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Floor Debate  
March 30, 2017

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[LB38 LB49 LB75 LB91 LB98 LB137 LB167 LB172 LB180 LB180A LB217 LB225 LB228  
LB233 LB238 LB263 LB267 LB276 LB288 LB293 LB296 LB356 LB373 LB376 LB387  
LB401 LB417 LB427 LB441 LB487 LB535 LB539 LB562 LB568 LB644]

PRESIDENT FOLEY PRESIDING

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

SENATOR ALBRECHT: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Senator Albrecht. I call to order the fifty-sixth day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

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

PRESIDENT FOLEY: Speaker Scheer, you are recognized.

SPEAKER SCHEER: Thank you, Mr. President. Colleagues, I just wanted to let you know I'll be passing out the information in reference to the consent agenda. It is much the same as in previous years, but just to run over a few things, these are for noncontroversial bills. And obviously controversy is in the eye of the beholder, and it's my eye that's the beholder. So just bear in mind as you submit those, I don't care what you think is controversial. It's what I think is controversial. So if you are upset because it's not selected, that might be the cause; but just bear in mind I'll be the determining factor on the controversial nature. Also it cannot require a lot of changes. You may have a bill if it has a committee amendment to fix something, that's still okay, as long as there were no objections at the hearing. And if there was an objection at the hearing, that the

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

Floor Debate  
March 30, 2017

---

amendment will fix whatever problem the person had that was objecting to the bill, so as long as it would be clean once the amendment is up. It cannot impact General Funds. And it has to be on General File no later than April 5. The letters, I just need a letter. Again, as we talked earlier, I just need a letter from you as the introducing senator requesting this. I don't need letters from sponsors. I don't need letters from lobbyists. I just need your request. It does not have to have the signature of the committee Chairman; just simply from you. We will try to do this probably maybe second to third week of April. And bear in mind, historically these bills take somewhere between three and five minutes to pass. So if you are looking at a bill and you can't envision it going through the system in a three- to five-minute period, it's probably not a consent bill. So just use your own judgment as you start to think about what you're going to submit. We'll look at them, but I would rather have less than more. And so if you can really be careful about what you submit because it will make the process easier, and it makes less hard feelings when they are not accepted. So again, I'll pass this out. It's much the same as before. If you have questions before you submit it, come talk to myself, Spencer, or Laurie. We can help you out in reference to what we would think of the bill as if you brought it in. Again, it's April 5 is the magic day. So if you have something that's still in committee, that's fine. But please bear in mind if you are going to a committee Chair or you're going to the committee and you're saying, well, this is a consent item, so please get it out, just because it's out, just because it's submitted does not put it on the consent agenda. It's much like the Speaker priorities. We will determine which we think are truly the best interest of the state and the Legislature to move forward on a consent agenda. So those that are committee members, those that are committee Chairmen, just by the virtue of the fact of it being on General File is not the determining factor if it makes it on the consent agenda. Again, any questions, contact myself or the office and we'll be glad to help you. Thank you, Mr. Lieutenant Governor.

PRESIDENT FOLEY: Thank you, Mr. Speaker. We will now proceed to General File, 2017 Speaker priority bill. Mr. Clerk.

CLERK: LB98 by Senator Friesen. (Read title.) Introduced on January 5, referred to the Revenue Committee, advanced to General File. I do not have committee amendments. I do have other amendments, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Friesen, you're recognized to open on LB98. [LB98]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. LB98 proposes to extend the maximum 3-cent levy authority for fully or overappropriated districts as determined by the Department of Natural Resources from fiscal year 2017-18 to fiscal year 2025-26. This levy can only be used to implement groundwater management activities and integrated management

Floor Debate  
March 30, 2017

---

activities under the Nebraska Ground Water Management and Protection Act. The original authority to use the 3-cent levy was granted by the Legislature in 2006 with passage of LB962. This is when the integrated water management laws were adopted with a sunset date of fiscal year 2011-12. The Legislature extended the sunset date in 2011 with passage of LB400 to fiscal year 2017-18. Currently, 10 of the 23 natural resource districts are eligible to use the separate levy. Of the ten, seven are using it in fiscal year '16-17. The average levy is 1.26 cents per \$100 of valuation in fiscal year '16-17. The levy is primarily used in the Republican and Platte River Basins. Between the Water Resources Cash Fund, the Nebraska Environmental Trust grant, and the matching funding from local NRDs, has been successful in providing an estimated 30 to 120,000 acre-feet benefit annually to the Platte River and 40,000 to 50,000 acre-feet to the Republican River. LB98 has no fiscal impact to the state, and it was advanced out of the Revenue Committee on a 7-1 vote. I would ask for your vote to advance LB98. Just a little bit of background from where I come from, I was a member of LB962 which was a 49-member task force and I represented small cities. [LB98]

