

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

Floor Debate  
March 06, 2017

---

[LB46 LB46A LB85 LB85A LB92 LB158 LB181 LB207 LB222 LB256 LB340 LB376 LB506  
LB539 LB625 LB632 LB638 LB641 LR57]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-first day of the One Hundred Fifth Legislature, First Session. Our chaplain today is Pastor Wayne Vogel from the McCook Church of Christ in McCook, Nebraska, Senator Hughes's district. Would you please rise.

PASTOR VOGEL: (Prayer offered.)

SPEAKER SCHEER: Thank you, Pastor Vogel. I call to order the forty-first day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

SPEAKER SCHEER: Thank you, Mr. Clerk. Are there corrections for the Journal?

ASSISTANT CLERK: No corrections this morning.

SPEAKER SCHEER: Any messages, reports, or announcements?

ASSISTANT CLERK: Several announcements and priority bill designations. Senator Clements for LB222; Senator Albrecht for LB506; and Speaker Scheer for LB376. And I have cancellation and reschedule of public hearings from the Retirement Systems Committee. That's all I have at this time, Mr. President. (Legislative Journal pages 621-622.) [LB222 LB506 LB376]

SPEAKER SCHEER: Thank you, Mr. Clerk. Colleagues, I would like to remind you that the deadline to submit to my office for a Speaker priority request is tomorrow and that is at adjournment at noon. It is not at close of day. It is at adjournment at noon. And Thursday prior to adjournment at noon again for senators and committees to designate their priority bills. Again, this deadline is firm, so I would like to just bring everyone's attention that it is not end of day, it is adjournment at noon. And I've had several people ask about consent agenda. I assume that I will have one, a smaller one in April at some point in time, but I will make an announcement at a later date regards to qualifications for that as well. And last but not least, I would like to

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

Floor Debate  
March 06, 2017

---

recognize Senator Blood had her birthday yesterday, so happy birthday, Senator. We'll now proceed to the first item. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the first bill for consideration this morning is LB46A. (Read title.) The bill has been considered by the body previously. I have nothing pending on the bill. [LB46A]

SPEAKER SCHEER: Senator Watermeier, if you would like to refresh us. [LB46A]

SENATOR WATERMEIER: Thank you, Mr. President. Good morning, Nebraskans. LB46A is a companion bill to LB46 which we passed last week. LB46 would appropriate \$9,631 from the Motor Vehicles Cash Fund, which is a cash fund, to the Department of Motor Vehicles to modify the vehicle titling and registration plate management computer system to accommodate the new license plate bills. There was quite a bit of debate even last week in regards to it's not specific in statute and LB46 doesn't say Choose Life. I brought up a couple other examples about other bills that we modeled LB46 after. One was in law. It says Breast Cancer Awareness. The plate says Breast Cancer Awareness. Another one is Nebraska 150th Sesquicentennial. The plate actually reads NE 150. Another one is Mountain Lion Conservation. The plate reads Mountain Lion Conservation. Another example is Purple Heart. The plate actually reads Purple Heart Combat Wounded. Another one is a Prisoner-of-War. The actual plate reads Ex-Prisoner-of-War. The last one is the Amateur Radio Station and it reads Amateur Radio. So with that, I'd ask for your vote on LB46. Looking at the debate schedule this morning, I think I had a little less than an hour as far as becoming to a cloture so I would appreciate sticking around at about ten o'clock this morning. Thank you, Mr. President. [LB46A LB46]

SPEAKER SCHEER: Thank you, Senator Watermeier. We now return to debate on LB46A. Senator Chambers, you're recognized. [LB46A]

SENATOR CHAMBERS: Mr. President, members of the Legislature, the first thing I want to ask, do I have an amendment pending up there right now? [LB46A]

SPEAKER SCHEER: No, there are no amendments pending at this point. [LB46A]

SENATOR CHAMBERS: Oh, thank you. Mr. President, members of the Legislature, this is one of those bills toward which I have a great aversion. We have less than an hour to go at this point as pointed out by Senator Watermeier and he is confident that I will carry us to that point, which shows that you can take me at my word, which is more than can be said for many of my colleagues here. Let me not say many at this point, some of my colleagues here. This bill is just

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

Floor Debate  
March 06, 2017

---

the A bill. The underlying bill is the one that does the damage. However, if this bill does not move, it makes it extremely unlikely that anything will be done with the underlying bill, but I'm not a fortuneteller, I'm not a diviner of people's minds. I can speculate. But I want to do everything I can to stop this license plate from being made available as an official issuance by the state of Nebraska. I have gotten calls, as I'm sure some of you have. I don't have e-mail, so maybe that limits the amount of, or number of contacts I've had. And maybe people only write to me because they know that I'm against these plates and maybe that's why all of the correspondence that I get is against these plates. People will invariably ask, rhetorically, how would the Legislature react if the contrary plate, namely one ballyhooing pro-choice, were to be presented? Those people I have to let know that there are not enough people in the Legislature who would be willing to vote for such a plate and that the Governor in his hypocritical mode would be likely to veto it. What I did was to hand out something this morning which might come as a surprise because of what is in the article. It describes a case that I was involved in a few years ago, a traffic ticket I had gotten. Whenever I undertake to do something, I prepare as thoroughly as I can and it will be a reflection on how I'm conducting myself with reference to this bill and how I'm willing to go to the mat on it. In those early days, the law that exists now with reference to radar, VASCAR, other speed measuring devices, whether electronic or mechanical, there were no significant regulations in statute. When the Legislature fails to act, I have to try to find an alternative. That alternative in those days was the court. So a ticket which maybe I would have accepted and paid the \$12 fine for, I decided to fight. I was sure that I would lose. That would give me a pathway to the Nebraska Supreme Court and I could perhaps get the court to put some restrictions or lay out the processes and procedures that had to be utilized... [LB46A]

SPEAKER SCHEER: One minute. [LB46A]

SENATOR CHAMBERS: ...when citizens were going to be ticketed and charged with an offense by means of an electronic or mechanical device. Well, I prepared to present the best record during the trial that I could. When an appellate court reviews a lower court decision, it looks at the record that was made in the lower court. The record consists of any testimony, any exhibits, and other forms of evidence that may have been presented. The only thing an appellate court can look at is what was done in the lower court. That's why it says it's an appellate court. The appeal is not for the purpose of offering new evidence. All of that was to be done at the lower court. Being thorough as I am, I was preparing a record that would persuade the Nebraska Supreme Court that the current law at that time was inadequate. [LB46A]

SPEAKER SCHEER: Time, Senator. [LB46A]

SENATOR CHAMBERS: You said time? [LB46A]

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

Floor Debate  
March 06, 2017

---

SPEAKER SCHEER: Yes, Senator. (Doctor of the day introduced.) Mr. Clerk for a motion. [LB46A]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to bracket the bill until June 2, 2017. [LB46A]

SPEAKER SCHEER: Senator Chambers, you're welcome to open on your motion. [LB46A]

SENATOR CHAMBERS: Thank you. Mr. President, nobody needs to speak on this this morning if you don't feel like it. This motion and my reconsideration motion will give me 50 minutes and that will take us beyond the point of cloture. So if you all would just like to work in your offices or play games on your gadgets, that can be done. But in the meantime, I'm going to put some things into the record. The State Patrol in those years had observed me on the floor of the Legislature. They knew at the highest level that if I undertake to do something, I'm going to do it as well as I can. So in order to avoid being embarrassed by a nonlawyer on a traffic ticket, the State Patrol sent the captain who trained the trooper who made the stop. The trooper was there. There were two representatives from the company that had manufactured the device that was used in that stop. Well, I didn't know that the experts would be there. I never was a Boy Scout, but I knew their slogan which was, Be Prepared. So when the trooper took the stand, I was able...it was a lady trooper. I was able to annihilate her testimony, point out the flaws in the way she had conducted the stop. When the captain who had trained her took the stand, I was able to do the same with him because they underestimate black people, first of all. My being in the Legislature was a double demerit as far as they were concerned because legislators in those days were not very bright. His testimony was ineffectual. When the two experts spoke, they made very critical and serious blunders in presenting their evidence and they even contradicted each other. All of these matters were brought forth from the questioning that I did. So, oh, and the case covered three and a half days, a traffic ticket. Three and a half days, unheard of. But they reckoned without me. When the judge took the matter under advisement, he talked about the number of days that the trial had gone forth. He held up a sheaf of legal-sized yellow paper, which is called foolscap. Look it up in the dictionary and see why it was called foolscap. It had nothing to do with lawyers or judges. He said, I've listened to the testimony and the state failed to make its case. And he entered a verdict in my favor of innocent. That's why the headline says, the prosecutor was disappointed. I was disappointed, but for different reasons. There was something that I wanted to achieve beyond just winning a case. But as the little note in the margin says, I was too good for my own good. I couldn't fail when I was prepared to fail. But then there is another little note that points out in subsequent cases I did go to the Nebraska Supreme Court and I handed out some of those decisions that I had won at that level and it points out certain requirements that the court put in place for determining the accuracy of the device that's used, the training of the person making use of the device, the accuracy of the testing device that was used to test the accuracy of the main machine, whatever form it took, stopwatch,

Floor Debate  
March 06, 2017

---

VASCAR, radar. So it took me years. But before I got to that point of winning every one of those cases, I offered a piece of legislation that would put some regulations on the utilization of electronic and mechanical speed detection devices. I've done things you all don't even know about. You think I wouldn't even have sense enough to do this because you were taught what I am and you were mistaught as you've been mistaught about American history. So I got that legislation on the books. I had studied the law that had been handed down by Supreme Courts in other states. I was able to marshal that information and the then superintendent of the State Patrol and I reached what the media called an accord, quoting the word that I used. And the law was changed so that there are now rules and regulations in statute governing this activity. It wouldn't be there if I hadn't done it. Senators don't care. What I look at is the fact that it took me as much time as it did to prepare for this fight against a traffic ticket. Many citizens were receiving these tickets and I was asked, why in the world would I go to court and teach the State Patrol how to write an accurate ticket? I said, contrary to what people say about my attitude toward cops, I'm going to presume that by and large they try to be honest, at least when it comes to something as minor as a traffic ticket. So if they are taught the proper way to check the accuracy of a radar or any other device, if they are properly trained by the State Patrol in the utilization of these devices, they may not write as many bogus tickets as they were writing. And why should I care about that? People cannot afford to hire a lawyer to do the work that I did. I would not hire a lawyer to do it. It took hours. It took a lot of research. Sometimes the most trivial issues take the most work because nobody has dealt with them and you have to work from the ground up. If it's a serious matter such as an illegal search and seizure, there is more on the books in terms of statutes, cases, than you would have time to read. In this area which you could say in a sense was virgin territory, I wanted to provide for people who are going to get those tickets a way if they chose to try to fight it on their own, which few tried to do. But if one happened to hire a lawyer, say the person had nine points against their license and this was a ticket that might take three points off their license, however many points come off, it might be worthwhile to hire a lawyer. And with the law as it is now, the deck is not stacked completely against citizens. Believe it or not, I do care about the people in this state. I care about the people most of whom hate me. The one who has changed laws that benefit the most are the one...is the one that they got together to bring term limits into existence for, to get me out of the Legislature. Then when I left, people started seeing trash legislation making it through this body and they wondered how. By process of elimination, they realized that something was different from what it had been and the difference was that Senator Chambers was gone. Bills were not debated. One budget went through with almost no debate on the floor whatsoever. I would watch what happened in the Legislature when I was not here. I would look at bills and know immediately how to kill it. But nobody on the floor would do it. It reached the point when I couldn't watch it anymore. [LB46A]

SPEAKER SCHEER: One minute. [LB46A]

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

Floor Debate  
March 06, 2017

---

SENATOR CHAMBERS: There was one bad bill I read about that one of my colleagues had written, and I handed the article out, that would allow jailers to enact what amounts to statutes. They could determine what constituted contraband, which would be a crime, and you could get convicted of it. So while not in the Legislature, I wrote what amounted to a brief and submitted it to the then Governor. He contacted Senator Flood who was the Speaker at that time, and they came up with a way to avoid the Legislature being embarrassed because I had given the letter to the media. They prevailed on the senator to ask the Governor to veto the bill. What the Legislature could have done was requested that the Governor return the bill so that additional work could be done and they could have killed it, but they didn't want to do that. They did the dirt, but they didn't want to clean it up. I had to clean up the dirt while not here. I'm saying these things so you all won't be surprised. [LB46A]

SPEAKER SCHEER: Time, Senator. [LB46A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB46A]

SPEAKER SCHEER: You are next in the queue, Senator Chambers. [LB46A]

