify in favor of this bill? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: And which political subdivision representatives spoke in favor of the bill? [LB66]

SENATOR SCHILZ: The city of Sidney did and I can get that for you right here if you'll just indulge me for a second. [LB66]

SENATOR CHAMBERS: Sure. [LB66]

SENATOR SCHILZ: Okay. Here we go. Yeah, the proponents, we had...as far as political subdivisions, we had Gary Person from the city of Sidney and the Cheyenne County Economic Development Corporation, so, but that wouldn't be a subdivision. And then we had the Grand Island for Economic Development. Once again, would have folks that were in political subdivisions but not necessarily representing them. So that would be the one. [LB66]

SENATOR CHAMBERS: Okay. So these are entities which would ordinarily derive property tax from a development of this kind? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: This would make it possible for some of those property taxes that would be paid to the subdivision to go into preparing whatever has to be prepared in order to get this thing off the ground and then they would be allowed a period of time to not have to pay property taxes. Generally speaking, is that more or less correct? [LB66]

SENATOR SCHILZ: That is correct, Senator. [LB66]

SENATOR CARLSON: One minute. [LB66]

SENATOR CHAMBERS: Now, do you have a specific site in mind that this bill is crafted for, that you had in mind when you brought the bill? [LB66]

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

Floor Debate  
May 15, 2013

---

SENATOR SCHILZ: What...and as I said before, I have the experience of the one site that they looked at when they looked to model this, but no, this was not set up for one individual site. This is set up for all those within the state of Nebraska. [LB66]

SENATOR CHAMBERS: As a result of the committee amendment, but the fact that there are cluster of political subdivisions, you named at least three, I think, Sidney, Grand Island and a county representative, they would all be implicated in the development of this site that you had in mind when you brought the bill originally, is that more or less correct? [LB66]

SENATOR SCHILZ: Yes, this would be a site that would be the first to take and be able to utilize this law. [LB66]

SENATOR CHAMBERS: Now if this bill were not enacted... [LB66]

SENATOR CARLSON: Time. Senator Chambers, you're now recognized and this is your third time. [LB66]

SENATOR CHAMBERS: Thank you, Mr. President. Senator Schilz, if this bill were not enacted, these people who own this property, are they considered investors or speculators? [LB66]

SENATOR SCHILZ: That's a good question and I think you can look at it both ways. They used to be speculators and then they bought it and they became investors. (Laugh) So they're into it now. [LB66]

SENATOR CHAMBERS: And they...did they buy it, in your opinion, if you have any way of knowing, and you don't have to speculate, that such a bill could be crafted to benefit them? Because the way the bill was originally drafted, it was for that particular site, for those particular investors/speculators. That's what the bill was for originally, if we're completely forthright. Isn't that true? [LB66]

SENATOR SCHILZ: I can't argue with that, Senator, because that's the only experience that I have with any of these sites, yes. [LB66]

SENATOR CHAMBERS: Thank you. Now I'd like to ask Chairperson McGill a question or two, if I may. [LB66]

SENATOR CARLSON: Senator McGill, would you yield? [LB66]

SENATOR MCGILL: I would yield. [LB66]

SENATOR CHAMBERS: Senator McGill, thank you very much. [LB66]

Floor Debate  
May 15, 2013

---

SENATOR MCGILL: (Laugh) You're welcome. [LB66]

SENATOR CHAMBERS: Now are there other sites that the committee had in mind, or did they recognize that it might be considered special legislation if it was aimed at just one specific site and one specific project? [LB66]

SENATOR MCGILL: Well, we did work through and with Senator Krist to identify other locations that it would be...we could use this at. I know there was some interest around Grand Island. I don't know where Senator Krist is right now, but there are a number of other sites that could theoretically use this. [LB66]

SENATOR CHAMBERS: And I was going to ask Senator Krist. That's all I will ask you... [LB66]

SENATOR MCGILL: Okay. [LB66]

SENATOR CHAMBERS: ...because I thought he might come in, in the meantime. Members of the Legislature, as Senator Schilz indicated, this is a decision that the body will make. Had I not started out after this bill to seek revenge, I would argue against this bill. I don't like TIF programs. I don't like the way the law has been corrupted to falsely define an area as blighted. And when they first brought that kind of definition decades ago, I spoke very strongly against it, but nobody will check the record. Whenever it comes to businesses, efforts are made to twist the law, to change the definition and meaning of words to benefit businesses. But for ordinary people, ordinary words will not be applied to give that help which the state can give. Ordinary words will not be used to do the good that ought to be done. And before my time runs out, I'm going to offer an amendment just so I can have time to speak, and I don't want Senator Schilz to panic, unless he thinks I'm serious. And he knows that I started out serious on one amendment and subsequently did not remain serious. Now I'm starting out not being serious and I may be serious. And I know my time is running. And, members of the Legislature, I think thus far Senator Schilz might... [LB66]

SENATOR CARLSON: One minute. [LB66]

SENATOR CHAMBERS: ...might not disagree with my saying that we're actually discussing the merits of the bill. And I will, pursuant to the amendment that I offered that will give me some time, go into further discussions of the bill and indicate why I don't like these kind of programs. I cannot blame anybody for taking advantage of the state's largess. If the state is going to say that certain big shot entities are not going to have to put tax money in the coffers because we got some little shots over here who are going to make up the difference, why should they not take advantage of it when it was put there for them? They're acting in accord with a law that a Legislature, which in my mind

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

Floor Debate  
May 15, 2013

---

is not just, is not fair, is not virtuous, is going to put in place. [LB66]

SENATOR CARLSON: Time. [LB66]

SENATOR CHAMBERS: Thank you, Mr. President. [LB66]

SENATOR CARLSON: Thank you, Senator Chambers. (Visitors introduced.) Mr. Clerk for an amendment. [LB66]

CLERK: Senator Chambers would move to amend with FA81. (Legislative Journal page 1376.) [LB66]

SENATOR CARLSON: Senator Chambers, you're recognized to open on FA81. [LB66]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. The amendment, for the record, says strike Section 1 of AM...whatever this is we're on, this amendment that we're on. What Senator Schilz brought to me was a representation of Nebraska, and I would like to ask him a question or two, if I may. [LB66]

SENATOR CARLSON: Senator Schilz, would you yield? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: Senator Schilz, does each one of these circled or one of these large dots represent one of these types of sites that could be affected by this bill? [LB66]

SENATOR SCHILZ: Yes, it does. [LB66]

SENATOR CHAMBERS: But the only ones that you were aware of at the time were out here on the far western side of the state? Well, I don't know where Sidney is. Where is Sidney? [LB66]

SENATOR SCHILZ: (Laugh) Senator, sometime I'd love to take you out there and show you around, but Sidney is right there in the corner of the Panhandle to where Colorado nestles up into the corner of Nebraska there, on I-80. [LB66]

SENATOR CHAMBERS: Up by South Dakota. [LB66]

SENATOR SCHILZ: No, down by Colorado. [LB66]

SENATOR CHAMBERS: Well, doesn't that line go...doesn't...okay. I'm looking at it now. [LB66]

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

Floor Debate  
May 15, 2013

---

SENATOR SCHILZ: If you're looking at the map, it would be the one that is numbered number 33. If you look at the corner where Nebraska-Colorado come, the first one to the west would be the one that you are talking about right now. [LB66]

SENATOR CHAMBERS: So it would be in a corner that is created by...Colorado would be there and Kansas would be to the south and in Nebraska. [LB66]

SENATOR SCHILZ: Yeah, it's going to be south, but I'm talking about the corner that...where the Panhandle begins, a little bit north of that. [LB66]

SENATOR CHAMBERS: Okay. [LB66]

SENATOR SCHILZ: Yeah. [LB66]

SENATOR CHAMBERS: I've got it now. [LB66]

SENATOR SCHILZ: There you go. [LB66]

SENATOR CHAMBERS: And the vast majority of these sites could be considered in the eastern third of the state, most of them. Would that be correct? [LB66]

SENATOR SCHILZ: As it looks to me, yes. [LB66]

SENATOR CHAMBERS: And none of them, to your knowledge, have an interest in doing what you're talking about. [LB66]

SENATOR SCHILZ: No, that's not true. [LB66]

SENATOR CHAMBERS: Which ones do, if you know of any of them? [LB66]

SENATOR SCHILZ: Well, we...as far as ones further east, I know that there is talk about doing the same thing around Hastings and possibly Grand Island. They are very interested in doing this. And so as soon as the conversation started coming up, we found out very quickly that it wasn't just one place that wanted this. There was a number of folks that have been looking for opportunities to do this. And this bill, through the amendment that we have, provides the opportunity to take a stab at that. [LB66]

SENATOR CHAMBERS: Well, let me say east of Hastings there is no site you're aware of interested in doing this in terms of having expressed such an interest. [LB66]

SENATOR SCHILZ: Not that I've heard of, but then again, you know, I haven't talked to anybody near there. So...but, yeah, I can't say there is necessarily. [LB66]

Floor Debate  
May 15, 2013

---

SENATOR CHAMBERS: Now here is what I'm going to get into. Will there be any cleanup of these sites of the items and debris and other things you mentioned that will be paid for by these private investors, or will that be included in the money they get through TIF financing? [LB66]

SENATOR SCHILZ: I would say this, and I would defer some of this as well. But in my opinion, in my opinion, the state of Nebraska has been wronged already because the federal government, their cleanup plans last 50 and 60 years, and we haven't gotten any of that. I know for a fact that on the Sidney site there that the folks that bought that and owned it spent over \$300,000 of their own money to do the cleanup so that the first development there, a \$25 million manufacturing business, could put their business there. And so they spent that on their own. But they can't continue to do that because other states, like Wyoming and Kansas, are actually spending taxpayer dollars to build these same types of facilities with the short lines and the logistics and things. [LB66]

SENATOR CHAMBERS: Is this project that you're talking about something that has to do with development of a railroad system, a part of a railroad system? You had mentioned warehouses and other type structures. [LB66]

SENATOR SCHILZ: Uh-huh. [LB66]

SENATOR CHAMBERS: Are there to be buildings here? Or is it to develop and improve a part of trackage that will be a part of a railroad system? Is that what we're talking about? [LB66]

SENATOR SCHILZ: No, not necessarily. I think it's important to understand that this has to be for infrastructure, and most of the infrastructure is already there on almost all of these sites. [LB66]

SENATOR CHAMBERS: Does it include railroad tracks? [LB66]

SENATOR SCHILZ: There would be railroad tracks on the site. I can't tell you whether or not TIF is available to be spent for that or not. [LB66]

SENATOR CHAMBERS: Who will own these railroad tracks? [LB66]

SENATOR SCHILZ: Well, on this site, on this site, this will be a private switching station. [LB66]

SENATOR CHAMBERS: So none of the major railroads of any kind are going to have any ownership in these tracks. But the ones who own these tracks privately, will they contract with the railroads to make use of their little bit of system to move from one

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

Floor Debate  
May 15, 2013

---

place to another? Or are they just going to sit there with improved tracks going nowhere? [LB66]

SENATOR SCHILZ: No. No, they're all connected. And the thing is that...what makes it so attractive not to the railroads necessarily, even though there's another reason why they like it, but what makes it attractive is because you have a short line between the Burlington Northern and the UP, what happens is when you go to switch trains, right, or switch railroads, the railroad that you're switching from will charge a \$1,000 per railcar fee to do that on their property. This property, this property, that fee is not applicable. [LB66]

SENATOR CHAMBERS: There is no fee that will be charged by the people who own this track because that's going to be beneficial to the railroads? [LB66]

SENATOR SCHILZ: I didn't...here's what I said. There is no railroad fee that does that. I don't know what they're charging privately. [LB66]

SENATOR CHAMBERS: Do you think they're going to make this trackage available out of the goodness of their heart to these multi, maybe, billion-dollar railroad operations? Or are they going to derive revenue from these railroads? [LB66]

SENATOR SCHILZ: Yes. They will try to derive revenue from...not necessarily the railroads, but from the people that need to use the railroads to get their products where they need to be. [LB66]

SENATOR CHAMBERS: Well, that's what I meant. It's going to be part of a system involving railroads where people are making profit. [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: So we're going to be working on the railroad with this particular project. You know, (singing) I've been working on the railroad. [LB66]

SENATOR SCHILZ: This is...that's an important aspect of this project, yes. [LB66]

SENATOR CHAMBERS: How much time do I have on this one, Mr. Speaker, since I did...Mr. Chairman, since it's my motion? [LB66]

SENATOR CARLSON: Two minutes and thirty seconds. [LB66]

SENATOR CHAMBERS: There was a song and (laugh) I'm tempted, because every time I hear these railroads...but I'll say it: We planned a wedding celebration. I thought I'd make her mine, but I was just another station that wasn't on her line. She sure took

Floor Debate  
May 15, 2013

---

me for a yokel. She had every right, I guess. I thought she was a local, toot toot, but she was a fast express. Now we got some fast expresses perhaps taking advantage of some naive yokels and I want to explore that further. Thank you, Mr. President. [LB66]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Schilz. Senator Krist, you're recognized. [LB66]

SENATOR KRIST: Thank you, Mr. President and colleagues. And, Senator Chambers, I apologize for not being here when you wanted to ask a question but I was on a teleconference. So if there's anything that I can do for you, I will yield my time to you or take questions from you, whichever you want. [LB66]

SENATOR CARLSON: Senator Chambers, would you yield? [LB66]

SENATOR CHAMBERS: Thank you, Mr. President. And thank you, Senator Krist. I would like to ask you a few questions. Senator Schilz made it clear that the committee made some changes to the original form of the bill, and that's why we have the white copy. And the main thing that I can gather is that instead of it focusing on one area, it's drafted in such a way that any site that fits or meets this description or definition in the statute would be eligible to benefit from this that the bill is doing. Is that more or less correct? [LB66]

SENATOR KRIST: Yes, sir, it is. The only exemption is former missile sites and missile silos. Because there's so much distance between them, we didn't want to be able to take a cluster of those former sites and make those eligible. So we restricted the missile sites. [LB66]

SENATOR CHAMBERS: Now I thought the missile...oh, the site but not the silos. [LB66]

SENATOR KRIST: That's correct. [LB66]

SENATOR CHAMBERS: Okay. Now were there any other such sites that you are aware of which have expressed an interest in making use of what this bill provides? [LB66]

SENATOR KRIST: Yes, sir. I think there was probably...in my conversation, once we started this project and once the League of Municipalities started advertising it, there were probably a dozen phone calls that I received, specifically comes to mind Hastings, Grand Island. There's concerns about potential implications to Offutt should, God forbid, that should ever close. But, yes, there were other inquiries made into whether their particular site in their area would qualify. Unfortunately, there were a couple of these that fall across a county line, and we don't annex across county lines in the state of Nebraska. So there's an implication there as well. But, yes, there were other inquiries. [LB66]

Floor Debate  
May 15, 2013

---

SENATOR CHAMBERS: Well, if one of these cross a county line, the city would have to be in the county where this is to be done. [LB66]

SENATOR KRIST: Yes, sir. [LB66]

SENATOR CHAMBERS: If it crossed the county line, it couldn't be done because the city doesn't cross county lines, or does it? [LB66]

SENATOR KRIST: No. [LB66]

SENATOR CHAMBERS: So how could...there couldn't be a project of this kind then that would cross city lines. Or would the part that falls within the county where the city is qualify and then the part which falls outside of that, on the other side of the county line, they'd have to make do the best that they could? Or would they have an... [LB66]

SENATOR KRIST: I could envision... [LB66]

SENATOR CHAMBERS: ...interlocal agreement, and a city in one county would agree with a city in the adjacent county to collaborate on this project that crosses the county line? [LB66]

SENATOR KRIST: You hit it right on the head. I could envision a collaboration between cities and counties to do this kind of a project. And an important part of this is that that--I think you may have hit upon it before--some of these former military DOD sites have a wonderful infrastructure that's already in place and can be developed for very little and could be completely...very valuable to that rural community. [LB66]

SENATOR CHAMBERS: Now this one that we're talking about, you probably heard some of the discussion about these railroad tracks. [LB66]

SENATOR KRIST: Yes, sir. [LB66]

SENATOR CHAMBERS: What was your understanding of the impact or effect or utilization that would involve these railroad tracks that are already there? By the way, he said a short line. That means it's not as long from one end of the track to the other. Is that true? [LB66]

SENATOR KRIST: (Laugh) No, I think a short line refers to a connection to the main line. So it's a shorter throw back to the main line, yes, sir. [LB66]

SENATOR CHAMBERS: So... [LB66]

Floor Debate  
May 15, 2013

---

SENATOR KRIST: But I would answer your question this way. [LB66]

