

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

Floor Debate
May 30, 2013

[LB23 LB23A LB34 LB90 LB93 LB93A LB97 LB104 LB211 LB211A LB216 LB216A
LB224 LB225 LB255 LB266 LB269 LB269A LB290 LB296 LB306 LB306A LB308
LB326 LB331 LB363 LB363A LB366 LB366A LB405 LB406 LB429 LB429A LB479
LB483 LB483A LB507 LB507A LB517 LB517A LB530 LB530A LB545 LB556 LB556A
LB561 LB561A LB573 LB574 LB579 LB579A LB613 LB634 LB634A LR22 LR155
LR369 LR370 LR371 LR372]

PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighty-sixth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Crawford. Please rise.

SENATOR CRAWFORD: (Prayer offered.)

PRESIDENT HEIDEMANN: Thank you, Senator Crawford. I call to order the eighty-sixth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Are there any corrections for the Journal?

ASSISTANT CLERK: I have no corrections this morning.

PRESIDENT HEIDEMANN: Thank you. Are there any messages, reports, or announcements?

ASSISTANT CLERK: There are, Mr. President. Your Committee on Enrollment and Review reports LB90 and LB255 as correctly engrossed. That's all that I have. (Legislative Journal pages 1697-1698.) [LB90 LB255]

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. We move to Final Reading. Members should return to their seats in preparation for Final Reading. Please be seated. Mr. Clerk, the first bill is LB34. 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. [LB34]

ASSISTANT CLERK: 36 ayes, 3 nays to dispense with the at-large reading, Mr. President. [LB34]

PRESIDENT HEIDEMANN: The at-large reading is dispensed with. Mr. Clerk, please

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

Floor Debate
May 30, 2013

read the title. [LB34]

ASSISTANT CLERK: (Read title of LB34.) [LB34]

PRESIDENT HEIDEMANN: All provisions of law relative to procedure having been complied with, the question is, shall LB34 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. Mr. Clerk, please record. [LB34]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1698-1699.) The vote is 46 ayes, 0 nays, 3 excused and not voting. [LB34]

PRESIDENT HEIDEMANN: LB34 passes. We now proceed to LB545. 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. [LB34 LB545]

ASSISTANT CLERK: 35 ayes, 8 nays to dispense with the at-large reading, Mr. President. [LB545]

PRESIDENT HEIDEMANN: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB545]

ASSISTANT CLERK: (Read title of LB545.) [LB545]

PRESIDENT HEIDEMANN: All provisions of law relative to procedure having been complied with, the question is, shall LB545 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB545]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1699-1700.) The vote is 43 ayes, 2 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB545]

PRESIDENT HEIDEMANN: LB545 passes. Mr. Clerk, next item. [LB545]

ASSISTANT CLERK: Mr. President, the next bill is on Select File, LB224. The bill was considered by the body yesterday. At that time there was an amendment offered by Senator Janssen. An amendment to that amendment from Senator Mello was adopted. Under consideration was an amendment from Senator Chambers, FA152. Senator, I have a note you wish to withdraw this? (AM1540, Legislative Journal page 1688.) [LB224]

PRESIDENT HEIDEMANN: Your amendment is withdrawn. [LB224]

ASSISTANT CLERK: Then there was a second amendment from Senator Chambers,

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

Floor Debate
May 30, 2013

FA153. That also has a note to withdraw. [LB224]

PRESIDENT HEIDEMANN: So noted. [LB224]

ASSISTANT CLERK: Senator Murante, a floor amendment, FA154. Senator, I have a note to withdraw that. [LB224]

PRESIDENT HEIDEMANN: It is withdrawn. [LB224]

ASSISTANT CLERK: Another amendment, Senator Chambers, FA155 with a note to withdraw. [LB224]

PRESIDENT HEIDEMANN: It is withdrawn. [LB224]

ASSISTANT CLERK: Mr. President, at that point Senator Janssen would move to amend his own amendment with AM1546. (Legislative Journal page 1700.) [LB224]

PRESIDENT HEIDEMANN: Senator Janssen to open on your amendment and to refresh us on the bill. [LB224]

SENATOR JANSSEN: Thank you, Mr. President. AM1546 was drafted in response to floor debate that took place last night. With us having...well, needing to leave due to weather concerns, I took advantage of the time to draft the amendments and suggestions from Senator Chambers, Senator Murante, and also the one that we had previously adopted for enterprise zones from Senator Mello, to put them all into one package that you see before you today. So hopefully we can vote on this. The veterans preference language will continue to stand on its own as a new section of Nebraska Revised Statutes. It makes it clear that LB224 will apply to only state contracts. It also ensures that service-connected disabled veterans are residents of Nebraska and have ownership of the business and have control in management and daily operations of the business. The ownership language has been changed to include the suggestions of Senator Chambers and Murante and Mello, as I indicated previously. LB224 is a meaningful state public policy and indicates our state's appreciation for our veterans and provides them encouragement and opportunity to secure certain public contracts in recognition for their abilities and their service. I also appreciate Senator Pirsch for prioritizing this bill, and Senator Adams for scheduling it in a timely manner. Thank you, Mr. President. [LB224]

PRESIDENT HEIDEMANN: Thank you, Senator Janssen. Senator Chambers, you are recognized. [LB224]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'm going to have an amendment coming up. I didn't have a chance to mention it to Senator

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

Floor Debate
May 30, 2013

Janssen, but it was one that I think I had discussed briefly with him yesterday. In the bill is the word, singular "individual," and then two places where the plural of that is, "individuals." In statutes we say "person" rather than "individual." And when it comes to the preference that we are creating today, when it's inserted into the statute it will be, I'm sure, appended to the existing language that relates to the preference given to resident bidders over nonresident bidders, and it uses the word "person." So this will harmonize the language without changing anything. But here's one thing I'll point out: There is a definition in the statute of person, and it doesn't apply only to natural human beings but various legal entities. And by that definition being referred to, it will in no way hurt this bill or change the direction it goes, because rather than mentioning every type of entity--a partnership, a corporation, and all these other things--if one of these entities is going to try to qualify under this bill, this proposal that Senator Janssen has, all of the requirements in this legislation will have to be met. So that is what I will offer. But I am supporting what Senator Janssen is offering and that's all I'll say at this point. Thank you, Mr. President. [LB224]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. (Visitors introduced.)
Senator Janssen, you are recognized. [LB224]

SENATOR JANSSEN: Thank you, Mr. President. If I'm the only one in the queue, I'll waive this and go to my closing. [LB224]

PRESIDENT HEIDEMANN: There are others. [LB224]

SENATOR JANSSEN: Thank you. That said, I did see Senator Chambers' amendment. I have no problem with that. I didn't know that was coming before I had drafted the new amendment last night. That doesn't change the bill. It makes it stronger and clearer, so I would be supportive of that. And one thing I've pointed out to several people talking about how will this impact veterans, and also within the enterprise zone, the veterans that are going to take advantage of this, service-disabled veterans, in many cases it's a tie goes to the runner. Theoretically that can happen. It's not going to happen very often, but what it will do is encourage veterans and also businesses in enterprise zones to get engaged in contracting with governmental entities, in this case, the state of Nebraska. I can tell you, from being in business, that's not an easy process. And if you can master that process or get better and better at that process, they will win contracts not because of the preference, because they will have...but because they will have better bids, most likely. And that's what I see coming from this. I think when this bill passes, we'll look down years from now and say, well look, we've had one or two preferences that took place; and that's probably on a lower level commodity-type place or something where it's, you know, paper cups, and they had a lower price. Maybe that's a case where that would come into play. But most likely on larger contracts it would come from this service-disabled veteran-owned business getting used to the process, getting used to bidding on things. So we won't see really the impact that it will have on these

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

Floor Debate
May 30, 2013

businesses. I can tell you I own a veteran-owned business, not a service-disabled one but a veteran-owned one, and we have gone through this process. I don't think we've ever gotten a contract because we're veteran-owned, but we've applied for them; but we got them because we had the best proposal. And I've heard that over and over, and I think that's going to be the true testament to passing this legislation not only for the veterans but also for those areas that Senator Mello indicated last night in the enterprise zones. Thank you, Mr. President. [LB224]

PRESIDENT HEIDEMANN: Thank you, Senator Janssen. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB34 and LB545. Senator Avery, you're recognized. [LB224 LB34 LB545]

SENATOR AVERY: Thank you, Mr. President. I just want to say that I appreciate the attitude that Senator Janssen has taken toward amendments to this bill. The amendment that is before us now, AM1540, does incorporate the various suggestions that were presented yesterday. I would also mention that when we get to the Chambers amendment, I would recommend that we approve that. I had some discussions yesterday with Senator Schumacher, who expressed his interest in seeing "individual" changed to "persons" as well, for much of the same reasons Senator Chambers stated. So we have now a better bill before us if we pass AM1540 and if we also adopt the Chambers amendment upcoming. So thank you, Mr. President. I urge your green vote. [LB224]

PRESIDENT HEIDEMANN: Thank you, Senator Avery. Is anyone else wishing to speak on AM1546? Seeing none, Senator Chambers to close. Excuse me, Senator Janssen to close. [LB224]

SENATOR JANSSEN: Thank you, Mr. President. We get confused all the time. That's okay. (Laughter) I appreciate the work on this bill today. I'd like to push this forward and then vote for also Senator Chambers' amendment following with that, and eventually LB224. Thank you, Mr. President. [LB224]

PRESIDENT HEIDEMANN: Thank you, Senator Janssen. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB224]

ASSISTANT CLERK: 41 ayes, 0 nays on the adoption of the amendment to the amendment, Mr. President. [LB224]

PRESIDENT HEIDEMANN: The amendment is adopted. Next item. [LB224]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend the Janssen amendment with FA156. (Legislative Journal page 1701.) [LB224]

Floor Debate
May 30, 2013

PRESIDENT HEIDEMANN: Senator Chambers, you are recognized to open on your amendment. [LB224]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I already touched on this. But for the record, on page 1, in line 11, we would strike the word "an individual," and insert "any individual" (sic--any person). Then on page 1, in line 21, and on page 2, in line 2, we would strike the word "individuals" and replace that with "persons." And since Senator Janssen has said that he doesn't have any problem with this, I'm going to depart from the amendment. The other day I was very disappointed with the green copy of the bill and I was dissatisfied even with the amendment that had been offered and had decided that I was going to wash my hands of the whole thing. It was based on the notion of our getting legislation that is well intended but poorly crafted, and I felt that maybe I was what is called--what do they call it when...?--an enabler, by doing a lot of work on bad legislation to try to put it into better shape. And it seemed to me that instead of that serving as an example of what we ought to do, it just led to people saying or concluding that I would do this on all the bad legislation that I saw. And I didn't want that to be the effect of what I was trying to do. But the bill that Senator Janssen has is dealing with a matter that is so important that I decided I would back away from my determination to not deal with what I considered to be bad legislation and try to do what I could. The more I read the green copy and the amendment, the more confused the situation became, because of the addition of language that really wasn't essential to what Senator Janssen was trying to do. To his credit, he was not so bound to the language in that bill that he brought to us. He was not so tied to that amendment that he could not see that there was a way to streamline it; and not just seeing it, he got busy to present to us something which we've just adopted that is clear in what it says. The definition of the status of the veteran who will get the preference is clear and uncomplicated. The relationship that this veteran would have to the business that would receive the preference is clear. If you're dealing with this public business, Senator Murante and others had worked on an amendment that took care of that where the stock issue is resolved. I am willing to work with anybody on this floor on any issue in which I have an interest or if it's sufficiently important to that person. That doesn't mean I will agree with it. It doesn't mean that I will work my fingers to the bone and do what the introducer ought to do, but I will help. On the other hand, when there is legislation that I don't like, I will make it clear. And if I'm going to try to kill it, I will make that clear and I will offer amendments; I will make motions. And if it becomes clear to me that one of these bad pieces of legislation is going to pass anyway, then I will try to improve it. My philosophy on that is simple. The statute books are where people should go and be able to see clearly what they are allowed by the state to do and what they're prohibited from doing by the state. And generally, these areas involve...well, maybe even licensing; but often, crimes and punishment. There are privileges that the state will bestow and can take away, such as a driver's license. And when it comes to those types of things, anybody should be able to go to the statute, and unless it's an extremely

Floor Debate
May 30, 2013

complex issue such as tax exemptions and other raids on the treasury which the Legislature has no problem doing for the big businesses, a person should be able to read and see what the Legislature was talking about. An example of a bill that I don't like and I want to kill it, I want to annihilate it, I want to obliterate it, and I had help yesterday from the bill's introducer, Senator Burke Harr. He pronounced the sentence of death on that bad bill, and I am the executioner and I intend to carry that out today. Now if you want to work with me, then we can get out of here at a reasonable time. But if you want to see whether I can take us to 11:59 p.m. tonight, Senator Harr's bill will allow for that. Even in some of the committee information that is presented to us, the acknowledgement is made that numerous statutes are amended by that bill. There are numerous sections. Not only can I move to strike each section, I can offer amendments to each section and I can find plenty of things to talk about to take us to 11:59. Some of the things will be of interest to you; some of them will not. Some of the things will anger you. Some of them might bring a smile to your sour pussies. Who can tell? The reason I'm saying that on Senator Janssen's bill, I believe that it has another especial benefit. At last, the Legislature is taking a step which is not going to solve all the problems that veterans face but it's something concrete, something specific, which indicates that where the Legislature can find a way to do something, with all due respect to Senator Dubas, I'm not critical of her but I'm critical of the proposal to put things on the license plates, not just with reference to veterans but I have fought against putting anything on license plates ever since I've been here. In fact, there was a senator who...his name was Emil Beyer who saw things the way that I did on that. And he supported me in getting what some people refer to as a plain label license plate. It had "State of Nebraska," the numbers, and a date. Nothing else. No billboards. No slogans. Nothing. It served the purpose of a license plate which is to identify a vehicle and establish that it could lawfully be driven on the roads and highways of this state. I used to drive these roads a lot when I ran for various offices. I once ran maybe more than once for Governor, Attorney General. And that took me throughout the state, places where people had never not only seen me, they had not seen a black person in real life. On television they had, in movies they had, but to actually see one walking, talking, and breathing had not; at least, that's what they told me. So I was explaining about these license plates and I said Nebraskans want to put emblems and symbols. [LB224]

PRESIDENT HEIDEMANN: One minute. [LB224]

SENATOR CHAMBERS: But there was one from Wyoming and it had a picture of a corral fence and a bucking horse; but there was also a bumper sticker. And do you know what the bumper sticker said? "If you are close enough to read this, you're following too close." So why put all that stuff on a license plate? And that's all that I have to say, Mr. President. I support my amendment. I support Senator Janssen's bill. Thank you. [LB224]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Anyone else wishing to

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

Floor Debate
May 30, 2013

speak on FA156? Seeing none, Senator Chambers to close. Senator Chambers closes. The question is, shall the amendment FA156 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB224]

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of the Chambers amendment to the amendment, Mr. President. [LB224]

PRESIDENT HEIDEMANN: The amendment is adopted. Mr. Clerk, next item. [LB224]

ASSISTANT CLERK: Mr. President, I have nothing further to the Janssen amendment AM1540. [LB224]

PRESIDENT HEIDEMANN: Senator Janssen to close. Senator Janssen waives. The question is, shall the amendment to LB224 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB224]

ASSISTANT CLERK: 42 ayes, 0 nays on adoption of the Janssen amendment, Mr. President. [LB224]

PRESIDENT HEIDEMANN: The amendment is adopted. Mr. Clerk, next item. [LB224]

ASSISTANT CLERK: Mr. President, I have nothing further pending to the bill. [LB224]

PRESIDENT HEIDEMANN: Senator Murante for a motion. [LB224]

SENATOR MURANTE: Mr. President, I move to advance LB224 to E&R for engrossing. [LB224]

PRESIDENT HEIDEMANN: You have heard the motion. All those in favor say aye. All those opposed say nay. LB224 is advanced. Mr. Clerk, next item. [LB224]

ASSISTANT CLERK: Mr. President, the next item for consideration, LR155. That resolution was introduced by Senator Chambers. It was referred to the Executive Board for public hearing. The Executive Board reported the resolution back to the Legislature for further consideration with a committee amendment, AM1528 (sic--AM1328). [LR155]

PRESIDENT HEIDEMANN: Senator Chambers to open on LR155. [LR155]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Senator Schumacher's name ought to be on this resolution. He brought a bill, LB613, which in its original form as drafted was atrocious. The thought was good. It was to create that Tax Modernization Committee. And I had done a lot of work on it. Then I wanted to use that bill to bring my sales tax repealer onto the floor. That was not going

Floor Debate
May 30, 2013

to work, so I washed my hands of LB613. I tore up all the work I had been doing and threw it in the trash. By the way, I did not come up here yesterday when there was a discussion as to whether or not a certain bill that Senator Ken Haar had brought before the Legislature was referred to the appropriate committee. I wasn't going to get in that. I let my colleagues handle the peewees--and that was a peewee issue. And if I had come up here I would have pointed out that I am a member of the Reference Committee and my colleagues can tell you that there's certain legislation and resolutions that I said I'd refer them to the trash can right now. So if you got it referred to a committee, you were lucky that it didn't get referred to where I would have wanted to refer it. Senator Haar's was not one of those type of items, but I was not going to waste my time trying to bring a clean thing out of LB613. When it was not going to be available for my purposes, then I was through with it. But then a series of events took place which I won't itemize at this point, and maybe I will when I get to Senator Burke Harr's bill so I have something to talk to you about, regale you with, bore you with, annoy you with, antagonize you with, anger you with. A different use could be made of LB613 and I crafted a resolution using the structure and framework found in Senator Schumacher's bill. I did go ahead at that point and streamline and refine and prune the language that was to be used. Some of you all are familiar with what was in LB613, but to give you just a notion and for the record of what this resolution would do, there are several whereas's. It mentions that with the changes that occur in the economy it is necessary to review and evaluate the state's tax laws to see if changes would be in order. There is an acknowledgement of the interdependence or interrelationship interfacing between the tax laws of the state and those of various political subdivisions. And those relationships will be reviewed, because whenever the state's tax laws are modified, they could have an impact elsewhere. Then it states the purpose which is to review and evaluate the state's tax laws regarding but not limited to sales and use taxes, income taxes, property taxes, and other miscellaneous taxes and credits and incentives. Covering the waterfront. We did this by way of a resolution because it adds more flexibility and we would not have to amend a statute as would be the case had LB613 been enacted into law. There is a provision that community input and discourse will be encouraged, and that committee will provide the means for that interaction to occur. And as with all resolutions we get to the resolves. The first one creates the committee. The second one...well, the second item mentions the membership of the committee and declares that the Chairperson of the Revenue Committee will be the Chairperson of this study committee. Now before the session had moved forward to a point at which I could see how much sense the Chairman of the Revenue Committee has, despite the great lack of sense he demonstrated by not letting my LB266 out on the floor, I was able to look past that and I could see that he does have some sense. So I don't object as much to his being the Chairperson of this committee as I would have at one time. So it shows that I can grow in my perception of people also. Then we talk about the elements of the tax system that will be considered. For the record, I'll just read what those are without going into any of them: fairness, competitiveness, simplicity, stability, adequacy, complementary tax systems. And that's spelled c-o-m-p-l-e-m-e-n-t-a-r-y, not with an i, because these are

Floor Debate
May 30, 2013

not tax systems that say nice things about this system that the state has, but one, those that kind of go along and intermingle and intermix with it. Then the committee will examine previous studies that have been undertaken and comb through them and see if there are any findings or conclusions that can be resorted to help this committee discharge its duties and responsibilities. And I'm going to read this fifth resolve. "The Tax Modernization Committee may require any state agency or political subdivision to provide information relevant to the committee's work, and the state agency or political subdivision shall provide the information requested within thirty days after the request. The committee may hold public hearings and, pursuant to section 50-406 and the rules of the Legislature, may exercise its authority to administer oaths, issue subpoenas, compel attendance of witnesses and the production of documents,"...I'm turning the page; I'm not having a senior moment where I lost my way..."and cause depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in the district court." Then finally, a report will be issued. LB613 will come after this particular resolution is dealt with, and that due to a lot of very hard work done by "Doctor" Schumacher. I'm honorarily bestowing that degree on him and it's of an academic rather than a medical nature, and certainly not one of those religious kind of things where everybody who says I'm a preacher and they start calling you Doctor immediately. What that will do--and maybe I won't try to say it all now because I don't have much time left, but it's going to clarify what that subpoena power consists of and remove any questions or doubts. We want to make sure that there could not come into existence a rogue committee that would feel it has just a commission to ramble here and there and everywhere. We ourselves as members of the Legislature have to be willing to work within restrictions that respect the rights of the public that will not make any of our processes overbearing, unreasonable, especially when coercion and compulsion can be involved. We don't want anybody to mistake what we do with a law enforcement function. We are not interested in punishing anybody. Our only purpose in using compulsion is to get information that is relevant and necessary to us carrying out our legitimate constitutional and statutory duties. If that information is voluntarily given, subpoena will only be a word found in the dictionary and the statute. But if some individual or agency should be recalcitrant in a way that is inappropriate, then reluctantly we will drop the hammer and that's a hammer that nobody wants to fall upon himself or herself. [LR155 LB613 LB266]

PRESIDENT HEIDEMANN: One minute. [LR155]

SENATOR CHAMBERS: I'm hoping that if you have any questions or comments you'd like to make on this resolution for the record, this is the time to do it, because there may be people wondering what it is that we're going to be about. Everything we say, as everybody here knows, is recorded and transcribed. The transcription will be a legislative history of what this resolution is about, what its purposes are, and why we will adopt it, as I'm sure we will, because it's recognized that the study is necessary. Thank you, Mr. President. [LR155]

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

Floor Debate
May 30, 2013

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Mr. Clerk. [LR155]

ASSISTANT CLERK: Mr. President, there is a committee amendment to LR155: AM1328. (Legislative Journal page 1281.) [LR155]

