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Floor Debate  
March 26, 2014

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LB907A LB907 LB923A LB930 LB937 LB961 LB964 LB989 LB997 LB999 LB1008  
LB1039 LB1042 LB1042A LB1044 LB1050 LB1057 LB1067 LB1072 LB1076 LB1087  
LB1087A LB1089 LB1092 LB1098 LB1098A LB1115 LB1115A LR483 LR484 LR485  
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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the fiftieth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Pastor Russell Foust with the Grace United Methodist Church in Kennard, Nebraska, Senator Brasch's district. Please rise.

PASTOR FOUST: (Prayer offered.)

SENATOR GLOOR: Thank you, Pastor Foust. I call to order the fiftieth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

SENATOR GLOOR: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR GLOOR: Any messages, reports, or announcements?

CLERK: I have two resolutions. LR550, introduced by Senator Davis and others, congratulating the University of Nebraska women's basketball team; that will be laid over at this time. Senator Lathrop offers LR551, an interim study to be referred to the Executive Board. That's all that I have, Mr. President. (Legislative Journal pages 1131-1132.) [LR550 LR551]

SENATOR GLOOR: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda. Mr. Clerk.

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

Floor Debate  
March 26, 2014

---

CLERK: Mr. President, a series of reports from Health and Human Services. The first involves the appointment of Joyce Bischoff to the Stem Cell Research Advisory Committee. (Legislative Journal page 1009.)

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Campbell, you're recognized to open on your confirmation report.

SENATOR CAMPBELL: Thank you, Mr. President. And good morning, members of the Legislature. Our first appointee this morning is Dr. Bischoff, who is currently at Harvard University. The committee that she is being asked to serve on is related to the stem cell research. And this committee tries to take a look at how we can use primarily adult stem cells to...in the research that is going on. And the committee is...I can't even begin to tell you the credentials that Dr. Bischoff brings to this: highly educated in her field and has worked a lot in terms of the disease for children. And the Health and Human Services Committee was so impressed with her degrees in biology and biochemistry and teaching and her research on vascular tumors in children. She is highly qualified to sit on this committee, who determines research dollars in the stem cell area. And that concludes our opening on Dr. Bischoff, Mr. President.

SENATOR GLOOR: Thank you, Senator Campbell. Members, you've heard the opening on the committee confirmation report. Are there any senators wishing to speak? Seeing none, Senator Campbell, you're recognized to close. Senator Campbell waives. The question is, shall the committee confirmation report be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1133.) 28 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR GLOOR: The report is adopted. Mr. Clerk.

CLERK: A second report from Health and Human Services Committee involves the two appointments to the State Board of Health, Mr. President. (Legislative Journal page 1010.)

SENATOR GLOOR: Senator Campbell, you're recognized to open.

SENATOR CAMPBELL: Thank you very much, Mr. President. Colleagues, the two confirmations for the State Board of Health, the first is Shane Fleming, who is a new appointment to the Board of Health. He serves as the director of transitional care at Columbus Community Hospital, has a master's degree in nursing from UNMC, and has specialized in health systems and how you build those systems and how you build those teams together. We had a very thorough discussion with Mr. Fleming, and would

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

Floor Debate  
March 26, 2014

---

encourage your green vote on his appointment. Dr. Paul Salansky Jr. is a reappointment to the Board of Health. He's from Nebraska City. He is the past president of the Nebraska Optometric Association, is an optometrist in Nebraska City. He is currently the secretary of the State Board of Health, has served for a number of years on the Board of Health and still continues to feel very committed to volunteering his professional expertise to the State Board of Health. And we would urge your confirmation of both of these appointees. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Campbell. Are there senators wishing to be recognized? Seeing none, Senator Campbell waives closing. The question before us, members, is shall the committee report be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1133-1134.) 30 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR GLOOR: The report is adopted. Mr. Clerk.

CLERK: The third report from Health and Human Services involves three appointments to the Commission for the Deaf and Hard of Hearing. (Legislative Journal page 1010.)

SENATOR GLOOR: Senator Campbell, you're recognized to open on your committee report.

SENATOR CAMPBELL: Thank you, Mr. President. Our first appointee nomination is Gina Frerichs from Columbus. She serves as a WIC and immunization nurse and peer counselor coordinator at the East-Central District Health Department. She also teaches and helps train young people with Heartland Gymnastics. One of the interesting conversations with her was the fact that she has permanent hearing loss as a result of some action with regard to serving in the military police with the U.S. Army Reserve. She is a very committed young woman to helping others who have hearing disorders or have lost their hearing and would just be an excellent addition. Our second nominee is John Hogue. He is a new appointment to the Commission for the Deaf and Hard of Hearing. He is a pastor with Arlington Community Church since 2010. And as he describes it, he has a hearing challenge. And he talked to us about the welcoming nature of his congregation, to dealing with this. He was born in Albuquerque, New Mexico; has lived in a number of states; graduated from the Pittsburgh Theological Seminary. And, based on his 20 years in the ministry, with his hearing challenge, he would also be an excellent appointee. Our last appointee to the Commission for the Deaf and Hard of Hearing is Carol Lomicky, who is a reappointment. She is the retired former dean of graduate studies and research at UNK and has been at Kearney since 1982. She is, as she describes it, hard of hearing. She received a cochlear implant one year ago and has, interestingly enough, had numerous honors in the fields of

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

Floor Debate  
March 26, 2014

---

journalism. I visited with Senator Hadley about this appointee before the hearing, and he spoke very highly of her. So we would encourage all three appointees to the Commission for the Deaf and Hard of Hearing. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Campbell. We now move to discussion on the committee report. Senator Brasch, you're recognized.

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I want to stand in support of this confirmation and also in confirmation and thanks to Pastor Hogue, who has been here with his wife and has also served as chaplain of the day here. He has done many things for others in his community in many capacities. So I do stand in support of this confirmation and thank each one of them for their willingness to serve in this capacity. Thank you, Mr. President, and thank you, colleagues.

SENATOR GLOOR: Thank you, Senator Brasch. Senator Hadley, you're recognized.

SENATOR HADLEY: Mr. President, members of the body, I'll be very quick. I certainly stand in full support of Dr. Kenya Taylor (sic). You might...some of you might know, she has done landmark studies working with people in the agricultural area and hearing loss on farms because of their work with equipment. I would certainly second her 100 percent. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Hadley. Are there other senators who wish to be recognized? Seeing none, Senator Campbell waives closing. The question is, shall the committee confirmation report be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1134.) 35 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR GLOOR: The report is adopted. Mr. Clerk.

CLERK: Mr. President, an announcement, if I may. The Agriculture Committee will have an Executive Session now. Ag Committee now, under the south balcony. Mr. President, the fourth report from Health and Human Services involves an appointment to the Commission for the Blind and Visually Impaired. (Legislative Journal page 1010.)

SENATOR GLOOR: Senator Campbell, you're recognized to open on your report.

SENATOR CAMPBELL: Thank you, Mr. President. The nominee for the Commission for the Blind and Visually Impaired is a new appointee, Robert Newman. Mr. Newman worked for the Nebraska Commission for the Blind and Visually Impaired since 1973 and retired in 2010. He attended the School for the Visually Handicapped in Nebraska

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

Floor Debate  
March 26, 2014

---

City in '64 and '67 and then received his degree from UNO in special ed training. He has been a volunteer instructor and mentor for high school students who also are visually impaired or blind. One of the interesting aspects for Mr. Newman is that he was blind from a car accident at the age of 15 and has devoted his life to helping others who suffer from this disability. The other part of his life is that he was given an award; he ran a Web site called Thought Provoker and received a national award for it. He brings an interesting perspective to the commission and is extremely dedicated. And we would urge your appointment of Mr. Newman. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Campbell. Are there senators wishing to speak on the committee report? Seeing none, Senator Campbell waives closing. The question is, shall the committee confirmation report be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1135.) 30 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR GLOOR: The report is adopted. Mr. Clerk.

CLERK: Mr. President, the fifth report from Health Committee involves two appointments to the Nebraska Rural Health Advisory Commission. (Legislative Journal page 1010.)

SENATOR GLOOR: Senator Campbell, you're recognized to open on your committee report.

SENATOR CAMPBELL: Thank you very much. The two appointees here, the first of which is Dr. Brian Buhlke, who is a reappointment to the Rural Health Advisory Commission. Dr. Buhlke practices in Central City and also practices in Genoa. What was very interesting to the committee is that this physician spoke to us about the loan repayment program which we have continued to bolster in the budget in the last couple of years. And many thanks to the Appropriations Committee for doing that. But Dr. Buhlke talked about the fact that he is back in Nebraska, he is serving our communities as a physician, because of the loan repayment and its importance. And so we were very encouraged by the works of Dr. Buhlke. Our next and final appointee for the day is Jessye Goertz, who is a new appointee to the Rural Health Advisory Commission, serves as a UNL Extension educator in Berwyn, Nebraska, and with a particular emphasis on...as a dietitian and nutritionist. Her goal is to bring rural Nebraska to the commission and find resources for Custer County, which...we had a delightful time talking to her. While her office is in Broken Bow, she serves a large area around that...around Broken Bow and is a co-owner of a cattle operation in addition to the work that she does. She would be an excellent addition to the Rural Health Advisory Commission. And we would encourage both appointees be approved by the Legislature.

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

Floor Debate  
March 26, 2014

---

Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Campbell. Are there senators wishing to be recognized? Seeing none, Senator Campbell waives closing. The question before us, members, is the adoption of the committee confirmation report. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1135-1136.) 30 ayes, 0 nays, Mr. President, to adopt the confirmation report.

SENATOR GLOOR: Thank you, Mr. Clerk. The committee report is adopted. Mr. Clerk.

CLERK: Mr. President, the next report is by Judiciary involving two appointments to the Crime Victim's Reparations Committee. (Legislative Journal pages 1010-1011.)

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Ashford, you're recognized to open on the committee confirmation report from your committee.

SENATOR ASHFORD: Thank you, members. On March 19, the Judiciary Committee voted to approve the appointment of Randall Hansen and Rita Sanders to the Crime Commission's reparations committee. And I am respectfully requesting that you approve these two very qualified individuals. Randall Hansen of Omaha has been reappointed; this term is from July of 2013 until July of 2017. Mr. Hansen is president of an accounting firm in Omaha and has over 30 years of CPA...of public accounting experience. He has served on a number of CPA boards and has contributed significant time and effort to promote small business and professional ethics. And Rita Sanders has been appointed to a term that began effectively on February 28, 2014, and will run till July of 2016. She is currently the mayor of Bellevue, Nebraska, and has previously served on the Nebraska Commission on the Status of Women. Mayor Sanders has also served on many other boards in her community, such as the Offutt Advisory Council and the Bellevue Police Citizens Advisory Council. I urge your support of the Judiciary Committee's action in approving these two...support for these two individuals. Thank you.

SENATOR GLOOR: Thank you, Senator Ashford. Members, you've heard the opening on the committee confirmation report. Are there senators wishing to be recognized? Seeing none, Senator Ashford waives closing. The question is, shall the Judiciary Committee's confirmation report be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1136.) 31 ayes, 0 nays on adoption of the confirmation report.

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

Floor Debate  
March 26, 2014

---

SENATOR GLOOR: The report is adopted. (Visitors introduced.) Mr. Clerk.

CLERK: Mr. President, the final confirmation report this morning is submitted from the Government, Military and Veterans Affairs Committee. It involves four appointments to the Nebraska Tourism Commission. (Legislative Journal pages 1047-1048.)

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Avery, you're recognized to open on your committee confirmation report.

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. The Government, Military and Veterans Affairs Committee has four appointments to the Nebraska Tourism Commission. The hearing was held Monday, March 24. All of these appointees are appointed to the same length of term, from July 1, 2014, to June 30, 2018. The first one is Lisa Burke from Bradley, Nebraska; this is a new appointment. She was unable to attend the hearing, so we had the confirmation hearing by phone. She is the representative of the Western Nebraska Tourism Coalition. She has been the executive director of the North Platte/Lincoln County Visitors Bureau for the past 12 years. She is also the past chair, but a current member, of the Nebraska Travel Association and the Western Nebraska Tourism Coalition, the Golden Spike Tower and Visitor Center board, and several other committees. The second nominee is Roger Jasnoch from Kearney; this is a new appointment. He represents the central Nebraska tourism area. He has been director of the...or is currently director of the Kearney Visitors Bureau. He is past president of the Kearney Area Chamber of Commerce, past president of the North Platte Area Chamber of Commerce, and a past president of the York Area Chamber of Commerce, including economic development in the York Visitors Bureau. Our third nominee is John Chapo from Lincoln; this is a reappointment. He is currently the president and CEO of the Lincoln Children's Museum and has been since 1986. He has been the director of the Potawatomi Zoo in South Bend, Indiana, in the mid-'80s; was the assistant director from March '82 to '84. He has served in a number of capacities in tourism, a number of committees, and particularly concentrating on zoos and museums. The next appointee is Debra Nelson-Loseke from Columbus; this is a reappointment. She is currently the director of the Columbus/Platte County Convention and Visitors Bureau and has been since 2005. She is a current member of the Nebraska Association of Convention and Visitors Bureaus and is also a member of the Northeast Nebraska Travel Council. The committee voted these four nominees on a unanimous vote of those present. That was five; three people were absent. We believe that these four appointees are well qualified, and we ask that you approve. Thank you.

SENATOR GLOOR: Thank you, Senator Avery. Members, you've heard the opening on the confirmation report from the Government, Military and Veterans Affairs Committee. Senator Hadley, you're recognized.

SENATOR HADLEY: Mr. President, members of the body, I'll rise quickly. I've known

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

Floor Debate  
March 26, 2014

---

Roger Jasnoch since the first day I moved to Kearney. He is a driving force in tourism not only in the Kearney area but in the state of Nebraska, and he would be an outstanding member of this board. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Hadley. Senator Bloomfield, you are recognized.

SENATOR BLOOMFIELD: Thank you, Mr. President. I don't personally know any one of these people, but I was more impressed by them than any group of nominees I have ever seen in four years in this body. I believe if we don't vote green here we're missing an opportunity to put some very good people on board. Thank you.

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Wallman, you're recognized.

SENATOR WALLMAN: Thank you, Mr. President. And I, too, want to echo Senator Bloomfield's comments. These people will do a good job for Nebraska, and I want it on the record that we should really, really strongly support these people. And tourism is good for Nebraska. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Wallman. The Chair recognizes Senator Hansen.

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I, too, would rise in support of these candidates. I know Mr. Jasnoch from Kearney, but I've known Lisa Burke ever since she was a little girl, and I've known her family. She does a great job in North Platte. We have Rail Fest in September, we have NEBRASKAland Days in June, and many, many, many other great events in North Platte, the home of Buffalo Bill. And Lisa does a great job of promoting the area and Nebraska too. Thank you.

SENATOR GLOOR: Thank you, Senator Hansen. Seeing no other senators wishing to speak, Senator Avery, recognized to close. Senator Avery waives. The question is the adoption of the confirmation report from the Government, Military, and Veterans Affairs Committee. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1137.) 36 ayes, 0 nays on adoption of the confirmation report.

SENATOR GLOOR: The confirmation reports are adopted. Mr. Clerk.

CLERK: Mr. President, LB1115A is by Senator Davis. (Read title.) [LB1115A]

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

Floor Debate  
March 26, 2014

---

SENATOR GLOOR: Senator Davis, you're recognized to open on LB1115A. [LB1115A]

SENATOR DAVIS: Thank you, Mr. President. And, colleagues, I'm here today to introduce LB1115A, which is the parallel bill for LB1115. LB1115 is a bill which is designed to do a transmission study for the potential development and export of wind energy in Nebraska. The bill was cosigned by Senators Brasch, Dubas, Ken Haar, Schilz, Seiler, Smith, Sullivan, whom I appreciate and thank for their help with that...and Senator Adams, for putting it on the Speaker priority list. A couple of little clarifications that I want to make about the A bill. If you look at it on your gadget you'll note that it talks about \$198,000 of General Fund money and \$2,000 from the cash fund for the...from the Power Review Board. If you recall, the Power Review Board is going to do the transmission study with the input of a large group of stakeholders who are named in the original bill, LB1115. I met with Mr. Texel this morning about the A bill, and he said he has done some of these in the past and made a mistake with regard to the A bill. The dollar amount is still \$200,000, but it does all need to come from the General Fund. So with that said, we will get that changed and modified for Select. But I would urge the body to pass this. This is going to be something that I think will be very useful to us. The transmission study will be the property of the Legislature, obviously, as an independent entity putting it together. It will carry some weight and will be with the Natural Resources Committee for any industry to look at in the future. You might remember that Nebraska has the number fifth ranking in the nation as far as wind potential. But because of a number of unique and unusual circumstances with regard to our state, we haven't done the development that other states have. All you need to do is drive into Iowa to see the potential that wind energy has for this state to generate another source of revenue and really help a lot with property tax issues, which, as you know, in Nebraska are huge. So with that said, I would take any questions and urge the body to pass LB1115A. We will correct the appropriation on Select. Thank you, Mr. President. [LB1115A LB1115]

SENATOR GLOOR: Thank you, Senator Davis. Are there senators wishing to be recognized? Seeing none, Senator Davis, you're recognized to close. Senator Davis waives. The question is the advancement of LB1115A to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB1115A]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of the motion to advance to E&R Initial. [LB1115A]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB1115A]

CLERK: Mr. President, with respect to LB867A on Select File, I have Enrollment and Review amendments, first of all. (ER174, Legislative Journal page 916.) [LB867A]

SENATOR GLOOR: Senator McGill for a motion. [LB867A]

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

Floor Debate  
March 26, 2014

---

CLERK: E&R amendments, Senator, please. [LB867A]

SENATOR MCGILL: I would move the E&R amendments. [LB867A]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All opposed, nay. The amendments are advanced. [LB867A]

CLERK: Senator Hadley would move to amend with AM2572. (Legislative Journal page 1011.) [LB867A]

SENATOR GLOOR: Senator Hadley, you're recognized to open on your amendment. [LB867A]

SENATOR HADLEY: Mr. President, members of the body, as you remember, this deals with, basically, the Sports Arena Facility Support Fund. And this is a bill that we passed 3-4 years ago, and it's to help smaller arenas, the same as we did with the Qwest Center in Omaha. And this particular bill...the A bill is moving along; LB867 has been passed to Final Reading. And we need the A bill to catch up. And this...the reason for the amendment is, is that we did amend LB867 on Select, and so what this does is to allow the A bill to reflect the appropriate present bill. So I would appreciate your vote green on the amendment first. [LB867A LB867]

SENATOR GLOOR: Thank you, Senator Hadley. Members, you've heard the opening on the amendment. Are there senators wishing to be recognized? Seeing none, Senator Hadley, you're recognized to close. Senator Hadley waives. The question is, shall the amendment to LB867A be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB867A]

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB867A]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB867A]

CLERK: I have nothing further on the bill, Mr. President. [LB867A]

SENATOR GLOOR: Senator McGill for a motion. [LB867A]

SENATOR MCGILL: Mr. President, I move LB867A to E&R for Engrossing. [LB867A]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed, nay. LB867A is advanced. Mr. Clerk, items for the record. [LB867A]

CLERK: Thank you, Mr. President. A series of study resolutions: LR552, LR553, LR554, LR555. Enrollment and Review reports LB859, LB781, LB753, LB774, LB698, LB736,

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

Floor Debate  
March 26, 2014

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LB702, LB697, LB683, LB798, LB989, LB792, LB816, LB750, LB876, LB1039, and LB701 to Select File, some of which have Enrollment and Review amendments. New A bill: Senator Nordquist offers LB1042A. (Read by title for the first time.) I have an amendment to LB1042 to be printed, by Senator Nordquist; and a hearing notice from the Health Committee signed by Senator Campbell as Chair. That's all that I have, Mr. President, thank you. (Legislative Journal pages 1138-1142.) [LR552 LR553 LR554 LR555 LB859 LB781 LB753 LB774 LB698 LB736 LB702 LB697 LB683 LB798 LB989 LB792 LB816 LB750 LB876 LB1039 LB701 LB1042A LB1042]

SENATOR GLOOR: Thank you, Mr. Clerk. Mr. Clerk, we'll now proceed to General File.

CLERK: Mr. President, if I may, right before that, an announcement. The Revenue Committee will meet at 10:30 in Room 2022. Revenue, 10:30 in Room 2022. Mr. President, LB907, General File, introduced by Senator Ashford. (Read title.) The bill was introduced in January, at that time referred to the Judiciary Committee for public hearing. The bill was advanced to General File. There are Judiciary Committee amendments, Mr. President, pending. (AM2376, Legislative Journal page 886.) [LB907]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Ashford, you're recognized to open on LB907. [LB907]

SENATOR ASHFORD: Thank you, Mr. President and members. First of all, the committee amendments, which we will get to in a moment, become the bill. The bill as originally introduced has gone through many discussions, maturations, and has come out in the form of the committee amendments, which you will see in a minute. First of all...and I do want to also mention that I have sent around a fact sheet. It really just sets forth what I feel to be the relevant facts that relate to our corrections system and our probation and parole systems. So you can have those to look through as we proceed. As we do in bills of this magnitude, I would be very, very remiss in this case without acknowledging the support of, first of all, this body from the beginning of our journey last year and then at the retreat, giving me time to set forth what I felt to be a critical need for legislative action. The Appropriations Committee has taken this measure up and has appropriated funds primarily for physical plant improvements, and I thank them for their efforts. The University of Nebraska at Omaha, John Bartle and his team. The University of Nebraska Medical Center: Their public health group has played a major role with us. Certainly the Council of State Governments. The Council of State Governments is actually here now and are engaging, now, today, yesterday, with the various governmental entities and agencies across the state that deal with corrections. The Platte Institute: The Platte Institute started in 2011 with a study on our corrections system and revised that plan or proposal just a few months ago, and that I am sure many of you have...most of you have probably seen that study; it represents really cutting-edge alternatives to overpopulation in our prisons. The Holland Children's Movement: The Holland Children's Movement worked with the Platte Institute, an

Floor Debate  
March 26, 2014

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interesting coming-together and convergence of groups that may not be together on every issue certainly came together on prison reform and their work together in the updated plan, which you have. Certainly my committee staff and the Judiciary Committee: Again, I cannot applaud any louder the work of the Judiciary Committee on this and so many other difficult issues that we face every day. Each member has worked diligently on prison reform, and juvenile justice before this, so thank you to the committee. And there are many more individuals who worked with us on a sort of an impromptu task force that we set up once the session started and actually last fall: county attorneys, public defenders, judges, people from the executive branch to work together on coming up with an approach to the issue of prison reform. I set out in LB907 and the amendments to LB907 to put forward two principles that have guided me and the committee in moving forward with LB907. Let me at the outset say to you that my good friend Speaker Adams let it be known at the very beginning...reminded me that I can't--we can't--do everything in one year, he told me. I told him early on that that was certainly not acceptable, but I (laugh)...but...but in...he is right. And LB907 isn't everything. It is a start. It is, I think, a significant beginning in addressing our prison overcrowding problem and at the same time making certain that our public is safe and, in fact, safer. And it's those two principles that have guided our work. Number one, building a new prison, after having built one just a few years ago in Tecumseh, is an expensive, very expensive, proposition that would cost--aside from the operational cost, which is \$30 million to \$40 million a year--the actual construction cost, but that varies, estimates vary between \$100 million and \$150 million. Dollars that, if needed to be spent, would be one thing; but when they don't need to be spent, it's an entirely different matter. And those dollars come out of the vast majority of other needs that we spend most of our time dealing with in this body every day. So those are the two principles: no new prison, number one; and number two, to keep the public safe, and even safer. And so we kept those two principles in mind as we migrated through this issue. Let me just mention quickly the issue of "good time," because it's come up in various discussions. Good time is an administrative sanction and it's an administrative tool used by prisons across the country. Every prison uses good time. They use good time primarily to moderate the prison population, and that is the primarily goal of good time. And, in fact, just three years ago, in this Legislature, the executive branch and the Department of Corrections came to us and asked for a liberalization of the good time law. They asked for it so that they could reduce the prison population off the 140 percent of capacity, which was the number that we started with two or three years ago. And that bill passed. Good time can always be revisited. It can always be looked at. It's primarily a tool by the department. But I will tell you that there are...of the inmates that are with the Department of Corrections today, they serve their sentence under seven different "good time" laws. So we have changed this seven different times. And I think we have to be very cautious before we focus on something that, quite frankly, could increase the prison population at a time when we are trying to reduce the prison population. So I just want to suggest to you that, though good time is always an issue, and this Legislature has dealt with it over the years many times, the issue that I am dealing with...I am

Floor Debate  
March 26, 2014

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dealing with the issue of prison overcrowding and public safety by addressing the needs of our community both by keeping nonviolent offenders, where possible, out of the Department of Corrections and, as inmates reenter, hopefully, making certain that they can become productive members of their communities. And that means lowering the risk of reoffending. Let me start out by talking about the CSG reform. You will see in your fact sheet that Nebraska is one of the few states that has experienced an increase in their prison population at the same time where there's been a decrease in violent crime. Now, why is that? Well, there are a lot of reasons for that. One of them is that we have increased mandatory minimum sentences. So when you hear people say, we need to get tougher on crime and sentence people to longer terms of imprisonment, we actually have done exactly that. By increasing the number of mandatory minimum sentences, especially for violent crime, we are keeping...and the data suggests very overwhelmingly that the prison population has increased because of these mandatory minimum sentences. So that's one of the conditions that we face. Now, the Council of State Governments is going to be here--in fact, they are here today, there were here yesterday--and their goal, without any cost to the state, will be to work with us to come up with a plan whereby we can reinvest dollars we save by keeping nonviolent offenders out of the institutions, the Department of Corrections, in the communities. And that means problem-solving courts. My brother, I'm proud of the work he does in Omaha with his young adult court. He has 25, and has now increased it to 50, young adults who have committed even felonies who are in his two-year program, and very successfully keeping people out of prison. We need to do... [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR ASHFORD: We need to do much more of that. The CSG process is designed to go on for a while. It's designed to go on for a while, a couple years. Hopefully, by the end of the year we will have a plan that this next Legislature can work on to even make more reforms, to execute on the reforms that we're starting here today. So the CSG process is in our bill. It talks about creating a collaborative between the executive branch and the judicial branch and the legislative branch to work with CSG and the counties and the entire state to come up with a comprehensive plan for reform. It's the underpinning of what we're doing; it is a major movement forward. And there have been 17 states across the country that have worked with CSG very, very successfully. They've seen a reduction in their prison population and an increase in public safety. [LB907]

SENATOR GLOOR: Time, Senator. [LB907]

SENATOR ASHFORD: Thank you. [LB907]

SENATOR GLOOR: As the Clerk stated, there are amendments from your Judiciary Committee. Senator Ashford, you can continue with your opening on the Judiciary

Floor Debate  
March 26, 2014

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Committee amendments. [LB907]

SENATOR ASHFORD: Let me talk...I've talked a little bit about the front end; let me talk a little bit about the programming in prison. One of the areas that we have found in our investigation of the Department of Corrections is, over the years there have been programs which have been reduced and, in some cases, reduced almost to zero. One of those most important areas of programming is in the area of vocational education, vocational training. Though we do have some of that in some of the private industries or nonprofit industries that exist in the prisons, a lot of the basic training in areas like welding, automotive, those sorts of things, no longer exist in our prison system. We must replace those vocational programs, because what I have heard from inmates, from advocates, from prison officials, probation, parole, no matter who it is, what I have learned is that without a job there's no hope. So creating a pathway to a job is critical to prison reform. And in these amendments we do have vocational training as a major element of the reform. Inmates who are in the institution need and must be exposed to opportunities for vocational training. Mental health is a critical issue for our entire state. It is especially an issue that is very acute in our prison system. The number 31 percent is used quite a bit to describe the number of inmates who are, in our male adult facilities, who are mentally ill, have been diagnosed with mental illness. Our bill, and accompanying bill LB999, talks about a consistent approach to determining the mental health of our inmates. It does no good...it does not enhance public safety to have someone reenter the community who is mentally ill or has exhibited significant behavioral issues and put them back into the community, where they can do harm to themselves and others. We have seen that happen in the past year. It has been tragic for families and for communities, and it really must end. One of the goals of CSG, and one of the goals of states around the country, most particularly, Pennsylvania being the most recent one, but also Kansas, talking about what happens when someone has served their sentence and they're not on parole, what happens, and they've exhibited behavioral issues. Well, what should happen is that individual should either be checked to make sure that their mental health, their mental ability is such that they can go out into the community; and if not, that there be supervised release strategies put in place so that they can be helped back into the community, where necessary. And that...though supervised release per se is not part of LB907, I can assure you, I can assure that the CSG will talk to all of you throughout this year and then next year about the need to make sure that nobody leaves the corrections facility when they're not ready to come back into the community without some sort of assistance and help. Parole is a key element in how we deal with reentry. And parole is a major part of our bill, a major part of our bill. On the front end, the bill talks about enhancing our already existing probation...our community corrections facilities across the state: we add two more community corrections facilities; we add mental health to the probation laundry list of services. But on the back end we do the same thing. We do the same thing. We provide for reentry help by utilizing services that have been provided primarily by probation. Again, a focus on mental health, a focus on substance abuse. So looking at the

Floor Debate  
March 26, 2014

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numbers, looking at the numbers, we have about \$8.8 million going into providing services for probationers, people who do not go in the institution, to make sure that they don't go into the institution, or fail and then have to be incarcerated. And on the back end, that we have existing facilities enhanced and revenue provided and facilities provided so that inmates who are coming out of the system will get mental health help when they need it. Vocational services, mental health services, substance abuse and alcohol treatment services. Let me just mention a couple other parts of the bill. One is the "ban the box" legislation that was put forward by my good friend Senator Avery. And the "ban the box" issue has been around the country for several years; it is exceedingly important. And what it means is that when someone applies for a job, fills out a job application, they're not required to check a box that says: Have you ever been convicted of a crime? What happens then is those individuals, if they are deemed, at least at that first stage, to be qualified, they would then go into that employer and go through the hiring process. But they would not be precluded from work simply because of the application form. This "ban the box" legislation is critical to finding vocational...to connecting vocational training for inmates and people on parole with jobs. We apply this new strategy only to public employers at this point, but over time I hope that this body will consider expanding it beyond that. Also, there is an amendment to the bill that talks about lawyers in rural parts of the state. And this is Senator Conrad's idea. And it is an important one. In order for the criminal justice system to work adequately, whether it's on the juvenile side or whether it's on the adult side, lawyers need to be in the mix. And though there are lawyers throughout the state and they do an excellent job of representing their clients, there are broad areas of the state that do not have adequate legal representation, in my view, especially when it gets down to these difficult criminal cases. And when we start thinking about alternatives to incarceration for nonviolent offenders, someone needs to be there to advocate for those individuals to keep them out of the institution. So there's \$500,000 in an amendment, of one-time-only money, to start a process of loan forgiveness for law school graduates that are willing to go into rural Nebraska to practice. How much time do I have, Mr. President? [LB907 LB999]

SENATOR GLOOR: Two minutes and 30 seconds. [LB907]

SENATOR ASHFORD: Okay. Thanks. There are other parts of the amended bill that are worthy of...well, they're all worthy of consideration, but that need to be mentioned. One is the idea of enhancing parole itself. When someone gets out of the institution, it's tough. You know, they have educational challenges; and, as I have suggested, they have job-seeking challenges; they have challenges about getting housing and reentering into their communities. And oftentimes they violate their parole rules. And oftentimes those violations are technical in nature. They haven't committed another crime; they haven't committed a violent act. But maybe they just didn't report on time, or they did some other act that was not consistent with the rules. We have a tendency, not in all cases, but we have a tendency to put those people back in the institution for a period of sometimes 90 days, sometimes 120 days, sometimes 60 days. Well, that

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

Floor Debate  
March 26, 2014

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takes up space. So we've asked the department of parole to utilize graduated sanctions in dealing with these parolees. In summary, members, LB907 is not a radical proposition. We are utilizing existing state facilities, existing state agencies to... [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR ASHFORD: ...start the process of reforming our prison system, so that we don't need...we don't need to build a new prison. In fact, we shouldn't build a new prison, because we are going to put our resources and reinvest our resources in strategies that are going to make people better citizens, people that have violated the law but that with the proper treatment and proper incentives can become productive members of society. There are many issues involved in running a prison day to day. And many of those issues will be dealt with by CSG as we look at the issue over the next year or two. This is an essential first step, in my mind, LB907, and then LB999, which is Senator Seiler's bill dealing with mental health. We have a, I believe, an absolute obligation, as a body, to move forward and start this process today. Thank you, Mr. President. And I urge the adoption of, certainly... [LB907 LB999]

SENATOR GLOOR: Time, Senator. [LB907]

SENATOR ASHFORD: Thank you. [LB907]

SENATOR GLOOR: Thank you, Senator Ashford. Mr. Clerk, there's an amendment to the committee amendments. [LB907]

CLERK: Mr. President, Senator Ashford, I had AM2576, but a note to withdraw that, Senator. [LB907]

SENATOR ASHFORD: Yes, thank you. [LB907]

SENATOR GLOOR: So ordered. [LB907]

CLERK: Mr. President, Senator Ashford would move to amend with AM2578. (Legislative Journal page 1074.) [LB907]

SENATOR GLOOR: Senator Ashford, you're recognized to open on your amendment to the committee amendment. [LB907]

SENATOR ASHFORD: Very briefly, this amendment makes it clear, for example, that Senator Conrad's idea for the Legal Education for Public Service Fund be a one-time-only cash transfer. It also clarifies some of the CSG language that was in the original amendment to make sure that this task force or group that we form to work with CSG be focused only upon the CSG collaboration and not become a permanent task

Floor Debate  
March 26, 2014

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force. I do want to make one other point, and it's somewhat related to this amendment. And I received an e-mail, and maybe many of you have as well, about behavioral mental health funding, and Senator Mello can talk about this further. But none of the money in LB907, which amounts to about \$14.8 million when you add all the numbers together, comes out of behavioral mental health funding. These are additional dollars earmarked specifically for prison reform, earmarked to keep nonviolent offenders out of the department, out of the institutions, and to help individuals reentering back into their communities have a better...have services so that they can more adequately achieve that goal. The behavioral mental health dollars are not being utilized for any portion of that \$14.8 million in LB907. The last point I would make, though, too, is that there is also \$200,000 appropriated in this bill to the University of Nebraska at Omaha so that they can continue their work with CSG. CSG has asked, reiterated, on several occasions that what is critical to their analysis of our corrections system is the ability to analyze data. And UNO, their department of public administration and criminal justice have, in my view, the talent to provide that service. And they have been working with us, providing to CSG the data that they need to continue this process. We don't need a lag in our analysis of this issue...you don't need a lag, those of you who are coming back, because by the time January 1 comes, you need to have a full and complete report on what the pathways are for the future of prison reform in Nebraska. So I am hopeful that the body will accept our recommendation that we utilize \$200,000 to make sure that that data is well analyzed. Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator Ashford. Members, you've heard the opening on LB907, the committee amendment, and the amendment to the committee amendment. We now move to floor discussion. Senators in the queue: Lathrop, Mello, Ashford, McCoy, Krist, Seiler, Chambers, and Avery. Senator Lathrop, you're recognized. [LB907]

SENATOR LATHROP: Thank you very much, Mr. President. Good morning, colleagues. I'm in support of the bill and the amendments that have been introduced. And I want to visit a little bit about the importance of what we're taking up this morning, why it's important and why LB907 is the proper direction to go in for the state of Nebraska. It may seem unseemly or inappropriate that a person that's confined as punishment for some type of felonious conduct would ever be able to bring a lawsuit against the state of Nebraska. I get that. I get that. But the fact of the matter is, the people who are confined in the penitentiaries across this country are entitled to a certain level of treatment within the prisons. And when the prisons, for a variety of reasons, get to a place where the circumstances of confinement are cruel and unusual, it gives rise to a lawsuit by the prisoners. And that may be offensive to you as you sit here and say, those guys shouldn't have anything to say about their circumstances. But they do. And we are getting in the sweet spot, or we are at the tipping point. And I want to visit with you a little bit about the necessity of LB907 and the idea that the prisoners who are confined in the penitentiary here in the state of Nebraska may be in a position to bring a lawsuit