SENATOR CHAMBERS: You won't be surprised that when I proclaim that something is a matter of principle with me I'm going to do everything I can to prevail. If that means stopping a bad bill, that's what I will do. If it means trying to persuade you to enact a good bill into law, that's what I will do. But because I'm willing to take the issues that nobody else even wants to talk about, I've had far more losses than victories. There are bills that I could bring, ten of them a session and get them all enacted into law and they would all benefit the public and everybody would say, what a great record. But they wouldn't do that much good where people need to have good things done. When you are poor, when you are marginalized, when you are unpopular, even if the law by its words protect your rights, when you go to court, justice lifts that blindfold to see who you are. Then she puts her thumb on the scale and weights it against you. That's what happens in this country. Everybody knows it, but they won't do anything about it. It's easy to look the other way and hope that somebody else will do it. I try to do it, but I can't get it all done because trying to reason with legislators is trying to teach this cup, that says McCollister, to recite the Declaration of Independence. Senator Brasch is not here, but she read part of it and I tell the cup, we hold these truths to be self-evident. Now say it. Nothing. That all men--forget women and black people--are created equal. Nothing. And endowed by their creator with certain inalienable rights, which means if they're praying to God, God did not create women. God did not create black people. God did not create poor white people. Endowed by their creator certain inalienable rights, among these, Senator Linehan, are the rights to life, liberty and the pursuit of happiness. That to procure these rights, governments are instituted among men, white men, deriving their just powers from the consent of the governed which are the white people they're

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

Floor Debate  
March 06, 2017

---

concerned about, because poor people have nothing to say by way of consenting to the laws that are put in place. You have people like Senator Murante constantly doing the white people's work. You know what I think Senator Murante's problem is? We've talked about Hannibal and what he did in Rome for 14 years. I don't think Senator Murante ever got over that. So he being a descendant of Romans, Italy is in Rome...Rome is in Italy. I being a descendant of Hannibal, he's trying to get back at Hannibal by putting bad bills to deprive black people of the right to vote. That's what he's doing. And he thinks that white people view Italians as white. You go to cities where they are a substantial part of the population. During a point in this country's history in the 1800s, Italians in New Orleans were considered to be responsible for the lowering of the general moral climate in that city. [LB46A]

SPEAKER SCHEER: One minute. [LB46A]

SENATOR CHAMBERS: And they were made as a group to post \$25,000 by way of reparations to the white people for having lowered their morals. He didn't know that. You all didn't know it because you don't read. And those who teach you history don't teach you history. I read as much as I can about as much as I can. And I see the hatefulness in this country directed toward all kind of people. But unlike some black people who think that bootlicking white people will get them some kind of privilege, when it will just make them subject to more contempt. Or Italians who will be called Italians think that by looking like, trying to, talking like, and doing the dirty work for white people will make them be no longer brand ex-white people. You know that's not the case. Who are the criminals, the big criminals? [LB46A]

SPEAKER SCHEER: Time, Senator. [LB46A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB46A]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Krist, you're recognized. [LB46A]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. This is mostly not for you, so you don't even have to listen inside the Chamber. This is for constituents of mine who have written me a letter based upon the subject matter at hand, LB46, the underlying bill, and the accompanying A bill. Senator Krist, we are saddened and disheartened to see your unrelenting opposition to LB46. Senator, you have long been a pro-life warrior and an advocate for the vulnerable and weak. If you are unable to support the license plate, please prayerfully consider to at least voting for cloture. Senator, you're a leader in the Unicameral and a respected voice. People listen to you speak. Please consider your opposition and please allow the bill to move forward. Okay. My response to you collectively is this. You send me a letter via a lobbyist the day that we are in the final hour of 12 hours of filibuster to talk

Floor Debate  
March 06, 2017

---

to me about how pro-life I am as a senator and how I vote for the vulnerable and those people who have no voice. Let me tell you. This is a hard thing for me to do to draw a line in the sand over this plate, but enough is enough. The speak that this represents potentially could be challenged, potentially could be unconstitutional, but more than that, it is another in a long line of bad decisions that this Legislature may or may not make. My opinion. You've heard discussion on the floor about this bill potentially in the wording of it and in the intent being unconstitutional. I've never been one to profess that I know what is constitutional or was not unconstitutional but I'll tell you one thing, the way that you decide whether something is constitutional or unconstitutional is to take it to the court. And when it goes to the court, this state will have to defend itself and spend money that we could spend on the same people that you talk about in this letter as being unrepresented, the vulnerable, the folks who need our support. Don't ever challenge me on an issue of pro-life. My record speaks for itself. And when there is something worthy to defend that has to do with those vulnerable and the unborn, rest assured I will do that. A license plate is not one that I intend to veer away from particularly at this point. So for the future, I would ask you to come talk to me about these issues when they're introduced in January, when they're debated in February, and before we've spent 11.5 hours of cloture time wasting time on a license plate, which I put pretty much in the same category as amber lights a few years ago. Don't ever challenge me on my pro-life stand on things. I have been right down the line, including trying to find a compromise for 70,000 veterans and people who could not afford insurance to be insured under some form of Medicaid expansion, to include many other options, many other things that I believe strongly about. A license plate is not something I feel strongly about. It only gives you an opportunity to put a message on your plate to say, this is where I'm coming from. And you already have that opportunity. You can get any one of those license plates and put a message on it that says, I'm pro-life. Pro-life. Choose life. Whatever message you want to put on there. I react very well to constituents who come and talk to me about issues, important issues, issues of substance of matter, issues that I need to consider for... [LB46A LB46]

SPEAKER SCHEER: One minute. [LB46A]

SENATOR KRIST: ...for this very group of folks who you are saying I am being disloyal to because I firmly believe that we should not have another in a laundry list of personalized license plates and condone language that this state does not want to get into condoning. Thank you, Mr. President. [LB46A]

SPEAKER SCHEER: Thank you, Senator Krist. (Visitors introduced.) Senator Chambers, you're recognized. [LB46A]



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

Floor Debate  
March 06, 2017

---

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, Senator Krist of all people does not need any supports expressed on the floor by me and my doing it might even make his case worse. But I'll tell you the way that I am. When I see somebody who has given the efforts that Senator Krist has, not just on what are considered the traditional or obvious pro-life issues, he has worked on Corrections. He mentioned some of the other issues he has worked on. I tell you all that I watch what you do. He'll take this wrong. Senator Krist, I'm going to look at you and tell you, you are too good to be a Christian. He is too good to be a Christian. To be a Christian, he would have to lower his standards. He would have to learn how to be comfortable in the presence of other people's suffering. Women with children, and no way to take care of them. He'd have to be able to say, well, I had nothing to do with them being here. If she couldn't take care of them, don't bring them here. If she'd have kept her knees together, they wouldn't even be here. That's not him. But he could do that and be a good Christian in good standing. He could even go up there and pray over you all every morning. He could see the homeless and adopt the attitude that Ronald Reagan had. If they were not wicked, they wouldn't be homeless. That's not him. Once again, he could not qualify as a Christian because his standards are too high. Some people have written to me about wanting to wear their religious garb in classrooms, wear crosses and other symbols. And I say, well, Naziism is a religion to some people. Should they be allowed to wear the swastika in the classroom? Well, no, that's different. I said why? If it's their religion, why can they not wear the swastika? There are groups of the Klan who have religious underpinnings and they are called the Christian Knights of the Ku Klux Klan. Should a Christian Knight of the Klan be allowed to wear his bed sheet and his pillow case in the classroom? You say you want to protect all religions. You lie. Your Jesus didn't tell you to dress like a righteous person. He didn't tell you to pray a long time. And he didn't tell you to do your good, such as it is like the Governor, where you let everybody in the world who is paying attention know it. He said, do your alms and don't tell anybody about it. And instead of dressing a certain way, let your light so shine that men might see your good works and glorify your Father which is in heaven. Not because you wear a habit. Not because you wear a yarmulke. Not because you wear a hijab. Anybody could put those things on and not even agree with what they're supposed to represent. So the one who you all say you worship, place your conduct on a different level and a different basis. [LB46A]

SPEAKER SCHEER: One minute. [LB46A]

SENATOR CHAMBERS: It's what you do and it's your motives which nobody will know that determine the moral quality of the actions that you place. And I've watched Senator Krist because we've had a couple of go-a-rounds. There were some things that I said which he thought were inappropriate or crossed the line, not profanity, but in the realm of criticizing the Catholic Church. And he let me know what he thought and how he felt. And you want me to tell you why I was not offended? Because the man was speaking from principle and he shows his principle in the areas that I respect. Not to please me. Not to get my respect. He's beyond all of that. He does

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

Floor Debate  
March 06, 2017

---

it because of what he believes. And I'd have to say anybody who would write him the kind of letter that they wrote him, they don't know Senator Krist. [LB46A]

SPEAKER SCHEER: Time, Senator. [LB46A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB46A]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB46A]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. Even though Senator Chambers said to go back to our offices, play on our gadgets, do whatever, I'm here listening to him because there is never a time when he doesn't provoke thought. Agree, disagree, he provokes thought. I was here for two years before Senator Chambers returned. And actually if you were just to observe this from a Martian spaceship, you would say things ran pretty good. A bill would come to the floor, there would be a discussion, sometimes a little warmer discussion than other times. And when the discussion kind of wore down a little bit, and maybe some people in their discussion raised some principle issues, you'd press red or green and you'd just move on and life just rolled along. When Senator Chambers got back, there would be these bills that come up and he would take a stand that when it...you initially heard it, you'd kind of want to blow him off and then he'd keep pounding. And we'd have the motions to indefinitely postpone, the bracket motions, the amendment after amendment after amendment, and you could tell he was driving towards some principle that he understood. And on more than one, far more than one occasion, four, six, sometimes ten hours into the debate, the tide began to shift and people began to say, you know, he's got a point there, or there's problems in this bill, things that are unforeseen, or this is starting a bad precedent. And the bill would end up dying or being significantly amended. That is the value of extended debate. This bill, maybe I'm wrong, but I'm trying to read between the lines, Senator Chambers is trying to tell us, we are starting down a path we don't want to go. A path where in spite of the fact that with enough signatures and a down payment, you can get your own personalized message plates, a path where the state begins to speak on what essentially are political issues. Not, you know, support the Huskers, honor the veterans, those kind of things that almost everyone would agree, except maybe if you aren't a graduate of the University of Nebraska or something, but at any rate, they're not political speech. This goes into the issue where you have an interest group, a fairly organized interest group, wanting a little bit of spin on that plate that would support its position. And once you head down there and you establish that the state is going to speak on those issues, then you are going to see an avalanche that will last for years about a particular lobbying group or association wanting to score in this body and saying, oh, here's our plate. We got it for you. Send in your dues. We're really doing our job. You can see any number of business groups, union groups, groups that

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

Floor Debate  
March 06, 2017

---

believe in one particular fad of the day or another coming forward wanting their own plates. And in doing so, each of you are going to have to vote, push those buttons on cloture votes, push those buttons on yes or no votes on a hot button thing that could cost you your election, but really in the context of society means little or nothing... [LB46A]

SPEAKER SCHEER: One minute. [LB46A]

SENATOR SCHUMACHER: ...in the welfare of the state. And I think you don't want to get cornered into having push your buttons year after year over those kind of issues because it may end up balling up on you and preventing you from voting on the substantive issues that could affect the lives in Nebraska, being major issues in your campaign, if you are not yet term limited. So do we want to start down the road of political speech sponsored by the state arising directly out of an act passed by this Legislature, and maybe even which gives broad discretion approval to the executive to put its spin on that particular spin that the Legislature has? Ask you to think about it. Senator Chambers... [LB46A]

SPEAKER SCHEER: Time, Senator. [LB46A]

SENATOR SCHUMACHER: Thank you. [LB46A]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Chambers, this is your last, which would be your closing, but there is no one in the queue, so you're welcome to close on your amendment. [LB46A]

SENATOR CHAMBERS: Thank you. Thank you, "Professor" Schumacher. During that trial where Standing Bear spoke, nobody in the courtroom except his own people could understand him, if he spoke, when he spoke, in his language. But his people in that courtroom had no influence, had no power. All they could do was be there, listen, observe, and hope. There were others who did not look like them, who did not respect them, who had to be persuaded to do the right thing, which meant going against many wrongful things they had done despite the fact that the laws as they used to say in those days, the laws of God in Christ would have prohibited being done, but the ones who called themselves Christians did these things anyway. So Chief Standing Bear had one of those other people to translate. This person understood what Chief Standing Bear wanted to convey and he also knew how to reach his people who were going to listen, and the main one of his people sitting up there who would make a judgment. Whether you all realize it or not, that's the role "Professor" Schumacher assumed this morning. I speak English. I believe, in fact, I know I speak it well. But my words are not understood. My words are not heeded. So on occasion, I need a translator and the translator could quote verbatim what I said. But those who are accustomed to paying heed to the translator will put a different interpretation

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

Floor Debate  
March 06, 2017

---

on those words because now one of their own is speaking to them in their language, even though the words are the same. They can accept those words from one of their own and that is what I observe here and I've observed it for 42 years. I came here as a young man and now I am old and I learned a lot and I know a lot. And I'm aware of the kind of struggle that I'm in while I'm in this Legislature and I choose to be here. I choose to continue the struggle. And as long as the people in my district send me here and want me to be a voice where they have nobody who would listen to them, that's what I'm going to do. And I don't need a lot of company and that's why on many of the main issues, if I'm for it, you see the board light up red. Red, all three columns. If I'm against it, you see all three columns light up green. And you think you're giving me a message. All you're doing is reconfirming what I already know. On this issue we can end it this morning. [LB46A]

SPEAKER SCHEER: One minute. [LB46A]

SENATOR CHAMBERS: We can deny Senator Watermeier, and those who have pushed him into this position, the 33 votes they need for cloture. But you may choose not to do that. So we'll have an hour and a half at minimum on Final Reading. And woe if the Governor...not the Governor, I had the Governor on the mind. Woe, if the Speaker puts any other bills on Final Reading that day. It will be a day of reckoning. And unlike some of my colleagues who ambush their own here, I'm not going to ambush you on this. I'm going to tell you and I'm going to tell you something else, you can forget about the consent calendar. Let the Speaker put it up there. And I promise you here today... [LB46A]

SPEAKER SCHEER: Time, Senator. [LB46A]

SENATOR CHAMBERS: Thank you, Mr. President. I will ask for a call of the house. [LB46A]

SPEAKER SCHEER: There has been a request for a call of the house. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB46A]

ASSISTANT CLERK: 28 ayes, 2 nays to go under call, Mr. President. [LB46A]

SPEAKER SCHEER: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Lindstrom, could you check in, please? Senator McDonnell, could you check in, please? Senator Crawford. Senator Harr, the house is under call, please return to the floor. All are present and accounted for.