SENATOR CARLSON: One minute. [LB66]

SENATOR KRIST: If you think of Paxton Vierling Steel in Omaha or several places we have in Omaha where the main rail line has a spur or a short line that comes through the facility, they have some financial responsibility to maintain that switch, but they do not own the rail line outside of their particular short line. [LB66]

SENATOR CHAMBERS: Is that what would happen with this short line? [LB66]

SENATOR KRIST: I think that would be up to the city, the developer, and the county to negotiate, and then also there will be the rail line that wants to connect. [LB66]

SENATOR CHAMBERS: Now although the line itself might be shorter, are they at least as wide as the longest line that you might have? [LB66]

SENATOR KRIST: (Laugh) They would be standard tracks, yes, sir. [LB66]

SENATOR CHAMBERS: Thank you. Thank you, Mr. President. [LB66]

SENATOR CARLSON: Thank you, Senator Krist and Senator Chambers. And now, Senator Chambers, you are recognized. [LB66]

SENATOR CHAMBERS: Mr. President, I've stated that I don't like these kind of developments and the reason for it. All of these kinds of things, these kind of...whether we call it something that involves incentives, something that involves credits, it's designed to shift the tax burden. A burden is never shifted from ordinary people who work jobs to these big shots. It's always shifted from the big shots to the little shots, because the big shots can put people in suits outside those glass doors and they have influence. And they can provide dinners and free meals and beverages to the senators. And the poor people, the ordinary person, might need to participate in that meal for actual sustenance. So all of these tax-shifting programs are for the big shots. When the Governor said do away with the income tax, he's not talking about income tax that I pay or that working people pay. He's talking about big shots who pay. But there's a conflict there because some of those big shots get exemptions from paying sales tax, and the benefits they get for not paying the sales tax outstrips what they would have to pay in income tax. So they'd rather pay an income tax, a corporate income tax. They don't want to lose their sales tax exemption. So while all of this talk is going on among and between the big shots, there's an unwillingness to even let my bill come out here that would take away the power of these municipalities to tax the little shots further. And the scheme and the scam is always this: You won't even notice that you're paying this sales tax; you won't even notice it. And they don't say when you pay this additional sales tax

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

Floor Debate  
May 15, 2013

---

you're going to pay less in some other tax. And then should the state go along with this humbug of doing away with income tax and putting everything on sales tax, and since the state has no income tax coming in to help balance its budget they're going to put another half-cent sales tax on, the poor will then be paying an entire cent more on sales tax than is being paid now. And you all don't even want to have that issue discussed on the floor. I'm going to do everything I can to get it out here, everything. And everything that this body wants to stop is something that would benefit the ordinary people whom these hypocrites--yes, Senator, oh, Lautenbaugh is gone again, yes, I said hypocrites--they don't want to expand Medicaid. And the federal government is going to pay for it for three years. But here you're going to help these speculators with this bill. I'd like to ask Senator Schilz a question. [LB66]

SENATOR CARLSON: Senator Schilz, would you yield? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: Senator Schilz, you certainly understand a person who really is opposed to a bill taking it to cloture and then trying to defeat... [LB66]

SENATOR CARLSON: One minute. [LB66]

SENATOR CHAMBERS: ...a cloture motion. You're familiar with that, aren't you? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: Thank you. That's all I'll ask you. Members of the Legislature, because of the way things had gone earlier, I hadn't paid much attention to this bill. I'm feeling and fumbling my way through this bill. How many of you had read it? How many of you were aware of the implications in this bill that are coming out through my stumbling, fumbling, and bumbling, these projects that cross county lines, and one city could not have it alone because the project has to be done by a city in the county where the project will be, but the project crosses county lines? Had you all thought about that? I wasn't even aware of it till I started reading this to see what I could do to take some time. Then it became a very serious matter for me. This kind of financing I think is not in the best interest of the ordinary people. Thank you, Mr. President. [LB66]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Seiler, you're recognized. [LB66]

SENATOR SEILER: Mr. President, colleagues, Hastings has this very scenario. East of Hastings about a half mile is the navel ammunition dump. Senator Chambers, we don't have any big shots in our area. What we have is people that are trying to develop this for business and have had a small problem since it's outside the contiguous part of the

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

Floor Debate  
May 15, 2013

---

city of Hastings. What they want to do is not develop it for railroads or for anything like that, but there's a water system that was put in there in 1941 for the Navy. It has gone into complete disarray and needs to be redone. We have some local investors that are not big shots who want to do this, and this bill would fit perfect for them, and they're limited for going east because of the Adams County-Clay County line. Most of the navel ammunition depot lays in the county of Clay, which is outside the jurisdiction of Hastings. So this does have an effect on Hastings and we're very concerned about this bill. Thank you. [LB66]

SENATOR CARLSON: Thank you, Senator Seiler. (Visitors introduced.) Back to debate, Senator Chambers, you're recognized. [LB66]

SENATOR CHAMBERS: Mr. President, I withdraw that motion. [LB66]

SENATOR CARLSON: So ordered. [LB66]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB66]

SENATOR CARLSON: Senator Murante for a motion. [LB66]

SENATOR MURANTE: Mr. President, I move to advance LB66 to E&R for engrossing. [LB66]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk. [LB66]

CLERK: Mr. President, the next bill, LB634. Senator, I do have Enrollment and Review amendments to the bill. (ER34, Legislative Journal page 833.) [LB634]

SENATOR CARLSON: Senator Murante for a motion. [LB634]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB634]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay. Motion carried. [LB634]

CLERK: Mr. President, Senator Davis would move to amend with AM1158. (Legislative Journal page 1271.) [LB634]

SENATOR CARLSON: Senator Davis, you're recognized to open on your amendment. [LB634]

SENATOR DAVIS: Good afternoon, Mr. President and members of the body. Today I

Floor Debate  
May 15, 2013

---

am offering AM1158 to my priority bill, LB634. If you remember, LB634 is the Wildfire Control Act of 2013, which would address serious deficiencies in Nebraska's response to wildland fires. The adoption of this bill would save the state a significant amount of revenue over time through prompt fire management once appropriate resources and management systems are put in place. AM1158 would modify LB634 to reflect agreements made with Lieutenant Governor Heidemann and staff of the Nebraska Emergency Management Agency. Under AM1158, the Nebraska Forest Service and the Nebraska Emergency Management Agency, or NEMA, would share responsibility for the components of the Wildfire Control Act of 2013 to enable our state to deal with the reaction to the spread of wildfires more rapidly and effectively. AM1158 would make the following changes to LB634. In Section 3(1) the number of single-engine air tankers, or SEATs, would be reduced from two to one, and the responsibility for contracting for the plane would be moved from the Nebraska Forest Service to NEMA. NEMA already provides oversight for fire dispatching National Guard helicopters and SEATs from other states. NEMA, in cooperation with local emergency managers, already provides guidance for incident command or wildfire response. Under the agreement reached with Lieutenant Governor Heidemann and NEMA, dispatch of Nebraska SEATs would be made through the Great Plains Interagency Dispatch Center in Rapid City, South Dakota. In Section 3(2) intent language would be added directing NEMA to deploy the SEAT quickly and without delay. Rapid response is absolutely necessary to prevent wildfires from growing into the 40,000- or 60,000- or even 80,000-acre fires Nebraska experienced last year. Since LB634 was heard on General File, research and discussion uncovered far too many examples of delays in rapid aerial attacks last year due to the lack of available aircraft from out of state, absence of SEATs in Nebraska, problems with radio communication, equipment failures with National Guard helicopter support, and slow authorization from NEMA to request deployment of SEATs from outside of Nebraska. The intent language is designed to instill in NEMA a sense of urgency and state in a clear and positive way that deployment delays could compromise the efforts of local volunteer firefighters to combat wildfires, create unnecessary risk to lives and property, and cost the state millions of dollars. In Section 3(3) NEMA would be required to submit an annual report on use requests, deployment, and denial of use of the SEAT to the Governor and the Legislature. Placing a SEAT in Nebraska for the first time would mean we are venturing into new territory. The annual reporting of SEAT use to the administration and to the Legislature would ensure that tax dollars are used in a prudent manner and provide valuable information about the state's management of aerial attack to fight wildfires. Section 4 of AM1158 includes six subsections. AM1158 would add or modify three of these subsections. In Section 4(1) the Nebraska Forest Service would be required to reduce forest fuel loads and develop markets for woody biomass generated from forest thinning. Following General File, discussions revealed that Nebraska needs economic development to identify or create markets for woody biomass. For example, these markets might include wood shavings for pets, mulch for landscaping, fence posts, and fuel for heating and cooling. This new component of LB634 would be the part-time responsibility of a marketing utilization forester who would

Floor Debate  
May 15, 2013

---

serve during the high-risk months as the Nebraska Forest Service aviation manager. In Section 4(5) the Nebraska Forest Service would be required to manage SEAT bases and operations in Nebraska. Conversations with the Lieutenant Governor, NEMA, and the Nebraska Forest Service confirm that the Forest Service has experience in wildland fire suppression operations, knowledge of terrain, and working relationships with volunteer fire service personnel. NEMA lacks this essential experience, so the Forest Service is the appropriate state agency to manage these Nebraska facilities. The Nebraska Forest Service also has regionally based, trained personnel ready to provide essential backup to the SEAT manager to ensure that 24/7 emergency services can be activated. Section 4(6) would provide for the construction of one or more additional SEAT bases and the addition of at least one mobile base. The reduction of single-engine air tankers from two to one would require more places where one SEAT could land and refuel rapidly. Installation of fixed equipment at predetermined reload bases close to high-risk areas of the state would reduce wildfire effects by increasing access to aerial resources. Development of two SEAT bases is currently underway, with construction costs paid with federal cross-border grant funds from the South Dakota Department of Agriculture's Division of Wildland Fire, plus relatively small amounts of local funding in Nebraska. One or more mobile bases which can be moved to locations where the greatest need exists would also be developed. The cost for up to two additional SEAT bases and one or more mobile bases would be accommodated with a one-time reallocation of the original appropriation for a second SEAT plane. Adoption of AM1158 and advancement of LB634 would greatly increase the likelihood that wildfire starts in Nebraska remain small, thus, reducing our need to mobilize national resources which are vastly more expensive to our state. I ask for your support of AM1158 and the underlying bill. Thank you. [LB634]

SENATOR CARLSON: Thank you, Senator Davis. You've heard the opening on AM1158 to LB634. Senator Schilz, you're recognized. Senator Schilz is not here. Are there other senators wishing to speak? Senator Nelson, you're recognized. [LB634]

SENATOR NELSON: Thank you, Mr. President, members of the Legislature. I have a question or two of Senator Davis, if he will yield. [LB634]

SENATOR CARLSON: Senator Davis, would you yield? [LB634]

SENATOR DAVIS: Yes, I will. [LB634]

SENATOR NELSON: Senator, thank you, Senator. Your amendment here replaces the bill. Is that correct? [LB634]

SENATOR DAVIS: Yes. Yes, it does, Senator Nelson. [LB634]

SENATOR NELSON: Okay. Section 3 says, pursuant to the Wildfire Control Act, which

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

Floor Debate  
May 15, 2013

---

is what we're talking about here, NEMA shall contract for all costs to place one single-engine air tanker in Nebraska for use in fighting wildfires. That doesn't tell me whether we're leasing a plane or buying a plane. What has been left out here? [LB634]

SENATOR DAVIS: The Forest Service has the bids out and when the contract is made it will probably...the plane will be shifted to NEMA. But the Forest Service had already started to solicit bids on that and were going forward with that process. It will be a leased plane. [LB634]

SENATOR NELSON: Would it not be important to include in here that it shall be done on a lease basis rather than a purchase basis, just to clarify what we're doing here? [LB634]

SENATOR DAVIS: We could probably do that, Senator Nelson. If you look at the...when we get to the fiscal bill, I think it will probably be a little bit more easily explained. We're shifting some revenue to NEMA for the... [LB634]

SENATOR NELSON: Okay. [LB634]

SENATOR DAVIS: ...lease of the plane, and that's a figure that would be substantially lower than what you could buy the plane for. [LB634]

SENATOR NELSON: All right. I haven't looked at that. That's been amended too, I assume. Is that correct? [LB634]

SENATOR DAVIS: Yes. Yes, it has. [LB634]

SENATOR NELSON: Okay. Thank you, Senator Davis. Second question is, is there any limitation on the amount of time for the lease? I think we talked about your intent was to get it for a three-month period or a four-month period during the crucial times that fires might start out there. [LB634]

SENATOR DAVIS: Yeah, we're looking at a three-month period, but we may extend that to four in light of the fact that we're reducing the number of planes from two to one. So depending on the revenue that's available, we may add another month. [LB634]

SENATOR NELSON: And so that would be the province of NEMA to make those decisions there as to how long they should lease the plane? [LB634]

SENATOR DAVIS: NEMA and the Forest Service. [LB634]

SENATOR NELSON: And the...well, would you elaborate on that? What does NEMA do and what does the Forest Service do? [LB634]

Floor Debate  
May 15, 2013

---

SENATOR DAVIS: Okay, NEMA will be managing the plane in the event we have a fire in which the plane is called out. We did that because it made sense for one chain of command to be in place rather than have two, when originally it was under the Forest Service. So we've shifted the management of the plane to NEMA. But Forest Service will maintain the ground operation, make sure the planes are ready to go and prepared, so they have the SEAT manager. Does that explain what we're trying to do? [LB634]

SENATOR NELSON: And Forest Service has established where the plane will be located during the period of time, or NEMA does that? [LB634]

SENATOR DAVIS: Well, the plane, as far as the permanent base location of the plane, that hasn't been designated. There are SEAT bases being constructed in Valentine and Alliance, based on the grant that came from South Dakota. Then there's going to be a mobile base. Does that answer your question, Senator? [LB634]

SENATOR NELSON: Well, I think so. And then I'm just looking over this quickly. The costs come under the supervision of NEMA or the Forestry Service? Who manages the money? [LB634]

SENATOR DAVIS: NEMA manages the plane and the money... [LB634]

SENATOR NELSON: Both the plane and the money. [LB634]

SENATOR DAVIS: ...for the plane itself. Forest Service will manage the thinning money, the training money. [LB634]

SENATOR NELSON: What was the...manage, what was your first, the tee-ah (phonetically)? [LB634]

SENATOR DAVIS: The other aspects of the bill, which are the forest thinning, which is going to be done on a cost-share basis of 50 percent from the government,... [LB634]

SENATOR CARLSON: One minute. [LB634]

SENATOR DAVIS: ...25 percent from the landowner, and 25 percent from the state of Nebraska through this grant. And then we have the excess property program, which Forest Service will manage. Forest Service has a training element. So those are all still, under the bill, under Forest Service. [LB634]

SENATOR NELSON: All right. Well, thank you for that, Senator Davis. I, on the basis of your answers here, I think I would stand in support of this. We'll have to take a look at the A bill and see what that cost is. [LB634]

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

Floor Debate  
May 15, 2013

---

SENATOR DAVIS: Okay. [LB634]

SENATOR NELSON: Thank you, Senator. Thank you, Mr. President. [LB634]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Davis. Senators wishing to speak are Johnson, Bloomfield, and Krist. Senator Johnson, you're recognized. [LB634]

SENATOR JOHNSON: Thank you, Mr. Speaker and colleagues. I sit on the Natural Resources Committee and we heard this. And if you remember back, a lot of proponents for this from a wide variety of business and fire departments and agencies. But I think what has happened with AM1158 has expanded the scope, and I compliment Senator Davis on the work done, because you see relationships developed with the Governor's Office, with Forestry, with NEMA, and even going to other states. So I think it's an example of agencies working together to have a better project, to be more effective in the control of fires. The cleanup side of it is all incorporated into that. And I was very supportive of LB634, but seeing and hearing the amendment and the work that has gone into that, which evidently replaces the bill, it greatly improves the bill. Thank you. [LB634]

SENATOR CARLSON: Thank you, Senator Johnson. Senator Bloomfield, you're recognized. [LB634]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to ask Senator Davis a question or two, if I could. [LB634]

SENATOR CARLSON: Senator Davis, would you yield? [LB634]

SENATOR DAVIS: Yes, I will. [LB634]

SENATOR BLOOMFIELD: Thank you, Senator Davis. The original fiscal note on this was something like \$3.4 million for the biennium. Where are we at now on that? [LB634]

SENATOR DAVIS: We've knocked...we've taken \$510,000 out of the fiscal bill...fiscal note. The significant change takes place in the year two. By shifting the plane to NEMA, we needed to put an allocation of revenue in for NEMA, which we shifted out of the actual original bill, but we're still paying for that through the whole fiscal note on this bill. Does that answer your question? [LB634]

SENATOR BLOOMFIELD: Yes. Thank you. [LB634]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Krist, you're

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

Floor Debate  
May 15, 2013

---

recognized. [LB634]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. I'd like to ask Senator Mello a question, if he's available. [LB634]

SENATOR CARLSON: Senator Mello, would you yield? [LB634]

SENATOR MELLO: Yes. [LB634]

SENATOR KRIST: If this...let's just say the amount of money is \$2 million, for sake of argument. If this \$2 million is not spent in this two-year, will it then fall over to the next year or the year after? [LB634]

SENATOR MELLO: It would come through our traditional appropriations process where the Appropriations Committee could make the determination if we wanted to reappropriate the funds to NEMA. Otherwise, those would be lapsed to the General Fund. [LB634]

SENATOR KRIST: And those funds are tagged for this specific purpose in NEMA? [LB634]

SENATOR MELLO: Well, they're specifically appropriated for this specific program and the specific aspects in LB634. [LB634]

SENATOR KRIST: Okay. Thank you. And, colleagues, I would just say this. The amendment replacing the bill is right on target, in my estimation. NEMA needs to control the air power to put this kind of a fire out. I'm a little concerned about the execution. Senator Davis and I have had several conversations about who's going to pull the trigger, so to speak, on when those planes are going to be tagged to go in, if we wait too long if we've created a bigger problem. I will continue to talk to him in private about that and not waste your time today, although I think it will be an important consideration. But I think if you've never had the opportunity to go on to the air base out here in Lincoln and look at the brand new building where General Lyons and General Bohac, General Lyons being our Adjutant General in the state of Nebraska, and their whole team, that's where NEMA is. And who better to organize firefighting activity than both the commander of our helicopters and, in times of emergency, the guy who's going to pull the trigger on NEMA? So fine work, Senator Davis. I think this is a great replacement. And I could encourage everyone to vote for AM1158. [LB634]

SENATOR CARLSON: Thank you, Senator Krist, Senator Mello. Senator Harms, you're recognized. [LB634]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of AM1158.