Floor Debate  
March 26, 2014

---

against the state for the circumstances of their confinement. Let me begin by saying, if they prevail--and I'll tell you what the, sort of, what the elements of one of those cases are--but if they prevail--generally, it's a lawsuit filed in federal district court--and if they prevail, then the judge orders the state to do one of two things: either start releasing prisoners or build a prison. And I'll tell you, we don't want either one of those solutions. And I know that everybody in here...or I expect that everyone in here doesn't want to spend another \$150 million on a prison if we don't need to and we can avoid it by developing smarter policy that's focused on public safety and is focused on reducing recidivism. So that's the goal of LB907, to do those things so that we can avoid having a federal judge tell us to start releasing prisoners or we can avoid the expense of building another prison. So what are these lawsuits about? I think that's important. And I'd like to share with you my thoughts on it, because I do have a little bit of an understanding of that as a lawyer that engages in litigation. These lawsuits are generally filed when your population gets to the tipping point or gets to a place where it is causing other circumstances. Here's where we're at in Nebraska. In Nebraska, our prisons are at 155 percent of capacity, but some are worse off than the average. The Nebraska State Penitentiary is at 183 percent of capacity; the Omaha Correctional Center is at 190 percent of capacity; and the Diagnostic and Evaluation Center in Lincoln is at 278 percent of capacity. Those numbers bring Nebraska into the sweet spot, right? We are at, in the population in the prisons, at a place where a prisoner lawsuit could succeed if other elements are present. And so let me talk about those. The other things that need to be present besides overcrowding are the absence of programming, poor ventilation, bad healthcare, those kinds of things...noise problems, not getting mental healthcare for the patients...or the inmates, rather. Those things are also present in Nebraska... [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR LATHROP: ...and we, colleagues, are in a place where we are ripe for one of these lawsuits. We're ripe for one of these lawsuits. When these lawsuits are filed, they do not take a snapshot of where Nebraska is at and say: On March 24 or 26, 2014, all these things existed, you didn't do it right, therefore these guys win. They look at where we're at relative to trying to improve the circumstance. First, I can tell you I don't think we'll get sued if we move LB907 forward and we are doing something. Right? The second thing is that if we bring in the elements of LB907, we're doing what needs to be done. And let me share with you what that is. First, we have brought in or we are bringing in CSG. That's the Council of State Governments; you all get their lit. These guys are really good at doing this. They've been invited by very conservative states... [LB907]

SENATOR GLOOR: Time, Senator. [LB907]

SENATOR LATHROP: Pardon me? [LB907]

Floor Debate  
March 26, 2014

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SENATOR GLOOR: Time, Senator. Thank you, Senator Lathrop. (Visitors introduced.) Senator Mello, you are recognized. [LB907]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I stand in full support of LB907. And, first off, I'd like to thank Senator Ashford and the Judiciary Committee for their extensive work over the interim and this session of crafting, I think, a very strategic approach to dealing with our overcrowded prison system. As we had some preliminary discussions about LB907 on the Select File of the budget, the \$14 million that was appropriated to the Department of Corrections in the state budget pales in comparison to the work that we see in LB907. And I want to run a little bit...as Senator Ashford did a very detailed job of walking everyone through the revised fiscal note, which is roughly \$14.5 million a year. Breaking that down: \$5 million to the Crime Commission for vocational and life skills training programs for inmates as they're leaving and becoming returning citizens into our communities; \$5 million targeted for mental health services for those who are in our SSAS and reporting centers, and as Senator Ashford mentioned, and I want to repeat for the record, that is \$5 million in new funding that will be directed towards mental health services for those who are battling substance abuse issues, that it's not money that's being taken away from our existing behavioral health system in the Department of Health and Human Services; \$3.8 million for the expansion of our reporting centers, to help divert nonviolent offenders away from the Department of Corrections; and, as Senator Ashford mentioned, \$200,000 for data and research through the University of Nebraska at Omaha; and \$500,000 for the rural legal project that's part of the underlying bill. Colleagues, in talking with Senator Ashford and the Judiciary Committee over the last few months, as well as with the Appropriations Committee, the concepts that you see in LB907 are targeted to meet what we know will happen when the Council of State Governments comes into our state and starts the bigger process of evaluating our entire criminal justice system. It was a conversation that we started having over the summer and in the fall with a working group, in regard to what do we actually need to fund and what changes need to be made that don't require funding. And part of what we've come to that conclusion is we originally started out at roughly...we thought \$25 million was going to be the minimum threshold we would need to put in to reform what we thought is a very broken Department of Corrections. And, believe me, I could speak at length in regard to challenges we know with the Department of Corrections. But we know, with the performance audit that's going to be done as well as the special investigative committee, there are other venues outside of LB907 that will investigate and evaluate what we need to do to reform the bigger picture when it comes to that agency. But when it comes to recidivism and trying to stem what we know is an overcrowded prison, Senator Ashford mentioned multiple times on the budget and on LB907 this morning that diverting nonviolent offenders away from corrections with what LB907 does helps deal with the overcrowding crisis we have right now. I will repeat that, because I think, for some reason or another, there are some outside of this body and maybe some even inside this body who fully don't understand

Floor Debate  
March 26, 2014

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when we divert nonviolent offenders through the SSAS program in probation, instead of putting them in the state penitentiary or in Tecumseh, that reduces our overcrowding crisis right now. And so, as I mentioned during the budget debate and I'll reiterate it today, LB907 has both a short, mid-term, and long-term effect on our overcrowding crisis. Now, as Senator Lathrop just was starting to move into a little bit more dialogue, the Council of State Governments, when they come in and work with our state for the next two to three years, we know we're going to have other major reforms that will need to take place. And LB907 is not the silver bullet, by any means. But it is the strong foundation, as Senator Ashford mentioned, the strong foundation to move us forward in a much more global process of looking at probation, parole, corrections, and, arguably, our entire fiscal policy as a state in regard to how do we deal with those who are convicted of a crime. [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR MELLO: We have to understand, colleagues, whether or not we're mad at them or that we're scared of them. And there's a process that we have to hone for each of those circumstances, because the process that we have right now is very expensive, when we put everyone in corrections. And what LB907 starts us down the path is that we know there are people who are convicted of a crime that we can move towards a nonviolent path, where we can find a more cost-effective program and process through SSAS and probation, that we can return these citizens back into our communities and help them be taxpaying, productive citizens, because Senator Ashford will no doubt talk at some point on the mike that we see 2,000 people come out of corrections on an annual basis, and they're moving into Fremont, they're moving into Elkhorn, they're moving into south Omaha, Lincoln, Scottsbluff. These are people coming back into our communities, and they're coming back into our communities whether we like it or not. [LB907]

SENATOR GLOOR: Time, Senator. [LB907]

SENATOR MELLO: Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator Mello. Senator Ashford, you're recognized. [LB907]

SENATOR ASHFORD: Thank you. And then I'm going to give Senator Lathrop, if he's here, just a bit of time to just finish his comments. But let me just amplify on what Senator Mello said about the SSAS program. If you build a new prison, it, as we know, it's very expensive. It's \$30 million or so to operate, \$100 million to \$150 million to build, depending upon what you do. What the SSAS program that we have recommended be expanded in LB907 is, it increased the number of reporting centers by three: Hall and Platte Counties and potentially Madison, Lincoln, or Dodge Counties would receive a full

Floor Debate  
March 26, 2014

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SSAS facility, at a cost of \$2,111,361. That's not \$125 million or \$150 million. The estimated savings...or, sorry, the estimated number of inmates...with the emergency clause in this bill...with the emergency clause in this bill, if we expand our day reporting centers and if we expand into more SSAS-type, more intensive drug and alcohol, and then add mental health services, as we're doing in this bill, even without the mental health diversion, we're talking about 384 inmates that would be diverted, in the next 12 months, out of prison. That is not going to solve our 1,700-person overcrowding on day one. But if we add to that the reentry programs we're talking about, utilizing SSAS, again, evaluations and low-level mental health treatment for people who are reentering, there is going to be a reduction in recidivism. That's been established throughout the country; CSG has recommended this; the data reflects the fact that there will be fewer people reentering prison. And then, thirdly, on the vocational grant program, the key...and I want to make this absolutely crystal clear. We're not talking about just giving money out there willy-nilly to somebody that has a job-training thing. What we're talking about are programs that directly connect an inmate to a job directly and that the dollars that we're appropriating should be used exclusively for programming that does that in a real way. That is not done today anywhere in the state of Nebraska, where you have that connectivity between inmates and parolees getting a job. And then, fourthly, this whole idea of having problem-solving courts, it sounds a little fuzzy, in a way, but it is very...it is a very workable solution. We have 2,000 or so people in the state right now that go through our drug courts. My brother, Mark Ashford, who's been a judge for as long as I can remember--and reminds me of that fact quite a bit--has a problem-solving court in Douglas County that is very successful, as I mentioned. We need to have veterans courts. Iowa has veterans courts. We need mental health courts that will deal specifically with the problems that these various groups have. With that, Mr. President, I would give the rest of my time to Senator Lathrop if he so desires. [LB907]

SENATOR GLOOR: Senator Lathrop, 1 minute 25 seconds. [LB907]

SENATOR LATHROP: Thank you. And I'll be...I'll try to wrap it up in a minute and twenty-five seconds. I was talking about the prospect of litigation. When one evaluates whether to file one of these lawsuits, one of the considerations is whether the state is doing anything to correct the problem. We have begun that process with bringing CSG in. That took a letter from the Chief Justice, from the Governor, who I appreciate his cooperation in this matter, and the Legislature. So we're bringing CSG in. They've done great things in conservative states to get to the bottom of, and put public safety number one; reducing recidivism, number two; and reducing overcrowding, number three. LB907 lays the groundwork for CSG to come in and begins the process of moving the ball forward. I suspect...it would be my opinion that if we can advance LB907 and get it passed into law, that we can avoid a lawsuit and come up with a thoughtful response and a thoughtful way to proceed with alleviating overcrowding, without the necessity of building a prison. And I have to say, you don't hear me say things that compliment the Governor very often, I appreciate the Governor's willingness to bring CSG in. They are

Floor Debate  
March 26, 2014

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recognized as the leader in this area, and they have done fantastic work in conservative states. And LB907 helps to advance that cause. And with that, I would encourage your support on LB907. Thank you. [LB907]

SENATOR GLOOR: Thank you, Senator Lathrop. (Visitors introduced.) Senators in the queue: McCoy, Krist, Seiler, Chambers, Avery, Schumacher, and others. Senator McCoy, you're recognized. [LB907]

SENATOR McCOY: Thank you, Mr. President and members. I rise with some questions on this amendment that I'll ask Senator Ashford in a moment, but Senator Lathrop's comments a moment ago really made me reflect back a little bit. I talked about yesterday on another bill that I am not an attorney. I have a lot of respect for those in the body who are and for others outside this body that do a lot of great work in the legal profession. I have had the opportunity to develop a relationship with our Chief Justice, and it's been through the Council of State Governments and through the Justice Center. I will serve, or I'm in the rotation to serve, as the national president, national chairman I should say, of the Council of State Governments starting next year, at the end of next year, in 2015, the first such national chairman from our great state since 1961. And I've had the opportunity to go all over the country and see the great work that the Council of State Governments and the Justice Center has been able to do, especially in this area of judicial reinvestment and reducing the recidivism rate. I had the opportunity to introduce Chief Justice Heavican to the Toll Fellow Program. We had never sent a member of the judiciary to that program, which is a national leadership program with the Council of State Governments. And then I had a chance to attend the national Council of State Governments Conference in San Antonio, Texas, a couple of years ago with the Chief Justice. And the reason I bring all that up is they do great work. And when we can work together, all three branches of government in our state, great things can happen. And this is a huge issue and one that all states are facing, be they conservative states or otherwise; be they small states or very densely populated states. The state of Texas is one great example. I don't think anybody is going to say that Texas has a record of being soft on crime. But they have an enormous budgetary problem with their corrections system. And the Justice Center has done great, great work in making sure that they are able to keep their citizens safe and secure, provide good recommendations that political leaders of all stripes could agree on. I do have a couple of questions, however, on AM2578 if I might possibly pull Senator Ashford in for a question or two. [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Sure. [LB907]

SENATOR McCOY: Thank you, Senator Ashford. On page 2 of this amendment, starting in lines 5... [LB907]

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Transcriber's Office

Floor Debate  
March 26, 2014

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SENATOR ASHFORD: Okay. [LB907]

SENATOR McCOY: ...it talks about "A representative of each of the following, appointed by the Executive Board of the Legislative Council." [LB907]

SENATOR ASHFORD: Okay. [LB907]

SENATOR McCOY: And then it outlines a list. And it would appear that the Executive Board determines this. [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: It was my understanding we faced this issue a number of times that this...we run into a sticky situation when we in the Legislature are appointing members from other branches of government. Is that an oversight with this amendment or is this issue to be taken up in another amendment or? [LB907]

SENATOR ASHFORD: No, no oversights, you know, on my part, Senator McCoy. No, but first of all, thank you for your leadership on CSG and it's an honor to the state. [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR ASHFORD: The answer is yes that we do need to address that issue. It's a constitutional question of appointing judicial members and so forth. [LB907]

SENATOR McCOY: Okay. Well, I appreciate that. And my next question, Senator Ashford, on that same page, starting in line 25, it says, "The Nebraska Justice Reinvestment Working Group shall convene as soon as possible." [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: It would seem to me practical that we would have some sort of a date rather than as soon as possible... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: ...as that would be open to a lot of interpretation as to when that might be. [LB907]

SENATOR ASHFORD: Right. I agree. [LB907]

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

Floor Debate  
March 26, 2014

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SENATOR McCOY: Is that accurate? [LB907]

SENATOR ASHFORD: I agree. And it should convene as soon as we get done with the session it seems to me, and we can put a date of April 15 or something like that. [LB907]

SENATOR McCOY: Okay. I may run out of time, but I'll ask a couple more questions on the further time on the mike. Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator McCoy and Senator Ashford. Senator Krist, you're recognized. [LB907]

SENATOR KRIST: Thank you, Mr. President. Good morning, members, and good morning, Nebraska. I have my own comments to make, but I'd like to backtrack a little bit and cover a few of my colleagues' comments. First of all, let me be clear. I support LB907. I know that there are some issues in AM2376 and in AM2578 that may need to be tweaked or cleaned up. That's the process that we go through, so I'm sure that we'll do that and get to that point. Senator Lathrop's comments, this is not just a sense of urgency in terms of not being sued. This is, as we talked about yesterday on the mike, several of us, this is about human beings. This is about the care that is taken once liberty is taken away and a person is put in an institution, an obligation of this state to take care of some critical needs even in confinement. Anytime liberty is taken away, those are obviously concerns. To Senator McCoy's point, I have the privilege of being appointed to the Juvenile Detention Alternative Initiative Program here in the state by the Chief Justice. So it's not unprecedented that we, as the legislative branch, would be appointed to a position to serve on a committee by another branch of government nor is it unusual. And I think that we have to be conscious of constitutional issues in terms of crossing that boundary. But I think it is something that needs to be addressed and we need to be comfortable with it. I went through that on the foster care review, on the problem gambling bill. It needs to be looked at. We need to put a microscope on it and make sure that we're doing it the right way. Now for my own comments. I talked on LB464 last week and I will talk again when it comes up about the continuum of care of the judicial system, and I mean that sincerely, the continuum of care. If we don't enter at the beginning of the issue which I've coined as the playpen, if we don't enter as young as we can in the juvenile justice system and attempt to correct the problems that are there, attempt to get the juvenile treatment, attempt to do everything that we can do to keep them out of the criminal justice system, we will continue to have 160 percent overcrowding issue in our penitentiary. You put money in the playpen, you avoid spending money in the state pen. So LB464 fortuitously now joined with LB907 and a few other bills that we've talked about this year represents that continuum of care. Juvenile justice reform should be at the top of our list right next to taking care of the other top of the list, which is this issue that confronts us today in the form of LB907. We cannot go another day and not provide those services inside our penitentiaries, our

Floor Debate  
March 26, 2014

---

prisons in our system. We cannot go another day and create another opportunity for a nine-year-old to start in the system by showing problems in the school system that results in, two decades later, four alleged murders. We cannot allow that grooming and growing of the criminal within the system. In my profession, my other profession flying airplanes, we talk about safety as a chain of events. And if you want to avoid the chain of events resulting in a catastrophe at the end, you have to break the chain at some point and say this is where we need to turn this corner in order for safety to be paramount. Our concern here as it applies... [LB907 LB464]

SENATOR GLOOR: One minute. [LB907]

SENATOR KRIST: ...to that analogy, very simple. We need to fix this problem and then we need to go back to the juvenile justice system and fix the problem at the very beginning because the two go hand in hand. Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator Krist. The Chair recognizes Senator Seiler. [LB907]

SENATOR SEILER: Mr. President, members of the Unicameral, I rise to bring a little follow-up to Senator Lathrop's speech where he was talking about "The Tipping Point" is an article written by Joel Donahue, Amy Miller, and Alan Peterson of the ACLU. And a lot of times when I get that material I throw them away (laugh). But this one I read. And it really brought to life, true to life, the Ombudsman's report on Nikki (phonetic) Jenkins, Nike (phonetic) Jenkins or however you pronounce his first name. But that raises...it's nine pages is all it is. And it sets out about eight or nine real reasons why we need prison reform, not the threat of the Eighth Amendment. I disagree with some of their conclusions that this will be an Eighth Amendment. But in total, the "humanitarian" part of it we need to address LB907 and cure some of these problems. Let me talk to you about one of the major problems we have right now. It's recidivism. We don't have any mental health/alcohol abuse training or counseling in the prison system. If we do, it's very spotty. And that's shown in the Ombudsman's report. When these people get out and a lot of them jam out, which means they served every day of their term and they've had no help. They get out on the streets, and it isn't but a short period of time and they come back. But let's talk about coming back. When you come back in our system, you don't come back as the same as you came in the first time. If you do drugs and are caught with the first time, you get a sentence. Here's the problem. When you get the recidivism back two, three, and four times, you're coming back for a lot longer under our system. The judge is not going to be lenient on you. He's going to crack you as hard as he can, and it just continues to escalate our prison system. I think this bill goes a long ways to getting that stopped and a long ways toward humanity. When you're talking about prisoners screaming all night because of mental problems, other prisoners can't sleep, they admit they get short-tempered, fights go on. It's a real disaster in humanity out there. And we need to get this stopped and get it back on the right track. Thank you

Floor Debate  
March 26, 2014

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very much. [LB907]

SENATOR GLOOR: Thank you, Senator Seiler. Senator Chambers, you're recognized. [LB907]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I am pleasantly surprised at the level of the discussion this morning. It has not been adversarial, and I think some very pertinent observations have been made. In a discussion of this kind where you can discuss philosophy, policy, societal aspirations, this is a time when, as Abraham Lincoln said, the angels of our higher nature can be brought into the consideration. Since America would like to believe in 2014 that it is now a mature, humane, enlightened, civilized society, it will be possible to discuss with people how inappropriate and contradictory it is to have the highest rate of incarceration of any country in the world. That is not something to be proud of. And when we allow these problems to grow and grow, some entity, which now happens to be this session of the Legislature, is going to have to try to clean up the mess that others had left here. We should not add to that. And from the discussion, it seems that we're going to do something about it. I think it was very good that Senator Lathrop mentioned that when people are locked up--and he didn't say it exactly like this, but the U.S. Supreme Court has said it--when a person walks into a prison, he or she does not leave all of his or her human, civil, political, constitutional rights outside that institution. The real punishment is to be deprived of your liberty and your freedom. You're not to be subjected to tortuous or other inhumane conditions. I don't see anymore the attitude expressed when people develop cancer from smoking: Well, it was a voluntary choice to smoke; they got cancer; that's the punishment for the sin, let them die. That is not said and it shouldn't be said. I have even seen on television where a doctor explains to people how society should not condemn and throw away people who have AIDS. HIV/AIDS, the human immunodeficiency virus, is a precursor to AIDS. And full-blown AIDS would be that acquired immunodeficiency syndrome. It is fatal, but it doesn't have to be a death sentence, and it can be properly treated. And there might be a vaccine at some time discovered. And nobody that I can hear who is credible is saying that such a vaccine will lead to people being promiscuous because now they can do anything they want to and be vaccinated against it. Those people in policymaking decisions have to do what would be best for the society. And these people who are in prison are going to come out again. When you all have the prayers here in the morning, I listen to them in my office. I just won't come up here. I couldn't stand up for them because I don't see the world through those kind of eyes. But some of these people will talk about redemption, and that means being given a chance to make up for any shortcomings, failings, or outright wrongs that you have committed. They talk about second chances and they put it in a religious context. The one that you all profess to worship came here to give everybody a second chance. So we as a Legislature should put into operation principles that carry out those policies, those attitudes... [LB907]

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

Floor Debate  
March 26, 2014

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SENATOR GLOOR: One minute. [LB907]

SENATOR CHAMBERS: ...those ideas that make sense. Society cannot suffer harm by doing something about those who will come back out here. And I know "General" Garrett is going to agree with me when I say that in the context of this discussion we can do something of far more substance for the veterans who are in that penitentiary, and a lot of their crimes can be traced to the attitudes that developed as a result of their service in combat. And we need to keep that in mind. And the VA should have or administration locally and nationally should take an interest in these veterans who are locked up and coming out. They should reach out and find those who are coming out and have a plan to assist them in getting a house so that they can get that exemption that you all fought so assiduously to make available. Thank you, Mr. President. I should just keep on talking because I am being granted leave by the President, being otherwise occupied. [LB907]

SENATOR GLOOR: Time, Senator. [LB907]

SENATOR CHAMBERS: But I won't take advantage of that. Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator Chambers. Mr. Clerk, some items for the record. [LB907]

CLERK: Very quickly, Mr. President. Study resolutions, LR556-LR574 offered by a variety of members. Those will be all referred to the Executive Board. Thank you. (Legislative Journal pages 1143-1152.) [LR556 LR557 LR558 LR559 LR560 LR561 LR562 LR563 LR564 LR565 LR566 LR567 LR568 LR569 LR570 LR571 LR572 LR573 LR574]

SENATOR GLOOR: (Visitors introduced.) Senator Avery, you are recognized. [LB907]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. I am enthusiastically in support of this bill. I came to the conclusion some time ago that we had a crisis brewing in our prison system when I joined a community advisory group at the state penitentiary about six years ago now. And I've been going to quarterly meetings every since. And it's really...it's quite an experience to be around a prison facility. I've spoken to a number of veterans groups in the state penitentiary and up in Omaha. And when they had the open yard policy, I'd be escorted across the yard full of criminals by one security officer. And it could be a very intimidating process or experience. But I did become sensitive to some of the issues that we've been talking about this morning. And I want to call your attention to one part of the committee amendment, AM2376, because this is something that I have worked on for at least a good part of this past year. And it is a portion...it's Section 12 beginning on page 11. It's

Floor Debate  
March 26, 2014

---

a simple concept that's contained in this. It's called ban the box. I had a bill before the Business and Labor Committee that had 16 proponents, include the ACLU, the Nebraska social workers, the city of Omaha. It had no opponents at all. And some of the testimony was very moving. Let me tell you what this section of the amendment does. It prohibits public employers from initially asking applicants to disclose their criminal record or history until after the employer determines whether or not the applicant meets minimum employment requirements: education, work history, technical skills, things of that sort. Employers may then conduct a criminal background check on a potential employee following submission of the initial application. The intent of this ban the box is to allow a prospective applicant the opportunity to explain to an employer the circumstances surrounding their criminal background. Rather than have...if you notice on existing application, job application forms, one of the first things you have to do is check the box that says, yes, I have a criminal background or, no, I don't have a criminal background. And if you mark yes, I do, that ends the process for you. What this section of the amendment would do is give the applicant a chance to at least advance past that first page and be able to explain if the employer wishes to discuss their background at some point later in the process to explain the circumstances of their conviction. But more importantly, it allows them the chance to explain whether they are in fact qualified for the position. You don't get eliminated before you have that chance. At a later time in the application process, the employer has plenty of opportunity to ask you about your criminal background. So I see this as a... [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR AVERY: ...an opportunity where we will allow the ex-con, the ex-convict to have a chance, give them a chance. This has been done in a number of states. California, for example, has a tremendous success with their model where the law removes questions about convictions from both state and local job agency applications and postpones these inquiries until later in the hiring process. That's what this section of AM2376 does. I think this is an important step in helping these inmates after they are released and they go on parole back into society, give them a chance to at least get their foot in the door so they have a chance for a job. I think that this is an important part of the bill. There are many, many other important parts, and I will not talk about all of them, but I do hope to speak at least one more time. [LB907]

SENATOR GLOOR: Time, Senator. [LB907]

SENATOR AVERY: Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator Avery. Senator Brasch, you're recognized. [LB907]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I do stand

Floor Debate  
March 26, 2014

---

in support of LB907 and the underlying amendments. I also want to recognize and thank Chairman Ashford and the Judiciary Committee for all their work and their commitment to helping improve someone's present and someone's future. This is important to prevent recidivism. I believe that we need to work on helping to rebuild character and integrity in our families and empower individuals to move forward in their lives. What comes to mind here, and I will have a bill coming up as an amendment soon that I was hoping was going to be on consent calendar and will be heard shortly. But my point here is that we are talking about individuals. These are the same people that when we look in our balconies and we see classrooms full of bright, young minds and full of energy and hope and a future and we empower our teachers and our schools in their care to help guide these individuals. We have many safety nets surrounding our citizens of this state. But somehow, somewhere, someone has not been reached by the safety net; and it is our duty and our responsibility to help lift these individuals up to help them to help themselves. And their human dignity, their right to make a life is important for each one of us, and not to build jails. In my district, I've received several calls over the last four years from mothers, from individuals. I've met and I've talked with them. And all they want is that opportunity, that opportunity to enjoy a good day, enjoy a good life and a good future. And I believe that this bill will help move this forward for those individuals and their families. In my work in student administrative systems, I had an opportunity to work with individuals whose responsibility was to work with incarcerated youth in the state of Massachusetts. And they are developing systems there and across the country to help our youth. Let's help these individuals to not go back to jail, not go back to prison, but to be those people who do make good neighbors and good coworkers and build good families and good lives. So I do stand in support. I thank the committee. And I am encouraging everyone to also vote green on this very important issue. Thank you, Mr. President, and thank you, colleagues. [LB907]

SENATOR GLOOR: Thank you, Senator Brasch. Senators in the queue: Cook, Scheer, Harms, McCoy, Nelson, Crawford, and others. Senator Cook, you're recognized. [LB907]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I also rise in strong support of LB907 and the underlying...the amendments to the bill. I am a cosponsor of the bill. And as previous legislators have spoken, I do rise in support of the ban the box proposal, which is in the committee amendment, AM2376. I believe that this bill will spur a more modernized approach that strengthens reentry programming and, more importantly, strengthens the people as they reenter our communities. This is an issue that has been brought forward in community forums among the constituencies that I serve and something that's very, very important to putting our community back on its feet and becoming self-sustaining once again. My great hope is that the collaboration with the Council of State Governments will result in a smart on crime reform to ensure that individuals who make mistakes and their families and the communities in which they lived are not forever doomed to a life of lost productivity. I want to thank Senator

Floor Debate  
March 26, 2014

---

Ashford, the Judiciary Committee, and the many others who impacted the advancement and putting together the bill proposal and the amendment. And at this point, I would yield time to Senator Ashford to speak to an issue that we have touched on before in this Legislature that is somewhat evident in the handout that he has offered us. On the next to the last page, we see that in Nebraska prisons we have 5 percent African-American population across our state, Senator. But we have in our prisons in Nebraska 20 to 30 percent African-American populations to that. Would you yield, Senator Ashford? [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR COOK: Thank you. I'm going to yield the rest of my time for you to speak on this issue. My sense is that it is a result of some sentencing disparities. And my great hope, of course, is that as we move forward in our sentencing reform with LB907 and other work, that we address this issue as well. [LB907]

SENATOR ASHFORD: Thank you. [LB907]

SENATOR GLOOR: Two minutes 35 seconds. [LB907]

SENATOR ASHFORD: Thank you. Let me try to answer this as succinctly as I can. Number one, Nebraska's last effort at sentencing reform was in 2006. That's about, well, it's eight years ago. My sense is that the next Legislature will be...and that CSG will recommend that we undertake another shot at sentencing reform. You know, I acknowledge...and for a variety of reasons. I mean there's the racial disparity in our prisons. It's clear and it exists across the country. We have to go back and take a look at what sentences are imposed for what crimes. And obviously, that's what's going on right now with drug crimes in the federal system that has exploded our prison population, no question. What we have tended to do is we have tended to increase penalties on crimes that are perceived to be, and in many cases are, difficult such as gun crimes, mandatory minimum sentences for those crimes. Once somebody gets a mandatory minimum sentence, they're not eligible for parole during that time. So we have a number of those mandatory minimum sentences that will have to be reviewed. Those sentences will have to be reviewed in a sentencing commission. Many states have done that. Minnesota has gone to an entirely different system, for example, of how they sentence for a particular crime. [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR ASHFORD: Let me just say this. I understand why the public is confused about how we sentence particular offenders. We have a minimum and maximum

Floor Debate  
March 26, 2014

---

sentence system. They're 10-20, whatever it is. That is probably not the most efficient way to do it. It does give a great many...great...it gives more discretion to judges. They like that. Judges know what they're doing when they sentence within those parameters. But, Senator, you're absolutely right. We need to convene, or this next Legislature will need to convene as part of the CSG process, a full scrubbing of our sentencing regimen because it does need to be more clear. The public needs to better understand it. And so I...we...it's not in LB907 other than to say that it's an issue. It's an issue that needs to be resolved going forward and in order to have our corrections system run more efficiently. Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator Ashford. The Chair recognizes Senator Scheer. [LB907]

SENATOR SCHEER: Thank you, Mr. President, and good morning, fellow senators, as well as Nebraskans. I rise to support LB907 and the underlying amendments. Criminal reform is not an area of my expertise by any stretch, but what I've heard this morning certainly makes sense. It's a logical strategic plan to move our criminal confinement areas and sentencing into an area that will help rehabilitate rather than just incarcerate. But having said that, I have been contacted by a number of superintendents in my area up in northeast Nebraska in regards to part of the amendment that was introduced this morning that would put school districts in conflict in relationship to their hiring practices. And so I'd like to ask Senator Ashford to yield if he might. [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR SCHEER: Senator Ashford, I've provided you with an amendment that I've put together in relationship to that concern. [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR SCHEER: I've shared it with you and I'd like you to speak to it. I'm not necessarily going to introduce that... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR SCHEER: ...because I believe you're probably going to have several changes that you'll need to be made, and I don't necessarily want to add to that. It certainly can be incorporated, but I'd like you to speak to it and perhaps give assurances to those superintendents that may be listening that this small problem will be taken care of in an amendment of some type. [LB907]

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

Floor Debate  
March 26, 2014

---

SENATOR ASHFORD: Thank you, Senator Scheer. Yes. We have language in AM2578 that excludes law enforcement specifically from the ban the box portion of the amendment. And your concerns about education will be handled on Select File, and I appreciate your willingness to give us until Select File so we get the correct language. [LB907]

SENATOR SCHEER: Thank you, Senator Ashford. I appreciate that and I think there will be a sense of relief from those school districts that have noticed that it puts them in conflict. And with having taken care of that, that was my only concern so I'll yield the rest of my time to Senator Ashford. [LB907]

SENATOR GLOOR: Two minutes 30 seconds, Senator Ashford. [LB907]

SENATOR ASHFORD: Thank you, Senator Scheer, and I at this point thank you for the additional time. But I think I'll just give the time back to the Chair and we can proceed on and maybe get to a vote before lunch. We'll see. Thank you. [LB907]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Harms, you're recognized. [LB907]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of the two amendments and the underlying bill. I want to personally take a moment to thank Senator Ashford. Colleagues, he, in the eight years that I've been in this Legislature, he's worked tirelessly in dealing with juvenile issues and now the prison reform. And, Senator Ashford, I really appreciate that and the work that you've done has always been kind of amazing to me because these issues are not very easy to resolve, And particularly the one that we have before us today. This is a complicated issue. To be honest with you, I believe it's a legacy piece of legislation, Senator Ashford. And I think in time we will look back and the country will look back as Nebraska taking a leadership role in a very difficult position to create something that will work well for Nebraska and the people. Senator Ashford, I have just a couple of questions. And when we talked off the mike, and I kind of wanted to get this on the record so it clarifies it, on the white copy of AM2376 where you list the task force and how large that task force is, my concern is the bill or the amendment doesn't spell out who has the responsibility, how it's going to be organized, who calls the meetings, who is going to make sure all this happens down the line of this that we have created here. Can you maybe better explain that to our colleagues how that's going to work? [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Thank you, Mr. President. Very briefly, the original copy of LB907 had a reentry council which was similar to the community corrections council. The AM2376 reduces that council to a task force to work with CSG and the other

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

Floor Debate  
March 26, 2014

---

members of the Legislature and other concerned entities across the state, including law enforcement and county attorneys, and so forth, to come up with a CSG plan. And even yet to your point, Senator Harms, there have been questions raised about how the task force is made up and when it would cease and so forth and so on. So we're...and I've actually had a conversation with the PRO about this, so by the time of Select File we will get this more clear for you... [LB907]

SENATOR HARMS: Okay. [LB907]

SENATOR ASHFORD: ...because we don't want it to be...create another level of just something to have to have. It's got to be strategic so we will work on it. [LB907]

SENATOR HARMS: Okay. Thank you. The other question I have, on page 28 of the white copy, lines 5-8, and I'll just clarify it for you, it talks about the Vocational and the Life Skills Program. [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR HARMS: Is that where the vocational training is going to take place or the responsibility? And then the question I also have on that, will this include the adult basic ed, the GED program, English for second language program, and then will that move into the skilled side? And will that give them the option to go into the academic side? [LB907]

SENATOR ASHFORD: Yes. Sorry. Yes, the answer is yes to all of the above. What the idea is, is to create a curriculum for...first of all, every inmate has a plan that they have as they come into the institution. And one of the things we talked about in the committee is how do we enhance that plan, make it workable for the inmate if the inmate's needs change that the plan changes. And with vocational skills are not just learning how to do a particular skill, but also getting the other GED and other academic credentials in order to get a job. The community...I'm not going to speak for how these grants are given out, but the community colleges it seems to me are critical. The welding program at the...in McCook that Valmont funded for a number of years and is no longer in existence and hopefully we'll bring it back, had a...was done with Mid-Plains. [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR ASHFORD: That's a significant program that connected inmates directly with a job. So, yes. [LB907]

SENATOR HARMS: Okay. So, well, the community colleges. You brought up their name. Will they be involved kind of in this? [LB907]

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

Floor Debate  
March 26, 2014

---

SENATOR ASHFORD: Yes. [LB907]

SENATOR HARMS: Because they do that really well. That's really what their mission is. [LB907]

SENATOR ASHFORD: The project in McCook was...I've talked to the Valmont people a number of times. They want to bring that program back across the state, and they were investing considerable private dollars and making it go. So that's a big deal in my view. [LB907]

SENATOR HARMS: Yes. Yeah, it is. Thank you very much. Again, Senator Ashford, thank you very much for your leadership on this. And I would urge you to support the amendments as well as the underlying bill. Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator Harms and Senator Ashford. Senators in the queue: McCoy, Nelson, Crawford, Dubas, Carlson, and others. Senator McCoy, you're recognized. [LB907]

SENATOR McCOY: Thank you, Mr. President and members. While Senator Ashford is standing there, I wanted to ask him a few more questions if I may. [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR McCOY: Thank you, Senator. I'm looking at page 3 of the amendment now and near the top where it's talking about the new Nebraska Justice Reinvestment Working Group under this amendment. From where I left off my last time on the microphone, I asked you about the date. Line 2 of page 3 it talks about the chairman of the working group should be the Chairman of the Appropriations Committee of the Legislature. Wouldn't it make more sense to have it be the Chair of the Judiciary Committee? [LB907]

SENATOR ASHFORD: As long as I'm Chair of the Judiciary Committee. (Laughter) [LB907]

SENATOR McCOY: Well, last time I checked that's only... [LB907]

SENATOR ASHFORD: Then it would make eminent sense. Yeah. I think we have to work on that piece, Senator McCoy. [LB907]

SENATOR McCOY: Okay. I...it would seem to me to be common sense and no disrespect to Senator Mello as Chair of Appropriations Committee, but it would...