PRESIDENT HEIDEMANN: Senator Wightman to open on AM1328. [LR155]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. As introduced, the Tax Modernization Committee has created a special legislative committee and, as originally introduced, would be composed of these people: eight members of the Revenue Committee, the Chairperson of the Appropriations Committee, the Chairperson of the Health and Human Services Committee, the Chairperson of the Education Committee, Chairperson of the Agriculture Committee, and the Chairperson of the Legislature's Planning Committee. The committee amendment adds two more legislators to the Tax Modernization Committee to be selected by the Executive Board. And really that's all that it does. I would appreciate your support of the committee amendment. Thank you. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Wightman. Senator Hadley, you're recognized. [LR155]

SENATOR HADLEY: Mr. President, members of the body, I stand in complete support of LR155. I plan to be the hammer of Thor, Senator Chambers. I do want to thank Senator Chambers for his work on this project. This came about because we did have a couple bills, LB405 and LB406; had extended hearings. We had concerns about our tax system. And out of that came the idea that we should take a look at our tax system. This is not the first time we've looked at the tax system. Everybody seems to think that we started in 1967 and we just put it on the shelf, but we've been consistently looking at our tax system. We do it most every year. We've had three comprehensive looks, and like a lot of studies, they're on the shelf. But we're going to use those three comprehensive studies as a starting point for what a modern tax system should look like. I want to also talk about what this study is not going to do. This study is not going to come in and have sweeping reductions in all our taxes. That's a problem you have with the appropriations side of it. This study is to determine, is there equity in our tax system? Have things changed that we haven't looked at, that we need to look at? And I'm going to throw out a comment about the body. Will you have the courage after we're done with this study to come in and vote on some of the proposals that might come out of it? Because in order to lower some taxes, we might have to raise some taxes. Or are you going to be the type that you're very interested in lowering taxes but you don't care about trying to equalize it by raising potentially some taxes? We've heard a lot about what, you know, a modern tax system is. I hope we have some discussion. I'd love to hear some people's comments on what is a modern tax system. I'm open for real suggestions. And let me

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

Floor Debate
May 30, 2013

give you one example of something we're going to look at, and it has to be in the services area. Obviously, when we wrote--ooh, not we--the body wrote the tax bill in '67, services were not a large part of our economy, so there are a lot of services exempted in Nebraska. I think we'll probably look at whether this is inappropriate in a modern economy to exempt services. I'll give you an example. I happened to have a service man over to the condo the other day, and the bill was \$97.25; \$95 for labor that was not taxed and \$2 in parts that were taxed. What's the rationale for that? Well, we're going to look at that rationale. We're going to look and see how property taxes, sales taxes, and income taxes work together. Again, does that mean every single person in Nebraska is going to have their tax burden lowered? No. But it's possible that certain areas might have the tax burden lowered. [LR155 LB405 LB406]

PRESIDENT HEIDEMANN: One minute. [LR155]

SENATOR HADLEY: Those that pay, for example. That's just an example. If we feel that property taxes have become too high, maybe we lower property taxes. But to make up revenue, we have to look to where we can get that. We're going to go about this in a very systematic way. We're going to try and get the best recommendations we can get for a tax system that does look forward to the future and that's fair to all taxpayers of the state of Nebraska. Thank you, Mr. President. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Hadley. Senator Krist, you are recognized. [LR155]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. As the Vice Chair of the Exec Board, I was adamant that the...on the amendment itself as you see it, line 4 and 5, was incorporated into LR155, and I'll tell you why. In my past life I had the ultimate training program for term-limited environments. Every two years to three years, an Air Force officer changes the place that he works. He PCSs--permanent changes station--and goes someplace else. And you would wonder, how does it not fall apart when change of leadership at the wing, at the squadron, at the division, when it changes over so frequently? The answer to that is strategic planning. The answer to that is continuity afforded through other parts of the command. The answer to that is to constantly look for opportunities to mentor those that are younger than yourself or less experienced than yourself. It is my hope that these two positions added at-large from your membership are you freshmen; you that just came here and have learned this process and have three more years guaranteed to be here, and potentially longer. For if you are not involved in this process, the continuity will be lost to some measure. You're an important part of this. I hope to see every one of the freshmen's names applying for a position to be one of those two at-large, and I promise you that I will not vote for anyone who is more senior than a freshmen class coming in. That's how important I feel that it is. Let me give you a perspective. Next year, in 2014, 17 of you will not be here, guaranteed. Eleven of those 17 are in Chair positions and/or

Floor Debate
May 30, 2013

prominent leadership positions, and there might be a few more that are not reelected. So potentially 17-20 people will not be here. That is a significant part of this body. We also have another issue staring us in the face, and that is the leadership positions and the continuity that is part of our staff, our Clerk, our Revisor's Office, etcetera, our Legislative Fiscal Office. There is years, decades of experience that at some point will want to go retire and be with their grandkids. We have to consciously mentor and provide for the continuity of this body and of this government. I hope you take seriously Senator Hadley's request to put a legislative intent or our own words here today in terms of what we think it should be and how we think this study should be conducted. I personally would suggest that you submit it in writing. I've already started to draft my questions to this legislative committee. I want it to be a matter of record, the things that I am concerned with. And I promise you I do have the fortitude to vote for those things that this committee will bring forward to us next year, and I would hope you would do the same. Thank you, Mr. President. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Krist. Those wishing to speak are Senator Kintner, Schumacher, Karpisek, Dubas, Wallman, and others. Senator Kintner, you are recognized. [LR155]

SENATOR KINTNER: Thank you, Mr. President. This will be very short. I was just going to ask Senator Wightman a few questions about the purpose of this, and Senator Krist explained it very, very well, and I appreciate that, Senator Krist. I understand what the purpose of this is, so that's all I had say. Thank you, Mr. President. Thank you, Senator Krist. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Kintner. Senator Schumacher, you are recognized. [LR155]

SENATOR SCHUMACHER: Yes, I will. [LR155]

PRESIDENT HEIDEMANN: You are next in the queue. [LR155]

SENATOR SCHUMACHER: Oh, I'm up? Oh, I thought I was being asked a question. That was short. Thank you, Mr. President and members of the body. (Laugh) I rise today to basically comment briefly on what has been an interesting sausage-making process. We had heard talk before the session about an effort to reform our tax system. It was highly probable that no reform was going to happen instantaneously and without due deliberation; and therefore, what was LB613 was conceived as an idea to bring together a sufficient critical mass of the Legislature in order to begin the process of analyzing our tax system to see if it met standards of being modern and competitive. In looking at that situation, it appeared that we could create it either by statute or by resolution. In looking through the red books, I could not find in the red books, with the single exception of the Legislative Council, that group of the committee of the whole that

Floor Debate
May 30, 2013

we talked about earlier this year, where there was any clearly spelled out procedure and clearly spelled out parameters for exercising the legislative information-gathering process. And since resolutions and rules are not necessarily binding on the general public and the entire system, those things generally are in statutes and in the red books. Even though some of them may be implied powers and some of them may be inherent powers, all those are the kind of things that are subject to judicial interpretation. Therefore, the statutory mechanism was used in order to create or proposed to create this Tax Modernization Commission. It contained certain investigatory provisions to clarify those things. Senator Chambers amply pointed out that when you do things that way, after the work of the commission is done, you have this relic laying in the red books that somebody has got to scrape out of them at some point in time. And so what we have before us today is a situation where the commission is proposed to be created under the resolution by Senator Chambers that outlines the duties and responsibilities and tasks of the commission. And LB613 has a commission part, the part that would become a relic when the work was done, taken out; and the language of investigatory authority and the procedure for enforcing a legislative request for production of documents or subpoena clearly spelled out. And not only does it spell it out for the Tax Modernization Commission, it spells it out for any other committee of the Legislature that might exist now or in the future so that it's very clear that the Legislature has this authority which we believe it had but it wasn't clearly spelled out, and that that is found easily where people can clearly understand it in the red books rather than trying to interpret what might be inherent or apparent authority or inferred from our rules. So this piece of sausage, after it comes out of the sausage press here, I think is a good piece of sausage. It creates the committee by resolution, which is probably the proper way to do it, and it augments... [LR155 LB613]

PRESIDENT HEIDEMANN: One minute. [LR155]

SENATOR SCHUMACHER: ...the powers of all legislative committees by statute, which is clear, easy to find, and everyone to understand. And it took a lot of work by the Executive Board, by the Revenue Committee, by Senator Chambers, his input, and Senator Krist, to put this thing together, and I would encourage everyone to support the package and let's get on with figuring out how we can have a better tax system. Thank you. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Schumacher. Senator Karpisek, you are recognized. [LR155]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. It works out well to go after Senator Schumacher in talking about sausage, because I do know something about sausage making. And what I know about that, too, is that I don't feel that it's the same at all, because when I made sausage I knew what I put into it and I knew what I got out. Around here, we don't always know what we're putting into our

Floor Debate
May 30, 2013

sausage. And when it comes out and it doesn't taste quite right, that's the problem. So I think that this LR needs good meat--information--going in to get good sausage out. Junk in, junk out. So I think this is absolutely a great way to go about things. We need to do it. We talked a little bit yesterday about the Reference Committee is the same people as are on the Exec Board, if you were here to go through that yesterday. I would say if you are interested in being on this committee, please make sure that the Exec Board members know. If you don't know who they are, Senator Chambers is one (laugh) and he can tell you who else. No, we...make sure that we know. The other thing is, though, make sure that you have the time to do this. I do not want to be on this committee. Senator Krist wouldn't let me be on it anyway, because I've been here too long, but I don't want to be on it because I don't have the time. I have to go home and work. I have to go make some money, I hope, so I don't want to be on this. I don't have the time to be on it. And please, please, please, if you don't have the time to be on it and you're not going to be a very good contributing member, please don't. Don't try to pad your resume to be on this committee. This is absolutely probably one of the most important things we're going to talk about in a long time. Also, if you're going to go into this deal with a preconceived notion and know absolutely everything that needs to be done, please don't either. I can only imagine the types of struggles that are going to happen on this, because it happens on every other committee and in here. So it's going to be some hard work. I just think about some of the floor speeches I hear in here, and I don't think that some of those people should be on this committee. You're going to need to have an open mind and go at this just like Senator Hadley said. I think he's going to be a great leader of this, even though I've told him that he won't. I was just teasing. But we need to work at this, have an open mind, look at it from all different sides, not go in just saying we're going to cut every tax. And we don't...I'm not that worried about what number we are on some computer ranking. We need to do what's best for the taxpayers in the state of Nebraska, not to what it looks like for some Chinese company to come in and not pay taxes here. I have brought a resolution, I think at least every other year since I've been here, to look at ag land valuation. It's never gotten out of committee because, number one, there's been too much argument about how it would look and how it would work. [LR155]

PRESIDENT HEIDEMANN: One minute. [LR155]

SENATOR KARPISEK: Thank you. We need that to be in this study. We all know that we hear about the real estate taxes, property taxes. Ag land cannot be looked at without residential. It all has to go into that mix. When we come out, I don't know what it's going to look like, and obviously not everybody is going to like it, because as Senator Hadley said, somebody might have to go up. I hope, and I will be putting my input in, that we do look at property taxes, look at states around us on ag land and how they do it. I know that this has to be all-encompassing or it will not work. So thank you for everyone who will do it; I appreciate it. And good luck and we'll all be here to help. Thank you, Mr. President. [LR155]

Floor Debate
May 30, 2013

PRESIDENT HEIDEMANN: Thank you, Senator Karpisek. (Visitors introduced.) Senator Dubas, you are recognized. [LR155]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. I stand in strong support of this LR and the proposed amendment. Senator Campbell and her Health Committee set the bar very high when they did LR37, and we saw, first, the amount of work that went into that. Their committee really put in a lot of time, put on a lot of miles, the staff as well. But we saw the work product that came out of that and we are on the road to some very positive and significant changes in our child welfare reform. And I see this particular Tax Commission following along that same line and it will take an extreme amount of work. It will take a lot of help from staff and a lot of commitment on the parts of those committee members. But I think the work product and the end results will provide some very positive changes. The points that Senator Hadley made I really hope every single member of the body heard that and take them to heart. There will be some difficult decisions to make next year, and we're going to have a lot of very healthy and spirited debate, no doubt, on what some of those proposals and what those bills will look like as they come to the floor. And that's good that we have that kind of discussion, but we will have to have the political will to take the work, to take the recommendations that will come out of this committee and actually put them into action. This is an excellent opportunity for us to take that in-depth look, to use those studies that have been done in the past as that springboard to take us forward, looking at our existing tax structure on all levels--sales, income, property. Really delve deep into what does that policy look like now, what's working, what's not. You know, maybe at the end of the day we'll find that the majority of our tax policy is the best that it can be right now. But maybe at the end of the day we also may realize that there are some significant changes that need to be made. As you talk to constituents, and each one of us in here probably as well feel like the fairest tax is the tax that we don't have to pay or that someone else has to pay instead. And every--whether it's a sales tax exemption, income tax, whatever it is--every form of tax has its own constituency, has its own people who are going to be either adamantly saying there is no way you can change this, this is what will happen if you do, or that constituent we see who will say that's the fairest, that the most inequitable form of tax and this is what you need to do. So through this process, I really hope the public at-large will take advantage of coming in and presenting their case as well as individual senators. Even if we aren't on this committee, there's still, I think, every opportunity for us to participate in this process either by attending some of the hearings or, as Senator Krist said, submitting some of our questions or our thoughts or our concerns in writing to the commission. This will be a collective effort. This will be a collective decision at the end of the day. And this is going to be a great opportunity for education for us to really understand. We deal with a lot of individual bills in here dealing with tax policy, but this is going to be that opportunity where we're taking an across-the-board look at what our tax structure is. And so it will be an opportunity for every single senator in here, whether you're the

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

Floor Debate
May 30, 2013

newest or the most senior member, to get a good understanding of Nebraska's tax policy and the history behind it. There were very strong, legitimate reasons why we put things in place. And so just having that historical background I think is going to be extremely beneficial for future decisions. [LR155]

PRESIDENT HEIDEMANN: One minute. [LR155]

SENATOR DUBAS: Thank you, Mr. President. But again it comes back to I think that comment that Senator Hadley and, I believe, Senator Krist made as well, is it's going to be so important that once we have this information in our hands, once the Revenue Committee or whoever comes forward with the recommendations for any potential changes, that we're going to have the courage to do what needs to be done. And again, this commission is not holding out that promise to our constituency that there's going to be an absolute cut in your taxes. We can't put that out to our constituency nor should we have that as our own thoughts that we're going in here, we're going to be cutting taxes. That's not fair to our public. We need to be very up-front and honest with them about what this commission's purpose is and it's creating that equitable tax structure that will serve Nebraska now and well into the future. And I am very hopeful and have very high hopes and expectations... [LR155]

PRESIDENT HEIDEMANN: Time. [LR155]

SENATOR DUBAS: ...for what this commission will do. Thank you. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Dubas. Senator Wallman, you are recognized. [LR155]

SENATOR WALLMAN: Good morning, Mr. President, friends all. Taxes. Everybody talks about that. We just seem to shift them around. And this is going to take bravery, folks. Expanded revenue. I'm used to spending taxpayer money on the school board, the township board; so we know it takes money. And also I always had figured that ag land pays, as Senator Heidemann...or Lieutenant Governor would agree, I think, that ag pays the biggest share of the school taxes. And we've had...I've had bills in committee to tax sales and property tax for school districts out of local entities. But the state has the control over that pretty well and it's going to take bravery to get this going. I think you're going to have to look at expanded tax base, like intangibles, because it's not only ag land, folks, it's small business people. If they can't afford to make some money, they still have to pay taxes. Even if you don't make any money, and farmland as well, you can lose money and still have that horrendous tax bill. So we should be tying that somehow to revenue and the formulas. So all this stuff has to go in the mix: intangibles, income producing, all these things. And I trust some people in the body would have this knowledge. But do we have the courage to pass something like this? Because ag is in the minority. And as right now, you know, the prices went down, so it will be a little

Floor Debate
May 30, 2013

tougher; so our income will go down, I'm sure. So I thank Senator Chambers, Senator Schumacher. These are lots of issues to tackle. Thank you, Mr. President. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Wallman. Senator Avery, you are recognized. [LR155]

SENATOR AVERY: Thank you, Mr. President. I was listening to Senator Hadley a few minutes ago and something he said resonated with me. And that was that we are not necessarily expecting from this study that we will have significant tax reduction, but he did talk about a personal experience that he had that illustrates the irrational side of our tax structure. And I think that he made a good point. We do not have a rational tax structure in the state right now. I have some personal experiences, many of you do, too, as well. I recently took my car in to get a rim repaired. The rim cost me \$200. I did not have to have the tire repaired, but they charged me no tax, no sales tax on repairing that rim. So I asked why not? They said we don't know. If you had damaged your tire, we would have charged you a sales tax to repair the damage to the tire but not the rim. Does that make any sense? No. It's irrational. I have brought two bills before this Legislature which cannot apparently satisfy the high standards of the Revenue Committee and manages to get buried somewhere in there and is not reported out. But twice I have brought a bill to this...to the Revenue Committee to rationalize the current sales tax policy towards sugar-sweetened beverages. If you go to the grocery store and you buy a six-pack of Coca Cola, whether it's sweetened or not, it's tax free. But if you buy it in a restaurant or a bar, you pay a sales tax on it. If you go down to the vending machine and you purchase a can of pop, you pay a sales tax. If you go to a convenience store and you buy a soda fountain, you pay a sales tax on that, but if you buy a can out of the cold cooler, you don't. Does that make sense? No, it doesn't. So what I think we need to be talking about and I believe we all understand this is that this tax study is an opportunity, and I emphasize that, this is an opportunity for the state to get our tax policy rationalized. Make sure we're taxing the things that need to be taxed and that we do it consistently and the tax and the things that we should not be taxing, that is particularly upstream in the production process, the inputs to manufactured items, for example, that we're not taxing those. We should not be taxing upstream in the production process but we...at the point of sale. So I see this as an opportunity. I expect that we will benefit significantly from this study and I hope that we all will join in that effort and I expect that we will. Thank you, Mr. President. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Avery. Senator Carlson, you are recognized. [LR155]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'm sitting, listening to this discussion this morning and really trying to put my thoughts together and share something that I hope can be meaningful. And I start with, first of all, what's the purpose of government in Nebraska? Because whatever that purpose is, it

Floor Debate
May 30, 2013

takes money to carry out that purpose. And this isn't all inclusive, but I think what our main purposes are in government, (1) is to protect our citizens; (2) is to educate our citizens; (3) is to encourage commerce; (4) enable our citizens to be self-sufficient, a hand up, not a hand-out; and then, fifth, to carry for the needy who cannot provide for themselves. It takes tax dollars to do this. So now let's look at what is the purpose of our discussion and the purpose of this resolution? And there can be several. The purpose might be, how can we change what we're doing so we raise more money, which obviously is a tax increase. It might be to spread out taxes in a different fashion than they're being paid today. It might be to lower overall taxes. I doubt that, unless we'd get back to the purposes of government and stick strictly to those that we need to be taking care of and not trying to take care of everything. We might implement a new tax in order to allow us to lower another tax. Now Senator Hadley brought out the idea of a tax on services. And if we entertain the idea of a tax on services and put it in the same category in terms of amount as sales taxes so we'd save 5.5 percent on services, well then, obviously, unless our objective is simply to raise more money, we lower the overall sales tax maybe 2 percent, maybe 2.5 percent so that tax on services and the sales taxes would balance out. We'd be spreading out a tax possibly over more people. But then we got to be concerned about what people does this really affect? Does it more affect those we would call wealthy in our state? Does it more affect those that we'd say are in the middle? Or does it more affect those that we would classify as being the poor people in our society? And certainly all those things are very, very important. Whatever we do in the way of tax policy I know that we have to be considerate of unintended consequences. So I don't think the purpose is simply overall raise more money. Does it only become a tax shift? Does it make sectors of our economy less competitive so it affects overall commerce? We don't want that. And then as we delve into sales tax exemptions, which is fair game for this study, we got to be very concerned that taking away exemptions that exist today don't make us less competitive in the area of commerce. And we also need to be very careful at whatever we choose to discuss and maybe implement that it doesn't have the unintended consequence of raising property taxes. Because as we deliberate with things... [LR155]

PRESIDENT HEIDEMANN: One minute. [LR155]

SENATOR CARLSON: ...at the state level, and then we decide this is what we can do, and we cause counties and cities to be more responsible themselves, which may be okay but certainly that can have the effect of raising property taxes and I don't know of anybody in Nebraska that wants to see their property taxes raised. So this whole area is a necessary area to delve into and it can be...it is very, very difficult, and I wish the committee luck. Thank you. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Carlson. Senator Sullivan, you are recognized. [LR155]

Floor Debate
May 30, 2013

SENATOR SULLIVAN: Thank you, Mr. President. I hope Senator Schumacher will stay here for just a minute if...because I'd like him to...if he would yield for a question or two. [LR155]

PRESIDENT HEIDEMANN: Senator Schumacher? [LR155]

SENATOR SCHUMACHER: This time I'm right. I will. [LR155]

SENATOR SULLIVAN: (Laugh) Thank you, Senator. Just briefly I wanted to say a few things about the charge that we have before us but specifically to you, I want you to clarify for me a little about the details you mentioned when you were on the mike before with what LB613 will do for us as far as I think subpoena power and how that interacts with additional committees beyond this Tax Modernization Commission. [LR155 LB613]

SENATOR SCHUMACHER: Thank you, Senator Sullivan. Basically the reason this was originally brought as a bill is because it had an opportunity to spell out in statute form clearly some of the subpoena authority that otherwise would have to be inferred or implied or found by the courts to be inherent in the Legislature. As Senator Chambers has often said, things should be simple and, in those red books, simply stated. And so when it was originally brought, it was brought that way. That has a disadvantage of leaving a statute on the books after the work of the committee is done. So by subdividing this, creating the committee by a resolution, which is never put into the red books and binding only on the Legislature, and putting the investigatory authority in a separate statute that applies to all committees, we have I think the best of both worlds. Future committees, no matter what topic, will have a clear guideline and future Legislatures a clear set of rules in the statutes that is unquestionably binding and a procedure that hopefully will work and be easy to understand. [LR155]

SENATOR SULLIVAN: I guess that's my clarification that I need. So that extends to committees. Does that mean the standing committees, any special committees? Who does it really pertain to? [LR155]

SENATOR SCHUMACHER: It extends to any standing committee, any committee in the future created by...or present created by statute or resolution. [LR155]

SENATOR SULLIVAN: Thank you, Senator Schumacher, I appreciate that clarification. And, again, I just wanted to echo some comments that have been made previously. It's a tall order that we have before us to embark on this study. It's going to require a lot of time and effort. It requires some open-mindedness. I think we need to keep flexible in it. We need to enter into it with no preconceived notion. But it also intertwines with a lot of other work that's going to be going on in this interim study. It's already been mentioned that there is a direct correlation between revenue and tax policy and education policy. And the Education Committee, as you well know, is embarking on a very close look at

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

Floor Debate
May 30, 2013

school finance as well. So I'm pleased that as a member of both of the Revenue Committee and as Chair of the Education Committee, I'm going to be closely involved in both of those. But there truly is an intertwining of the two and we're going to have to have some communication that takes place as we...as both committees embark on this effort. So, again, as I said, it's a tall order. I think it's one that we can meet. But it's going to also require the engagement of all of us ultimately in some of the decisions that we'll make in legislation. Thank you, Mr. President. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. Senator Wightman, you are recognized. [LR155]

SENATOR WIGHTMAN: Thank you, Mr. President. If you read the committee statement, I guess you would notice that I originally voted against this and that was because we had LB613 in front of us. Since then, I've come to the belief that it would be better that we at least have the committee that would be under LR155. So I certainly am not opposed to it any longer, but thought I ought to explain that in view of the fact that you may have seen that I voted in opposition to it. I believe that LR155 is probably the stronger method and I support LR155 entirely. Thank you. [LR155 LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Wightman. Mr. Clerk for an announcement. [LR155]

ASSISTANT CLERK: Thank you, Mr. President. Revenue Committee will hold an Executive Session now in Room 2022.