Floor Debate  
May 15, 2013

---

I liked LB634, but the amendment even makes that a much better bill. My concern has always been with the drought and the issues we had, and the amount of land that we lost for pasture last year was just, to me, was staggering. And this puts things in place that I think are appropriate and that are needed. Senator Davis, would you yield just for one question, please? [LB634]

SENATOR CARLSON: Senator Davis, would you yield? [LB634]

SENATOR DAVIS: Yes, I will. [LB634]

SENATOR HARMS: First, thank you very much for introducing this and your amendment makes the bill much stronger. Do you have any worry or concern about the communications system that we have and any problem that we might have in regard to that particular issue? We had that issue last summer, as you know. What are your thoughts about that? I'm talking about our state communications system. [LB634]

SENATOR DAVIS: Oh, I've got a great deal of concern about the communication, the lack of communication that went on last year in my district primarily, but also in Senator Schilz's district, maybe others. Just a great many people lost contact when they were down in the canyons, had to use their cell phones. Radios weren't working, weren't connecting with anyone else. Local police were not able to get messages through. So I have a lot of concern about that and I think we really need to do an interim study on that this summer to try to resolve those problems. [LB634]

SENATOR HARMS: Do you think at this point that we're in a position that we will not have the same kinds of problems we have, the extended fires we had last summer, or do you feel a little more comfortable with that? I know we're going to do a study and we're pushing on that study to get done. I worry a little bit about where we might be headed here and I would like to make sure that whatever takes place that our colleagues here pay attention to this issue, because it is important. And the one thing we do not want to see have happen, whether it's law enforcement, Highway Patrol, whether it's firefighters, get trapped and they can't communicate out. That's my biggest concern. I think the bill is great. I think everything is going to be in place that should be in place, and you should be commended for what you've done. And I think we'll find out that this is going to work much better. But without the ability to communicate and know whether or not these fires have been started as a back fire, you know, these fires sometimes create their own storms. And it's unbelievable what happens within a raging fire and how quickly you can get trapped and can't get out, and that's what I worry about. And I hope that we'll continue to have this discussion. I hope that we will not lose sight of this. And I know that we'll be doing a study on this. But I just want to make sure that all of you realize that we still have some issues here that we need to straighten out. It's not something you and I can do with this bill, but it is something that I think is important for us to keep abreast with. And thank you very much, Mr. President. [LB634]

Floor Debate  
May 15, 2013

---

SENATOR CARLSON: Thank you, Senator Harms and Senator Davis. Senator Kolowski, you're recognized. [LB634]

SENATOR KOLOWSKI: Thank you, Mr. President, colleagues. I stand in support of this bill and the amendment. I want to thank Senator Davis for the excellent job he's done on this project. And the way it looks right now, I think it's just in super shape as far as what can move ahead. More than anything else, yesterday should have been a wake-up call to what we might be facing this summer. If they have the kind of heat that we had across the state yesterday and in our own cities here, it is indicative of what might take place for the rest of the summer. And if we face that, we're going to be in a world of hurt as far as the potential for the fires that could happen. And again, we thank Senator Davis for his initiative to bring this forward. We have the reputation and the nickname as the Tree Planting State. Let's also add to that by being the tree saving state with these kind of efforts this summer. And I'll yield the rest of my time to Senator Davis. Thank you. [LB634]

SENATOR CARLSON: Thank you, Senator Kolowski. Senator Davis, 4 minutes. [LB634]

SENATOR DAVIS: Thank you, Senator Kolowski. Like Senator Lautenbaugh, I wasn't expecting that this would happen, but I want to first of all say I appreciate the support that I've gotten from everybody in the body who recognize what a serious problem we have. If you've been paying attention to the news, you'll be aware that our fire season is already beginning in the West: Idaho, California. Nebraska seems to be escaping a little bit of the bullet, but two weeks of 100 degrees would certainly change that. This, just to answer some of Senator Harms's concerns, I do have grave concerns about volunteers who get down in those canyons and get lost. And in a situation where fire is moving rapidly, would be easy to lose lives. We were very lucky that didn't happen last year. I'm hoping that the volunteer departments that are out there are patching their radios together in some way that we won't have that happen this year if we have a fire season. I'm sure they are well aware of the desperate need they have to get that solution solved. So I'll waive the rest of my time and I'll waive closing, if no one else is following. [LB634]

SENATOR CARLSON: Thank you, Senator Davis. There are no other senators wishing to speak. Senator Davis waives closing. The question is, shall AM1158 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB634]

CLERK: 30 ayes, 0 nays on the adoption of Senator Davis' amendment. [LB634]

SENATOR CARLSON: The amendment is adopted. [LB634]

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

Floor Debate  
May 15, 2013

---

CLERK: I have nothing further on the bill, Mr. President. [LB634]

SENATOR CARLSON: Senator Murante for a motion. [LB634]

SENATOR MURANTE: Mr. President, I move to advance LB634 to E&R for engrossing. [LB634]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk, next item. [LB634]

CLERK: LB634A, Mr. President, no Enrollment and Review. Senator Davis would move to amend with AM1174. (Legislative Journal page 1272.) [LB634A]

SENATOR CARLSON: Senator Davis, you're recognized to open on AM1174. [LB634A]

SENATOR DAVIS: Thank you, Mr. President and members of the Legislature. As introduced, LB634 would have appropriated \$1,725,000 from the General Fund for fiscal years 2014 and '15, and for 2015-16 to the University of Nebraska's Board of Regents for the Nebraska Forest Service to aid in carrying out the provisions of LB634. AM1174 to LB634A reflects the changes made to LB634 by AM1158. AM1174 would make the following changes to LB634A. For fiscal years 2014-15 and 2015-16 a \$300,000 appropriation from the General Fund would be made for the Nebraska Emergency Management Agency to contract each year for one single-engine air tanker, SEAT, base to be placed in Nebraska. For fiscal year 2014 and '15 the General Fund appropriation for the Nebraska Forest Service will be reduced to \$1,245,000. For fiscal year 2015-2016 the appropriation will be reduced further to \$1,095,000. The 2014-15 appropriation includes the one-time cost for development of one or more additional SEAT bases and at least one mobile base. AM1174 would appropriate funds for five components for which the Nebraska Forest Service will be responsible. They are: first, the initial development of and continuing management of Nebraska's permanent and mobile SEAT bases; second, the expansion of the forest fuels program. The General Fund appropriation would provide 25 percent of the expansion cost; the state appropriation would leverage a 50 percent cost share from federal agencies; and private landowners would contribute the remaining 25 percent of the total expansion cost. The Nebraska Forest Service would also develop markets for woody biomass generated from forest thinning. Third, the expansion of the Federal Excess Property Program; with support from two heavy truck mechanics, the number of pieces of excess federal equipment to be prepared and placed with volunteer fire departments would double annually. Fourth, the expansion of training programs for volunteer firefighters, private landowners, and Nebraska communities. The addition of two wildland fire suppression trainers in western and central Nebraska would complement the position that already exists in eastern Nebraska. The fifth and final component is the rehabilitation of burned lands to protect existing infrastructure. AM1174 to LB634A would reduce the total

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

Floor Debate  
May 15, 2013

---

biennial appropriation for my priority bill by \$510,000, while still creating in Nebraska a greatly enhanced capacity to fight the kinds of mega fires we have experienced in the past and are likely to face again in future years. Please adopt AM1174 and advance LB634A to fund the Wildfire Control Act of 2013. Thank you, Mr. President. [LB634A LB634]

SENATOR CARLSON: Thank you, Senator Davis. Members, you've heard the opening on AM1174. Are there senators wishing to speak? Seeing none, Senator Davis, you're recognized to close. He waives closing. The question is, shall AM1174 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB634A]

CLERK: 31 ayes, 0 nays on the adoption of Senator Davis' amendment. [LB634A]

SENATOR CARLSON: The amendment is adopted. [LB634A]

CLERK: I have nothing further, Mr. President. [LB634A]

SENATOR CARLSON: Senator Murante for a motion. [LB634A]

SENATOR MURANTE: Mr. President, I move to advance LB634A to E&R for engrossing. [LB634A]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk, items for the record? [LB634A]

CLERK: Thank you, Mr. President. An amendment to LB104 by Senator Smith to be printed. And a new resolution: LR207 by Senator Nordquist calling for an interim study will be referred to the Executive Board. (Legislative Journal pages 1376-1377.) [LB104 LR207]

Mr. President, the next bill, Senator Murante, LB497, I do have Enrollment and Review amendments. (ER53, Legislative Journal page 990.) [LB497]

SENATOR CARLSON: Senator Murante for a motion. [LB497]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB497]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion adopted. [LB497]

CLERK: Senator Sullivan would move to amend with AM1315. (Legislative Journal page 1282.) [LB497]

Floor Debate  
May 15, 2013

---

SENATOR CARLSON: Senator Sullivan, you're recognized to open on your amendment. [LB497]

SENATOR SULLIVAN: Thank you, Mr. President, and good afternoon, colleagues. To refresh your memory on the original intent of LB497, I think we've passed around a bullet sheet that recaps it. But basically what we're doing in LB497 is it requires the Education Committee to conduct a study of the uses of lottery dollars that are currently dedicated to education through the Education Innovation Fund. Currently, those uses are set to expire in June of 2016. In that study we're also proposing to include the allocations of lottery dollars to what we call the Nebraska Opportunity Grant. On General File we amended LB497 and that creates what we call a new fund, the Nebraska Education Improvement Fund. So when these two, the Education Innovation Fund and the Nebraska Opportunity Grant, both expire, then the remaining funds in those two would be transferred into the Nebraska Education Improvement Fund. So that's where we are at this point. Now with AM1315, it just really does one substantive thing. In the original bill we were to have this report done on the study by the end of this year, December 31, 2013. Well, as you know and have heard during the discussion on LB407, the Education Committee has a lot of work to do over the interim. And because the details of the Education Innovation Fund and the Opportunity Grant don't expire until 2016, we're just asking with this amendment to extend the deadline for having the completion of this study to December 31, 2014. In addition to that, there are a couple of recommendations made by E&R, one that this report be submitted electronically, and then the other had to do with restructuring some of the subsections and it does not result in any substantive changes. So the big thing with this amendment is just basically changing the date with when we will have this study reported to the Legislature. So I urge your support of AM1315. [LB497 LB407]

SENATOR CARLSON: Thank you, Senator Sullivan. You heard the opening on AM1315. Are there senators wishing to speak? Seeing none, Senator Sullivan closes...waives closing. Question is, shall AM1315 be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB497]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Sullivan's amendment. [LB497]

SENATOR CARLSON: The amendment is adopted. [LB497]

CLERK: I have nothing further on the bill, Mr. President. [LB497]

SENATOR CARLSON: Senator Murante for a motion. [LB497]

SENATOR MURANTE: Mr. President, I move to advance LB497 to E&R for engrossing.

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

Floor Debate  
May 15, 2013

---

[LB497]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. All opposed, nay. The bill does advance. Mr. Clerk, next item. [LB497]

CLERK: Mr. President, LB140. Senator, I do have Enrollment and Review amendments. (ER89, Legislative Journal page 1182.) [LB140]

SENATOR CARLSON: Senator Murante for a motion. [LB140]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB140]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. All opposed, nay. Amendments are adopted. [LB140]

CLERK: Mr. President, Senator McCoy had offered AM1243. Senator, I have a note you want to withdraw. [LB140]

SENATOR McCOY: Yes. [LB140]

CLERK: I have nothing further on the bill, Mr. President. [LB140]

SENATOR CARLSON: Senator Murante for a motion. [LB140]

SENATOR MURANTE: Mr. President, I move to advance LB140 to E&R for engrossing. [LB140]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. All opposed, nay. The bill does advance. Mr. Clerk. [LB140]

CLERK: Mr. President, LB366. Senator, I do have Enrollment and Review amendments first of all. (ER87, Legislative Journal page 1183.) [LB366]

SENATOR CARLSON: Senator Murante for a motion. [LB366]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB366]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The amendments are adopted. [LB366]

CLERK: Senator Cook would move to amend with AM1397. (Legislative Journal page 1352.) [LB366]

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

Floor Debate  
May 15, 2013

---

SENATOR CARLSON: Senator Cook, you're recognized to open on your amendment. [LB366]

SENATOR COOK: Thank you, Mr. President, and good afternoon, colleagues. AM366 is amended by...sorry, LB366 is amended by AM1397. The Diploma of High School Equivalency Assistance Act is a critical policy that will make sure pursuing a GED will have the institutional support it needs in our state. LB366 recognizes the vital challenge in preparing an adult work force in which all individuals possess adequate skills in reading, writing, mathematics, and computer skills. The act will establish and fund a statewide system for providing general education development certification. AM1397 is a simple amendment that clarifies intent language for the bill. The amendment makes it clear that the Nebraska Department of Education shall disburse these funds to offset the expenses borne by the institutions who are subsidizing students' preparation for GED certification. With that, I would ask that the body adopt AM1397. Thank you, Mr. President. [LB366]

SENATOR CARLSON: Thank you, Senator Cook. Members, you've heard the opening on AM1397. The floor is now open for debate. Senator Adams, you're recognized. [LB366]

SPEAKER ADAMS: Thank you, Mr. President. Would Senator Cook yield to a question, please? [LB366]

SENATOR CARLSON: Senator Cook, would you yield? [LB366]

SENATOR COOK: Yes, I will. [LB366]

SPEAKER ADAMS: Senator, I'm looking at your amendment and I want for you to distinguish for me why you would change that language, and if I'm reading it wrong I want you to help me. It seemed like to me in the committee amendment we were trying to help the student defray the cost of the GED, and I interpret your amendment as saying now we're going to help the institution defray the cost. Could you help me out with that? [LB366]

SENATOR COOK: The intent...thank you. The intent has not changed. As I mentioned in my floor speech on LB366, the purpose and intent of the bill is to support institutions as more people show up and have to take the exam, which is going to be more rigorous and which only is going to be available via the computer and not on a paper-and-pencil test. [LB366]

SPEAKER ADAMS: So you don't think that your amendment then really changes the focus of where the money should go. [LB366]

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

Floor Debate  
May 15, 2013

---

SENATOR COOK: Not at all. That, as I said in the language that I introduced and when we discussed it on General File, I reiterated several times that the support was for the institutions across the state who currently and may in the future offer the testing, to support them in administering the testing to an increasing number of students with the new federal guidelines coming into play in January 2014. [LB366]

SPEAKER ADAMS: Okay. Thank you. Let me ask you one other question and it's just...it's bothered me for quite some time. It has nothing to do with your bill, and it's related, it does. And if you can't answer it, I understand completely. This money would go to school districts or community colleges, correct? [LB366]