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

Floor Debate  
March 26, 2014

---

[LB907]

SENATOR ASHFORD: It's a power grab, Senator McCoy. [LB907]

SENATOR McCOY: (Laugh) I think Senator Mello probably has a few irons in the fire right now in his life. I'll see. Maybe he's volunteered for this position. But nonetheless, that remains one of my questions, Senator Ashford, as to the commonsense aspect about that. Another couple of questions, I think on lines 4-6 there, that same page, it talks about a reimbursement to those who serve on this committee. I would imagine that we're not talking about reimbursing somebody from the Governor's Office or the Attorney General's Office, but that's how it's currently written. [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: Is that...? [LB907]

SENATOR ASHFORD: Right. No, we would not be reimbursing them so. [LB907]

SENATOR McCOY: Okay. Later on, on that same page, it talks about when the group dissolves, and I think that says when the final report is delivered. [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: I don't believe there's a date outlined for the final report that I see. Is that accurate? [LB907]

SENATOR ASHFORD: That is. And I think it's going to depend a great deal on what you do next year or what this body does next year or what you do if you're Governor or whatever. But deciding how to terminate it, I guess I didn't think...there's no way to put a date in there that I could see, but. [LB907]

SENATOR McCOY: Yeah, and I appreciate that. I guess I'm particularly sensitive to that, Senator Ashford, since we just went through the Tax Modernization Commission... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: ...or committee, however you want to look at it; and we had a lot of conversation about when that group... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: ...should terminate and... [LB907]

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

Floor Debate  
March 26, 2014

---

SENATOR ASHFORD: It could be something where we could put a date in there and then it could be "reupped" I suppose. [LB907]

SENATOR McCOY: I think that's something that ought to be done just so that... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: ...we're saying this isn't going to continue into perpetuity... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: ...because without a date outlined for a final report... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: ...that final report could be conceivably years in the future, although I highly doubt it's going to be. [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: It could because that final report is actually offered by the Council of State Government's Justice Center, correct? [LB907]

SENATOR ASHFORD: Right. That's correct. [LB907]

SENATOR McCOY: Okay. I think that would be all the questions I have at this point, and I appreciate Senator Ashford's willingness to answer those questions. Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator McCoy and Senator Ashford. Senator Nelson, you're recognized. [LB907]

SENATOR NELSON: Thank you, Mr. President, members of the body. Good morning, everyone. I stand in support of AM2376, by and large, to LB907. And I want to commend Senator Ashford for the huge amount of work he and his committee put in on this. It's very, very complicated. I've been trying to read through all the amendment and understand it. I do...I would like...appreciate some clarification on one or two points here if Senator Ashford would yield. [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Yes. [LB907]

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

Floor Debate  
March 26, 2014

---

SENATOR NELSON: Thank you, Senator Ashford. If you'll go to page 17 of the amendment, toward the bottom there you'll see Section 16. Are you at that point? [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR NELSON: All right, fine. There in (2) under the duties of the district parole officer, "Assist a committed offender who requests assistance..." [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR NELSON: Well, now that's prior to release, right? [LB907]

SENATOR ASHFORD: Correct. [LB907]

SENATOR NELSON: And then it also covers those...a parolee and a probationer. [LB907]

SENATOR ASHFORD: Correct. [LB907]

SENATOR NELSON: Okay. So this comes under...the probationer also comes under the parole officer in this case. [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR NELSON: Could you just basically, to help me... [LB907]

SENATOR ASHFORD: Okay. [LB907]

SENATOR NELSON: ...briefly, the difference between a probationer and a parolee. [LB907]

SENATOR ASHFORD: Okay. So these are all...great question because it is somewhat technical. The programming that these parolees would be entitled to or would get, some of that programming is administered by the probation, adult probation department. So, for example, if they go into a SSAS program, they would be...that's administered by the probation department. So they would have a parole officer, but they also would have...they would go to a reporting center that would be administered by probation. We couldn't get, to your point which is a great point, we couldn't...and this is really going to have to be a CSG job, is to figure out probation, parole, and those various agencies that deal with these inmates. How should that best be structured going forward? It's too big...that was too big a chunk for us to take on. [LB907]

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

Floor Debate  
March 26, 2014

---

SENATOR NELSON: (Laugh) All right. Well, then thank you. And moving on then to (3), part of the duties, "Supervise parolees or probationers by keeping informed of their conduct and condition, utilizing global positioning systems and other monitoring technology as needed during the period..." [LB907]

SENATOR ASHFORD: Right, right. [LB907]

SENATOR NELSON: Could you flesh that out a little bit what you expect them to do as far as GPS? [LB907]

SENATOR ASHFORD: Right. That's a great question. The...first of all, when we...the supervised release is a concept that is a general concept, that we should not allow anyone to leave prison without some plan and some supervision of some degree. Right now actually, quite frankly, parole has done a better job. We are now supervising 63 percent of the inmates that get out and that's up from a lesser number of a few years ago. So we're doing more. But there are people who are getting out that are unsupervised. That's a problem that we're going to have to correct. And the Legislature going forward is going to have to come up with something to do it. What our solution was is this 80 percent idea which means that when someone gets to 80 percent of their sentence if they are not getting paroled or even if they are, that their...that a plan be put in place so that they can be directed to services outside of the institution. That's the point here. This does not fill every gap because not everybody will be supervised when they get out. [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR NELSON: Thank you, Mr. President. Now one final question. When they do get out, I mean either on parole or probation, are the local authorities notified in any way? Is there anything here in the amendment that requires that? You know, in Omaha we have problems sometimes knowing who is out on the streets so. [LB907]

SENATOR ASHFORD: That is exactly right. There's nothing...they should be notified. There's nothing specifically in here that says they shall be notified. I know that practice now of the department is to notify local law enforcement as a result of the case that happened in Omaha. You know, that's an easy amendment to make and it should be part of this. If we know at 80 percent of the sentence they're getting out on a certain date, local law enforcement could also know that. So that's a good thing. [LB907]

SENATOR NELSON: All right. Thank you very much, Senator. Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator Nelson and Senator Ashford. (Visitors

Floor Debate  
March 26, 2014

---

introduced.) Returning to discussion: Senator Crawford, you're recognized. [LB907]

SENATOR CRAWFORD: Thank you, Mr. President. And I would rise in support of LB907 and the amendments. And one of the reasons that I rise is that we talked yesterday about the importance of building a public record, especially since we do have term limits. And so many people have worked so hard on this proposal, and I would like to thank them for their work and thank everyone on the Judiciary Committee and Senator Ashford. But I know one of the things that Senator Ashford said in his comments was that they had a much broader set of things that they wanted to do and then realized in one year there are only certain parts that can get done in one year. And I appreciate their wisdom in, first, establishing that broad vision and then narrowing down to what is it that we're going to do in this one year and trying to establish several components to help us move forward based on evidence and best practices and how we're going to move forward when they're no longer here. So I just wanted to...I asked Senator Ashford a question about the plans moving forward on that front. And I just wanted to ask him that question again and have it on the record. So, Senator Ashford, would you yield? [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR CRAWFORD: Thank you. One of the pieces that was in an earlier version, the broader version, talked about developing Nebraska Center for Justice Research located at UNO and UNMC. And in that earlier proposal, it talked about having that jointly administered by members of the Legislature and the University. [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR CRAWFORD: It also talked about the importance of collaborating with other universities so that what we have in mind here is a research capacity in the state of Nebraska that uses our strengths across the state and the strengths of other universities but would be collaborating and coordinated through UNO and UNMC. And then obviously when we get down to the package that we're voting on today, we're pulling that back to just talking about allocating resources to UNO for this discussion. So I just wanted to have your comments on the record in terms of what your vision is and what the intent is in terms of what that money is being allocated for to create. [LB907]

SENATOR ASHFORD: Thank...okay...thank you, Senator Crawford. Yes, in talking to CS...first of all, when we went through the juvenile justice reform and Senator Krist will know this, he's not here, but we spent a lot of time with the University of Washington's justice research or policy institute because they administer a great deal of the juvenile justice system and treatment centers in Washington State. CSG has indicated to us that

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

Floor Debate  
March 26, 2014

---

what's happening across the country now is that states are developing centers for justice research and reinvestment. The theory is that the money you save in not having to build a new prison and operate a new prison and get the population down can be reinvested in programs throughout the juvenile and adult system. And that's really where this whole stuff...thing comes together. And CSG has also indicated and recommended that there be an educational component or academic component to this. That was the idea of the Center for Justice Research. You know, I think it's going to be up to you all next year to figure out that. I think that collaboration is critical. LSU, for example, has just started a center; University of Maryland has one; University of Washington; Texas. All these states that are doing a lot of this work have relied to a great extent on their universities to help with data analysis and keeping up with the trends. So I hopefully next year...and CSG has recommended to us that we involve an academic institution or institutions in this. [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR ASHFORD: And we have many. So I leave it open to you next year to figure it out. [LB907]

SENATOR CRAWFORD: Thank you. If I could just ask one clarifying question what you said. A couple of the models in other states you said have been models of collaboration. So have you seen that in other places where you have like a key partner that's one state, one research institution but they then pull in academic resources from other institutions on those projects? Is that something you've seen or something that CSG has talked about? [LB907]

SENATOR ASHFORD: Well, clearly so. And here we have...I mean we have Creighton obviously; we have UNO, UNL, UNMC, and then many other institutions. Kearney has a component. There are...we have assets...one of the neat things about this collaboration is we're going to be bringing in assets from across the state on the law enforcement and criminal justice side, but also hopefully on the academic side to...I'd love...my vision would be to have the best... [LB907]

SENATOR GLOOR: Time, Senator. [LB907]

SENATOR CRAWFORD: Thank you. [LB907]

SENATOR GLOOR: Thank you, Senator Crawford and Senator Ashford. The Chair recognizes Senator Dubas. [LB907]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. First of all, I'd like to thank Senator Ashford and the Judiciary Committee for all of the work that they've done on this issue. And I know there have been some other senators outside of

Floor Debate  
March 26, 2014

---

the committee who have been involved as well. This really is a very important issue and not an easy undertaking. But I have some questions. Would Senator Ashford yield to some questions? [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR DUBAS: Senator Ashford, I don't know if this fits in with what you're looking at either in this bill or the following bill, but I have really taken an interest in what drug courts do for our state and how it really does help I think reduce recidivism and get people on the right track. Do drug courts fit in anywhere here? [LB907]

SENATOR ASHFORD: Yes. Drug courts and mental health courts hopefully, young adult courts, veterans courts are all key to alternatives to incarceration. Our drug courts, we...as I said, we have 2,000 Nebraskans that go through the drug court every year, their diversion strategies. They work. They're successful. If we didn't have the drug courts and other probation community or reporting centers, corrections reporting centers, our prison population would be significantly greater than it is. [LB907]

SENATOR DUBAS: And I know you've probably been giving some of this information along the way and I've been in and out so I apologize if you have stated this already. Do you have any idea of the percentage of nonviolent prisoners that are incarcerated right now that are in there for nonviolent crimes? [LB907]

SENATOR ASHFORD: It's hard to use the violent and nonviolent because you could have somebody in prison on a nonviolent offense who's had a violent background and vice versa. But generally it's about 50/50, that 50 percent of our inmates are there for everything from drug and alcohol abuse types of crimes to fraud to writing bad checks to all the way up to the most heinous crimes, I mean people that are never going to get out at all so. [LB907]

SENATOR DUBAS: Very good. And how about do we have any way to get a handle on the percentage of incarcerated who are dealing with legitimate, serious mental health issues? [LB907]

SENATOR ASHFORD: Thirty-one percent have been diagnosed as mentally ill. But there is no question that...CSG has told us and our research would indicate that the number of inmates who have significant behavioral mental health issues is large. The exact number I don't know. I do know that we have 800 inmates that go through administrative segregation. And there's a whole new body of work now in the country that is saying from, again, conservatives, liberals, everybody seems to agree that something other than administrative segregation, unless it's absolutely necessary,

Floor Debate  
March 26, 2014

---

should be very sparingly used because it does make mental health more of an issue. When you segregate--I think Senator Chambers mentioned the other day--the executive director of the Colorado prison spent one day, 24 hours, in administrative segregation and came out saying, you know, we have to find a better way to keep order in the prisons other than administrative segregation. [LB907]

SENATOR DUBAS: Well, I mean, we know how we struggle just to deal with mental health issues for people who are not criminals. And so then you add in crimes on top of that, I know it makes it much more challenging. But I think if we can ever wrap our arms around addressing mental health issues this just falls into place. And then I just want a clarification on the amendment we're talking about right now. You've got the working group. Is that separate from the research group and will one or both of them be ongoing or there is just a certain amount of time that they'll be in place? [LB907]

SENATOR ASHFORD: Good question and Senator McCoy and others have asked similar questions, Senator Harms. The way it sits now is that the working group will work with CSG throughout the time that CSG is here. [LB907]

SENATOR WATERMEIER PRESIDING

SENATOR WATERMEIER: One minute. [LB907]

SENATOR ASHFORD: UNO is...because they have a very specific expertise in criminal justice and these kinds of matters, that they will be involved as a support for this task force and for CSG. CSG specifically said we need an academic institution that can do data mining and data analysis. And UNO has been doing it for us since we started in June so it was the logical. [LB907]

SENATOR DUBAS: It just makes sense. There are so many moving parts to what we're trying to address... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR DUBAS: ...here that I think, you know, they complement each other certainly. And the fact to have them be ongoing I think is so critical for future legislators because these are very complex issues, hard for the layman to understand. And so to have that resource I think will be extremely beneficial. Thank you, Senator Ashford. [LB907]

SENATOR WATERMEIER: Thank you, Senator Dubas and Senator Ashford. Those remaining in the queue: Senator Carlson, Senator Pirsch, Senator Avery, and Senator Christensen. Senator Carlson, you're recognized. [LB907]

Floor Debate  
March 26, 2014

---

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I rise in support of LB907 and the underlying amendments and appreciate Senator Ashford. And I've watched his intensity over the years on issues like this and appreciate the fire that he has for it. You know, I think that violent offenders are people that should serve their full term. And we think of, and I've heard this before and it does register with me, violent offenders are people we're scared of and there's good reason to be. But while violent offenders serve, if they have a limited sentence, so that someday they're going to be released. First of all, if they're diagnosed with a mental illness, they should have treatment. And if they have a limited sentence so that sometime they will be free, somewhere along the line we need to allow them to be offered some hope. And I believe that everyone, regardless of the deeds done or the character displayed, must have hope. And without hope, there is no possibility, I believe, for positive change, for becoming a positive member of society, or for having a beneficial effect on society. And if a violent offender is incarcerated, regardless of the term of the sentence, if there is no hope they shouldn't be discharged because we know what the result will be. Now who can contribute to providing someone with hope? Well, the state can to some degree through the corrections system and that should be part of it. And nonprofit groups such as the Center for Hope in Omaha provide that hope. And, of course, they provide the hope so that they never are incarcerated in the first place, and that's the best way to try and catch that. The church could do more in this area through voluntary ministries that they offer, and churches should be encouraged to launch more prison ministries and then should be allowed to do it on a voluntary basis for people in the prisons. And for the nonviolent offenders, LB907 fits. It provides good supervision. A strong probation system is what we need. And I think, and I'll address Senator Ashford in a minute, I think two things occur with the possibility of LB907. It's less expensive than being incarcerated all the way, and it offers the possibility that prisoners can earn their way while serving their sentence. If Senator Ashford would yield, I'd like to ask a question. [LB907]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Senator Ashford, would you yield? And you have one minute, Senators. [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR CARLSON: Do you agree with me that providing this supervised release is less expensive than being totally incarcerated and it provides an opportunity that they can earn their way to pay for their sentence? [LB907]

SENATOR ASHFORD: Absolutely. I mean your comments, Senator Carlson, are directly on point in my view. [LB907]

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

Floor Debate  
March 26, 2014

---

SENATOR CARLSON: All right. Thank you, Senator Ashford. But we've got to keep in mind that without hope life is not worth living. Everyone needs someone else who cares. Everyone needs a friend who is a positive influence. And whatever LB907 can contribute to this end, it's a positive bill. Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Pirsch, you're recognized. [LB907]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I appreciate the discussion here today. I think that certainly it is an issue that we need to address the population of our prison facilities at 151 percent. And the devil's in the details, however, and so we absolutely owe Nebraskans, first and foremost, the assuredness that we are managing the violent offenders in a very safe and secure basis for safety purposes. I wonder if Senator Ashford may yield to a question or two as I just kind of go through the lengthy amendment, AM2376, which will replace, I understand, the green copy of the bill. [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR PIRSCH: Okay. And, Senator, thank you for yielding. I'm not going to ask about the Senator Conrad's attorney, I guess, loan repayment program from rural areas. But I did want to start out methodically just in going through the bill, somewhere around page, of the committee amendment, 8: The Nebraska Justice Reinvestment Task Force is created to study legislative solutions for prison overcrowding, correct? And that is composed of a number of individuals and they're going to study the causes of overpopulation. Is that...and I'm not looking for much depth to that, but is that generally the basis of that facet of this amendment? And a simple yes or no would be acceptable. [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR PIRSCH: Okay. And then with... [LB907]

SENATOR ASHFORD: I'm sorry. Was the...that's gone. That language is gone with the amendment that's in AM2578. [LB907]

SENATOR PIRSCH: Oh, that language is gone that was... [LB907]

SENATOR ASHFORD: Correct. So we've tightened the task force sort of along the lines of what Senator McCoy was (inaudible). We've tightened the task force and we're going to continue to work on it between now and Select to make sure that it has a clear

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

Floor Debate  
March 26, 2014

---

mission and a terminable date. [LB907]

SENATOR PIRSCH: And then with respect to Senator, I guess, Avery's past attempts to ban the box, that's incorporated into this as well. Correct? [LB907]

SENATOR ASHFORD: The ban the box bill is in, yes, is in the amendment. [LB907]

SENATOR PIRSCH: And we have debated that. How many times has that come before this body over our tenure here--we came in together in '07--do you remember? [LB907]

SENATOR ASHFORD: Seven hundred, no, I'm kidding. [LB907]

SENATOR PIRSCH: Okay. [LB907]

SENATOR ASHFORD: No, you're right. We have discussed it in the past. [LB907]

SENATOR PIRSCH: What's the...can you describe...I know it says that on initial minimum employment qualifications that you cannot for public...either political subdivisions or for the state you cannot ask that questions with respect to criminal history. And so would this...who would this...would this apply to, for instance, publicly run day cares where you would not be able to ask about child abuse, have you been convicted previously of child abuse or nursing homes with respect to vulnerable adult charges or treasurers' offices with respect to prior instances of theft or anything of that sort? [LB907]

SENATOR ASHFORD: Well, I think the idea of the bill...obviously, these various...if they're public institutions, they would be doing background checks. They're required by statute to do a background check. If the background check shows sexual abuse... [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR ASHFORD: ...or fraud or theft, then that would come up...that would certainly turn up in the background check and they would be...they would not be hired. But we have excluded law enforcement from this, and Senator Scheer is talking about education issues and we'll take a look at it. [LB907]

SENATOR PIRSCH: Okay. And then with the...and I'll obviously not be able to get to everything in depth this first go-round, but with respect to the next facet on page 12 of the committee amendment, within the Crime Commission position of reentry program coordinator... [LB907]

SENATOR ASHFORD: Correct. [LB907]

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

Floor Debate  
March 26, 2014

---

SENATOR PIRSCH: ...is this a significant change from the green copy with respect to reentry...the plan for I guess kind of extensive... [LB907]

SENATOR ASHFORD: Right, yeah. [LB907]

SENATOR PIRSCH: ...reentry personnel? Okay. And then with respect to the Vocational and Life Skills Program on page 13, I won't ask any questions with respect to that. And we're probably...Mr. President, how much time do we have? [LB907]

SENATOR GLOOR: Time. [LB907]

SENATOR PIRSCH: Thank you. [LB907]

SENATOR GLOOR: Thank you, Senator Pirsch and Senator Ashford. Senator Avery, you are recognized. [LB907]

SENATOR AVERY: Thank you, Mr. President. I feel that I need to respond to some questions that have been raised by previous speakers about the Section 12 in the amendment, AM2376. Section 12 contains the elements of a bill that I had before the Business and Labor Committee that's known as ban the box. What it does is it prevents a public employer from inquiring about an applicant's criminal record or history in the initial stage of the application. Most applications you have a sheet, the first sheet has a box that says do you have a criminal history, yes or no? If you check yes, in most cases you don't get past that page. You don't even get to the point where you can even talk about your qualifications for the job. What this piece of the amendment does is it doesn't eliminate the possibility of doing a criminal history check, as Senator Ashford just mentioned. You still can do that if you look at item (3). It says, "This section does not prevent a public employer from conducting a criminal history record check after the public employer has determined that the applicant meets the minimum employment qualifications." That's all it does. It does not say, as was suggested, that if you are an educator you have to hire somebody who has a criminal background. It does not say that at all. It says that you cannot use the criminal background as the first question asked. You have to give them an opportunity to establish their credentials and then you can inquire into a criminal history. I understand that schools are barred from hiring felons. Fine. If you don't hire felons, you find out after they've established their credentials. Then you can ask them about a criminal background. If at that time you find out they're a felon, fine. They're eliminated. But now what...if you're going to exempt educators, then you're going to, in the net that you're casting here, you're going to eliminate a lot of people with misdemeanors. They're not felons, but they'll have misdemeanors. Maybe it's a minor in possession when they were in college. But they're going to be prevented from going past that first stage if you exempt educators. I don't think that's a good idea. It violates the intent of this legislation. There's nothing special

Floor Debate  
March 26, 2014

---

about public employment in schools other than the fact that you obviously don't want certain kinds of people teaching your kids or working in a school. But this bill and this particular section, Section 12--read it, Senator Pirsch--Section 12 answers all the questions you raised about ban the box. You still have the opportunity later in the application process to find out what the criminal history is. It's on page 12, lines 11-14. It does not restrict the ability to find out about the criminal background. And to say, well, it's inconvenient; it violates the very spirit of this part of the law we are proposing if you start exempting. Now we do exempt law enforcement and that's because it's a special category of employment and because other states have done that with success. But this has to be kept pretty tight. If you start allowing exemptions, then you undermine not only the letter of the law but the spirit of it. And I would oppose doing that. [LB907]

SENATOR GLOOR: One minute. [LB907]

SENATOR AVERY: So I will stop there, Mr. President. Thank you. [LB907]

SENATOR GLOOR: Thank you, Senator Avery. And, Senator Avery, that was your third time on the mike. Senator Christensen, you're recognized. [LB907]

SENATOR CHRISTENSEN: Thank you, Mr. President. I want to thank the Judiciary Committee. I sit on it, but they have worked on this intently. It's been interesting to be part of that and working on this committee on trying to figure out ways that we can reduce the amount of people in there but take better care of them. And when you look at the results of what CSG has done and the study that is being started, I think if you go back and look at their history, the states that have done it have not only quit building jails but been closing jails. And at the same time, not increasing crime and other things that could be an issue if you don't have people there. So I really want people to think about the ability of what we have to do with what LB907 and the next bill that we're going to talk about can do. And just to give you a quick thought, you know, right now within our jail systems we typically give service to people their last maybe two years of their sentence. Think about what would happen if you started giving people service the first two years they were in. People start getting the services they need, whether that be anger management, mental health issues, whatever the case, we start doing this on the front end, then you can observe their actions. And you can learn to see if the prisoners could be paroled early. So I hope you think about these bills together and what the Judiciary Committee is trying to do here because I really think there's a lot of positives that can come out of this to reduce recidivism as well as population and extreme cost that it is to have these prisons and run them if we start giving the necessary services right up front because then you can observe what has occurred with these prisoners. And some would be able to go to early parole, earlier than we've been doing. Just because they qualify don't mean that we're allowing them to be paroled. But at the time that they first qualify, you could have people that are already ready to go out and that would be a huge savings to the state of Nebraska. So I hope you're looking at these

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

Floor Debate  
March 26, 2014

---

bills. I hope you're taking this very serious. I agree with Senator Chambers' comment. I appreciate the very good questions and comments and direction this has went. I hope we can adopt these amendments and move forward because I believe LB907 and the following bill are very important for the state of Nebraska. Thank you. [LB907]

SENATOR GLOOR: Thank you, Senator Christensen. Senators in the queue: McCoy, Schumacher, Pirsch, and Krist. Senator McCoy, you're recognized, and this is your third time, Senator. [LB907]

SENATOR McCOY: Thank you, Mr. President. Would Senator Ashford yield, please? [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR McCOY: Thank you, Senator. On page 3 of the amendment, AM2578, it talks about...well, starting on line 16, "The center"--in this case that would be, of course, the Council of State Governments Justice Center--"shall recommend policies to reduce prison overcrowding with the goal of reducing prison overcrowding to one hundred twenty-five percent within five years after the operative date of this section." [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: How was that number arrived at? [LB907]

SENATOR ASHFORD: That's a CSG number and it's also a federal guideline that is utilized by federal courts. For example, in the California case, U.S. Supreme Court case involving the California prison system, the number that the Supreme Court referenced was 125 percent of capacity. So... [LB907]

SENATOR McCOY: So it's not...common sense would say 100 percent is 100 percent... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR McCOY: That's full. By the courts...help me understand that. Is that viewed as 125 percent there's some formula that's used or what determine...why was that ever arrived at? [LB907]

SENATOR ASHFORD: I think they annualize it that, you know, what is the annualized number. What is the, for lack of a better term, what's the average number throughout the 12-month period of time. If it's at 125 percent of capacity, the analysis is that

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

Floor Debate  
March 26, 2014

---

adequate programming can be provided; that attention can be paid to the more serious offenders, so forth and so on. And that's just the number that the department has mentioned to be several years is the number, the optimum number. They're never going to get to 100 because...though there are some states that have actually gotten below 100. But it's very hard to get below that because you're having people coming in and out, in and out, in and out so. [LB907]

SENATOR McCOY: And how was it determined within that five-year window? What rationale was used for that? [LB907]

SENATOR ASHFORD: I just...I chose five years because what CSG has indicated to me is it takes somewhere between three to five years to...once the plan comes into effect next year, you'll have the plan and then you have to execute on it. And it's going to take a while, for example, for reentry programs to work effectively, get the recidivism rate down that they have seen three to five years. That that's the time it takes to get down to, you know, 125 percent. [LB907]

SENATOR McCOY: And we're currently at 158 percent, somewhere? [LB907]

SENATOR ASHFORD: Yeah, we're about...yeah we're 158 percent. Some institutions like the D&E center is up over 240 percent. [LB907]

SENATOR McCOY: Okay. And at what threshold are we at risk as you've articulated again of actions by court? [LB907]

SENATOR ASHFORD: I think it's 140 percent. I think if...and that's what our statute already says, that the Governor may call an emergency or if we get to 140 percent. We're well over that. What is interesting, Senator McCoy, is that what I'm hearing from most advocates on the advocate side of this is LB907...and it's not just about LB907, initiatives like LB907 will work. It's not instantaneous, but they will work. And as long as we're progressing along those lines that we'll see a steady reduction. And that they're...from an advocate perspective, they are...that's positive. That would militate against filing a lawsuit or bringing in the federal government or any of those sorts of things. [LB907]

SENATOR McCOY: Is it...is there any rationale, Senator Ashford, to outlining at what point and how soon we expect to get at or below that 140 percent? I know we're saying... [LB907]

SENATOR ASHFORD: I would hope that...we're 1,700 over now. We're 1,700 over. [LB907]

SENATOR GLOOR: One minute. [LB907]

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

Floor Debate  
March 26, 2014

---

SENATOR ASHFORD: Now to get to 140 percent I think the number is...I'm not sure. My staff probably knows exactly what the number is to get to 140. But I think we can get to 140 percent within 12 months. You know, if Probation's numbers are accurate that where...I've just got the data here...okay, 473 would be the number to get to 140 percent. And if you just look at the Probation numbers, if we bulk up probation across the state with SSAS, they're estimating within a year 384. So to get to 140, assuming that the front end is also...the back end is also working, we get our recidivism rate stabilized, we should be at 140 within 12 months. [LB907]

SENATOR McCOY: And that would hopefully at least get us to where we would be not... [LB907]

SENATOR GLOOR: Time, Senators. [LB907]

SENATOR ASHFORD: Correct. Correct, Senator McCoy. [LB907]

SENATOR GLOOR: Thank you, Senator McCoy and Senator Ashford. Senator Schumacher, you're recognized. [LB907]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I'd like to compliment Senator Ashford on this very involved effort. And several times today I've had my light on and then shut it off as I worked through the maze of amendments. But I do have some questions as to a couple of definitions and procedures here that would probably be good to get into the record and maybe even clean up. Senator Ashford, would you yield to a couple of questions? [LB907]

SENATOR GLOOR: Senator Ashford, would you yield? [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR SCHUMACHER: Senator Ashford, two different places in AM2578 there is a center defined with a capital C. One is a Council of State Governments Justice Center, it first appears on page 1 at Section 11. And then on page 5 it talks about the Nebraska Center for Justice Research at the University of Nebraska at Omaha. Then sprinkled through the bill there is the word with a small c, the center. And when does the small letter center refer to the Council of State Governments Justice Center and when does it refer to... [LB907]

SENATOR ASHFORD: Okay. [LB907]

SENATOR SCHUMACHER: ...the Nebraska Center for Justice Research? [LB907]

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

Floor Debate  
March 26, 2014

---

SENATOR ASHFORD: Okay. Good question. That's what they are. I mean the center at UNO is the center. That's what it's called. And I think that the CSG is the Center for Justice Research. [LB907]

SENATOR SCHUMACHER: Okay. And how do we know in reading through the amendment when we see a small-lettered "center" which one it means? [LB907]

SENATOR ASHFORD: Yeah. We don't. Therefore, we need to correct that between now and Select File because it's just some apparent sort of center floating around. But we'll get it delineated so that we have... [LB907]

SENATOR SCHUMACHER: Okay. And then, Senator Ashford, I got one further question. It talks in the guts of things on page 3 of the amendment that "The center"--assuming in this case it means the Council of State Governments Justice Center--"shall recommend policies to reduce prison overcrowding." How is it...what mechanism of authority do we have over the Council of State Governments Justice Center to say that they shall do anything? Do we have a contract with them or do we... [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR SCHUMACHER: And that's how we... [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR SCHUMACHER: Are we amending that contract someway here? [LB907]

SENATOR ASHFORD: Yes. There's a memorandum of understanding between the state of Nebraska and the Council of State Governments. And, you know, Senator McCoy is probably more of an expert on that than I am. But, yes, there is a process where they're...delineates the responsibilities of the parties. And I can...we can make that available to you. [LB907]

SENATOR SCHUMACHER: I mean what it almost would appear in here that we're getting on a high horse or something and saying to the center, here's what you shall do and you shall do. So it may be good to say "the center pursuant to an agreement or an amendment or whatever" rather than it appears on its face like we're ordering them to do something. [LB907]

SENATOR ASHFORD: We'd probably have a difficult time ordering them to do anything. [LB907]

SENATOR SCHUMACHER: Probably would. [LB907]

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

Floor Debate  
March 26, 2014

---

SENATOR ASHFORD: I suppose so. [LB907]

SENATOR SCHUMACHER: Thank you, Senator Ashford. I have nothing further. [LB907]

SENATOR ASHFORD: Thank you. [LB907]

SENATOR GLOOR: Thank you, Senator Schumacher and Senator Ashford. Senators in the queue: Pirsch and Krist. Senator Pirsch, you're recognized. [LB907]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. And this is a lengthy amendment, 31 pages just for the underlying amendment, full of a number of different concepts as well as an additional amendment that's added to that. So I hope that we all have the opportunity to well vet this lengthy plan, plans rather, today, this morning, and if necessary this afternoon. So to that end I'll continue asking questions if Senator Ashford would yield. [LB907]

SENATOR GLOOR: Senator Ashford. [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR PIRSCH: So I'm calling your attention to page 23 of the committee amendment... [LB907]

SENATOR ASHFORD: Okay. [LB907]

SENATOR PIRSCH: ...that replaces the bill. And we're talking about administrative sanctions. [LB907]

SENATOR ASHFORD: Yes. [LB907]

SENATOR PIRSCH: And how does this committee amendment then change the world as we find it then before in terms of administrative sanctions? [LB907]

SENATOR ASHFORD: Great question. What we've adopted here generally are the administrative sanctions that are utilized by Probation in their evaluation of particular offenders. Let me just tell you this, Senator Pirsch, that, you know, we've been approached by a couple of interested parties that want us to continue to work on the sanctions issue and we're going to do that. [LB907]

SENATOR PIRSCH: Okay. [LB907]

Floor Debate  
March 26, 2014

---

SENATOR ASHFORD: We'll have some different language. [LB907]

SENATOR PIRSCH: Different language. Okay, thanks. That...so this section really composes through the end of the amendment... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR PIRSCH: ...the language and is the heart of it. So I do appreciate that comment that that's kind of a fluid... [LB907]

SENATOR ASHFORD: Right. [LB907]

SENATOR PIRSCH: ...conversation that's taking place. With that, I would yield the balance of my time. Thank you. [LB907]

SENATOR GLOOR: Thank you, Senator Pirsch. Senator Krist waives. Seeing no senators remaining in the queue, Senator Ashford, you're recognized to close on your amendment to the committee amendments. [LB907]

SENATOR ASHFORD: Thank you, Mr. President. I'm just going to close on this amendment and possibly on all of these amendments at the same time--we may have more questions, but--by simply reading something that I found very compelling. And Senator Christensen has been a great member of the Judiciary Committee and a great friend. He wrote...in February he wrote probably the most incisive evaluation of this problem that I have seen, in the McCook paper. And he concluded by saying, "We will either spend money on new prisons or more programming resources so compliant inmates can parole on time or early. Or, we can let offenders out with little or no help before reentry because of overcrowding. I don't think anybody really wants that result or that option." I think that's the guiding...Senator Christensen has simply put to you, members, has laid out the guiding principle here. Nebraskans will address this problem if given the appropriate platform to do so. We will work with people who are reentering the community. We will work with local law enforcement if the platform and the process in place so they know who is getting out of prison. We will work with people who happen to be veterans. We have almost 400 veterans in our correctional system now. They have very, very difficult, specific problems that have plagued them through their lives and they're in prison. We know that we can create...we have judges across the state that are motivated to provide problem-solving courts so that if somebody commits a felony and that felony can be...and that person can be controlled in the community in a safe manner, we know how to do that. We know how to do that. I am absolutely, totally, and utterly convinced that those of us in this body here today and those who will come after us in the future will make this work. We simply have to provide the platform and the idea, the idea behind it so that those who are coming after us, certainly after me, will be able to successfully develop a system of incarceration in this state that does

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

Floor Debate  
March 26, 2014

---

rehabilitate, that does...those individuals and it's not all of them. There are people in prison today who will never get out obviously. The aging prison population in Nebraska is an acute problem. We're spending a lot of money taking care of older inmates who will never get out of our system. But there are many who will and there are many who can be taken care of in their communities. This will be successful. Working with CSG and this Legislature in the next two to three to four years, we will totally reform and revamp our prison system to reduce the prison population and to keep our citizens safer. I absolutely guarantee because the people in this room here today that are going to be moving forward next year to the public, to our citizens, you will be well served by the efforts that this body is taking today, hopefully in advancing this bill and moving forward. Thank you, Mr. President. [LB907]

SENATOR GLOOR: Thank you, Senator Ashford. The question before the body, shall the amendment to the committee amendment to LB907 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB907]

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of Senator Ashford's amendment to the committee amendments. [LB907]

SENATOR GLOOR: The amendment is adopted. Seeing no one in the queue, Senator Ashford waives. The question is, shall the committee amendments to LB907 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB907]

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB907]

SENATOR GLOOR: The amendments are adopted. Seeing no senators in the queue, Senator Ashford waives closing. The question is the advancement of LB907 to E&R Initial. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB907]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB907. [LB907]

SENATOR GLOOR: The bill is advanced. Mr. Clerk. [LB907]

CLERK: Mr. President, a series of study resolutions: LR575-581, all will be referred to the Executive Board. (Legislative Journal pages 1153-1157.) [LR575 LR576 LR577 LR578 LR579 LR580 LR581]

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

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

Floor Debate  
March 26, 2014

---

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

RECESS

SENATOR WATERMEIER PRESIDING

SENATOR WATERMEIER: 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.

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

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

CLERK: I do not at this time, thank you.

SENATOR WATERMEIER: Mr. Clerk, we will proceed to the first item on the agenda for this afternoon.

CLERK: Mr. President, LB999 is a bill by Senator Ashford relating to criminal law. (Read title.) Bill was introduced on January 21, referred to the Judiciary Committee. The bill was advanced to General File. I do have Judiciary Committee amendments, as well as an amendment to those committee amendments by Senator Seiler. (AM2173, Legislative Journal page 865.) [LB999]

SENATOR WATERMEIER: Thank you, Mr. Clerk. Senator Ashford, you are recognized to open. [LB999]

SENATOR ASHFORD: Thank you, Mr. President and members. And thank you, colleagues, for the vote this morning on LB907. LB999 as originally filed was a companion bill to LB907 and had originally had a number of provisions which are now...or a part of which or a reduced version of which are now in LB907. So LB999 has become AM2530. And this is Senator Seiler's bill, so I'm going to defer to him in a moment. But let me just give you a little background on this issue. We touched briefly before lunch on the issue of mental illness. And, obviously, mental illness is a problem throughout the state of Nebraska; it's a challenge for all of our communities to deal with. When dealing with inmates within the custody of the Department of Corrections, mental illness becomes...can become terribly, terribly difficult to handle. And the result of failure to treat mental illness as it becomes worse and as inmates get to the point where they are ready to be released, it can have very dangerous repercussions. So as we worked through the issue of mental illness in prisons, in our prison system, we thought about different ways to handle it. And one of the concerns that I had originally dealt with young

Floor Debate  
March 26, 2014

---

adults. When I started looking at this problem of prison overcrowding in June or so, we started looking at the number of young adults who have been sent into our prison system. And there are, give or take, about 1,100 or 1,200 people, young people, under the age of 25 who are incarcerated for a variety of reasons in our system. And many of those individuals are incarcerated for drug and alcohol offenses, some for, obviously, for more violent offenses. But what seemed to be...and in looking at, anecdotally, a number of cases, a number of these young adults as they went into the system, it became clear to me that a number of them had mental health issues. And, obviously, those over 25 who are incarcerated, as well, have mental health issues and related issues. And I was really struggling with this what-do-we-do kind of situation. And one of the ideas Senator...well, not one, but I thought the idea that made the most sense to me was Senator Seiler's idea. And he came to us last year with the idea of the Hastings Regional Center facility as it related to juveniles. And as you all know, the Hastings Regional Center Building 3, I believe, does have 25 beds...or 24 beds for substance abuse and...well, primarily, substance abuse violators primarily from Kearney that are at Building 3. Senator Seiler came up with the idea that if we...as an inmate or as an offender comes into the system, comes into the corrections system and they're evaluated or even...hopefully, as this reform goes forward, we can even do more evaluation of inmates or potential inmates in the sentencing process and...but that's, again, for another day because it's going to take more work to figure out how to properly evaluate people earlier in the process. But in any event, as it is determined that they have mental health issues, before they go into the correctional system at all, or certainly from the D&E, or Diagnostic and Evaluation Center, wouldn't it be a great addition to our system if we could place, especially, these young adults, offenders, in a facility where their mental health issues could be dealt with before they go into the general population. Senator Seiler had the answer, in my view. I...we've looked at a lot...many, many other options. But Senator...I think the Hastings Building 7 idea has great merit. It...and Senator Seiler has suggested and recommended that teaming up with Mary Lanning Hospital and their psychiatric unit would be a significant advancement in our ability to treat mental illness in the prison system. And so what LB999...and in addition to that, the community of Hastings, not only Mary Lanning Hospital but the mayor and other city officials and leaders, community leaders in Hastings have stepped forward and expressed a willingness to, you know, utilize Building 7 at the Lincoln Regional Center for this purpose and suggesting that the Hastings Regional Center has...or its forerunners have...the city of...through those facilities have a hundred-year...the city of Hastings has a hundred-year tradition of working with dysfunctional population of individuals in various forms and are ready and willing to embrace this kind of facility in Hastings. So I think this is an important bill. Obvious...as you can see by looking at it, this bill does not build the facility. But what it does do is it puts the parameters around the planning for the facility. And when you come back, those of you who are going to be here next year, as you come back next year and as we see the CSG recommendations, we'll be ready to go. Then the Hastings facility opportunity will also be ready to be reviewed and finalized by this body next year. So with that, Mr. President, I thank again

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

Floor Debate  
March 26, 2014

---

Senator Seiler and the entire community of Hastings and the region in central Nebraska for stepping up and suggesting that this need can be filled in that community. And with that, I would urge the advancement of LB999. [LB999 LB907]

SENATOR WATERMEIER: Thank you, Senator Ashford. Mr. Clerk for an announcement. [LB999]

CLERK: Mr. President, Business and Labor will have an Exec Session now underneath the north balcony. Business and Labor Committee, north balcony immediately. Thank you.