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

Floor Debate  
March 06, 2017

---

The question before the body is approval of MO47. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB46A]

ASSISTANT CLERK: 0 ayes, 37 nays on the adoption of the motion, Mr. President. [LB46A]

SPEAKER SCHEER: The amendment is not adopted. Mr. Clerk. Raise the call. [LB46A]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to reconsider the vote just taken on the motion to bracket. [LB46A]

SPEAKER SCHEER: Senator Chambers, you're welcome to open on your reconsideration motion. [LB46A]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, as I promised, I will take us to cloture. That's what we did on the underlying bill on General File. We're on General File on this bill, the A bill, and I said we would go to cloture and that's what we're going to do. At ten o'clock that will be the witching hour, so to speak. And I intend to do the same thing with both of these bills on Select File. I intend to do the same thing with both of these bills on Final Reading, and I assure you I'm up to the task and I'll be able to do it. We are now reaching the point, though, where they're not just two bills. There are very important principles involved and I think some of you are aware of them, whether you agree with the interpretation put on them or not. You know more is at stake here than just the license plates. And such being the case, there are other tools at my disposal when a matter of principle is at stake. I promised Senator Kolterman that I would not, to use the vernacular, mess with his bill that is on the agenda today. So what I will do along the line of this exercise will end for today when this bill is dealt with one way or the other. People should think very carefully and seriously about this cloture vote. You're not voting for or against me. The issue transcends me and you should not allow anything that a person says to provoke you into voting against your own interest. We have not as many days to go on this session as we had before. I had said at the outset of this session, I want to get us down to a short session which would be 60 days and we took 30 days doing nothing. You played right into my hands. I told you what I was going to do and I did it with your help and some of you not even realizing it. And since you don't pay attention to what I tell you, you ignored what I said because how can one man engineer a tactic that's going to make 48 other people go along with it when it's against their interest to do so? Because I know you better than you know yourself when it comes to this legislative process. And I ought to. I've been here 42, going on 43 years. I should know something about how this operates. But if I knew nothing about any of you, I know what I will do. I know what I'm capable of doing it and you are going to push me into having to do it. And I will do it. And as for my bills, you can kill them if you want to. It won't make me any difference. But if you kill it, I have the same propensity to get

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

Floor Debate  
March 06, 2017

---

even and maybe I won't kill your bills. If I do, I will kill your bills softly, not by getting a vote, because I can't get that. But I can take plenty of time and I think I've demonstrated that I can. But in the process, I'm going to teach you all some things about a lot of things. I'm going to teach you about white history. I'm going to teach you about black history. I'm going to teach you about Native American history. I'm going to teach you about the jingoism of this country, the colonialist attitude that it had and still has, and I'm going to teach you all about the "Bible," not just the Catholics, but the Quakers, the Pilgrims. You all are going to learn about the Mather family. The one that fascinated me the most was Increase Mather. And he tried to live up to his name. I'm going to give you all background on Benjamin Franklin, Thomas Jefferson, George Washington, why every black person, every person you see in America named Washington is going to be a black person. Check it out. When you see a football player and his name is Washington, my color, not yours; basketball; even Ping-Pong, if black people play Ping-Pong. The "Bible" tells you, be angry and sin not. My teacher knows that that's in the "Bible." So be angry, but don't be a fool. This bill should not go any further. We ought to stop it right here. And when I get through with my opening, we will have passed the point where cloture can be invoked; and I would expect Senator Watermeier to have his motion up there because if he doesn't, then I have plenty to say. I even have more I can say on this motion to reconsider. There's no way you can get around me on this particular issue. Senator Kolterman knows that when I gave him my word that I will stick by it, which he wouldn't be able to count on if one of you gave, what you call, your word. I will think about talking about the Constitution, about specific laws that the Legislature has enacted. I may even read some of the bungled-some laws that were put on the books by your kind when I was not around to stop it. How will you vote today? Senator Briese, I am so curious. I would like to ask Senator Briese a question, Mr. President, if he will answer. [LB46A]

SPEAKER SCHEER: Senator Briese, would you please yield? [LB46A]

SENATOR CHAMBERS: Senator Briese, would you... [LB46A]

SENATOR BRIESE: I didn't say I would answer yet. [LB46A]

SENATOR CHAMBERS: You say what? [LB46A]

SENATOR BRIESE: I didn't say that I would answer yet. [LB46A]

SENATOR CHAMBERS: Okay. Would you respond to a question? [LB46A]

SENATOR BRIESE: Yes. [LB46A]

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

Floor Debate  
March 06, 2017

---

SENATOR CHAMBERS: Senator Briese, would you like to make a small wager, if I...I haven't even told you what it would be yet but whatever it is, you wouldn't want to make a small wager? [LB46A]

SENATOR BRIESE: No, again, I learned my lesson first week or so. [LB46A]

SENATOR CHAMBERS: Senator Briese, you're a very wise man. Thank you. That's all that I have. And Mr. President, because I see the time has arrived, I will stop at this point. But if his motion is not up there I'm going to put my light on to speak again. [LB46A]

SPEAKER SCHEER: Mr. Clerk for a motion. [LB46A]

ASSISTANT CLERK: Mr. President, Senator Watermeier would move to invoke cloture pursuant to Rule 7, Section 10. [LB46A]

SPEAKER SCHEER: It is the ruling of the Chair there's been full and fair debate of LB46A. Members, the first vote in this motion is to invoke cloture. All those in favor vote aye; all those opposed vote nay. [LB46A]

SENATOR WATERMEIER: Mr. President, call of the house, please. [LB46A]

SPEAKER SCHEER: There has been a request for a call of the house. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB46A]

ASSISTANT CLERK: 34 ayes, 0 nays to go under call. [LB46A]

SPEAKER SCHEER: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Wayne, could you check in, please? Senator Kolterman, could you check in, please? Senator Stinner, Senator Howard, the house is under call. We are all here. The question before us is a cloture vote. It will take 33 ayes to pass. All those in favor vote aye; all those opposed vote nay. Request for a record vote. Mr. Clerk. [LB46A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 622-623.) Vote is 39 ayes, 1 nay on the motion to invoke cloture, Mr. President. [LB46A]

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

Floor Debate  
March 06, 2017

---

SPEAKER SCHEER: The motion to invoke cloture is adopted. We will need to dispose of the pending matters on the bill. The next vote will be on the reconsideration motion of Senator Chambers. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Mr. Clerk. [LB46A]

ASSISTANT CLERK: The vote is 3 ayes, 37 nays on the motion to reconsider, Mr. President. [LB46A]

SPEAKER SCHEER: The motion fails. Members, we will now vote on the advancement of LB46A to E&R Initial. All those in favor vote aye; all those opposed vote nay. There's been a request for a roll call vote. Mr. Clerk. [LB46A]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 623-624.) The vote is 36 ayes, 1 nay on the motion to advance the bill.

SPEAKER SCHEER: The motion is adopted. LB46A is advanced. Mr. Clerk, the next item. Raise the call. [LB46A]

ASSISTANT CLERK: Mr. President, before we proceed to the next item, Revenue will meet in Executive Session now in Room 2022. Mr. President, now proceeding to LB85A, legislation introduced by Senator Blood. (Read title.) It was introduced on March 3. I now have pending, Mr. President, a motion to indefinitely postpone the bill. [LB85A]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Senator Blood, you're recognized to open on LB85A. [LB85A]

SENATOR BLOOD: Thank you, Lieutenant Governor. Fellow Senators, friends all, because of understandable belt tightening that's been going on when it comes to our state agencies, we wanted to make sure that the mandate that we gave to the NADC in reference to LB85 would not unfairly burden that particular department. After we introduced the A bill, the NADC has assured us that they can absorb the \$750 fiscal note without the need for this appropriation. Because of that, I would ask that you vote yes on my motion to indefinitely postpone LB85A. [LB85A LB85]

PRESIDENT FOLEY: Mr. Clerk. [LB85A]



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

Floor Debate  
March 06, 2017

---

ASSISTANT CLERK: Senator Blood would move to indefinitely postpone LB85A. [LB85A]

PRESIDENT FOLEY: Senator Blood, you're recognized to open on your motion. [LB85A]

SENATOR BLOOD: As previously stated, we are asking that you please go ahead and vote in favor of this motion since the appropriation is no longer needed. [LB85A]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Chambers, you're recognized. [LB85A]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I would like to ask my seatmate, Senator Blood, a question or two if she will respond. [LB85A]

PRESIDENT FOLEY: Senator Blood, will you yield, please? [LB85A]

SENATOR BLOOD: Yes, I will respond. [LB85A]

SENATOR CHAMBERS: Senator Blood, why did you say you want this A bill killed? [LB85A]

SENATOR BLOOD: Because after receiving the information from the Fiscal Office, I did a little research and spoke with the department again because I felt that the fiscal note was not necessarily accurate. And I know that they had worked hard on that, but I wanted to verify the information. I did so on Friday, and with that we were able to find out that it could definitely be absorbed by the department. [LB85A]

SENATOR CHAMBERS: Senator Blood, how much would be appropriated pursuant to this A bill? [LB85A]

SENATOR BLOOD: Had we not indefinitely postponed it, only \$750, but that's still \$750 that we don't necessarily need to spend. [LB85A]

SENATOR CHAMBERS: Senator Blood, is the usual language that no money hereby appropriated--I'm paraphrasing--will be used to pay the salary of any permanent or temporary employees? [LB85A]

SENATOR BLOOD: If I understand your question correctly, it does specifically say that you cannot use those appropriations for that fashion...in that fashion. [LB85A]

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

Floor Debate  
March 06, 2017

---

SENATOR CHAMBERS: Senator Blood, what I would like to see is whether we can hire a permanent or a temporary employee for that amount of money, \$750, so maybe what I will do is offer an amendment to improve the bill so that it will not say it cannot be used for the salary of permanent or temporary employees, but rather that it could be. Would you support such an amendment? [LB85A]

SENATOR BLOOD: I would not, because I think that the intent would not be anything that would actually make the bill better, but I do respect the fact that you have that opinion. [LB85A]

SENATOR CHAMBERS: Thank you, Senator Blood. Members of the Legislature, I tried to kill an A bill, and look what you did to me, but here's why I did it. I noticed that there are students up there, and I like to teach everybody. I told them that if there's a vote and I'm the green vote, all three of the others would be red. And so it was. Practically. If I voted no, all the others would be green. And so it fell out. I know the Legislature. I think Senator Blood is behaving in a very responsible manner. A lesson can be gathered from that too. We should look at the A bills. And if the amount of money that is expended is trifling, there's no need for an A bill. But if some money is going to have to be spent, that's what I'd like to ask Senator Blood. Does the A bill, as it's written, say that \$750 would be the cost of implementing this bill? [LB85A]

SENATOR BLOOD: It was their opinion that the cost that would be involved would be in reference to printing up new materials, but the new materials need to be printed regardless of this bill. And so there is truly no added expense. [LB85A]

SENATOR CHAMBERS: Now we have a complete explanation. Because if something other than what they would ordinarily do would be involved, then they would have to take money from someplace that has not been appropriated by the Legislature. And the only way money can be spent is if it's appropriated by the Legislature. So I hope you learned what Senator Blood taught all of us this morning. And, Senator Blood, for that I thank you. [LB85A]

PRESIDENT FOLEY: One minute. Thank you, Senator Chambers and Senator Blood. (Visitors introduced.) Senator Blood, you're recognized to close on your IPP motion. [LB85A]

SENATOR BLOOD: Again, I just ask that everybody please vote in support of the motion to indefinitely postpone. It's pretty obvious why we need to do this. It's one less thing we have to spend money on and we can get it done in about 30 seconds. [LB85A]

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

Floor Debate  
March 06, 2017

---

PRESIDENT FOLEY: Thank you, Senator Blood. Members, you've heard the motion to indefinitely postpone LB85A. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk. [LB85A]

ASSISTANT CLERK: 35 ayes, 0 nays on the motion to indefinitely postpone the bill. [LB85A]

PRESIDENT FOLEY: The motion is adopted. LB85A is indefinitely postponed. Next item on the agenda is legislative confirmation reports. Mr. Clerk. [LB85A]

ASSISTANT CLERK: Mr. President, the first report this morning is offered by the Education Committee. (Legislative Journal page 554.)