SENATOR COOK: Or a third current offerer, which is the Department of Corrections here in the state of Nebraska,... [LB366]

SPEAKER ADAMS: Okay. [LB366]

SENATOR COOK: ...as students there might prepare. [LB366]

SPEAKER ADAMS: That makes sense to me. Then let me ask you an opinion question. Do you think that really the cost of these GEDs should be borne by the school districts wherein...now I realize there are some students that are nontraditional students... [LB366]

SENATOR COOK: Uh-huh. [LB366]

SPEAKER ADAMS: ...that particularly are coming into the community college world. I get that. But the traditional high school student that doesn't have that diploma, should it be the...should the cost of that be borne by the school district, do you think, or by the community college wherein they are trying to matriculate? [LB366]

SENATOR COOK: You're asking me my opinion related to the cost of the exam itself. Is that correct, Senator Adams? [LB366]

SPEAKER ADAMS: Right, and the cost associated with getting that student to the point of a GED. [LB366]

SENATOR COOK: Well, from my understanding, and we discussed this in a limited manner within our committee, many of the students who appear to take the examination pay for it in whole or in part from their own pockets currently. [LB366]

SPEAKER ADAMS: Okay. And so this would help defray that cost. [LB366]

SENATOR COOK: This proposal is related to the administration of the exam, which as

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

Floor Debate  
May 15, 2013

---

of January 2014 will only be available on a computer, at a computer terminal, and not as it has been heretofore via paper and pencil or at a computer, depending on what was taking place among the 49 sites across the state. [LB366]

SENATOR CARLSON: One minute. [LB366]

SPEAKER ADAMS: Okay. Thank you, Senator. [LB366]

SENATOR CARLSON: Thank you, Senator Adams and Senator Cook. Senator Lautenbaugh, you're recognized. [LB366]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do rise in support of both this amendment and this bill. And this will not be a long digression or much of a digression, and it actually relates to the editorial that was just handed out. We had a good day in Omaha yesterday. We have, any way you want to describe it, by any measure I should say, a new school board for OPS. And that dovetails with this conversation because it was the outgoing board, or many of them, that chose to stop the GED program, causing Metro to have to pick up the slack. And there were a couple of members who tried to get it reinstated. I think it might have cost \$250,000 at the time, and OPS couldn't find that money. And if any of you have taken a casual look at OPS's budget, you might recommend they check the couch cushions or something like that and see if they can't find it, but they could not find it to do these GED...this GED program for these people. And I think that was a bad decision and that came up frequently. It kind of got lost in a flurry of worse decisions, so it didn't get talked about much, but this is the kind of thing which I call, basically, shirking their responsibility, that I'm confident a new board will not do. I think we're facing a new day with OPS. I was talking to the Speaker this morning and I said doesn't it almost make you want to go back and be Education Chair again. Going to have a whole new outlook from OPS hopefully. Maybe after the last couple weeks the Speaker would like to go back and be Chair of Education, I don't know. But I'm optimistic about the future. I thank all of you again for your support of LB125 when we passed it. I think it remains the right thing to do. I think the proof will be in the pudding. But I think that this is yet another example of why we did what we did. And I do support the bill. Thank you, Mr. President. [LB366 LB125]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Those still wishing to speak include Senators Scheer and Ashford. Senator Scheer, you're recognized. [LB366]

SENATOR SCHEER: Thank you, Mr. President. Senator Cook, would you yield to just a clarification? [LB366]

SENATOR COOK: Yes. [LB366]

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

Floor Debate  
May 15, 2013

---

SENATOR CARLSON: Senator Cook, would you yield? [LB366]

SENATOR SCHEER: Thank you, Senator Cook. Just sort of piggybacking on Senator Adams, just again for clarification because we had talked about this on your General File, these dollars are not necessarily to augment or reduce the cost or pay for the cost of the tests for participants. These are just dollars that are flowing to an institution, regardless if it's a school district or a community college or the correctional facility, to help it cover the costs of preparation of that student in order for him or her to be able to pass the test. Is that a correct assumption? [LB366]

SENATOR COOK: That is a correct characterization, to prepare, administer the exam for him or her whether or not she or he has taken the preparation course at that institution. [LB366]

SENATOR SCHEER: Okay. Thank you. But I guess more to the point, it is not necessarily to pay for the test. It's more for the work that the institution does in background or in the facilitation of taking the test, but not the cost of the test itself. Would that be a correct assessment? [LB366]

SENATOR COOK: That is correct. [LB366]

SENATOR SCHEER: Okay. Thank you very much, Mr. President. [LB366]

SENATOR CARLSON: Thank you, Senator Scheer and Senator Cook. Senator Ashford, you're recognized. [LB366]

SENATOR ASHFORD: Thank you, Mr. President. I'll be brief but I want to pick up a bit on what Senator Lautenbaugh said, and it's a little off topic so I will be brief, hopefully, but to really reiterate what Senator Lautenbaugh said. I feel that the leadership that Senator Lautenbaugh gave us on LB125, I believe, is that what...LB125, really is game changing for our community, and it also, what resonates with me, and the work of the Education Committee in getting LB125 up in a timely manner so that the voters of the city of Omaha, or at least the OPS area of Omaha, could have an opportunity to make the changes they felt necessary to make. And also to thank Senator Chambers for his persistence on this issue, dating back to the 1980s, at least when I first started to serve with him. So it's taken that long to really get to this kind of change. And also, just to remind the body again, and really to remind myself, and in some sense pinch myself, too...that what we do here has tremendous consequences every day in our state, in all of our communities. The Education Committee showed great leadership, Chairman Sullivan, and in taking Senator Lautenbaugh's bill and getting it out on the floor and passing it and allowing this dramatic change to occur. In fact, I called Senator Lautenbaugh this morning to congratulate him. I really have just been taken back by it. I think it's...and as we move forward through the years and this group moves forward and

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

Floor Debate  
May 15, 2013

---

I leave and some of us leave and you move forward and then another group comes after that is what positive things can happen from the work we do here. And, yeah, we squabble and some days are very emotive and I understand that. But I know in this one instance, because of the tenacity of really dating back to Ron Raikes and Senator Chambers and then Scott's effort here and the Education Committee's effort, the Governor in signing the bill quickly and then the voters of OPS chiming in and making the changes in our community that I think will be long-lasting is really an immense deal. So I really just feel...I'm gratified by all that's gone on and I thank Senator Lautenbaugh and everybody else involved in getting LB125 up and passed and give the voters a chance. Thank you. [LB366 LB125]

SENATOR CARLSON: Thank you, Senator Ashford. There are no other senators wishing to speak. Senator Cook, you're recognized to close on AM1397. Senator Cook waives closing. The question is, shall AM1397 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB366]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Cook's amendment. [LB366]

SENATOR CARLSON: AM1397 is adopted. [LB366]

CLERK: I have nothing further on the bill, Mr. President. [LB366]

SENATOR CARLSON: Senator Murante for a motion. [LB366]

SENATOR MURANTE: Mr. President, I move to advance LB366 to E&R for engrossing. [LB366]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. LB366 does advance. Mr. Clerk. [LB366]

CLERK: LB366A, Senator, I do have Enrollment and Review amendments. (ER85, Legislative Journal page 1183.) [LB366A]

SENATOR CARLSON: Senator Murante for a motion. [LB366A]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB366A]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion is adopted. [LB366A]

CLERK: I have nothing further on the bill, Mr. President. [LB366A]

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

Floor Debate  
May 15, 2013

---

SENATOR CARLSON: Senator Murante for a motion. [LB366A]

SENATOR MURANTE: Mr. President, I move to advance LB366A to E&R for engrossing. [LB366A]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk. [LB366A]

CLERK: Mr. President, General File. Senator McGill offers LB216A. (Read title.) [LB216A]

SENATOR CARLSON: Senator McGill, you're recognized to open. [LB216A]

SENATOR MCGILL: Thank you, Mr. President, members of the body. This is the appropriations bill to go along with LB216, which is the bill utilizing the Fostering Connections Act that was passed federally to bring down some Title IV-E dollars to help our youth who are aging out of the foster care system. It's been a few weeks since we've talked about it so, as a reminder, LB216 would allow eligible youth, on a voluntary basis, to enter into a voluntary foster care agreement with DHHS for extended services, which include Medicaid; placement in a foster home, institution, or independent living, or continued guardianship, adoption assistance payments; assistance for postsecondary education; and case management to help access other supports. It's taken a while for us to get this bill back on to Select File, and hopefully that will be coming up again next week, because we've been working with the federal government to make sure that the amendment that we passed on General File that took OJS children out of this proposal would still make us qualified for that federal money, those IV-E dollars, and we just got a response back a couple days ago saying that we would still qualify. So we're going to see that coming back on Select. This, of course, is the fiscal note that goes along with it. I am working on a few more amendments to my bill that would...could ultimately mean there will be some more tweaks to this fiscal note. Some of those changes would mean delaying implementation of Medicaid provisions of this bill and just waiting until the Affordable Care Act picks up funding for these youth at the beginning of 2014, but then adding in some dollars for adoption and guardianship subsidies to come, again, more in line with what the federal requirements are for this program. I do have an additional amendment to this bill making sure that we're covering the court costs of continuing to oversee these youth. And with that amendment, we're looking at a total over the biennium of a little over \$2 million, about \$2.1 million. It's \$2,095,116 is what our Fiscal Office currently thinks that this program would cost. So with that, I ask for your advancement. [LB216A LB216]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Senator McGill. Mr. Clerk. [LB216A]

Floor Debate  
May 15, 2013

---

CLERK: Senator McGill, AM1412. (Legislative Journal page 1378.) [LB216A]

SENATOR KRIST: Senator McGill, you're recognized. [LB216A]

SENATOR MCGILL: Thank you, Mr. President. This is that amendment I just spoke of, making sure we're covering costs to the court for overseeing these youth and checking in to make sure that they are still following their case plans, they're still eligible or on the right path. And I should note that this fiscal note was originally much larger, until we passed that amendment on General File to take out some of the youth that would have otherwise been eligible for this program. And I ask for your advancement. [LB216A]

SENATOR KRIST: Thank you, Senator McGill. The floor is now open for debate. Seeing no senators, Senator McGill, you're recognized to close. Senator McGill waives closing. The question is, shall the amendment to LB216A be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Record, Mr. Clerk. [LB216A]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator McGill's amendment. [LB216A]

SENATOR KRIST: The amendment is adopted. [LB216A]

CLERK: I have nothing further on the bill, Mr. President. [LB216A]

SENATOR KRIST: Senator McGill, you're recognized to close. Senator McGill waives closing. The question is the advancement of LB216A to E&R Initial. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB216A]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB216A. [LB216A]

SENATOR KRIST: Bill advances. Next item. [LB216A]

CLERK: Mr. President, LB561A by Senator Ashford. (Read title.) [LB561A]

SENATOR KRIST: Senator Ashford, you're recognized. [LB561A]

SENATOR ASHFORD: Thank you, Mr. President, members of the body. This is the A bill that accompanies LB561 that we advanced today to Final Reading. It's wonderful being in this position because every 5 minutes or so Chairman Mello, Senator Mello comes over to me with different information (laugh) that I have to digest immediately. But I certainly applaud Senator Mello for his tenacity in letting me know how much this program costs. But in any event, this program in LB561 is divided into two parts. One is

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

Floor Debate  
May 15, 2013

---

county aid and one is administering what I call the Krist project, the juvenile services project. And so it's really in two pieces. The county aid piece in the bill now is \$10 million a year, and then the administrative piece is \$1,394,444 per year. So we are in the process of...that's not what this A bill says now, but by the time we move this A bill across, have some time to talk about it between now and Select, A bill will catch up with LB561 and at that point we can reconcile the numbers with the Appropriations Committee and with the other bills that are sitting out there and move them together. Just finally, again, I just want to thank really an amazing amount of work done by the staff, Stacey in my office, my legal counsel, the PRO Office, HHS, Probation, the entire committee. This is a big, big bill, a big effort. And I appreciate certainly the advancement of LB561 and would urge the advancement of LB561A to allow it to catch up with the underlying substantive bill. And then we'll work it out before Final Reading, the numbers, so the numbers will work. Thank you. [LB561A LB561]

SENATOR KRIST: Thank you, Senator Ashford. The floor is now open for debate. Seeing no one in the queue, Senator Ashford, you're recognized to close on your bill. Senator Ashford, would you like to close? [LB561A]

SENATOR ASHFORD: I waive close. I'm sorry, I was being... [LB561A]

SENATOR KRIST: That's okay. Senator Ashford waives. The question is the advancement of LB561A to E&R Initial. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB561A]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB561A. [LB561A]

SENATOR KRIST: Bill advances. Next item. [LB561A]

CLERK: LB583A is by Senator Ken Haar. (Read title.) [LB583A]

SENATOR KRIST: Senator Haar, you're recognized. [LB583A]

SENATOR HAAR: Mr. President, members of the body, LB583A appropriates a one-time amount of \$44,746 for fiscal year '13-14 to the Department of Agriculture to prepare a report, as required in the amended version of LB583. Originally, that amount was, I believe, \$140,000 and it's been negotiated down. The fiscal note is based on the department contracting with the University of Nebraska School of Natural Resources to conduct the research necessary to compile information for the reports. The fiscal note that you may have seen, the revised fiscal note, the first paragraph does not recognize that we removed the appointment of one additional member. That's an error. So the bill now, as it stands, only refers to providing the additional report in the amount of \$44,746. I would appreciate a green vote on LB583A. [LB583A LB583]

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

Floor Debate  
May 15, 2013

---

SENATOR KRIST: The floor is now open for debate. Senator Larson, you're recognized. [LB583A]

SENATOR LARSON: Thank you, Mr. President. I know Senator Haar has worked hard on this and gotten that fiscal note down to \$44,000 or somewhere around there that he was talking about. And I'd call your attention, colleagues, and I know we've just dealt with a few A bills, and if you look at the impact of bills pending on the green sheet, those on Final Reading takes our cash status down from \$55 million to \$47 million, and those that are sitting on Select File take us down to \$14 million in the hole off of that \$55 million. And we as the Legislature are going to have to make some tough decisions on which bills get cut. That's not a...I don't think that's including the ones that are on General File that haven't even been advanced to Select File yet. And we're obviously not going to have the money to spend on all of them. And making those decisions and whether it's this one or other bills, we have to make those decisions sometime. I guess I'm not necessarily encouraging you to go red on this one, but I think it is time that we really start to think about it. We only have 11 days or 12 days left, so those decisions need to start being made. Thank you, Mr. President. [LB583A]

SENATOR KRIST: Thank you, Senator Larson. Seeing no other senators wishing to speak, Senator Haar, you're recognized to close. Senator Haar waives closing. The question is the advancement of LB583A to E&R Initial. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Record, Mr. Clerk. [LB583A]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB583A. [LB583A]

SENATOR KRIST: The bill advances. Items for the record. [LB583A]

CLERK: Mr. President, confirmation reports from Health and Human Services Committee, that's signed by Health and Human Services, offered by Senator Campbell, two different reports. That's all that I had, Mr. President. (Legislative Journal pages 1378-1379.)

SENATOR KRIST: Thank you, Mr. Clerk. Next item.