SENATOR WATERMEIER: Thank you, Mr. Clerk. As the Clerk has stated, there are amendments from the Judiciary Committee. Senator Ashford, are you going to open? You are recognized. [LB999]

SENATOR ASHFORD: Thank you, Mr. President. If Senator Seiler is willing, I will defer to him at this point. [LB999]

SENATOR WATERMEIER: Senator Seiler. (AM2530, Legislative Journal page 1080.) [LB999]

SENATOR SEILER: Yes. Mr. Speaker, members of the Unicameral, it is a pleasure to introduce this amendment. Let me tell you a little bit about the Hastings Regional Center. It belongs to the state of Nebraska. It's located a half mile west of the city proper. As you enter the east gate to the property, the first building on your right is Building 3, which is in use at this time for the youth that have alcohol abuse and drug abuse and are brought over from Kearney at the YDC. And the next building is the administration building that is currently in use. The next building on your left is the chapel that was built by donations from the city of Hastings. It was built in 1958 and is still in pretty good shape. The next building a block north of the administration building is a hospital, a three-story building that was used as a hospital in the days and is currently being used by HHS. And then you arrive at a dead end and you take a left, and a half a block south you'll see the Building 7, which is a four-story building and has been used as a patient treatment center for many, many years and was shut down in 1995. What this AM2173 and AM2530 does is commissions the Department of Health and Human Services Division of Behavioral Health to do a study as to the feasibility of redoing this four-story building and using it as a mental health facility. All the buildings south of there, which is probably five to seven more, are scheduled to be torn down and probably rightfully so. I think they might have out-used their use. They were built in 1860 so...and very little repairs have been done to them in the last 20-25 years. So those are scheduled to be terminated and brought down. Hastings is an interesting community. There's probably not many communities like it where you can talk about mental health and people don't get all excited against it. It's been there. It employed a number, a

Floor Debate  
March 26, 2014

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number, of people for three, four generations. And so it's pretty accepted. Mary Lanning Hospital has the entire seventh floor of a pretty good-sized hospital that is for mental health. They do a real good job. They have a...according to their director, they have plenty of psychiatrists, psychologists, nursing aides that are specialized in mental health that would be available to man the hospital out there. But that's a little jump ahead of the horse. The horse right now is just this bill to get the state to do a study to see if it's feasible to use this building. AM2530 simply made two changes. In Section 1, the old section read: Legislature finds that there is...a need "may" exist. And that has been stricken. The "may" has been stricken. And it now reads in the Section, AM2530, that a need "exists"--plural--"for additional." And then on the last sentence of the document we added, "by December 15, 2014," for a deadline to be put in for the study and the estimates of cost for rehab to be submitted to the Legislature. Those pretty well cover the bill and the amendments. I'd urge you to vote green on the two amendments and the bill. Thank you very much. I'll take any questions. [LB999]

SENATOR WATERMEIER: Thank you, Senator Seiler. Just to clarify, we have heard the opening on the amendment and the amendment to the committee amendment to the bill. Those wishing to speak are Senator Bloomfield and Senator Mello. Senator Bloomfield, you are recognized. [LB999]

SENATOR BLOOMFIELD: Thank you, Mr. President. Would Senator Seiler yield for a question? [LB999]

SENATOR WATERMEIER: Senator Seiler, would you yield to a question? [LB999]

SENATOR SEILER: I'll yield, yes. [LB999]

SENATOR BLOOMFIELD: Thank you, Senator Seiler. When this was the bill, what was the fiscal note on it? I didn't catch the bill number when we were talking about it. [LB999]

SENATOR SEILER: It was originally LB999. [LB999]

SENATOR BLOOMFIELD: Okay. I'll go back and look at that. Thank you. [LB999]

SENATOR SEILER: Okay. [LB999]

SENATOR WATERMEIER: Thank you, Senator Bloomfield and Senator Seiler. Senator Mello, you are recognized. [LB999]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, maybe this will, hopefully, help address Senator Bloomfield's question. The original LB999 has been stricken from the bill. And the original bill had a fairly sizeable fiscal note in regards to some reentry services that were pared down, I would say, considerably and

Floor Debate  
March 26, 2014

---

added to LB907, the bill we passed before adjourning for lunch. LB999, with Senator Seiler's amendment and approach, essentially stops what was in the budget last year, which was an appropriation of more than \$3 million, to tear down all of the facilities at the former Hastings Regional Center. And so what Senator Seiler's amendment does is that it puts a halt on the demolition of those buildings until we have the Department of Health and Human Services do a capital construction feasibility study to make the determination of whether or not Building 7 can be saved, rehabbed, and then ultimately transferred to the Department of Corrections to be used to house inmates in correctional...for correctional purposes for those who have mental health-related issues and/or need some kind of mental health treatment. It's really, I think, a completely different bill now than when LB999 was introduced. As Senator Ashford and Senator Seiler mentioned, the general thought is: If there is a facility the state has now that we could utilize before we tear it down and try to sell the property, this is the perfect example of that scenario that Senator Seiler mentioned. The city of Hastings last year...when we were discussing the future of treatment facilities in Hastings as part of the Department of Health and Human Services budget, the city of Hastings through Senator Seiler's help was extremely helpful to the Appropriations Committee as we evaluated options to help move forward with some of the behavioral health treatment future, so to speak, the new facility that was going to be done in Hastings. And so I think what we have in front of us with AM2530, which changes the underlying committee amendment, is a real positive opportunity for the Legislature to consider utilizing an existing resource before we travel down a path where we can't utilize that resource because we demolish it and all we're left is the land that's underneath of it for us to essentially sell to a private bidder. So I think it's a wise fiscal stewardship here issue that the Judiciary Committee has put forward. It may not...colleagues, I'll be the first to tell you, it may not yield the results that we all would like to see. But as Senator Seiler would tell you, this is the path we need to travel first before we demolish all the existing buildings and sell the property. This is one last opportunity for us to take an evaluation to see if this is some added bed space that we could, essentially, give to the Department of Corrections specifically for mental health treatment purposes. With that, I'd urge the body to adopt both the underlying amendment and the committee amendment. Thank you, Mr. President. [LB999 LB907]

SENATOR WATERMEIER: Thank you, Senator Mello. Senator Christensen, you are recognized. [LB999]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, looking at the fiscal note that's on there for a couple years out, it's \$14 million. But to put that in perspective, you divide that by \$35,000, the average cost of a prisoner. That's 422 prisoners that we would have to reduce to pay for that. And you go look at the other CSG studies. A number of these states not only quit building prisons, but they closed prisons. If we could reduce 422 people by giving them the proper training and getting them paroled and out, make them good citizens again so they're rehabilitated, we could save way

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

Floor Debate  
March 26, 2014

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more than what this is going to cost us. You've just got to look at what it's costing us. And we're at the point we got to spend more than that to build a facility. Or we can take the steps that other states are using, like CSG has done in their studies for other states, and look at their results. It's not like we're going into this blind, because we've seen other states now close prisons. And to do that, they've got to reduce populations. And if they're not increasing their recidivism rate, it's a positive, positive thing for your state. So even though that looks like a large number, look at it as an investment, and just look up what other states have done and how they've been able to reduce theirs. And let's keep this plan in place going forward. And it would be a very good investment for the state of Nebraska because we're going to reduce our cost this much. But it's also going to put more people out in the work force that will also be making money. That increases the return to the state. So I appreciate your time. I'm not going to take much more of it but hope you'll consider looking up what some other states have done from the CSG work and taking the approach that we're trying to do right now as the state of Nebraska being recommended by the Judiciary Committee. Thank you. [LB999]

SENATOR WATERMEIER: Thank you, Senator Christensen. Senator McCoy, you are recognized. [LB999]

SENATOR McCOY: Thank you, Mr. President and members. Would Senator Ashford yield, please? [LB999]

SENATOR WATERMEIER: Senator Ashford, would you yield for a question? [LB999]

SENATOR ASHFORD: Yes. [LB999]

SENATOR McCOY: Thank you, Senator. I wanted to try to get a little bit of clarification, if I could, on our vacant building statutes and that process that I think we worked on last year through LB199. And we established a kind of a new framework for how we handle these types of structures before we either gift them, sell them, refurbish them, in that case. How is this process, what you're proposing under these amendments under LB999, work within the confines of, I think it was, LB199 from last year, as I recall? [LB999 LB199]

SENATOR ASHFORD: We...Senator McCoy, we did review those changes. And it's my understanding...and I'm going to have to stand in ignorance here. I don't recall...my understanding is that when we made that, that was brought up, to your point, and it's a good point, and that the administration brought it up. We...it's my understanding that we have to be compliant with that and that by going through this process that that would have to be done. I don't remember before this...and it goes any further. I don't think there's any requirement though that would prevent us from going through the process of evaluating...here's the deal: There's \$8 million that is already appropriated or in the...and Senator Mello can correct me if I've used the wrong words...already in...having

Floor Debate  
March 26, 2014

---

been appropriated to evaluate the other building, Building 3, to expand it to 48 beds. And there's some money in there to do that. What this bill does is add Building 7 to that mix. Boy, I'm not sure I know exactly about whether the vacant building process needs to have something else done in order to accommodate Building 7. But my understanding is that we have...we are compliant. But I may be...I may need to look at it more fully. [LB999]

SENATOR McCOY: Well, thank you, Senator Ashford. And I just asked those question, and I'll maybe direct a future one to Senator Mello. And I appreciate you taking those questions because it's my understanding with what we did with LB199 that, depending on where these structures are in that process of the vacant buildings and commission and whatnot, that I would determine whether or not these could be used for this purpose or whether we would have to essentially either move ahead or pull back or whatnot where this building sits on that list. With that, thank you, Senator Ashford. And if I might ask Senator Mello a question? [LB999]

SENATOR WATERMEIER: Senator Mello, will you yield? [LB999]

SENATOR MELLO: Of course. [LB999]

SENATOR McCOY: Thank you, Senator. And could you possibly shed some light on this or...I'm not trying to catch you off guard here, but on where the structures, do you know, sit in the process with the vacant buildings? [LB999]

SENATOR MELLO: I'll do my best, Senator McCoy. And Senator Ashford gave a little background. The budget bill last year, LB199, appropriated roughly \$8 million to rehab part of the Hastings facility, and then it pretty much deemed, while it has to follow the vacant...I think it's the Vacant and Excess Land Committee process,... [LB999 LB199]

SENATOR WATERMEIER: One minute. [LB999]

SENATOR MELLO: ...I think it's called, the rest of the buildings, through our appropriation...and it's the understanding from what the administration requested with that appropriation that the remainder of the buildings were going to be deemed unusable and be torn down, and then the land would be sold. And that money would go back into the Vacant Building and Excess Land Fund for the state to use for some other purpose. The way I interpret and understand what Senator Seiler's and the Judiciary Committee amendment does is that it takes that building, it takes Building 7 and separates it from the remainder of the buildings that will follow the remainder of that process. And it has them do, essentially, a separate study to make the determination of whether or not the facility can be rehabbed and, essentially, redeveloped or renovated for an expansion of beds to be used for the Department of Corrections for mental health treatment purposes. [LB999]

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

Floor Debate  
March 26, 2014

---

SENATOR McCOY: Do you know, Senator Mello, where in the process that Building 7 is currently? [LB999]

SENATOR MELLO: You would have to ask, I think, the administration, Senator McCoy, since that process... [LB999]

SENATOR WATERMEIER: Time, Senators. [LB999]

SENATOR MELLO: ...isn't driven by the Legislature. It's purely an executive branch process that's driven, I think, through the Department of Administrative Services, if I'm not incorrect. [LB999]

SENATOR WATERMEIER: Time, Senators. [LB999]

SENATOR MELLO: You'd have to find out from them. [LB999]

SENATOR WATERMEIER: Thank you, Senator McCoy, Senator Mello, and Senator Ashford. Senator Seiler, you are up next. [LB999]

SENATOR SEILER: Senator McCoy, I may be able to help you on that. Scot Adams has that property under his jurisdiction. And the \$14 million is calculated this way: It's \$3 million for the rehab of Building 3, \$5 million for the tear down; but there's also 600 acres of irrigated farm ground that's available for sale, and they calculated that at \$6 million, so--the value of it. So that would put it at \$14 million, and that's how they came up with that number. [LB999]

SENATOR WATERMEIER: Thank you, Senator Seiler. Next in the queue is Senator Christensen. [LB999]

SENATOR CHRISTENSEN: Thank you, Mr. President. They corrected me here on the fiscal note. You can't use the one that's there. I guess I missed that when Senator Mello said that. But at the same time, the principle what I give you is correct or what CSG has been doing and if you can save \$35,000 per prisoner, what you can do on that. And what we've got to realize, too, and it's been said before, that Nebraska is under the gun to make sure we get the overcrowding taken care of. And that's why this amendment is the Hastings facility that Senator Seiler talked about and that we need to get this done because that also opens up the additional programming that I was talking about that helps us be able to get people trained and equipped to be able to be paroled and back out in society making good benefits to us. So I wanted to correct where I had made my error there and just encourage, again, the support of this bill so we can keep things moving the right direction. Thank you. [LB999]

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

Floor Debate  
March 26, 2014

---

SENATOR WATERMEIER: Thank you, Senator Christensen. (Visitors introduced.)  
Senator Bloomfield, you are next in the queue. [LB999]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I've been trying to find out what this study is going to cost, and I'm not being able to come up with a number. So I'm going to ask Senator Ashford, then I'll proceed up the line. I just don't like the idea of writing an open check. [LB999]

SENATOR WATERMEIER: Senator Ashford, will you yield? [LB999]

SENATOR ASHFORD: Yes. [LB999]

SENATOR BLOOMFIELD: Senator Ashford, can you give me some idea of what this study is going to cost to determine whether or not the building is fit to be... [LB999]

SENATOR ASHFORD: It would be an architectural study, an evaluation of the facility. And the money, my understanding...now Senator Seiler can correct me. My understanding is that the money that has already been set aside, which is not a very artful term, but set aside for this overall Hastings Regional Center restoration would include the money that would be used for the architectural study. And it would be in the \$200,000 to \$250,000 range per...for the study. [LB999]

SENATOR BLOOMFIELD: Okay, thank you. I'm going to continue back to Senator Mello with the same question if he would yield. [LB999]

SENATOR WATERMEIER: Senator Mello, would you yield? [LB999]

SENATOR MELLO: I will. Thank you, Mr. President. And thank you, Senator Bloomfield. I was trying...Senator Ashford, I think, hit it fairly close. There's \$3.1 million that was appropriated last year for--and this is a little bit of what Senator McCoy, I think, was asking--to do the demolition and the rehab of the property once all the buildings get demolished, with the exception of the building that will get rehabbed. With LB999, as amended by Senator Seiler's amendment and the Judiciary Committee amendment, that \$3.1 million will be about a \$200,000 fiscal note associated with LB999 from that \$3.1 million that then \$2.9 million will then get essentially lapsed to the bottom line, lapsed to the green sheet this year, this biennium. And we will then spend the \$2.9 million the first year of the next biennium dependent upon, obviously...if there's a program, say, that comes back that has us wanting not to demolish the building, then things change a lot. But it would just move that \$2.9 million demolition cost that we've already appropriated the money for to the first year of the next biennium. So you would see a reduction this year of \$2.9 million and shift it to the first year of the next biennium. [LB999]

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

Floor Debate  
March 26, 2014

---

SENATOR BLOOMFIELD: Okay. Thank you. I just wanted to make sure we weren't leaving an open-ended amount there for a study. And thank you for that information. [LB999]

SENATOR WATERMEIER: Thank you, Senator Bloomfield, Senator Ashford, and Senator Mello. Seeing no one in the queue, Senator Seiler, you are recognized to close on your amendment to the committee amendment. [LB999]

SENATOR SEILER: I'd urge that you vote green on these and...so we can get this program going. Thank you. [LB999]

SENATOR WATERMEIER: Thank you, Senator Seiler. The question is, shall the amendment to the committee amendment to LB999 be adopted? All those in favor vote aye; those opposed, nay. Have all voted? Record, Mr. Clerk. [LB999]

CLERK: 30 ayes, 0 nays on adoption of Senator Seiler's amendment, Mr. President. [LB999]

SENATOR WATERMEIER: The amendment is adopted. Senator Seiler, seeing no one in the queue, would you like to close on the committee amendment? [LB999]

SENATOR SEILER: Waive. [LB999]

SENATOR WATERMEIER: Senator Seiler waives in closing on the committee amendment to the bill. The question is, shall the committee amendments to LB999 be adopted? All those in favor vote aye; all those opposed, nay. Record, Mr. Clerk. [LB999]

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB999]

SENATOR WATERMEIER: The committee amendment is adopted. Senator Ashford, you are recognized to close on LB999. [LB999]

SENATOR ASHFORD: Thank you. Very briefly, Mr. President, members, I think it's very fortuitous that, in fact, Senator McCoy is president...that's the right...I think it's president, right, of CSG Midwest or chairman of the board of that organization...and that CSG becomes a major player in how we move forward collaboratively addressing these issues, mental health. The two issues that have been brought home to me throughout all these months of working on this are, number one, mental health; number two, vocational pathway to a job, creating, as Senator Carlson very artfully, as he always seems to do and has done for all these eight years, goes right to the heart of the matter, and that is creating hope. And there are people in our system who have offended, have broken the law, but also have tremendous mental health problems. And we need to do

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

Floor Debate  
March 26, 2014

---

what we can because many of those people are going to be out on the street in our communities. We have that little piece, that little element of hope that Senator Carlson talked about and has talked about in many contexts over the eight years he's been here, this whole idea of...that we can all better ourselves, no matter where we start from I think is...truly reflects our spirit and our values as Nebraskans, and it brings us all together. That's why we're different, I think, than other places. Once we focus on something, we want to make things better, want to provide hope for all our citizens no matter how down and out they may seem to be at any particular time. So with that, I thank...thanks to Senator Seiler, Senator McCoy for helping get CSG going on this. And I'm just very enthused and hopeful that we can move forward with these bills. Thank you. [LB999]

SENATOR WATERMEIER: Thank you, Senator Ashford. The question is the advancement of LB999 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted? Record, Mr. Clerk. [LB999]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB999. [LB999]

SENATOR WATERMEIER: The bill advances. Mr. Clerk for an announcement. [LB999]

CLERK: Thank you, Mr. President. An amendment to be printed to LB1067 by Senator Hadley. Study resolutions LR582, LR583, will be referred to the Executive Board. Communication from Senator Wightman as Chair of the board regarding appointments to certain select committees, special investigating committees. Senator McGill, new A bill, LB923A. (Read LB923A by title for the first time.) And, Mr. President, communication from the Governor to the Clerk. (Read re LB144, LB259, LB371, LB371A, LB474, and LB546.) That's all that I have, Mr. President. Thank you. (Legislative Journal pages 1157-60.) [LB1067 LR582 LR583 LB923A LB144 LB259 LB371 LB371A LB474 LB546]

SENATOR WATERMEIER: Thank you, Mr. Clerk. Next item on the agenda.

CLERK: Mr. President, LB1092, a bill originally introduced by Senator Dubas. (Read title.) Bill was introduced in January, referred to the Revenue Committee. Senator Dubas presented her bill on March 12. At that time, committee amendments were adopted, Mr. President. I do have an amendment pending to the bill. (FA255, Legislative Journal page 889.) [LB1092]

SENATOR WATERMEIER: Thank you, Mr. Clerk. Senator Dubas, would you refresh us on LB1092? [LB1092]

SENATOR DUBAS: Thank you, Mr. President, be glad to. A refresher on LB1092: authorizes the Highway Commission at the direction of the Department of Roads to

Floor Debate  
March 26, 2014

---

bond up to \$200 million over the next three years with conservative debt service limits and a fixed interest rate not to exceed 5 percent and only for those specific projects already identified by the Build Nebraska Act. The bonds will be repaid out of the State Highway Capital Improvement Fund, which consists of the state's share of that quarter cent of sales tax. These are not general obligation bonds. And while the State Highway Cash Fund is pledged, the money will be paid back from the State Highway Capital Improvement Fund. That Highway Cash Fund acts as our collateral, but only in an extreme case of emergency would those funds be used. Under normal circumstances, only the State Highway Capital Improvement Fund will be used to pay back these bonds. I also want to be very clear that the gas tax is unaffected by this approach. [LB1092]

SENATOR WATERMEIER: Thank you, Senator Dubas. Senator Chambers, would you please refresh us on the floor amendment to the bill? [LB1092]

SENATOR CHAMBERS: Mr. President, that is exactly what I intend to do when I refresh myself. (Laughter) But to read the amendment, it says, on...while I'm looking to get organized here... [LB1092]

CLERK: I think you were amending the committee amendment, Senator, maybe AM2067. [LB1092]

SENATOR CHAMBERS: For the time being, I will withdraw that. [LB1092]

SENATOR WATERMEIER: The amendment is withdrawn. Senator Dubas, you are in the queue. [LB1092]

SENATOR DUBAS: Thank you, Mr. President. I'd just like to have an opportunity maybe to address some of the things that were discussed when we talked about LB1092 the first time around. In the state's 2013 State Highway Needs Assessment, which is compiled by the Department of Roads every year, the current needs for the next 20 years are estimated to cost us \$9.8 billion in today's dollars. Over the next 20 years, the total costs of the 2013 needs are estimated at \$14.1 billion. And currently, MAP-21, which is the federal transportation program, is set to expire in October of 2014. As the Chair of the Transportation and Telecommunications Committee, I kind of keep track of what's going on with MAP-21. We had some legislation previously that dealt with bringing us into compliance with federal regulations in regards to MAP-21. But there is some concern that based on our current spending and revenue trends at the federal level, the USDOT and the Congressional Budget Office estimate that the highway account of the Highway Trust Fund will encounter a revenue shortfall before the end of the 2014 fiscal year, this year. And if this happens, all federal transportation funding will come to a quick halt, thus forcing states to cut highway bid lettings and put thousands of construction jobs and other economic activity at risk. And so while those federal funds

Floor Debate  
March 26, 2014

---

don't have a direct impact on what we're talking about here as far as federal...as far as the bonding goes, if we do lose those federal funds or if they're diminished in any way, we're looking at maintenance and preservation projects that are put on hold or eliminated. But if we have bonding in place, we have capital improvement projects moving forward, and we can accelerate some of those capital improvement projects, we're going to keep people working; we're going to keep important capital improvement projects moving forward. So in that respect, again, while the federal funding doesn't have a direct impact on what we're talking about here, it definitely does have an indirect impact and will help us continue to move capital improvement funding projects forward. In 2012, the Performance Audit Committee did an audit of the Department of Roads and how their projects are selected, prioritized, and funded. And I know there were some questions that last time around about how projects are prioritized. And I don't believe that I gave a real good, solid answer as to how that happens. NDOR uses a cost-benefit analysis tool to rank capital improvement projects. They have two tiers of scrutiny. Tier one, they weigh the direct operating...direct user benefits of the potential project, operating costs, motorist safety, engineering cost, and project needs. Tier two analysis, they consider a project that already has dedicated state funds, earmarks, or local funds, the degree of public support or opposition, and then the potential economic and environmental benefits derived from the construction of that road. So those are components that they can plug in to determine how to prioritize roads funding projects. After LB84 was passed, NDOR gave weight to the following considerations: number one, deliverability, are there projects ready to go; right-of-way issues; maintaining a fair statewide distribution of those funds; and whether any projects could be reclassified as asset preservation rather than a capital improvement. Capital improvement projects are prioritized by consensus of a group consisting of the director, State Engineer, deputy directors, and the project delivery team. NDOR's decisions... [LB1092]

SENATOR WATERMEIER: One minute. [LB1092]

SENATOR DUBAS: ...are primarily--thank you...needs based; or if they believe that external influences, such as pressure from...they believe that they are need based and they don't believe that there is any outside influence, pressure from elected officials, because they have the priority system and the data that's plugged in. Some of the past directors, engineers, people who were asked if they felt like there was undue pressure or any pressure from elected officials or otherwise on moving their particular pet project to the top. If you look at the projects, and I'll pass that list out here in a little while, I feel pretty confident that the system that the Department of Roads uses to develop their project prioritization is one that is fair and takes all of...everything into account as they weigh that out and determine those priorities. I will pass some of these things out and have some further things to add throughout the discussion, but I wanted to be clear about that prioritization process. That's been in place a long time. I've not ever had anybody come and complain to me like they felt that their project was not treated fairly. [LB1092]

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

Floor Debate  
March 26, 2014

---

SENATOR WATERMEIER: Time, Senator. [LB1092]

SENATOR DUBAS: Thank you. [LB1092]

SENATOR WATERMEIER: Thank you, Senator Dubas. Senator Bloomfield, you are next to speak. [LB1092]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I rise in opposition to LB1092. Nebraska has always been a pay-as-you-go state. I think we ought to stay that course. Granted, we could move forward more quickly on some projects. But if I went out and borrowed \$50,000, 60,000, I could also buy a new pickup real quick. That doesn't mean it's the right thing to do. Remember, also, the Department of Roads came in, in opposition to this bill. So I don't believe it's something we need to do at this time. And I'd yield the remainder of my time to Senator Chambers if he'd like it. [LB1092]

SENATOR WATERMEIER: Senator Chambers, you are yielded 4 minutes. [LB1092]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Bloomfield. I stated the last time we were on this bill that I do not think it is good policy for the state and that I will do all that I can to prevent it from becoming law. I still feel that way, but now I have a bit of trepidation. The World-Herald did a long editorial supporting the...without mentioning me. I think they quoted the Chairman of the Revenue Committee...but the idea that Nebraska should continue to be a pay-as-you-go state. But before I continue, I'd like to ask Senator Dubas a question or two just to get some context. [LB1092]

SENATOR WATERMEIER: Senator Dubas, will you yield? [LB1092]

SENATOR DUBAS: Yes, I will. [LB1092]

SENATOR CHAMBERS: Senator Dubas, how much money did you say, if you recall, it would take to complete the...how far behind would you say the state is, in terms of actual dollars, as far as highway construction and maintenance? [LB1092]

SENATOR DUBAS: I don't know that I've ever said specifically that they're being behind. [LB1092]

SENATOR CHAMBERS: Roughly. [LB1092]

SENATOR DUBAS: But looking at the current needs, projecting that out over 20 years, we're looking at about \$9.8 billion in today's dollars. [LB1092]

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

Floor Debate  
March 26, 2014

---

SENATOR CHAMBERS: Billion dollars. [LB1092]

SENATOR DUBAS: Billion, with a "b." [LB1092]

SENATOR CHAMBERS: If this bill is passed, how far will it go in reducing that amount of money by providing money to do the building and maintenance? [LB1092]

SENATOR DUBAS: This bill is a very...in my estimation, a very conservative approach to bonding. We're talking a maximum of \$200 million. So when you're talking \$200 million versus \$9.8 billion, there is quite a wide range in there. But the way I view it is the projects that are already in the queue, would allow them to accelerate those projects and, looking at inflation rates of 5 to 7 percent over the course of the next three to five years, would allow us to save some dollars and accelerate projects. [LB1092]

SENATOR CHAMBERS: So, being practical, we can forget that large, multibillion-dollar figure because this is just short term. And even if this amount of bonds would be issued, after that money has been spent we're going to be about where we are right now, still, because there are going to be some projects for which there is no money and additional bonds will have to be let. And instead of paying as we go, we'll be borrowing as we go. Isn't that correct? [LB1092]

SENATOR DUBAS: On...these are specifically related to the Build Nebraska Act projects that are already in the queue. So I view this as a way of accelerating those projects, moving them along, and probably more a chance for the state to save money rather than have to spend more money to get these projects moving. [LB1092]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I think that makes my point. This is not designed to cut into that multibillion-dollar amount. There are certain favored projects,... [LB1092]

SENATOR WATERMEIER: One minute. [LB1092]

SENATOR CHAMBERS: ...as I understand it, on the table right now. And this is an attempt to move toward getting those completed. But if we are taking a comprehensive or long-range view, this bill is really a waste of time. And I will have a chance to go into that in more detail. I'm just trying to lay out some context for the comments that I will be making. Thank you, Mr. President. [LB1092]

SENATOR WATERMEIER: Thank you, Senator Chambers, Senator Dubas, and Senator Bloomfield. Mr. Clerk for an amendment. [LB1092]

CLERK: Mr. President, Senator Chambers would renew FA255. (Legislative Journal page 889.) [LB1092]

Floor Debate  
March 26, 2014

---

SENATOR WATERMEIER: Senator Chambers, you are yielded...recognized to open on your floor amendment. [LB1092]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I was having trouble finding my committee amendment. It is in the bill book, but I was looking behind the bill instead of in front of it. At any rate, I found the amendment and the committee amendment which now is the bill. Here is what my amendment will do, and I'll read it for the record: On page 1, in line 14, after the number "2033," we would place a period. Then we would strike this language: In order to accelerate completion of the highway construction projects identified and to be identified for funding under the Build Nebraska Act. Members of the Legislature, this could be called a technical amendment; and I'll tell you why, as we move along, because I want to have a chance to discuss it a bit. When people spend money by means of a credit card, I have read reports that the person using a card and who runs into trouble does not see that as taking money out of his or her pocket. It is getting something without having to pay for it. And people spend, by way of that credit card, beyond their means. They are not able to make any payments on the principal, and some even fall behind on the interest due to the amount they spend on that credit card, additional credit cards, then poor management of their overall household or other expenses. The state should not follow a bad example. I have not heard anybody who supports this bill, including Senator Avery who talked to us about the huge amounts in bonding that the state of Missouri and the state of Minnesota will allow. I have not heard anybody say that those states are up to date on their road building and their road maintenance. They're always behind. You will always be behind in road construction because this is--and I use the term advisedly--a perishable product that we're talking about. You do not build a road and expect it to last forever. There is going to be some damage caused by thawing and freezing based on bad weather, such as exists in Nebraska; sometimes there is actually shoddy work done in the first instance with the construction of some of these roads and then the heavy traffic that can occur. So we are never, ever going to be caught up on all the projects that could be envisioned. But when you have a state with a population of 1,800,000 people, it's not wise to undertake a lot of debt anyway. Some of these projects that have been mentioned to us are favored projects. But they are not of sufficient importance or urgency to justify the state in leaving the methodology that has been used for paying for road construction and repair by adopting this bill. Go into debt--it's easy, so easy you don't even feel it. And if you're lucky, your children and grandchildren will pay off the debt. We hear some of the people saying that the federal government has a large amount of debt. And they say, the people who talk about that, don't leave the debt for the children and grandchildren. All of these debts start off small. My understanding, from what I've read, is that when Clinton left office there was a surplus. Then the debt started piling up when the others came into office. What that shows to me is that once you put a methodology in place where debt can be piled on top of debt, that is what's going to happen. We could not, even if we wanted to, limit the amount of bonds let to \$200,000,

Floor Debate  
March 26, 2014

---

\$200 million, \$1 billion; we cannot do that this legislative session. These are merely words on paper which can be erased when the convenience justifies it or dictates it or when pressure from the road-building industry will begin to be applied to the legislators. This bill itself is an example. This bill is an example of the kind of pressure that can be brought to bear on a Legislature. And if those of you who want to put this new methodology in place cannot resist the pressure, why would you expect somebody in the future to undo the damage that you did? All that you're doing is making it easy for the next Legislature to add to this. I don't believe that the step that Senator Dubas is recommending that we take should be taken, especially in light of what we did on the proposed expansion of Medicaid. There was talk of there maybe not being money from the federal government and on and on, and I mention that to make this point: It won't matter if we don't have money readily available. We'll get the money from somebody else. And you know how we'll get that money? We'll sell bonds and tell them, you buy these bonds. And I was told by somebody who invests that if you sell \$100,000 in bonds, you'll get from \$95,000 to \$97,000 in cash, but you will pay interest on the full \$100,000. So you get bitten twice. But whether that is accurate or not, the debt is going to be there. And it becomes easy. I'm not going to have to pay these bonds off. Nobody on this floor is going to have to pay the bonds off. So what difference does it make? It makes a difference to us who have a feeling of responsibility and feel a need to protect those in the future from profligate spending that can occur when you can do it with a credit card. All you do is sign the paper and sweep the card, and money comes flowing out. You don't even have to catch a leprechaun anymore. You don't have to follow that chimera of the rainbow for the pot of gold at the end of it. You've got it right here. But here's something to consider: The Highway Commission cannot sell these bonds unless they get a recommendation from the Department of Roads. If the Governor has appointed a director and that director, following the philosophy of the Governor, is not going to make that recommendation because the Governor does not feel that the state should go into debt even though that bone-headed Legislature in 2014 made it possible, then there's going to be no bond selling because the Department of Roads is not going to make a recommendation. And if the Department of Roads makes a recommendation, then the Highway Commission may sell the bonds. But the Highway Commission does not have to. [LB1092]

SENATOR WATERMEIER: One minute. [LB1092]

SENATOR CHAMBERS: Nothing is mandated under this bill. And even the limitations, in terms of the amount, the total amount, for the bonds or of the bonds, the maximum rate of interest that the state can pay, all of those are like words written in water--they are not permanent. So this is very unwise. The next time I speak I will explain the amendment. Thank you, Mr. President. [LB1092]

SENATOR WATERMEIER: Thank you, Senator Chambers. Members, you've heard the opening on the amendment to LB1092. Those in the queue: Senator Kintner, Senator

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

Floor Debate  
March 26, 2014

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Harms, Dubas, Senator Davis, Senator Hansen. Senator Kintner, you are recognized.  
[LB1092]

SENATOR KINTNER: Well, thank you, Mr. President, members of the body. You know, as I look at this, I was kind of intrigued. And think Senator Dubas thought this out. It's just kind of a matter of philosophy of what you believe that should we borrow at a low rate, lock it in, and start building? Or should we do what we've traditionally done, at least for the last number of decades, where we, probably most of my life, where we just pay as you go? There's two philosophies; they're both legitimate philosophies. Some states do...most states, I think, do bonding. So, I mean, I don't think this is a bad bill, it's not thought out; it's not reckless or anything like that. I think it's a very well-thought-out bill. I just look at it and I question it. And, you know, "If it ain't broke, don't fix it," I think is pretty good advice from most of our grandparents, probably. And we do very, very well right now by paying as we go. And one thing that the Department of Roads told me is they like slow and steady. They like to be able to plan. They like to be able to acquire the land. They like to be able to do all the engineering. And with LB84, they've got the ability to do that because they know what their income stream is going to be. It's very easy for them to have the right level of staffing, have the right number of contractors, and just to continue to build roads at a steady pace. And we don't have to worry about the pace. If it was a higher pace or a lower pace, whatever the pace is, as long as they know what the pace is, you know, they're very able to prepare for that. And when you're given an influx of money, I mean, they'll handle it. They tell me that we can handle it. But it's a lot harder if you get a sudden influx of money and then you've got to scramble and, you know, get the manpower to get it done and the people inside that are supervising it and engineering and the...and, you know, it's a lot harder than a very steady way that we're doing it right now. So they said they could do it. You know, anything that we give them, they'll make it work. But from a planning standpoint and from a staffing standpoint, it's a lot easier the way we have it right now. Now I would suggest, if we want to pave more roads, we just increase the amount of money we set aside every year, double LB84 or increase it by half or something so we do three-quarters of a cent or a half cent or a third of a cent or something more than we're doing now. Keep it steady. You know, give them a steady stream of money and let them do their thing. And they're very good at it. But the other thing I might point out is that ultimately this is going to take a 60 percent vote to do anyway. So it's probably not that bad that we talk about it for eight hours here because, you know, 33, you know, votes is not that far above 60 percent. So, you know, this is probably...you might as well have it out right now and everyone make their case and vote the way you feel. But I just think that this is...probably what we're doing is a pretty prudent way to do it. I don't think we're going to lose anything by staying where we are, and I'm comfortable staying right where we are. And I would like to yield the remainder of my time to Senator Chambers.  
[LB1092]