PRESIDENT HEIDEMANN: Thank you. Senator Davis, you are recognized. [LR155]

SENATOR DAVIS: Thank you, Mr. President. Members of the body, I just rise in strong support of this study with a few comments and a few suggestions. First of all, I think we need to thank Senator Schumacher, but also Senators Ashford, McCoy, and the Governor for bringing tax issues to a forefront in Nebraska. It's a...we have a model that is quite old and quite antiquated and needs to be renovated very seriously. Two things I think are important with regards to the study. One is, I think we really need to have a grasp of what future expenditures are going to be because if we put a tax study in place without putting any thought into what our future liabilities are going to be, we may be in the same situation in a few years. So I would hope that the committee would put that on the side burner and always think about that. And another thing I would say about Nebraska is, I don't really think the Legislature and the state government have done a very good job of explaining to the citizens what their tax money is really used for. So a lot of people have a real failure of acknowledging of what they're really getting in terms of services from state government. And that's not something that the committee can probably do, but it's something that we as senators need to bring forward and take to our constituents. We talked a lot about the different taxes that should be included in this

Floor Debate
May 30, 2013

discussion, and of course intangibles are something that I've thought a lot about for a long time. I put a resolution before, I think, the Revenue Committee to look at a sales tax for school districts, which I think a lot of people probably are wondering why I would have done such a thing. The reason I did is, I think if you look at rural residents, and Senator Karpisek brought this up earlier, property taxes are a huge problem and Nebraska has been at one of the highest levels of property taxation in the state...in the nation for a long, long time, especially among our peer states. School districts in rural Nebraska are the entities that consume almost all the property taxes. And if you look at what's happened in the communities and the cities in rural Nebraska, you'll find that once a city sales tax was you put it in place in those communities, the property tax levels really stopped going up. So a lot of the additional expenditures in those communities are being paid for by sales tax, part of which is paid...is on the backs of the people that live in the country and don't really have the services. I think it was Senator Warner, I wish I'd had the institutional memory to remember who that was, but when the sales tax was put in place years ago, the senator I'm thinking of which I think was Senator Warner said let's not be giving away our taxing authority. And that's what we have done over the years. From the time sales tax went into place, we started putting exemptions on and exemptions on and exemptions on and pretty soon we have nothing left. If you're a student of economics, you will know that economies grow more and more sophisticated as they move forward and they move towards a service-oriented economy, which is not taxed in Nebraska. So we're putting more and more of our funding needs on the antiquated part of our economy and we need to work away from that. Just, again, a thanks to those who have worked so hard on this and Senator Chambers. This is probably the most important thing that we're going to do as legislators in the next several years. One final comment I would make. Last summer, the Education Committee went out to rural Nebraska and they did a tour, and...not rural Nebraska, but the entire state, and they came back with some recommendations. And when those recommendations were brought to the floor as part of the original bill, they were thrown out immediately by the body because we didn't want to change anything. If we're going to do this study, let's have the backbone to stand up and say the study that's been done is a valid... [LR155]

PRESIDENT HEIDEMANN: One minute. [LR155]

SENATOR DAVIS: ...proper study for the future. And we need as senators to stand up and support it. Thank you, Mr. President. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Davis. (Visitors introduced.) Senator Bloomfield, you are recognized. [LR155]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I've heard mentioned on the floor several times that we shouldn't go into this hoping for a great tax cut. I would caution us also, let's not go into this looking for a revenue enhancement. We

Floor Debate
May 30, 2013

need to make things fair and equal, and that's what I hope this study will do. I hope we don't come up with the idea that we can generate a little more revenue if we just tax this area a little more, and we can get a little more revenue if we just do this to somebody else. That's not where I think this tax study ought to go. I will be submitting some comments and input to the committee, and I hope that the committee will hold hearings not all electronically or mostly electronically. I hope they physically get out and meet the people that are paying these taxes and don't spend the bulk of their time communicating with one another. I hope the committee gets out and talks to Nebraska. Find out who is suffering the pain. Look hard at property tax. Many of Nebraska's farm people, that land is their retirement. We put a tax on it every year. That's like taxing your 401 or your savings account. And not just the interest, that would be taxing the principal. That's what we're doing with property tax. Let's look hard at that. Let's be fair. Let's not attempt to increase revenue to the state. I think with the income we've seen this year, that doesn't need to be a priority. Let's keep things in balance and let's make our system more fair. Thank you. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Bloomfield. Senator Johnson, you are recognized. [LR155]

SENATOR JOHNSON: Thank you, Mr. President, and thank you, members of the body. I was on that campaign trail last year and the number one question was tax relief. That's a tough one to promise to anybody. You can promise relief to one group but it's going to affect another group, and that's kind of why we probably have this study. I talked about a balance. We can call it equity, whatever we might want to. I talked to the constituents of a balance between sales tax, income tax, and property tax. Then it came to us that we're going to try and look at the inheritance tax and how that affects things, and that kind of got a lot of inquire into it and a lot of resistance. Then another leg of the stool was taken out when it said, okay, let's see if we can lower the income tax. And then of course that throws it out of balance again. I think LR155 reaches one of the goals that I promised was to try and look at fairness and try and look at balance and equity in our tax system. It didn't make any difference whether I was talking to a business group or manufacturing group, agriculture, visiting with city administrators, county supervisors, education people, hospital people. All of them have a concern about the tax base. The study will also need to address the real fact that, and it's been brought out many times, the...some of the property increases that we've seen, and it's primarily ag land, where property values probably in the last five years have increased at least 30, maybe more, percentage. Is that value going to hold? I think we have to develop something that's going to be adjustable when we have certain segments of our tax structure that are going to vary. We might have a takeoff in the business industry, in manufacturing, and if that starts to go south on us, what's that going to do? If the whole economy, you know, starts to go flat again, how are we going to adjust to it? When we talk about what our expenses are going to be, I appreciate Senator Davis' comments on that. I looked at it from a little bit different point of view. I think if we can do the tax study and talk about

Floor Debate
May 30, 2013

fairness in tax, and then the next thing we need to look at is state government, I think county governments and city governments also, but I think state governments, we need to look at our efficiency. And I think that's probably one of the ways that at least more people will feel comfortable about paying taxes, and maybe we can look at that and possibly, you know, maybe level off our increase in our costs. We need to keep transparency in the process. I do believe that we will have a lot of interested people listening to what the committee does and how transparent they are. I agree with Senator Bloomfield that we need to be out, the committee needs to be out in the area with the constituents not only to keep it transparent but also to get their input. Whether I'm on the committee or not, I plan to be working with the constituents in my district on several subjects and one of them is going to be following along with the tax study. But I do believe we need to keep our constituents involved and engaged in the process. I do support LR155 and I appreciate all the committees and all the individual senators that have worked on bringing it to this level. Thank you. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Johnson. Those still wishing to speak is Senator Campbell and Senator Scheer. Senator Campbell, you are recognized. [LR155]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. I'd just like to comment and thank Senator Dubas for her kind comments, but LR37 was the work of a lot of people and a lot of partners and Senator Dubas was a part of that effort. Without those partners, without the number of people, you cannot do the study, and I assume that we will need to call upon a number of experts in the state who may help us. I certainly supported LB613, mainly from the concepts that were involved in that bill. But I do want to say, colleagues, that I think the legislative resolution that Senator Chambers has brought forward is as good or perhaps even better than it being set in statute. It gives some flexibility. I know people worry because in the original bill, the work of that tax commission was continued, I believe, in a second year. But keep in mind that the Legislature has put together through LB603, a task force, and the BSDC Committee which looked at those issues. And in both instances where the chairs of those committees went back to the Exec Board and said our work is not done, we need to continue looking at this, we have continued those. And we are making a transition this year between the Children's Commission and LB603 task force and Senator Lathrop continues to work on BSDC. So even with a legislative resolution, you can continue work if it needs to be done. I want to also emphasize the importance of senators on these committees. I know that we have different models and it depends on the topic. But the importance of having senators on the committee was brought home so vividly in LR37. The Health Committee was assigned that task and the members were so diligent and worked hours along with the staff to do that work, traveled the state. I'm looking at Senator Bloomfield. We traveled the state in five public hearings, and the committee was so involved. What then happens is when we brought that legislation to the floor, all members of the Health Committee were knowledgeable and could speak

Floor Debate
May 30, 2013

on those issues and help other members to understand what we were trying to achieve. So the inclusion of the Revenue Committee is an important element because it will be the responsibility of that committee to come forward. My next point is, I concur with Senator Davis, and he's not standing there, but the future expenditures are important and I'm sure that's how Health and Human Services got listed there. Later on in our agenda, we're going to talk about some importance in terms of healthcare in the next three, five, ten years in this state. It all begins to tie together in the work that we need to do. And my last point also goes to an agreement with what taxes are reserved to the state. I totally agree that we have muddled that water to some extent, and both Senator Warner and Senator Raikes would be the first to stand up and remind us of that. I look forward to working on the tax commission, but especially hearing from all of you... [LR155 LB613]

PRESIDENT HEIDEMANN: One minute. [LR155]

SENATOR CAMPBELL: ...as you get ideas...thank you, Mr. President...as you get ideas and thoughts because this is an issue upon which all 49 of us will have to become experts. Thank you, Mr. President. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Campbell. Senator Scheer, you're recognized. [LR155]

SENATOR SCHEER: Thank you, Mr. President. And I rise to add my support to LR155 and AM1328. First, I would like to thank Senator Schumacher and Senator Chambers for bringing both of these in front of us. I won't be speaking on the second one. I think the intent of both are identical. It's the technical parts that define the two but that both are needed. I would bring to the point though, Senator Chambers and I had a conversation off mike one day and he made the comment that he always assumed I would vote against anything that he brought forward. And I told him that I had looked forward to the day that I could vote for something he brought forward. Senator Chambers, today is the day that I can support something that you've brought forward. I think it's a great way to move in that direction. I think it's positive. It will be definitely a lot of work. It will take a lot of expertise from a lot of different people and organizations to come up with something that perhaps eventually will be better than what we have. We can say it will be fair, but when we talk about fairness, that's in the eye of the beholder as well. So we will have to realize that as we work forward in these discussions, what may seem fair to one person may not seem fair to someone else depending upon how that impacts the individuals. Going back to the only fair tax is the one that somebody else pays other than yourself. It's a daunting task, and I think that the members of this body are up to that effort. They've shown so in the previous years. It just sort of dawned on me as I looked in the back and saw some youth from my local town observing, probably most of us were their age the last time a serious discussion of all taxes were had. And we look at what has changed in the manner of commerce in the last 35 and 40

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

Floor Debate
May 30, 2013

years, how taxes are developed, how services are provided, and how the economy has changed. And certainly now is the time and it gives us a perfect opportunity to do so. So, again, I thank Senator Schumacher, I thank Senator Chambers, and I look forward to the results of the committee. And if I can be of assistance in that manner, I would truly enjoy doing that. Thank you, Mr. President. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Scheer. Senator Nelson, you are recognized. [LR155]

SENATOR NELSON: Thank you, Mr. President, members of the body. Is Senator Hadley present? I have a question or two for him. Is he on the floor? [LR155]

PRESIDENT HEIDEMANN: Senator... [LR155]

SENATOR NELSON: He's in committee meeting. All right. Let me ask Senator Chambers a question then. [LR155]

PRESIDENT HEIDEMANN: Senator Chambers, will you yield? [LR155]

SENATOR CHAMBERS: Yes. [LR155]

SENATOR NELSON: Thank you, Senator Chambers. I stand in support of your resolution here, but I note that the committee is supposed to finish its work and provide a report I think by December 13 or thereabouts, 15. [LR155]

SENATOR CHAMBERS: Yes. [LR155]

SENATOR NELSON: Is that correct? [LR155]

SENATOR CHAMBERS: Yes. [LR155]

SENATOR NELSON: In your estimation with the size of this study and the complications, can it be completed by that date within the next six months? [LR155]

SENATOR CHAMBERS: The way resolutions work, Senator, is that it extends for the session and the time after that session, then the following session of the Legislature can renew the resolution if that becomes necessary. But we could not introduce a resolution this session that would go over and bind or have a reach into the next session. [LR155]

SENATOR NELSON: All right. Thank you. Senator Campbell in her comments talked about some of the committees that continue for a period of years. In your view, do you think that would be necessary here? And, if so, what happens in each ensuing year? Does the membership of the committee have to change as people leave the Legislature

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

Floor Debate
May 30, 2013

then? [LR155]

SENATOR CHAMBERS: Senator, there are always vagaries when we deal with something that's done legislatively, and the membership very well could be different next session if it's carried over. But if this committee does what needs to be done, I'm not sure that it cannot actually wrap up its work in the amount of time that is given. But if for some reason it didn't and it had to...the resolution had to be renewed, we'd have to play the hand we'd be dealt at that time. [LR155]

SENATOR NELSON: All right. And one final question, Senator. I'm looking at page, I guess it would be the third page of the resolution here, where we talk about considering the following elements. And in (e) it talks about adequacy and says the tax modernization process should create a tax system that generates, etcetera. I don't want to quibble about words, but this process is really not creating anything, is it? It should result...am I being a little too fussy about the use of the word there "create"? You see where I am, "create a tax system." [LR155]

SENATOR CHAMBERS: Now that I have mine, you said on page 3 where at? [LR155]

SENATOR NELSON: It would be (e), "Adequacy. The tax modernization process should create a tax system that generates adequate..." [LR155]

SENATOR CHAMBERS: Well, here we're not talking about the committee but rather the process. So when they come up with a process that if it's necessary based on their study to do something with that system, what they should create or bring into being is one that behaves in a certain manner. But any word in this resolution could be amended, anything in the resolution can be amended. And that's why I wanted the discussion so that if people are uncomfortable with anything, then we can bring that up and discuss it. And if it's of significant concern to the senator, an amendment could be offered. [LR155]

SENATOR NELSON: All right. I'll take a little...I just for the record I wanted to just be sure we understand what we're doing here that... [LR155]

PRESIDENT HEIDEMANN: One minute. [LR155]

SENATOR NELSON: ...we're going to under this resolution undertake a study that will make recommendations for the Legislature to act. Nothing will be created by the committee itself, but the process should result eventually in a system. So I'll continue to take a look at that. Probably maybe the wording as it is right there is adequate. Thank you, Senator Chambers, and thank you, Mr. President. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Carlson (sic). Is anyone else wishing to

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

Floor Debate
May 30, 2013

Speak on AM1328? Seeing none, Senator Wightman to close on AM1328 to LR155. [LR155]

SENATOR WIGHTMAN: Thank you, Mr. President. As I stated earlier, this amendment has only two purposes, that's to add two more members to be selected by the committee. And we will be looking...I think Senator Krist did a good job of explaining that, we probably will be looking at younger members, and I hope that's true that we have younger members, some hopefully that started this year, submit their indication that they are desirable of serving on that committee. So I do ask that you support both the executive board amendment and LR155 itself. Thank you, Mr. President. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Wightman. The question is, shall the amendment to LR155 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LR155]

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of the Executive Board amendment, Mr. President. [LR155]

PRESIDENT HEIDEMANN: The amendment is adopted. We continue on with discussion on LR155. Seeing no one in the queue, Senator Chambers to close. [LR155]

SENATOR CHAMBERS: Thank you. Mr. President, the only reason I will say something is in response to a very good question that Senator Nelson raised. What the resolution does is commit, create a committee that is going to conduct a study. And if that committee's conclusion is that the process must be changed or the system must be changed, then as Senator Nelson pointed out, the result of that work would produce whatever it is they say we should have. But the committee is not going to create a system, it's not going to create a framework or a structure; it will gather information, then produce a report that may have recommendations. And, as Senator Hadley pointed out, they're not starting with the notion that the ultimate outcome is going to be a recommendation to slash all the taxes. None of that is foreordained, none of it is preordained by any language in the resolution. And the discussion that was had will let people know if they're interested enough to go through the transcript of what ultimately the Legislature has in mind. So I'm asking that we adopt this resolution, and I will see if we have enough votes here before I'd ask for a call of the house because there are some committees in Executive Session doing whatever they do there. That's all I have though, Mr. President. Thank you. [LR155]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. You've heard the closing on LR155. The question is advancement of LR155. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LR155]

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of the resolution, Mr. President.

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

Floor Debate
May 30, 2013

[LR155]

PRESIDENT HEIDEMANN: LR155 does advance. Mr. Clerk, next item. [LR155]

ASSISTANT CLERK: Mr. President, next bill is LB613. The bill is on Select File. There are E&R amendments pending. (ER31, Legislative Journal page 815.) [LB613]

PRESIDENT HEIDEMANN: Senator Murante. [LB613]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB613]

PRESIDENT HEIDEMANN: All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB613]

ASSISTANT CLERK: Mr. President, the next item is a motion by Senator Chambers with a note he wishes to withdraw. [LB613]

PRESIDENT HEIDEMANN: Senator Chambers, do you wish to withdraw that amendment? So noted. Mr. Clerk. [LB613]

ASSISTANT CLERK: The next amendment was offered by Senator Krist, AM744, also a note to withdraw. [LB613]

PRESIDENT HEIDEMANN: So noted. [LB613]

ASSISTANT CLERK: Senator Chambers had FA37 with a note to withdraw. [LB613]

PRESIDENT HEIDEMANN: So noted. [LB613]

ASSISTANT CLERK: Senator Chambers then offered AM778. I also have a note to withdraw that. [LB613]

PRESIDENT HEIDEMANN: So noted. [LB613]

ASSISTANT CLERK: Senator Chambers, AM1077, note to withdraw, Senator. [LB613]

PRESIDENT HEIDEMANN: So noted. [LB613]

ASSISTANT CLERK: Senator Schumacher would offer AM1522. (Legislative Journal page 1614.) [LB613]

PRESIDENT HEIDEMANN: Senator Schumacher to open on your amendment. [LB613]

Floor Debate
May 30, 2013

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This amendment basically takes the original bill's authorization of a specific Tax Modernization Committee out because we've already just done that with the resolution. And it addresses the issue of...that was contained in the original bill of the power, investigatory power of the committee. It is based upon an analysis of what the situation is with the investigatory power now of legislative committees. And generally that authority is inherent in the Legislature, can be inferred from our rules, can be inferred from resolutions, but is nowhere clearly and concisely spelled out in the statutes nor is there a clear and concise procedure. The procedure is an assumed procedure for enforcing such a subpoena or for quashing such a subpoena or request for production of documents. But, again, it is not clearly spelled out anywhere. So this takes the necessity or the desirability of spelling out what is implied, inherent, or inferred right now and putting it in a clear section of our statutes. And it adds all committees, special and standing, to the committees which would have this procedure codified and there spelled out as to how to implement it and use it. It incorporates our present rules which require that at some point in the subpoena process the Executive Board would have to okay the issuance of subpoenas. It puts limitations on...or the ability for the Legislature to impose limitations on any of those kind of authorities to investigate in the resolution or statute creating it. It says that the litigation shall be expedited. Most likely it would be expedited anyway by the courts because it would be a legislative committee before them, but this clearly says to the court if one of these issues come up, expedite the proceeding so that it's put on the head of your docket and quickly disposed of. And it designates the District Court of Lancaster County as the proper place to do that even though that probably would be inferred or interpreted as the proper place to do it anyway. So what this does is puts in our statutes very clearly what likely exists already in a very clear set of rules that basically says the Legislature in the course of its duties can get the information it needs to make the decisions it needs to make. And it basically is a codification of what's existing but not existing in any place in a neat and clean place to find it and not clearly enforceable in a defined procedure. So with that, I'd ask for your support of LB613 as amended, and that would complete the tax modernization package as well as clarifying our ability to gain information into the processes we need to gain information into. Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Schumacher. (Visitors introduced.) Senator Adams, you are recognized. [LB613]