CLERK: Mr. President, LB568, a bill originally introduced by Senator Burke Harr. (Read title.) Introduced on January 23 of this year, referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM812, Legislative Journal page 841.) [LB568]

SENATOR KRIST: Senator Harr, you are recognized to open. [LB568]

SENATOR HARR: Thank you, Mr. President and members of the body. March 23, 2010, and March 30, 2010, Congress and the White House passed what's effectively

Floor Debate  
May 15, 2013

---

known as, or collectively known as, the Affordable Care Act. Under the Affordable Care Act, beginning October 1, 2013, individuals and small businesses who cannot obtain health insurance through their employers, and other individuals who cannot obtain insurance, will be able to purchase private health insurance through competitive marketplaces called affordable insurance exchanges or exchanges. They're also now kind of known as marketplaces. For many of those purchases...many of those who purchase health insurance through an exchange, part of their insurance may or will be subsidized. It is estimated in Nebraska that 217,000 fellow Nebraskans will be eligible to take advantage of this exchange. That means between October 1, 2013, and January 1, 2014, when you can first purchase the insurance, Nebraska...we will need to sign up 72,330 people per month; put another way, 16,692 per week or 2,411 people per day, including weekends and holidays--no easy task. Many of these people have never had health insurance before. Some have limited literacy or are living with disabilities. Senators, these are our working poor. As anyone who signs up for health insurance knows, policies can be confusing, especially with the myriad of choices and having never had insurance before. These people will rely on navigators to assist them. Navigators will be responsible for facilitating enrollment in qualified insurance plans, helping consumers understand both the insurance options in the exchange and what premium subsidies are available to them from the government. A navigator is an individual or entity that: one, conducts public education campaigns to raise awareness of the availability of qualified plans; two, distributes fair and impartial information regarding qualified plans and the availability of a premium tax credit and cost-sharing reductions; three, facilitates enrollment in qualified health plans; four, provides appropriate referrals when an enrollee has a grievance, complaint, or question regarding their health plan coverage or determination under such plan or coverage; and, five, provides information in a manner that is culturally and linguistically appropriate to the needs and populations being served. Over the short term, navigators and their workers may be funded by the federal budget, state budgets, or private money such as hospital associations. Over the long term, most of the cost of the navigators will be covered by the new healthcare marketplace, the health exchange, through fees that insurers will pay to sell their plans in the exchange. LB568 is a consumer advocate or protection bill designed to ensure that navigators and the individuals associated with navigators provide consumers the correct and proper information regarding health insurance. Let me repeat that. LB is a consumer advocate bill designed to ensure navigators and the individuals associated with navigators provide consumers the correct and proper information regarding health insurance. The bill provides accountability and oversight for those who assist the working poor in two ways: number one, by defining what a navigator is and what a navigator is not; and, number two, by providing licensing standards consistent with federal requirements. I previously stated what a navigator does. Let me tell you, a navigator can provide information. A navigator cannot provide analysis of the information or recommend a specific policy or policies. Navigators cannot be compensated for anyone they sign up, and they cannot be insurance agents. These navigators need to be fair, impartial, and appropriately trained. Navigators must

Floor Debate  
May 15, 2013

---

provide services and information in a manner that is accessible and helps individuals make informed decisions during their health plan selection process. Navigators are an important resource for all consumers, particularly communities that are underserved by and underrepresented in the current health insurance market. So that's what they are and what they are not. Secondly, LB568 provides licensing standards consistent with the federal requirements regarding licensing. Under the ACA--"Obamacare"--states possess the ability and authority to license and regulate the navigators, even in jurisdictions such as Nebraska, where federally facilitated exchanges will operate in. Licensing standards for navigators are currently permitted as long as such standards do not prevent the application of the ACA, and you'll find that in 45 CFR 155. Under this bill, each navigator, such as a community health center, and each individual acting on behalf of the navigator must pass a test established by the federal government to become eligible to be a navigator. This legislation establishes jurisdiction over the navigators and outlines how the state will license and regulate the navigators. States have traditionally been responsible for overseeing those who engage in insurance consulting placement and enrollment activities. Those who carry out such activities are subject to state law and officials. If we do not pass this bill, Nebraska will lack the authority to take appropriate action should navigators engage in intentional or unintentional wrongful acts. The failure to establish licensing and oversight mechanisms for navigators will result in a regulatory vacuum that the federal government may or may not choose to fill. As proposed in LB568, if a navigator acts in an improper manner, the Nebraska Department of Insurance has the ability, after proper hearing, to place a navigator on probation, suspend them, revoke, or refuse to issue a new, or renew or reinstate, a navigator's license. In addition, the Department of Insurance may levy a fine not to exceed \$1,000 for each violation. That means they could issue a fee or a fine for as little as one penny. We're trying to create a cap of \$1,000. There are 26 states that have a federally facilitated exchange. Of these, Arkansas, Florida, Georgia, Iowa, Maine, Montana, Ohio, Utah, Illinois, and Indiana have passed a navigators. Tennessee, it's on the governor's desk. And other states, such as Arizona, Louisiana, Michigan, New Hampshire, North Carolina, Oklahoma, Texas, and Wisconsin are currently debating such legislations. The Nebraska Department of Insurance appeared and testified on this bill and testified in favor of this bill. It advanced out of committee on a unanimous vote, and the committee chose to make this a priority bill of theirs. It also has an E clause, so the Department of Insurance has plenty of time to prepare for the October 1 start date. With that, I would ask that you please advance LB568. Thank you very much. [LB568]

SENATOR KRIST: Thank you, Senator Harr. As the Clerk stated, there are amendments from the Banking, Commerce and Insurance Committee. Senator Gloor, as the Chair of that committee, you are recognized to open on your amendment. [LB568]

SENATOR GLOOR: Thank you, Mr. President, and good afternoon, members.

Floor Debate  
May 15, 2013

---

Committee amendments to LB568 are the white copy. They become the bill. The members of the Banking, Commerce and Insurance Committee worked, to put it mildly, very hard on these amendments, taking quite a bit of time, multiple Executive Sessions. I think we had a total of ten hours in Executive Sessions; two full afternoons related to just this bill are part of that ten hours. The committee amendments strike and insert many provisions all throughout the bill. However, the committee amendments do not alter the intended purpose of the bill which, as Senator Harr stated, is the creation of a framework for our Director of Insurance to license and regulate individuals and entities that perform the service of navigators with regard to the health insurance exchange established in Nebraska, pursuant to the federal Patient Protection and Affordable Care Act. Committee amendments state that navigators may facilitate enrollment in qualified health plans offered in the exchange, navigators may facilitate enrollment in public insurance programs offered through the exchange. This was language added by the committee, by the way, that being public insurance programs, to highlight that navigators will facilitate enrollment not just in qualified health plans but also in Medicaid. Committee members had heard from individuals and organizations concerned that there should be more specific language in the bill to recognize that Medicaid enrollment can be accomplished through an exchange. The committee amendments restate that a navigator shall not engage in any activities that would require an insurance producer's license. That would be an industry term that has to do with insurance agents. A navigator shall not offer advice about which health plan is better or worse for a particular individual or employer. A navigator shall not recommend or endorse a particular health plan or advise on which health plan to choose. A navigator shall not provide information or services related to health plans not offered in the exchange. The committee amendments add that a navigator shall not accept any compensation that is dependent upon whether a person enrolls in or purchases a qualified health plan. All that language is because this is what an insurance producer does, somebody who is in the business of selling health insurance. That's not a role of a navigator. The bill as introduced provides that an applicant for an individual navigator license must pass an examination prescribed by the Director of Insurance. The committee amendments add that the director shall exempt an individual from this requirement if he or she has already passed an examination prescribed by the exchange. Committee amendments also provide that the director may make arrangements, including contracting with an outside testing service, for administering examinations. Committee spent quite a bit of time striking language that we felt was too restricting, too stringent, so that the committee amendments also strike requirements that applications for an individual navigator's license must submit fingerprints, complete a criminal history, and a regulatory record check. Committee amendments also strike requirements the director shall find that applicants possess the requisite character and integrity. That's not in there anymore. The committee amendments further strike requirements that navigators obtain a surety bond in an amount acceptable to the Director of Insurance to protect others against wrongful acts, misrepresentation, errors, omissions, or negligence of the navigator. Committee amendments set maximums--I want to emphasize, as Senator Harr

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

Floor Debate  
May 15, 2013

---

did--maximums on the amounts that the Director of Insurance can charge for navigator license fees. License is valid for two years or kept at \$50 for individuals and up to \$100 for entities. That's, again, the maximum. The same is true with fines. Committee amendments change the maximum fine the Director of Insurance can impose on a navigator for a violation of a bill from \$5,000 to \$1,000, comparable to those that can be imposed on an insurance agent, by the way. The committee amendments strike requirements that navigators report to the Director of Insurance administrative and criminal actions taken against that navigator. Committee amendments add the severability clause and they also add the emergency clause. Those are the committee amendments. I would urge their adoption. Senators, I believe the bill, with amendments, is an important consumer protection bill as we head into this new, uncharted region of insurance exchanges, also known as the marketplace. Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Gloor. Mr. Clerk. [LB568]

CLERK: Mr. President, I have a priority motion. Senator Conrad would move to return LB568 to the Banking, Commerce and Insurance Committee. [LB568]

SENATOR KRIST: Senator Conrad, you are recognized. [LB568]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I urge you to support what is a serious motion, and that's a motion to recommit this legislation to the committee level, because I think, at this stage in the game, we have far more questions than we have answers and there is no need to hastily travel down this unnecessary path, as represented in LB568. We will have plenty of time, over the course of this debate, to get into the substantive and technical amendments that need to be addressed, to the pending amendments, in order to improve this bill, if we do decide to move forward. So I'm not going to start there with these comments. But I'm going to start instead with some threshold questions, some general policy overview questions that have yet to be answered. And to be clear, I have spent countless amount of time with members of the Banking Committee, members in the lobby on both sides of this topic, and constituents, my staff, proponents, the introducer, what have you, trying to work through some of these questions. Obviously, we have not been able to find consensus and compromise on a majority of the key issues that separate our philosophical differences on this topic. But let's start with the facts, and let's start with some of these threshold questions. Insurance navigators, by their very definition which is contained in federal law, are community educators. They're not insurance brokers. They're not insurance producers. So why on earth should the Department of Insurance be in the business of licensing community educators? That's the first question we need to ask ourself before we move forward with this unnecessary and duplicative state statutory regulatory framework. The other policy consideration I want to put forward is this. We have heard from many leaders in this body and in this state that we shouldn't

Floor Debate  
May 15, 2013

---

move forward with a state-based exchange, we're going to punt, we're going to leave that responsibility to the federal government. We've heard from the same leaders in this body and in this state that we shouldn't expand Medicaid to help more children and families who are in need of access to critical health services, we're going to sit on our hands, we're going to send those tax dollars to other states and their citizens that are in need who choose to do the right thing in regards to Medicaid expansion. Banking Committee has put forward a very clear policy when it comes to bills pending, critical insurance bill coverage issues that affect deaf citizens, that affect children with serious nutritive disorders, that affect families living with autism, that we can't move forward on any of those topics because there's just too many complications with the Affordable Care Act. So we can't move forward with the state-based exchange because we have too many questions; we can't move forward with Medicaid expansion, we have too many questions; we can't move forward on critical insurance coverage issues for deaf citizens, for children with serious nutritive issues, for families living with a member who has autism, because we have too many questions with the complications of the Affordable Care Act. But then the Banking Committee has the audacity to say, we must move forward on this topic that is duplicative and potentially preempted by federal law, covered by other areas of state law and, again, doesn't answer the fundamental question of why the Department of Insurance would be licensing community educators. I find that offensive because they're not being honest about what the motives are. And look no further than the committee statement. When people sell you something under the guise of consumer protection and it's only supported by insurance companies and it's opposed by consumer advocacy groups, that should cause pause for concern. This is not some model bill based upon what some other state has done in an innovative capacity. This is a national playbook by industry groups that has now come to rest in Nebraska. There have not been any major or serious concessions from the original legislation to the various amendments that proponents have filed through today. So let's get back to the facts. Nebraska has chosen to have a federally facilitated exchange, and that will begin on October 1, 2013. Individuals and small businesses will be able to purchase private health insurance through competitive marketplaces, called health insurance marketplaces. Great. Well, some of these folks are going to need some help navigating through that system, and that's what navigators are meant to do. By their very definition they cannot have a financial or pecuniary interest in any sort of insurance product. So what, really, is this harm that consumers need protection from? They need protection from groups like AARP or our federally qualified health centers or medical social workers that say, hey, you're having some troubles with medical issues, did you know about these exchanges, maybe you should check it out and see if it might be of help to you and your family in addressing your healthcare needs? That's what navigators do. They're not scary. They're not unknown. They're not nefarious. They're not prone or subject to abusing consumers. These are the very people on the front lines that we depend upon to help citizens in need. And what this statutory, regulatory framework does is meant to erect a burden, a barrier, a road block so burdensome that no one who are on...no people who are on those front lines are going to want to take on

Floor Debate  
May 15, 2013

---

those liabilities. So then what do we have? We don't have consumers utilizing the marketplace exchange. We don't have consumers accessing necessary healthcare benefits. And then we scratch our head and say, gosh, I wonder why Obamacare wasn't a success, because we were complicit in putting up road blocks. That's wrong and it's the wrong use of this body's limited time to address serious issues that we have before us, particularly here, at the tail end of session. As I noted, colleagues, we will have plenty of time to get into some of the specific technical issues that exist with the bill and its subsequent amendments. But with that, I hope that you keep an open mind. I hope that you listen carefully to this dialogue and conversation because it is important. And I firmly believe that Nebraska can do better and should do better and that we should recommit this poorly crafted and deeply flawed legislation to the committee level so that we can get additional guidances from the federal government about what is and is not duplicative, we can ensure we are not passing unnecessary laws that are already covered at the state level, that are not preempted at the federal level, and we can focus on the issues at hand. Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Conrad. Members, you've heard the opening on LB568, the committee amendments, and the recommit motion. Those wishing to speak: Senator Burke Harr, Howard, Pirsch, Bolz, Harms, Gloor, and others. Senator Burke Harr, you're recognized. [LB568]

SENATOR HARR: Thank you, Mr. President, and thank you, Senator Conrad, for that opening. Obviously, I'm against the motion to recommit. And let me just go through. I took some notes while she spoke and, hopefully, I'll get to all of them. These are community educators. That's right and that's exactly why we introduced this bill and why we need licensure. The reason why is because these are community educators. We want to make sure that the population they're working with are generally the working poor of our society, and they may not be as sophisticated and they may never have had insurance before. And I have trouble with my own insurance policy, reading it, and knowing what's in there, so I turn to an insurance agent. Well, they're not going to be able to turn to an insurance agent because of federal regulations. So a navigator is the person they go to and that's good. A navigator is great. But a navigator is not going to have the level of education or sophistication of an insurance agent. Well, I don't know about sophistication, but they won't have the level of education probably. They could; nothing would stop them. But the floor for insurance agent versus a navigator is lower. So what we're trying to do is they do not have a pecuniary interest. That is correct. But they may ask for money. And if they ask for money to help you through the navigation system, what enforcement mechanism is there? Do you think the feds are going to fly someone out to Nebraska to investigate one bad, rogue navigator who is collecting money? No. It's going to be the body that's closest to the people. Now why use the Department of Insurance? Well, because the Department of Insurance deals with--get ready for this--insurance. And that's what this is about, insurance. So they have the familiarity. They understand the rules and regs that generally go around insurance. If

Floor Debate  
May 15, 2013

---

someone is out there selling insurance illegally, they're going to know where the line is. Folks, this is the problem I keep hearing with Obamacare. It is that it's just too hard, it's too difficult. Well, we have the chance and the ability to clarify what it is and what it isn't. What is a navigator? We're going to say, here is a navigator, here is what it is, here is what it's not, here's where the line is. You can sit there and say, hey, Burke, here's what...I will give you information of what's in that bill...or in that policy, what I can't do is provide analysis. So I'm a diabetic, hypothetically. But if I'm a diabetic and there are two policies, if I go to a navigator, a navigator can say, this bill provides coverage for X, Y, and Z, this bill does not provide coverage for X, Y, and Z. Now I'm going to ask, which bill is better? They cannot answer that question because, quite frankly, they have not obtained the level of education to provide analysis, at least under the barriers that...the floor that we currently have set for navigators. So maybe they will get more information. Maybe they'll...but so what they can do is say, this covers it, this does not. They cannot provide analysis to say, this is better for you. They can't make that final step. So that's what a navigator is. And it's meant to protect the consumer because we don't have people out there who may not have the level of education--again, by the floor that we've set through the licensure process--saying or doing more than they probably could or should do. That's what we're doing. This...again, we hear there are too many questions out there. Well, guys, again, this is providing answers to those questions. We're taking control. We're saying, okay, we don't know...well, this is what a navigator is, this is what it's not. And then we're providing insurance or regulation and we're providing enforcement on the local level. [LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR HARR: Thank you. What is the harm of this if we don't do anything? Well, I don't want someone providing someone the wrong insurance. That's just as bad as not having insurance, either overpaying when you're poor or not having the coverage that you think you need because someone gave you bad advice. I've heard that this is a poorly crafted bill, but then I hear this comes from a national playbook. Well, you've got to have, probably, one or the other because the national ones are never poorly crafted. These are, you know, pros out there. So as far as if this is a national...look at, try to find a national bill out there, see if this is similar or different. You'll see this is vastly different than any other of the bills out there. So thank you. [LB568]

SENATOR KRIST: Thank you, Senator Harr. Senator Howard, you are recognized. [LB568]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I rise with concerns regarding LB568 and would like to take this opportunity to explain my vote out of committee. After two lengthy Executive Sessions on LB568, I and my colleagues in the committee created AM812, which was based on the best knowledge we had at the time. That included guidance from the Centers for Medicare and Medicaid Services, or

Floor Debate  
May 15, 2013

---

CMS, dated May 16, 2012, December 10, 2012, March 1, 2013, and a letter from Kathleen Sebelius dated July 11, 2012. The letter was the only information that issued that dealt directly with the work of the exchange navigators. So essentially, as a committee, we were going pretty blind on how to fix this bill. On March 27, 2013, the bill was passed out of committee, with my vote, and reported to General File. One week later, the federal Department of Health and Human Services and CMS issued the proposed rules for standards for navigators, or 45 CFR Part 155. And shortly after that, on April 9, CMS issued the request for proposals for organizations wishing to serve as navigators, allocating \$600,000 to two agencies in Nebraska, equating to 12 to 25 individual navigators, paid through the federal exchange. LB568 purports to only regulate those two agencies and those 12 to 25 navigators. However, the broad definition of "work" may have the unintended consequence of reaching other organizations assisting those who need help enrolling in programs. With all of this additional information, I feel that this bill is premature. Only 25 states brought bills that touch on the work of the navigators and, of those 25, only 6 passed those bills. One state with a state-based exchange, one with a partnership, and four who opted into the federal exchange. Of the six bills that were passed, five are already subject to federal preemption by the new suggested guidance from CMS. And I'll admit that I had serious concerns throughout the discussions on this bill, mostly around the fact that LB568 seems a solution in search of a problem. Since navigators and enrollment assistors who have done similar work in the state have never had complaints leveled against them, as well as the fact that, since we don't currently have navigators in this state, the folks who are doing this work on the ground have had no opportunity for input into the process for their own certification. The programs that I'm referring to, who have done outreach education and enrollment assistance which has occurred but never called for regulation, include work through the CHIP reauthorization of 2009, or CHIPRA, as well as the Medicare rollout supported by volunteers through AARP. Many agencies currently provide all of the services of a navigator, such as public education, information distribution, enrollment facilitation, and referrals for grievances, and these could be inadvertently negatively impacted by LB568 through additional fees and penalties. Finally, I am concerned that this bill creates an unnecessary level of bureaucracy, regulating the scope of work of individuals that are already regulated heavily on a federal level and whose funding comes exclusively from the federal government. I could not have known when I voted for the bill in March how stringent the federal regulations for navigators would be. And now that I see the regulations, LB568 appears not only duplicative but potentially irrelevant, given Nebraska's decision to opt into a federal exchange and opt out of any local control over its work. While I'm not wild about putting more of my personal time into this legislation, I urge the body to recommit LB568 so we can get it right over the summer and come back in January... [LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR HOWARD: ...with a bill that reflects the realities of this work. Thank you, Mr.