SENATOR WATERMEIER: Senator Chambers, 1:20. [LB1092]

Floor Debate  
March 26, 2014

---

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when you see Chambers and Kintner, Kintner and Chambers, look out. (Laughter) Here's what I'm going to say about the amendment: It's removing surplus language that has no place in the bill. I had given the lines where you'd find the language that I'm striking. I'm striking language from what is called the findings by the Legislature. That's in Section 1. But if you get into Section 2 on the same page, you find virtually the same language in lines 20 through 23. I don't know why the bill was drafted in that way, but I am taking language out of the intent language because it already exists in the body of the bill. And that's about all I can say in the amount of time that Senator Kintner gave to me. Thank you, Mr. President. [LB1092]

SENATOR WATERMEIER: Thank you, Senator Chambers. Senator Harms, you are next in the queue. [LB1092]

SENATOR HARMS: Thank you, Mr. President, colleagues. I have reviewed the amendment, and I don't see anything wrong with what Senator Chambers is talking about in regard to the amendment unless I don't quite understand it. Let me just...first of all, I do support the bonding. And let me just review quickly for you that this caps the authority at \$200 million. It can't be issued until 2017. It must be paid by 2033. And the interest rate has to be less than 5 percent. Right now the interest rates are relatively low. And the quicker you can get something secured and the interest rates continue to stay there or lower, there's just more that we're going to be able to do. And I rise on this strictly not particularly for urban America; I rise up to support this because of the conditions that we have in rural Nebraska. And I've looked at the schedule and I've heard people say, well, you know, the schedule is already established. And when I looked at the schedule, there's not hardly anything west of North Platte. The only project in there is a completion between Alliance and Scottsbluff, which is a part of completing the Heartland Expressway. And I don't know if you realize or not, but the Heartland Expressway is critical to western Nebraska. It allows us to complete this expressway right now between South Dakota and Colorado. They're already working on their aspects. I think South Dakota may be already done; Colorado is beginning to expand this. And it will go all the way down to Texas. And the reason why this is so important is that it would allow us to join the International Trade Corridor that's being built and that's becoming...being created by the energy boom and all the other kinds of agricultural developments that are occurring in Texas and South Dakota. And this corridor is going to be a major corridor for that part of the country. And if you go back and do a little more research on this expressway, the overall plan is that eventually a lot of highways will eventually meet down and connect to this expressway. And we need to make sure that we are making the progress that we need to in this particular area because what will happen to us eventually, if we don't begin to make more of an effort to complete this: They'll simply move into Wyoming. Wyoming has the money, Wyoming would like to have it, and they'll fund it. I think it would be a tremendous loss for us and not the

Floor Debate  
March 26, 2014

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only...the only other thing is bonding is not new to us. It may be new to us on the highway, but we bonded recently in the University of Nebraska. We've bonded in the state colleges. And quite honestly, we got a great deal done at a very low rate of interest that we could have never, ever gotten done. And the longer you wait on these kinds of issues and the economy and interest rates start to go up, we'll get less done. Even on these projects that we have budgeted for...or not budgeted for...that we have scheduled for could go to the wayside. So, for me, as I look at this I understand where people are coming from. Forty-eight other states do bonding, and they're making progress. Now I don't know if...Senator Chambers had a good question. I don't know whether or not they've kept up with all their roads. I don't have any idea what that...the answer to that question is. But if we're looking for the future and we're looking at rural Nebraska,... [LB1092]

SENATOR KRIST PRESIDING

SENATOR KRIST: One minute. [LB1092]

SENATOR HARMS: ...this is...thank you, Mr. President. I think this is extremely important. I think it's worth taking this step and going down this direction because we've got to have good connections. And the heart of any economy is transportation, whether it be rail, whether it be highway, whether it be through the air, airlines, and I think they're...without starting to move along this direction, it's going to be much more difficult for rural Nebraska to survive. And if you look at the planning document that we have given you and begin to look at the data that shows what's happening to rural Nebraska, we need to find a way to rejuvenate rural Nebraska. This corridor is extremely important to what happens to where I live. And so I would hope that you would at least think through this very carefully and understand that 48 other states have done it, understand it has to be less than 5...5 percent or less. I don't think those are bad choices here, colleagues. I'd ask you to support this bill. Thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Harms. Senator Dubas, you're recognized. [LB1092]

SENATOR DUBAS: Thank you, Mr. President. I again am going to refer to the Performance Audit Committee report done in December of 2012, the portion in that report which talks about projects delivered to letting or for bidding. In one paragraph in that report it talks about NDOR states that its policy is to over program; that is to prioritize more projects than it expects to be able to let, to a small extent in order to be prepared for any additional unanticipated funds it may receive. So with that type of prioritization in place, if they had the ability to access dollars through bonding perhaps they could move some of those projects either into the queue or further along in the queue. The report also goes on to talk about the percentage rates for the districts' five-year programs, and a lot of those are capital improvement projects that have

Floor Debate  
March 26, 2014

---

dropped in recent years from 79 percent to 68 percent. And while this might be attributed in part to financial resources dropping, NDOR seems to have taken that into account by including fewer projects in their five-year program since 2002. But despite having fewer projects prioritized, the percent of projects delivered to letting was still lower: 68 percent in the more recent period compared to 79 percent in the earlier period. So again I think we're looking at, you know, to Senator Chambers' point, will we ever be caught up? No. Just because of the needs and the size and the scope of the needs and the ongoing reoccurrence of those needs, no, we'll never be caught up, and...but if you're able to at least accelerate the pace or reach a point where you're, you know, staying even, at the end of the day I think it's your ability to move projects forward in a more timely fashion, which gives you the opportunity to save dollars. It's like I, as a farmer, if I want to buy a quarter of land, if I'm going to wait till I save up all of the money to buy that quarter of land, I'm probably not going to get to buy that quarter, because by the time I have the total dollars saved the price has increased and I'm going to need more money. There are...borrowing should be done...absolutely I would not disagree with anybody on this point, that borrowing should be done in a very cautious and judicious manner, because, especially in this respect, we're talking about using taxpayers' dollars to pay these bills. But this approach that we are looking at in LB1092 I believe is a very conservative approach. We have certainly lowered the number of dollars that we are allowing for maximum bonding. We're shortening the window of time that those bonds can be let. We're putting a cap on the maximum interest rate. We have a dedicated funding source through the Build Nebraska Act--dollars. Prior to the passage of LB84, we weren't even looking at capital improvement projects. We were purely in a maintenance and preservation mode only, and struggling in that respect. When LB84 came into play, we were able to--the project lists that I passed out to you--we were able to start to not only look at, but make progress on, putting capital improvement projects in play along with maintenance and preservation, taking some of the pressure off of those funds. So, you know, we have taken some steps. The Highway Trust Fund, as I stated before, has served us very, very well over the years. But gas tax revenues are simply not going to continue to be there like they have in the past. We are not going to continue to generate the revenues that we've been able to depend on and be a pay-as-you-go state, as we have in the past, simply because of the changes in transportation and the way people travel and the cars that they drive and all of those other things, so... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR DUBAS: Thank you, Mr. President. So if we're not going to be able to count on the Highway Trust Fund as we have counted on it in the past, what are we willing to do? We do have the authority to bond right now, up to the \$50 million. But to pay those bonds back you would rely on gas tax. There is absolutely no political will to go that route and look at the possibility of increasing the gas tax for bonding in that respect. So again, with LB1092, with the Build Nebraska Act dollars coming in, lets those dedicated

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

Floor Debate  
March 26, 2014

---

revenues that are coming in--and we're only taking a portion of them, we're not touching the dollars that are going to our local counties and cities. I understand the philosophical concerns and questions that are going on here. I appreciate the conversation that we're having because this is an important decision. But I believe this, if we go this route, it takes us not a long way but it takes us a ways into helping us get more construction projects going in a quicker fashion, which at the end of the day you're going to save money in the long run. Thank you. [LB1092]

SENATOR KRIST: Thank you, Senator Dubas. Speaker Adams for an announcement. [LB1092]

SPEAKER ADAMS: Thank you, Mr. President. Members, looking ahead, as you know our time is getting very, very limited, and we'll keep chugging away and we'll get where we need to be. But I'd like to explain what we're going to do tomorrow. We're going to start out at 9:00 with Final Reading. We have a lot of bills on Final Reading. They're getting backed up, so we need to get on to those and we will do that tomorrow. So hopefully everybody is here and in their places and we've got enough people to do our business and everybody gets a shot at things. When we're done with Final Reading we'll pick up just...we're going to go on to Select File. We have a couple of bills there that we need to deal with in regular fashion, but then we're going to take up Select File on consent calendar bills. Now we're only going to take half of the consent calendar tomorrow. So if we get started and you see that your bill isn't up, relax. We'll come back to the other half of consent on Monday, all right? Thank you, Mr. President.

SENATOR KRIST: Thank you, Speaker Adams. Senator Davis, you are recognized. [LB1092]

SENATOR DAVIS: Thank you, Mr. President. I rise in support of Senator Dubas and LB1092 for a number of reasons. I think Senator Harms did a very admirable job of explaining what road development means to western Nebraska. And I think if you really look strongly at the population trends in this state, everybody needs to recognize that we have to find a solution to population loss in rural Nebraska. It's one of the absolutely most serious things that's going on out there. You have to be...you have to face the brutal fact that business development requires infrastructure. Most businesses aren't going to look at development in a community that doesn't have a divided highway, and that automatically takes two of my communities that have the most potential off the list because there's a divided highway in the plans, which has never been built. It's been there for 25 years. It's completed from Kimball now to Minatare, Nebraska. We're still waiting for the rest of the funds to finish it to Alliance, Nebraska. Senator Nelson allocated revenue for that many years ago. It's been held pending completion. So it's time for Nebraska to step up and do its part. This isn't just about my district. This is about all of rural Nebraska. There are a number of unfinished expressways in the works and those things are important to, I think, Senator Johnson's district and Senator

Floor Debate  
March 26, 2014

---

Scheer's district and a number of other places where the work was started but not completed due to loss of funding. So a year ago we had about \$21 million, I think, in revenue that was essentially on road projects that had come in, that had been budgeted for, but the project when it was bid out came in under bid. And that's probably because construction has been slow in this country the last several years, and these bidders are hungry and so they're ready to take the business. If Nebraska allocates this revenue for road project development, I have a very strong feeling that what we're going to do is get good, reasonable bids, which will probably come in under budget still. We can leverage that money that we've invested here towards economic development which will help all of the communities that I'm talking about. Just take a look sometime at the population map of the state of Nebraska, and you will find that the counties that are consistently growing are counties along Interstate 80: Lincoln County, Dawson, Buffalo, Hall Counties in the western part of the state. When you get north of there in the country where there isn't a divided highway and no way to do that, we're having significant losses. The other thing I want to say about this, we are seeing a huge natural resource development up in North Dakota. It's a significant investment that's being made by business, and they need access to get there. So building the Heartland Expressway and getting that completed will funnel a lot of that traffic up through rural Nebraska and western Nebraska, and then generate revenue. I think I talked about this the last time I was on the mike on this particular bill. But Alliance was the home of a large air base during World War II, and it has the third largest runway in the state of Nebraska, and we believe strongly that if we had a divided highway there that Alliance could be a great distribution point because of its hub as a community that has rail and then highway and air service. So all we're waiting for is to complete that highway to do that. One other thing I want to say about the Heartland Expressway, which I think needs to be said, it was an agreement between several states. South Dakota, a state that's not known for being a wealthy state has... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR DAVIS: Thank you, Mr. President...has completed its part of the expressway from the state line, from the Nebraska state line, up to Rapid City. So that part is done. It's time for Nebraska to take its step forward, and we're not doing that. Traffic in the eastern part of the state has increased. I recognize that. It needs to be dealt with. We have essentially completed the three lanes to Omaha, but now we really need to do it and move on to Grand Island, because traffic generation has picked up there. So it looks to me like if we don't something like this, we aren't going to get road development in rural Nebraska, which is essential for economic development. And I thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Davis. Senator Hansen, you're recognized. [LB1092]

Floor Debate  
March 26, 2014

---

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I was one of the two people in the Revenue Committee that voted against bonding of roads, and even with the amendment I still remain opposed to it, and for several reasons. I think the one reason, just a basic underlying reason is I hate to borrow money. I hate to borrow money personally; I hate to borrow money for a business; I hate to see this state get into that routine of borrowing money, especially when we have the cash reserve that we have now. There are alternatives to doing this. If we want to build \$100 million worth of roads, and we have \$60 million--at least \$60 million--in the Build Nebraska Act, add another \$40 million out of the cash reserve and spend that money and see how far they can get; and if it happens again, do it the next year. You don't have the 16 years of interest payments. Interest is going to eat you up on this thing. Would Senator Sullivan answer a question? [LB1092]

SENATOR KRIST: Senator Sullivan,... [LB1092]

SENATOR HANSEN: Oop, she's not in the room. Sorry about that. I was going to...oh, Senator Sullivan, will you get back to your seat, please? [LB1092]

SENATOR KRIST: Senator Sullivan, will you yield for a question? [LB1092]

SENATOR SULLIVAN: Yes, I will. [LB1092]

SENATOR HANSEN: (Laugh) I said please. Thank you. I don't know if there's anybody else in here involved in a bank or not, but I know lending money is important to a bank. And I don't know how your bank is doing, of course, but I know that there's a lot of cash out there right now and people are buying land, they're buying machinery, they're buying new shop buildings, they're buying new pickups, some are building houses, all with cash. Do you think the state of Nebraska has any cash left that we could use instead of bonding roads? [LB1092]

SENATOR SULLIVAN: I'm not sure if they do. [LB1092]

SENATOR HANSEN: But do you support LB1092 and borrowing money to build the roads? [LB1092]

SENATOR SULLIVAN: I support LB1092. I always like to think of myself as a fiscal conservative, so I would enter into these arrangements cautiously, but I also believe that LB1092 is a conservative approach to bonding. So I feel, even though this is borrowing, I feel comfortable with it. [LB1092]

SENATOR HANSEN: Okay. Thank you, Senator Sullivan. The green copy of the bill said what the payback was going to be on \$400 million, and it was going to be an interest rate...a total interest of \$170 million. So if the amendment cuts it in half, I'm not

Floor Debate  
March 26, 2014

---

sure this is right but it would be somewhere around \$85 million worth of interest. Those interest payments shouldn't happen. If we continue to pay as we go, continue what we're doing, building slow and steady, I think we're going to get there. I'm afraid if we start bonding, we're never going to get out of this hole. Thank you, Mr. President.  
[LB1092]

SENATOR KRIST: Thank you, Senator Hansen and Senator Sullivan. Senator Schumacher, you are recognized. [LB1092]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I, like Senator Hansen, don't like debt. And I listened carefully to what Senator Chambers said with regard to the states getting along fine without debt. So why then would I rise in support of LB1092? It is because we are at a very interesting point in history. In fact, we were at a much more interesting point in history three or four years ago. I circulated around your desks something from a fairly high-powered session at the Harvard Business School in 2009, and it shows how we got into this situation and why this is an opportunity. The first is the U.S. balance of trade and current account. That is the debt of the entire American system. Not just government; business, everything. And you see exactly what happened regardless of what political party was in power over the period from 1980 through 2005. A massive crisis was in the making. The second chart shows where the money was being borrowed from, so to speak, and who was the borrower. Huge, huge numbers. And the third: who internally was doing the mischief. And the mischief wasn't being done by our government sectors, including the federal government. The mischief wasn't being done by our ordinary business sectors. The mischief was being done, part by consumers, but really by our financial sectors: insurance and banks. Now oddly enough, if you were to extend this graph out to today, you would see that there's just been a very slight increase in the overall graph, but a massive shift of that thick top layer to the government sector and the growth in the federal debt, to the benefit of the financial sector, no surprise. Our first sheet, the balance of trade remarkably is now down to about \$320 billion a quarter...I mean, a year, from the \$800 billion that it was. We're doing a lot better, and this has been due not to much action by the federal government, because the federal...or, at least, the Congress and fiscal policy, because they are just unable to act in spite of the fact they did act on the troubled asset relief program; but largely, to the Federal Reserve Bank dramatically printing money. And the Federal Reserve Bank lets us know what it plans on doing by forward guidance letters that come out, I think it's every month or every quarter. The Federal Reserve has said in order to keep employment going, in order to prevent a crash, in order to build our employment, they're going to keep interest rates at near zero for the next 18 months for sure, possibly longer. That's what they loaned the money out at. And they've indicated that this quantitative easing and this backing off will be a very gradual process. The best economists say that due to this unusual circumstance that we had that was generated by this national situation, we probably will not see much for inflation for the next couple years, and could, in fact, see deflation.

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

Floor Debate  
March 26, 2014

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That means things won't cost much more, year after year, for the next two or three years,... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR SCHUMACHER: ...and that we can borrow money at historically low, artificially suppressed rates. To the extent we take this action now, we are able to build things cheap and pay them off cheaper than if we just did the cash-as-you-go basis, and pay off inflated prices later. This is a smart move. It's not one we're used to. We're not used to doing smart things financially here. We've proven that on a number of occasions. But this a smart, very conservative, moderate view. And for those that say we shouldn't borrow money, then why do we permit our cities, our colleges, and everything else to borrow money? This is a one-time opportunity, it will not last forever, and we need to take advantage of it if we're going to build a few more roads and bring economic activity into the state and get things done while the gettin's cheap. Thank you. [LB1092]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Bloomfield, you are recognized. [LB1092]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Schumacher, as he usually does, makes sense when he speaks. But--but--by the same token, if the cost of doing things is not going to go up, neither is the cost of building in the future. Let's use the \$85 million that we don't spend in interest to build more roads. So that's something to chew over as we go along. Senator Harms and Senator Davis both talked about the importance of the Heartland Expressway. That is an important stretch of highway to that part of Nebraska; Highway 81, north and south, is important to that section of Nebraska; 275 from Norfolk to Omaha is important to northeast Nebraska; and Highway 35 Expressway from Norfolk to Sioux City is important to northeast Nebraska; the South Beltway here in Lincoln is important to Lincoln. \$200 million isn't a drop in the bucket to the money we have to spend here. Colleagues, I don't think we want to get into the borrowing business. It will tie our hands in the future when we're paying back what we had bonded plus interest. He who never experiments with drugs never becomes a drug addict. He who never borrows money doesn't go into debt and lose what he has. The last time Senator Chambers was on the mike, I think he misspoke just a hair and I would like to ask Senator Chambers to yield to a question if he would. [LB1092]

SENATOR KRIST: Senator Chambers, will you yield? [LB1092]

SENATOR CHAMBERS: Yes, I misspoke. [LB1092]

SENATOR BLOOMFIELD: (Laugh) Senator Chambers, the last time you were on the mike you said President Clinton had us out of debt. I think you will agree, in fact, that

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

Floor Debate  
March 26, 2014

---

under President Clinton we had zero deficit for a couple years. [LB1092]

SENATOR CHAMBERS: Correct. [LB1092]

SENATOR BLOOMFIELD: I'm wondering if that was because of President Clinton's leadership or the insistence of the Republican Congress. [LB1092]

SENATOR CHAMBERS: Well, some people don't know what a mule skinner is. It's the person who cracks the whip. [LB1092]

SENATOR BLOOMFIELD: Drives the mules. [LB1092]

SENATOR CHAMBERS: And the mules obey the mule skinner. In this instance, President Clinton was the mule skinner and the mules went where the skinner directed them. [LB1092]

SENATOR BLOOMFIELD: I would tend to disagree with you, Senator Chambers. I think in this case, as is their national symbol, but President Clinton may have been the animal on the end of the whip. But be that as it may, I would yield the remainder of my time to Senator Chambers if he'd like it. [LB1092]

SENATOR KRIST: Senator Chambers, 1:30. [LB1092]

SENATOR CHAMBERS: Thank you, Senator Bloomfield, Mr. President. What this indicates is that there are people who do listen on occasion to what is being stated, and I think it is good when somebody misspeaks or gives information that's not accurate, to correct it in the record. And that's the risk we undertake when we are up here speaking. And I don't mind being corrected; the term I always use is that it improves my education. I'll be much more attentive next time to that. But what I want to go through, and I don't have the time speaking here, is... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR CHAMBERS: ...these different funds that we're talking about...is Senator Mello back yet? [LB1092]

SENATOR KRIST: No, sir. [LB1092]

SENATOR CHAMBERS: Then I will ask Senator Conrad. Is she available? Step lively, Senator Conrad, time is moving like your little daughter was in the hallway. [LB1092]

SENATOR KRIST: Senator Conrad, will you yield? [LB1092]

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

Floor Debate  
March 26, 2014

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SENATOR CONRAD: Yes, I'll yield. [LB1092]

SENATOR CHAMBERS: Senator Conrad, is it a common practice for money to be taken from one cash fund and put someplace else that has nothing to do with that specific cash fund when money is needed for that other purpose? [LB1092]

SENATOR CONRAD: The short answer would be no, Senator Chambers. Generally each cash fund has some parameters for the utilization of funds that are received by it. [LB1092]

SENATOR CHAMBERS: But I mean if the Legislature chose to take that money, it can be transferred from one pot to another, if the Legislature chooses to do so. [LB1092]

SENATOR CONRAD: Yes, absolutely. And many cash funds have a more open-ended ability for the Legislature to do so. [LB1092]

SENATOR KRIST: Time, Senators. [LB1092]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Bloomfield, Senator Chambers, and Senator Conrad. (Visitors introduced.) Senator Chambers, you are recognized. [LB1092]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, if Senator Dubas is nearby, I would like to ask her a question or two. But while she is coming in this direction, there is a Highway Cash Fund, there is a Highway Capital Improvement Fund, and then we have something called the Build Nebraska Act. Senator Dubas, what money goes into the Highway Cash Fund? [LB1092]

SENATOR DUBAS: The Highway Cash Fund is gas taxes...let me get my sheet here and I can tell you specifically. [LB1092]

SENATOR CHAMBERS: It's on page 12, starting in line 22, I think. But you're right, those kinds of...I believe. [LB1092]

SENATOR DUBAS: Never can find it when you're looking for it. [LB1092]

SENATOR CHAMBERS: But anyway, all of those vehicle taxes, motor fuel tax...I meant, motor...all of that... [LB1092]

SENATOR DUBAS: Right. It has fuel tax, vehicle registration, motor vehicle sales tax. Yes, that's what goes into the Highway Cash Fund. [LB1092]

Floor Debate  
March 26, 2014

---

SENATOR CHAMBERS: Right. Now what goes into the Highway Capital Improvement Fund? [LB1092]

SENATOR DUBAS: Those are the Build Nebraska Act dollars. That's that quarter-cent sales tax. [LB1092]

SENATOR CHAMBERS: But the Highway Cash Fund is pledged to pay off these bonds should that become necessary. [LB1092]

SENATOR DUBAS: The Highway Cash Fund is that collateral if that's pledged. Those dollars would not be used unless there was a major crisis and the dollars didn't come into the State Highway Capital Improvement Fund. [LB1092]

SENATOR CHAMBERS: Right. So money, tax money derived from other source, from certain specified sources which are not contemplated under this bill to be used to pay off the bonds could have to be...could be used because they're pledged as collateral if something happens and all these prognostications don't work out and the bonds need to go into the Highway Cash Fund to get money to pay off the bonds. [LB1092]

SENATOR DUBAS: Yes, that's...like with any loan or collateral, you have to have something to pledge there in case you're not able to meet your financial obligations. [LB1092]

SENATOR CHAMBERS: And why would the Highway Cash Fund be pledged instead of letting that money be used to pay off the bonds and let the Highway Capital Improvement Fund be the collateral? [LB1092]

SENATOR DUBAS: The Highway Cash Fund is pledged because constitutionally for bonding you have to have dollars that are closely related to use of...for highways. Those dollars are closely related to funding of our highway infrastructure. [LB1092]

SENATOR CHAMBERS: Well, isn't the money in the Highway Capital Improvement Fund for that purpose? [LB1092]

SENATOR DUBAS: I mean, it could be. It's a sales tax that is not necessarily derived from funds that are related to highway construction or to highway infrastructure. The dollars that are in the Highway Cash Fund, like I said, that's your motor vehicle taxes, your vehicle registration. Those are...those have a direct correlation to supporting infrastructure, highway infrastructure. [LB1092]

SENATOR CHAMBERS: Well, what money goes into the Highway Capital Improvement Fund? That quarter percent? [LB1092]

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

Floor Debate  
March 26, 2014

---

SENATOR DUBAS: That's the quarter-cent sales tax. [LB1092]

SENATOR CHAMBERS: And that quarter percent sales tax was levied for what purpose? [LB1092]

SENATOR DUBAS: It was levied to use for the Build Nebraska Act, but it doesn't all come from sources that are related to highways. [LB1092]

SENATOR CHAMBERS: But this quarter percent was specifically put in place to build highways. [LB1092]

SENATOR DUBAS: Correct. [LB1092]

SENATOR CHAMBERS: So if the Legislature chose to flip these two funds for this purpose, could the Legislature do that? [LB1092]

SENATOR DUBAS: This was something that we looked at originally as pledging that. But just based on what the constitutional language was telling us, working with people who understand these issues at a far greater depth than I do, believe that this was the way... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR DUBAS: ...that would address the issues about being closely related funds. [LB1092]

SENATOR CHAMBERS: But those people who understand this probably better than most of us here can bewitch, "bebother," and bewilder all of us, and we don't even know what we're talking about, in reality, when we talk about this bonding and so forth. We don't know what we're talking about, really, do we? I mean, we say words, but is there understanding behind those words? [LB1092]

SENATOR DUBAS: Well, I believe I understand what's going on here. [LB1092]

SENATOR CHAMBERS: And my time is running out again, but I will have additional comments and questions. Thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Chambers and Senator Dubas. Senator Johnson, you are recognized. [LB1092]

SENATOR JOHNSON: Thank you, Mr. President. As you know, I've been involved in roads funding and projects before I came into this Legislature, and I will continue and I am supportive of LB1092. I'll ramble a little bit because I've taken some notes and

Floor Debate  
March 26, 2014

---

scratched out some stuff that I was originally going to talk on. This is kind of in response to some of the questions that have been raised. And, first of all, there were some comments about the credit card industry. I think if anybody was trying to build anything, a capital improvement, a major capital improvement would be foolish to use that concept because of the interest rates. Basically you're supposed to pay it off every month. We're not talking about that when we're talking about bonding. I think about buying a house. We went into debt when we built a house or bought a house, because we didn't have the cash flow to do that. If we would have used our cash flow, we would still be renting, and that was not what we wanted to do. I can give you an example, and if you want to know where this place is I'll give you the directions, an individual that's trying to build a house out of cash flow, and it's been quite a while since they've put up more than two rafters on this house and it's been out there for about two years. So that house is going to be a long ways out before it gets built. I don't think we want to go that way. You can't build some things as you go. We're capable with LB84, but I think there's a better way to move forward. As commented, nothing here is mandated. If the projects are not ready or interest rates go too high, that money will not be...those bonds will not happen, at least at the full \$200 million level. The 5 percent interest is the ceiling. So I think what we're looking at here is trying to guess a little bit, I agree, okay, what are interests rates likely to do? They are probably not likely to go down. I don't know what inflation will do but I doubt whether we're going to see a deflation. So I think what we're betting here is, will inflation and interest rates at some point go above what our \$85 million cost will be? I'm one that probably believes that more than some other people in this body. Cities bond roads and streets. If they were going to do it out of cash flow, they would not be able to do it. One of the things that I think we have as another asset is that cash reserve. I think that helps our credit rating. I think that will help us and leave that out there for other things that come up. I think without that I think we'd be at a little more risk of going into bonding. But we have that cash reserve. The state did bond the roads back in the '60s when I-80 was built. I can't give you any exact details on the dollars involved with Missouri, but I travel Missouri roads a lot from the north to the south, and they put up their signs and they say, "To be completed in such a date," covered by their bonding program; and then you'll go to another road and they'll say, "Completed as promised." They are way ahead of the curve in what they've been able to do with their road bonding. I don't have the dollar amount. The road plan was set up in 1988 for the expressway. The state at that time came up with the plan, made some promises that these will be built, and we've never set up the funding adequate enough to get that job done. I had a conversation with Senator Kintner... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR JOHNSON: Thank you, Mr. President. I had a conversation with Senator Kintner and I think we are both considered conservatives, but I would say that I am a progressive conservative because I believe this is the right thing to do. The time is right, interest rates are right, construction costs are right. We've got cash reserves plus other

Floor Debate  
March 26, 2014

---

funds to back it up. I support LB1092. Thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Johnson. Senator Brasch, you are recognized. [LB1092]

SENATOR BRASCH: Thank you, Mr. President, and good afternoon, colleagues. I do stand in opposition to LB1092 and support FA255. In quick review of, I believe...Senator Chambers, would you yield to a question? [LB1092]

SENATOR KRIST: Senator Chambers, will you yield? [LB1092]

SENATOR CHAMBERS: Yes, I will. [LB1092]

SENATOR BRASCH: Well, will you tell us what your FA255 will do to...? [LB1092]

SENATOR CHAMBERS: Yes. If you look on page 1 of the committee amendment which is now the bill, the language that I would be striking says the following: in order to accelerate completion of the highway construction projects identified and to be identified for funding under the Build Nebraska Act. Then if you drop down to line 20, you get almost the exact same language: for the purpose of accelerating completion of the highway construction projects identified and to be identified for funding under the Build Nebraska Act. What I'm striking is in the intent language section, and since it's in the following section, Section 2, there's no need to put it in the section from which I'm striking it. So it's surplusage, in my opinion. [LB1092]

SENATOR BRASCH: Thank you, Senator Chambers. That does clarify your changes to this bill. Colleagues, what I'd like to refer back to, and for fellow Nebraskans that may be watching or listening this afternoon, is that there was testimony by Director Peters who has worked at the Department of Roads since he was in college, under every possible task, earning his way through college, I believe in the evenings, as he worked during the days. In conversations I've had with him, he knows the Department of Roads and the work very well through working with several past directors. And in his testimony he expressed a concern that I also have, and all of us should have in this body here, is that he said that "We are very concerned that it would set a false expectation that \$400 million," which was the original amount, "of additional construction on top of the work already planned could be accelerated by four or five years by the current NDOR and industry forces. Delivering projects entails many factors besides financing." I'll repeat that. "Delivering projects entails many factors besides financing." Setting a false expectation across the state is not good public policy by putting money into--and money we don't have, money we'd borrow actually--believing that it would push any highway project ahead or bring it closer to fruition. And he also states in here that "Build Nebraska Act projects must be developed to be in compliance with federal and state laws. Many of these larger-scale transportation projects can take an average of eight

Floor Debate  
March 26, 2014

---

years...from start to finish. Using the traditional design-bid-build sequential project development approach, it is rare for a major project... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR BRASCH: ...to progress from initial planning to ribbon cutting." And I also want to repeat that in testimony by Rodney Vanderberg, who is the State Highway Commission chair who stood in modest support, he said that he believes that "the cash flow being provided by the Build Nebraska Act is matching up very nicely with...Nebraska projects the department has started." So please keep this in mind as we visit with our constituents who are believing that by bonding they will see those much-needed roads in any faster period of time. What we do is we work on our roads for safety, safety first, commerce. And I encourage you to not support taking out a credit card, so to say, to finish our roads completion. Thank you, Senator Chambers, and thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Brasch, Senator Chambers. Senator Davis, you are recognized. [LB1092]

SENATOR DAVIS: Thank you, Mr. President. I think it's already been stated but I will restate it again, then I want to ask Senator Schumacher a few questions. But, you know, in the '60s, the late '60s when we were getting ready to finish the interstate, Nebraska, of course, was the first state to complete its interstate all the way across, we did bond. It was a one-time deal. It was done for the benefit of getting that finished. It was a good project. It's not like the state of Nebraska went on a binge spending episode after that. It was frugal and smart, intelligent, and ended up a good investment, and I'm proud of the state for doing that. My dad was on the Highway Commission for 20 years, and he always believed that Nebraska ought to bond to complete its projects because he saw that the costs were actually outpacing the revenue. And so had that been done years ago, many of these projects would be completed. But that said, I wonder if Senator Schumacher would yield to a few questions. [LB1092]

SENATOR KRIST: Senator Schumacher, will you yield? [LB1092]

SENATOR SCHUMACHER: Yes, I will. [LB1092]

SENATOR DAVIS: Senator Schumacher, I think you have a good understanding of bonding and the ramifications of these low interest rates and then potential development of high interest rates down the road. So assuming that we issued these \$200 million in bonds and we ended up moving to a much higher inflation rate, what would happen to the value of those bonds? [LB1092]

SENATOR SCHUMACHER: Well, inflation is the enemy of the bondholder, because

Floor Debate  
March 26, 2014

---

basically the bonds can be paid off with cheap dollars and the beneficiary is the person who sold the bonds to begin with. You buy them back cheap. [LB1092]

SENATOR DAVIS: So what you're telling me is that they're discounted then (inaudible) from their initial value. So if you have a \$100 bond, and you ended up with a 10 percent inflation rate, the markets would want an inflation rate, we'd want to pay out of at least 10 percent; so the bond value would decline, is that correct? [LB1092]

SENATOR SCHUMACHER: That's basically correct. The value of the bond goes down, particularly if it's carrying a very low interest rate like these bonds would. These could be, if we see significant inflation or a significant increase in interest rates, bought back really, really cheap by the state. [LB1092]

SENATOR DAVIS: Thank you, Senator Schumacher. But what does that actually mean then? Would that mean that the state of Nebraska could pay off these bonds and buy them back for a lower rate of interest...I mean, for a lower principal? [LB1092]

SENATOR SCHUMACHER: But they'd still have to pay the principal, but the dollars they'd be using to buy back the principal amount would be worth whatever, 90 percent, 70 percent of whatever they are worth today. So the principal doesn't change but the value of the money that you have to use to buy them back is different. [LB1092]

SENATOR DAVIS: The payout would stay the same. So if we've got a \$100 bond, the payout would be \$100. But if you bought those bonds on the open market, you would buy them for less than that, isn't that correct? [LB1092]

SENATOR SCHUMACHER: That's correct. [LB1092]

SENATOR DAVIS: So what I'm trying to say by that demonstration, folks, is that if we move into a higher inflation rate, which looks like it could happen, these bonds could be discounted significantly and the state could actually end up saving money. So we move forward with our road project, we save significant investment if we end up with a high inflationary period. I mean, it's such a win-win situation, such a unique situation. Contractors are out there. They're hungry for work. We can get more done quicker, cheaper. Other government entities bond. This is a special circumstance. The revenue is there, the designated revenue stream is there. It's important that we look hard at this, and I really urge the body strongly to move forward in supporting Senator Dubas. Thank you. [LB1092]

SENATOR KRIST: Thank you, Senator Davis and Senator Schumacher. Senator Chambers, you're recognized. This is your third time. [LB1092]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature.