PRESIDENT FOLEY: Excuse me, Senator. (Gavel) Members, if you can please keep the conversations to a minimum. Senator Friesen. [LB98]

SENATOR FRIESEN: So I was a member of LB962 task force that was created to rewrite Nebraska water laws. I was a representative for small municipalities or small cities when that bill was brought into action, and basically that is probably one of the largest rewrites to Nebraska groundwater and surface water law that has been implemented. Some of the history on LB962 is when we finally recognized that there was an integrated component to our groundwater and surface water issues, and we recognized that and for the first time we required NRDs to start managing it in a separate and distinct way from the way they were managing groundwater. So anytime there was a, you know, commingling of a surface and groundwater issues, we had to find out and define those areas; and those had to be managed in a separate and distinct way. So it tied surface and groundwater together in those areas that had an impact on each other. One of the things that LB962 had the most trouble with--I mean, it was a long and arduous process. To get through that I think it took us 18 months. There were 49 members. But probably the most difficult part was telling everybody that we could have dedicated funding for water in the state. Up until then, Nebraska had invested very little in water resources. Most of the investment was either done by private industry, agriculture, or the NRDs. And so we struggled to find state funding. And there was a committee formed to come up with that funding mechanism. And each time they would come back and say that there should be a sales tax component where we address...we increase the sales tax and we put that money towards water management in the state. Each time it was floated to the committee, the Legislature basically said no. So we did finally implement LB962 on the basis that the NRDs were giving a 3-cent special levy in those areas that were fully or overappropriated. They could access that in order to manage those integrated waters in their districts. And so that's where this idea was born. The idea was that this

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

Floor Debate  
March 30, 2017

---

money then would be used for matching money from the state. And eventually money did come from the Environmental Trust Fund and some of those things and with our fund that we created now with the Water Sustainability Fund. But without that matching money, a lot of things would not be able to be done either. So in the end, this is the mechanism that was provided when LB962 was passed. A lot of the districts have met their first...I guess their first goals and now there's going to be a second phase. They've met the first phase requirements and now they're going to be using the second phase. So we...going into the second phase, I think right now they know they have to meet some goals, but they don't know how many acre-feet they have to come up with yet. But most of those districts are going to require some funding to meet the next round of goals. And we did maintain a sunset date so down the road it does either get sunsetted or someone will have to bring legislation to bring it forward. With that, I will wait for the amendment. And thank you, Mr. Lieutenant Governor. [LB98]

PRESIDENT FOLEY: Thank you, Senator Friesen. Mr. Clerk for an amendment. [LB98]

CLERK: Mr. President, Senator Groene would move to amend the bill with AM486. (Legislative Journal page 846.) [LB98]

PRESIDENT FOLEY: Senator Groene, you are recognized to open on AM486. [LB98]

SENATOR GROENE: Thank you, Mr. President. One of the reasons I stand here is because my constituents want property tax relief. That is why I'm here. LB98 extends...takes away the promise that was made in 2006 and then again in 2011 to my constituents that next year a 3-cent property tax will sunset, will sunset. Imagine the mortgage, the banker says you pay your last mortgage date on a certain date and you agree, and then he sends you a letter because his board met and said we're going to extend it for another five years or ten years when you were made a promise. Three cents to the widow lady that cried when I knocked on her door to run for...because she couldn't pay her property taxes. It's \$45 on her \$150,000 house. To the farmer who calls me and tells me he can't afford his property taxes on his \$5,000 an acre land that's \$15. I called my NRD and I said, document how you spent this money for integrated management practice program. Show me. They could not. They sent me their budget--legal fees, lobbying fees. They could not pinpoint where they spent the money. We gave them 12 years to use this money to address this issue. They have not. This amendment is just a start to explain to Nebraska's agriculture and families in my area that we mean it when we're going to get your property taxes. That we mean it. Let this thing sunset. The amendment addresses the original bill, I believe it was LB98, said in Section (d)...well, let me get the section here...that in addition to the power of authority granted to a subdivision through (a) and (c), this subsection, a district with jurisdiction that includes the rivers subject to the interstate compact among three or more states which is the Republican and the Platte, involves three states or more--Colorado, Kansas,