PRESIDENT FOLEY: Senator Groene, as Chair of the committee, you're welcome to open on the confirmation report of the Education Committee.

SENATOR GROENE: Thank you, Mr. President. Chad W. Buckendahl was reappointed to the Technical Advisory Committee for Statewide Assessment. He had been on it I think two terms. And it was a 6-2 vote to reaffirm him to the committee. What the Technical Advisory Committee does, experts are put on it to help the Department of Education evaluate their testing procedures and the tests they select for statewide testing. It was concluded Mr. Buckendahl, he lives in Las Vegas, he went to the University of Nebraska, got two or three degrees from there, that he fit the description, had done a good job so we recommend that he's reappointed. Thank you.

PRESIDENT FOLEY: Thank you, Senator Groene. Debate is now open on the confirmation report of the Education Committee. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask Senator Groene a question.

PRESIDENT FOLEY: Senator Groene, would you yield, please?

SENATOR CHAMBERS: Senator Groene, you said this person has two or three degrees. Which is it?

SENATOR GROENE: I'm going to have to admit that we dropped the ball and my staff did not get me...we see this on the agenda and I'm not prepared. But it was...I think he has all the way up

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

Floor Debate  
March 06, 2017

---

to a doctorate, a master's and a doctorate so he has three. And four if you count the one from high school.

SENATOR CHAMBERS: Well, you get a diploma in high school, not a degree, just correcting the record for the Chairperson of the Education Committee. People often say a high school degree, but it's not. Senator Groene, this person has a doctorate and what's the other one?

SENATOR GROENE: Master's.

SENATOR CHAMBERS: And what is the subject matter of those two degrees, if you know?

SENATOR GROENE: I don't know because I don't have the information in front of me to rehash it.

SENATOR CHAMBERS: Senator Groene, why would you mention his degrees if you didn't know how many he had or what they were in? That's to give you time.

SENATOR GROENE: Because I wanted to let you know, Senator Chambers, that he had degrees.

SENATOR CHAMBERS: Now after having listened to you very carefully for several years, you're not a man who is impressed just because somebody has a degree. And here's my question if you would answer.

SENATOR GROENE: Yes, I will answer.

SENATOR CHAMBERS: Am I correct in saying that the mere holding or possessing a degree will not in and of itself be enough to impress you?

SENATOR GROENE: No, being good at a professional student does not mean you mastered a subject or means that you have acquired wisdom.

SENATOR CHAMBERS: And being the kind of person that you are, when you are not aware of something and you try to get the information, have you gathered the information that was the subject of our discussion while I was speaking?

SENATOR GROENE: Yes, I have.

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

Floor Debate  
March 06, 2017

---

SENATOR CHAMBERS: And what were his two degrees in?

SENATOR GROENE: I'm looking at it again.

SENATOR CHAMBERS: Take our time.

SENATOR GROENE: 1994, he got a B.A. in political science, University of Nebraska-Lincoln; in 1996, legal studies, University of Nebraska College of Law; and in 2000 he got a Ph.D. in quantitative and qualitative methods in education, University of Nebraska-Lincoln.

SENATOR CHAMBERS: And what is he being recommended for, what's the position?

SENATOR GROENE: Basically what his Ph.D. is in. He helps the State Department of Education analyze testing procedures and tests that they choose to fulfill the law that says they have to have statewide assessments of students.

SENATOR CHAMBERS: Senator Groene, when a person obtains a doctorate, is it necessary that that person write a dissertation?

SENATOR GROENE: I believe they have to do a thesis, don't they?

SENATOR CHAMBERS: Did you read whatever it was that this person wrote?

SENATOR GROENE: No, I did not, sir.

SENATOR CHAMBERS: Have you heard any comments about the quality of what this person wrote?

SENATOR GROENE: No, I have not.

SENATOR CHAMBERS: But you're satisfied that this degree does enhance his ability to do what he's going to do in this position if we vote to confirm him.

SENATOR GROENE: In this case he had been on the board and his track record and his experience and what he had accomplished was enough for me to vote to reappoint him.

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

Floor Debate  
March 06, 2017

---

SENATOR CHAMBERS: Would you give me one example of something that could qualify as a part of a track record that impressed you?

SENATOR GROENE: The Department of Education said they appreciated his input and he's been very helpful. So I take recommendations from people I respect, and I respect Mr. Blomstedt and those folks at the Department of Education.

SENATOR CHAMBERS: So you really have no personal knowledge of his track record. You're going by hearsay, correct?

SENATOR GROENE: Yes.

SENATOR CHAMBERS: But you have confidence in the people who told you this.

SENATOR GROENE: Yes.

SENATOR CHAMBERS: On what basis do you place that confidence? Have you dealt directly with the people who are making the recommendation?

SENATOR GROENE: Yes.

SENATOR CHAMBERS: And tell me one thing: How many of them made this recommendation?

PRESIDENT FOLEY: One minute.

SENATOR GROENE: Two or three.

SENATOR CHAMBERS: Two or three? Was it two or was it three?

SENATOR GROENE: I'm not going to tell you. That's a secret.

SENATOR CHAMBERS: I think Senator Groene has caught on to where we're going. Thank you, Senator Groene. You've been very helpful and you know I'm going to vote for this.

SENATOR GROENE: I had fun.

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

Floor Debate  
March 06, 2017

---

SENATOR CHAMBERS: Thank you. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Linehan, you're recognized.

SENATOR LINEHAN: Good morning, colleagues. Thank you, Mr. President. I stand in support of Chad Buckendahl to serve as the Technical Advisory Committee for Statewide Assessment. I did have concerns in committee as noted here, but since then I have talked to him and he is very committed to making sure our statewide testing is appropriate and hits the mark. He also serves in this position for other states. I have not read his thesis. I wish I would have, and I will go back and do so. He's familiar with Nebraska, he grew up here. And that actually didn't sell me on him, because it's supposed to be a national expert. And this committee was put in place back when Chairman Raikes was head of the Education Committee. And I do think it's a very important committee. And I have asked Mr. Buckendahl to be in closer contact with us as they move forward. Thank you.

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Hilkemann, you're recognized.

SENATOR HILKEMANN: Thank you, Mr. President. Could I ask Senator Groene to yield to a question?

PRESIDENT FOLEY: Senator Groene, would you yield, please?

SENATOR GROENE: Yes, you may.

SENATOR HILKEMANN: Just one thing I picked up on. You said this individual lives in Las Vegas?

SENATOR GROENE: Yes.

SENATOR HILKEMANN: And how often does this committee that he's to serve on meet?

SENATOR GROENE: They do teleconferences. I don't know. I don't have...twice a year? Twice a year.

SENATOR HILKEMANN: About twice a year. Okay.

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

Floor Debate  
March 06, 2017

---

SENATOR GROENE: My expert on the committee that helped me in this just told me twice a year.

SENATOR HILKEMANN: Okay. Is there any concern...so he...okay. That answers my question. Thank you very much, Senator.

SENATOR GROENE: But they were supposed to be international or national experts, not just state.

SENATOR HILKEMANN: Thank you.

PRESIDENT FOLEY: Thank you, Senators Hilkemann and Groene. Senator Groene, seeing no one else in the queue, you're welcome to close on the confirmation report. He waives close. The question before the body is the adoption of the confirmation report of the Committee on Education. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 624-625.) 33 ayes, 0 nays on the adoption of the report.

PRESIDENT FOLEY: The confirmation report is adopted. Mr. Clerk, next confirmation report.

ASSISTANT CLERK: Mr. President, a second report from the Education Committee is Gwenn Aspen for the Coordinating Commission for Postsecondary Education. (Legislative Journal page 554.)

PRESIDENT FOLEY: Senator Groene, you're recognized to open on the confirmation report.

SENATOR GROENE: Thank you, Mr. President. I stand to...the Education Committee approved Gwenn Aspen, the Governor's appointment to the Coordinating Commission for Postsecondary Education. She is a new appointment at large. She is a resident of Omaha. She's been active in education causes throughout her life. She attended the University of Michigan and has a B.S. environmental policy and behavior degree. The Coordinating Commission, of course, meets, looks over the coordination between all levels of public education in the state, even the private colleges, to try to make sure everything matches and has some coordination between class...transferring classes from different junior colleges to AP courses, all the way down the line and does a very good job at it. And we believe Gwenn will be a good asset to the commission. Thank you, Mr. President.



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

Floor Debate  
March 06, 2017

---

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Linehan, you're recognized.

SENATOR LINEHAN: Thank you, Mr. President. I rise to support Gwenn Aspen to serve on the Coordinating Commission for Postsecondary Education. I have known Gwenn for a couple of years. Her and her husband are business owners in Omaha. She is very dedicated to the youth of Nebraska. She has two young daughters. She cares a great deal about education and about Nebraska and about the success of Nebraska. So I strongly support Gwenn Aspen. Thank you.

PRESIDENT FOLEY: Thank you, Senator Linehan. Senate McCollister, you're recognized.

SENATOR McCOLLISTER: Thank you, Mr. President. Good morning, colleagues. I also endorse the candidacy or the appointment of Gwenn Aspen for this important position. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator McCollister. Seeing no other members in the queue, Senator Groene, you're recognized to close on the confirmation report. He waives close. The question before the body is the adoption of the confirmation report of the Committee on Education. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal page 625.) 30 ayes, 0 nays on adoption of the report, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. The confirmation report is adopted. Next confirmation report, Mr. Clerk.

ASSISTANT CLERK: Mr. President, the Government, Military and Veterans Affairs Committee would report on four appointees to the Nebraska Tourism Commission. (Legislative Journal page 557.)

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Murante, as Chair of the committee, you're recognized to open on the confirmation report.

SENATOR MURANTE: Thank you, Mr. President and members, good morning. The Government, Military and Veterans Affairs Committee has unanimously approved the confirmations of four members to the Nebraska Tourism Commission. The first, Mitch Glidden. Mitch Glidden's nomination to the Nebraska Tourism Commission was voted out of committee unanimously. He has served on the Hooker County Visitors Committee as chair; he has served on

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

Floor Debate  
March 06, 2017

---

the Western Nebraska Tourism Coalition and the Nebraska Travel Association. He was also instrumental in having Highway 2 designated as the Sandhills Journey Scenic Byway. Mr. Glidden owns a motel and manages a canoe, kayak, and tank rental company. Also was Roger Dixon. Roger Dixon's reappointment to the Nebraska Tourism Commission was also voted out unanimously. Mr. Dixon is the president and CEO of the Metropolitan Entertainment and Convention Authority, also known as MECA. Mr. Dixon has served in this position since 2000. Prior to that he was the senior vice president and general manager of the Kiel Center in St. Louis, Missouri. Mr. Dixon has over 40 years of experience in the entertainment and convention facility industry. Third is Tony Moody. Tony Moody's reappointment to the Tourism Commission was also voted out unanimously. Mr. Moody has been a regional vice president with John Q. Hammons Hotel since 1994. In this role he is responsible for all aspects of the company's hotel operations across the five-state region. Mr. Moody also has been actively involved in the community as the president of Big Brothers and Big Sisters of Nebraska from 2002 to 2004, and as the chairman of the board for the 2010 Special Olympic Games USA. I urge your confirmation of Mr. Moody. And finally to the Nebraska Tourism Commission we have Carol Schlegel's reappointment which was also approved unanimously. Mrs. Schlegel has served as the tourism director for Red Willow County since 2011, and has also served as the chair of the Hitchcock County Visitors Committee since 2013. I urge your approval of these confirmations. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Murante. Debate is now open on the confirmation report. Seeing no members wishing to speak, Senator Murante, you're recognized to close. He waives closing. The question for the body is the adoption of confirmation...Senator Chambers, we have a malfunction. I don't see your...Senator Chambers, you're recognized. Your light was not on previously, Senator.

SENATOR CHAMBERS: Thank you. Mr. President, I would like to ask Senator Murante a question if he would yield.

PRESIDENT FOLEY: Senator Murante, would you yield, please?

SENATOR MURANTE: I would.

SENATOR CHAMBERS: Senator Murante, would you answer one question?

SENATOR MURANTE: Depends on the question, Senator Chambers.

SENATOR CHAMBERS: Will you answer one question?

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

Floor Debate  
March 06, 2017

---

SENATOR MURANTE: I already have answered one question.

SENATOR CHAMBERS: He's learning. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Murante waived closing. The question before the body is the adoption of the confirmation report of the Committee on Government. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 625-626.) 33 ayes, 0 nays on the adoption of the Government Committee report.

PRESIDENT FOLEY: The confirmation report is adopted. Next confirmation report. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the Government Committee would report favorably on the appointment of Mary Shanahan to the State Personnel Board. (Legislative Journal page 557.)

PRESIDENT FOLEY: Senator Murante, you're recognized to open on your confirmation report.