SPEAKER ADAMS: Thank you, Mr. President, members. Senator Schumacher, in my opinion, has laid out the rationale behind this. And if you refer to Rule 3, Section 21 of our rules, you will see there is description of subpoena power. And the importance of the Legislature in order to do its policy work to be able to gather information. So in effect what we are doing here is really putting into statute what is already in rule. But one of the real reasons I come to the mike is this, and I want to say this for the record, and I want to look at the eyes of a lot of senators that are going to be here far beyond me. It's

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

Floor Debate
May 30, 2013

important for the Legislature to be able to gather information. But the power of the subpoena that we're describing here, rarely ever used, is to the extreme, and I don't want it abused by this body, by any standing committee of this body, or by any special investigative committee created by statute or by resolution. It is a power that should be used with a great deal of discretion. And if you read the amendment, one of the critical components is that any committee, whether they be jurisdictional or special committee, has to come to the Exec Board first, and a vote of the Exec Board will determine whether that subpoena will be issued. That's necessary. Not that I think that a committee chair of any committee at any point in time could be abusive, but that is why we make rules, that is why we pass laws, the potential of abuse. It could happen and it shouldn't, it shouldn't. And hopefully what we're talking about here, the issue of subpoena will never be necessary. But if it is, this puts it in statute, puts in statute what is already in rule, and it should not be abused. Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Speaker Adams. (Visitors introduced.) Senator McCoy, you are recognized. [LB613]

SENATOR McCOY: Thank you, Mr. President, members. Would Senator Schumacher yield, please? [LB613]

PRESIDENT HEIDEMANN: Will you yield, Senator Schumacher? [LB613]

SENATOR SCHUMACHER: Yes, I will. [LB613]

SENATOR McCOY: Thank you. Senator, I just wanted to get a few things on the record just so we have some clarifications on AM1522. And I would agree with Senator Adams who just spoke that it should be used, the subpoena power, with great discretion. It is...just a couple of points of clarification that I had kind of been through since the amendment was posted I think yesterday or whatnot I had a question on. Is this a blanket subpoena that would be voted on by the Exec Board for a special or standing committee or is this each...would it be each individual subpoena would have to be voted on and approved by the Exec Board under the amendment? [LB613]

SENATOR SCHUMACHER: I believe that's in the Exec Board can approve a list of ten of them or can approve one at a time. That seems to me an Exec Board decision. [LB613]

SENATOR McCOY: Over whether it would be blanket. What I'm trying to find out is would this be an Exec Board voting to give a blanket subpoena power ability for that special or standing committee or it would have to be by individual subpoenas requested, I guess. Does that make sense? I don't seem to be able to discern that from the amendment. [LB613]

Floor Debate
May 30, 2013

SENATOR SCHUMACHER: I think that that probably is discretionary with the Executive Board as to whether or not it wants to say you can issue subpoenas for this particular kind of information or you can issue that particular subpoena. I think that would...and it really probably doesn't make a lot of difference because if the Exec Board wanted to issue a broad authority, could basically issue it for every subpoena asked for. [LB613]

SENATOR McCOY: And then another question I had, and I'm looking on page 2 of AM1522, is the ability to...the 30 days for information, is that automatically a requirement if a subpoena is voted on by the Exec Board or does the Exec Board vote, would the Exec Board vote on that 30-day time period? [LB613]

SENATOR SCHUMACHER: I believe the amendment says 30 days unless otherwise specified in the subpoena or something to that effect. [LB613]

SENATOR McCOY: Okay. I think that answers my question, Senator. I just wanted to make sure that I understood correctly what the intent of the amendment is. And I see Senator Chambers has his light on and I'm sure he probably has a historical perspective on subpoena power of the Legislature. Maybe he's going to address that. I don't know. I don't want to attempt to read his mind. But I think that answers my questions, Senator Schumacher, on the amendment. Thank you. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator McCoy. Senator Chambers, you are recognized. [LB613]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I feel so out of sorts today because I haven't had a chance to really rail, haven't had a chance to vent. I've worked in conjunction with Senator Janssen, and now here I am with Senator Schumacher. He put his name on this resolution and I put my name on his bill. We'll be linked in this effort forever. I think Senator McCoy's question was a good one. The Speaker's comments were right on target and we need that legislative history. When a committee will go to the Exec Board, it will behoove the chair of that committee to explain very...in a very detailed manner why in the first place a subpoena is necessary. But preliminary to that would be the showing that the information sought is essential and that there's no other way to get it other...no other practical way other than by subpoenaing the one who has that information. And I'm sure, as shaky as senators are, the Executive Board is not going to grant a committee a roving commission to do like they do in Congress and say, for example, I don't like something that the Attorney General has done. So I say I think the Judiciary Committee should subpoena him and let me grill him. That wouldn't go anywhere and it shouldn't. The remarks that I'm going to make now I had made on a different bill, but since they will apply to what we're doing here I might be somewhat repetitive. There should never be in anybody's mind that the Legislature serves a law enforcement function. We are not a part of law enforcement. Although we can exercise oversight through our budgeting process and gathering

Floor Debate
May 30, 2013

information, we do not enforce any laws. And that line of demarcation between the executive branch, the legislative branch, and the judicial branch should never be erased or even modified in any way. I know of only one time that a subpoena was issued by a committee of the Legislature. There was a time when the federal government was giving law enforcement assistant funds to the states. So the Judiciary Committee became the committee that would receive those funds, and I was selected as chairman of that committee. Well, I've always been concerned about high-speed police chases, especially in Omaha and Douglas County. So we were to have a study pursuant to a resolution of mine or however we did it in those days. And the sheriff of Douglas County did not want to testify and had made it clear he wouldn't. I believe Walt Radcliffe was the committee clerk at that time, so I told him to draft a subpoena directed to the sheriff of Douglas County, and I wanted him and his deputy to show up. And when the subpoena was delivered, the courthouse, a rumor mill. What happened spread like wildfire. That was the best attended hearing that ever any legislative committee had. The sheriff had to show up and he testified. [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR CHAMBERS: So that is the only time I can remember that that was done, and nobody condemned it at all. And in Douglas County they were glad that somebody brought that sheriff to heel because he thought he was accountable to nobody because he was elected and everybody took lo for him. But that was not a subpoena issued in rancor; there was information that was needed. The police provided it, everybody else, but the sheriff felt he didn't have to. Now I didn't shoot the sheriff or the deputy, but I had them both there. Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Nelson, you are recognized. [LB613]

SENATOR NELSON: Thank you, Mr. President, members of the Legislature. I stand in support of the amendment here to LB613. I do have a question or two of Senator Schumacher if he would yield. [LB613]

PRESIDENT HEIDEMANN: Senator Schumacher, will you yield? [LB613]

SENATOR SCHUMACHER: I sure will. [LB613]

SENATOR NELSON: Thank you, Senator Schumacher. I put at your desk a copy of a statute from 5406 and 5407. The first question I have is, is the committee if it feels that it needs to subpoena, issue subpoenas then, is that going to be on a blanket basis? Do they go in beforehand and say, and tell the Executive Board this is where we need to send subpoenas or are they going to have to do it one at a time? What do you contemplate there? [LB613]

Floor Debate
May 30, 2013

SENATOR SCHUMACHER: I contemplate most of the time it will be one at a time. But there are basically three tiers, hoops, that something has got to go through. First of all, the legislative resolution or statute creating the committee can limit or define that. Secondly, the committee itself by majority rule under our vote can ask for a group of subpoenas, one subpoena, or subpoena over a specific topic and array. And then, third, the legislative Executive Board can make a determination as to what is appropriate under those particular circumstances. This is basically...these subpoenas would not be an easy thing to get; it has to go through several of those hoops in order to clear the process, and most likely it would very rarely be used because when you have a clearly delineated process people don't push people to the limit, you have cooperation. [LB613]

SENATOR NELSON: All right. Thank you. Second question I have is that this is an amendment to basically to Section 5406. "Legislative Council; committees; subpoenas" books, and here you go in some detail to provide how it's going to be handled if there's disobedience or if there's...to compel or quash compliance with authority. And you say that the District Court of Lancaster County will handle that, correct? [LB613]

SENATOR SCHUMACHER: That's correct. Of course we... [LB613]

SENATOR NELSON: You go on then, and I've marked there the following section, 5407 where it talks about committee subpoenas and enforcements and refusal to testify, that section provides that the district court of any county, or the judge thereof on application, shall have jurisdiction. And I wonder if maybe we hadn't ought to take a look at that to see before we get to a final hearing on this whether there should be some amendment in there either...it would seem to me either Lancaster County District Court should handle all of these things with regard to disobedience or refusal to testify or things like that. Do you see what I'm talking about? I see a little inconsistency in the two sections. [LB613]

SENATOR SCHUMACHER: I understand what you're talking about. In the first paragraph of 407 though, that is the Legislative Council or committee of the council. This particular...would apply in that particular case. Committees as a whole, standing committees, would be in the District Court of Lancaster County. But I do see what you're saying and... [LB613]

SENATOR NELSON: But it does say on behalf of the council or any committee thereof. Now maybe that's just within the committee itself. Maybe you read it that way. [LB613]

SENATOR SCHUMACHER: Well, and quite frankly maybe that would be appropriate for a floor amendment to simply say instead of any county, Lancaster County, that would take care of that. [LB613]

Floor Debate
May 30, 2013

SENATOR NELSON: All right. [LB613]

SENATOR SCHUMACHER: But I do see your point. [LB613]

SENATOR NELSON: All right. Yeah. Thank you very much, Senator Schumacher. I... [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR NELSON: Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Nelson. Senator Campbell, you are recognized. [LB613]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. As Senator Chambers is so often instructing us and helping us, we often need to put things on the record so that we can look back and see what that testimony or information. I want to talk a little bit about the process of LR37 and I don't see Senator Lathrop around but he may at one point want to talk about the BSDC. And LR37 which was a review of the child welfare initiative, legal counsel to the committee and I considered using the subpoena section that is and was at that point in our rules and took a strong look at that in terms of two different avenues. One was whether we felt that we would need information from a state agency or whether we would need and/or information from individuals. I have to say that in all of our work in LR37 no matter what we ask of, and of course the primary agency here was the Department of Health and Human Services, no matter what information we asked for, the department replied and gave us that information in a most timely manner. We did consider it also for individuals, but two individuals that we had a particular interest in, one of them said: not a problem, I want to testify at the hearing in open session. The second individual was more than willing to meet with the committee but wanted to meet in Executive Session, which we did grant that request. I say all of this to support and underline what the Speaker talked about. I do not think that we should look at a blanket subpoena power for any committee or special committee. I think that it should be very clear on the record that that committee would have to identify specifically what information it was looking for and who those individuals might be or the agency. I think that the Legislature is owed that check and balance with the Executive Board that that's the information that that chairman should bring forward. I would have never felt comfortable going to the Executive board saying just give me blanket subpoena power and I can just start calling in whoever I want. I don't think that we want to go down that road. And we should use it very judiciously. In the cases that I described to you, I had conversations with both the agency head and the individuals. And so I knew exactly what information we were looking for and how we would get that information for the use in our study. So for the record, I would say that I think the Exec Board should require very specific information. I appreciate Senator

Floor Debate
May 30, 2013

Schumacher bringing this forward. There's not a doubt that that tool needs to be there for our work and our oversight work particularly. But it is not a tool that should be used very often. Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Campbell. Senator Krist, you are recognized. [LB613]

SENATOR KRIST: Thank you, Mr. President and members of the Legislature, and again good morning, Nebraska. I was involved with part of the discussion process with Senator Schumacher, Senator Chambers, and the Clerk, and Senator Wightman obviously. And I believe from our conversations that obviously this is the right thing to do, putting the rule and harmonizing the statute with the rule because it does not exist and it needs to exist. But, colleagues, I think this is the most important part of this whole amendment is page 2, line 9, begins a process whereby...I'm sorry, line 4, begins a process whereby as Senator Campbell and Senator Adams have said eloquently, this should be the tool of last choice, a last resort to achieve the coordination and attain the testimony that is needed. But, again, the strongest part of this in my mind starts on line 4, "Litigation to compel or quash compliance with authority exercised pursuant to this section shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal" in ten days, ten days. Because if you are having a problem coordinating and getting the testimony that you do need, it could stop a whole interim process. If it's allowed to go through the court system in a normal time frame, it could kill your interim study. So as a last resort, this is the strongest piece. And that says to our other branch of government we are having an issue fulfilling our constitutional obligation and we need you to make sure that this happens and the judge then will have ten days to come back and do it. And I think that needs to be stated very clearly for the record because as a tool of last resort, you're probably going to be in a position where you may have issue, and then we go to the court system. We don't do this, as Senator Chambers said, we don't enforce the law. We make the law. And so with that, I would hope that that would be clear as legislative intent with regards to this amendment. Thank you, Mr. President. [LB613]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Thank you, Senator Krist. Senator Chambers, you're recognized. [LB613]

SENATOR CHAMBERS: Thank you, Mr. Speaker. We should keep in mind that there is subpoena power that exists right now in statute, in our rules. As I mentioned in the example, I had utilized it. It's a tribute to Senator Schumacher and those who worked with him that they want to put into the statute a clear picture in terms of the limitations on the Legislature itself in using this authority, and not intending to disparage the body as an institution. The Legislature is not known for being overly bold or overly burdened

Floor Debate
May 30, 2013

with courage and aggressiveness, so I doubt that there is any Executive Board which would just give what has been called that roving commission to a committee to just go rogue, r-o-g-u-e. I don't think that will happen at all. And I think the discussion has been very good. I always believe in playing by the rules, and sometimes I will anticipate or try to anticipate what road block might occur. Years ago, I was a member of the Legislature at that time. There was a big investigation of gambling in Omaha and Douglas County, and the federal people were involved. There was a grand jury and some indictments were going to be handed down or had been. Reference was made to certain state officials including judges, but none had been indicted. I wanted to find out if any judges had been involved, been close enough to it to have violated their ethical requirements but not sufficiently involved to be indicted. So I wanted to petition the federal grand jury for the release of information involving those state officials. So the first thing I knew I would have to do is show that there's a reason and a basis in law for information of that kind to be granted to anybody. So I hung my hat, which I didn't wear and maybe if I had one like that straw hat Senator Haar (phonetic) had put on the head of Senator Pirsch and he never looked so stately in his life, and it was a straw hat like that of a carnival barker as somebody said. But, anyway, to hang my hat. The constitution empowers the Legislature to impeach any constitutional officer, any civil officer. And I pointed out that judges and these unnamed state officials could have fallen in that category, the judges for sure. But that wasn't enough in my mind. I went to the Judiciary Committee and persuaded the committee--Senator Roland Luedtke was the chairman at that time--to authorize me on behalf of the committee to seek this information. Then I came to the Legislature to get a resolution passed to authorize me to seek it in the name of the Legislature in case the committee didn't have sufficient standing. I was known by law enforcement people, federal, state, and local, and judges, and I was not popular. So when I stood before the judge, not to be tried, not to be charged, but seeking this information, he said, well, I see that Senator Chambers crossed all the t's and dotted the i's. He got authorization from the Judiciary Committee. [LB613]

SPEAKER ADAMS: One minute, Senator. [LB613]

SENATOR CHAMBERS: He has a resolution from the Legislature. And, in fact, the Legislature is given the charge to bring impeachment proceedings. So he would take it under advisement, and when he came back to give me the information, he said he would not release any information but he would tell me that no Nebraska official in any capacity who would be subject to impeachment was involved in any way in this investigation or the wrongdoing, which was what I wanted. So when you follow the rules, you can bring about cooperation from people who may not even like you. In this setting, we are not going to use the subpoena power because we dislike somebody; it's going to be used because we need to get essential information. Thank you, Mr. Speaker. [LB613]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Schumacher, you're

Floor Debate
May 30, 2013

recognized. [LB613]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. I think as Senator Chambers just pointed out, hopefully this subpoena power and what we're talking about here will never be used. But because it's there, voluntary cooperation will be had. And because it's clearly there, there will be no need for any kind of interpretive litigation in order to make things happen. It's probably there already buried in the rules and in the inferences and in the implicit things that are inherent in legislative bodies. But it's there. And it is there with ample precautions to protect the interest of the system. The initial resolution or statute creating it can specify particulars, has to pass a majority of the committee, has to pass a majority of the Executive Board. So the Legislature here internally is very clearly spelling out the necessary steps in order for these kind of investigations to go forward if it should ever come to the point where the exercise of this authority is necessary. And that being the case, this is something that augments not only the tax commission we just approved, but future committees, existing committees, and it makes a clear set of rules. Senator Nelson did point out a very...a little inconsistency between this chapter or this particular section of the chapters and a subsequent one in that this one calls for Lancaster County District Court which is I think where we want to be because we don't want to have to have state officials running around the state to...for litigation purposes. The Lancaster County District Court is in this particular amendment while other statute refers to any court. And so I'm having drafted a amendment which it looks like if we...it is not prepared by the time we're willing to take a vote on this thing, we can add on Final Reading that says this will be all done if necessary in Lancaster County. And thank you, Mr. Speaker. [LB613]

SPEAKER ADAMS: Thank you, Senator Schumacher. Senator Schumacher, there are no other lights on. You are recognized to close on your amendment if you'd like. [LB613]

SENATOR SCHUMACHER: Thank you, Mr. Speaker. I think everything about what needs to be said has been said. This is a clarification, a codification of what exists inherently, exists implicitly, and is implied by the very nature of our rules and our resolutions. But it codifies it. It sets up a clear procedure as to how things are to be done. It has inherent protections for the interest of all parties. And it enables the Legislature to get that information that it needs to, mostly likely in a very cooperative way, because knowing that authority is there always makes it very, very incentivized for people to cooperate. With that, I'd ask your vote green on the advancement of LB613, and the little anomaly that Senator Nelson pointed out we can take care of quickly on Final Reading. Thank you. [LB613]

SPEAKER ADAMS: Thank you, Senator Schumacher. Members, you have heard the closing on FA1522 to LB613. The question is, shall the amendment to LB613 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB613]

Floor Debate
May 30, 2013

ASSISTANT CLERK: 38 ayes, 1 nay on the adoption of Senator Schumacher's amendment. [LB613]

SPEAKER ADAMS: The amendment is adopted. We now return to discussion on LB613. Senator Chambers, you are recognized. [LB613]

SENATOR CHAMBERS: Mr. President, I just want to add something tailgating on what Senator Schumacher said about the mere existence of that power leading some people to cooperate. There are also situations where employees want to say something and some officials, but they don't want to come as a volunteer and they will ask that you issue a subpoena. Then when the subpoena is issued and they come, you don't have to try to pressure information out of them because they want to give it. So there are a lot of circumstances in which a subpoena will issue that do not involve an adversarial relationship at all. That's all that I have and I will support this bill. Thank you, Mr. President. [LB613]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Nelson, you're recognized. [LB613]

SENATOR NELSON: Thank you, Mr. President, members of the body. After my discussion with Senator Schumacher about the next section in the statute 5407, I was in the process of preparing a floor amendment and he's already having something done. So I understand that that's only a minute or so away. So, again, the floor amendment that I prepared, and I'm not going to offer inasmuch as Senator Schumacher is handling it, is that if we're going to, in Section 5406, go into detail about how things will be handled in the event that someone refuses to testify or appear that it should be handled by the District Court of Lancaster County. And, therefore, the amendment as I think that it will be presented will provide as a matter of consistency that any time this happens with the committee of a whole itself, or the legislative committee, that it would be addressed and presented before the District Court of Lancaster County. And that gives us consistency here in all matters whether it's the council itself or whether it's a committee authorized by the council. Thank you, Mr. President. [LB613]

SPEAKER ADAMS: Thank you, Senator Nelson. Mr. Clerk, is there an amendment? [LB613]

ASSISTANT CLERK: Mr. President, Senator Schumacher would move to amend. (AM1548, Legislative Journal page 1702.) [LB613]

SPEAKER ADAMS: Senator Schumacher, you are recognized on your amendment. [LB613]

Floor Debate
May 30, 2013

SENATOR SCHUMACHER: Thank you, Mr. Speaker. Members of the body, just briefly, this particular amendment instead of in a later section of the statutes where it now refers to the district court of any county would be involved in deciding cases under this particular provision, it now will be consistent and say the District Court of Lancaster County so that we are consistent throughout the statutes. And I thank Senator Nelson for reading down farther in that particular chapter and catching that anomaly. I would ask for your support of AM1548 to clear up that anomaly and that will save us some time on Final Reading. Thank you. [LB613]

SPEAKER ADAMS: Thank you, Senator Schumacher. The floor is now open for discussion on the amendment. Senator Chambers, you're recognized. [LB613]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I also want to thank Senator Nelson for what he brought. And this is when I think you can see an example of the Legislature functioning in the way that it should. No person is likely to cover every base when you're dealing with a situation like this. And when people who have special knowledge and training will review the legislation and offer these corrective provisions, we come up with a work product that we can all look at and say this is the way the Legislature intended it, the language that is used says it, and it means what it says. And I just wish that on other bills dealing with other areas we would take this kind of interest. And nobody who has legislation pending should be offended that others are going to offer the expertise or even opinions or ask the questions. That's what we are supposed to do. Fortunately, this bill is not dealing with a subject where ideology enters into it. We're dealing with a technical matter. Whether you're a Democrat or a Republican, whether you are whatever liberal means or conservative, will have nothing to do with what it is we're considering. And I know it's a pipe dream to hope or wish that this kind of attitude could be present no matter what we're discussing, but I'll tell you another reason we're so fortunate. In addition to having "Professor" Schumacher driving the coach, there is nobody in the lobby who has an interest one way or the other. Do you see how peacefully things are done when the lobby has no interest and no concern? I've noticed on the votes because I pay attention to what goes on around here for future reference, we have had a good attendance here on practically everything that has occurred. The number of votes that will spring up on the board has surprised me. But when we take control of our realm of work and take control of our work, it doesn't mean we won't listen to people on the outside, but that's exactly what they are--people on the outside. We have the vote; they don't. And our responsibility, first and foremost, is to the public that we represent. We're elected by districts but our title is state senator. We should place the interests of the state first. And I don't mean to the exclusion of human and personal rights. I'm not talking about that. We are not here to represent counties. We're not here to represent cities, villages, or any other type of municipality. We represent people. And that's why when district boundaries are drawn, they don't say how many cities do you have, how many counties, how many people. And if we could, which we can't, keep that in mind, which we won't, then we do a lot better, which we're

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

Floor Debate
May 30, 2013

not going to, because after today and this issue is gone, we're going to get back to our old acrimonious selves. The... [LB613]

SPEAKER ADAMS: One minute. [LB613]

SENATOR CHAMBERS: I don't know if somebody was clearing their throat because they had to or if they were trying to tell me, "Um-hum, and you're going to be right in the middle of it." But that will happen, to some extent, during the remainder of the day. But the two combatants: I won't say who the protagonist, who the antagonist would be; but we will be antagonistic toward each other on the issue but not toward each other as people. One of the combatants will be dressed very similar to the people in the district he represents. The other will represent the aspirations of the people he represents, because he's dressed in a way that maybe a lot of people would like to dress but they wouldn't dare. I'm looking at his coat; I'm looking at the color of his shirt, his necktie, and if... [LB613]

SPEAKER ADAMS: Time, Senator. [LB613]

SENATOR CHAMBERS: ...(microphone malfunction) Mr. President. [LB613]

SPEAKER ADAMS: Senator Carlson, you're recognized. [LB613]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I do rise in support of AM1548 and LB613. But before we have that vote, I'd like to address Senator Chambers, if he would yield. [LB613]

SENATOR CHAMBERS: Yes. [LB613]

SPEAKER ADAMS: Senator Chambers, would you yield? [LB613]

SENATOR CHAMBERS: Yes. [LB613]

SENATOR CARLSON: Senator Chambers, in your previous testimony you talked about tailgating with Senator Nelson. Have you ever been to a tailgate party? [LB613]

SENATOR CHAMBERS: I've heard about them, but I've never been to one; I will never go to one, have no desire to be at one. And if I were there, somebody should put a net over me and get that \$15 that they get as a bounty for bringing somebody to the psych ward. [LB613]

SENATOR CARLSON: Senator Chambers, I'm glad I've got, still, about four minutes left, because that was kind of a long answer. Senator Chambers, do you agree that the Good Book tells us about the importance of having fellowship with one another?