Floor Debate  
March 30, 2017

---

Wyoming, they are all involved in this compact or two different ones--and that also includes one or more irrigation districts within the compact river basin may annually levy a tax not to exceed 10 cents per \$100 of taxable valuation of all taxable property in the district. The proceeds of such tax may be used for the payment of principal and interest on bonds and refundable bonds issued pursuant to section...here's the problem. Our state constitution specifically forbids--the average citizen can understand it--that the state cannot issue a property tax for a state purpose. A farmer in southwest Nebraska sued, and he won at the Nebraska Supreme Court where the state said, the Supreme Court said in its findings that: We conclude that LB701 violates the prohibition against levying a property tax for state purposes found in Nebraska Constitution Article VIII and that such provision is therefore unconstitutional...we sever the offending provision and our ruling has no bearing on the remaining provisions...because of our resolution of this case, we need not consider the remaining assignments of error. Basically, they said Section 3 or wherever it's at...let me get it again; shuffling papers. In 2-3225, sections (a) through (d) are unconstitutional. Well, if you read the language of LB98, that language is still in there. It's an unconstitutional provision. This should have been struck in bill writing. Amendment 818 (sic) strikes that language and replaces it with the findings of the court with the words, no proceeds of the tax levy authorized in subdivision 1(a) through (d) of this section and no other funds of the district shall be used for lobbying activities. No, that is the wrong one. That is another one. Sorry. I grabbed the wrong one. Bear with me. Anyway, what it says and you can read it, it says that it cannot be used for a state purpose, property taxes. So we have N-CORPE in our area which is a state purpose. It's an interlocal between some NRDs that to please...to help with the Republican River compact. We need to remind those NRDs out there that if they tax this extra 3 cents, none of the proceeds can be used for the operation, wages, mileage, vehicles, utilities, anything else in the operation of N-CORPE. That's what this amendment does: cleans up the language, clarifies the language, and makes it right. I would like to make it clear this is not a personal issue between me and Senator Friesen. We are on the same page on property taxes. I believe Senator Friesen dropped this bill as a courtesy to the NRDs which he has an association with in the past. This bill needs to die. The sunset needs to happen and some accountability needs to be put back into our NRDs. Many of them, many of them have not shown accountability--not many. There are some very good ones. When you get that chart of...that handout about some of the mill levies, you will see that some of them do a very good job. Some of them chase after every tax dollar they can get. What we need to do is to give property tax relief. They have had 10 years, basically 12 from '06 to '17...'06-07 to '17-18 to do what they needed to do to get their integrated management program in place. It needs to go away. Since that time when this was enacted originally, because of that lawsuit and the loss of that 10 cents, we gave them the ability to have an occupation tax up to \$10 an acre on irrigated farmland. They've all done it. The ones involved in the Republican River and the Twin Platte, they've done it. I don't know about the other fully appropriated NRDs. So they have access to money now which bonded indebtedness that they can use that, and they have, to try to address the issues with the Platte and the Republican agreements, statewide agreements with the surrounding states. They don't need this anymore. To mingle this money in with the regular

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

Floor Debate  
March 30, 2017

---

General Fund levy is wrong. We will probably bring an amendment, too, to make them be accountable. That if it passes if for some mistake the majority of my colleagues want to increase property taxes on my citizens, if that happens, we also wish that they are accountable to prove that that money, 3 cents or any of it, is used for integrated management plans. That's what we need. We need accountability because we don't have it now. LB98 needs to go away, needs to go away. One of the NRDs that has it has a huge cash fund that they have accumulated with this money. They have not told anybody what they're using it for. They just say it's a contingency. That isn't how government works in a democracy. Elected boards tell you what they're going to do with the tax dollars before they do it if they're going to take it from you. [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR GROENE: I would appreciate your support on AM486 to LB98. And I apologize I wasn't prepared. I grabbed the wrong amendment, but now you won't have a surprise when we drop that one for you. So I think you can take it all in at once. But anyway, I am passionate about property tax relief. You all know that. It is a regressive tax. It is the worst regressive tax because you have no choice. You have to pay it if you want a roof over your head. So thank you and we'll continue from there later. [LB98]

PRESIDENT FOLEY: Thank you, Senator Groene. Debate is now open on LB98 and AM486. We have Senator Hughes to be followed by Senators Friesen, Erdman, Kuehn, Kolowski, and Walz. Senator Hughes. [LB98]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. I rise in opposition to LB...or AM486 and in support of LB98. As a senator that represents basically the entire Republican River Basin and a farmer who has irrigated in that basin virtually all my life, there are a few things that I think we need to clarify that why the NRDs are in place and why this extra 3 cents is very important across my district. Now I don't doubt that there are those who are very passionate about cutting property taxes and not wanting this 3 cents to be spent. But in my Upper Republican NRD, we have managed our water for over 40 years. We've had meters on our wells for over 40 years. We have been very progressive in water management and that takes money. But the use of water in our area...the Republican River Basin is not a snowpack-fed basin. It is strictly a rain basin, so we have had challenges with water decline. But there is a tremendous amount of water there. And in order to extend the life of the aquifer and to someday get to sustainability, we need the tools in place. And this extra 3 cents is being spent wisely, I believe, in the three NRDs that I represent. Just because Senator Groene does not like the way his NRD is spending that money should not preclude other NRDs who are using that money to the benefit to the way their boards feel it is to the benefit of their jurisdiction. To me this is a local issue. If the local NRD that represents Senator Groene's district is not doing it correctly, then they are the