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

Floor Debate  
May 15, 2013

---

President. [LB568]

SENATOR KRIST: Thank you, Senator Howard. Senator Pirsch, you are recognized. [LB568]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I do serve on the Banking, Commerce and Insurance Committee and, I can assure you, we did spend a great deal of time on this particular bill. And it was designated a committee priority. With that, I would yield the balance of my time to Senator Harr, should he desire it. [LB568]

SENATOR KRIST: Senator Harr, you have 4:36. [LB568]

SENATOR HARR: Thank you, Mr. President, and thank you, Senator Pirsch. And thank you for those kind words. Folks, at the end of the day, this is a licensure bill. If there is someone out there acting improperly in the state of Nebraska, the question is, do you want enforcement, yes or no? Do you trust a bureaucracy in D.C. or do you trust our Department of Insurance here on the local level? If we do not have this licensure, they have little to no power to stop these rogue navigators who are acting against the best interests of our consumers, our fellow Nebraskans. If we don't pass this, about the only way that you would have enforcement is Department of Insurance would issue a cease and desist order, telling this person, stop, don't do it anymore, wait for the person to violate it a second time, talk the Attorney General into filing charges, and bringing an action in district court--very difficult to do. This is a lot easier route. This is about protecting our consumers. This is about making sure that those people who are providing information/access to health insurance know what they can and what they cannot do, what their duties are and what their duties are not. It's that simple. Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Pirsch and Senator Harr. Senator Bolz, you are recognized. [LB568]

SENATOR BOLZ: Thank you, Mr. President, and thank you to all of the senators who have been engaged in this conversation. We're not in an easy time and these are not easy systems to work with. And so I ask your patience as I ask questions because I genuinely feel torn about this piece of legislation. I appreciate the consumer protection approach. As someone who's got a lot of seniors in her district, that's really important. I like the idea of having some state-level oversight. I think that's valuable as well. At the same time, we're in a difficult time frame where we have regulations coming out that are telling us different things. And we have some experiences with other systems, like ACCESSNebraska, that have made me gun-shy as far as what it means to have a system of people who work in the community engaging with an on-line system and the value and importance of that. So that just...I guess I'm just sharing some of my thoughts as I come into this conversation. And I wonder if Senator Harr would yield to a question

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

Floor Debate  
May 15, 2013

---

or two. [LB568]

SENATOR KRIST: Senator Harr, will you yield? [LB568]

SENATOR HARR: Of course. [LB568]

SENATOR HOWARD: Senator, one of my first and fundamental questions is, can you help me understand what the difference between a navigator and a certified application counselor is and how, if in any way, a certified application counselor is contemplated in this bill? [LB568]

SENATOR HARR: Well, I can tell you what a navigator is. What a certified... [LB568]

SENATOR BOLZ: Application counselor. [LB568]

SENATOR HARR: Okay, I can get back to you on that. I'm not quite sure. [LB568]

SENATOR BOLZ: Okay. [LB568]

SENATOR HARR: Is that...oh, are you talking...I do know. This is under CHIP program, is that right? Or is this a... [LB568]

SENATOR BOLZ: My understanding is that there...and maybe somebody else on the floor has a better understanding, but that both navigators and certified application counselors could play a role in providing information to folks trying to engage with the exchange. [LB568]

SENATOR HARR: Okay, and these certified, for whom do they work? [LB568]

SENATOR BOLZ: My understanding is that they are also certified but they are out in the community and...would it be okay if I asked someone else this question, Senator Harr? [LB568]

SENATOR HARR: Yeah, that would be great, yeah. [LB568]

SENATOR BOLZ: Senator Conrad, would you be available for a question? [LB568]

SENATOR KRIST: Senator Conrad, will you yield? [LB568]

SENATOR CONRAD: Yes, of course. [LB568]

SENATOR BOLZ: Senator Conrad, are you able to shed any light on the role of a certified application counselor versus the role of a navigator? [LB568]

Floor Debate  
May 15, 2013

---

SENATOR CONRAD: Thank you, Senator Bolz. I'm learning more every day. But what's subject to licensure and this regulatory scheme under LB568 is just that, for the navigator actor, I believe, not the other assistors or folks that might be helping. There are people who already do this kind of work when it comes to Medicare Part D, when it comes to other aspects of our healthcare system that aren't subject to state licensure. This is new and distinct and, again, I believe, unnecessary. But I'd be happy to go into some distinctions about the different types of players within the healthcare arena. I can tell you, by their very definition and nature, which no one disagrees with, the duties and definition of who a navigator is, is clearly spelled out under federal law. [LB568]

SENATOR BOLZ: Okay, thank you. That's helpful, and I'm sure information will come out as we continue this conversation. Maybe another and slightly different question, Senator Harr, if you'll yield, is I... [LB568]

SENATOR KRIST: Senator Harr, will you yield? [LB568]

SENATOR HARR: I will yield again, yes. [LB568]

SENATOR BOLZ: I'm coming into this conversation with my personal experience as a social worker and just trying to understand and grapple with what's going on. And I wonder if you could tell me more about the time line... [LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR BOLZ: ...and what we can expect from the federal government. I know that things will begin being implemented on October 1. Can you tell me, are we going to get more regulations coming out? And what needs to be done before that October 1 deadline? [LB568]

SENATOR HARR: Will we be getting more regulations? Yes, we will. There is some language out there regarding proposed. There is a process that ended. The comment period ended last week, so we should be receiving some more regulation on this. But the real question is, do we want the enforcement on the state level, or do we want it with the bureaucracy in D.C.? And so we have to say we're using the exact same licensure as the federal level, but what we're doing is saying, if there is a problem, who do we want to help us? [LB568]

SENATOR BOLZ: Okay. And do you...and I realize you can't predict the future. But is anything, to your knowledge, that's coming out from the federal government...would there be any concern about putting something in place at the state level that would then get pulled back by the feds? [LB568]

Floor Debate  
May 15, 2013

---

SENATOR KRIST: Sorry, Senators. Time. [LB568]

SENATOR BOLZ: Oh, thank you. [LB568]

SENATOR KRIST: Senator Harms, you are recognized. [LB568]

SENATOR HARMS: Well, thank you, Mr. President and colleagues. I would have to admit, until just recently, this really was not on my radar screen. I had looked at it briefly but not in any great depth until I received a letter from my federally qualified health center in Scottsbluff. And CAPWN Health Center deals with a lot of uninsured people. Ninety-three percent come from a poverty rate of below 200 percent. So the people that we are talking about in this program are people who are extremely poor, people that, quite frankly, might have some difficulty in comprehending, maybe, or just understanding what their options might very well be. And I'm not putting those individuals down. I'm just saying that that...these are going to be people who are extremely poor. Even those of us who are well-educated and you look at your healthcare, sometimes, you don't understand it yourself. And so this is critical. And like I said, it didn't come into my radar screen until just a few days ago. And, Senator Harr, we've just had a brief conversation about it, and I will definitely walk you through some of my concerns with this particular bill. But I wanted you to know that, for those of you who have a federally qualified health center in your district, I would suggest, if you haven't heard from them, you need to talk to them. You need to find out what their concerns are, what their problems are, and the issues that they have. I think that, probably, one of the most influential arguments to question this particular legislation is that the navigators are not in competition with insurance agents. Insurance companies and agents are driven by profit and they're not...navigators are not driven by profit. The ACA Act targets those individuals who do not already have healthcare, who can't afford healthcare, do not have access to healthcare, nor do they have access to information on healthcare, nor do they have the financial education, probably, to understand and make an appropriate decision about this healthcare. They need assistance, they need understanding, they need better comprehensive comprehension of the plans. Which is best for them? Insurance agents--and I'm not putting insurance companies or agents down, but this is my observation--insurance agents would not typically recruit such an individual because they know they cannot afford them, there is no competition or profit factor for them. In fact, companies may gain based on informed referrals by navigators. The primary concern to limiting and regulating navigators, who are a neutral facilitator in this process: There is no gain to be had or earned through their work unless there is an appearance that something is improper, and provisions may be needed to address this aspect. [LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR HARMS: Thank you, Mr. President. The concern that I have is that

Floor Debate  
May 15, 2013

---

navigators are going to have to be educated. And I am going to talk about, Senator Harr, on your...one of your later amendments about "may" or "shall," because I've looked at the federal law, and our conversation earlier was about "may" and "shall." And the law says "shall," and so I do want to bring that up and we will have that conversation, a little bit later, on this. I think, unfortunately for the navigators, are going to be placed in a position to give advice. If they are educating and promoting awareness, if the individuals are unlikely to have a financial education or knowledge on the basis of insurance principles, that's what they're going to have to do. And the way we have this set up now, on a previous amendment, says that they "may." And I'm here to tell you they better do this and they shall do this or we will fail miserably with this piece of legislation if you pass it. [LB568]

SENATOR KRIST: Time, Senator. [LB568]

SENATOR HARMS: Oh, thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Harms. Senator Gloor, you are recognized. [LB568]

SENATOR GLOOR: Thank you, Mr. President. I am opposed to the motion to recommit. We have spent a lot of time on this bill as a committee. I do not think the additional information has been earth shaking from the standpoint of we are talking about a bill, say again, that licensed...licenses positions, navigators, that aren't members just operating on the periphery of the health insurance markets. They are at the very heart of the insurance markets, where selection of a product takes place, and education and licensure of those positions seems not just appropriate, for me, but an important part of consumer protection. Licensure of those individuals, it is no more an overreach of regulation any more than we've had discussion so far this year about the appropriateness of the state requiring funding for preschools to provide some degree of criteria to measure and evaluate them. So that seemed to be okay. Earlier today we said, parole officers can't be case managers. Can't argue with that. We're also saying navigators have to be licensed and can't operate as insurance producers. That, to me, also seems to be very appropriate. This provides for state licensing of these individuals. It provides a regulatory framework. If a complaint comes to the Director of the Department of Insurance, they will then have something that we have given them that provides, I think, a very simplistic, almost minimalistic, evaluative framework to say, all right, I've got something to operate on, Director of Department of Insurance. The state of Iowa adopted the original bill. Apparently, as poorly crafted as it was, it worked in Iowa and other states, I am told. We, on the other hand, have not adopted that. We have, in fact, changed it significantly, in ways that I don't have any problem with. In fact, I'm very supportive. It's the reason that I allowed the committee to continue to meet and meet and meet. I want to give my example of on-line enrollment as, hopefully, an example to you of the role a navigator would play because I know there are folks

Floor Debate  
May 15, 2013

---

saying, well, what does a navigator really do and how does their interaction work if they're looking at a panoply of insurance products but can't help people in the selection process? And I've used this with several of you who have talked to me prior to this. Some of you have gone through enrollments in benefit programs for an employer, maybe doing it right now, if you participate, with your own money in the state plan for health insurance, as an example. You talk to a counselor, a benefits counselor, perhaps personally, on the phone, electronically, and you get three choices of health insurance. You have a dialogue about, this is what this plan offers, copays, deductibles, provider networks; this is what this plan offers, copays, provider networks; this is what this plan offers. And you have a nice, straightforward conversation about those three or four plans and what they offer and what they cover. [LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR GLOOR: You ask questions back and forth on it and you make your decision. What doesn't happen, and what we have built into this bill and the amendments is not to happen, is for that counselor to say to you--in this case, that navigator, to say to you--well, this is the plan you should pick and this is where you should go to buy it. That is not the role of a navigator. And if a navigator starts doing those sorts of things, they are operating outside the license that we set aside for them. A navigator is not to say, well, let's see, with your income level and the information I have available to me, you should pick this plan in the exchange. That's not to happen. So, hopefully, that gives you a better framework for understanding the actual job a navigator, to a certain extent, may be walking through with somebody who is interested. [LB568]

SENATOR KRIST: Time, Senator. [LB568]

SENATOR GLOOR: Thank you. [LB568]

SENATOR KRIST: Thank you, Senator Gloor. Senator Schilz, you are recognized. Senator Cook, you are recognized. [LB568]

SENATOR COOK: Thank you, Mr. President, and good evening, colleagues. I also rise with some concerns about the proposal, as I understand it, and look forward to gaining a deeper understanding of this proposal, the role of the navigator, especially in the context of our current situation where it does not appear, at this time, that we may have an opportunity to move Medicaid expansion forward this year. I represent Legislative District 13. Many of my constituents and constituencies seek medical services at our closest federally qualified health center, and that is called the Charles Drew Health Center, located at about 30th and Lake Street. They see 12,000 patients every year, with a total of almost 40,000 encounters with those patients. My conceptual concern with a proposal like this, especially in light of guidances being released from the federal

Floor Debate  
May 15, 2013

---

government since the committee has had an opportunity to take a vote on the original proposal, is, quite simply, that an audience that currently accesses their healthcare through a public health clinic or through a federally qualified health center somewhere in this state may somehow...the people that work there and offer what we refer to currently in our state statutes and in our terms of art in public health, who are currently health educators, that they might somehow fall into the definitions that we're talking about right now. I will give you one short example. In a previous role, when I worked in state government, I had a role in what was then called the Office of Minority Health as the head of the office for Congressional District 2. There were three people within that division whose job title was "community health educator." Based on my reading of the amendment and my growing understanding, would each of these people have to be licensed in the same way as the way the educator is...the navigator is described in the bill. That's a question that I have and, once again, I feel as though, especially in light of our current situation with Medicaid expansion in our state, we need to continually advocate on behalf of supporting the federally qualified health centers. With that, Mr. President, I would yield the balance of my time to Senator Conrad. Thank you. [LB568]

SENATOR KRIST: Senator Conrad, 1:55. [LB568]

SENATOR CONRAD: Thank you, Mr. President, and thank you, Senator Cook. Folks, no one has defined what "going rogue" is by a federal healthcare navigator. That's problematic. No one has yet to define what the harm might be. Senator Harr mentioned something about, well, somebody might get the wrong insurance product. Well, who is to say what's wrong or right for that individual? This kind of activity and decision making happens every day. People choose different types of coverage and different types of cost based upon their medical needs and their family income. So I still don't understand what the harm is or what going rogue would be. And if it's something about kickbacks, well, that's already covered under state law. That's already covered under federal law. Heard criticisms from Senator Harr that this can't be part of a national playbook and poorly drafted. Let me give you a couple examples. This is part of a national playbook. It's been well documented in national publications like The Hill and the Georgetown Center for Families in the Law (sic)--.... [LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR CONRAD: ...thank you, Mr. President--and Health Affairs and other publications. Let me give you an example of how it's poorly crafted. Look no farther than AM1407, the current, pending Harr amendment, Section 3, (3)(d), which prohibits a navigator from discussing Medicaid. That's a critical component of what a navigator is supposed to do. But his legislation puts a gag rule on navigators and won't let them discuss any insurance that is outside of the healthcare exchange. Well, Medicaid is outside of that. So there are some examples of how it is, indeed, a national playbook and how this legislation is poorly crafted. We've heard that we have to move forward