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

Floor Debate
May 30, 2013

[LB613]

SENATOR CHAMBERS: Well, it depends on which "good book" you're talking about; I've read many of them. [LB613]

SENATOR CARLSON: Okay, I know you know which book I'm talking about and you agree with that. So, Senator Chambers, I'm going to see to it next fall that you get invited to a tailgate, and I just hope that you would come. Thank you. [LB613]

SENATOR CHAMBERS: Okay. (Laugh) [LB613]

SPEAKER ADAMS: Thank you, Senator Carlson. Senator Schumacher, there are no other senators in the queue. Senator Schumacher waives his opportunity to close. The question is, shall the amendment to LB613 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB613]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of Senator Schumacher's amendment. [LB613]

SPEAKER ADAMS: The amendment is adopted. Discussion now returns to LB613. Senator Schumacher, there are no lights on; you are recognized to close on the bill. [LB613]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. LB613, as amended, codifies what likely is the law and procedure found in many inferences, implications, and inherent powers of the Legislature. It lays out clearly for all of our committees the mechanism by which we can get information and do our job. I would encourage everyone to vote and we can now find these rules simply and clearly set forward in our statute books. Thank you. [LB613]

SPEAKER ADAMS: Thank you, Senator Schumacher. And we are on Select. Senator Murante, for a motion. [LB613]

SENATOR MURANTE: Mr. President, I move to advance LB613 to E&R for engrossing. [LB613]

SPEAKER ADAMS: Members, you have heard the motion. All those in favor indicate aye. Opposed. It does advance. Mr. Clerk. [LB613]

ASSISTANT CLERK: Mr. President, a series of items. LB34 and LB545 were presented to the Governor at 9:38 this morning. An interim study offered by the Retirement Committee, LR369. New resolution LR370, by Senator Mello; that will be laid over. Your committee on Enrollment and Review reports LB224 as correctly engrossed and LR155

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

Floor Debate
May 30, 2013

as correctly enrolled. Name adds: Senator Schumacher to LR155, Senator Chambers to LB613. (Legislative Journal pages 1702-1706.) [LB34 LB545 LR369 LR370 LB224 LR155 LB613]

A priority motion: Senator Gloor would move that we recess until 1:30 p.m.

SPEAKER ADAMS: Members, you have heard the motion to recess until 1:30. All in favor indicate by aye. Opposed. We are in recess. [LB613]

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. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

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

ASSISTANT CLERK: Not at this time.

SENATOR KRIST: Thank you, Mr. Clerk. We'll proceed to the first item on this afternoon's agenda.

ASSISTANT CLERK: Mr. President, next item on today's agenda: LB574, introduced by Senator Harr. (Read title.) The bill was read for the first time on January 23 of this year, referred to the Committee on Revenue. That committee reports the bill to General File with committee amendments. (AM446, Legislative Journal page 807.) [LB574]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Harr, you're recognized to open on your bill. [LB574]

SENATOR HARR: Thank you, Mr. President and members of the body. I bring LB574 in reaction to an 8th Circuit ruling, In re: MBA Poultry LLC as the debtor, Dapec Inc. as the appellant v. Small Business Administration, City of Tecumseh, Money Store, Bird Watchers LLC. And it can be found at 291 F.3d 528. This case brought to light an issue that unpaid sewer and water bills were not considered special assessments. Current state statutes allow a municipality to collect sewer bills and water bills in the same way as it collects other taxes, but it does not specifically address levying or collecting special assessments. Without the special assessment designation, a lien on the property loses its priority and makes it more difficult or impossible to collect for a city, village, or town.

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

Floor Debate
May 30, 2013

LB574 amends approximately 48 sections of statutes which describe and define the administration of special assessment. The bill clarifies statutory language permitting all cities of all classes, villages, counties, sanitary...to levy special assessments for improvements made by political subdivisions which benefit individual properties. LB574 amends statutes relating to the collecting of assessments on infrastructure projects and nuisance abatements to clarify that collections are, in fact, special assessments. Special assessments differ from taxes generally in that they are directed at property which has received a specific benefit from public improvement. Nebraska law currently, under 77-209, provides: a special assessment "shall be a lien on the real estate on which assessed, and shall take priority over all other encumbrances and liens thereon except the first lien of general taxes." Retaining a priority on special assessments will help cities collect overdue payments for infrastructure projects and nuisance abatements that benefit that specific property. Without the priority, taxpayers as a whole will end up paying for the cost or benefit to that specific property. No one appeared in opposition of this bill. And the Revenue Committee voted 6-0 to vote it out. I want to thank the Speaker, I think, for making this a priority. I would ask for your patience, and I would entertain any questions that anyone may have. Thank you. [LB574]

SENATOR KRIST: Thank you, Senator Harr. As the Clerk stated, there are amendments from the Revenue Committee. Senator Hadley, as the Chair, you're recognized. [LB574]

SENATOR HADLEY: Mr. President and members of the body, the amendment from the Revenue Committee basically deletes four sections of the bill. And the reason for that is...the first one dealt with natural resources districts, and it's basically...it is not needed to be changed since they...it is an appropriate dealing with the NRDs. The other items were special improvement areas assessments, joint solid waste agencies assessment and charges, and cities of the metropolitan class sewage special assessments, and assessments by a county for a usage fee charged by the county government under the County Industrial Sewer Construction Act. These are all fees. They're a different type of transaction than the normal assessment, and they are not special assessments in the same sense, so they do not belong in this particular bill. Thank you, Mr. President. [LB574]

SENATOR KRIST: Thank you, Senator Hadley. You've heard the opening on the committee amendment AM446 and on LB574. (Visitors introduced.) Mr. Clerk. [LB574]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend the committee amendments. [LB574]

SENATOR KRIST: Senator Chambers, you are recognized. [LB574]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, as I've

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

Floor Debate
May 30, 2013

said on any number of occasions, when I'm out to kill a bill, I will make that clear. That's what my intention is, to not let this bill move. And such being the case, it's not necessary that I pretend to be doing something other than what I am. What the committee amendment does is to strike three sections from the bill. They are numbered...and they're identified as "original sections." They are numbered 1, 2, 6, and 52. I would like to start by asking the introducer, Senator Harr, a question. [LB574]

SENATOR KRIST: Senator Harr, will you yield? [LB574]

SENATOR HARR: Yes. [LB574]

SENATOR CHAMBERS: Senator Harr, do you agree with this amendment, the committee amendment? [LB574]

SENATOR HARR: With the committee amendment, yes. [LB574]

SENATOR CHAMBERS: Have you read Section 1 of the bill? [LB574]

SENATOR HARR: I have. [LB574]

SENATOR CHAMBERS: You have? [LB574]

SENATOR HARR: I have. [LB574]

SENATOR CHAMBERS: You read it all. [LB574]

SENATOR HARR: In lieu of what was coming, I tried to be prepared; so, yes. [LB574]

SENATOR CHAMBERS: So you read all of it. [LB574]

SENATOR HARR: We had a long Final Reading day yesterday. [LB574]

SENATOR CHAMBERS: Thank you. I would like to ask Senator Bloomfield a question. [LB574]

SENATOR KRIST: Senator Bloomfield, will you yield? [LB574]

SENATOR BLOOMFIELD: Yes. [LB574]

SENATOR CHAMBERS: Senator Bloomfield, have you looked at this bill at all? [LB574]

SENATOR BLOOMFIELD: I have looked at it; I have not read it in its entirety. [LB574]

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

Floor Debate
May 30, 2013

SENATOR CHAMBERS: Thank you. I would like to ask "Professor" Schumacher a question. [LB574]

SENATOR KRIST: Senator Schumacher, will you yield? [LB574]

SENATOR SCHUMACHER: I sure will. [LB574]

SENATOR CHAMBERS: "Professor," as a mentee of the esteemed "professor," I would like to ask you a question. Have you looked at this bill? [LB574]

SENATOR SCHUMACHER: I've looked at it. [LB574]

SENATOR CHAMBERS: Have you read Section 1 of the bill itself? [LB574]

SENATOR SCHUMACHER: I think I did way back when, but I couldn't take a test on it right now. [LB574]

SENATOR CHAMBERS: Thank you. That's all I would...members of the Legislature, this is going to be a long, tedious process. So I think since I am going to move to strike a section from the bill, that section should be before everybody. And I'm going to put myself in the position of the Clerk, who comes upon a Final Reading bill which he must read. On page 3 of this bill...first of all, I would like to ask Senator Hadley a question. [LB574]

SENATOR KRIST: Senator Hadley, will you yield? [LB574]

SENATOR HADLEY: Yes, I will. [LB574]

SENATOR CHAMBERS: Senator Hadley, are you the Chairperson, still, of the committee that heard this bill? [LB574]

SENATOR HADLEY: Yes, I am. [LB574]

SENATOR CHAMBERS: And what is the name of that committee? [LB574]

SENATOR HADLEY: The "Fighting" Revenue Committee. [LB574]

SENATOR CHAMBERS: I like that. [LB574]

SENATOR HADLEY: (Laugh) [LB574]

SENATOR CHAMBERS: Did you read this first section of the bill in its entirety? [LB574]

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

Floor Debate
May 30, 2013

SENATOR HADLEY: As...I will plead the same thing Senator Schumacher did. When we originally had the bill, I did read it. [LB574]

SENATOR CHAMBERS: Thank you. That's all I will ask. Beginning on page 3, in line 3--and I have my light on--it says the following: 2-3254, parenthesis, number (1), "The board shall hold a hearing," and, by the way, we're not under call. But we are underpaid. "The board shall hold a hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the establishment of or altering the boundaries of an existing improvement project area and the undertaking of such a project, upon the question of the appropriate boundaries describing affected land, upon the propriety of the petition." I'd like to ask Senator Harr a question if he's still here. [LB574]

SENATOR KRIST: Senator Harr, will you yield? [LB574]

SENATOR HARR: Yes. [LB574]

SENATOR CHAMBERS: Senator Harr, what petition is being referred to here? [LB574]

SENATOR HARR: Sorry, I was...I stepped away for a second to ask a question. So you're on line 3? [LB574]

SENATOR CHAMBERS: I'm on line 9 now, where it's referring to... [LB574]

SENATOR HARR: Okay. [LB574]

SENATOR CHAMBERS: ...a petition, "upon the propriety of the petition." What petition is being referred to here? [LB574]

SENATOR HARR: This is in regard to a project, a special project. [LB574]

SENATOR CHAMBERS: But the petition is what I'm interested in. [LB574]

SENATOR HARR: Yeah, it would be in regard to a special project, and you would... [LB574]

SENATOR CHAMBERS: Who files the petition? [LB574]

SENATOR HARR: What's that? [LB574]

SENATOR CHAMBERS: Who files this petition? Is it filed? [LB574]

SENATOR HARR: The board. It looks as though the board would file it. [LB574]

Floor Debate
May 30, 2013

SENATOR CHAMBERS: I think it says, "The board shall hold a hearing." [LB574]

SENATOR HARR: Yeah. [LB574]

SENATOR CHAMBERS: So the board is not filing the petition, is it? Or you're not sure. [LB574]

SENATOR HARR: Well, the board could...it appears to. I will get ahold of the statute book and look up what this comes before and after. The pertinent part of that is later, on page 6, regarding the use of the assessment tax. What happened is...and it goes back to what this case is about, is that we...originally it said that these taxes and special assessments shall be treated as similar to...in the same manner, I think, is the exact language. And so what we're trying to do is saying, instead of the same manner, they are in fact; not just in the same manner. [LB574]

SENATOR CHAMBERS: But, Senator, you're getting ahead of me; I'm only on page 3 of the bill. And there is language here about "boundaries," altering "boundaries of the existing improvement project area and the undertaking of such a project, upon the question of the appropriate boundaries describing affected land," and then, "upon the propriety of the petition." What petition is this; who files it; and where is it filed, if you know? [LB574]

SENATOR HARR: Again, the petition is not what we're changing. The board...if you look later, it has to do with the payment of dues; we're not talking about petitions. That's in there because you have to put the whole section. We're not touching those boards; we're not going after that at all. [LB574]

SENATOR CHAMBERS: I know. But I want to deal with...since I'm trying to strike this provision, I'd like an understanding of the provision, because an explanation may change my mind. [LB574]

SENATOR HARR: Okay. [LB574]

SENATOR CHAMBERS: Are you...you're not sure right at this moment of this particular petition? [LB574]

SENATOR HARR: No, I'm getting a copy of the statute. [LB574]

SENATOR CHAMBERS: All right, then I'll proceed, and then I'll come back. Continuing, "...and upon all relevant questions regarding such inquiries. When a hearing has been initiated by petition..." When the hearing has been initiated by petition, such hearing shall be held within 120 days of the filing of such petition." So had we read those two

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

Floor Debate
May 30, 2013

additional sentences, we would know that a petition is filed, and the hearing mentioned is going to be upon that petition, and within 120 days of the filing of such petition, the hearing should be held. Do you agree so far? [LB574]

SENATOR HARR: Are you speaking to me? Yes, I do. [LB574]

SENATOR CHAMBERS: With what I've read? Okay. [LB574]

SENATOR HARR: I always agree with you, Senator. [LB574]

SENATOR CHAMBERS: Now, we continue. We've got the petition; it's been filed; within 180 (sic) days of the filing, there must be this hearing. Continuing, "Notice of such hearing shall be published prior thereto once each week for three consecutive weeks in a legal newspaper published or of general circulation in the district." What district...what are they talking about when they say "district"? [LB574]

SENATOR HARR: That would be within the water districts. [LB574]

SENATOR CHAMBERS: The water district? [LB574]

SENATOR HARR: Yeah. [LB574]

SENATOR CHAMBERS: Are you sure? [LB574]

SENATOR HARR: Well... [LB574]

SENATOR CHAMBERS: This is Section 1. Do you feel like you're in deep water? [LB574]

SENATOR HARR: I have the statute book right here. [LB574]

SENATOR CHAMBERS: All right. [LB574]

SENATOR HARR: And if you'd like, I can read it to you. [LB574]

SENATOR CHAMBERS: Well, if you look at your copy of the bill, you can see it printed in the bill. [LB574]

SENATOR HARR: Well, but the bill only touches one part of the statute book. [LB574]

SENATOR CHAMBERS: But what I'm... [LB574]

SENATOR HARR: And I use this as my Bible, my "Bibble." [LB574]

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

Floor Debate
May 30, 2013

SENATOR CHAMBERS: Okay, but what I'm asking you...okay, so then do you have Section 2-3254? Is that what you're looking at? [LB574]

SENATOR HARR: Yeah, I do. [LB574]

SENATOR CHAMBERS: All right. Now does your copy of the statute book itself begin with these words... [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR HARR: Yes, it is the exact same. This is the natural resources districts. [LB574]

SENATOR CHAMBERS: ..."The board shall hold a hearing"? So what I'm reading is the same as what's in the statute book. [LB574]

SENATOR HARR: Yeah. Yeah. [LB574]

SENATOR CHAMBERS: All right, now having read it in the statute book instead of the bill book, what new information did you get from reading it there? [LB574]

SENATOR HARR: That the districts referred to are the natural resources districts. [LB574]

SENATOR CHAMBERS: All right. And what is the petition that is being discussed here? [LB574]

SENATOR HARR: The petition being discussed is for improvements within a project area. [LB574]

SENATOR CHAMBERS: Who files the petition? [LB574]

SENATOR HARR: That is...I am looking for that, actually. [LB574]

SENATOR CHAMBERS: All right. This is very exciting. [LB574]

SENATOR HARR: I'm glad it is for you. (Laugh) It looks as though the board members bring it themselves. [LB574]

SENATOR CHAMBERS: And with whom is the petition filed? [LB574]

SENATOR KRIST: Time, Senators. [LB574]

Floor Debate
May 30, 2013

SENATOR CHAMBERS: Thank you, Mr. President. [LB574]

SENATOR KRIST: Thank you, Senator Chambers and Senator Harr. And, Senator Burke Harr, you are up next. [LB574]

SENATOR HARR: Thank you, Mr. President. So, again, ladies and gentlemen, we can play games, and we're going to have some fun, I hope, this afternoon, hopefully, not all at my expense. But what we want to look at is the underlying purpose of this bill, is, if you look at our state constitution, if you look at Article VIII, Section 6: local improvements of cities, towns, and villages. So this is...constitution says: The Legislature may vest the corporate authorities of cities, towns, and villages with the power to make improvements by special assessment or by special taxation of property benefited. Then, based on that, there was a statute passed that was used in reliance; that's what we're going at. These statutes were passed in reliance of this constitutional amendment. It goes back to this 8th Circuit Court opinion that says, While Nebraska law gives MBA Poultry's unpaid sewer and water bills automatic priority, those bills may still be liens. What it says is that this doesn't give us the proper power, the language isn't correct. So I don't think you need to read the whole statute. What we're doing is looking at what prior legislative sessions have done. And you'll see in here there's a lot of just changing of a couple of words to making sure that it's clear that it's a special assessment. And why that's important is, if you have a neighbor whose lawn is not mowed and it's a nuisance, you're going to get wild animals in there, you're going to get snakes in there, and it's going to attract vagrants. We want a clean community. You know, New York City sits there and talks about a couple years ago Mayor Giuliani did the...clean the broken...or "fix the broken windows" mentality. If you fix the broken windows, make a community look nicer, people are going to want to come back. That's what this is about. So we want to make sure that that landowner who is not properly taking care of his property, which is now affecting taxpayers' property around there...city comes in and says, hey, you violated the law; we're going to mow that; we're going to make it look nice. That benefit is to the person who owns that property because they violated...that's their fine; they now have to pay for that lawn to be mowed. It's a specific benefit to that property. And we want to make sure that that city is reimbursed, because we want to make sure our cities, counties, villages, and towns do what they're supposed to do, which is to keep up and make it looking nice. We want utility lines to these homes. If you get a utility line to your home, we want to make sure that they're reimbursed. This is very important. If there's water...if these aren't paid for, folks, if that person doesn't pay for it, it's not as though it just evaporates. This is similar to Medicaid expansion, insofar as if there is not money...if that hospital...you don't have that insurance policy, that's what this is, to make sure that that person pays, and they get first lien, guess what happens? All of us pay, all of us. All, as taxpayers, pay for that service, just like a hospital bill. If you don't have the insurance, all of us pay for it, one way or another. So the question with this bill is...we have the constitutional ability to do

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

Floor Debate
May 30, 2013

what I'm trying to do; it's in the constitution that says cities can levy this special assessment. The question is, we need the enabling legislation; that's what this is. This enables our constitution to act in the way that it was intended. [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR HARR: Thank you. We're going to go through this line by line. I ask for your patience. I'm not going to pretend that I am an expert in all sections of this law. So bear with me, have some patience as I...I have read the bill, but I haven't read the surrounding statutes, so it will take me...and I will fumble a little, but I ask for your patience and we can get through this together. Thank you. [LB574]

SENATOR KRIST: Thank you, Senator Harr. Senator Chambers, you are recognized. [LB574]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I really like Senator Harr's attitude about this arduous journey which we are about to undertake, but I have to deal with him, if I may, on a few of the things he said about the constitution and other matters, if I may, if he would yield. [LB574]

SENATOR KRIST: Senator Harr, will you yield? [LB574]

SENATOR HARR: I would yield. [LB574]

SENATOR CHAMBERS: Senator Harr, you said something about this bill allowing the constitution to work the way it's supposed to. [LB574]

SENATOR HARR: Intended, yes. [LB574]

SENATOR CHAMBERS: Intended to. What does that mean? Because the constitution is not affected; the constitution is working the way it's intended to. Who did not do what was necessary to be done to bring about the result that you're trying to get today? [LB574]

SENATOR HARR: Well, so the Section 4, Article VIII, doesn't have enabling language. Why that is, I can't tell you. It was based on an amendment in 1972. [LB574]