Floor Debate  
March 26, 2014

---

This bill indicates what pressure can do to a Legislature. You are doing something more, and worse, in my opinion, by going to a different method altogether of financing road building than would be the case if you already had something like this in place and you simply upped the dollar amount of bonds that could be let. If you can be pressured into doing this, and that's what it is, don't tell me that a future Legislature is not going to bend to pressure to raise the amount of bonds so that if Lincoln gets a favored project this time around, one hand washes the other. The Senator Avery of the future Legislature will go to the Senator Davis of the future Legislature and say, you support Lincoln now and we will support you in getting the Legislature to raise the amount of bonds let so we can get the project that you want. For people who are in politics, it boggles my mind that these simple truisms are totally ignored. And the talk about discounting bonds, the value of what the dollar will be at the time you pay it back, you don't know that's going to happen, but even if it did, that's not what we're talking about. Those are side issues to distract attention from the main point of this bill. This bill is telling Nebraska to go into a debt-based road building project or program, which is not ultimately going to touch the overall amount needed to bring the road building and repairing up to date. It's not going to do anything. Who in here thinks that the Legislature in the future, or even this one, if it chose to, could not strike all reference to the Build Nebraska Act and divert the money that will be raised from bonds somewhere else, once you get the bug of borrowing? I'd like to ask Senator...I'd ask "Professor" Schumacher a question or two. [LB1092]

SENATOR KRIST: Senator Schumacher, will you yield? [LB1092]

SENATOR SCHUMACHER: Yes, I will. [LB1092]

SENATOR CHAMBERS: Senator Schumacher, I'm going to give you a chance to find these two pages: page 12 of the committee amendment and page 2 of the committee amendment. Now on page 2, starting in line 5, it says, "No bonds shall be issued after June 30, 2017." [LB1092]

SENATOR SCHUMACHER: What's the AM number of the committee amendment? I've got several versions of the thing in my file. [LB1092]

SENATOR CHAMBERS: Oh, AM2067. [LB1092]

SENATOR SCHUMACHER: AM2067. Okay, Senator Bloomfield has provided me with a copy of it, handily. Which page was that again? Page 12? [LB1092]

SENATOR CHAMBERS: Page 2. [LB1092]

SENATOR SCHUMACHER: Page 2. Okay. [LB1092]

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

Floor Debate  
March 26, 2014

---

SENATOR CHAMBERS: And beginning in line 5, it says, "No bonds shall be issued after June 30, 2017." [LB1092]

SENATOR SCHUMACHER: Okay. [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR CHAMBERS: Then if you go to page 12, in line 23, we see the date July 1, 2014. So the first bonds can be issued after July 1, 2014, and no additional bonds, under the terms of this bill, can be issued after the year 2017. [LB1092]

SENATOR SCHUMACHER: Right, except for refunding bonds. [LB1092]

SENATOR CHAMBERS: Right. But those are the crucial dates. The Legislature could change that 2017 date to 2021, couldn't it? [LB1092]

SENATOR SCHUMACHER: They could. [LB1092]

SENATOR CHAMBERS: Without changing anything on page 12. And then the pledge that is supposed to cover the bonds issued after July 1 would automatically cover those bonds that are issued after 2017. This pledge language would carry over to those bonds issued after 2017, and the same fund that is collateral now would be collateral for those additional bonds. [LB1092]

SENATOR SCHUMACHER: Yes, but the Legislature could do that with or without this bill if it decided in 2017 it wanted to borrow money. [LB1092]

SENATOR KRIST: Time, Senators. [LB1092]

SENATOR CHAMBERS: And the point I'm making is that we can change anything we want to in this bill or in the existing law, and it can entirely get away from whatever we're saying in this bill, would you agree? [LB1092]

SENATOR SCHUMACHER: We could always do that. They could start borrowing in the year 3030. [LB1092]

SENATOR CHAMBERS: But do you agree? I think that's a yes or no answer. My time is running out. [LB1092]

SENATOR KRIST: Time, Senators. [LB1092]

SENATOR CHAMBERS: Do you agree? [LB1092]

Floor Debate  
March 26, 2014

---

SENATOR SCHUMACHER: Time, Senators. [LB1092]

SENATOR CHAMBERS: (Laugh) [LB1092]

SENATOR KRIST: Thank you, Senator Chambers and Senator Schumacher. Senator Wallman, you're recognized. [LB1092]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I too have been involved in bonds in the past, and I voted for some and not for some. It depends on. But you lose some, you win some. And bonding is, make no mistake, it's a debt. It's something like borrowing money for a farm or a house or something like this, only bonds are usually cheaper than interest rates. And so are you going to get a good deal out of a bond company? And if you do buy the bonds back, the interest could go lower. It could go to 1 or 2 percent. You can buy these bonds back but you have to pay a fee. You have to pay a fee to the broker and you can't do it every year; usually it has so many years. So is it a good deal to have a bond? If you have a bond in your possession, it's okay, I guess. Is it a good way to fund roads? Not my favorite way, for sure. But this body doesn't seem to have the will to raise a use tax to pay as you go, up the gas tax a quarter percent...I mean, the sales tax, or whatever. People that use the roads pay the tax. And as far as a beltway to the south, I've mentioned it to people, this ought to be a toll. I go to New York City with my car or pickup and I drive on many a toll road, and these are good toll roads. Illinois, Pennsylvania, New York. I do not mind paying that toll because I drive on a good road. So do we want...? I've got a road in my district that needs repaired very, very badly. I mean, the blacktop is basically gone. There's starting to be holes and bumps. And I was told it's on the five-year plan. After five years, I wonder if there's going to be a road left. Trucks are running over there, corn is running over there. I mean, we've got an ethanol plant, so they're hard on road, the big trucks, and I should know. And most of them are probably overloaded, I'm not going to say, Senator Bloomfield. And so the Highway Department tells me the trucks are really, really hard on roads, that's what they tell me, and I probably have to believe them. So where are we going to spend this bond money? I was hoping it would be in my district or Senator Bloomfield's district. But I seen their plan and it's not as quick as I want to see it help me out or the beltway out. Is the beltway needed to relieve pressure off of Highway 2? Absolutely. Is this the way to do it? I'm listening very carefully. Thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Wallman. Senator Bloomfield, you're recognized. [LB1092]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Chambers and I had a little fun a few minutes ago with the debt and deficit. But colleagues, debt is not to be taken lightly. To go back to the national debt, the last time it was paid off, we were at zero, was 1836. That's quite a while to be paying interest. Let's not start down that road,

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

Floor Debate  
March 26, 2014

---

building roads. And I'd yield the remainder of my time again to Senator Chambers if he'd like it. [LB1092]

SENATOR KRIST: Senator Chambers, 4:20. [LB1092]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Members of the Legislature, I'll tell you why I don't mind taking the time on this bill. This is not a personal interest of Senator Dubas. It is not a small item or an insignificant policy change. It is something that impacts the state as a whole. Now I wish Senator Johnson were still here, but he mentioned how cities use bonding, universities, and so forth. The state can levy taxes. The cities can use property taxes which the state cannot, because that is an area the state cannot use. Before a city is going to do something like what we're talking about, they put that to a vote of the people: Are you willing for the city to issue these bonds? I'd like to ask Senator Dubas a question. [LB1092]

SENATOR KRIST: Senator Dubas, will you yield? [LB1092]

SENATOR DUBAS: Yes, I will. [LB1092]

SENATOR CHAMBERS: Senator Dubas, there is no requirement for the public to have any involvement in the issuance of these bonds. The public has no involvement, isn't that true? [LB1092]

SENATOR DUBAS: That's true. [LB1092]

SENATOR CHAMBERS: The public could be opposed to such a thing and say they're opposed to it, but the bonds could still be issued by the Highway Commission if it so chose, isn't that true? [LB1092]

SENATOR DUBAS: That's true. There is an option for the public to be involved during the Highway Commission district meetings when they're talking about specific projects, but they... [LB1092]

SENATOR CHAMBERS: But I meant, they don't vote. [LB1092]

SENATOR DUBAS: No. They... [LB1092]

SENATOR CHAMBERS: There's no veto. [LB1092]

SENATOR DUBAS: No, they don't vote. [LB1092]

SENATOR CHAMBERS: Thank you. Members of the Legislature, there cannot be a correlation between what we're doing here and what the city does. And the university, if

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

Floor Debate  
March 26, 2014

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they need some money, they can raise tuition, they can raise fees, they get contributions from patrons or whatever they call themselves, the alumni. None of those parallel what we're talking about. The word "bond" may be used by all of them but the circumstances of the issuing or selling of those bonds will be different. But what I am concerned about is what the state is doing. I'd like to ask...oh, I don't see Senator Harms. Oh, I see Senator Johnson, though. Senator Johnson, I would like to ask you a question if you would yield. [LB1092]

SENATOR KRIST: Senator Johnson, would you yield to a question from Senator Chambers? [LB1092]

SENATOR JOHNSON: Yes, I will. [LB1092]

SENATOR CHAMBERS: Senator Johnson, you said you've been involved in road building and construction. Is that true? [LB1092]

SENATOR JOHNSON: Not directly in the physical part of it, no. [LB1092]

SENATOR CHAMBERS: What did you do? [LB1092]

SENATOR JOHNSON: I was involved with...as part of city government where bonds were issued for road construction and street construction, sewer construction, and various projects like that. [LB1092]

SENATOR CHAMBERS: Now before those bonds could be issued, did the public play a role in that? [LB1092]

SENATOR JOHNSON: There were sometimes where the public has voted for a bond issue, depending on what the funding mechanism is. If it's new taxes, then they were involved; if it's using, in the case of streets, we're using the funds that we get through the system now, part of it is some federal money,... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR JOHNSON: ...and part of it is some state money. So it depends on the funding source. [LB1092]

SENATOR CHAMBERS: Okay, thank you, because I have another question. Did you say you did some driving in Missouri and how good the roads were? [LB1092]

SENATOR JOHNSON: Yes. [LB1092]

SENATOR CHAMBERS: Now this quarter percent that goes into this Build Nebraska, or

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

Floor Debate  
March 26, 2014

---

whatever it is, is based on the sales tax, isn't that correct? [LB1092]

SENATOR JOHNSON: Yes. [LB1092]

SENATOR CHAMBERS: So if you have a large population and they're spending a lot of money, there will be a lot of money derived from that quarter of a cent as opposed to if you have a smaller population base. Is that true? [LB1092]

SENATOR JOHNSON: It would be based on commerce. But yes, that would follow. [LB1092]

SENATOR CHAMBERS: Thank you. Members of the Legislature, Nebraska has a very small population so some of these examples don't apply. And for Senator Johnson, the credit card example was used as an analogy, but if Nebraskans in the Legislature didn't have somebody to keep the lumber to the side of their head, they would get a giant credit card and try to fund the roads that way. [LB1092]

SENATOR KRIST: Time, Senator. [LB1092]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Chambers and Senator Johnson. Senator Conrad, you're recognized. [LB1092]

SENATOR CONRAD: Thank you, Mr. President. I rise with mixed emotions in regards to this legislation, and have been listening to the debate over the course of General File and have had a variety of conversations with both opponents and proponents off the mike. And I'll tell you, I know Senator Dubas, during our course of service together, as an incredibly dedicated and incredibly thoughtful legislator who cares deeply about Nebraska and who cares deeply about important state obligations like infrastructure, and I take very seriously the incredible effort that she has devoted to LB1092, and I think she has done a wonderful job as Chair of the Transportation Committee as well. So that is buttressed against the fact that in many ways I see LB1092 as doubling down on bad policy as reflected through LB84, which many of you know, I helped to lead a filibuster in trying to prevent that legislation from being enacted. Let me be clear, we need to be thoughtful about revenues in regards to roads and infrastructure because there is a critical need there. There are significant economic development issues at play when it comes to infrastructure financing, and the jobs that come along with those roads are good jobs that benefit Nebraska and that benefit Nebraska families. And that's why I have taken the hard votes and taken the political hits of financing infrastructure according to our traditional parameters, which includes a reliance on the gas tax. LB84 marked a dramatic departure from that longstanding policy, which I believe to be sound policy, in keeping our infrastructure financing separate and distinct from other General

Floor Debate  
March 26, 2014

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Fund obligations. But now roads are in competition with other state priorities, whether that be education, natural resources, public safety, the list goes on and on. And, in fact, I felt so strongly about the wrongheadedness of that proposal that last session I did introduce a bill to repeal LB84; that's LB531, and it's still pending before the Revenue Committee. And I wonder now, with this proposal that's been brought forward, colleagues, when will it end? During our course in the Legislature we have been pushed to increase gas taxes. We have. We have been pushed to earmark other revenues to support infrastructure financing. We have. We have changed to a variable gas tax to increase revenues available for infrastructure financing. We've done it. And then came LB84, which represented one of the largest earmarks in Nebraska state history, and diverted billions away from education, public safety, natural resources, and other critical state obligations. And now we're being asked to do even more. To do more, to incur debt, to fill the insatiable urge that is infrastructure financing. And to be clear, infrastructure financing and roads are a priority. They are a significant and important priority, but they're not the only priority. And I see this evolution of policy as moving in the wrong direction and putting out of balance our longstanding traditions of providing for infrastructure financing in one clear mechanism and providing for other state obligations in another. And I wonder, after LB1092, what's next? Is it another half-cent earmark? [LB1092 LB531]

SENATOR KRIST: One minute. [LB1092]

SENATOR CONRAD: Is it another increase in the gas tax? Is it another diversion of existing revenue? What's next after bonding? Where does it end? Does it ever end? Those are some of the things that I am concerned about. In fact, my community in Lincoln is contemplating raising sales taxes to pay for additional roads financing, which we know is regressive, which we know will hurt working families. So there's a lot of frustrations and a lot of concerns on my part when I look at this legislation. But I do commend Senator Dubas for taking on the hard issues and for trying to find solutions to move forward, but I have a great deal of concerns with the fiscal and substantive policies surrounding LB1092. Thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Conrad. Senator Smith, you are recognized. [LB1092]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I just wanted to echo what Senator Conrad said, that I too appreciate Senator Dubas and her work on this particular bill and this effort. I do not have anything...I don't oppose bonding in concept, and I certainly don't oppose trying to find funding for our roads. I think it's extremely critical and important. I was having a side conversation just prior to Senator Conrad being on the mike, and she and I were having some conversations, and I think she's addressed some of the concerns that I have as well on this LB1092. LB84, as passed in 2011, and my understanding is that it was...it provided for highway

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

Floor Debate  
March 26, 2014

---

construction funding by earmarking that quarter cent of state sales tax to new highway construction projects, and that's between \$60 million and \$70 million annually in additional funds from LB84. If Senator Conrad would yield to a question, I have a question for her, please. [LB1092]

SENATOR KRIST: Senator Conrad, will you yield? [LB1092]

SENATOR CONRAD: Yes, absolutely. [LB1092]

SENATOR SMITH: Thank you, Senator Conrad. And under this bill, under LB1092, the state would use a significant part of LB84 funds to pay off the bonds, and that's your understanding as well, correct? [LB1092]

SENATOR CONRAD: Yes, I believe so. [LB1092]

SENATOR SMITH: Now if each year the Appropriations Committee can appropriate, they have the ability to appropriate those funds for that purpose. Is that correct? [LB1092]

SENATOR CONRAD: Yes, that's right. Last year was the first time since LB84's operative date wherein we were presented with a line item at the Appropriations Committee level where we actually had to appropriate the revenues that were received under that proposal. [LB1092]

SENATOR SMITH: And so each new Legislature has the ability to make that appropriation. So what would happen in a future Legislature if that appropriation did not take place? [LB1092]

SENATOR CONRAD: Yeah, I think that's a very good question, and it would be unclear. There was actually quite a bit of debate at the committee level last year about those of us who had misgivings about LB84 and making the appropriation, and there were misgivings by other members who had supported the effort, who were concerned that the revenues weren't being directed to projects but rather to other operational issues in the Department of Roads. So that was definitely a point of debate at the committee level and as part of the appropriations. We ultimately ended up working through many of those issues and putting something forward in our biennial budget that I think met the spirit and intent of LB84. But it's going to be an ongoing question. And if an Appropriations Committee did not appropriate those funds, of course, it would be up to the body if they sought to change that once the budget hit the floor. [LB1092]

SENATOR SMITH: So some of those operations could be find funding from other means, including motor fuel taxes. It could mean cutting expenditures and costs, which would be maintenance of existing roads. It could be a number of things that could

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

Floor Debate  
March 26, 2014

---

happen as a result. [LB1092]

SENATOR CONRAD: Yes, I think that's right. I think that there is a great deal of flexibility in meeting state obligations from other sources if for some reason that avenue wasn't available or diminished. [LB1092]

SENATOR SMITH: Okay, thank you, Senator Conrad. And at the beginning of the session when this first issue came up and Senator Dubas had an information meeting, I was leaning very much in support of this legislation. And again, I cannot tell you how much I appreciate Senator Dubas bringing this forward. The more I've looked at this and the more thought I've given to it, though,... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR SMITH: Thank you, Mr. President...I believe that the risks far outweigh the potential benefits of this legislation. So at this point, colleagues, I'm going to stand in opposition to LB1092. Again I want to give credit to Senator Dubas. It's a great idea, great concept, not opposed to the concept, but I just believe there's too much risk that comes with LB1092. Thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Smith and Senator Conrad. Senator Bloomfield, you're recognized, and this is your third time. [LB1092]

SENATOR BLOOMFIELD: Thank you, Mr. President. I wonder if Senator Dubas would yield to a question. [LB1092]

SENATOR KRIST: Senator Dubas, will you yield? [LB1092]

SENATOR DUBAS: Yes, I will. [LB1092]

SENATOR BLOOMFIELD: Senator Dubas, I was again looking at the committee statement on this, and I see that, I think it was RBC Capital came in, in support of this. Who are they and where are they from and what do they do? [LB1092]

SENATOR DUBAS: They are bond counsel. They deal in issuing of bonds. They are in multiple states but they are also located right here in Nebraska in Lincoln. [LB1092]

SENATOR BLOOMFIELD: Where is their headquarters, do you know? [LB1092]

SENATOR DUBAS: I'll look...I can't give you that answer immediately but I will get it for you... [LB1092]

SENATOR BLOOMFIELD: I already looked. I believe it's Canada. But I just kind of

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

Floor Debate  
March 26, 2014

---

wanted to get that on the record. And thank you. Go ahead. [LB1092]

SENATOR DUBAS: All right. [LB1092]

SENATOR BLOOMFIELD: Mr. President, I'd yield the remainder of my time to Senator Chambers. [LB1092]

SENATOR KRIST: Senator Chambers, 4:10. [LB1092]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Bloomfield. Members of the Legislature, if you look at the language that I am trying to remove from the intent portion of the bill and you drop down to the same language, basically, or substantively, in the active part of the bill, why...I'd like to ask Senator Dubas a question. [LB1092]

SENATOR KRIST: Senator Dubas, will you yield? [LB1092]

SENATOR DUBAS: Yes, I will. [LB1092]

SENATOR CHAMBERS: Senator Dubas, if we don't put...let me ask it this way: This language that says "for the purpose of accelerating completion of this construction under the Build Nebraska Act," that doesn't really mean anything because the money...where else would the money in the Build Nebraska Act go? Where else would that money go? [LB1092]

SENATOR DUBAS: It would go towards the projects within that act. [LB1092]

SENATOR CHAMBERS: So this language doesn't really carry any legal weight in terms of modifying the projects or putting any others in, because it says the ones identified or that may be identified. [LB1092]

SENATOR DUBAS: Correct. [LB1092]

SENATOR CHAMBERS: And this language doesn't identify anything, does it? [LB1092]

SENATOR DUBAS: No, it just states...it references the Build Nebraska Act. [LB1092]

SENATOR CHAMBERS: So if that language were taken out altogether, out of both places, it wouldn't really hurt what the bill is designed to do or the mechanism in place to do it, would it? [LB1092]

SENATOR DUBAS: I think it's important to have that language in there because we are referencing those funds and using those funds to help pay...as the resource to pay the

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

Floor Debate  
March 26, 2014

---

bonds, so... [LB1092]

SENATOR CHAMBERS: But we're not earmarking anything by this language, are we? [LB1092]

SENATOR DUBAS: Earmarking projects? No. [LB1092]

SENATOR CHAMBERS: Thank you. Members of the Legislature, here's what I'm getting at. I think that this language is misleading, not in the sense of fraud or deception, but this language is not going to make any project be completed any quicker than it's going to be completed anyway. This is what's known as a sop, s-o-p, something designed to rook in the suckers. You give them the impression that those projects that maybe you've been ulcerating for, you've been praying for, you've been hoping for, and now with this language about accelerating these projects it's to give you the idea that now those projects somehow are going to be affected by his language. That's not true. I think the bill is bad enough if it states in very spare, precise, direct language what it's doing; namely, putting the state on a debt footing. But to put this language,... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR CHAMBERS: ...which talks about accelerating completion of these projects, is misleading and it creates false hope and a false impression. Nothing is going to be affected by this language. The Highway Commission and the Department of Roads are the heavies. The Department of Roads plays a secondary role in one sense, but it's the most important in another, because its recommendation is what puts the Highway Commission into operation in terms of being able to even consider selling these bonds. And if the Highway Commission decides to sell them, they can sell as small an amount in total, or up to the \$200 million. Nothing is mandated by this bill... [LB1092]

SENATOR KRIST: Time, Senator. [LB1092]

SENATOR CHAMBERS: ...but a lot of misconceptions. Thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Bloomfield, Senator Chambers, and Senator Dubas. Senator Kolowski...I'm sorry, Mr. Clerk, for some items. [LB1092]

CLERK: Thank you, Mr. President. Enrollment and Review reports the following bills to Select File: LB765, LB780, LB693, LB828, LB937, LB735, LB1050, LB1072, LB930, LB737, LB1008, LB997, LB964, LB1089, LB558, and LB1044, some having Enrollment and Review amendments. Your Committee on Revenue, chaired by Senator Hadley, reports LB1057 to General File with amendments. I have a new A bill. (Read LB1098A by title for the first time.) I have an amendment to LB1098 to be printed by Senator

Floor Debate  
March 26, 2014

---

Carlson. (Also AM2635 to LB383 by Senator Janssen.) And Mr. President, study resolutions, LR584-594. Those will be referred to the Executive Board. (Also MO155 to LB863 by Senator Mello.) That's all that I have. Thank you. (Legislative Journal pages 1160-1170.) [LB765 LB780 LB693 LB828 LB937 LB735 LB1050 LB1072 LB930 LB737 LB1008 LB997 LB964 LB1089 LB558 LB1044 LB1057 LB1098A LB1098 LB383 LR584 LR585 LR586 LR587 LR588 LR589 LR590 LR591 LR592 LR593 LR594 LB863]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Kolowski, you're up. [LB1092]

SENATOR KOLOWSKI: Thank you, Mr. President and colleagues. I'd like to stand in support of this bill, LB1092, and I want to give you two examples of why I think this is important and leave you with some questions concerning our future and direction we would go with this. In my...in the eight years, from 2004-2012, I was on the Papio NRD Board, and the last three years of that time period I was chair...had the pleasure of serving as chair of that board, and we had a great deal of projects going on that had great impact upon the Papio Creek watershed in the Omaha area. Unknown to most people, the Papio watershed is one of the most dangerous in about a seven-state region as far as the potential for flooding and damage to property and life in a metropolitan area. If we would have one of the floods like hit in the Iowa State or Iowa City areas, of that volume of rain, I can't imagine the impact upon the Omaha area with the amount of damage and threat to life that would happen if we didn't have the reservoirs that we currently have in place and the ones that we have planned to also go into place in the metro area. The Legislature in its wisdom gave bonding authority to the Papio NRD, the only NRD to have that kind of bonding authority out of the 23 NRDs in the state, and we've been using that extensively and wisely to get ahead of the game of putting in reservoirs and lakes, dams, of course, the recreational areas, and the trails throughout the metro area. If there was any good thing that happened from the recent recession from 2008-2012 or '13 was that in the economic bad times housing slowed down, business growth slowed down, the building of rooftops, concrete, blacktop, all to drain into the Papio watershed, slowed down tremendously and we were able to make some gains during that time with the dams and reservoirs that we're putting around Omaha. Now just keep that in mind from the aspect of one city and what they're doing in that area and what that bonding authority gave us the opportunity to do. The second issue I want to talk about would simply be cities, schools, and NRDs and their bonding authority. Keep in mind that schools have the same authority; cities can do much of the same. In 1970, I started my teaching in the Millard Schools in what is now Millard South High School. At that time that school was surrounded by cornfields. It was the westernmost part of the city at about 150th and Q Street. And if you know the whole area out in western Omaha and northwest Omaha and southwest Omaha, it now extends all the way to Elkhorn and to Gretna, as you all know. One thing we can be sure of, we'll have more people, we'll have more traffic, we'll have more development that will take place. And one of my memories of all of that growth that we had and the slow, very slow method that grew roads from two-lane, basically--I call them cow paths

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

Floor Debate  
March 26, 2014

---

almost, at one time--two-lane roads that traversed our area, the memory I have of one set of...one set of memories I have are the two or three crosses... [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR KOLOWSKI: ...where kids were killed on traffic situations that were a great detriment to those families, to the communities, and to their neighborhoods when we had those accidents take place. When we had accidents, when we had kids killed, when we had deaths take place, we had action, which is completely reverse of everything that we should be doing. We should be planning for these things ahead of time and doing the things we need to do to build the roads, to build the infrastructure to handle the traffic, to handle the people that move into areas. We have infrastructure challenges in this country. Roads, bridges, tunnels, pipelines, ports, dams, levies, and waterways, and it goes on and on. We have to catch up with the issues that are before us. You tell me where the federal dollars are going to come from. I look forward to the dent we can make in this by doing some things in our own state... [LB1092]

SENATOR KRIST: Time, Senator. [LB1092]

SENATOR KOLOWSKI: ...with our own money. Thank you very much, Mr. President. [LB1092]

SENATOR KRIST: Senator Wightman, you're recognized. [LB1092]

SENATOR WIGHTMAN: Thank you, Mr. President. If Senator Dubas would yield, I have a question or two I would like to ask her. [LB1092]

SENATOR KRIST: Senator Dubas, will you yield? [LB1092]

SENATOR DUBAS: Yes, I will. [LB1092]

SENATOR WIGHTMAN: Senator Dubas, I've been out of the Chamber quite a bit of the time, but my understanding, and I don't know that it's been brought up here, is that currently there are only 2 of the 50 states that do not provide bonding on highway. [LB1092]

SENATOR DUBAS: That's my understanding as well: Nebraska and Wyoming. [LB1092]

SENATOR WIGHTMAN: Okay. And you don't know if all of them have bonding in existence at the present time but most of them would, I'm sure. [LB1092]

SENATOR DUBAS: They do at different varying degrees, yes. I mean, every state

Floor Debate  
March 26, 2014

---

handles their bonding differently. [LB1092]

SENATOR WIGHTMAN: Thank you. It seems to me that we aren't taking a great risk and I agree with Senator Schumacher who earlier said that the interest rates alone would suggest that now might be the time to borrow money to build roads. We're talking about probably the lowest interest rates in the last 70-75 years; I haven't checked that back but I'm guessing you go back to the late '30s probably. And so it does seem to me that it would make sense at this point to look at some borrowed funds, bonded funds, to get our roads probably better in place. So I do intend to support LB1092. Thank you, Mr. President. [LB1092]

SENATOR KRIST: Thank you, Senator Wightman. Seeing no one wishing to speak, Senator Chambers, you're recognized to close on your amendment. [LB1092]

SENATOR CHAMBERS: Thank you. And, Mr. President, members of the Legislature, I've said that I want to stop this bill and I'm going to, but what I mean by "going to," I'm going to do what I can do to stop it. I don't think the debate has been bad except when people like Senator Johnson, Senator Wightman, and some of the other misguided people stand up here and give misguided statements of support. Other than that, the discussion has been very uplifting. Oh, Senator Davis just looked around and reminded me that he's in that number, too, that number also. This has reached a point now where repetition is about all that we can deal with. There are various funds mentioned in this bill, dates mentioned in the bill that I'm not going to put Senator Dubas through. But I think this bill should not go forward. And if it comes back next year, then somebody other than Senator Dubas will be carrying it. And at that time, I won't have to show restraint in the way that I go after the bill. This that we're doing, if we stop this bill, is of benefit to the state. If we pass this bill we are not addressing any of the issues that some of those who support it have mentioned. Some of the senators from rural areas have stated that they looked at the projects that are on the board and their area is not being given the consideration they think they should get, so they support this bill. This bill doesn't change any of that. You have the same ones, after this bill is passed, if it should be passed, making the same decisions who were making the decisions before. And you don't like those decisions so you're going to vote for a bill that does nothing about it. But it puts the state in what I don't want to call a precarious position, that might be too strong a word, but I do not have confidence in future Legislatures to resist pressure. Senator Conrad enumerated various actions that the Legislature, from time to time, has taken pursuant to pressure to make more money available for road building. The road building industry is powerful. They get their way. The reason I don't like the quarter of a percent earmark is because it comes from sales tax. I bet you wouldn't have gotten it if you said all these big corporations are going to have to give a quarter percent more in corporate taxes. So you pick the most vulnerable people, you pick the most regressive tax available and use that to build roads. And many of the people who pay that tax will not be able to afford a vehicle to drive on those roads. But they're not

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

Floor Debate  
March 26, 2014

---

organized. Nobody really cares about them, unless you're going to try to make some point about people in the rural areas. But people in the rural areas get sick. They don't have medical coverage. But you don't care about the people in the rural areas for that. But when it comes to roads, concrete, to be used in commerce, that's when we suddenly talk about the rural people. All of those kind of arguments ring hollow from where I sit and cast judgment. What is being done that benefits the people? If you change that word "the" to "some," then I would say you're telling the truth. [LB1092]

SENATOR KRIST: One minute. [LB1092]

SENATOR CHAMBERS: What the Legislature does is to benefit some people and that word "some" encompasses the big shots, the powerful people. And I would have to put Senator Murante in that group because he has a pizza place called Big Shot's. Now what could be more putting...what could put a person more in that exclusive company than a pizza place named Big Shot? Mr. President, I'm going to ask for a call of the house. [LB1092]

SENATOR KRIST: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB1092]

ASSISTANT CLERK: 25 ayes, 0 nays to go under call, Mr. President. [LB1092]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Garrett, Nelson, Avery, Burke Harr, Scheer, Lathrop, Nordquist, Mello, please return to the Chamber. The house is under call. Senator Mello and Senator Nelson, please return to the Chamber. The house is under call. Senator Chambers, all but one are accounted for. Would you like to proceed? [LB1092]

SENATOR CHAMBERS: Yes, I'll take a machine vote. [LB1092]

SENATOR KRIST: The vote being considered is the amended floor amendment FA255 by Senator Chambers. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Senator Chambers, you're recognized. [LB1092]

SENATOR CHAMBERS: Roll call vote. [LB1092]

SENATOR KRIST: Regular order? [LB1092]

SENATOR CHAMBERS: Yes. [LB1092]

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

Floor Debate  
March 26, 2014

---

SENATOR KRIST: There's been a request for a roll call vote, regular order. Mr. Clerk, please proceed. [LB1092]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1171.) Vote is 14 ayes, 26 nays, Mr. President. [LB1092]

SENATOR KRIST: The amendment is not adopted. Any items for the record, Mr. Clerk? [LB1092]

ASSISTANT CLERK: Mr. President, thank you. New resolutions: LR595 by Senator McGill, LR596 by Senator Watermeier; study resolutions to be referred to the board. New bill. (Read LB907A by title for the first time.) Mr. President. (Legislative Journal pages 1171-1173.) [LR595 LR596 LB907A]

SENATOR KRIST: Please raise the call. Mr. Clerk for a motion. [LB1092]

ASSISTANT CLERK: Mr. President, priority motion: Senator Chambers would move to reconsider the vote just taken. [LB1092]

SENATOR KRIST: Senator Chambers, you're recognized. [LB1092]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, either I did a very poor job of explaining or my colleagues like surplusage in the statute. You have part of...you have all of Section 1 on page 1, you have part of Section 2 on page 1. The portion of Section 1 that I'm striking contains language that's in the bill itself, identical language. It's like saying in the intent language, one plus one are two. Then you come down to Section 2 and you say one plus one are two and this time we mean it. This is bad legislating, in my opinion. When I offered the amendment, that was not a part of just trying to take time. If that's all I wanted to do, I could have just said strike Section 6, strike Section 3, and on and on. But I think it's clear that anything offered on this bill, especially by me, will be voted down. So on a bill like this in the future, I won't offer something that could conceivably improve it. There is no need for this language which is being stricken. And for those people who are busy somewhere else doing something else and not paying attention to the job that they're paid to do, and they've started leaving already, (laugh) I'm going to read the language that would be stricken. On page 1, beginning in line 14, this language would be stricken from the intent portion, "in order to accelerate completion of the highway construction projects identified and to be identified for funding under the Build Nebraska Act." Then in the part of the bill that is the active ingredient, if you want to call it that, here is the language that I'm not touching, "for the purpose of accelerating completion of the highway construction projects identified and to be identified for funding under the Build Nebraska Act." If this was any other piece of legislation brought by anybody else, you'd be thanking me for having found this duplication of language and offered an amendment to get rid of the

Floor Debate  
March 26, 2014

---

duplication. That's all that it does. Even though the language that is left adds nothing to the bill, it misleads people. I'd like to ask...I'd like to ask Senator Murante a question. [LB1092]

SENATOR COASH PRESIDING

SENATOR COASH: Senator Murante, would you yield? [LB1092]

SENATOR CHAMBERS: Senator Murante, if you haven't followed the discussion, I'm not going to ask you this question. Have you followed the discussion? [LB1092]

SENATOR MURANTE: I have tried to listen to every word you've had to say, Senator Chambers. [LB1092]

SENATOR CHAMBERS: Well, when you say "tried," that gives you a way out. That could mean you didn't hear any of them despite your trying. Did you, while trying, hear some of what was being discussed? [LB1092]

SENATOR MURANTE: Are you asking if I heard or are you asking if I listened? [LB1092]

SENATOR CHAMBERS: I'm asking if you heard. [LB1092]

SENATOR MURANTE: Yes. [LB1092]

SENATOR CHAMBERS: All right. Now to listen requires a conscious effort on your part. Now you don't have to be attending consciously to a sound to be aware of it, so you have heard. Now I'm going to see whether you made a conscious effort to listen. Have you listened to the discussion? [LB1092]

SENATOR MURANTE: I have been working on other legislation but I've had the bill on in the background throughout, and so I feel I have been attempting to follow everything you've had to say, although it has been substantial in nature. [LB1092]

SENATOR CHAMBERS: Am I the only one who has been discussing this bill? [LB1092]

SENATOR MURANTE: Oh, absolutely not. [LB1092]

SENATOR CHAMBERS: So then you didn't listen to Senator Dubas either, did you? [LB1092]

SENATOR MURANTE: Again, I hang on every word she has to say. [LB1092]

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

Floor Debate  
March 26, 2014

---

SENATOR CHAMBERS: So you listened to her while not listening to me. [LB1092]

SENATOR MURANTE: I didn't...I think that is an overstatement of...that's beyond the scope of my previous comment, Senator Chambers. [LB1092]

SENATOR CHAMBERS: Then I will ask the question in segments. Did you listen to Senator Dubas? [LB1092]

SENATOR MURANTE: Yes. [LB1092]

SENATOR CHAMBERS: Did you listen to me? [LB1092]

SENATOR MURANTE: Yes. [LB1092]

SENATOR CHAMBERS: Did you listen to Senator Dubas with more attentiveness than you listened to me? [LB1092]

SENATOR MURANTE: I would say I listened to you both in equal amounts of intensity. [LB1092]

SENATOR CHAMBERS: Now then I'm going to ask you this question because she and I discussed this point. [LB1092]

SENATOR MURANTE: Okay. [LB1092]

SENATOR CHAMBERS: Does this language, in your opinion, about accelerating...well, this is being done, this bill is being done for the purpose of accelerating completion of the highway construction projects identified and to be identified for funding under the Build Nebraska Act. This bill, so that it won't seem like a trick question, doesn't identify any projects whatsoever. It does not tell which projects that have been identified are to be accelerated. So, in your opinion, what does this language add to the bill other than more words? [LB1092]

SENATOR MURANTE: I think you've summarized it well. [LB1092]

SENATOR CHAMBERS: Thank you, Senator Murante. You listened very well and you've picked up what you needed to pick up. Members of the Legislature, this isn't the first time I've tried to deal with legislation like this. Bills have been brought and it would open a section of statute, and I would offer amendments to the existing law because the language was bunglesome and did not need to be there. And unless it was one of those bills that people have been made to think that I'm just working some kind of trick, even though they don't see it, they would not vote to change that bunglesome language; in other situations, they would. Here you have a duplication of language. In neither place

Floor Debate  
March 26, 2014

---

does it add anything to the bill. Saying it twice doesn't add anything to the bill. But because I've expressed forthrightly my intent to try to kill the bill, you cannot even accept an amendment which would bring more sense and rationality to this bill that you have probably pledged yourself to support. And this is why sometimes it might not be the best thing to say, well, I will support everything that's in the bill, I will oppose anything that's offered to the bill, unless it's something that you really have that much conviction about. Then any question can be asked and you can respond to it. That's my opinion. My opinion does not bind anybody to do anything, but sometimes, sometimes it's necessary to try to get through everything else--let me say it a different way--to get past everything else that might be a distraction and look at what the amendment is attempting to do. If Senator Kolowski had an amendment...I'd like to ask Senator Kolowski a question. [LB1092]

SENATOR COASH: Senator Kolowski, will you yield? [LB1092]

SENATOR KOLOWSKI: Yes, sir. [LB1092]

SENATOR CHAMBERS: Senator Kolowski, what creek was that you were talking about? Was it the Papio? [LB1092]

SENATOR KOLOWSKI: Papio NRD, yes, sir. [LB1092]

SENATOR CHAMBERS: The Papio NRD. Now if you were offering a bill, how many times would you put the Papio NRD in one section if you were not saying something different about it? Is the Papio... [LB1092]

SENATOR KOLOWSKI: One time would suffice if I only needed one time. [LB1092]

SENATOR CHAMBERS: Now in this case do you see the need to repeat the language that I have identified twice? [LB1092]

SENATOR KOLOWSKI: Probably not. [LB1092]

SENATOR COASH: One minute. [LB1092]

SENATOR CHAMBERS: But you voted against my amendment, didn't you? [LB1092]

SENATOR KOLOWSKI: Yes, sir. [LB1092]

SENATOR CHAMBERS: Thank you, Senator Kolowski, a man who has been involved with education all his life, taught--that's all I'm going to ask you, Senator Kolowski--taught youngsters about the value of language. But that shows that it can befall all of us. But since it happened on an amendment that I'm bringing, I intend to

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Transcriber's Office

Floor Debate  
March 26, 2014

---

linger on this point. There are not that many more minutes left before either this bill will be taken off the agenda or 33 of you are going to vote to shut off debate, then at least 25 of you are going to vote to send the bill on. I don't know if those who have spoken against the bill will give that vote for cloture. Strange things happen here. But I'm going to push and do all that I can to carry out what I... [LB1092]

SENATOR COASH: Time, Senator. [LB1092]

SENATOR CHAMBERS: ...set out to do. You said time? [LB1092]

SENATOR COASH: Time. [LB1092]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1092]

SENATOR COASH: Members, you've heard the opening to the motion to reconsider. Those members wishing to speak: Senators Chambers, Murante, and Bloomfield. Senator Chambers, you're recognized. [LB1092]