Floor Debate  
May 15, 2013

---

because we need a state point of communication in case there is a problem. Well, folks, we have it. Senator Harr has acknowledged it's already actionable under federal law. It's already actionable with administrative and civil remedies in the courts in Nebraska. [LB568]

SENATOR KRIST: Time, Senator. [LB568]

SENATOR CONRAD: Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Conrad and Senator Cook. Senator Price, you are recognized. [LB568]

SENATOR PRICE: Thank you, Mr. President and members. Do we have a family feud going on or, as Senator Max Baucus said, are we watching a train wreck? The fighting or the arguing going on in the Affordable Healthcare (sic--Care) Act is something that's playing out not just here, on this floor, but nationally. I mean, what can be expected when a bill is passed that hasn't been completely even written or read? And now we are handed the task of trying to knit something together that works when the progenitors themselves couldn't get it to work. I don't know how else you would articulate this. Unnecessary bureaucracy? Couldn't agree more. The problem is, we don't know all the bureaucracy yet because it hasn't been written, as far as I know, hasn't been completely written. Thousands of pages are being written on a weekly basis, if not monthly basis, just to contend with it, to contend with the parts when the Supreme Court struck out the parts of it that were critical for it to work. Now I agree with the underlying concepts that Senator Harr has here, protecting individuals. That's very important. And just by looking at some of the things I get in my mailbox by some of these groups, it would seem only logical to provide some protection from those mailbox marauders. But again, this is a microcosm of the issues that are playing out across this country, from the federal level on down. This is what happens, in my opinion, that are the result of acting hastily, trying to force or ram some solution down the throat of the people, particularly when it wasn't even written completely. You know, even now we're finding out about the federal government. Earlier we had discussions about the federal government and trust of the federal government. And now we find that we're targeting people with the IRS. And that comes into play in this too. So I really...I feel a sense of compassion for both parties in the debate here today, one trying to protect, another one trying to protect. And the interesting thing is they're trying to protect us from the same thing, the Affordable Healthcare (sic--Care) Act. Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Price. Senator Carlson, you're recognized. [LB568]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. If Senator Harr would yield, I'd like to ask him a question or two. [LB568]

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

Floor Debate  
May 15, 2013

---

SENATOR KRIST: Senator Harr, will you yield? [LB568]

SENATOR HARR: Yes. [LB568]

SENATOR CARLSON: Senator Harr, we have AM812, which came out of the committee. [LB568]

SENATOR HARR: Yes. [LB568]

SENATOR CARLSON: And then I see AM1407, which is your amendment. [LB568]

SENATOR HARR: Yes. [LB568]

SENATOR CARLSON: And you're going to introduce that? [LB568]

SENATOR HARR: That's the hope. [LB568]

SENATOR CARLSON: Very quickly, because I haven't had a chance to study it and I'm studying it right now, what's the difference? [LB568]

SENATOR HARR: Well, AM812 was the committee amendment, as we said. After that came out, AM1407...in between...there are some federal regs that came out, and so it is in reaction to some of those federal regulations. In addition, we had...this was previously set for the calendar, and there were certain individuals who voiced a concern that, hey, maybe we can clean this up and do a little better. And so I said, fine, give me something in writing, and they did, to their credit. And what we did was we looked at what their writing concerns were. We took into...we looked at those concerns and we made a lot of changes to the bill based on those. And that was from out...the written came from groups outside the glass. So that's what this is. [LB568]

SENATOR CARLSON: Okay. [LB568]

SENATOR HARR: And to be honest with you, I think it made the bill a better bill. [LB568]

SENATOR CARLSON: Okay, all right, thanks for that because I still have to study these two and come up with some kind of a decision. Now having been on the Banking and Insurance Committee, we spent more time on this bill than any other bill in the session, more hours, trying to do the best that we could with limited information, which is very, very frustrating. And the fact is, enrollment is going to start October 1, 2013. I'm not even necessarily arguing with Senator Conrad about, if nothing is done and we've got more time to think about it, next session we'll be in a better position. Enrollment is well

Floor Debate  
May 15, 2013

---

under way by that time. And I've been told that if we adopt a bill and it doesn't agree with federal guidelines, which were very, very slow in coming out, that they're going to override what we do. I don't like that. And that may be true. But we, in the state of Nebraska, with our Insurance Department, I think, makes more sense that we try and get in a position of regulating what happens in the way of coverages than the federal government. And if there is a problem, if there is a question, if we have certification and licensing done through our Insurance Department and do it the proper way, I think that's better. So it is frustrating to come to a point where we spend a lot of time and, I think, maybe, overall...and I'm going to listen and I'm going to study some more. But I think we're better off to put something in place, where we maintain a position of possible regulation, than to sit back and wait until next session. We can put something in place and we can also then study and home in on what we've already done and amend that, adjust it next session, if that's necessary. But this whole thing is, unfortunately, another example that we are expected to do things... [LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR CARLSON: ...on blind faith, and we're expected to agree with things that we don't even have the facts on. And it doesn't sit well. And I know Senator Gloor has really made an effort to do things the right way. The committee members have made an effort to do things the right way. And we put forth a bill, and then we're understanding that, well, this doesn't apply any longer. I think it's the wrong way to have things happen. And unless I change my mind, I think we need to adopt either AM812 or AM1407. And I'm certainly willing to listen to Senator Harr and how his bill amendment changes what we have in front of us. But we're trying to do the right thing for the people of Nebraska. [LB568]

SENATOR KRIST: Time, Senator. [LB568]

SENATOR CARLSON: Thank you. [LB568]

SENATOR KRIST: Thank you, Senator Carlson. Senator Conrad, you are recognized. [LB568]

SENATOR CONRAD: Thank you, Mr. President. And to continue, Senator Carlson, I could not agree more. The committee has worked very, very, very hard on this legislation, and I respect and appreciate that. But that, in its own right, should probably be a red flag, right, that we spent more time on this piece of legislation than any of the other complicated and important pieces of legislation and you still have more questions than you have answers. And I agree with you wholeheartedly that the committee has been the victim of bad timing, based upon federal actions. And that's why I felt that this motion was appropriate, so that the committee could have a chance to revisit this difficult topic, in line with what we all acknowledge are ever-changing and more federal

Floor Debate  
May 15, 2013

---

regulations on this topic. So rather than rushing to judgment, rushing to change our state law before we even have the federal landscape completely settled or providing clear guidance on this topic, let's just take a deep breath, because there is no harm in getting it right. And let's do acknowledge the fact that Senator Harr and others have noted, if there is some sort of rogue navigator or harm that is going to befall consumers--which, again, hasn't been well-defined--it is actionable under federal law, it is actionable under state law, and it also is actionable through the Attorney General's consumer protection division. So we have a variety of points of contact on the state level to deal with these types of potential consumer harms. I also just don't think it makes sense, from a philosophical perspective, to say, we trust the federal government to run the exchange, but we don't trust the federal government to deal with complaints about how the exchange works and, instead, we need to create our own statutory framework and expend our own state resources. There is a fiscal note on this, colleagues, not overly significant but it is there. So I just don't think that that really matches up. And this bill, whether through the original green copy, AM812, the previous Harr amendment, the pending Harr amendment--which I have gone through, line by line by line, each of the reincarnations of this legislation--there are serious problems and defects when it comes to basic things like definitions. And AM1407, which is pending now, it removes any sort of definition of who is a navigator from the funding, about who supports a navigator and, instead, blatantly adopts federal law and the duties--A, B, C, and D--that are outlined therein. I'm going to read those to you and show you why defining a navigator this broadly and removing the funding component would apply to, essentially, all social workers, all folks at hospitals, all folks at FQHCs, most nonprofit groups, anybody interfacing with ACCESSNebraska. And that's not what I think anybody intended because the current amendment states that, who is a navigator? Well, anybody who does...conducts a public education activity to raise awareness about the availability of qualified health plans, conducts a public education activity--okay, here's a brochure, John Smith, about some health insurance things you might want to think about--distributes fair and impartial information concerning enrollment in qualified health plans and the availability of premium tax credits, etcetera--same brochure, same action--facilitates enrollments in the qualified plans: Here is the Web site for the health insurance exchange, John Smith, maybe you should go and see if you can enroll.  
[LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR CONRAD: Thank you. Provides referrals to any applicable office if there is a grievance or complaint: That broad activity is already happening. And Senator Harr's amendment, which removes the definitional funding component, throws this net so wide and unwieldy it has serious defects and unintended consequences. I know we're getting into the weeds on some of these technical issues. But, folks, it's important because, if the committee, who spent so much time and talent in trying to get this right, is still struggling with things like a basic definition, we have a lot more work to do. And the

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

Floor Debate  
May 15, 2013

---

proper place is to be done at the committee level. Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Conrad. Senator Nordquist, you are recognized. [LB568]

SENATOR NORDQUIST: Thank you, Mr. President and members. The role of the navigator in this process is absolutely going to be critical to low-income communities across our state. And many of these individuals haven't had interaction with the traditional insurance marketplace with insurance agents of today. And navigators are going to have to reach into communities that are underserved to help these individuals enroll in what, potentially, could be a complicated process. I know the federal government has simplified some of the applications, but it is going to be a complicated process, especially for those that use the on-line system. They...many people are going to need someone holding their hand and explaining those challenges. And I worked with Senator Harr on the amendment that's filed...that he filed to the committee amendment to address many of the concerns of individuals and organizations regarding this bill. And I know many...there still remains groups and organizations and individuals that have concerns. But I think this is a dialogue that we need to move forward with. I do think though that us stepping in here just kind of highlights maybe...you know, we've heard someone on the floor say that we were having stuff done to us. And it really is happening that way because we punted on one of the biggest decisions this summer regarding the implementation of the Affordable Care Act. And that was...and we haven't had much discussion about it in the Legislature to this point, and that was punting on the decision to let the federal government run a federally facilitated exchange rather than having a state-based exchange. And there are a number of decisions, including the complete oversight of navigators, that we could have had with a state-based exchange. But issues like the board and governance structure, consulting with stakeholders, running a call center, running outreach and education, having...developing an Internet Web site for ourselves, rather than having the federal government do it for us, running in-person assistance programs, creating streamlined application processes, all of these things are now being done to us because we didn't either have the political will. I know there was discussion about the cost. But I think the fact that the federal government will be putting a surcharge on all insurance in the state to pay--3.5 percent insurance tax--to pay for this exchange operation offsets any cost that we...I mean, we could have done the exact same thing, used that money to create an exchange that works for Nebraskans and was designed by Nebraskans. I just want to say that, as we're debating this bill, I think that's something we should keep in mind. And we will have opportunities going forward to look at moving to a state-based exchange. That is something that the federal government wants states to continue to look at. Much of the work that they're doing will be...can be transitioned to state-based operations. A group, 12 of us, met with Secretary Sebelius in December and she was adamant that some of the grant money will still be available through 2015 for states to access. And I think that is something that we set up. We passed the bill last week for

Floor Debate  
May 15, 2013

---

the Exchange Stakeholder Board (sic--Commission) to have some sort of consumer oversight or input into the federal process. But really, at some point, I think we need to reevaluate us taking control of this process and making sure it works the best way possible for Nebraska consumers. Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Nordquist. Senator Avery, you are recognized. [LB568]

SENATOR AVERY: Thank you, Mr. President. I was struck by something Senator Nordquist just said, and that is that we need to take control of this process. I wasn't quite sure though if his comments were an endorsement of LB568 or not. But it seemed to me that taking control of this process can begin with this bill. Senator Conrad made the comment that we were rushing to judgment. I don't see how you can say that. My understanding of the Affordable Care Act is that we have an October deadline to implement the new law. And if we do nothing now, then the question is, what happens when October 1 of this year rolls around? We won't be in session. We won't be able to pass any bills that might be needed. It seems to me that this bill is something we need to do now. I listened very carefully to Senator Gloor, and I've talked to him privately off the mike. And I know that the committee worked hard on this legislation. Now the bill that was first considered by the committee probably was a pro-industry bill. But the bill that came out that...as will be amended, I suspect, before we're finished with this, does not strike me as something that the industry would have said, this is my first choice. If you examine AM1407, that is what seems, to me, to be the essence of what we ought to be doing with this subject. That is the amendment coming up by Senator Harr and it does provide some protection for those people who most need protection in this process. I noticed that Senator Conrad has filed 19 amendments, counting this recommit motion. All except the recommit motion are filed against AM1407, so I suspect she sees that as the enemy of her position on this subject. I believe that, if we don't pass AM1407, then we will leave Nebraska with a regulatory black hole that will be, I suspect, not in the interests of our citizens. So I'm concerned about that. And I do not understand why the navigators who are in the rotunda are so threatened by this bill. Why do we need 19 amendments in order to fully debate this bill? I suspect that there may be some turf issues involved. But I see this as a bill that will provide some protection, protection from the very people who need it most. I am not an expert in insurance, but I suspect that there are very few of us in this room that are experts on insurance. You don't have to be an expert in a subject area to know when you have good legislation before you. We have a bill here that will, I believe, provide for a process that is orderly and set up a regulatory system that is in the interests of consumers. The...if you turn to the amendment that I was just talking about, AM1407,... [LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR AVERY: ...there are a number of things that navigators may not engage in,

Floor Debate  
May 15, 2013

---

and I see these as protecting the consumers. They may not engage in activities that would require an insurance producer license. That makes sense to me. They may not offer advice about which health plan is better or worse for a particular individual or employer. That seems, to me, to make good sense. They may not recommend or endorse a particular health plan or advise consumers about which health plan to choose. They may not provide any information or services related to health plans or other products not offered in the exchange. They may not accept any compensation or consideration that is dependent, whole or in part, on whether a person enrolls in or purchases a qualified health plan. And they may not fail to respond to any written inquiry from the director or request additional responsible...a reasonable time to respond within 15 working days. [LB568]

SENATOR KRIST: Time, Senator. [LB568]

SENATOR AVERY: That's nothing wrong with that. Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Avery. Senator Scheer, you are recognized. [LB568]

SENATOR SCHEER: Thank you, Mr. President. I rise to just talk a little bit about insurance and licensing. Licensing has to do with consumer protection but, more important, it is a way to verify that an individual has basic knowledge necessary to provide counsel on that topic. For the life of me, I don't have skin in this game. I'm not a health insurance person. But I don't think there is anything wrong with requiring those that are going to be talking to individuals, not necessarily selling but talking to individuals, in relationship to a health insurance product or coverages, for that matter, that they have a basic understanding of what they are talking about. I am a licensed agent. I do not...I am not a licensed health agent. But part of what I have to go through is just like a number of other people in various other fields that, when you're licensed, it also makes sure that you have to have continuing education so that you keep up on the information and the products and the coverages that are available as your career or your time goes forward. I do not see anything wrong with a bill that requires people that are going to consult people on health coverage items that would require them to have some semblance of basic knowledge and understanding of that product and that it be enforced by a Nebraska state agency not a federal agency. I don't think there's any of us here that think it's easier to get ahold of somebody in the federal government than the state government. I defy anybody to tell me that there's a department in Washington, D.C., that answers a consumer's product conversation or a question quicker than they would receive from somebody in Lincoln, Nebraska. I hope that's all this bill is asking for is that we demand a certain level of knowledge on those people that are talking to other individuals about health coverage. We've talked about the clientele that's probably going to be involved. They will not have a broad, basic understanding of health insurance. I would believe that they will need assistance in

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

Floor Debate  
May 15, 2013

---

making correct choices and having the right information. So if that's the case, why would we not want those individuals that are engaged with the individuals who will be...being provided healthcare, either through the Medicaid or the health exchange, to be getting that information from an individual that is licensed by the state of Nebraska for that sole purpose. The state licenses a multitude of different things in the state, one of which is health insurance. So I will sit back and I will listen. But I don't quite understand the "quabble" over having people that provide information and consult them on what type of coverages, not who to buy it from, but what type of coverages to buy, why we would not insist that those people have the basic understanding that state licensure could approve. Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Scheer. Senator Howard, you are recognized. [LB568]

SENATOR HOWARD: Thank you, Mr. President. Just in an effort to build the record, Senator Harr, would you yield for a question? [LB568]