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. I rise to urge the confirmation of Mary Shanahan to the State Personnel Board. Mary Shanahan's appointment to the State Personnel Board was voted out of the Government, Military and Veterans Affairs Committee unanimously and she had no opposition in the public hearing. Mrs. Shanahan is a retired personnel administrator with the Department of Health and Human Services. She brings over 35 years of experience in a number of personnel-related positions. She's also been involved in the community having served as the president of the Capital Humane Society. I urge your confirmation of Mary Shanahan to the State Personnel Board. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Murante. Debate is now open on the confirmation report. Seeing no members wishing to speak, Senator Murante waives closing. The question before the body is the adoption of the confirmation report of the Committee on Government. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 626-627.) 30 ayes, 0 nays on the adoption of the second Government Committee report.

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

Floor Debate  
March 06, 2017

---

PRESIDENT FOLEY: Thank you, Mr. Clerk. The confirmation report is adopted. Moving on in the agenda, General File, 2017 Senator priority bills. Mr. Clerk.

ASSISTANT CLERK: LB92 was introduced by Senator Kolterman. (Read title.) The bill was introduced on January 5 of this year; referred to the Banking, Commerce and Insurance Committee. That committee placed the bill on General File with committee amendments. (AM253, Legislative Journal page 490.) [LB92]

PRESIDENT FOLEY: Senator Kolterman, you're recognized to open on LB92. [LB92]

SENATOR KOLTERMAN: Thank you, Mr. President. Before I open I'd like to ask for a point of personal privilege. [LB92]

PRESIDENT FOLEY: Please proceed. [LB92]

SENATOR KOLTERMAN: Grant Leo Thomas Slattery lost his battle with life and died Friday after being with his family for nine days. His parents are David, Annie, and brother Parker. David is my legislative assistant. The funeral will be tomorrow and my office will be closed from 11:00 to 2:00 so our staff can attend the funeral. Please keep the Slattery family in your thoughts and prayers. Thank you. [LB92]

PRESIDENT FOLEY: Thank you, Senator Kolterman. You may open when you're ready. [LB92]

SENATOR KOLTERMAN: Thank you, Mr. President. Good morning, colleagues. I'd like to ask for your support for my priority bill LB92 and the committee amendment AM253. LB92 is a bill to require certain health carriers to provide coverage for certain services delivered through telehealth. LB92 advanced out of committee unanimously, and it does not carry any fiscal note. I bring this legislation on behalf of the Nebraska Hospital Association. The language in LB92 requires health insurance companies to cover any service offered through telehealth that is already covered for an in-person consultation. Currently, even though many doctors have embraced telehealth technology, some have been reluctant to embrace it because they do not know whether insurers will reimburse them. This policy is already in place for state Medicaid. Telemedicine is the use of advanced telecommunications and other technologies, exchanged in real time via electronic communication between sites, to monitor patient health status. Tools that can be utilized to deliver telemedicine include network programs, point-to-point connections, monitoring centers, or web-based e-health patient service sites. Services provided include primary care, specialist referral services, remote patient monitoring, consumer medical and health information, consultation, diagnosis, and health education to patients. Telemedicine is

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

Floor Debate  
March 06, 2017

---

particularly important in assuring timely delivery of health services to vulnerable populations such as individuals in rural areas, low-income individuals, and individuals with mobility impairments. Telemedicine provides the opportunity for alternative effective delivery of care and cost-saving opportunities for plans, providers and beneficiaries. Telehealth is designed to serve smaller communities that have health clinics, but few, if any, full-time doctors. As we consider the shortage of doctors and practitioners throughout the state, we are going to need telehealth and this type of delivery system. Telehealth consultations can also be significantly less expensive than in-person doctor visits. It is time for Nebraska to expand telehealth services across the state and eliminate any doubt for doctors and patients that those services are covered by insurance. With that, I would ask for a green light on LB92 and the committee amendment which I'll talk to after it's presented by Senator Lindstrom. Thank you. [LB92]

PRESIDENT FOLEY: Thank you, Senator Kolterman. As the Clerk indicated, there is a committee amendment from the Banking, Commerce and Insurance Committee. Senator Lindstrom, as Chair of the committee, you're recognized to open on the committee amendment. [LB92]

SENATOR LINDSTROM: Thank you, Mr. President. The committee amendments would make a clarifying change and they would do it by moving some language around. In the bill as introduced, the telehealth requirements would apply to three categories of health coverage. Those are, first, individual or group sickness and accident insurance; second, hospital, medical, or surgical expense incurred policies; and third, self-funded employee benefit plans not preempted by federal law. Now here's what's important. As part of the second category of coverage, as just explained, hospital, medical, or surgical expense incurred policies, there's an exception for policies that provide coverage for a specified disease or other limited benefit coverage. That means that limited benefit coverage policies are not subject to the requirements of the bill. The committee amendments would simply move the exception out of the second category of coverage and place it at the end of the new section so it would apply to all three categories as coverage, not just the second category. These changes were suggested by companies like AFLAC which specialize in limited benefit coverage policies. The intent of the bill was not to apply to the kind of policy that these amendments would make certain of that. Those are the committee amendments, and I would urge the adoption and the advancement of LB92. Thank you. [LB92]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Debate is now open on LB92, and the related committee amendments. Senator Hilkemann, you're recognized. [LB92]

SENATOR HILKEMANN: Thank you, Mr. President. I rise to speak in support of LB92 and I thank Senator Kolterman for bringing it. This is important legislation. And if you have not had

Floor Debate  
March 06, 2017

---

an opportunity, I would encourage you, if you don't really, truly understand the benefits of telehealth, we have a new center at UNMC that just opened in the last several months. I went to their open house at the Lauritzen Surgical Center and on what I think is the third floor, it's basically the telehealth medication...or section. And you would be absolutely impressed with what can be done. Doctors can connect with the cameras that we have available today. They can...so for rural medicine, even within private practice in different areas, when you want that second opinion, when you want that second consultation, it's available. And this is the...this is going to be the future of medicine. And it certainly with the state of Nebraska, and declining numbers of physicians in rural areas, physician's assistants, nurse practitioners, whatever, can connect in with this program. It's important legislation. And thank you very much for bringing it, and I strongly encourage all of you to vote for this amendment...for the amendment and for Senator Kolterman's bill. Thank you. [LB92]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Pansing Brooks, you're recognized. [LB92]

SENATOR PANSING BROOKS: Thank you, Mr. President...Mr. Lieutenant Governor. I rise in support of LB92. I just want to say how important it is to be able to support telehealth across our state, especially due to the nature of the extended rural areas we have. It's very important to be able to connect to healthcare facilities. I'm grateful that Senator Kolterman has brought this bill forward. Just anecdotally, we...when we went up to look at the situation happening on the Pine Ridge Reservation and Whiteclay, one of the issues that was going on up there was we met with the hospital, and they had been trying...the Pine Ridge Hospital had been trying for decades to connect via wired phone lines with the Mayo Clinic to be able to add supplemental support to the behavioral health issues that they were having. And, in fact, we talked with the head of behavioral health, a Mr. Charles Sitting Bull, the great-grandson of Chief Sitting Bull, and he talked to us about how important the ability to connect...through various situations, we were able to get a tower put up in Whiteclay, Nebraska, that extended into the Pine Ridge Reservation. And they talked about how important that connection was because they had not been able to have a positive and seamless connection with the Mayo Clinic. But now various groups and healthcare facilities in Nebraska, including UNMC, were willing to connect and add supplemental support to the high-need area of Whiteclay and the Pine Ridge Reservation. So I want to congratulate Senator Kolterman on his vision and I would yield the rest of my time to Senator Kolterman if he would like it. [LB92]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Three minutes, Senator Kolterman, if you care to use it. [LB92]

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

Floor Debate  
March 06, 2017

---

SENATOR KOLTERMAN: Thank you very much, Mr. President. Thank you, Senator Brooks. Insurance companies came to us and had a lot of input in this bill. They wanted to see this happen. They've been utilizing...many of them have already been utilizing this for many years. And all we're doing here is making sure that you can't pull it out of a policy. The coverage is subject in many cases to a deductible or a copay. But they're...they're willing to provide the coverage just like they would under any major medical policy. What we find, though, is the part that we're taking out of the coverage is for excess type of policies that pay in addition to your major medical. So like cancer policies, critical care policies, life insurance and disability that Senator Lindstrom alluded to are some of the major players in that arena. They really don't come into play with telehealth. They're there to cover some of the costs that are not covered by your major medical, so that's why they're being excluded. So with that, I thank you for listening and your input, your support, and ask that you advance both AM253 and LB92. Thank you. [LB92]

PRESIDENT FOLEY: Thank you, Senator Kolterman. You're actually next in the queue if you care for additional time. He waives that opportunity. Senator Krist, you're recognized. [LB92]

SENATOR KRIST: Thank you, Mr. President, and good morning again, colleagues, and Nebraska. Working as I have for the last eight years on juvenile justice issues and on corrections issues, etcetera, I can tell you that the medical profession defines our lack of psychological and psychiatric treatment across the state as an emergency. We don't have enough of those doctors. We don't have enough of those therapists. We don't have that kind of capability even to fully man and staff our Corrections institutions. And it is behavioral mental health and substance abuse are on the top of the list for things that need to be corrected in the state. This bill, Senator Kolterman, goes a long way to making sure that we do that preventive care because a psychiatrist or psychologist can indeed be on the eastern side of the state providing support to the western side of the state or vice versa. I applaud your efforts and I support asking for your green vote on AM253 as well as the underlying LB92. Thank you again, Senator Kolterman. [LB92]

PRESIDENT FOLEY: Thank you, Senator Krist. Seeing no one else in the queue, Senator Lindstrom waives closing. The question for the body is the adoption of the committee amendment, AM253. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk. [LB92]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of committee amendments. [LB92]

PRESIDENT FOLEY: The committee amendments are adopted. Moving back to debate on LB92, as amended. No one is in the queue. Senator Kolterman, you're recognized to close on LB92. [LB92]

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

Floor Debate  
March 06, 2017

---

SENATOR KOLTERMAN: Thank you, Mr. President. I have just have a couple...one more thing to say. As I knew this bill has been on General File for about three days, and I wanted to make sure it advanced so I could not be here tomorrow, so I asked a favor of Senator Chambers. Senator Chambers is a man of his word; and while he and I don't always agree on issues, he does know that my word means something to him and his word means something to me. And so that's what he was alluding to earlier today and I'd like to thank him for that. With that I'd like to advance LB92 as amended. Thank you. [LB92]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Members, you've heard the debate on LB92. The question for the body is the advance of the bill to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk. [LB92]

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance the bill. [LB92]

PRESIDENT FOLEY: LB92 advances. Next bill in General File. Mr. Clerk. [LB92]

ASSISTANT CLERK: LB181 introduced by Senator Quick. (Read title.) The bill was read for the first time on January 10, referred to the Business and Labor Committee. That committee placed the bill on General File with no committee amendments. [LB181]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Quick, you're recognized to open on LB181. [LB181]

SENATOR QUICK: Thank you, Mr. Lieutenant Governor, and good morning, colleagues. LB181 is my priority bill, and I would like to educate you a little bit about work comp this morning. And LB181 is a bill amending Section 48-134, the Nebraska Workers' Compensation Act. LB181 would allow an employee who disagrees with the medical findings of an employer...an employer-appointed physician to be reimbursed by the employer or its insurer or similar examination by a physician selected by the employee. So under current law, an employee has the right to select a physician who has maintained or treated the employee for an immediate family member on their first visit. Under current law it is also the obligation of the employer to notify the employee following an injury of his or her right to select a physician and it is the employee...and if the employee does not select a physician, the employer will select a physician for an examination. Under current law if an employee disagrees with the findings of the employer, the appointed physician...findings of the appointed physician, the employee can seek a second opinion at his or her own cost or expense. And as...that is the right of the employer as well to seek a second opinion if you use...even if they use their own physician, the employer does, they can seek a second opinion as well. But they pay for that. Would like to talk to you about this morning is that I know a lot of you senators throughout here have...I don't know how