SENATOR CHAMBERS: Well, let me ask you this, then, to simplify, so you don't have to go line by line through what you're doing. Enabling legislation, with the key word being "legislation," who has the authority to legislate on all subjects, based on the constitution? [LB574]

SENATOR HARR: That would be the legislative branch. [LB574]

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

Floor Debate
May 30, 2013

SENATOR CHAMBERS: Thank you. You're correct. Has the Legislature undertaken to act on this issue which your bill is dealing with today? [LB574]

SENATOR HARR: Have they...no, they've acted. [LB574]

SENATOR CHAMBERS: I didn't understand you. [LB574]

SENATOR HARR: I think you asked, have they acted on this? The answer is "yes." [LB574]

SENATOR CHAMBERS: Yes, have they acted on this issue? [LB574]

SENATOR HARR: Previously, yes. Previous legislation has. [LB574]

SENATOR CHAMBERS: Well, if they've acted on it previously, aren't we wasting our time by doing something that's superfluous? It's already been done, hasn't it? [LB574]

SENATOR HARR: Well, as you are aware, the judicial branch gets to interpret our legislation. And when they interpreted the legislation that was enabling language, they said, you need to be a little more specific. [LB574]

SENATOR CHAMBERS: In other words, the Legislature didn't do it correctly. Is that right? [LB574]

SENATOR HARR: That's what I would say, yes. [LB574]

SENATOR CHAMBERS: Okay, so then my original question was, not that the constitution is failing to act in the way that it should, or function, it's the Legislature which incorrectly acted that brought us to where we are today, is that correct? [LB574]

SENATOR HARR: That's what the courts have ruled, yes. [LB574]

SENATOR CHAMBERS: I'm going to forget that little sidelight you threw in about the courts, but before I do that, let me ask you a question. When the final word is going to be given on a statute which has been brought into question and made subject of a lawsuit, who has the final word on what that statute means? [LB574]

SENATOR HARR: The Supreme Court. [LB574]

SENATOR CHAMBERS: And which court made the determination you said, because it was not the Supreme...it was not the U.S. Supreme Court. [LB574]

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

Floor Debate
May 30, 2013

SENATOR HARR: No. [LB574]

SENATOR CHAMBERS: Which court did it? [LB574]

SENATOR HARR: This was a federal circuit court that interpreted. [LB574]

SENATOR CHAMBERS: Which circuit? [LB574]

SENATOR HARR: What's that? [LB574]

SENATOR CHAMBERS: The 8th U.S. Circuit... [LB574]

SENATOR HARR: Well, I always say 7 when it's 8, but... [LB574]

SENATOR CHAMBERS: ...which is not the Supreme Court, is it? [LB574]

SENATOR HARR: What's that? It is the 8th Circuit, yes. [LB574]

SENATOR CHAMBERS: But the 8th Circuit is not the U.S. Supreme Court, is it?
[LB574]

SENATOR HARR: No. [LB574]

SENATOR CHAMBERS: Was this matter appealed to the U.S. Supreme Court?
[LB574]

SENATOR HARR: That I cannot tell you. [LB574]

SENATOR CHAMBERS: Well, if it hasn't been, then there's additional action that can
be taken before the Legislature has to act. Isn't that true? [LB574]

SENATOR HARR: Well, it has final standing because this is an older ruling. So it's the
final verdict. [LB574]

SENATOR CHAMBERS: So then do feel the final word has been spoken on this?
[LB574]

SENATOR HARR: Yeah, you couldn't appeal this to...this current case could not...facts
could not be appealed to the Supreme Court. [LB574]

SENATOR CHAMBERS: So the final word has been spoken by the case you're citing.
[LB574]

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

Floor Debate
May 30, 2013

SENATOR HARR: Yes. [LB574]

SENATOR CHAMBERS: Now, when I asked you what...I indicated that the Legislature didn't do it correctly... [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR CHAMBERS: ...you said the court said it hasn't done it correctly. But the fact is, what the court said is the final word, and in fact now, and law, the Nebraska Legislature did not do it correctly. Isn't that correct? [LB574]

SENATOR HARR: I believe so, yes. [LB574]

SENATOR CHAMBERS: Now, they thought they did it correctly, wouldn't you agree? [LB574]

SENATOR HARR: I would agree with you. [LB574]

SENATOR CHAMBERS: But they didn't have people such as yourself and myself available at that time, so they just, in a slipshod, slapdash manner, threw something together and put it out there, and that brings us to where we are today. [LB574]

SENATOR HARR: Or probably, more specifically, Judge Riley, who wrote this Opinion. [LB574]

SENATOR CHAMBERS: Well, what difference does it make whether it's Judge Riley or Judge Thompson? [LB574]

SENATOR HARR: I suppose it doesn't. [LB574]

SENATOR CHAMBERS: So why did you bring him in? [LB574]

SENATOR HARR: But he would have been good to have since he was able to interpret this. [LB574]

SENATOR CHAMBERS: You're not trying to besmirch his name or challenge his capability as a judge, are you? [LB574]

SENATOR KRIST: Time, Senators. [LB574]

SENATOR HARR: No, he's a great man. [LB574]

SENATOR CHAMBERS: Thank you, Mr. President. [LB574]

Floor Debate
May 30, 2013

SENATOR KRIST: Thank you, Senator Chambers and Senator Harr. Senator Pirsch, you are recognized. [LB574]

SENATOR PIRSCH: Thank you, Mr. President. Members of the body, I would yield to Senator Harr, my time, should he desire to use it. [LB574]

SENATOR KRIST: Senator Harr, 4:40. [LB574]

SENATOR HARR: Thank you. I feel like I'm back in law school. So whenever we're dealing with taxes, we want to be very careful in our interpretation; we want to be very specific. And I think that's a good thing. The opinion says, "Construing these statutes strictly against Tecumseh, as we must, we hold that they do not give automatic priority" to the sewer and water bills. So what happened is...and I encourage everyone to read the statutes...or the bill. And you maybe don't need to read line for line, although you might have the chance to hear it line for line today. You don't have to read it line for line. What I'd ask you to do is, when you look at it, look at what's been crossed out and what's been added. Now, some of it is just cleanup language. But the vast majority of it does exactly what I said. And that is we're being very specific in stating that we want these issues to be treated as a special assessment. And what that means is if someone doesn't mow their lawn and there is a tax lien against the property...now, that's always going to be first. But the second might be a mortgage for the property, to pay for the house. There might be a second mortgage on there. There may be a mortgage for work that has been done on the house, a materialman's lien. And there may be a construction lien. There may be even a lien for the fixtures within there: maybe they financed their air conditioner, and there's a lien there. The question is, what do we want; what is the best public policy when that person, that property receives a benefit from these political subdivisions that are described? Do we want those other liens to take...normally, a lien gets priority based on when it is filed. What will happen here is this will jump the line in front of the construction company; in front of the air conditioner repairman and air conditioner unit that is sold; in front of the banks; in front of whatever...whoever is doing the second mortgage, maybe it's The Money Store, whoever that may be, and says, all right, you move to number 2, you move right behind the taxes that are owed; and then number 2 is this, this benefit that this property has received. So why do we want to do that? Well, let's say the property is foreclosed, and there isn't enough money to go around. Well, it's not as though we say, everyone gets 75 cents on the dollar. You say, number 1 in lien, you get 100 cents on the dollar. Is there money left over? Number 2, you get 100 cents on the dollar of what is owed to you. Number 3...and we go down the line. Well, chances are, by the time it gets down to where this property is, there isn't any money left. That's what happened in this case. So who's left paying? The city of Tecumseh. If you are a citizen of the city of Tecumseh, congratulations, you paid for the sewer and water for MBA Poultry LLC, who was the debtor in this case. So this is really a question of public policy: Do we want to benefit... [LB574]

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

Floor Debate
May 30, 2013

SENATOR KRIST: One minute. [LB574]

SENATOR HARR: Thank you, Mr. President. Do we want to benefit this person who has received a benefit? The constitution is pretty clear what the intent was, the people who drafted it. And I'll read it to you again, "The Legislature may vest the corporate authority of cities, towns, and villages with power to make local improvements...by special assessments or by special taxation of property benefited." So this is a special assessment. What we had done is previously said we will treat it as a special assessment. Instead of saying treating it as a special assessment, we are now saying it is a special assessment. And that moves the lien priority up, automatically, to number 2. It may be there already; it may not be. But it moves it there automatically so that the city taxpayers, the villages, the towns, they...the proper person that receives the benefit pays for that benefit. [LB574]

SENATOR KRIST: Time. [LB574]

SENATOR HARR: Thank you, Mr. President. [LB574]

SENATOR KRIST: Thank you, Senator Harr. Senator Chambers, you're recognized. [LB574]

SENATOR CHAMBERS: Thank you. Senator Harr, you said you feel like you're back in law school. And I feel that the instruction you're giving is similar to that. It's taking us step by step. But as a student now, I have a few questions of you, "Professor." When we talk about establishing the priority of liens, and you use the constitution as your starting point, show me in the constitution where it establishes any lien priority. [LB574]

SENATOR KRIST: Senator Harr, will you yield? [LB574]

SENATOR HARR: I would. And so that doesn't come from...well, let me find it. I do have that. That now comes from...the lien priority...the ability to set the tax assessment... [LB574]

SENATOR CHAMBERS: Please, you're getting ahead of me. Does the constitution establish the priority of specific liens? [LB574]

SENATOR HARR: No, that is currently set by statute. [LB574]

SENATOR CHAMBERS: And the word used in the constitution is "may." [LB574]

SENATOR HARR: Yep. [LB574]

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

Floor Debate
May 30, 2013

SENATOR CHAMBERS: So that means they may be prioritized or they may not. [LB574]

SENATOR HARR: And they may set them or may not, yes. [LB574]

SENATOR CHAMBERS: But those who have put the constitution together did not feel it was an issue of sufficient importance to be enshrined in the constitution; by that I meant the prioritization of specific liens. The constitution didn't do that, did it? [LB574]

SENATOR HARR: Well, but you have to look at the way our...that's kind of a false... [LB574]

SENATOR CHAMBERS: But I'd like to look at the questions that I'm asking, Professor, so that my rudimentary knowledge can grow incrementally. [LB574]

SENATOR HARR: Okay. [LB574]

SENATOR CHAMBERS: The constitution, which is your starting point, does not establish the priority of various liens, does it? [LB574]

SENATOR HARR: It's not allowed to. [LB574]

SENATOR CHAMBERS: Here's what I'm asking. Does the constitution do that? [LB574]

SENATOR HARR: When you vote on a constitutional amendment, you can only vote on one issue at a time. So that would be a separate issue, so it can't be. It would have to be two separate constitutional amendments. [LB574]

SENATOR CHAMBERS: Professor, remember, you are trained in the law and you understand these things; I'm the student struggling trying to understand. Here's the question. Does the constitution or does it not establish the priority of various liens? [LB574]

SENATOR HARR: That is a... [LB574]

SENATOR CHAMBERS: Does it say, "This lien 'A' shall be a priority above all others"? [LB574]

SENATOR HARR: No. And I apologize if I led to that. It's...no... [LB574]

SENATOR CHAMBERS: No, you didn't. You... [LB574]

SENATOR HARR: ...that is found in Nebraska Revised Statute 18-503. [LB574]

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

Floor Debate
May 30, 2013

SENATOR CHAMBERS: Oh, so it's a matter of statute, not constitution. [LB574]

SENATOR HARR: Yes. [LB574]

SENATOR CHAMBERS: All right. [LB574]

SENATOR HARR: Well, the lien priority is, yes. [LB574]

SENATOR CHAMBERS: So, obviously, those who put the constitution together, do you think they were familiar with the concept of liens? [LB574]

SENATOR HARR: I would not want to assume. [LB574]

SENATOR CHAMBERS: I didn't hear you. [LB574]

SENATOR HARR: I would not want to assume. [LB574]

SENATOR CHAMBERS: Okay. Do you suspect or would you speculate that they knew about the nature of liens? [LB574]

SENATOR HARR: I would hope, but again...well... [LB574]

SENATOR CHAMBERS: Let me ask another question. Did they have such a thing as liens in England? [LB574]

SENATOR HARR: Yes, they did. [LB574]

SENATOR CHAMBERS: Does the English common law deal with liens? [LB574]

SENATOR HARR: I believe so. [LB574]

SENATOR CHAMBERS: Does some of the law in Nebraska derive from the English common law? [LB574]

SENATOR HARR: It does, in fact. [LB574]

SENATOR CHAMBERS: So liens might be something that would not be strangers to...the concept would not be a stranger to those who put together the constitution, or is that too great a leap of speculation? [LB574]

SENATOR HARR: Oh, I don't think it's a great leap of speculation at all. [LB574]

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

Floor Debate
May 30, 2013

SENATOR CHAMBERS: Okay, so let's presume, not assume, presume that they knew about liens. They didn't feel like that subject had enough significance to be put into the constitution, so they left it to the Legislature to decide whether it would be done. Is that a correct statement, do you think? [LB574]

SENATOR HARR: There again, I would not want to make that...I would not want to make that leap of faith. [LB574]

SENATOR CHAMBERS: Okay, so what part of the statement do you disagree with? [LB574]

SENATOR HARR: Well... [LB574]

SENATOR CHAMBERS: We agree that the constitution doesn't deal with it. [LB574]

SENATOR HARR: Yeah. [LB574]

SENATOR CHAMBERS: We would agree that it was left to the Legislature to do it, by the constitution. [LB574]

SENATOR HARR: Yeah. So...and the reason I say that is because... [LB574]

SENATOR CHAMBERS: I agree with that. I want to get to what we disagree on. You agree with two things already: the constitution doesn't do it; the constitution leaves it to the Legislature to do it. So then it's legislative, not constitutional; it's statutory. Right? [LB574]

SENATOR HARR: Yes. [LB574]

SENATOR CHAMBERS: And the Legislature thought it had dealt with this situation, is that your contention? [LB574]

SENATOR HARR: Yes, that is very clear. Yes. [LB574]

SENATOR CHAMBERS: Why do you think the Legislature thought it dealt with it? If the Legislature intended to deal with it, why didn't it state explicitly that this particular item that you're dealing with shall have the priority over... [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR CHAMBERS: ...all other liens? [LB574]

SENATOR HARR: That I can't answer you. [LB574]

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

Floor Debate
May 30, 2013

SENATOR CHAMBERS: But it didn't do it, did it? [LB574]

SENATOR HARR: They didn't do it; they said "act as" a special assessment. Why they didn't do it and say not "act as" but to say "is" a special assessment, I do not know. [LB574]

SENATOR CHAMBERS: But let's not say why; we won't deal with the motivations of people who may be dead and can't defend themselves. The fact is they did not do it. [LB574]

SENATOR HARR: That is correct. [LB574]

SENATOR CHAMBERS: But some people thought it had been done, based on their reading of the statute, isn't that correct? [LB574]

SENATOR HARR: That, yes, that is correct. [LB574]

SENATOR CHAMBERS: And somebody else disagreed. Isn't that correct? [LB574]

SENATOR HARR: Yep. That would be Judge Riley. [LB574]

SENATOR CHAMBERS: And when these two disagreed, there was an issue joined or a live controversy. Is that correct? [LB574]

SENATOR HARR: That is correct. [LB574]

SENATOR CHAMBERS: And that controversy wound up in front of a court. [LB574]

SENATOR HARR: Yes. [LB574]

SENATOR CHAMBERS: And the highest court, so far, to rule on it ruled against what the Legislature had done that other people thought it may have done, with reference to this particular item. [LB574]

SENATOR HARR: That is correct. [LB574]

SENATOR KRIST: Time, Senators. [LB574]

SENATOR HARR: You are now the "professor." [LB574]

SENATOR CHAMBERS: Thank you, Mr. President. [LB574]

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

Floor Debate
May 30, 2013

SENATOR KRIST: Thank you, Senator Chambers and Senator Harr. Senator Bloomfield, you're recognized. [LB574]

SENATOR BLOOMFIELD: Thank you, Mr. President. And I'd like to ask Senator Harr a question, if he doesn't get away. [LB574]

SENATOR KRIST: Senator Harr, will you yield? [LB574]

SENATOR HARR: Yes. [LB574]

SENATOR BLOOMFIELD: Senator Harr, is this the same law that allows a city or a small town to come out and extend a paved street past a farmer's field and bill him for the concrete? [LB574]

SENATOR HARR: Does this bill allow for that? [LB574]

SENATOR BLOOMFIELD: Yeah, are we talking about the same thing here? I know you were talking about getting water out to the poultry house, but does that also allow the city to pave a street that goes past a farmer's property and ding him for that amount? [LB574]

SENATOR HARR: If that farm is within the city, that street may be paved, yes. [LB574]

SENATOR BLOOMFIELD: And the farmer gets "dinged" for half of that or whatever the amount may be, is that...that's the same path we're headed down, isn't it? [LB574]

SENATOR HARR: Well, you're a little fact-specific, I mean, it's a very fact-specific...I'd have to know what the ownership of the land is. Is the land inside the city of...is the farmland inside the city? Is that road a public right of way? And then it would have to see who has responsibility for paying for that pavement. But I can't, based on your assumption, answer that question. [LB574]

SENATOR BLOOMFIELD: Okay, the land could easily be within the village corporation, but...you pretty well answered my question there, I think, and I'll yield you the rest of my time, in hopes that you'll continue a dialogue with Senator Chambers. [LB574]

SENATOR KRIST: Senator Harr, 3:20. [LB574]

SENATOR HARR: Thank you. And I apologize I can't answer that question, Senator Bloomfield. I appreciate the time. Again, it's very fact-specific. I'd have to...like I said, I'd have to know a little bit more. So getting back to...let's remember, when you make a constitutional amendment, you're only allowed to address one issue at a time. And the courts have been very clear on that and rather limiting on what an issue is, and

Floor Debate
May 30, 2013

sometimes I agree with that, and sometimes I don't. I want to answer Senator Chambers' question. I'm trying to look up...to see when the lien-priority statute was passed, to see if that was already in statute and that's why the body did not feel that they needed to rule. And that's found in 18-503. And I apologize for having to do this on the mike. Okay, so 18-503, which sets the rule as far as priorities, was originally passed in 1933. It was then amended in 1941, '43, and '61. This constitutional amendment was passed in 1972. So you already had the books...the law on the books when this constitutional amendment was passed. So as a result, I'm sure, at the time...and they said: Well, we can only address one issue; let's make sure the cities can do the special assessment; and then, once we make sure they can do it, we already have it set up in statute how that...the priority and how it should be done. So I hope that answers Senator Chambers' question. I want to address an issue--a note has been passed to me--and be very clear on this. This does not and has nothing to do with the Omaha sewer bill and Omaha sewer separation. So I want to arrest everyone's concerns, is, are we trying to do a back-door way to pay for the Omaha sewer separation? And the answer is, unfortunately, no. [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR HARR: We still got...thank you, Mr. President. We still have to find a way to pay for that, and I think we are, through our rates. But that is through your monthly rates; it's not for paying for the line that goes from the street to your house. And it's not, again...the special assessments pay for sewer services but not increased sewer. So thank you. [LB574]

SENATOR KRIST: Thank you, Senator Harr and Senator Bloomfield. Senator Conrad, you are recognized. [LB574]

SENATOR CONRAD: I'd be happy to yield my time to Senator Chambers, if he so desires. [LB574]

SENATOR KRIST: Senator Chambers, 4:55. [LB574]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Conrad and anybody else who will give me time; I would appreciate it. Then I don't have to write as many amendments, but it would be easy for me to do so. Here is what I'm trying to get across, or get from Senator Harr. He's jumping too far ahead trying to anticipate. While I'm talking about those who wrote the original constitution, he's talking about the sewer separation in Omaha, and that's quite a bit of ways down the line. Here is what I'm trying to get across. There are certain things put into a constitution. This was not deemed to be one of those items important enough, and by "this," when I use that term: the establishment of the priority of liens. Now I'd like to ask Senator Harr a question or two about something he said earlier. [LB574]

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

Floor Debate
May 30, 2013

SENATOR KRIST: Senator Harr, will you yield? [LB574]

SENATOR HARR: I will yield to the "professor," yes. [LB574]

SENATOR CHAMBERS: Senator Harr, earlier you analogized this to a person who would not mow his lawn. [LB574]

SENATOR HARR: Who what? Oh, yes. [LB574]

SENATOR CHAMBERS: Would not mow his lawn. [LB574]

SENATOR HARR: No, no, that is a...that's not an analogy; that's an actual use. [LB574]

SENATOR CHAMBERS: And you said that if the lawn grows up, it will draw snakes, wild animals, and vagrants. Correct? [LB574]

SENATOR HARR: And does, yes. [LB574]

SENATOR CHAMBERS: So a vagrant is going to come and hide in the grass? [LB574]

SENATOR HARR: No, what I would argue and what I meant by that is, often that's a sign of an unkept home. And when you have an unkept home, that is...is probably a deserted home. And when that happens, that's a sign, if I'm looking...there's a great article just in, well, it's going to come up in this Sunday's New York Times, but it's on their list already. Is, there is a guy who goes around looking for homes that have been deserted. First thing he looks for: tall grass. Not boarded-up windows, but tall grass, because that usually happens sooner. [LB574]

SENATOR CHAMBERS: What kind of grass? And since...because of the way things are now, what kind of guy are you talking about? Do you mean the green grass in people's lawns, or do you mean that other kind of grass that will get you in trouble? (Laughter) [LB574]

SENATOR HARR: I mean the green grass. So... [LB574]

SENATOR CHAMBERS: That grows...for lawns. Okay. [LB574]

SENATOR HARR: ...that you'll look for that; that's an early sign of a deserted home. [LB574]

SENATOR CHAMBERS: Okay. Now, since it's my time at this point, if snakes come into that yard, they already have to be in the neighborhood, don't they? Or is there

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

Floor Debate
May 30, 2013

somebody who drives around and tells the snakes, "Hey, over there at 3218 South 186th Street there's tall grass... [LB574]