SENATOR KRIST: Senator Howard, who did you want to yield? Senator Harr? [LB568]

SENATOR HOWARD: Senator Harr, yes. [LB568]

SENATOR KRIST: Senator Harr, do you yield? [LB568]

SENATOR HARR: Burke Harr or Ken? (Laugh) Yes, I will. [LB568]

SENATOR HOWARD: Could you outline what specific education our state navigators will need that's different than the education provided on the federal level? [LB568]

SENATOR HARR: The question, as I understand it, is, and when we go to licensure, will there be different requirements for a licensure on the state level than the federal level? [LB568]

SENATOR HOWARD: I'm wondering, what are the educational requirements that a Nebraska state navigator will need that's unique from what the federal government is requiring? [LB568]

SENATOR HARR: Okay. So again, this goes back to when you're taking the licensure test, will the licensure test be different for the state versus the federal? [LB568]

SENATOR HOWARD: I'm wondering if there is unique, state-based information that we want them to have. [LB568]

SENATOR HARR: Okay. As I understand the question, and I'm...I think we're having a

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

Floor Debate  
May 15, 2013

---

little difference. As I see it, as the question is, when we go to take a license, it's licensed difference because the license is the education, because when you apply for a license we're saying, we want you to have this level of competency and this level of education. And the answer is, the state test will be identical, identical, to the federal. [LB568]

SENATOR HOWARD: So there's no unique state information that we need through this licensure? [LB568]

SENATOR HARR: No. It will be the identical. I think what identical means is it will be the same. [LB568]

SENATOR HOWARD: So as I read the bill, it says that if they take the federal exam they are exempt from the state exam. [LB568]

SENATOR HARR: That is correct. [LB568]

SENATOR HOWARD: So we're asking the Department of Insurance to create an identical exam to the federal exam? [LB568]

SENATOR HARR: We're not asking; it will be the same. [LB568]

SENATOR HOWARD: It will be the same? [LB568]

SENATOR HARR: Yes. [LB568]

SENATOR HOWARD: Why are we having a state test that is identical to a federal test? And if they take the federal test then they are exempt from the state test? [LB568]

SENATOR HARR: As I...yes, I believe that's how it is, yes. [LB568]

SENATOR HOWARD: Okay, thank you, Senator Harr. [LB568]

SENATOR HARR: If that needs to be corrected, we can talk about it off-record. [LB568]

SENATOR HOWARD: Absolutely. [LB568]

SENATOR HARR: Okay. [LB568]

SENATOR HOWARD: And I would yield the balance of my time to Senator Conrad. [LB568]

SENATOR KRIST: Senator Conrad, 2:30. [LB568]

Floor Debate  
May 15, 2013

---

SENATOR CONRAD: Thank you, Mr. President. Thank you, colleagues. Let's be clear about a couple of things because I think some of that misinformation, again, is creeping into this debate. If we don't pass LB568 this session, over the next 12 days, and we recommit it to the Banking Committee to await further guidance from the federal government, which we all acknowledge is coming and ever-changing, there is no regulatory black hole that our consumers fall into. Exchanges are up and running starting October 1, 2013, and then January 2014 is when folks have another deadline there. But regardless of what happens on LB568, healthcare navigators are subject to federal regulations, now and forever, moving forward. Anybody who does anything nefarious, in terms of selling an insurance product they are not authorized to sell or getting kickbacks or getting unlawful commissions, all of that is already actionable under state law. Senator Harr and proponents have acknowledged that there is a state law remedy. They don't like the state law remedy and prefer this. But we already have the Attorney General's consumer protection division to help out. We already have federal remedies and penalties. We already have the ability for the Director of Insurance and the Department of Insurance to file suit in state court... [LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR CONRAD: ...and take these issues up. They are actionable on the state level already. There is no regulatory black hole. This legislation is premature, duplicative, unnecessary and, most likely, in conflict and/or preempted by federal law. We'll get into more specifics as we move forward, but let's get it right. Thanks, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Conrad and Senator Howard. Senator Bolz, you are recognized. [LB568]

SENATOR BOLZ: Thank you, Mr. President. I would like to pick up the line of questioning from previously. And if Senator Harr would yield to a question, I'd appreciate it. [LB568]

SENATOR KRIST: Senator Harr, will you yield? Go ahead. [LB568]

SENATOR BOLZ: So I caught some folks from AARP and they helped me to understand that it may be a distinction that navigators are paid through the federal navigator grants and certified application counselors might be volunteers or paid through a different funding stream. Does that ring right with you? [LB568]

SENATOR HARR: It could be, yeah. [LB568]

SENATOR BOLZ: Okay. [LB568]

Floor Debate  
May 15, 2013

---

SENATOR HARR: It could be more than that too. [LB568]

SENATOR BOLZ: Okay, and so would navigators and/or the certified application counselors in this legislation, whether they are paid or volunteer, they would both fall under all of the regulatory requirements put in this bill, is that right? [LB568]

SENATOR HARR: They would require to have a certain level of education before they could go out and present themselves in that manner, yes. [LB568]

SENATOR BOLZ: Okay, and they would have to pass the tests and they would be...they would have to pay the fines if something went wrong, right? [LB568]

SENATOR HARR: If they screwed up, yeah, they'd have to pay a fine. [LB568]

SENATOR BOLZ: Okay. [LB568]

SENATOR HARR: Well, it depends. It's up to the Department of Insurance. They could pay a fine, I remember, up to \$1,000 but as minimal as a penny. The Department of Insurance could push...place them on probation. They could suspend their license. They could revoke their license. Or they could fail to renew it. It all depends on the degree of what this person does or this individual or institution. [LB568]

SENATOR BOLZ: That's helpful. I think part of my struggle here is that I think there is an inherent tension between consumer protection and wanting to protect some of our most vulnerable populations--the elderly,... [LB568]

SENATOR HARR: Yeah. [LB568]

SENATOR BOLZ: ...folks with behavioral health needs, other folks--and being able to manage the volume of people who might be coming aboard due to this new opportunity. So because it seems like you're coming from a perspective where we need to add more consumer protection, can you just help unpack for me how this navigator bill would help to protect the rights of, say, someone who is mentally ill and is trying to navigate the system? [LB568]

SENATOR HARR: Sure. And I guess my...if the question is, have we put up every regulatory bar out there? No. We don't want to create a barrier that is too high. This is a balancing act. So what we're trying to do is balance...we want people to go out into the community and find these individuals who have probably never had insurance before and say, hey, guess what, you're eligible and you're going to get a subsidy, come on in and let's run you through the system. But we want to make sure they have a certain level of competency. But we don't want to be so burdensome that we see every output out there and say, okay, before you are able to become a navigator, you have to be

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

Floor Debate  
May 15, 2013

---

tested in identifying mental illness. And so that's...you're right. Would it be in a perfect world? Maybe we'd have that testing. But I think that would be overly burdensome. So we're trying to pull back and say, here is the information. And we're not asking for analysis. We're saying, here is the information, you can make that decision on your own. [LB568]

SENATOR BOLZ: That's helpful. Thank you, Senator Harr. Would Senator Conrad yield to a question? [LB568]

SENATOR KRIST: Senator Conrad, will you yield? [LB568]

SENATOR CONRAD: Yes, absolutely. [LB568]

SENATOR BOLZ: I appreciate Senator Harr's perspective that we have to protect consumers. My experience in the nonprofit world tells me that there are probably nonprofits out there who really want to do this work and really want to help the networks of constituencies that they already have a relationship with. And that's valuable. And I'm just curious, given your investment in this legislation, if you feel like those folks who have those valuable relationships and networks would face a challenge... [LB568]

SENATOR KRIST: One minute. [LB568]

SENATOR BOLZ: ...in using their skill set to help folks engage with the exchange? [LB568]

SENATOR CONRAD: Thank you, Senator Bolz. Here's a key distinction that's critical on this issue between Senator Harr and myself. I don't think federally qualified health centers and our local nonprofits are untrustworthy. I think they are trusted partners in the healthcare arena. And when they go out and they do consumer education work, they should be allowed to do their jobs, to educate consumers about these issues in the healthcare arena. They shouldn't be subject to fines, fees, licensure, penalties that are...range up to \$1,000 per violation. That's chilling. That's chilling to the critical work we need them to do. [LB568]

SENATOR BOLZ: And would you be...would you consider it less chilling if some of those fines or fees were altered or changed? [LB568]

SENATOR CONRAD: Yes. [LB568]

SENATOR BOLZ: I think Senator Harr referenced a \$1,000 fine or fee. Can you just tell me what... [LB568]

SENATOR KRIST: Time, Senators. [LB568]

Floor Debate  
May 15, 2013

---

SENATOR BOLZ: Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Bolz and Senator Conrad, and Senator Harr. Senator Gloor, you are recognized. [LB568]

SENATOR GLOOR: Thank you, Mr. President. And I'll take an opportunity to answer Senator Bolz's questions. The fees are maximums. The decision could be made by the Director of the Department of Insurance to fine them nothing, one cent, \$1, \$10, but no more than \$1,000. And it's important that that's understood is that these aren't set fines that have to be imposed. They are, once again, we're giving guidelines to the Director of the Department of Insurance. And in this case we're saying, for infractions, no more than \$1,000. And it's a key, critical point, certainly, because even some of the advocacy groups, as much as they've studied this, continue to come back and espouse to us that they think we're saying, for infractions that are minimal, there is going to be a \$1,000 fine. We have taken, and it's important for the body to know this...this has been seen by the Department of Insurance. They've showed it to the feds and have asked the feds, flat-out, is what you're proposing going to preempt this? And the answer has been no. So this has been vetted by...to the very same people, we're being told, are going to be preempting this, have already preempted this. And the feds themselves are saying, no, what you're proposing won't be preempted by anything we've said and, I believe, will be saying. I want to go to the motion in front of us, the motion to recommit. I think this motion to recommit not only kills this bill for this session but, because we'll be rolling out navigators in October, by the time a bill comes back again next year, the arguments will be even more vehement that we already have navigators in place and we can't now begin to license something that's been operating unlicensed. That's inappropriate. We know how that works. Very, very difficult when you've got something that's already in place and (inaudible) and impose some sort of degree of regulation on it. And that's why I'm opposed to the motion to recommit. There isn't enough time for us to work on this to address concerns that people have that I think are unfounded in the first place. But it not only effectively kills this bill for this year--and so we'll start without any licensing and any regulation of people who are, I say again, at the very heart of health insurance decisions--will effectively, I think, kill this bill ever. And that's the problem I have with the motion to recommit and I urge you, members, to not support that motion to recommit. There is an interesting, humorous irony in some of the arguments from individuals, as well as advocacy groups, who turn to us for support, who turn to us for regulation and funding, who are saying, in this case, keep the government out of it. We don't want any regulation. We don't want any licensure. We don't need any consumer protection. I have to point it out. I hope others find it almost as deliciously interesting as I do. Don't regulate us in this particular case; don't protect consumers in this particular case; this is an overreach in this particular case. [LB568]

SENATOR KRIST: One minute. [LB568]

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

Floor Debate  
May 15, 2013

---

SENATOR GLOOR: Thank you, Mr. President. I don't have any problem with and concerns about AARP, FQHCs, and their commitment to do the right thing by the people that come for them. But as organizations, they're not going to be doing this. They're going to be hiring navigators, people, human beings who can be just as susceptible as anybody to falling in, as Senator Avery says, the black hole, if we don't have any guidelines or regulations out there. And when we have bad actors, and it's inevitable--we find them in well-intentioned security legislation that relates to small security investors--somebody finds a way to use that hole as an opportunity to take advantage of consumers. We're trying to plug that hole. We're trying to provide some general guidelines to the Director of the Department of Insurance. This is licensure. It's appropriate. It's straightforward, not complicated. [LB568]

SENATOR KRIST: Time, Senator. [LB568]

SENATOR GLOOR: Thank you. [LB568]

SENATOR KRIST: Thank you, Senator Gloor. Senator McCoy, you are recognized. [LB568]

SENATOR McCOY: Question. [LB568]

SENATOR KRIST: Senator Gloor, for what reason do you rise? The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote aye; opposed, nay. Senator McCoy, for what reason do you rise? [LB568]

SENATOR McCOY: I want to request a call of the house, please, Mr. President. [LB568]

SENATOR KRIST: There has been a request for...to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB568]

CLERK: 27 ayes, 0 nays to place the house under call. [LB568]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Nordquist, Karpisek, Pirsch, Larson, Schilz, and Lautenbaugh. Senator Nordquist, Senator Larson, Senator Schilz, Senator Lautenbaugh, please return to the Chamber. Senator Nordquist, thank you. Senator McCoy, everyone is accounted for. I'm told Senator Pirsch is outside the building. How would you like to proceed? [LB568]

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

Floor Debate  
May 15, 2013

---

SENATOR McCOY: Roll call. [LB568]

SENATOR KRIST: Roll call regular order? [LB568]

SENATOR McCOY: Roll call regular order, please, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator McCoy. [LB568]

CLERK: (Roll call vote taken, Legislative Journal pages 1379-1380.) 21 ayes, 13 nays to cease debate. [LB568]

SENATOR KRIST: Senator Larson, for what reason do you rise? [LB568]

SENATOR LARSON: (Recorder malfunction)...in the roll call vote. [LB568]

CLERK: Senator, did I not call your name? [LB568]

SENATOR LARSON: I don't believe you called my name. [LB568]

CLERK: I apologize. How would you like to vote, Senator? [LB568]

SENATOR LARSON: Yes. [LB568]

CLERK: Senator Larson voting yes. [LB568]

SENATOR AVERY: Clerk. [LB568]

SENATOR KRIST: Senator Avery, for what reason do you rise? [LB568]

SENATOR AVERY: I wish to change my vote to yes. [LB568]

CLERK: Senator Avery changing from no to yes. Senator Crawford. [LB568]

SENATOR CRAWFORD: I'd like to change my vote to yes. [LB568]

CLERK: Senator Crawford changing from no to yes. 24 ayes, 11 nays to cease debate. [LB568]

SENATOR KRIST: Debate does not cease. Returning to debate, Senator Conrad, you're recognized. [LB568]

SENATOR CONRAD: Thank you, Mr. President. Thank you, colleagues. I'm glad we'll

Floor Debate  
May 15, 2013

---

have the... [LB568]

SENATOR KRIST: I'm sorry. Raise the call, please, and that won't count against you, ma'am. [LB568]

SENATOR CONRAD: Very good. I can understand. It's late in the day and I'm hoping some of those votes in support of the motion to call the question were because folks want to get home after this long day and these long weeks that we've had during a long legislative session because I know that everybody on this floor is committed to protecting Nebraska consumers. And I think that, thus far, we've had a very important and provocative debate. And moving forward I want to be very clear on, again, this is a serious motion because it recognizes the predicament the federal government has created in terms of ongoing regulations and guidance that will be emanating and that will affect this statutory framework that is proposed. So let's not rush to judgment. Let's let the Banking Committee have the opportunity to address these issues as they are put forward so that we can determine how to best protect consumers. Again, there is no regulatory black hole that would exist if we don't move forward today. And I think that we've had wonderful conversation thus far. Senator Gloor mentioned, earlier on the mike, that he doesn't have a problem with trustworthiness when it comes to our federally qualified health centers or our other trusted partners in the religious community or nonprofit community that might be doing this kind of work. Well, Senator Gloor, do I have a deal for you. I have an amendment that exempts those very players from this regulation and licensure scheme. So I'm hoping that that's an opportunity to find some real common ground and to move forward in a workable manner. Thank you, Mr. President. [LB568]

SENATOR KRIST: Thank you, Senator Conrad. Mr. Clerk for items. [LB568]

CLERK: I do, Mr. President, have some items. I have a resolution, LR208, by Senator Kolowski. It's an interim study resolution. LR209, Senator Dubas, interim study. Senator Gloor offers LR210. That will be laid over. Amendments to be printed: Senator Chambers to LB34 and LB308; and Senator McGill to LB556. Mr. President, Enrollment and Review reports LB194, LB195, LB196, LB197, LB198, LB199, LB200, and LB536 all reported as correctly engrossed. And I have amendments to LB568, Senator Burke Harr, and a series of amendments from Senator Conrad. (Legislative Journal pages 1380-1398.) [LR208 LR209 LR210 LB34 LB308 LB556 LB194 LB195 LB196 LB197 LB198 LB199 LB200 LB536 LB568]

Mr. President, I have a priority motion. Senator...Speaker Adams would move to adjourn the body until Thursday, May 16, at 9:00 a.m.

SENATOR KRIST: You've heard the motion. All those in favor aye. Opposed, nay. We are adjourned until 9:00 tomorrow morning.