Floor Debate  
March 06, 2017

---

much experience you have with workers' compensation. I know as far as myself I have experience on two sides of the issue. I've had an on-the-job injury. I've also had experience sitting on a safety committee where we reviewed work comp claims. I also know that we all represent working men and women in our districts. We also represent employers in our districts. This bill is trying to create a level playing field for the employees. Like I say, currently the employee is...has the right to select their own physician on the first visit. And I think one of the problems that arises is sometimes the employers don't fulfill their obligation for whatever reason, maybe they don't understand the law, or if they choose, they would rather use their physician for that visit. But they will...the employee will end up using the employer's physician on the first visit. And one of the ways that I'm hoping that we can correct that is by allowing that employee, after they use the employer's physician on the first visit, to seek a second opinion and have that paid for by the employer. And on some ends of it, it may help the employer realize that we better make sure that we notify the employee that they have the right to select their own physician. Working on that safety committee, I will tell you that reviewing work comp claims, we had the opportunity to see what it costs the employer for those visits. We also had the opportunity to work with the employer to try to find ways that we could reduce those costs. So there are ways to reduce the costs in the front end. I know some of you are hearing that this will...that some employers probably do not like this bill because they feel it will cost them on the back end. But there are ways to reduce costs on the front end, and it's working with your employees to find ways to reduce costs on the front end. I will talk about...a little bit about my injury, and help you maybe realize maybe some of the pressures that employees are on. I did select my own physician. I also put off having my...I filled out an accident report when I initially hurt my shoulder, but like any employee, none of us wants to be hurt. We don't want to miss work time. When you're on work comp, you only receive two-thirds of your pay, and that's capped at the state average. You also go through a lot of pain and suffering with that accident, depending on the severity of the accident. But one of the things that I experienced, I waited about four months to have my shoulder checked out. And at that time when I went in to the doctor, I chose my own physician. I had to go through a month of physical therapy before...because that's the way work comp works, a month of physical therapy before I could even have an MRI to determine the severity of my injury. So through that...a month of physical therapy, I think I probably damaged my shoulder a little bit more. Upon my...I had my MRI. I had so much fluid on my shoulder that they couldn't determine the extent of the injury, so I had to have a second MRI with an injected ink in my shoulder which was, I will tell you, very painful and they determined that I had a torn rotator cuff. I went in and...once they did the surgery and opened me up, they found I also had two torn bicep ligaments and so they had to, instead of doing a scope, they had to...it was about a two and a half inch incision in my shoulder. We...they had to drive pins in my shoulder, reattach the ligaments, sew up the rotator cuff. And then what happened next is what I'm trying to...what I want to impress upon people is that I went in for my first appointment after I had my surgery, I still had my staples in, I'm still on narcotics for the pain, and I received a return to work slip from my doctor. And I looked at my doctor and I said, so I don't quite understand. There's no way I

Floor Debate  
March 06, 2017

---

can return to work. I'm still on narcotics, I'm still...I still have the staples in. He says, well, that's what work comp tells me I have to do. So what I'm trying to impress upon you, is there are physicians out there that maybe will side a little bit more with work comp. And maybe when, you know, it didn't...I chose my own doctor, so that's my problem. But there are...there are some employers that maybe work with the physician that will side more on their...with that diagnosis. So I was very fortunate. My supervisor said, you will not come back to work while you're on narcotics and I didn't. I was off for about five weeks. I did return to work with restrictions on light duty. But I was very fortunate. And I think there are some employees out there that don't have that opportunity. Their supervisor might have said, hey, we're going to get you off work comp, come back to work, we'll put you on light duty. But what happens is, is that they may not put them back on the front line, but they'll put them someplace that you're really not...you really shouldn't be at work, especially if you're on narcotics or if you're still struggling to recover from that injury. I had a...one of my supervisors, he actually told me the story of his brother who worked at a trailer house factory. He had had a work injury. They returned him to work. They put him right back in the front line. I know that kind of...it might happen in packing plants once in a while with some of those injuries. And there are workplaces where you are in the line of danger more than others. So I'm just trying to educate you on the pressures that maybe some of the employees go through along the way. I also should add in that that after my injury, and after I received the return to work, you have a case...you're assigned a case manager. And I started receiving calls from that case manager immediately that, you know, you can return to work. You can go back to work. And I told her I'm on narcotics. The supervisor told me no. She said, oh, that's no problem, you can go back to work. So there's that pressure from that case manager as well. And so I know that this bill maybe not solves all the problems, but it's a start to try to create a level playing field to allow that employee to recover in dignity. And maybe if you disagree with the...with an employer's doctor on the first visit, it allows you to get a second opinion. The employer will pay for it. But a lot of employees don't even have the money to pay for a second opinion. [LB181]

PRESIDENT FOLEY: One minute. [LB181]

SENATOR QUICK: And so...did you say one minute? Okay. Thank you. So I think a lot of employees don't have the money to pay for that second opinion visit, so they don't seek it or they feel intimidated. Like I say, I can tell you most employees do not want to go through that. They do not want to miss work. They don't want to take the loss in pay. And I think a lot of employers do work with the employees, but I'm trying to help the ones that the employees that don't have that opportunity. So on that I would ask you all to please support this bill and thank you. [LB181]

PRESIDENT FOLEY: Thank you, Senator Quick. Debate is now open on LB181. Senator Crawford, you're recognized. [LB181]

Floor Debate  
March 06, 2017

---

SENATOR CRAWFORD: Good morning, colleagues. I rise in support of LB181 and thank Senator Quick for bringing this bill and sharing some of his own personal experiences with workers' comp. I wanted to rise as a member of the committee who supported the bill to give a little more background in terms of the bill and why the bill is important in terms of providing more fairness for our employees, our workers, in our workers' comp system. When there is an injury, there really are two paths that can be followed. If an...and LB181 is important in providing the same opportunity for employees to get a second opinion that currently the employer has to make sure there's a second opinion. If a... there's the decision that comes back from a physician where there is a concern. Right now, we have in our state, we do have a system that allows a worker to choose their own physician for workers' comp situations if, and only if, and this is an important part of this debate, that is a family physician or that the worker or the worker's family has a previous relationship with. So the employee could go down a path of using their own physician and physician choice if that starts with a family physician with which that employee has or family has a personal relationship with. Now after that point there can be referrals, but there has to be that relationship ahead of time. So it's not the case that a worker could get injured and turn around to his coworker and say, hey, Jeff, who is a good physician that I should go to? There has to be that preexisting relationship there. If it is a case after injury that it is the employee's doctor that's going through this decision and analysis, then the employer can compel the employee to get a second opinion of a physician of the employer's choice. The other pathway that can happen is that an employee when injured could choose to use the physician's physician...excuse me, the employer's physician. And you can see how this might happen in many cases, especially in a plant, something where the employer's physician may be down on second floor and go...get some help right now. And so it's easy to see how that pathway may happen. Or again, an employee may not have a relationship with a family physician to go down that path. Currently, if it's the case that the injury starts down the pathway of the employer's physician, then the only way for an employee to get a second opinion is for the employee to be able to afford to go out and seek that and pay for that second opinion themselves. So the bill, LB181, says that if the employee starts down the path of using the physician that the employer chooses...and this is often advantageous to the employer in terms of speed and having the employee work with that physician that the employer selects, if the employee agrees to do that and goes down that path, and if there is then a concern on the part of the employee about that diagnosis, that the employer... [LB181]

PRESIDENT FOLEY: One minute. [LB181]

SENATOR CRAWFORD: Thank you, Mr. President...through their workers' comp insurance coverage would make sure that that employee had a chance for a second opinion. And that second opinion is very important because when there is...because there is already in our workers' comp system an opportunity and a way for us to resolve disputes. This bill doesn't touch that, but it's an important part of understanding the bill is this gives the employee an opportunity to have a

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

Floor Debate  
March 06, 2017

---

second opinion so that they can have a second opinion to examine that diagnosis by the physicians...excuse me, by the employer's physician, and this gives that right to that employee to get that second opinion so they can have that discussion about the best way forward for the employee and the employer. Thank you, Mr. President. [LB181]

PRESIDENT FOLEY: Thank you, Senator Crawford. Mr. Clerk. [LB181]

ASSISTANT CLERK: Mr. President, an announcement that the Judiciary Committee will hold an Executive Session in Room 2102 at 11:00. That would be now. [LB181]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing debate, Senator Hansen, to be followed by Senators Blood, McDonnell, Quick, Albrecht, Hilgers, Erdman, Hilkemann, and Kuehn. Senator Hansen, you're recognized. [LB181]

SENATOR HANSEN: Thank you, Mr. President. Colleagues, I rise today in support of LB181. I want to thank Senator Quick for bringing this to the body as well as making this his priority bill to give us this discussion of workers' comp this morning. I think it's important in discussion of workers' comp to talk holistically about the issue and understand kind of both the practical implications of it today and the historical implications of how we developed the system over years. You know, obviously, this is a system built with like lots of little quirks and tweaks over the years, so I think sometimes it's important to take a step back and look at the system. You know, historically it's called the grand compromise because obviously the alternative to a workers' compensation system is for each individual employee who is injured on the job to commit a personal suit against his employer alleging negligence and have that in our traditional civil courts, suit by suit, issue by issue. Now there's lots of reasons we don't like that. Those are cost prohibitive; those are take up a lot of time in the work; the courts, which as we've already heard this year is very limited; and a myriad of other reasons. So obviously we as a state, and many other states have adopted this model, now have a workers' compensation system that provides a separate Workers' Compensation Court that...but removes that right of the civil suit, which is not something we do lightly or something we do often. Now from there, that's the benefit to both the employer and the employee of getting them out of a traditional courtroom and trying the facts in front of a judge or a jury over negligence and who did what and how did this all happen. Now we're talking more appropriately about the scope of the injury and how we can appropriately get people back to work. So my view and one thing, I always like to take a step back and look at when we're dealing with issues on workers' compensation is, you know, sometimes we talk about it as, you know, the playing field as it...employer versus employees. I don't necessarily like the versus, but unfortunately that happens occasionally. And when we think of this playing field and we think about the issues relating to workers' comp, we need to step back and realize that in all of these instances it is the employee, it is the worker who is dealing

Floor Debate  
March 06, 2017

---

with an injury, who does not have full access to their income, as Senator Quick said in the introduction. Who is, in many instances, you know, undergoing surgery, undergoing heavy-duty prescriptions and so on and so on. So that's something I always want to keep in my mind when we're talking about the appropriate place to balance the burdens, the relative burdens in the workers' compensation system. Going here specifically in LB181, I think it's appropriate to give the opportunity for employees to have a second opinion and be able to direct that as a second opinion. Senator Crawford laid out there's many situations in which an individual who might not be well-versed in their options or opportunities goes to the employee-directed physician first time and then they have the opportunity from there to kind of control it once it's in that track. Being able to get a second opinion is important and something we normally would do for...on our own personal lives. This is something certainly common. But then it shifts to the burden obviously, you know, employees, even if they wanted to select their own primary physician kind of opt out of this whole system, this framework we're operating in LB181 are then limited to physicians in which they have a prior existing relationship with. So there's already burdens placed on employees. Just overall, I think in LB181 I think this is an important balance, an important quirk in our workers' compensation law to enable employees to get more readily access to different opinions and make sure we get the correct and accurate opinion because I think it's fundamentally what we want here. You know, as much as we occasionally talk about this as an adversarial system, both the employee and the employer want the employee to get healthy and back to work as quickly as possible. That's what everyone wants. And if we can ease that by getting a second opinion in a few circumstances, a few specific circumstances, we can ease the burden to get a second opinion and perhaps get a more accurate medical opinion...  
[LB181]

PRESIDENT FOLEY: One minute. [LB181]

SENATOR HANSEN: ...and move down that path--thank you, Mr. President--and move down that path. I think that is an important way that we could do to make sure both our employees and employers are taken care of. Thank you, Mr. President. [LB181]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Blood, you're recognized. [LB181]

SENATOR BLOOD: Thank you, Lieutenant Governor. Fellow Senators, friends all, we've heard a lot of good information from our esteemed colleagues in reference to LB181. But the one message that I am not hearing that I want to make sure we think about before we push that button today is that ultimately we are speaking about people, people whose livelihood depends on their well-being. We can start talking about we're against or we're for, based on we're about the labor force or we're about the businesses. But it's more than that because everybody benefits, both the business and the employee, if the employee is well and physically able and fit to do the

Floor Debate  
March 06, 2017

---

job. If the employee is hurt at work and is unable to get the appropriate care, how does that benefit anybody? So I just want to remind you, sometimes we need to take the money out of the picture, that some people are so worried about. We need to take the fact that this may or may not be something that people feel comfortable with because a lot of people are trained to just vote no when it comes to any issue that pertains to the labor force because they automatically assume it's going to cost more money for the business owners. But isn't it a savings when your employees are fit and well and not broken? And I know we all know people that have been hurt at work that either didn't report it, even though that's illegal, or poo-pooed it and said, ah, I'm okay and then, as Senator Quick has shared with us, we frequently find out that it's much worse and then they end up missing more time and having more surgery and having more cost involved. The other issue I want to point out really quickly is that when you look at the guidelines under the Department of Labor and you look at how they investigate workmen's comp, that the claims examiner has the ability to ask for a second opinion, as does any medical consultant. So why wouldn't we offer that same benefit to the employee themselves? Thank you. [LB181]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator McDonnell, you're recognized. [LB181]

SENATOR McDONNELL: Thank you, Mr. President. I rise in support of LB181. I look at it from three different perspectives: as a union president representing people that have been injured, as a person that was severely injured and had to take time through the workers' comp process, but also as a fire chief that was a manager, and I looked at it all the same way in those three instances, fairness. What do we do to try to bring meaningful democracy to the workplace? What do we do to say to our employees that we respect what you do, if you're injured doing your job, we are going to be here for you, for you and your families because as Senator Quick mentioned, it's not just about the employee that's been injured. It's also about their families. It's a traumatic event. They don't know what's going to happen with their future. It affects their spouses, it affects their children, their family members. I rise on behalf of LB181 because it does help bring meaningful democracy to the workplace. As a person that has been in three different situations as a manager, as a union president, and also as a person that has suffered a workplace injury, this would help the employees, but it would also help the organization and it would improve the organization based on fairness. Thank you, Mr. President. [LB181]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Quick, you're recognized. [LB181]