SENATOR HARR: I think that's Saint... [LB574]

SENATOR CHAMBERS: ...slither on over there"? [LB574]

SENATOR HARR: Saint Patrick does that, yes. [LB574]

SENATOR CHAMBERS: So snakes have...and somebody said all the snakes he drove out of Ireland went and settled in England. [LB574]

SENATOR HARR: (Laugh) Yeah. [LB574]

SENATOR CHAMBERS: And they're the ones who brought Ireland under subjugation all these generations. I don't know if you agree with that or not, but where would these snakes come from? Not through spontaneous generation. [LB574]

SENATOR HARR: No. No... [LB574]

SENATOR CHAMBERS: So where do they come from? [LB574]

SENATOR HARR: But what you do is you provide an environment for... [LB574]

SENATOR CHAMBERS: Oh, if you... [LB574]

SENATOR HARR: ...these snakes to reproduce. So... [LB574]

SENATOR CHAMBERS: If you grow the grass, they will come. [LB574]

SENATOR HARR: Not necessarily. What it is, is you...you know, why do wild turkeys exist in certain areas and not others? It's the same reason why snakes exist in certain areas and not others. You provide the habitat for that snake to exist, they will go; build it and they will come. [LB574]

SENATOR CHAMBERS: Senator, would you like to withdraw that analogy or remove some of the occupants you said would take up residency in this yard? How tall must the grass grow before the city will cut it? [LB574]

SENATOR HARR: I...well, it varies from municipality to municipality. But what...no, I wouldn't like to recede (sic) that, because what it is, is tall grass is an early indication, generally, of a deserted home; not always, but generally. And so that is used to attract vagrants. [LB574]

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

Floor Debate
May 30, 2013

SENATOR CHAMBERS: Did you also say that it's an eyesore and it's not pleasant to the other people who live in the community...words to that effect? [LB574]

SENATOR HARR: I don't...I've said a lot. [LB574]

SENATOR CHAMBERS: Did you say anything like that? If you didn't, just strike it. [LB574]

SENATOR HARR: I don't think I did. Maybe I did, though. [LB574]

SENATOR CHAMBERS: Okay. Well, do you think it has any impact on the neighbors, if the grass is growing excessively tall? [LB574]

SENATOR HARR: Do I think...do neighbors like it? No, they do not like that, either. [LB574]

SENATOR CHAMBERS: And so then the city would come and mow it. [LB574]

SENATOR HARR: Yes. [LB574]

SENATOR CHAMBERS: And when it's mowed, it has a benefit to other people in the neighborhood, doesn't it? They don't have to look at it. The property value is not going to be affected. Somebody who might want to buy a house will not say, if I moved into that neighborhood this is what's going to happen. They benefit from it, too. Even if it's an intangible benefit, they benefit, don't they? [LB574]

SENATOR HARR: I would concede there would be some benefit, yes. [LB574]

SENATOR CHAMBERS: Now, Senator, I pay a water bill. The fees that are assessed to me are more than the actual water that I use. Are you aware of that happening? [LB574]

SENATOR HARR: I am not familiar with your water bill. [LB574]

SENATOR CHAMBERS: Any water bill? [LB574]

SENATOR HARR: I am aware of my water bill, yes. [LB574]

SENATOR KRIST: Time, Senators. [LB574]

SENATOR CHAMBERS: Thank you, Mr. President. [LB574]

SENATOR KRIST: Thank you, Senator Chambers and Senator Harr. Senator Harr, you

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

Floor Debate
May 30, 2013

are next. [LB574]

SENATOR HARR: I will waive. [LB574]

SENATOR KRIST: Senator Conrad, you're recognized. [LB574]

SENATOR CONRAD: I'll yield my time to Senator Chambers. [LB574]

SENATOR KRIST: Four fifty-eight, Senator Chambers. [LB574]

SENATOR CHAMBERS: Thank you, Senator Conrad. Thank you, Mr. President. When Senator Harr speaks, I understand what he's trying to say, but he's not cautious. Some people grow their grass long on purpose. I cut the grass for an elderly lady, and she wants the lawn mower set at the highest setting possible. She doesn't want it cut short. The sun has a negative effect, and she likes the appearance of grass at that level. To some people, who want their lawn to look like a golf course or the green on a golf course, would consider this very untidy. And if they're meddlesome and busybody like some neighbors are, of the kind you're talking about, they'd run down to the city and say, "Make her cut her grass; I don't think it's short enough." But here's what I'm going to get to. When I talk about those who put the constitution together, I still mean what I said: the prioritization of liens was not on their mind in terms of the things that needed to be protected by a constitution. Nobody, to my knowledge, has proposed an amendment to the constitution to establish the priority of liens. Let me ask you this question. If somebody had done some construction work and would get a lien, you're saying that the city, if it comes after that lien and does whatever they do...what do they do that they want to base the lien on? [LB574]

SENATOR KRIST: Senator Harr, will you yield? [LB574]

SENATOR CHAMBERS: What does a person not pay? [LB574]

SENATOR HARR: Thank you, Mr. President. Yes, I'll yield. It may be a sewer line that they'll bring in. It could be mowing of the lawn, if it's above, say, six inches or nine inches... [LB574]

SENATOR CHAMBERS: Does the sewer line just go to this person's house? Or it's a line that feeds to other...feeds other people? [LB574]

SENATOR HARR: No. It would be for the line from the main line to that home... [LB574]

SENATOR CHAMBERS: Now... [LB574]

SENATOR HARR: ...for the benefit, again, of that singular property. [LB574]

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

Floor Debate
May 30, 2013

SENATOR CHAMBERS: Can that person say, "I don't want the sewer line"? [LB574]

SENATOR HARR: I would not know the answer to that. [LB574]

SENATOR CHAMBERS: So the person could reject a sewer line and say, "I don't want it to run to my house." [LB574]

SENATOR HARR: I don't know the answer to that. I don't know why one would not want running water on their property, but... [LB574]

SENATOR CHAMBERS: You don't have to know why. I want to know if they can. [LB574]

SENATOR HARR: Yeah, I don't know. [LB574]

SENATOR CHAMBERS: Let's say that they cannot. [LB574]

SENATOR HARR: Okay. [LB574]

SENATOR CHAMBERS: Now the person who did whatever that construction lien is based on did it in good faith and felt that the security for payment is that piece of property. [LB574]

SENATOR HARR: Okay. [LB574]

SENATOR CHAMBERS: Correct? [LB574]

SENATOR HARR: If you're in the construction business, you probably understand the lien industry and understand the statute that...18-503. [LB574]

SENATOR CHAMBERS: Bear with me. [LB574]

SENATOR HARR: Okay. [LB574]

SENATOR CHAMBERS: Because you're talking about this lien that you are describing jumping over every other lien, and you mentioned construction liens. [LB574]

SENATOR HARR: Yeah, other than taxes. [LB574]

SENATOR CHAMBERS: So I'm using your example. [LB574]

SENATOR HARR: Yeah, other than taxes. [LB574]

Floor Debate
May 30, 2013

SENATOR CHAMBERS: I'm using your example. [LB574]

SENATOR HARR: Um-hum. [LB574]

SENATOR CHAMBERS: You don't care about the person who did the construction work. Now if that homeowner does not pay that assessment you're talking about, not one individual is going to have to pay it all for that person; it's going to be spread out throughout the county or the city or the village or whatever. Isn't that true? [LB574]

SENATOR HARR: Yeah. [LB574]

SENATOR CHAMBERS: And a person is not going to pay more than a penny, if that much. [LB574]

SENATOR HARR: Well, in this case, this MBA Poultry was a very...because it was an industrial site that uses...obviously, when you're...they freeze-dry chicken; there was a lot of water used, and it was a very large amount of water for a small city. So it's more than pennies. [LB574]

SENATOR CHAMBERS: But we're not just talking about a big enterprise or entity; we're talking about an ordinary...it could be an old "widdler" woman, couldn't it? [LB574]

SENATOR HARR: It could be, but you can't... [LB574]

SENATOR CHAMBERS: And she would be affected by this statute, too... [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR CHAMBERS: ...wouldn't she? [LB574]

SENATOR HARR: Not necessarily, because you can't foreclose on the house, based on a lien. When she went to sell the property...or if she passed away, it would go to her heirs, who would have to pay that lien prior to receiving any money that... [LB574]

SENATOR CHAMBERS: And suppose the heir is her elderly sister, who's even more elderly than she is. [LB574]

SENATOR HARR: Okay. [LB574]

SENATOR CHAMBERS: Then she's got to come up with that payment, isn't that correct? The house is sold to her. [LB574]

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

Floor Debate
May 30, 2013

SENATOR HARR: Only when there...not...if it's sold to her, she would...so let's say, I guess, the example is you sell the house for \$10,000. If it's given to them, bequeathed to them, there wouldn't be...the lien would probably continue on. And it's when there's actual exchange of dollars, that first person...then that's when the lien priority comes in. [LB574]

SENATOR CHAMBERS: It could be sold for \$1, though, couldn't it? And that is legal, isn't it? [LB574]

SENATOR HARR: Yeah, so... [LB574]

SENATOR CHAMBERS: A piece of property can be sold for \$1... [LB574]

SENATOR HARR: Yep, and... [LB574]

SENATOR CHAMBERS: ...and it's legal. [LB574]

SENATOR HARR: Most deeds say, "for \$1 and consideration." [LB574]

SENATOR CHAMBERS: That person... [LB574]

SENATOR KRIST: Time, Senators. [LB574]

SENATOR CHAMBERS: Thank you, Mr. President. [LB574]

SENATOR KRIST: Thank you, Senator Chambers and Senator Harr. Senator Conrad, you're recognized; this is your third time. [LB574]

SENATOR CONRAD: I'll yield my time to Senator Chambers, please. [LB574]

SENATOR KRIST: 4:55. [LB574]

SENATOR CHAMBERS: Thank you, Senator Conrad. Senator Harr, anytime somebody jumps the line, that line jumper is pushing somebody out of a position that that person legitimately held and may have even expended something or inconvenienced himself or herself to get in that position. And you want to ignore that person for the sake of a city or a village or a municipality, which... [LB574]

SENATOR KRIST: Senator Harr, will you yield? [LB574]

SENATOR HARR: Yeah. The answer is...well, I want to finish your last question that I didn't get a chance to answer, about the widow who sells to her sister for \$1. [LB574]

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

Floor Debate
May 30, 2013

SENATOR CHAMBERS: Well, we're past the widow now; we're to something more... [LB574]

SENATOR HARR: Oh, I wanted to answer. [LB574]

SENATOR CHAMBERS: ...less controversial. [LB574]

SENATOR HARR: Okay. [LB574]

SENATOR CHAMBERS: Okay, because we're all... [LB574]

SENATOR HARR: Because you know the answer. [LB574]

SENATOR CHAMBERS: ...sympathetic to the widow. [LB574]

SENATOR HARR: Okay. [LB574]

SENATOR CHAMBERS: You want this person who in good faith provided something of value to that homeowner to lose his or her position as far as priority of lien status, and you want that done to benefit a municipality, a village, or whatever the municipality happens to be. [LB574]

SENATOR HARR: No, that... [LB574]

SENATOR CHAMBERS: And before we get to talking about it hurting the taxpayers, as you suggested, no individual taxpayer is going to have to pay an amount that would make any difference whatsoever. And I'd state that as a fact. So nobody is being harmed by this. Was this bill brought, Senator Harr, by irate taxpayers who found out that they're going to have to pay for what this chicken operation did not pay? [LB574]

SENATOR HARR: If it was... [LB574]

SENATOR CHAMBERS: Did these taxpayers bring this bill? Who brought it to you? [LB574]

SENATOR HARR: It was brought to me by the League of Municipalities. [LB574]

SENATOR CHAMBERS: Uh-huh. Uh-huh, just like I thought. Members of the...thank you, Senator Harr. Members of the Legislature, this is not a taxpayer-help bill; it's brought by the League of Municipalities. I read that they're about third or second in the expenditure of money on lobbying. And I'm sure that Senator Harr, in preparing for this bill, is aware of that fact. And there was an article about it. And they spent in the last two years over \$400,000 lobbying. So, obviously, the municipalities are not hurting. This

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

Floor Debate
May 30, 2013

little amount of money that is involved here is as nothing. Senator Harr, under the aegis of that questionable League of Municipalities, is trying to close the barn door after the horse is gone. The chicken people are gone. They didn't pay. And any lien that that municipality had must take its place with every other lien of its kind. I'd like to ask Senator Harr a question. Senator Harr, if this bill passes, would that lien that that municipality thought it had but didn't have in terms of priority, be allowed to jump ahead of every other one retroactively, based on this bill, if it passes? [LB574]

SENATOR KRIST: Senator Harr, will you yield? [LB574]

SENATOR HARR: I do yield. And the answer is, of course, no. [LB574]

SENATOR CHAMBERS: So then they're not going to benefit, are they? [LB574]

SENATOR HARR: No. [LB574]

SENATOR CHAMBERS: And had that case not come up, we wouldn't have this bill, would we? [LB574]

SENATOR HARR: We would probably be under the old assumption of what they thought the interpretation of the law was; so, no. [LB574]

SENATOR CHAMBERS: But there was nothing that occurred that made anybody feel... [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR CHAMBERS: ...it was necessary to come here and jump this lien above other liens. [LB574]

SENATOR HARR: Well, it's based on statute; that statute originally passed in 1941. [LB574]

SENATOR CHAMBERS: But nothing happened between then and the case that you're talking about that has this wind up in court, did it? [LB574]

SENATOR HARR: No, because I think everyone agreed with the interpretation before that. [LB574]

SENATOR CHAMBERS: Thank you. Members of the Legislature, this is much ado about nothing, literally nothing. The one whose conduct raised the issue is long gone. This is not going to recoup anything for that municipality that couldn't jump its lien over everybody else's. And why should the municipality be able to do that anyway? I have

Floor Debate
May 30, 2013

not heard anything from Senator Harr which said that these municipalities are of a higher intrinsic value and worth than any other person who may have done something to benefit that property which led to a lien being placed. Thank you, Mr. President. [LB574]

SENATOR KRIST: Thank you, Senator Chambers and Senator Harr. Senator Bloomfield, you're recognized. [LB574]

SENATOR BLOOMFIELD: Thank you, Mr. President. While I am tending to lean towards Senator Chambers' position on this bill, I would yield my time to Senator Harr to talk about the widows that he seemed to want to talk about a few minutes ago. Thank you. [LB574]

SENATOR KRIST: Senator Harr, 4:45. [LB574]

SENATOR HARR: Thank you, Senator Bloomfield. Well, there have been a lot of talk here, and I want to clarify just a little bit of the record, because...so let's talk, first of all, about the example of the widow who sells to her sister, and maybe for \$1. That lien is going to be there. And I think that's why...the question is...and we're getting back to public policy. And I think you can see Senator Chambers and I have a disagreement on public policy here. I think it's a friendly disagreement. The question is, do we...and it's set, again, in statute, starting...and I apologize, I lied earlier. It's 1933; we set the rules of priorities. And if you recall the time 1933, this was a time in our history when we were electrifying rural areas, we were adding water lines to rural areas, and we were starting to create certain laws in cities about the upkeep of your property. It was also a time of depression, so people were having problems paying for these services, these new and improved services. And so while we wanted to provide these to our citizenry, we had the problem of they couldn't afford it. This is...so what we did was we said, let's go ahead, put it in there, and make that a second lien. Now that's probably more controversial at that time than to do it now, because right now, again, this has been on the books since 1933. If you are a contractor, if you are anyone of any level of sophistication that you know enough to file a lien against a property, you are going to be familiar with this statute, and you are going to understand...and you are going to want to protect that property. You're going to want that property to have sewer; because if it doesn't have a sewer line, your lien against that property...that property is...the value of that property goes down dramatically. You'll see there is no opposition to this. You would think a banker losing their level of priority, they would be in here upset. You would think the homebuilders losing their priority would be upset and be in here. The people who generally file liens realize the benefit of this statute. That's why they're not fighting it. They understand: I want this property to have the benefit of the services that we are saying that property deserves. So we're not going after the woman who wants to: I keep my lawn; I mow it on the highest level; it shades the grass, and you use less water; there's more for greater Nebraska that way; keeps my grass green; I don't have to water

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

Floor Debate
May 30, 2013

as much; keeps my water bill down. We're not talking about the person who keeps their lawn at a high level. We're talking about the person that doesn't care for their lawn. Now I don't know what the exact height is for every town, village, and city across the state. In Omaha, I believe it's nine inches; it may be a foot. [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR HARR: It's not overly burdensome. If it were, you'd hear people complaining about that. They aren't complaining about that. So, again, it's kind of a red herring. Again, think about this, who's objecting to this? Is it the people who are being jumped in priority? No, it is not. They see the value. They have not since 1933 come in and been able to change that law. And near as I know, and as near as Senator Chambers knows, have never been even attempted to change it, because, again, they see the benefit. This is longstanding. We talked about, well, we didn't change that in the constitution. Well, folks, it's difficult to change the constitution. And if you have longstanding law that's on the books that's noncontroversial, there probably isn't a reason to change the constitution. I hold our constitution sacred. And I don't want every nickel-and-dime statute to be made constitutional so that it's in the constitution. If it's a noncontroversial issue, let's not muddy up our constitution. [LB574]

SENATOR KRIST: Senator Harr, you're now on your own time. [LB574]

SENATOR HARR: Thank you, Senator. I think Senator Chambers would agree with me, we probably made a grave mistake last year. Well, I'll restate that; I've got to be careful of my words. Senator Chambers would argue, we as a body made a grave mistake last year in passing the hunting/trapping law to put that in the constitution. It muddied it up. It wasn't needed. He didn't like it, that it's not constitutional issues. I would agree with him. We don't want to put every little bit in the constitution. So what we did was...there's uncontroverted law. Where was the controversy? The controversy was in the ability for the Legislature to vest the corporate authorities of cities, towns, and villages with the power to make local improvements. Did they have that power, or don't they? That was the controversy, not the lien priority. I haven't heard anything to the contrary. So again, I understand Senator Chambers' concerns. But again, let's look at the people who are really affected, and that's the lienholders. And they're not here today because they see the public policy benefit. Thank you, Mr. President. [LB574]

SENATOR KRIST: Thank you, Senator Harr and Senator Bloomfield. Senator Howard, you are recognized. [LB574]

SENATOR HOWARD: Thank you, Mr. President. I would yield my time to Senator Chambers. [LB574]

SENATOR KRIST: Senator Chambers, 4:50. [LB574]

Floor Debate
May 30, 2013

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Howard. Senator Harr, you jump around too much. We're not playing checkers. Senator Harr, you also made a misstatement. I had nothing to do with the idiocy of putting that hunting and trapping trash into the constitution. I stopped it while I was here every single time it came. And I would have told the idiots in the Legislature that hunting is already in the constitution in that amendment that protects the right to keep and bear arms and carry a pistol and all the rest of it. It says you can use the gun for recreation and hunting. It's in the constitution. And had I been here, you wouldn't have done it, because I would have done then what I'm doing right now. But you folded. And I'm demonstrating today what I will do when I think an important issue comes up. And the importance is not just this bill. I want to teach a lesson to the League of Municipalities. Let them spend \$800,000 next year lobbying to shut me up. And had I known what I found out after reading their latest magazine, that Senator Amanda McGill, whom sometimes when I felt more kindly toward her I would equate her with Miss Kitty in Gunsmoke. That was a woman of great dignity, in my opinion, on television. She respected herself; she made everybody else respect her. She ran a saloon, which is a place where ne'er-do-wells and the scum of the earth come, and they behave around Miss Kitty. And they knew if they didn't do by Miss Kitty what they should, then Matthew Dillon was on the scene and within earshot. And if somebody couldn't holler loud enough, Chester would have gone shuffling over there, the original Chester, who looked like a crawdad who had been struck by lightning, walking sideways, "Mr. Dillon, Mr. Dillon. Miss Kitty is in trouble, Mr. Dillon. She needs you." And here comes Matt. So when I equate a woman with Miss Kitty, then that's the highest compliment that I can pay at that time. Had I known that Senator McGill had brought all these bills for the League of Municipalities...I didn't know it until they told on her; that's the kind of friend she's got. They did a whole article on her and praised her for carrying the League's bills. And because of the confidence I have in her, I never suspected her to be in league with that League. But from now on, I'm going to look at every bill that has anything to do with a municipality, whether it's a village, a town, or any other type of operation. And they're going to spend more money. And their lobbyists don't care; it'll give them more money and ensure them work. But pretty soon the League might say, "Well, you're not doing too good for us." And then the lobbyists will say, "Well, you shut him up, then; you bell the cat." We're all a bunch of mice; we all think the cat should wear a bell, but which of us is going to put the bell on the cat? So I had told Senator Harr some time ago that this bill was on my radar screen. [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR CHAMBERS: And some people think that I bluff, that I say I'll do something and I won't do it. But I will, if I say I'm going to do it, and mean it. And this is one of those bills that I said I would do what I can to kill. Now you all can stop me from killing it. When we pass eight hours, he can invoke cloture, and you can give him a cloture vote. And then if it comes up on Select File, as it will have a right to do, are you ready to give

Floor Debate
May 30, 2013

four hours? We got six days. "Oh, the days dwindle down to a precious few." And that's where we are now. And I am not tired. I know that the Speaker put a lot of bills on Final Reading. So you all may feel that what needs to be done has been done. And maybe so. But you still got to come here, and there's going to be something on the agenda. And I will take the time. You think I can't deal in the way that I'm dealing now for six more days? [LB574]

SENATOR KRIST: Time, Senator. [LB574]

SENATOR CHAMBERS: Thank you, Mr. President. [LB574]

SENATOR KRIST: Thank you, Senator Howard and Senator Chambers. And, Senator Howard, you're recognized again. [LB574]

SENATOR HOWARD: Thank you, Mr. President. I would yield my time to Senator Chambers. [LB574]

SENATOR KRIST: Senator Chambers, 4:55. [LB574]