SENATOR CHAMBERS: Thank you. And I thought you were going to stop after "Chambers," because the word preceding it was Senators, and you have given me the plural and I thought that would have been very nice in recognizing that I do the work of more than one senator, and often I do. But remember, if you can, that this is a bill that is a radical departure from the way the state has conducted business when it comes to road building and maintenance. It is not an insignificant thing that we're being asked to do. I think it is so significant and I think it is so wrong that I'm willing to take the time to do everything I can to prevent the state from being pushed over the edge of the cliff. And to join everybody else, as they do at the Oscar's, they thank everybody. They start with Adam. In the beginning there was Adam. Then there was Eve. And a rib was taken out of Adam's side and propped up against the wall in the greenhouse and it turned into Eve. And then they had two sons. And I want to thank Adam and Eve, because if it hadn't been for them, we wouldn't be here today giving these awards. So to do like everybody has done and I've said it earlier, I give Senator Dubas credit for what she's trying to do, but it's the wrong thing to be done in terms of trying to put the state on the inappropriate road, moving in the wrong direction. Whoever brings a bill like this is trying to get the state to move in the wrong direction. We should, if we could, look beyond the narrow scope of our district. I've said it before and I will say it again, and I will repeat it more than just this next time but not today. I am elected by the residents, the intelligent residents, within the 11th Legislative District. But the title that is going to attach, and I knew it when I ran for the office, state senator, not 11th Legislative District senator. That doesn't mean that we don't pay attention to the needs of the district. There are elections by district so that somebody will be in tune with, aware of what is going on in that district. But there comes a point when we have to look out for the interests of the state as an entity and the state as a whole. If a plan is being advanced which will hurt the

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

Floor Debate  
March 26, 2014

---

state in the long-run, I will oppose it. And this is one of those types of departures. You may be tired at this point, but you will have a chance to rest. You can get over whatever it is you feel right now. But if we put a bad plan in place then future generations are going to be negatively impacted by it. The head of the Department of Roads, whether you like him or not, whether you think that the Governor has inordinate influence with him, as any Governor would have with any appointee, all of that is beside the point. This is not a popularity contest for the Governor... [LB1092]

SENATOR COASH: One minute. [LB1092]

SENATOR CHAMBERS: ...or the director of the Department of Roads or for the members of the Highway Commission. This bill is about changing for the worse the way road funding is provided. Thank you, Mr. President. [LB1092]

SENATOR COASH: Thank you, Senator Chambers. Senator Murante, you are recognized. [LB1092]

SENATOR MURANTE: Thank you, Mr. President. Members, good afternoon. Would Senator Chambers yield to a question? [LB1092]

SENATOR COASH: Senator Chambers, will you yield? [LB1092]

SENATOR CHAMBERS: If I were running for Governor I'd say no, but since I'm a mere state senator, yes. [LB1092]

SENATOR MURANTE: Thank you for your courtesy, Senator Chambers. Senator Chambers, have I sat behind you since being elected and sworn into the Legislature last January? [LB1092]

SENATOR CHAMBERS: Well, it depends on what you mean by "sat," because there have been times when I'd look to the rear of the Chamber and I wouldn't see anybody in your chair. [LB1092]

SENATOR MURANTE: Is my seat positioned behind yours on the floor of the Legislature? [LB1092]

SENATOR CHAMBERS: I presume that since you sit in that seat it has been assigned to you so on occasion you are sitting in that seat. [LB1092]

SENATOR MURANTE: And over the course of various pieces of legislation over the course of the last year and a half, have we had occasion to have off-the-microphone discussions on various matters? [LB1092]

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

Floor Debate  
March 26, 2014

---

SENATOR CHAMBERS: Very enjoyable and productive discussions when you were listening and paying attention. (Laughter) [LB1092]

SENATOR MURANTE: I appreciate that. And in those conversations, would you say that when I was speaking you were hearing and listening to what I had to say? [LB1092]

SENATOR CHAMBERS: To every word, and I think I could give back to you more precisely what you said than you could if I asked you to repeat it. [LB1092]

SENATOR MURANTE: And in those discussions, did we have at least one conversation over that period of time in which we discussed you coming to a restaurant in middle west Omaha on 119th and Pacific Street to have pizza? [LB1092]

SENATOR CHAMBERS: Yes, we did. [LB1092]

SENATOR MURANTE: And does your recollection of that restaurant, was the name of it Big Shot's? (Laughter) [LB1092]

SENATOR COASH: Senator Chambers. [LB1092]

SENATOR CHAMBERS: When I gave it, I remember that being the name. [LB1092]

SENATOR MURANTE: (Laughter) I think we need to work on our listening skills, Senator Chambers. Thank you, Mr. President. [LB1092]

SENATOR COASH: Thank you, Senator Murante and Senator Chambers. Senator Bloomfield, you're recognized. [LB1092]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, over the last two sessions we've all learned a little something from Senator Chambers and from one another. One of the things that I have learned from Senator Chambers, whether he happens to be on the same side I'm on at that particular moment or on the opposite side, is that when he puts forth an amendment it's wise to look at it. Once in a while it's frivolous, very frivolous. In fact, I voted no one time on one of his more frivolous ones for a call of the house. But you ought to look at them. This amendment is not frivolous and I will take some of the blame for it not passing. I think we spent too much time, possibly, discussing the merits of the bill and not the merits of this amendment. Colleagues, this is language that really adds nothing to the bill. I believe it can do nicely without it. And we probably should have discussed the amendment more than we did our opposition to the bill and our reasons for that opposition. I am glad that Senator Chambers asked for a reconsideration motion on this. I hope you'll all look at the amendment again and see that it really adds nothing to the bill. And I would yield the remainder of my time to Senator Chambers. [LB1092]

Floor Debate  
March 26, 2014

---

SENATOR COASH: Senator Chambers, 3 minutes 10 seconds. [LB1092]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Thank you, Mr. President. I'm at the point on this amendment, this reconsideration, of repeating. If somebody can tell me the value of duplicating the language within a few lines of each other then maybe I'll see it differently. Where I placed the period in this amendment that I'm offering, I'm going to read this sentence starting in line 10 in the intent language. "It is the intent of the Legislature to conservatively utilize bond financing by issuing bonds, not to exceed two hundred million dollars in the aggregate principal amount with a maturity on or before July 1, 2033," I would put a period. Then the language that I would eliminate, "in order to accelerate," and so forth. In the language that I'm leaving alone, in the action part or active part of the law, it says exactly the same thing. I did not try...and I think that's pointless language. I've given my reasons for saying it. But I did not offer an amendment to take that out, and that would be an amendment I could offer. This was the most innocuous one that I could come up with. We could get rid of the entire Section 1 and it would do nothing as far as harming the bill. We need to understand what legislating is, the function that some things in bills will serve. This language that comprises the intent portion or Section 1 could all be done away with... [LB1092]

SENATOR COASH: One minute. [LB1092]

SENATOR CHAMBERS: ...and it would have no impact whatsoever on the reach of this bill, what is being authorized, how you set in motion the machinery of issuing these bonds, the limitation on how many...how much in the aggregate these bonds could be, the limit on the amount of interest that the state can pay. None of that did I bother. Those are substantive portions of the bill and I could have had a long debate on any one of those. But instead of doing that, I tried to point out that no matter what language we use with reference to those items, they can be changed. And the underlying problem is that when you try to get the state on the path of borrowing or taking on debt, the whole area is fluid,... [LB1092]

SENATOR COASH: Time, Senator. [LB1092]

SENATOR CHAMBERS: ...unstable, and unpredictable. Thank you, Mr. President. [LB1092]

SENATOR COASH: Thank you, Senator Chambers. Senator Hansen, you're recognized. [LB1092]

SENATOR HANSEN: Thank you, Mr. President. I look around this room. There's not very many people here. And then I started counting the ones that are term limited out and, thankfully, there's a few of the newer senators, not necessarily younger but newer,

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

Floor Debate  
March 26, 2014

---

better looking, that need to listen to Senator Chambers. He's a very good educator and he can educate the younger, newer group on a lot of things. Do phrases in a paragraph need to be repeated? Maybe; maybe not. Pete and Repeat sat on a fence. There are only two rules to road construction in the state of Nebraska: pay as you go; rule number two, refer to rule number one. So if I say something in between and then repeat that, that the only two rules in road construction in the state of Nebraska is pay as you go; rule number two, refer to rule number one. I think 4th graders are easier to teach than this group. But Senator Chambers has got a good idea. I mean it's a great idea. It needs to be done. It's something that needs to be done even in order to make this a better bill. There's some other things in here I don't know have been brought up for sure. I've been in and out of the Chamber. And the part with the variable rate, in the Revenue Committee we talked against the variable rate. We wanted a fixed rate, that 3.16 percent or as low as we possibly could go, and we want that thing fixed for as long as it needs to be there. Variable rate up to 5 percent may be a good deal in ten years but it's certainly not a good deal until then, or maybe not. Back in the mid-'80s, we said we'll never see single-digit inflation or single-digit interest for sure, and where are we now? We're less than 5 percent on most loans. So not sure that that holds true either. I'll continue listening to this bill, but I still think that Senator Chambers is right. His amendment, FA255, needs to pass. I'm glad he reconsidered it. It's something that needs done. And I would urge the body to reject LB1092. Thank you. [LB1092]

SENATOR COASH: Thank you, Senator Hansen. Mr. Clerk, you have a motion on the desk? [LB1092]

CLERK: Mr. President, I do. Senator Dubas would move to invoke cloture pursuant to Rule 7, Section 10. [LB1092]

SENATOR COASH: Senator Dubas. [LB1092]

SENATOR DUBAS: Thank you, Mr. President. I would ask for a call of the house. [LB1092]

SENATOR COASH: Thank you, Senator Dubas. It is the ruling of the Chair that there has been full and fair debate afforded to LB1092. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB1092]

CLERK: 28 ayes, 0 nays, Mr. President, to place the house under call. [LB1092]

SENATOR COASH: The house is under call. Senators, please record your presence. Unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Dubas. [LB1092]

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

Floor Debate  
March 26, 2014

---

SENATOR DUBAS: Mr. President, I would go ahead with my closing while senators are checking in. Not? Okay. [LB1092]

SENATOR COASH: There's no closing on cloture. [LB1092]

SENATOR DUBAS: That's right. Thank you. [LB1092]

SENATOR COASH: Senator Dubas, would you like a roll call vote? [LB1092]

SENATOR DUBAS: Roll call vote in regular order. [LB1092]

SENATOR COASH: Thank you, Senator. Senator Lautenbaugh, please check in. Senator Schilz, please check in. Senator Karpisek, please return to the Chamber and record your presence. There has been a request for a roll call vote. Members, the first vote is the motion to invoke cloture. Mr. Clerk, please read the roll. [LB1092]

CLERK: (Roll call vote taken, Legislative Journal page 1173.) 34 ayes, 14 nays, Mr. President, on the motion to invoke cloture. [LB1092]

SENATOR COASH: Thank you, Mr. Clerk. The motion to invoke cloture is adopted. Members, the next vote is on the motion to reconsider. All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB1092]

CLERK: 15 ayes, 26 nays, Mr. President, on the motion to reconsider. [LB1092]

SENATOR COASH: The motion to reconsider is not adopted. Members, the next vote is on the advancement of LB1092. All those in favor vote aye; those opposed, nay. Have all voted who wish? Mr. Clerk, there's been a request for a record vote. [LB1092]

CLERK: (Record vote read, Legislative Journal page 1174.) 32 ayes, 14 nays, Mr. President, on the advancement of LB1092. [LB1092]

SENATOR COASH: LB1092 does advance. Raise the call. Items, Mr. Clerk? [LB1092]

CLERK: Mr. President, a Business and Labor confirmation report; and Business and Labor Committee refers LB961 to General File with committee amendments attached, that signed by Senator Lathrop, as Chair. That's all that I have. Thank you. (Legislative Journal pages 1174-1175.) [LB961]

SENATOR COASH: Thank you, Mr. Clerk. We will move to the next item on the agenda.

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

Floor Debate  
March 26, 2014

---

CLERK: LB526 is a bill by Senator Howard. (Read title.) Introduced on January 23 of last year, at that time referred to Health and Human Services. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM1619, Legislative Journal page 565.) [LB526]

SENATOR COASH: Thank you, Mr. Clerk. Senator Howard, you're recognized to open on LB526. [LB526]

SENATOR HOWARD: Thank you, Mr. President and colleagues. Today I bring you LB526, a bill to modify the scope of practice for Nebraska's optometrists. In my time in healthcare, there are three ways to expand access to healthcare. The first is to expand access to insurance coverage so that people can pay for their healthcare. The second is to make sure that you have enough providers to provide that care. And the third is to ensure that your providers are able to work to the top of their training. I know that...and LB526 addresses the third one. It allows providers to work to the top of their training. I know that scope of practice bills can sometimes be very complex and technical, but I promise I will try to make this as painless as possible, if that is possible. LB526, as amended by the committee, will make three changes to optometry scope of practice. It removes the restrictions on prescribing certain oral medications related to the practice of optometry, authorizes specific types of injections, and allows optometrists to lance benign cysts around the eye, not in the eye, around the eye. Nebraska's optometrists are currently allowed to prescribe all oral and topical medications that are necessary to treat eye and visual system disorders, except for oral steroids, glaucoma agents, and immunosuppressives. These prohibitions were put into Nebraska statute, not because of a safety issue but as the result of a political compromise made years ago. Today 38 states allow optometrists to prescribe oral glaucoma medications; 31 prescribe steroids; and 27, oral immunosuppressive medications. Nebraska optometrists have had prescriptive authority for a wide range of diagnostic and therapeutic medications for more than 20 years. LB526 is not authorizing broad new prescriptive authority. It simply removes several narrow restrictions. Any use of medications would only be those rationally related to the treatment of eye disease. The bill also includes additional education requirements on these specific medications on top of the over 100 hours of pharmacological education that optometrists receive in school and are tested on, on their national boards and are licensed on by the state. In addition to removing the medication restrictions, LB526 would allow optometrists to perform two very limited kinds of injections. The first is to use an EpiPen when a patient in their office is in anaphylactic shock. Right now an optometrist could use an EpiPen on someone in the street and be covered by Good Samaritan laws but could not use this lifesaving injection in his or her practice because it is outside of their scope. Additionally, optometrists would be authorized to perform injections on benign cysts of oil and sweat glands on the eyelid. Every optometrist licensed in Nebraska has a four-year doctoral degree that includes training on these kinds of injections. Many optometrists have postdoctoral education where they further hone these skills, skills that are wasted because of the

Floor Debate  
March 26, 2014

---

restrictions LB526 seeks to address. Mr. President, could I get a gavel? Thank you. Optometrists must pass a national injection skills exam as a requirement of licensure and LB526 adds additional training requirements for this skill as well. The third part of LB526, if the committee amendment is adopted, is to allow optometrists to lance benign cysts of oil and sweat glands in the eyelid. This is a common treatment for conditions that optometrists routinely see in their practice. They involve lancing with a needle, which is something that patients often try at home with a greater risk of infection. Some can involve an incision, but the incision is so small that no sutures are necessary; therefore, it is not considered surgery. This treatment is taught in optometry school and in postdoctoral courses for optometrists. These are the same kind of postdoctoral courses that a dentist or a podiatrist might take to brush up or learn new techniques. In addition to this education and training, the committee amendment has very specific education and clinical skill requirements that an optometrist must meet in order to be licensed to treat benign cysts this way. Colleagues, LB526 is primarily a bill about enhanced access to eye care services. Physician shortages in rural Nebraska have been widely reported, and allowing non-M.D. providers to practice to the best of their ability and training is one of the best options we have to remedy that shortage. Make no mistake, optometrists are Nebraska's front-line providers of eye care. They are, by far, the most prevalent and accessible eye care professionals in our state, especially in rural areas. I'll pass out a map, but there are 345 optometrists in 48 counties, and 95 ophthalmologists in 11 counties, 50 percent of whom practice in Douglas County exclusively. I would like to clarify the outcome of the 407 advisory process for the optometrists. The technical review committee did vote 4-3 against the change after being split on the six criteria, and their concerns revolved primarily around educational requirements. The optometrists, in response to the concerns within the technical review committee, made revisions to include additional training for each of the three changes on top of the four years of education that optometrists currently receive. Subsequently, the Board of Health recommended approval by a 9-4 vote. I urge your green vote on LB526 and the underlying committee amendment. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Howard. As the Clerk has stated, there is an amendment from the Health and Human Services Committee. As Chair of the committee, Senator Campbell, you are recognized to open on the committee amendment. [LB526]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. The committee amendment continues to allow, as specified in LB526, optometrists to prescribe certain oral agents, including steroids, antiglaucoma medication, and immunosuppressives. In addition, it allows, as per the bill, for injections in the eyelid and tissue surrounding the eye for anaphylaxis or pharmaceutical agents for treatment of the eyelid. The committee amendment changes from, quote, cysts or infected or inflamed glands of the eyelids, in the bill, to "chalazions" and "hordeolums, sweat gland cysts, or oil gland cysts of the eyelids." The committee amendment also clarifies that the

Floor Debate  
March 26, 2014

---

performance of minor surgical procedures under the bill are specified, quote, to allow for the treatment of those very specific cysts, sweat gland cysts or oil gland cysts of the eyelids by lancing, small incision, and cutting; the injection of pharmaceutical agents for treatment of anaphylaxis and injection of pharmaceutical agents into the eyelid for purposes listed in 38-2604, and it again lists those specific treatments. The committee amendment maintains the educational components required under LB526 for injections and minor surgical procedures but adds requirements for certification in the use of oral steroids, oral antiglaucoma medication, and oral immunosuppressive agents to include four hours of tested education from an accredited school of optometry and specifies the components of such education. The amendment adds two additional components to LB526. The first is the amendment provides for the board to assess the education provided by a school of optometry listed on an application for a license to practice optometry to determine if the education provided by the school satisfies the requirement of the Optometry Practice Act. And number two, the amendment states that a licensed optometrist who performs minor surgical procedures or administers injections shall provide a standard of care to patients comparable to that provided by a physician licensed in this state to practice medicine and surgery. That concludes the opening for the committee amendment. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Campbell. Members, you've heard the opening to LB526 and the committee amendment. Floor is now open for discussion. Those members wishing to speak: Senators Larson, Krist, Gloor, Chambers, and others. Senator Larson, you are recognized. [LB526]

SENATOR LARSON: Thank you, Mr. President. I rise today in support of AM1619 and LB526. I think Senator Howard has brought us a very important piece of legislation. It continues to increase access to healthcare in rural Nebraska. I understand this is a scope of practice issue, and scope of practice issues can sometimes get ugly, let's say. But let's look, as we go across the state of Nebraska, how much access there is to ophthalmologists and optometrists. The closest ophthalmologist that lives to me in O'Neill is Columbus. O'Neill gets service with an ophthalmologist once a month. O'Neill is the largest town in my legislative district, about 4,000 people, and it's the only town in my legislative district that gets serviced with an ophthalmologist. When we talk about rural access to healthcare, LB526 is that rural access. We aren't expanding the scope of practice to the extent that these optometrists are going to injure anyone. I've talked to the optometrists. They've told me many times if they do not feel comfortable with any specific procedure, they will refer it to the ophthalmologists. These people care about their patients. They're never ever going to put one of their patients at risk in one of these procedures, period. These are the people that we go to church with or meet in the grocery store that take care of my eyes, that at 6:00 p.m. on a Saturday evening I call my optometrist because I have an eye infection and he comes in to his office and treats you. And if he didn't feel comfortable treating me that night, he would have sent me to an ophthalmologist. These people care about the health of their neighbors, of their

Floor Debate  
March 26, 2014

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friends. I can't call an ophthalmologist at 6:00 p.m. on a Saturday in O'Neill and have him come help me. I can text my optometrist though. LB526 gives simple procedures...or gives the optometrists the ability to perform simple procedures that are noncontroversial, not complex. And if they feel uncomfortable, they won't do it, pure and simple. This is rural access right here. This is allowing the people of O'Neill not to have to wait a month for an ophthalmologist to come to their town during a filled day, and maybe not even get in that month, maybe you have to wait two months to see that ophthalmologist or maybe you have to drive 75 miles to Norfolk because they're in Norfolk maybe once a week, or maybe drive 130 miles... [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR LARSON: ...to Columbus. That is what we face in rural Nebraska. When we talk about healthcare and servicing those in rural Nebraska, and we've had this fight recently, I remember it, this services people in rural Nebraska and there are the healthcare professionals in rural Nebraska, i.e., the optometrists, to service LB526. I can't explain the importance of this bill. [LB526]

SENATOR COASH: Time, Senator. [LB526]

SENATOR LARSON: Thank you. [LB526]

SENATOR COASH: Thank you, Senator Larson. Senator Krist, you're recognized. [LB526]

SENATOR KRIST: Thank you, Mr. President. Good evening, colleagues, and good evening, Nebraska. I intend to talk twice on this bill, the first one an explanation of life in the Health and Human Services Committee, and the second one more specifically on the topic itself. When you live a life as a Health and Human Services Committee member, you get to deal with a plethora of scope of practice issues, sometimes over and over and over and over and I think I could add ten more, because I've heard this issue every year that I've been privileged enough to serve with Senator Campbell, Senator Gloor, Senator Cook, and the newbies on the committee in the last few years. The LB407 process was changed with a great deal of energy by Senator Campbell, Senator Gloor. Thank you for doing that. Right, wrong, or indifferent, it is a great deal more effective and better than it was before. I think that the process itself still needs the respect of the medical officer of the state. It needs more cooperation and maybe more deadlines. But that 407 process is in place to give us information to make decisions and put quality pieces of legislation out for vote. And that is why I voted it out of committee. Hearing this over and over and times ten, I want this up or down. I just want a vote on this to say either we believe in the concept or we don't believe in the concept. Without going into the detail on the actual, because I promised you I would do that at a second time on the mike, I will tell you that this is not without a great deal of effort within the 407

Floor Debate  
March 26, 2014

---

process to get us to where we are today in the times that we have heard this argument. Senator Larson talks about access across the state. It's something that I can empathize with but I haven't seen because I live on the eastern side of the state where it's pretty easy for me to get an appointment to either an optometrist or an ophthalmologist. So that didn't weigh in to my opinion or my vote. The definition of surgical procedure, that did weigh in to my vote. I will talk about that, as I said, in the specifics. But I'm going to wrap up this by simply saying, if you were here 25 years ago you would be having an active fisticuff, the same kind of conversation about whether or not an ophthalmologist could put drops in eyes and dilate them to do an exam. Think about that for a second. We move on. Science moves on. Technology moves on. Optometrists have a standard. They have a licensing practice act. They have things that happen within the Department of Health and Human Services. They have a standard that they have to meet. They have a peer group review. They are not quacks. They are healthcare professionals. I think we need to address this and talk about it and vote on it, up or down. Take all of your concerns, whether it's rural, urban, access, should somebody else be able to put drops in my eyes, should somebody else be able to do simple surgeries. And I will add one thing in closing. [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR KRIST: Thank you, Mr. President. One thing in closing: The kind of, quote unquote, procedure we are talking about every nurse practitioner can do. So if you go into anybody's office, a nurse practitioner can lance that boil. Would you rather have the nurse practitioner do that in a general practice, or would you rather go to someone who's been trained in dealing with the eye itself? Questions for you to consider. I know that hopefully we will get to a vote today. But I voted it out of committee because I think it's important we do get a vote up or down on this. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Krist. Senator Gloor, you're recognized. [LB526]

SENATOR GLOOR: Thank you, Mr. President. And I will pick up the train of thought that Senator Krist started by talking about the review process. Several of you have asked me about the fact that I abstained from voting. I did not vote to advance this bill out of committee because the process wasn't completed. The 407 process wasn't completed. We didn't have the suggestion from the chief medical officer of the state yet. And without a complete review of the 407 process, I didn't feel it appropriate to take action one way or another, so I abstained. Now we have it. We have three of the required three parts of the process: the technical committee, which gets involved in a thorough review, said no; the Board of Health said yes; and the state medical officer said no. And that's enough for me to say no on advancement of LB526. Most of you know that I ran a hospital before and it won't surprise you when I tell you that I was approached regularly by clinicians saying there was a new piece of equipment we

Floor Debate  
March 26, 2014

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needed to buy to do procedures on patients or a new type of procedure that needed to be done, a new treatment protocol. I'm not a clinician and I was not in a position to make those decisions any more than I believe any of us would say we're in a position to individually make a decision about whether this is right or wrong, although we're going to be expected to vote one way or the other. That's the nature of what's come to us. But I had the ability to have committees, form committees, made up of people who were clinicians, people who had interests, people who were involved in providing these services, and asked them to come back with a recommendation; and with that recommendation, take it to a board of directors that would make the decision that finalized it. That made sense to me then, and the 407 process, which Senator Wesely gave us a couple of decades ago, also made sense when I got down here except it was antiquated and there were new science approaches that hadn't been allowed to be looked at in the 407 process. So as Senator Krist said, Senator Campbell and then I got involved in revamping the 407 process, and what we've given you as a 407 process I think puts you in a position where, Senators, you don't have to make this decision. It's been made for you. And since I played a role in revamping the 407 process, I feel duty-bound to stick with the recommendation of the very committee process I helped form to come back with a recommendation. Now I will also tell you that even though the optometrists were in here in 2010 asking for this scope of practice, I encouraged them to reapply because I felt this new process was more appropriate, more fair, brought more science into the process. And lo and behold, that new and improved process said no, that this isn't appropriate. You may vote to advance this, but my caution to you is I think we are better served, especially those of us who can remember some of the early battles when we got here on scope of practice, we are better served not to find ourself besieged by people who, if this goes forward, see no reason to go through 407 but to, in fact, hire a lobbyist and come to us and battle it out on the floor of the Legislature. And it will be difficult and onerous. And we have a process we could have used, if used appropriately and if backed up with our vote, to send a message that says if you want to expand your scope of practice, go through the 407 process... [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR GLOOR: ...successfully and then come back to us. If we're going to ignore that, the consequences for us are increased number of battles of all kinds of ancillary service providers. Professionals in the areas of healthcare, in the areas of veterinary science, in dietary, in dentistry come to us to expand their scope of practice, thinking if we squeak loud enough we'll get the grease. Let's not fall into that trap. I would discourage you from advancing LB526. Thank you. [LB526]

SENATOR COASH: Thank you, Senator Gloor. Senator Chambers, you're recognized. [LB526]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I'd like

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

Floor Debate  
March 26, 2014

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to ask Senator Gloor a question or two. [LB526]

SENATOR COASH: Senator Gloor, will you yield? [LB526]

SENATOR GLOOR: Certainly. [LB526]

SENATOR CHAMBERS: Senator Gloor, I handed around a letter and on page 2 it mentions 407 review process. I'm going to read the four bullet points and, if you know, tell me whether this is accurate: The technical review committee of the 407 process rejected this proposal. Is that true? [LB526]

SENATOR GLOOR: As I understand it, yes, it is, Senator Chambers. [LB526]

SENATOR CHAMBERS: The second one: All four public members of the committee voted no. [LB526]

SENATOR GLOOR: I haven't looked at that lately, but that's my recollection also, Senator. [LB526]

SENATOR CHAMBERS: And I heard what you said on this: The chief medical officer rejected this proposal. [LB526]

SENATOR GLOOR: That's correct. [LB526]

SENATOR CHAMBERS: Thank you. Members of the Legislature, in the interests of full disclosure, Dr. Graul is the one that I contacted for information. He did some...people probably wish he hadn't, he did some...what do you call it when you use the bright light, Senator Johnson, lasers? I went to this Eye Surgical Associates to just have my eyes checked so I could get a prescription for eyeglasses. So in the process of the examinations, they did a thorough job and he explained, and showed me a mock-up of an eye, that there was not drainage occurring in my eyes, as should happen, and it was building up fluid in the back part of my eye, putting pressure on the optic nerve. And had I not had that corrected, I could have lost my vision. That's why I say some people probably wish that I hadn't gone there. So I asked him what can be done about this. He mentioned the procedure. I said, well, are you the one who does it? He said, yes. I said, well, can we do it right now? And he looked. I said, I don't see any reason in waiting. So he said he would do one eye at the time so that my vision...I'd have vision in one eye that was clear because I drove there. So I had that done. I had the other done and now, as Johnny Rodgers said, I can look through walls. Actually, it didn't affect my vision at all but it took care of a condition that I did not even know that I had. I don't go to doctors. I don't go to the hospital because nothing, to my knowledge, goes wrong or has been wrong with me. I'm talking about not my brain now because people would challenge that. But I'm going to get a "callawnascopy" (phonetic) at the end of the session, or

Floor Debate  
March 26, 2014

---

whatever you call it, and I'm pronouncing it the way former President Bush pronounced it, and people bother me about that. But because I don't get regular checkups, this is something that is very serious and I am very sensitive about my eyes. So what I intend to do, in addition to having handed this letter around, I'm going to read it into the record so that it will be clear in terms of a legislative history of the kind of information we had. As far as what Senator Larson said, there's always an appeal made to say to what's happening in the rural areas. I don't think we help anybody by giving a lower standard of care and saying that anything is better than nothing. The first rule of medicine is first do no harm. If somebody is inadequately trained, good intentions won't make up for it. Not all optometrists, just like not all doctors, are going to be capable and competent and all these glowing things that Senator Larson talked about. [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR CHAMBERS: Excuse me? [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR CHAMBERS: Oh, I thought you said time. When I read this letter I'm not going to comment along the way while I'm reading it, but I think that it is very crucial that we have the kind of information contained herein. And this kind of bill is shopped around by the lobbyists to find some unsuspecting, uninformed senator to bring it. And they tell a glowing story and it is a story. Why didn't Senator Larson bring it? Why didn't some of the senators who have been here a long time bring it? I've seen it. I'd never bring it. But at any rate, I'm going to read this letter into the record. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Chambers. Senator Campbell, you are recognized. [LB526]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. I, too, in the committee was present and not voting, and I want to explain a little to you why I took that position and to help you understand that this is a true scope of practice bill. We have issues that go through the 407 process because they may be changing something within a scope, and to some extent that's what Senator Crawford's bill was. It wasn't really a scope of practice, because the nurse practitioners, we didn't change anything about their scope. So sometimes we use the 407 process to do that. But this is a true scope of practice. And the 407 process, and Senator Gloor has talked about this, was developed years ago, and if you talk to former Senator Wesely, you will find out that the Legislature was being inundated with changes on scope of practice: physical therapists, chiropractors, dentists, dental assistants, and on and on and on. And the Legislature sat and said, we have no medical background; how would we be able to judge this? And so at that point they developed the 407 process and what was meant

Floor Debate  
March 26, 2014

---

was that you'd have a technical committee, you'd have the Board of Health, and you'd have the medical director. And those reports would come to the Health and Human Services Committee to be reviewed and to be discussed in relation if a bill was brought forward. All of those reports are on the department's Web site and, quite honestly, in a scope of practice it's probably incumbent upon every senator to look at those reports. That's why the process was set forth years ago. This process, like every other scope of practice, is given one year to happen. You have the technical committee, and this technical committee spent 70 hours, and if you go to the Web site and you begin looking at all the articles, evidence, best practice that they looked at, 70 hours, the Board of Health, and I asked a Board of Health member, spent 10 minutes. And those were the only two reports we had at the point when the committee...a motion was brought forward to advance the bill. We were missing the third component and we were concerned, because the medical director had not given his report. Frankly, folks, there is a year process and they're given a year because the technical committee, the Board of Health, these are all volunteers. These are people who come forward and say, I'm willing to do this. I would like to say that you are not going to say this is an up or down and we will not see the ophthalmologists or the optometrists again. Yes, you will. You're going to see dentists again and dental assistants and chiropractors and physical therapists, because we gain new knowledge. We have evidence-based practices and sometimes we do say we should change the scope of practice based on what scientific evidence we have before us. That's what the technical review committee is meant,... [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR CAMPBELL: Thank you, Mr. President...to be that, to be that review of the literature and the scientific information. I put more value on the technical committee and their review than almost the other two because they spent 70 hours. And I looked at all those articles and I thought these people really thought this through. The next time on the mike I hope to talk a little bit about that review committee. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Campbell. Senator Seiler, you're recognized. [LB526]

SENATOR SEILER: Thank you, Mr. President. Members of the Unicameral, I rise and draw your attention to AM1619 on page 9. It's the standard of care. And what just makes a trial lawyer smile and grin is this setup you have here in defining your standard of care. You shouldn't...with laws like this, we can't complain about trial lawyers working for clients because we set this up for them. There's no question about it. The standard of care to patients comparable to the provider by...provided by a physician licensed in this state to practice medicine and surgery, that is if a surgical procedure is done by an optometrist. If he does a surgical procedure, that's the standard. Okay, let's examine

Floor Debate  
March 26, 2014

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that. A physician licensed, is that a general practitioner? How about an orthopedic surgeon? He's licensed. He can do surgery. He can hand out medicines. It isn't a proper comparison. It isn't the ophthalmologists. It's any general practitioner. Now you go to the next step which is handing out pharmaceuticals, and that standard of care to patients as provided by a physician licensed in this state to practice medicine and surgery utilizing the same pharmaceutical agents. Now is that the ophthalmologist that...or someone else that's licensed to practice medicine and surgery and uses those same pharmaceuticals for some other purpose? The definitions just don't make sense. And so what, in practice, normally would happen is the standard of care would be the same as an ophthalmologist in that area. It's the standard of care in the location where the malpractice occurred, in that that is the normal standard of care. This bill tries to define it, makes two different definitions and neither one of them are on point. So I think that that part is...it makes this bill almost fatal. That is the first test that I'd like to try...or have you determine on this case. Thank you very much. [LB526]

SENATOR COASH: Thank you, Senator Seiler. Senator Sullivan, you are recognized. [LB526]

SENATOR SULLIVAN: Thank you, Mr. President, and good evening, colleagues. These get to be very complicated and very few of us in this body know a lot about these very particular procedures. So how do we make a decision? Well, first of all, you look to the introducer of the bill, and unlike though Senator Chambers saying that maybe they got a young, unknowing senator to introduce this bill, I don't think that's the case with Senator Howard. I think she certainly does her homework. She's very knowledgeable in this area and I think she's prepared to answer some questions that I will ultimately ask her. But also in making these decisions you look to the people who are knowledgeable in this field, and so in my case, in District 41, I go to optometrists, because in the nine counties in District 41 we don't have any ophthalmologists. We have actually four counties who don't even have an optometrist. So...and I agree with Senator Chambers and what I'm looking for is quality care. I'm not going to settle for second best. So to me, this bill really isn't about access as it is in terms of providing quality care. So then I go to some of the feedback that I have gotten from optometrists and one in particular who has, from his e-mail it appeared to me that this topic has come before us numerous times. So, Senator Howard, I need to ask you some questions to start this, if she would yield. [LB526]

SENATOR COASH: Senator Howard, will you yield? [LB526]

SENATOR HOWARD: Yes, I would. [LB526]

SENATOR SULLIVAN: Thank you. So, Senator Howard, is this the first time we've dealt with this particular scope of practice with optometrists in this body? Do you know? [LB526]

Floor Debate  
March 26, 2014

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SENATOR HOWARD: It's not the first time we've dealt with scope of practice for optometrists, but it is one of the first times we've dealt with these specific issues. [LB526]

SENATOR SULLIVAN: Okay. The optometrist that I've heard from has apparently been dealing with this for many, many years. And one of the things that he says is that the ophthalmologists always fall back on, well, the training is different. Now can you speak to that a little bit, because obviously, as Senator Campbell said, we've gained new knowledge, there's been new training. So are we on more solid ground with this right now? [LB526]

SENATOR HOWARD: I would say absolutely. Optometrists go through four years of education: three years of classroom and one year of clinical. This is all postdoctoral education. And then they also, under this bill, would have to achieve additional certifications for these specific activities, although they pass a national board and they also have a state licensure exam that is very stringent. [LB526]

SENATOR SULLIVAN: Thank you very much. And one of the other things that was revealing to me again in this e-mail that I received, there's been mention of the review process and the 407 review and the technical committee. And, yes, they spent a lot of time, but the decision that they made wasn't conclusive. And as I understand it, the technical review committee voted 4-3 against, of course, and then the Board of Health voted 9-4. So there was a difference of opinion. And if you add up the votes, there were 12 actually out of the 20 that were in favor of expanding this scope of practice. So you know, I'm...I think we have to drill down to, in these cases, yes, particulars and specifics, but you have to also draw on the experience of the people that we're hearing from. And in my case I think the optometrists that I heard from were making a very good case. So in this I stand in support of...oh, that was the other thing I wanted to ask you about, Senator Howard, the amendment, because... [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR SULLIVAN: Did you say one minute? Thank you. Do you think that the amendment helps make this bill better? [LB526]

SENATOR HOWARD: I absolutely do, yes. [LB526]

SENATOR SULLIVAN: All right. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Sullivan and Senator Howard. Senator Crawford, you're recognized. [LB526]