SENATOR QUICK: Thank you, Mr. President. I'd like to talk a little bit more about my role as...also as being an employee, but also being a union representative for...with our local, we represented about 18 different contracts. So we represented lots of working people across the

Floor Debate  
March 06, 2017

---

state of Nebraska. And I know as a union representative and when a work comp issue would come to us, all we could do, because it's a state law, it's not a negotiated item, that we would have to...we would work with that employee to give him the best advice we could because we couldn't represent them in a work comp case. But we did have lots of stories, lots of people would call us with issues they were facing in their workplace. A lot of them, it was because they were having difficulty dealing with that issue. Some of them were in fear that they were going to have to go out on a disability or lose their job. I actually had employees or fellow employees, I would say coworkers, that would actually use their sick leave and decide to have...if they had to have surgery, have it on their own versus having it through work comp because of the fact that they would lose the control over their own...their issue. They would...they could actually stay off work and recuperate for the amount of time they needed versus having to come back too soon from light duty...on light duty. And we also worked very diligently on the safety committee to try to find ways to reduce costs on the front end. We...after my injury, I was actually the third person that was hurt from working on this piece of equipment. We worked with the employer, we worked with the managers, we called other utilities to find out what they did. And through all this...all the work by everyone, we were able to...we haven't had an injury there since...I was the last one hurt on that piece of equipment. We had a great lockout, tag-out procedure. Our employer supplied us a lot of personal protective equipment to make sure we could reduce injuries. And those are ways that you reduce the costs on the front end. And I think in the end, you don't have as many work comp claims. And that's how you reduce those costs, not by saying we're not going to pay for that second opinion because that's kind of what I'm hearing, that we don't...it's going to cost us more money to pay for that second opinion visit, and that's the reason maybe some are opposed to this bill. You know, sitting on there...on that safety committee, we would...I was fortunate enough that we could see all the costs. We could see...we could see what injuries, and it was a wide range of injuries because we had representatives from the police department, the firefighters, we had average everyday workers. We also had managers sitting on that committee. And I just want to reiterate that that's where you save your cost is on the front end and investing in your employees on the front end because none of them want to be hurt. None of them want to have to go through that work comp claim. And I can tell you that work comp has been around since I believe the late 1800s, so it's nothing new. And it was actually created to...to be a compromise between...I wouldn't say a compromise, but it was a bargain to help both the employers and the employees. It reduced the...the employers were being sued at the time, so it reduced that cost of having to be sued. [LB181]

PRESIDENT FOLEY: One minute. [LB181]

SENATOR QUICK: And it helped the employee out by getting them help with their injury and getting them back to work. And so I would just urge all of you to become more educated on work comp issues. You all have workers, men and women who work in your districts, and they need your help. So thank you. [LB181]

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

Floor Debate  
March 06, 2017

---

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Albrecht, you're recognized. [LB181]

SENATOR ALBRECHT: Thank you, President Foley. We heard LB181 in front of the Business and Labor Committee on January 23. This bill was not without controversy and was advanced to General File with a 4-3 vote. I voted against the bill and continue to be opposed to it. Under the current law, an employee has the right to select a physician who has treated that employee or a member of their immediate family. Proponents have stated that the employees don't know that they have the right to choose their own physician. This is simply not true. Employers are required to notify the employee of this right. If the employer fails to notify the employee of that right, or fails to notify the...under the rules established by the Compensation Courts, then the employee has a right to select any physician. Furthermore, if the court deems it necessary, they can require an independent examination and the cost of that are paid by the employer. Finally, there is already a method in which an employee can change physicians under Rule 50. First, the employer and employee can agree and make that change. If the employee and employer don't agree, the court has the authority to order a change of physician, hospital, rehabilitation facility, or other medical services when it deems such change is desirable or necessary. LB181 is not necessary and will only serve to increase costs to the employers. Thank you. [LB181]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Erdman, you're recognized. [LB181]

SENATOR ERDMAN: Thank you, Mr. Speaker...Lieutenant Governor. Good morning, Nebraska. I was wondering if Senator Quick would yield to a question. [LB181]

PRESIDENT FOLEY: Senator Quick, would you yield, please? Senator Quick, would you yield to a question, please? [LB181]

SENATOR QUICK: Yes, I will. [LB181]

SENATOR ERDMAN: Senator Quick, I see in your bill that the intent, the statement of intent said that if the employee would like a second opinion, it's either the employer or his insured may reimburse him. So how does that work? Is it always going to be an insurance company reimbursing the employee? [LB181]

SENATOR QUICK: Yeah, actually how it works...well, it should work under the work comp laws where when you go and you do a work comp claim, the work comp actually handles all that billing. So they...I guess in some essence that they won't actually reimburse the employee unless that employer doesn't work that way. But usually with the work comp claims when you go to see



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

Floor Debate  
March 06, 2017

---

the doctor, it's all...you've already prescheduled it with work comp. They set up the visit, actually. [LB181]

SENATOR ERDMAN: Okay. All right. So it could be a chance that the employer would wind up paying this out of his pocket? [LB181]

SENATOR QUICK: No, they shouldn't. I know that happens sometimes because of their choice, the way they do things, but it's the wrong way to do it. [LB181]

SENATOR ERDMAN: That's not what your statement said. Your statement said it could be the employer or his insurer. [LB181]

SENATOR QUICK: Yeah, well, through the employer because you hire work comp and then see with that, a lot...and on work comp a lot of companies, it's like an HSA. They may pay a...you know, have a high deductible, so they pay through the employer for that visit, and actually still pay your wages. [LB181]

SENATOR ERDMAN: All right. Thank you. Have you seen the fiscal note on this? [LB181]

SENATOR QUICK: Yes, I have. [LB181]

SENATOR ERDMAN: That's a pretty significant fiscal note. [LB181]

SENATOR QUICK: Well, I believe that's exaggerated because they...it's supposed to be based off of your experience rating. So they haven't experienced any of this and they also, I believe in that, it almost looks like they chose every employee would get a second opinion. And I believe the state of Nebraska probably does a really good job of notifying their employees that they can go to their own doctor. So I don't (inaudible). [LB181]

SENATOR ERDMAN: Okay. So taking into consideration that the fiscal people got this wrong, what is your opinion of what the fiscal note would be? [LB181]

SENATOR QUICK: Well, and actually the Fiscal Office disputed because that come from the DAS. [LB181]

SENATOR ERDMAN: Okay. [LB181]

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

Floor Debate  
March 06, 2017

---

SENATOR QUICK: And the Fiscal Office actually disputed those findings, and I think it might state it in there that they don't disagree because it...based on the fact that there's...they also put in there that there would be visit after visit after...more than...this only pays for one visit. One second opinion, if you use the employer's doctor. If you use your own doctor, you don't get a second opinion paid for by the employer. [LB181]

SENATOR ERDMAN: I understand. So the city of Lincoln had a response and their estimate was this bill may cost them \$100,000. Did you see that? [LB181]

SENATOR QUICK: Yes, I did. And I think it's the same for them. Every, every...even on regular health insurance, it's all based off of experience ratings. So no one knows what the experience rating is going to be until after it happens. [LB181]

SENATOR ERDMAN: But this bill would have some type of fiscal note, would you agree? [LB181]

SENATOR QUICK: You know if...it could. I won't dispute that, but I don't think it's going to be as much as what they claim it will be because of the simple fact, if you tell your employee to go to their own doctor first, it's not going to be any more expensive than what it is now. [LB181]

SENATOR ERDMAN: You were here earlier this morning when Senator Blood withdrew her bill because it had a \$750 fiscal note, were you not? [LB181]

SENATOR QUICK: Yes, I was. [LB181]

SENATOR ERDMAN: And I would assume that this bill has way more of an influence on our budget than that, would you agree? [LB181]

PRESIDENT FOLEY: One minute. [LB181]

SENATOR QUICK: I would...I can't say. [LB181]

SENATOR ERDMAN: Okay. I'm in opposition to LB181, and I just wanted to make that clear. Thank you. [LB181]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Hilkemann, you're recognized. [LB181]

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

Floor Debate  
March 06, 2017

---

SENATOR HILKEMANN: Thank you, Mr. President. Just a couple, I'm...Senator Quick, would you yield to a couple of questions? [LB181]

PRESIDENT FOLEY: Senator Quick, would you yield, please? [LB181]

SENATOR QUICK: Yes, I will. [LB181]

SENATOR HILKEMANN: Senator, exactly what is LB181 going to fix? [LB181]

SENATOR QUICK: Well, I think it's going to fix one of the issues that comes up and is that...and this is what I guess I'm hoping for in that employers will notify their employee that they can go to their own doctor on their first visit. Because I think a lot of times what happens is...and not all employers do this, but some employers will influence that employee to go to their...the work...the employer's doctor. Some employers have their own doctors, you know, physicians on the work...in the workplace, and so those...that employee might come down, you know, maybe they cut their hand. They say, well, just go downstairs, they'll sew you up downstairs or whatever, and then we'll put you back to work or whatever. So I can't say that from a personal standpoint I've seen that happen, but I've heard of incidents where people are influenced to go to the employer's doctor on that first visit. So that's what I'm hoping to fix on this. [LB181]

SENATOR HILKEMANN: Do you think that this is a situation that involves larger employees more so than it does smaller employees? [LB181]

SENATOR QUICK: Yes, I think it's going to affect the larger employers more. I think the small employers...I'm going to guess a lot of employers probably don't even understand all the work comp rules, the same way the employee doesn't. And so they don't realize, I mean, they don't have a doctor that they're going to send you to. They're going to just tell you, hey, you need to go get this... [LB181]

SENATOR HILKEMANN: Because a lot of the companies have a doctor that's right actually in their plant or whatever if they have an injury that occurs on work and that's where they're directed, is that correct? [LB181]

SENATOR QUICK: Yes, that's what I'm getting at is that there are some... [LB181]

SENATOR HILKEMANN: And what you're saying is that you would prefer that right at the very get-go that instead of having that doctor who's on site at the company would say I can take care of this, or I could send you to Dr. Kuehn. [LB181]

Floor Debate  
March 06, 2017

---

SENATOR QUICK: Yes, they could do that. But...I would like them, when they tell that person, it is your right to select your own doctor. So that's one of the... [LB181]

SENATOR HILKEMANN: Okay, and that's...you don't feel that that...so is...do you feel that right now that employers are not giving that information? You think that...is this a problem that needs legislation or is this a problem that needs better communication? [LB181]

SENATOR QUICK: Well, it probably needs better communication as well. Yeah. I do...I do believe that. I just don't know how we get the employers to understand that they need to, you know...they're always looking at reducing costs. And sometimes they overlook what happens to the employee and their injury and what happens with them. And they're looking at, okay, well, we don't want to pay for that second opinion, it's just going to cost us more money. Like I was talking earlier, look at the front end, look at safety, look at ways to reduce those workplace injuries. [LB181]

SENATOR HILKEMANN: Well, as I shared with you, Senator Quick, as one who's been involved in second opinions frequently in my practice and people would say to me after I talked to them, said I would get a second opinion, and I said I can give you that second opinion before you leave. Don't do the surgery. That's your second opinion. And this is a...this is a real...I understand a little bit where you're coming from, but at the same time this can also become quite an added cost to employers. Is that...would you agree with that? [LB181]

SENATOR QUICK: Yeah, and I guess I still don't see it as an added cost. I mean the employer can seek a second opinion even if they send you to their doctor the first time. Some employers can...they could send you to...until they find the right diagnosis that they want, they could just keep sending you to a different doctor until they find the one they want. [LB181]

PRESIDENT FOLEY: One minute. [LB181]

SENATOR HILKEMANN: Okay. Thank you very much, Senator Quick. [LB181]

PRESIDENT FOLEY: Thank you, Senators Hilkemann and Quick. Senator Kuehn, you're recognized. [LB181]

SENATOR KUEHN: Thank you, Mr. President, and good morning, colleagues. I would like to rise today. I have some significant concerns about LB181, specifically with its impact on employers, both large and small, and I guess not to reiterate some of the items that Senator Hilkemann brought up, but I think there's an underlying concern here about the nature of