SENATOR KRIST: Senator Chambers, 4:55. [LB574]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Howard. Members of the Legislature, this might be obvious to some of you, more than just this bill is being considered here today. There's some things that displease me greatly during the session. It may shock you, but the failure of me to get a vote on my bill to abolish the death penalty did not shake me up. Why not? Because I knew what I'm dealing with in this Legislature, I've been doing that ever since I've been here. And it would be a matter of time before the right thing is done. The time, obviously, is not here. But there's something else where something could have been done and it wasn't done. And that does bother me to this day. And that's when we refused, we refused to give a vote to expanding Medicaid coverage. So here we are today, talking, I am, at length about doing something for these municipalities. This bill doesn't do anything for the taxpayers, not one thing that is of any significance at all. But it gives me the opportunity to demonstrate that at my advanced age, I'll outlast...maybe not outlast, maybe everybody will stay here as long as I will, but nobody will outlast me. And I'm prepared to do what I said I would do. I am starting, not just by attempting to strike each section from the bill, I want to strike from the committee amendment their attempt to strike four sections from the bill. I'm trying to put something...leave something in the bill. How versatile can a person be when he does the opposite of what he said he was going to do and he's achieving his goal anyway. I am not trying to take a section from the bill with all this discussion. I'm trying to prevent four sections from being taken from the bill. So, if you thought that I was behaving in an inappropriate way by trying to strike sections from this bill, are you going to praise me now for trying to keep four sections from being

Floor Debate
May 30, 2013

stricken? Be consistent. But you're not. You're tired. You thought you were going to get away from here early today and I understand that, but at our age and with our level of experience we know how to deal with disappointment. There's Senator Ashford, he's very pleased as he should be. He got one of the most significant pieces of legislation that ever passed through this Legislature not only enacted, but signed immediately by the Governor. And Senator Ashford has never been one to say that because he spearheaded the effort, he did it alone. I heard him in the course of the debate acknowledging the people who had done a lot work, without whom the bill could not have reached the level that it did. But bills are identified by the name of the chief sponsor and he did provide the driving force to bring that into existence and carry it to fruition and it now is the law. He did what he thought was necessary. I'm doing what I think is necessary. I will not achieve success according to the definition or standard that could be applied to Senator Ashford's achieving success. Success for me is doing what I am supposed... [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR CHAMBERS: ...to do and I am doing what I am supposed to do. And why am I supposed to do it? Because I promised to do it and I quote Abraham Lincoln on a situation like this, "the promise being made must be kept." And I did not, I did not bushwhack Senator Harr. I did not attack him from ambush as your Attorney General did, the Supreme Court, and the Douglas County Attorney. You condemn me more for what I'm doing than what he did. What he did won't even raise a hair with you, but he's making a lot of work for me to do as soon as we're out of session here in six working days. Only six days. I'd like to ask Senator Janssen a question. [LB574]

SENATOR KRIST: Senator Janssen, will you yield? [LB574]

SENATOR JANSSEN: Yes. [LB574]

SENATOR CHAMBERS: Senator Janssen, were you in the military? [LB574]

SENATOR JANSSEN: I was. [LB574]

SENATOR CHAMBERS: And you heard that song, "sound off?" [LB574]

SENATOR JANSSEN: One, two. [LB574]

SENATOR CHAMBERS: And you put various things to it. When we were ending our days in boot camp, you had a drill sergeant and you could say... [LB574]

SENATOR KRIST: Time, Senator. Sorry. Thank you, Senator Chambers and Senator Janssen. Senator Bloomfield, you're recognized. [LB574]

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

Floor Debate
May 30, 2013

SENATOR BLOOMFIELD: Thank you, Mr. President. I was going to, in sense of fairness, yield my time to Senator Chambers but since he chose to refer to me and the majority of my colleagues from last year as idiots, I will yield my time to Senator Harr. [LB574]

SENATOR KRIST: Senator Harr, 4:40. [LB574]

SENATOR HARR: Thank you, Mr. President. I think a lot of what there is to say on this bill has probably already been said. So I'm going to go ahead and yield my time back to the Chair, but thank you, Senator Bloomfield. [LB574]

SENATOR KRIST: Thank you, Senator Bloomfield and Senator Harr. Senator Howard, you're recognized. And Senator Howard, this is your third time. [LB574]

SENATOR HOWARD: Thank you, Mr. President. I would yield my time to Senator Chambers. [LB574]

SENATOR KRIST: Senator Chambers, 4:50. [LB574]

SENATOR CHAMBERS: Thank you, Senator Howard. Thank you, Mr. President. What we were allowed to say, we could sing it. Six more days and we're through, sergeant so and so, to Hades with you. And he'd go along with it because he was through with us. Doesn't make him any different. It shows you still got a little fluid and vinegar in you. That's what they want to put in you. They want you leaving like that. But at any rate, that's what I can say about the Legislature. And I will keep coming down here, after we're out of session, every day. And I can spend my time doing work that will be far more productive, far more satisfying because I don't have to try to persuade people who will not be persuaded that they ought to do the right thing. And they know what the right thing is. If you all didn't know, I wouldn't be talking to you like this. Has anybody heard me condemn anybody for not knowing the symbol for iron or lead or any other substance? That's not within your pay grade as a member of the Legislature. But what you can do and what you have an obligation to do, a moral obligation is to extend a helping hand to those who need it. And that is what this Legislature has chosen not to do. So I'm going to continue raising that issue, but for today's purposes, I'm going to go back to what we were talking about. Senator Harr said that people who are in any line of business--I'm paraphrasing--and they do work and a lien is going to be taken, they know what the prioritization of liens would be. They thought they knew but something was happening which ought not to have happened because the Legislature assayed to do something and didn't do it correctly. The Legislature could have done what Senator Harr is trying to do now, whatever that is, to make a situation what he said people thought it was, even though in reality it was not like that. But now that the court has spoken, nobody can be condemned for taking advantage of what the court said that person was

Floor Debate
May 30, 2013

entitled to all along. And your lien was entitled to this place on the latter, and you were led to believe that it was not. And I'm going to mention something that I mentioned before that dealt with Sir Thomas More about people's feeling of obligation. When a petition was going around, not like the one that the 17 "claqueites" or "cliqueites" signed to go along with something a king wanted to do that Sir Thomas More's conscience wouldn't let him do. So a panel was put together and Sir Thomas More was called before the panel and a duke was on the panel who was Sir Thomas More's friend. And he said, Sir Thomas, everybody has signed this petition, everybody has signed it. Man, come on and sign the petition. And Thomas More said, well, if everybody has signed it, why do you need my signature? Well, Thomas, not only are you a good man, but you are seen to be a good man, sign the petition. [LB574]

SENATOR KRIST: One minute. [LB574]

SENATOR CHAMBERS: He said, I won't sign it and I won't tell you why I won't sign it. He said, well, sign it for fellowship sake. I signed it for fellowship sake. I don't even understand this, but I signed it. And Sir Thomas More said, when we come to judgment and you go to Heaven because you did not violate your conscience and I'm sent to Hell for violating my conscience, will you go to Hell with me for fellowship sake? He made the point. We have different things that mean something to us. And there's something that means more to me than anything else before the Legislature, and that's the expansion of Medicaid. Thank you, Mr. President. [LB574]

SENATOR KRIST: Thank you, Senator Chambers. Seeing no one else in the queue, Senator Chambers, you're recognized to close on your floor amendment. [LB574]

SENATOR CHAMBERS: Am I closing, Mr. President? [LB574]

SENATOR KRIST: This is your closing, yes, sir. [LB574]

SENATOR CHAMBERS: Senator Harr, now is the hour. For what, I'm not going to tell you, but now is the hour of the hour that it is. And I've mentioned this before, one of these preachers had written a book that was as crazy, illogical, and insane as the kind of books that preachers write to this day. And Lincoln was at this reception and these people liked to put Lincoln in a bind if they could, and they told this old preacher, go over there and have Lincoln write something in your book. So the guy went over and they wondered what Lincoln would do and he was just writing away and the more he wrote, the more this guy beamed. And when he went over to Lincoln, he was about as tall as I am. When he walked away from Lincoln, he was as tall as Senator Price, who is about two feet taller than I am. So these people said, what did Lincoln write in your book? And he showed it to them and they all grinned, too, for a different reason. Lincoln wrote, "for those who like this kind of book, this is certainly the kind of book they will like." So in this situation, now is the hour of the hour that it must be. And Senator Harr

Floor Debate
May 30, 2013

knew that this time would come. Neither he nor I knew precisely when it would come, but we know that it is close. Look at the people in this Chamber. There are people of different ages, different levels of maturity, but everyone in this Chamber is going to reach a point where he or she breathes out and will never breathe in again. And if you leave this Chamber, you'll find small people. And if you go to a mortuary, they try to sell coffins that fit everybody. They make wide coffins, narrow coffins, long coffins and short coffins. Gravediggers dig long graves, they dig short graves, but they're all six feet deep. We all are going to reach a point where the end of the story has come for us and a period will be set at the end. Senator Harr's bill by analogy, is reflective of what we all are going to face. We don't know the day, we don't know the hour when we'll breathe our last, but we know as sure as we're sitting here now that that day is going to come. We're going to find out how close the end is for this bill. As we know in the criminal justice system, a day certain may be set for an execution, but that doesn't mean it will be carried out on that day. So even the person who is under the sentence of death and has an execution date, does not know for certainty that that death angel will visit him or her on that day. The judge who issues the death warrant does not know. The executioner does not know. Nobody knows. We won't know until it happens. So what before us is now is a determination of how close we are to carrying out the death sentence that Senator Harr pronounced on his bill the other day. He had the chance to choose a different bill but he chose to let that bill survive. And he chose to allow this one to languish first and then perish. It can perish relatively quickly from this point onward, or it can die the death of a thousand cuts or a thousand amendments. We're going to take a vote on this amendment and see what happens. I'm trying to add to Senator Harr's bill by preventing sections from being eliminated from his bill by the Revenue Committee. They want to cut off parts of his bill and I don't want to see that happen to my good friend's bill. So my amendment is designed to stop one of those cuts from occurring. I'd like... [LB574]

SENATOR KRIST: Time, Senator. [LB574]

SENATOR CHAMBERS: ...to ask for a call of the house, Mr. President. [LB574]

SENATOR KRIST: Sure. There's been a request for a call of the house. All those in favor, aye. Opposed, nay. Please record, Mr. Clerk. [LB574]

ASSISTANT CLERK: 28 ayes, 0 nays to go under call, Mr. President. [LB574]

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 leave the floor. The house is under call. Senator Hansen, Senator Nordquist, Senator Lathrop, Senator Harms, Senator Crawford, Senator Carlson, Senator Avery, please return to the Chamber. Senator Nordquist, please return to the Chamber, Senator Lathrop. Senator Avery,

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

Floor Debate
May 30, 2013

please...thank you. Senator Chambers, everyone is accounted for. How would you like to proceed? [LB574]

SENATOR CHAMBERS: Machine vote. [LB574]

SENATOR KRIST: You've heard the closing. The question is, shall the amendment to the committee amendment to LB574 be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB574]

ASSISTANT CLERK: 7 ayes, 18 nays on the adoption of the amendment, Mr. President. [LB574]

SENATOR KRIST: The amendment fails. Do you have items for the record, Mr. Clerk? [LB574]

ASSISTANT CLERK: Mr. President, I do. New resolutions: LR371 by Senator Kolowski and LR372 by Senator Davis and an explanation of vote from Senator Seiler (Re LB97, LB225, LB290, LB326, LB331, LB479, LB23, LB23A, LB93, LB93A, LB104, LB211, LB211A, LB216, LB216A, LB269, LB269A, LB296, LB306, LB306A, LB308, LB363, LB363A, LB366, LB366A, LB429, LB429A, LB483, LB483A, LB507, LB507A, LB517, LB517A, LB530, LB530A, LB556, LB556A, LB561, LB561A, LB573, LB579, LB579A, LB634, LB634A.) (Legislative Journal pages 1707-1708.) [LR371 LR372 LB97 LB225 LB290 LB326 LB331 LB479 LB23 LB23A LB93 LB93A LB104 LB211 LB211A LB216 LB216A LB269 LB269A LB296 LB306 LB306A LB308 LB363 LB363A LB366 LB366A LB429 LB429A LB483 LB483A LB507 LB507A LB517 LB517A LB530 LB530A LB556 LB556A LB561 LB561A LB573 LB579 LB579A LB634 LB634A]

SENATOR KRIST: Please raise the call.

ASSISTANT CLERK: Mr. President, with respect to LB574, Senator Chambers has asked unanimous consent to bracket the bill until June 5. [LB574]

SENATOR KRIST: Senator Chambers, you're recognized to open on your motion. [LB574]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I don't know if anybody saw that movie called Smokey and the Bandit, but when it was near the very end of the movie, Burt Reynolds was sitting up on a high rise and the sheriff who had been chasing him was on a lower piece of ground. And there was an exchange between them on their radios, then Burt Reynolds said, sheriff, I can't fool you anymore, you're too good a man. If you look around you'll see me, and they were friendly enemies. Senator Harr, I should not have the last word. You fought well, you're too good a man not to be given that opportunity, so Mr. President, I yield my time to

Floor Debate
May 30, 2013

Senator Harr. [LB574]

SENATOR KRIST: Senator Harr, you're yielded a few minutes. [LB574]

SENATOR HARR: Thank you. And for the record, Senator Chambers, you're no scum bum yourself. (Laughter) So, what we have here, I think you guys are all familiar with aerosol cheese. It looks like cheese, smells like cheese, it tastes like cheese, but it's not cheese. And I think sometimes that's what I see as the argument here. It looks as though there might be a real issue of policy here. I think we all kind of agree that the arguments being thrown out are not real cheese. It's aerosol cheese. It's not a real argument, it's not that the real issue behind it and I have no real problem with that. Senator Chambers is a good man and I do know when I have been beaten. And I can see the body is not excited. I can see we are on day eighty-whatever. They're tired. They want to go home. They do not have the stamina that Senator Chambers does, so I want to thank him for this time. It's been very enlightening to be his student in his classroom for a little while that we call the Legislature, the other Chamber. So, thank you and I think you're going to have a motion and I will not object to it when...and I would yield the time back to you. [LB574]

SENATOR KRIST: Colleagues, this was a motion asking for unanimous consent and, therefore, if there are no objections...now is the time to object, if you wish to. Motion passes. Next item, Mr. Clerk. [LB574]

ASSISTANT CLERK: Mr. President, the next item is LR22, which was introduced by Senator Campbell. The resolution was referred to the Health and Human Services Committee. That committee has reported the resolution back to the Legislature for further consideration with a committee amendment. (AM937, Legislative Journal page 1448.) [LR22]

SENATOR KRIST: Senator Campbell, you are recognized to open. [LR22]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. This past summer I had the opportunity to attend the NCSL conference in Chicago, and I noted a number of states who had undertaken a process to take a look at healthcare for their citizens. And came back and sat down with my good friend, Senator Gloor, and we had a lengthy conversation about where Nebraska ought to be going in the future with regard to healthcare. And both of us agreed that we may be on opposite sides of Medicaid expansion, but we are fully supportive of both of our commitment to providing and seeing that we have good quality healthcare for Nebraskans. And so we began to talk about what should we do. This resolution is meant not for the next year or the next year, but probably for three to five or ten years as we look ahead in the state. And our intent is to try to bring together people across the state of Nebraska to talk about healthcare. And what can we do in creative options, creative partnerships to ensure that

Floor Debate
May 30, 2013

good quality healthcare is there for Nebraskans in both urban and rural areas. And so LR22 outlines the challenges regarding the current healthcare system. And those of you who have taken a look at LR22, note that we listed a number of them. The increase and percent of personal income spent on healthcare, the increased cost of insurance premiums, the future shortage in healthcare work force including primary care physicians and the increase in uninsured individuals especially in rural areas. The resolution states Nebraska's future economic and fiscal success requires a healthy population, high quality healthcare at lower cost and greater efficiency. Healthcare reform includes not only coverage and increased access but a systemic reform including a total system transformation into a patient-centric, high-value enterprise. A new level of cooperation between all healthcare partners, stakeholders, and policymakers in Nebraska. So we began then to look at that state government must provide clear leadership and accountability in healthcare system transformation efforts and provide transparency, trust, and facilitate full participation from all partner stakeholders. And colleagues, what we mean by partner stakeholders if I've said to someone, if you have an interest in healthcare, we want you to be a part of this. This is meant to be an inclusive process bringing together as many people across the state as want to be involved. The resolution requires the Health and Human Services Committee, in cooperation with the Banking, Commerce and Insurance Committee of the Legislature to bring together policymakers and stakeholders at all levels including state and local governments, public and private insurers, healthcare delivery organizations, employers, speciality societies, consumer groups, patients, consumers, and all other interested parties to work in a partnership. And partnership is meant to imply not a liberal interpretation of that word, but figuratively encouraging people to think clearly and reach across a number of disciplines. The Health and Human Services Committee may conduct public hearings with the Banking, Commerce and Insurance Committee of the Legislature in cooperation with stakeholder partnerships that we invite to be a part of this to undertake communication outreach and education activities, to convey lessons learned, and make...Mr. President, could I have a gavel? [LR22]

SENATOR KRIST: (Gavel) [LR22]

SENATOR CAMPBELL: Thank you. The committee shall hold a joint hearing prior to November 1 to be briefed on the information and our intent is to bring together work groups to come together on many levels. Mr. President, I'm going to go ahead and explain the amendment as I have time now since it's self-explanatory, if that's okay. [LR22]

SENATOR KRIST: Absolutely, Senator. Thank you. [LR22]

SENATOR CAMPBELL: The committee amendment clarifies that the partnership identified in the resolution involves a broad array, and I've talked about that, in work groups directed by both the committees. And while we had thought that we might be

Floor Debate
May 30, 2013

able to do if there were any funds left over that had come to the state on the ACA, in preparation that we might be able to utilize some of those funds. But I much appreciate the cooperation of the Department of Insurance who informed me that all of those federal funds had been committed. So, we will turn to those portion if we need funds from the Health Care Cash Fund. And most importantly, I want all of you to understand that this is meant to be an inclusive process and I'm very excited about what we may be able to accomplish for the state of Nebraska. Thank you, Mr. President. [LR22]

SENATOR KRIST: Thank you, Senator Campbell. You've heard the opening on AM937, the amendment to LR22. The floor is now open for debate. Senator Gloor, you're recognized. [LR22]

SENATOR GLOOR: Thank you, Mr. President, and good afternoon, members. And I recognize that I may be the only thing and only person who is going to speak on this and standing between us and adjournment, but I first of all want to thank Senator Harr for working aerosol cheese into the debate. It's been a long time since I've even thought about that gourmet delight and may well run out afterwards to satisfy my growing appetite for aerosol cheese. (Laughter) In all seriousness, I need to speak as Chair of the Banking, Commerce and Insurance Committee since we're going to be doing this jointly, but I also want to bring a background and a perspective to what we hope to do with this planning effort, if for no other reason than to reassure folks this isn't a Trojan Horse and isn't anything other than what it purports to be and that is a planning effort, and a planning initiative. I visited with Senator Harms about this. Senator Harms, as you will recall, has been the crusader for a planning issue and for the planning process that we have in place legislatively. The simple question that we ask ourselves legislatively when we do planning is, where do we see the state of Nebraska in 20 to 30 years? And what policy decisions should we be making or what decisions should we be making on specific bills related to policy that help us get to where we need to be in 20 to 30 years? Whether they're issues that have to do with ag, natural resources, transportation, communication or health. So we have health as one of those components that we are taking a look at in the state planning document. My first job out of the military was working for a planning agency that interacted with Nebraska citizens and interacted with the state of Nebraska which had a very extensive and elaborate planning department. Members, that's all gone. There is some planning that happens at the state level that relates to some public health issues but for the most part, issues around location of beds, issues around whether there should be more beds, or sophisticated equipment, renal dialysis units, and so on and so forth across the state are done by agencies, corporations, or institutions, but there is no input from the state and the state used to lead the dialogue and the discourse on this. In fact, to the extent that the state actually had certificates of need and controlled the placement of those facilities and we know the state is now gone. I've introduced legislation since I've been down here in a number of health areas, things about a patient-centered medical home, changing the delivery system through that, distribution of beds, the long-term care, scope of practice,

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

Floor Debate
May 30, 2013

pharmacies, and nursing homes and on and on, but none of it has been able to coalesced together around anything I feel comfortable saying is driven by legislative policy. We need to do that. And that's what we hope to do with this piece of legislation is at least start the process. Nothing unusual or alien about it. Any business that I know of that's successful has a business plan, think's to the future, and how it wants to get there. And with 25 percent of our state budget growing yearly, as relates to issues around Health and Human Services, I think it's appropriate that we take a far more aggressive move in taking a look at the decisions that relate to Nebraska and what we think our healthcare system should look like in 20 to 30 years, and what policy decisions we might be able to draft, ways we might be able to help ourselves in making those decisions. And with that, I thank you for your time and the opportunity to go on the record on what my expectations are of this legislative resolution. Thank you, Mr. President. [LR22]

SENATOR KRIST: Thank you, Senator Gloor. Seeing no lights on, Senator Campbell, you're recognized to close on your amendment. Senator Campbell waives. The question for the body is the adoption of AM937 to LR22. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LR22]

ASSISTANT CLERK: 41 ayes, 0 nays on the adoption of committee amendment. [LR22]

SENATOR KRIST: The amendment is adopted. Seeing no additional lights on, Senator Campbell, would you like to close on LR22? Senator Campbell waives closing. All those in favor, aye; opposed, nay. Please record, Mr. Clerk. [LR22]

ASSISTANT CLERK: 41 ayes, 0 nays on the adoption of the resolution. [LR22]

SENATOR KRIST: The resolution is adopted. Mr. Clerk. [LR22]

ASSISTANT CLERK: Mr. President, I have a priority motion. Senator Howard would move to adjourn until Friday, May 31, 2013, at 9:00 a.m.

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. Enjoy your aerosol cheese. We're adjourned until tomorrow morning.