Floor Debate  
March 26, 2014

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SENATOR CRAWFORD: Thank you, Mr. President. I stand...I was on the Health and Human Services Committee and felt it was important to explain my vote. I was one of the present not voting. And very similar to the discussion you've already heard from a couple of the other people in that situation, we have the 407 process, and at that time it was not completed. And so there was some concern in the committee about the precedent we would set by sending something out that wasn't completed. However, that was not the majority vote of the committee, so it did come out. So at that...and now it has been completed, so at that point went back to look at all of the technical review committee report and the Board of Health report and the chief medical officer report, try to go through their arguments and see what they were saying in their arguments and look at that more clearly. And I think, well, part of our discussion tonight is probably talking about what the 407 process means and how we use it as advisory because you could say the 407 process is something you just take their count and there are three parts and you decide how many of those parts are yes and how many are no and that's the choice. As I understood it, the 407 process is an advisory process, and so it tells us what they see and their votes are important, but that we have the full report so that we can really dig in and see what they meant and who voted which way. And so I guess just like I look at a committee statement and look at who voted for and who voted against and who abstained and that usually tells me a lot about what I think was happening. In this case not only do we have who voted in each direction, but we also have some...we have the reports. If you look at them it will say the opponents said this, and it'll summarize some of the things that they said, and the proponents argued this. So you can really go through and you don't just have a vote count, you actually have the arguments that were made on each side. And so you can really go through those and see where they were coming from and use that in looking at the vote count as well. So a few things that were compelling to me as I looked at the reports in that way as advisory and treating the reports in some ways like I would treat a committee statement, and so the technical review committee, and as Senator Campbell said, they spent a long time compiling the information and putting together their recommendations. And it was a close vote, so it is true that the majority did not vote to approve it, but it was a very close vote. And then what was also compelling to me is that the Board of Health discussion is after that technical review. So the technical review committee pulls all this information together and their report, and including the articles that they cite and the arguments on each side and the vote, that information goes to the Board of Health. And, true, the Board of Health doesn't spend as much time but the Board of Health has the advantage of seeing all of the work that the technical review committee did, including the arguments on each side and those public comments as the Board of Health approaches the issue. And so then I looked at the Board of Health vote at the end and you have a wide range of health professionals that are all...that are voting on the yes side, and the four no votes are three physicians and the chair of the technical review committee. So that, I thought, was an important finding. And the other thing that I think is important to recognize is that the 407... [LB526]

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

Floor Debate  
March 26, 2014

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SENATOR COASH: One minute. [LB526]

SENATOR CRAWFORD: Thank you, Mr. President...the 407 process is happening and the work on the bill was happening, and so I guess I would ask Senator Howard if she would yield. [LB526]

SENATOR COASH: Senator Howard, will you yield? [LB526]

SENATOR HOWARD: Yes, I would. [LB526]

SENATOR CRAWFORD: So I just want for you to specify in what way any changes that were made that are reflected in this amendment are responsive to concerns that were raised in the 407 process. [LB526]

SENATOR HOWARD: Thank you. The technical review committee had concerns around educational requirements for certification for these specific activities for the optometrists. And so the optometrists amended their 407 for the Board of Health to include additional, more stringent educational and licensure requirements. [LB526]

SENATOR COASH: Time. Thank you, Senators. Senator Davis, you're recognized. [LB526]

SENATOR DAVIS: Thank you, Mr. President, members of the body. Good evening. I rise in strong support of the bill because I'm a resident of rural Nebraska and rural Nebraska is in need of this change in the law. And if you look at the map that was handed out, you can see, you know, that basically half the state is west of the Lincoln County line where there are two ophthalmologists in North Platte and three in Scottsbluff. So you've got a huge geographic area that's out there without a whole lot of access. Granted these individuals will make trips to Alliance and Chadron occasionally, maybe once a month, maybe once every two months. But in large part if you have a patient who needs regular care and they have to go to an ophthalmologist, you have to get in the car and drive them there. And believe me, I know that because I did that with my mother for four years who had treatment for macular degeneration and some other things. Optometrists are competent, capable. They're doing a lot of this stuff already. Some of the things they're doing today are in fact probably more risky than the things that this law change is going to do. Because right now they can go in and they can remove stitches from the cornea and they can use a drill to get pieces of steel out of the eye, and I'm wondering if that isn't maybe a little riskier than being able to operate on a cyst. You know, when I was out in the lobby, I heard that, you know, by gosh, are these people going to be able to identify eyelid cancer and that sort of topically thing. I think with training, that can pretty easily be done. Even an individual if you pay attention to your own face can figure out if you've got a skin lesion that needs some attention. So to me this is a very good bill. I think Senator Larson made a great point about the distance

Floor Debate  
March 26, 2014

---

and why it's needed and Senator Sullivan too. So I rise in strong support of the bill and urge the body to move it forward. And with that, I'll yield the rest of my time to Senator Lautenbaugh. [LB526]

SENATOR COASH: Senator Lautenbaugh, 3 minutes. [LB526]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Davis. I also rise in support of this bill and I won't plow a lot of the same ground that Senator Davis just plowed. I did have an off-the-mike conversation with Senator Chambers after his last discussion and I did get him to agree to not sing "I'd Rather Go Blind" next time he's at the mike. So you all owe me one and we've dodged that bullet. But this is an important bill. And I understand the concerns voiced by both Senator Davis and Senator Larson regarding the availability of services, especially in the rural areas. And, you know, we all do the same thing here in looking at this. We look at what's actually being proposed. We look at the risk involved. And I think this is something we can readily afford to do and I think it makes sense. I'm not unmindful of the concerns raised by Senator Seiler either. If there is some problem with the standard of care possibly leading to excessive concerns of liability, that's something that could be discussed and addressed. It's something I hadn't thought of. But that doesn't change the fact that this is a sound proposal and I do fully support it and I hope you'll all do the same. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Hadley, you're recognized. [LB526]

SENATOR HADLEY: Mr. President, members of the body, I guess I'm confused as to how the 409 (sic - 407) process works or is supposed to work. I thought this was a process that was...in fact, I can read you what I found on the Web site. All reports created by the review process are submitted to members of the legislative HHS Committee to assist them during their review of any bills that might arise from credentialing review proposals. Would Senator Crawford yield to a question? [LB526]

SENATOR COASH: Senator Crawford, will you yield? [LB526]

SENATOR CRAWFORD: Yes. [LB526]

SENATOR HADLEY: Senator Crawford, you had two parts of the 407 process when you made your decision to be present and not voting. [LB526]

SENATOR CRAWFORD: Correct. [LB526]

SENATOR HADLEY: And then the third one came in no and you changed to supporting the bill. What in the third one that came in made you decide to support the bill? [LB526]

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

Floor Debate  
March 26, 2014

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SENATOR CRAWFORD: Well, actually again the issue, and I talked to some other colleagues about this, I think this is part of the question of how that 407 process advises us and talking about what do you do in the case of a...is it the case if we look and it's three pieces and you're looking at those as three votes and where the votes fall or is it the case there are three pieces to this process and you take advice from each of those three pieces. [LB526]

SENATOR HADLEY: Okay. I only have five minutes. [LB526]

SENATOR CRAWFORD: And so my no vote was not because it was a tie necessarily. My no vote was that the process wasn't complete. [LB526]

SENATOR HADLEY: But then the process, you get another no vote. So I just have a concern as to how you can have two votes and not make a decision, then get a no vote and vote it out. So thank you. [LB526]

SENATOR CRAWFORD: Yeah, so... [LB526]

SENATOR HADLEY: I'm sorry. I've only got five minutes, so. [LB526]

SENATOR CRAWFORD: Okay. [LB526]

SENATOR HADLEY: Would Senator Howard yield to a question? [LB526]

SENATOR COASH: Senator Howard? [LB526]

SENATOR HOWARD: Yes, I would. [LB526]

SENATOR HADLEY: There were two...the...basically the last part of the 407 was not available when this decision was made. [LB526]

SENATOR HOWARD: Yes, sir. [LB526]

SENATOR HADLEY: In fact, the process hadn't started when the hearing was held. Is that correct? [LB526]

SENATOR HOWARD: In last April? [LB526]

SENATOR HADLEY: No. Didn't we have the hearing in February of last year on the bill? [LB526]

SENATOR HOWARD: I apologize, I don't remember when the hearing was for this bill.

Floor Debate  
March 26, 2014

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[LB526]

SENATOR HADLEY: I thought I...maybe I'm wrong. Maybe I'm wrong. But I was wondering why we didn't let the 407 process work through, then have the hearing, put it to a vote, and put it through the process. [LB526]

SENATOR HOWARD: When I originally introduced the bill, we knew that there would be an accompanying 407 process. [LB526]

SENATOR HADLEY: I'm sorry, I can't hear you. [LB526]

SENATOR HOWARD: When I originally introduced the bill, we knew there would be an accompanying 407 process, which is very common. The nurse practitioners had their bill at around the same time as their 407 as well. [LB526]

SENATOR HADLEY: I guess it...gee, I'm trying to figure out why you would have...you have a process to give...and I read directly, to give the HHS Committee input on the bill or on the decision and we have a hearing before the process, the 407 process has started. That just doesn't...maybe we don't need the 407 process then. Maybe this is something we can put...bring them all back in again and have the fights here. Because I...to be honest, I don't think the 407 process was used very well in this particular procedure in this particular...I would have liked to have seen the 407 process completed, have a hearing, take the hearing information, take the 407 information, and then make a decision. To make the decision before you have one of the three processes of the 407 to me is just not a good committee process. That's just the way it is. [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR HADLEY: One last thing. And I just...it just seems like our whole society wants to do more. Everybody wants to do something different. You know, and I don't know the reason. It just...you know, we have trainings to be doctors. We have training, you know, to be other healthcare providers, and it's just expand, expand, expand. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Hadley. Senator Johnson, you're recognized. [LB526]

SENATOR JOHNSON: Thank you, Mr. Speaker. I want to ask a question and I'm not sure, I apologize because I didn't think of this question until we started the discussion here. I'm going to pretend that I've moved to a new community so I have a new optometrist. I'm building a relationship with that person. And there's something that comes up if this LB526 passes, something that comes up that is in this new category of

Floor Debate  
March 26, 2014

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service. My question, and I'll ask Senator Howard if she would yield. [LB526]

SENATOR COASH: Senator Howard? [LB526]

SENATOR HOWARD: Yes. [LB526]

SENATOR JOHNSON: I'm sure when I went in...go into that new office that I sign some kind of forms. Would I have the option if LB526 passes that when he moves or she moves to an area that's going to be covered under this, do I have the option to ask for another opinion or ask to go to another doctor, an ophthalmologist? [LB526]

SENATOR HOWARD: Absolutely, yes. Patients always have the opportunity to both refuse service and seek a second opinion. [LB526]

SENATOR JOHNSON: Okay. So I would have the choice. Maybe it's not necessary that it happens right away, so I might be willing to drive 50 miles to another doctor. Or if it's real urgent, I could pass on that and have the work done there by this ophthalmologist. [LB526]

SENATOR HOWARD: Yes, you could. [LB526]

SENATOR JOHNSON: Okay. Thank you. That was my question. [LB526]

SENATOR COASH: Thank you, Senator Johnson and Senator Howard. Senator Krist, you're recognized. [LB526]

SENATOR KRIST: Thank you, Mr. President, and good evening again, colleagues, and good evening, Nebraska. There's a lot of...on my first...I promised you I'd come back and talk about the process. I'm not going to get to it tonight. I do want to talk about the 407 process because Senator Hadley is right. But I think you should take it in context. A bill was presented last year and it was carried over to this year. The 407 process happened after the hearing last year and before we voted it out of committee. I was one of the people who led a charge to put it on the floor for a debate because, as I said earlier, I believe the process was disrespected by the people who were involved. If Senator Campbell will yield for a question, please? [LB526]

SENATOR COASH: Senator Campbell, will you yield? [LB526]

SENATOR CAMPBELL: Yes, certainly. [LB526]

SENATOR KRIST: I know you've looked at this as I have in detail and I know you've said it before, but I want to make the point. We had one of the three legs of the 407, which is the technical review board, and they spent how many hours talking about the

Floor Debate  
March 26, 2014

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subject? [LB526]

SENATOR CAMPBELL: Seventy. [LB526]

SENATOR KRIST: Seventy hours talking about the subject. Then we had the medical board come in and how long did they spend? [LB526]

SENATOR CAMPBELL: One of the members told me they spent ten minutes. [LB526]

SENATOR KRIST: Ten minutes, colleagues. And Dr. Acierno had had this on his desk prior to when we took the vote for how long? Do you remember? [LB526]

SENATOR CAMPBELL: Well, the Board of Health would have finished its work in November, and the one-year period would have been April 15, 2014. And we received Dr. Acierno's report on March 10, after the committee had asked for an expedited way to do that. And he reminded us that he had until April 15, but then we did receive the report on March 10. [LB526]

SENATOR KRIST: Okay. And thank you, Senator Campbell. I just wanted to make sure that our chronology was clear. Colleagues, I would contend that if we're not in session and we have no way to actually act on a bill and we can't hold the Department of Health and Human Services or the medical...or the chief medical officer to some kind of a time table that allows us to make decisions, then the 407 process is suspect in some ways. We don't need to throw the baby out with the bath water. But we had a discussion in committee about what to do and what that time table should be. You know, when we're not here, who applies the oversight? So if it doesn't get done when we have an opportunity to deal with it, it's a waiting game. Let's let it fall off the table and we don't have to deal with it this year and they have to come back next year and have a whole another hearing process. I may be a conspiracy theorist, but I think there's some of that process involved. Would Senator Gloor yield to a question? [LB526]

SENATOR COASH: Senator Gloor, will you yield? [LB526]

SENATOR GLOOR: Certainly. [LB526]

SENATOR KRIST: As I recall the discussion in the committee, we had several options. We could write the doctor a letter and ask him to expedite. We could move it out of committee. And I respect the fact that both...that all three of you did not vote it out. You wanted to see all three legs of the 407 process, but at the same time we also talked about changing the time line involved to try get a more timely response. A year is a long time, yet they were finished with the technical and the medical in November. Do you have an opinion about why it would have taken that long for the doctor to make his decision? [LB526]

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

Floor Debate  
March 26, 2014

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SENATOR GLOOR: I do, as a matter of fact, because my interactions with the director of...our medical director, state medical director... [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR GLOOR: ...Mr. Acierno has been in my previous life for things that I would say are far more important in terms of their immediacy than a scope of practice issue, which I believe can wait a little longer. And I think it was a concession to the state medical director that there are things that can wait on his schedule and things that can't. Is a year the right period of time? I don't know, but I wasn't uncomfortable with a year given the fact that nobody is going to I think live or die based upon the decision he's making about this scope of practice. [LB526]

SENATOR KRIST: So it's not a life or death issue so he can play it out to the end of the period of time. So taking it to a full year is not unacceptable in your estimation. [LB526]

SENATOR GLOOR: I think it's worth rattling his cage occasionally. The squeaky wheel does get the grease, as I've said previously. But I thought it was reasonable, yes. [LB526]

SENATOR KRIST: Thank you, Senator Gloor and Senator Campbell. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senators. Senator Chambers, you're recognized. [LB526]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I have confidence in this doctor whose letter I'm going to read. Amendment...oh, it's from Dr. Graul, G-r-a-u-l, AM1619 simply combines LB526 and LB527 carryover bills from 2013 into one bill, LB526. The amendment as written would give optometrists the authority to: prescribe oral agents including steroids, and glaucoma medications, and immunosuppressive drugs; allow pharmaceutical agents injected into the eyelid and tissue surrounding the eye for treatment of eyelid conditions; allow injections for treatment of anaphylaxis; allow surgical procedures by lancing, incision, or curettage for the treatment of chalazia, and hordeola--it's not gladioli--sweat gland cysts, and oil gland cysts. Concerns. Current collaboration model is the heading. Optometrists are a primary eye care provider and the medicines and procedures requested in LB526 unnecessarily go beyond primary eye care. Optometrists and ophthalmologists work together in collaborative relationships to serve patients together to provide the best quality of care to Nebraskans. The current model is a cost-effective method of assuring patient safety and quality care. Oral glaucoma medicines, that is the heading. Optometrists already have the authority to prescribe topical or eye drop medications,

Floor Debate  
March 26, 2014

---

the initial and most common treatment of glaucoma. Patients requiring oral glaucoma medicines are often complex and have severe or emergent disease best managed by the ophthalmologist who has greater training and experience. Oral glaucoma medicines can have significant systemic side effects. If a prescription for oral glaucoma medication is needed, an ophthalmologist or other physician can be easily contacted to prescribe these medicines without additional cost to the patient. Another heading, oral steroids and immunosuppressive drugs. Eye diseases that require the use of these powerful medicines are rare, and even ophthalmologists do not commonly prescribe them. Conditions requiring the use of these medicines are complex and severe. Use of these medicines require careful monitoring to detect and manage significant systemic side effects and toxicity. Ophthalmologists have not been...or optometrists have not been to medical school and have not completed a medical internship, thus have no education or training in systemic disease and no hands-on experience managing systemic disease or systemic side effects of medicines. The education and training of optometrists fails to provide the foundation to manage these complicated,... [LB526 LB527]

SENATOR COASH: One minute. [LB526]

SENATOR CHAMBERS: ...sick patients or use these medicines. The broad prescriptive authority requested in the bill will allow every optometrist in the state to prescribe drugs that have major and in some cases irreversible side effects that can be fatal. And I'll stop at that point, but I'll make this comment. Mr. President, members of the Legislature, this that we're doing applies to every optometrist, and I'm not satisfied that the information given by the optometrists is of sufficient worth to support passage of this bill. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Chambers. Senator Campbell, you're recognized. [LB526]

SENATOR CAMPBELL: Did you just say my name, didn't you? [LB526]

SENATOR COASH: Senator Campbell, you're recognized. [LB526]

SENATOR CAMPBELL: Thank you, Mr. President--I'm sorry it wasn't on initially--and members of the Legislature. I do want to clarify and make sure the record is very clear. Senator Chambers is correct. LB526 was heard with LB527 and the hearing was in March of 2013 and I think was at that point after the hearing that must have been in April that the optometrists filed for it. And I do want you to know that of all the people in this room, I probably have the most sympathy and empathy for Senator Howard, and I told her that. I have been through this when I was a freshman senator, and the senior members of the body quite remember that afternoon I'm sure. So at this point, my whole emphasis on this has been to be very respectful of what Senator Howard has been doing, but also to be firm in my belief that the 407 process is extremely important to the

Floor Debate  
March 26, 2014

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Legislature. If we try to end run that process, then we as a body will hear all of these from the years on out. And that is something to be most serious about because this process, while it might have some issues that need to be changed, has worked for a great number of years. One of the things, colleagues, that you would look at if you looked at the technical report or if you looked at the Board of Health report is that they will give a finding, they'll take a vote. But then what they'll do is they'll provide ancillary recommendations, and it is often those ancillary recommendations that the Health Committee will use to try to fashion an amendment or change. Because the one thing I've learned in six years here, that you really cannot work out differences on a scope of practice on the floor of the Legislature. It's always best worked out between the two groups that may be there and you use the ancillary recommendations to do that. The technical committee recommended in their ancillary recommendations which I hoped that at some point the Health Committee would come back to and try to work some of the kinks out of all of this. Their first recommendation was that a special committee be created consisting of physicians, pharmacists, and optometrists that would be granted authority to create a formulary for the purpose of defining which pharmaceutical agents optometrists would be allowed to use. I thought that was an excellent recommendation. Their second recommendation was that a standard be defined for the utilization of surgical procedures by optometrists and that the standard would require that optometrists who want to provide such services complete an accredited surgical residency, not just 16 hours I might add, or equivalent program that would provide practical hands-on training for optometrists on live patients. Their next one was that an integrated approach be developed among eye care professionals pertinent to the utilization of immune suppressants in which optometrists would be required to work with... [LB526 LB527]

SENATOR COASH: One minute. [LB526]

SENATOR CAMPBELL: Thank you...ophthalmologists to manage the use of such drugs when they are treating the eye care needs of patients. Colleagues, those ancillary recommendations are what is really helpful to the Health Committee in forming a path forward. At this point, we did not discuss the reports from either the technical committee or the Board of Health prior to bringing this forward. So we did not have an opportunity of not only having that third report, but kind of looking through these recommendations and maybe finding a pathway. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Campbell. Senator Chambers, you're recognized. This is your third time. [LB526]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I want to complete this letter. Heading is education. The education and training proposed in LB526 grossly underestimates the necessary preparation to ensure competency for surgical procedures performed on the eyelid and use of powerful systemic medicines.

Floor Debate  
March 26, 2014

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LB...we need some more light in this place, LB526 proposes only 16 hours of training for surgical procedures, which the chief medical officer identified as the length of a weekend course. LB526 proposes only four hours of additional training for the prescription of oral steroids, oral antiglaucoma medications, and oral immunosuppressive drugs. Ophthalmologists who are medical doctors, M.D., receive 12,000 to 16,000 hours of direct patient training upon completion of internship and residency. Ophthalmologists receive years of surgical training through four years of medical school, a one-year internship, and three years of residency. Almost half of all ophthalmologists complete an additional one- to two-year surgical fellowship. Optometrists go to four years of optometry school only. No medical school, no internship, no surgical residency or fellowship. No one-on-one surgical training. Heading, surgical procedures. The difference between a benign or malignant lid lesion can be difficult to diagnose, and referral to a medical doctor with years of training is necessary to ensure proper surgical management. Optometrists lack the mentored apprenticeship of an ophthalmology residency to provide them with the training and judgment to perform injections and lid surgery. Heading, competency and regulation. The expanded scope proposal would be regulated by the Board of Optometry rather than by the Board of Medicine and Surgery which should have governing authority over groups requesting surgical authority. 407 review process: The technical review committee of the 407 process rejected this proposal. All four public members of the committee voted no. The chief medical officer rejected this proposal. The public has not demanded expanded scope for optometrists. Members of the Legislature, there was a song that Billy Joel sang, which I'm not going to sing, but I think it went something like: You may be wrong, you think I'm crazy, but it just might be a lunatic you're looking for; turn out the light; too late to save me; you may be wrong, but for all I know you may be right. Now what is the connection to this? I, speaking for myself, would be a lunatic to go to somebody for a surgical procedure when that person had only gone to optometry school. Surgery should be performed by surgeons. Let the optometrists do the work of the optometrist... [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR CHAMBERS: ...and the surgeon do the work of the surgeon. There is a Spanish expression: shoemaker, not professor--s-h-o-e-m-a-k-e-r--to your last. A last is a piece of equipment that is used in making shoes. Shoemaker, stick to what it is that you do. I'm not going to drill Senator Howard on her familiarity and knowledge about this that was suggested by Senator Sullivan. But the kind of questions I would ask I doubt that she would be able to answer unless she had studied ophthalmology and had done considerable research on optometry. But I don't know that all of that is necessary because I got into the record what I want and I will not support this bill. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Chambers. Senator Seiler, you're recognized.

Floor Debate  
March 26, 2014

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[LB526]

SENATOR SEILER: Thank you, Mr. President, members of the Unicameral. I was just going to...I guess going to law school makes you copy as Senator Chambers just started reading exactly where I pushed my button to go over. And I won't go over that again. He did it very well. But I was looking at the technical review committee and they say they failed three of six in the criteria. It appears to me that 50 percent is a failing grade in everything except baseball. And if you hit baseball 50 percent, you'd be the superhero of the game. But 50 percent in a serious matter like this just doesn't make sense. And so I believe also with the standard of care that I discussed earlier, 50 percent criteria, I believe this bill needs a lot more work than what we've got. Thank you. [LB526]

SENATOR COASH: Thank you, Senator Seiler. Seeing no members wishing to speak, Senator Campbell, you're recognized to close on the committee amendment. [LB526]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, I'm in a situation I have not been in for four years, and that is to close on a committee amendment that I was present and not voting. I will encourage you to take a look at the amendment. I think the committee amendment was put forward by Senator Howard to try to bring LB526 and LB527 together. And so you may want to review the committee amendment for what it does in terms of bringing those two bills together, and I will certainly encourage you to take a look at the committee amendment because it probably does bring those two bills together in a much better form. Thank you, Mr. President. [LB526 LB527]

SENATOR COASH: Thank you, Senator Campbell. Members, you've heard the closing to the committee amendment. The question for the body is, shall AM1619 be adopted? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB526]

CLERK: 25 ayes, 7 nays on adoption of committee amendments. [LB526]

SENATOR COASH: The committee amendment is adopted. We return to discussion on LB526. Senator Krist, you're recognized. [LB526]

SENATOR KRIST: Thank you, Mr. President. Good evening, colleagues. I know this vote stands in the way of moving on with things and I don't mean to take a lot of time. But I do want to bring to the public record and to this body something that I think is absolutely unacceptable, unacceptable for a medical professional, a doctor, to make phone calls to one of our colleague's business where she is employed to bring pressure upon her to do something with a bill that she has put in place is despicable. You want to talk to the senator about what the senator has brought? You want to talk to the committee chair, to the members of the committee, to other members of the Legislature? But making phone calls to physicians in your line of work at the place that

Floor Debate  
March 26, 2014

---

you earn your living, remember this is a volunteer job, you're paid a thousand dollars a month and most of us are employed outside this body and pressures to bear do not need to go into that workplace when there are issues that need to be discussed here. Unacceptable. Almost defamation of character. Borderline. I am sorry, Senator Howard, that you had to endure that, and I can promise you that I will continue to have words with those healthcare professionals who found it necessary to make phone calls to your place of employment and put undue pressure. And I'm not trying to garner votes for you, so don't go there. But that is unacceptable. There have been times in this body when one of us was called out at different points but usually it's by another politician or someone else. It happens. We call each other out on occasion. It happens. Leave us alone at our place of employment. Let us do our job here. Lobby all you want to from out there, phone calls to our offices. Undue pressure in our place of employment is unacceptable. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Krist. Senator Chambers, you're recognized. [LB526]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I find no fault with what Senator Krist has brought to us in the way of information. But it doesn't change my mind on a bad bill, and I still say that the lobbyists and the optometrists shop these bills just like the chiropractors used to. I've been here. I know what goes on and people talk to me, not like they're trying to threaten me, but find out where I am on the bill and how much I will fight it. So, first, to pretend that there is so much support for these bills, and one of these other senators...Senator Sullivan could have brought it. Why didn't they go to somebody else? That's the question that I have. But in way, those questions and issues are irrelevant. Is this the kind of thing that the Legislature should put its name and its vote behind when the chief medical officer rejected it and others rejected it? What you are talking about here is not to improve medical care for people but to provide a way for a certain profession, as they're called, to make more money. And dealing with drugs and the administration of drugs that can be very harmful, and I do not believe that Dr. Graul would sign his name to lies. Now he is an ophthalmologist. When he talks about serious side effects, some of which can be fatal, I don't think he would put his name behind that and lie. There's no point in it. And these are serious. They are powerful drugs. And the eye is a very important organ. It'd be one thing, just like I used to tell Christian Scientists when they came to testify, do what you want to with yourself, but I'm not going to support something that will let a child be denied medical treatment because he or she has fools for a parent. And one time we had a Christian Scientist talking on and on, and I let him talk. And then I said, by the way, you're wearing eyeglasses, aren't you? And that was all that needed to be said. See, that's all that was wrong with him and he got eyeglasses. But there are children who are denied medical care when they had cancer, when they had infections of various kinds that were treatable, but the children died because they didn't get the treatment because some foolish adult following some nonsense and superstition says

Floor Debate  
March 26, 2014

---

that by prayer alone this child will be healed, which shows children are not given to people by a god. I agree with what George Bernard Shaw said with reference to some situations. Parents are the very ones who ought not to have children. And more children are abused by their parents than by others. And you'd be shocked at the degree to which this happens. But you will never see me vote for something that will allow people who are licensed by this state to do that will put the public at risk. And that's what I think this kind of expansion of what these optometrists can do will do. And I get tired of people always telling me, well, this is something that's going to help rural people, then they vote against the expansion of Medicaid. So they use that, and I think rural people, that term is becoming as obnoxious to me as when I hear John Boehner say the American people. Who has he talked to? And that's what they always use when they don't have an argument. [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR CHAMBERS: This is what the rural people need. Well, when I look at some of the things that the people who are in this Chamber do, they're not in a position to speak for what others need because they are not motivated by what's in the best interest of people who have no voice and can't help themselves. They're moved by lobbyists, special interest groups, and they sponge and mooch food while denying people medical care and coverage that they need. I want to see an expansion of Medicaid, but I don't want to see an expansion of the scope of practice of people who in my view are not competent to do that. Why do you require ophthalmologists to be M.D.'s? Why would a psychiatrist have to be M.D.? A psychiatrist is not going to cut on anybody. Why set those high standards, then somebody comes along and say, well, I don't want to go to medical school or I can't make it in medical school, but let me do what doctors do anyway. [LB526]

SENATOR COASH: Time, Senator. [LB526]

SENATOR CHAMBERS: Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Chambers. Senator Seiler, you're recognized. [LB526]

SENATOR SEILER: Mr. Speaker, members of the Unicameral, I rise as being against this bill. But what Senator Krist brought to this group saying that Senator Howard was being harassed over this bill, in all consciousness if a senator promoted that, we ought to do a legislative action against that particular senator. That's uncalled for. We can be against people's bills but we cannot be against the individual senators. That's no way to run a ship and if anybody is promoting that, they ought to be run out of here. Thank you. [LB526]

Floor Debate  
March 26, 2014

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SENATOR COASH: Thank you, Senator Seiler. Senator Chambers, you're recognized. [LB526]

SENATOR CHAMBERS: Thank you, Mr. President. And I don't intend to offer any motions or amendments, but I want the record to be crystal clear on what I'm doing with reference to this very poor and ill-conceived bill. Senator Seiler pointed out these definitions. If you're going to talk about the standard of care, make it the standard of care of those in the profession performing a similar line of activity. That's what you need to do. As much as lawyers are condemned, a lawyer can be found guilty of malpractice if he or she launches into an area in which he or she has no expertise and a client suffers injury as a result. But here we're coming to treatment of eyes. Let's say you got an incompetent optometrist and one of these powerful drugs is administered and worst comes to worst. Then what? Oops, my mistake. And if somebody doesn't die, then somebody loses his or her vision. I take it very seriously. We are the gatekeepers. We are the watch persons over the health and well-being of the citizens, of people whether they're citizens or not. I'm going to see how people vote on this. Then I'm going to get a copy of the vote on the expansion of Medicaid, and you will hear the word hypocrisy come out of my mouth and I don't care who likes it or doesn't like it and I don't care who comes to me to do anything about it. I don't have people stand on the floor and defend me. What I say if it carries consequences I'm prepared to bear them. But when you bring those consequences to me, you be sure you know what you're getting into. And that's the level we're reaching now. And you know why? Because nothing upsets me more than to see people who are helpless misused by those who could help them and refuse. So hurt children, hurt old people, hurt weak people, hurt frightened people, hurt sick people, make fun of those who are mentally challenged, those who when they walk because they have a deformed limb and they might shuffle, they might move in a way that will make people laugh and there will be people laugh, that's when you get on the wrong side of me. And when we withhold medical care from people who need it and come up with the asinine statement that the federal government might not make money available. Crazy. Insanity. But as Billy Joel says, not a lunatic that the person who needs medical care is looking for, but it's a lunatic that is misrepresenting the people who need the representation. You all are the ones who have the prayer, not me. Why do you have it? What does it mean? Some of you go up there and pray. [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR CHAMBERS: And when you pray, it ought to be p-r-e-y. You put on this sanctimonious air as though now we're in a holy environment and it's not to be mocked and scoffed at. As I said, they ought to have Donald Duck, Mickey Mouse, and Goofy up there praying, because you know that they exist. Or pray to them. Let those be the trinity. Mickey Mouse, Donald Duck, and Goofy. They exist to a greater extent than all these mystical beings that you talk about who are supposed to be worthy of worship but they have no influence on your conduct. So why do you pray? Isn't that sacrilegious?

Floor Debate  
March 26, 2014

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Shouldn't you show by your conduct what it is that you believe and what means something to you? There's a place in the book and the "Parson" can bear it out: Thou that sayest don't steal, dost thou steal; thou who sayest don't lie, dost thou lie; thou who sayest do no murder, dost thou murder? So I ask my colleagues, you who say show mercy, do you show mercy? [LB526]

SENATOR COASH: Time, Senator. You may continue. [LB526]

SENATOR CHAMBERS: You said time? Thank you. [LB526]

SENATOR COASH: And you're recognized. [LB526]

SENATOR CHAMBERS: And this will be the last time I'll speak on it because I'm not going to offer any motions. These are the kind of bills that provide me with the opportunity to say words that I think need to be said in a place like this. See, if you didn't pray, you wouldn't hear this from me. You might hear some jokes with kind of a religious target, but that's fair game. There were people back in history and people in modern times who condemned America which felt the need to lecture everybody around the world and tell them how they ought to conduct their business and their affairs and tell other people that you are a dictator, you are an autocrat. And you know what the response was? Well, maybe I'm a dictator, but I don't do it with hypocrisy like you. I don't claim to be the moral leader of the world. I don't claim to be chosen by God to do anything but you do. And that's what America does and it's why America lacks friends and lacks credibility. So much preaching and nothing to back it up. There are a lot of people who say, look what's happening in the Middle East; look what's happening in the Far East; look what's happening in Ukraine. And I say, look what's happening in the communities right here in Lincoln and Omaha where there are people hungry who don't know where their next meal is coming from, people with no shelter, people with children. And there's no care about them. Words. Words spoken and nothing done. You don't have to go 10,000 miles to find hungry children. They're here. What's that song say? Bring in the clowns; where are the clowns; don't bother, they're here. Don't go looking for the hungry. Don't go looking for the halt and the lame. They are here. They are among us, and we look the other way. And then you all are going to pray tomorrow. You're going to pray everyday. For what? The one you pray to said: Why call you, me, Lord, Lord, and do not the things that I say? That lord doesn't even like it. But since you disregard what that lord says, you disregard that too. Then they say not everybody who says Lord, Lord is going to get into heaven. And I could name about...I could point out about 48 of them down here. You know why I don't put myself into it? Because I don't pray and engage in all that hypocrisy. If the one you worship is what you say that one is, why do you try to make a fool out of that one? If I can see through you, you think that one can't see through you? And if you lie to me, why are you going to be coward toward me and brave toward this one you worship who sees everything you do and hears all the lies that you tell? But you're going to try to impress a mere mortal and hurl that

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

Floor Debate  
March 26, 2014

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contempt into the face of the one? [LB526]

SENATOR COASH: One minute. [LB526]

SENATOR CHAMBERS: I wish the "Parson" was around here because he could tell you there's a verse said: Don't fear him who can kill your body; fear him who can cast body and soul into hell. You ought to wish it was me that was being talked about because I would not put anybody into a place where he or she would be tortured forever. And I ask myself what kind of monstrosity is it who could do such a thing; create a thing a certain way, then destroy it for being what it was made to be. And that one said: Can the vase say to the potter, why hast thou made me thus? No. If you build a machine that behaves and functions like a typewriter, why will you destroy it because it doesn't work like an adding machine. You made it. But here... [LB526]

SENATOR COASH: Time, Senator. [LB526]

SENATOR CHAMBERS: ...we can do some things and won't. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Chambers. Seeing no other members wishing to speak, Senator Howard, you're recognized to close on the advancement of LB526. [LB526]

SENATOR HOWARD: Thank you, Mr. President. And I would also request a call of the house and a roll call vote in reverse order. Just in closing, I'd like to thank everybody who worked on this bill, and I hope my mom is watching because I will say that you should always listen to your mother when she says that scope bills are hard and that they sometimes get ugly, because they do. But I'm proud of the debate tonight and I'm proud of how the stakeholders worked on LB526 and really took to heart a lot of the recommendations from the 407 to ensure that more Nebraskans have access to quality eye care. Thank you, Mr. President. [LB526]

SENATOR COASH: Thank you, Senator Howard. Members, you've heard the closing to LB526. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB526]

CLERK: 35 ayes, 0 nays to place the house under call. [LB526]

SENATOR COASH: The house is under call. Senators, please record your presence. Unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Lathrop, Larson, and Avery, please return to the Chamber and record

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

Floor Debate  
March 26, 2014

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your presence. The house is under call. Senators Larson and Avery, please return to the Chamber and record your presence. All members are present or otherwise accounted for. There has been a request for a roll call vote in reverse order. Mr. Clerk, please read the roll. [LB526]

CLERK: (Roll call vote taken, Legislative Journal page 1175.) 27 ayes, 10 nays, Mr. President, on the advancement. [LB526]

SENATOR COASH: LB526 does advance. Raise the call. Items, Mr. Clerk. [LB526]

CLERK: Mr. President, Enrollment and Review reports LB191, LB191A, LB690, LB690A, LB744, LB744A, LB768, LB851, LB867A, LB1076, LB1087, and LB1087A as correctly engrossed. I have amendments to be printed: Senator McCoy to LB1092; Senator Karpisek to LB565; Senator Murante to LB810; Senator Lathrop to LB1098. Study resolutions: LR597, LR598, LR599, LR600, LR601. (Legislative Journal pages 1176-1183.) That's all that I have, Mr. President. [LB191 LB191A LB690 LB690A LB744 LB744A LB768 LB851 LB867A LB1076 LB1087 LB1087A LB1092 LB565 LB810 LB1098 LR597 LR598 LR599 LR600 LR601]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign: LR483, LR484, LR485, LR486, LR488, LR489, LR490, LR492, LR493, LR494, LR495, LR496, LR500, LR502, LR503, LR504, LR505, and LR507. Mr. Clerk. [LR483 LR484 LR485 LR486 LR488 LR489 LR490 LR492 LR493 LR494 LR495 LR496 LR500 LR502 LR503 LR504 LR505 LR507]

CLERK: Senator Christensen would move to adjourn until Thursday, March 27, at 9:00.

SPEAKER ADAMS: You heard the motion to adjourn. All in favor indicate with aye. Opposed. We are adjourned.