Floor Debate  
March 06, 2017

---

communication between the employer and the injured employee. And as someone in fairness and disclosure who's filed a workmen's compensation claim, I had a laceration with a scalpel--we won't go into how it happened--across two of the flexor tendon surfaces of my hand, which if you're aware, as a large animal veterinarian, my hands are pretty important. And so I interacted with the workmen's compensation system, saw my original physician, got a secondary request to see an additional specialist to follow up. So I'm familiar with the processes that happen here and at the time had a small business as employer...a small veterinary practice in Hastings, Nebraska, was my employer. And I want to make sure everyone understands that there already is a process in place and documents provided by the Workmen's Compensation Court which clearly outlines what the employee's rights are. I have a copy of it if individuals would like to see--I'm happy to provide that for them-- that shows what the employee's rights are in terms of being able to request their own physician, their ability to see the physician of which they have a relationship, as well as that box to be checked that Senator Hilkemann spoke about regarding...making sure that the employee is fully aware of what their rights are, what their ability is to choose their physician, and that they consent to use the doctor provided by the employer if they choose not to use their own physician. I also have a couple of other concerns about LB181 and what it does potentially in terms of unintended consequences. One has to do with something which Senator Quick brought up which a lot of people may not have experience with, which is the idea of an employer's experience rating. So the workmen's compensation premiums that an employer is going to pay is based upon its experience rating. So obviously, if you're in a high-risk, high-injury type of business where you have a number of claims, your experience rating is going to increase. But the experience rating also is dependent upon the cost. So you can have one really, really expensive case and it raises your experience rating and your overall cost. You can have a couple of small cases which can quickly escalate and I do have concerns that the additional costs associated with the employer being required to provide the second referral and the cost could very quickly increase the experience rating in an unintended fashion for many of our smaller employers. So while I recognize Senator Quick disagrees with some of the notes on the fiscal note, I don't think that it truly takes into account what may happen to experience ratings, both in terms of business, as well as some of our local political subdivisions that are in high-risk industries such as utilities. Finally, I think we also need to be careful about walking into the water where we assume that physicians are not doing what is in the best interest of the patient just by virtue of who referred them and who employs them. Physicians still, regardless of whether they're employed by a business, by a manufacturer, whether they receive referrals from a particular business, still have to meet their statutory guidelines for scope of practice. And while we all understand the value of second opinions and looking at other alternatives from our physician, I feel there's kind of an underlying idea here that medical professionals employed by an employer, such as in a factory setting and a healthcare clinic or otherwise, may somehow only have the best interest of the employer in mind is a pretty dangerous claim to make. We have dedicated healthcare professionals of all different practice areas, whether that's nurse practitioners, physicians, physician's assistant, nurses who... [LB181]

Floor Debate  
March 06, 2017

---

PRESIDENT FOLEY: One minute. [LB181]

SENATOR KUEHN: Thank you, Mr. President...who are working and treating patients on the job and their first and foremost concern is the standard of care to their patient. If they don't meet the standard of care, they're not meeting their practice guidelines. So I want to make sure that we don't unintentionally undermine the authority and respect of those individuals in those workplaces. So given all of these concerns that I have for this bill at this point in time, I will not be supporting LB181 for advancement to Select File. Thank you, Mr. President. [LB181]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Crawford, you're recognized. [LB181]

SENATOR CRAWFORD: Thank you, Mr. President. I rise again in support of LB181. I just wanted to clarify a couple of things for the record and for our debate and deliberation. First, I did look at the fiscal note again, and I just want to clarify for the record that the city of Omaha and the city of Lincoln indicate that they do not expect this bill to have a fiscal impact. And that's an important...they're two large municipalities with experience with workers' comp and they note that they don't believe it will have that impact. And again, I want to emphasize and I also want to say that my support for LB181 does not depend on some assumption that people aren't doing their job. It's not based on assumption that doctors aren't doing their job or that the HR people...HR professionals in these organizations are not doing their job. If all workers are clearly and effectively informed of their right in terms of being able to choose their own physician with which they have an experience or the family has experience or the employer's physician, and that is done professionally and effectively, there still is a reason to make sure we have LB181. Again, it comes back to the question about the role of second opinions in making sure that we are making the best choice for the health of the employee and to get that employee back and working as quickly as possible. What's the...and making sure that we're doing that in a way that's safe and effective. Or if the employee cannot go back to work there, making sure we're getting them the help they need to get other employment as quickly as possible. So coming back to the principle of what LB181 does, LB181...it is currently the case that, again, an employee chooses a...they may choose their own physician at the beginning of the process, but again, only if they have a preexisting relationship with a physician or their family does. And so for some of our workers, I'm concerned that's not going to be the case. And if they do choose their own physician, the employer can compel that employee to get not only one second opinion, but more than one second opinion. So the employer can compel second opinions currently. And so if the employee instead chooses to go with the employer's physician, it is...and they're going down that pathway, and they then have a concern about the diagnosis or want...have a second opinion for that diagnosis, they could only do that now if they were to go out and pay for that themselves. And so the issue behind LB181 is to create a fairness in terms of second opinions to allow if the employee goes with the employer's physician, and then has concerns when they're getting

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

Floor Debate  
March 06, 2017

---

diagnosis and moving forward, that they have a chance to get a second opinion. And then we do already have in place a mechanism where there is a mechanism within our workers' comp process to resolve disputes when there is a dispute between physicians about the best way forward, and that process already exists in our workers' comp. And so if it's the case that...and again, the employer can already require second opinions if they're concerned about the diagnosis that's coming back from an employee's physician. This gives the employee a chance to have a second opinion if they've started out with the physician...the employer's physician as the first step down that path. My...in trying to understand... [LB181]

PRESIDENT FOLEY: One minute. [LB181]

SENATOR CRAWFORD: Thank you, Mr. President...how many people we expect might be in that situation, just talking to people who work with these employees, we're maybe talking about 30 percent or a third or so who might be in this position where they would be choosing the employer's physician. And so again, I just want to emphasize this is important policy in terms of fairness, even given everyone's...informed of their rights, doing their job appropriately, the professionals are all acting to the best of their professional abilities, which I expect and hope to see. Even in that situation, this bill still provides an important element of fairness for our workers who are at risk to make sure that they're getting back to work in a safe and effective way. Thank you, Mr. President. [LB181]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Blood, you're recognized. [LB181]

SENATOR BLOOD: Thank you, Lieutenant Governor. I stand again in support of LB181. So many of the people in this Chamber have been working on really good legislation that are trying to eliminate hurdles to people being employed here in Nebraska. And I actually look at LB181 as one of those hurdles that we can remove to help workers. With that said, I also wanted to offer some clarification. Earlier Senator Erdman--I forgot your name for a minute--Erdman said that I had pulled my bill, LB85. What actually happened earlier in the session was that LB85A was a fiscal note that was brought forward and upon research we were able to show that there would be absolutely no fiscal note and that it could be absorbed quite easily by the NADC. And so I asked that that bill be indefinitely postponed based on that information, much like when Senator Crawford just shared with us that Omaha and Lincoln had stated in their fiscal notes that there would be little to no fiscal impact in reference to this bill as well. So it's one of the many things that we have to do while we're here on the floor is to pay attention especially when we talk about numbers and what's going on with bills and so I wanted to bring that clarification. Again, I stand in support of LB181 and in Nebraska's efforts to help eliminate hurdles that prevent people from working. [LB181 LB85 LB85A]

Floor Debate  
March 06, 2017

---

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Kolterman, you're recognized. [LB181]

SENATOR KOLTERMAN: Thank you, Mr. Speaker. I rise in opposition to LB181. Having been in the insurance business for many years and sold a lot of workers' compensation, I can tell you that it's a hard bill...or it's hard to understand the policies and everything that's involved in workers' comp. But I can tell you also that as the clients come in and talk to you, they all want to buy it. Many of your independent contractors want to buy workers' compensation until you tell them the cost that's associated with it. What we find in many cases is there are those that are exempt from work comp but they still want to purchase it. So a lot of your independent contractors, like independent truck drivers, drywallers, plumbers, electricians, farmers, they want to buy it because it's such a good deal in many regards until you start talking about the cost. For a single drywaller, as an example, there's a minimum amount of payroll that they put in the policies anymore. And it could cost you somewhere between \$2,000 to \$6,000 depending on which company you go to. And as far as experience mods are concerned, they play a tremendous role, important role in pricing workers' compensation. So if you've got a good track record, you can get a good experience mod, but that means you're not having a lot of activity and you're not having a lot of claims. It's not being overutilized. Frequency plays an important role in pricing workers' compensation. If you've got a lot of small cuts and scrapes and bruises and things of that nature as a result of working you're sending your people to get checked out, the frequency plays into the rating of it. And then one of the biggest problems that we have had--and this isn't new, this is over the years--is what we call doctor shopping. So you get somebody that doesn't...they choose the doctor that they want to go to, which is their right under the policy as it currently exists, but they don't get the answer that they want. So the next thing you know, they're going to another doctor. And so what you're asking us to do here is pay for that second opinion, but many times it doesn't stop there. Many times it goes to the third, the fourth doctor because they don't hear what they want to hear. The doctor tells them it's time to go back to work, and they say to you, I'm not ready to go back to work, I don't want to go back to work yet. So it's a panacea of problems waiting to happen, in my opinion. In a...in a business-friendly environment, if we're going to continue to heap burden on our employers, because that's what we're talking about here, we're going to put businesses out of business. That's not what we're here to do. We're not here to stand in their way. I think that the way the workers' compensation regulations are written, they're fair opportunities for someone that is truly injured on the job. That's what it's designed to do, to protect them from large medical claims as well as the disabilities and even death. But I see no reason to change this, the workers' compensation status the way it is now. And I would encourage you to vote red on LB181. Thank you. [LB181]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Quick, you're recognized. This is your third opportunity, Senator. [LB181]



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

Floor Debate  
March 06, 2017

---

SENATOR QUICK: Okay. Thank you, Mr. President. And I'd just like to make sure all of you, when you have time, talk to employers and employees alike. Make sure you talk to both sides and find out some of the issues that are happening. And with that I'd like to yield the rest of my time to Senator Bolz. [LB181]

PRESIDENT FOLEY: Senator Bolz, 4:30. [LB181]

SENATOR BOLZ: Thank you, Mr. President. Thank you, Senator Quick. I just wanted to take a brief opportunity to talk a little bit about the fiscal note. And the first thing that I'll just remind the body is that the legislative fiscal note is always what I refer to as home base. So when we're...in discussing the impact of legislation and the fiscal impact, we always look to our legislative fiscal note which is described here and you can walk through it yourself, but it doesn't have a General Fund fiscal impact. It does have a revolving fund fiscal impact assumed by the Department of Administrative Services. And just to refresh your memories, there are three kinds of funds. There are General Funds, which of course are taxpayer dollars; there are cash funds, which are funds from certain fee sources; and then there are revolving funds. Revolving fund is a fund of a specific government agency or entity that collects revenues and fees from other sources and supports the agency through that revolving process. And so this is a way that the Department of Administrative Services covers things like workers' compensation. And the fiscal note reflects that there is a balance of over \$26 million in the Workers' Compensation Claims Fund and that DAS Risk Management has a cushion to cover any increased costs imposed by the bill. So just wanted to walk you through some of those steps and processes. I also think it's important to review the assumptions that are made in the fiscal note. The fiscal note assumes that over half of the claim...that approximately half of the claimants would request these second opinions. I would be curious to understand better the typical experience of people requesting second opinions and what the basis of that assumption that 50 percent, that half would require or request a second opinion. The typical medical examination reference is also between \$1,200 and \$2,000. And again, I would just question whether every single one of those assumed claimants would have an examination that costs at that level. You may want a second opinion on a relatively minor issue if it is important to you. Maybe if it's a cosmetic issue, maybe if it's something that affects your ability to participate in a hobby. So not every claimant is going to request a second opinion, and not every second opinion necessarily costs the maximum amount. So I appreciate Senator Quick's work on this bill. I understand the need to think through and be thoughtful about the fiscal impact. I'd also reference that the fiscal note has differences of opinion about the cities' impacts. And so, for example, the city of Omaha doesn't impact...doesn't consider any fiscal impact. And I will make one last note about the fiscal impact, which is the reference to the experience rating. And I can appreciate the concern about experience ratings, but part of the purpose of an experience rating is to make sure that employers are incentivized to have the safest workplace possible. So if you're doing everything in your power to promote safe workplaces, that's a way that you can address those experience ratings. We never want to see anyone hurt on

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

Floor Debate  
March 06, 2017

---

the job. We always want to make sure that everyone gets positive medical care. And I think what Senator Quick is doing is a strategic and smart step forward in terms of protecting workers' rights. Thank you, Mr. President. [LB181]

PRESIDENT FOLEY: Thank you, Senator Quick and Senator Bolz. Mr. Clerk. [LB181]

ASSISTANT CLERK: Mr. President, Senator Quick would ask unanimous consent to bracket the bill until January 10, 2018. [LB181]

PRESIDENT FOLEY: Members, Senator Quick asked for unanimous consent to bracket his bill. Hearing no objection, the bill is bracketed. Mr. Clerk, items for the record. [LB181]

ASSISTANT CLERK: Mr. President, a series of items. New resolution, LR57, by Senator Harr. That will be laid over. A confirmation report from the Natural Resources Committee. Priority bill designation: LB158 from Senator Pansing Brooks; LB632 from General Affairs Committee; LB207 and LB539, both from the Executive Board; LB340, Senator Brewer. Your Committee on Urban Affairs, whose Chairperson is Senator Wayne, reports LB256 and LB625 both to General File with committee amendments. Name adds: Senator Brieese to LB638; Senator Baker to LB641. (Legislative Journal pages 627-631.) [LR57 LB158 LB632 LB207 LB539 LB340 LB256 LB625 LB638 LB641]

Finally, Mr. President, a priority motion. Senator Bolz would move to adjourn until Tuesday, March 7, 2017, at 9:00 a.m.

PRESIDENT FOLEY: Members, you've heard the motion to adjourn. All those in favor say aye. Those opposed say nay. We are adjourned.