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

Floor Debate  
March 30, 2017

---

ones that should not be spending the money. But for the NRDs in my district that are utilizing this 3 cents or 1 cent for purposes to extend the life of the aquifer and make sure that the economy of the state is moving forward by allowing irrigation and creating jobs and income and commerce, I think it needs to be. So I would certainly urge you to not support AM486 but do support LB98. Thank you very much. [LB98]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Friesen. [LB98]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I rise in opposition to AM486. What...some of the things that the NRDs have used these funds for--and I do thank Senator Hughes. His district has probably been the most proactive district in the state. They have been managing water the longest and probably have done the best job of any of the districts out there. With their rainfall totals where they are at, they have done a significant job of managing their underground water. You look at the Central Platte NRD in Grand Island. Currently, they were using 1.5 cents of that 3 cents authority. They currently have met the obligation of getting 3,400 surface feet or acre-feet of water back into the river. And so they have achieved that goal, but now they have to come up with the next phase. And so they have entered an agreement with the four Dawson County surface water irrigation companies that either they purchase water or partnership for a true integrated water management plan. The partnerships have a capacity to provide up to 20,000 acre-feet of benefit the river annually without retiring any irrigated acres. They rehabbed three irrigation canals of the Central Platte NRD and their conjunctive water use management efforts. This rehab included the Cozad ditch, 30-mile canal, and the Orchard alfalfa. So this unique partnership was developed with the three canals not only to maintain the canal systems down the road, but it also provides recharge water for groundwater. These canals also when there was severe flooding on the Platte River, they worked out an agreement where they can take excess flows and divert those flows to fill the canals, and it takes pressure off the river. And then later on they release it back into the river and it saved a lot of flooding through management of the canal system over the past years. And so these, you know, these programs are all meant and designed to meet that next requirement of water savings that they're required to meet through LB962 in their management of groundwater and surface water. You know, you can go through their budgets and they will sit down with you and explain them to you. And Senator Groene has got issues with that, but again, this is a local issue. I am very passionate about property tax relief. But I have always said from day one I have not been upset with what my NRDs charge me. I have not been upset with what my counties charge me. I think they're doing a good job. I have always talked about K-12 education and how it's funded. So when I talk about the NRD system, if we want to cut their funding, let's just abolish the NRD system and let the Department of Natural Resources take over. Let's manage our water from the state level. Let's see if everybody would like that. I'm an irrigator. I prefer working with my local NRD and coming up with plans that fit our basin. Each individual basin is very unique. And like I said earlier, Senator Hughes, the rainfall amounts that he has to deal with versus where I'm at, everyone

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

Floor Debate  
March 30, 2017

---

needs a different plan to meet their goals. And the NRD system is the envy of the country. Whenever we have traveled in the past when I was on the NRD boards, they also manage their water through different methods, but the NRD system was the envy of the country. Everybody thought we had the best system out there. And I think as we have developed these plans and we have created...you know, when we've created a whole basin plan where we make like the three NRDs in a basin or two NRDs, whoever makes up that basin, when they have to have a basin-wide plan, it just made the system even better. [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR FRIESEN: And so as they've worked to develop these plans, they still have a ways to go. They've still got some acre-feet to come up with, and I think the sunset date is appropriate. We talk a lot about putting sunset dates on all of our bills. Well, if we're always going to view an extension or a change in a sunset date as a tax increase or a tax cut, then let's not put sunset dates on. I don't view this as a tax increase. I view this as an ongoing program that we had to look at. We have to review it. We need to sit here and discuss it. I, for one, feel that it's worked the way it was supposed to. They have not asked for more money. They just want the sunset extended. We'll have the debate down the road. Thank you, Mr. Lieutenant Governor. [LB98]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Erdman. [LB98]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good morning, Nebraska. I rise in support of AM486 and am opposed to LB98. As I review the NRDs and how they use the 3-cent levy and I read through the bill, there is a lot of new language included in this amendment, in this bill, talks about bonding and all those things. And I was wondering if Senator Friesen would answer a few questions for me. [LB98]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB98]

SENATOR FRIESEN: Yes, I would. [LB98]

SENATOR ERDMAN: Thank you, Senator Friesen. Senator, tell me if this is just basically extending the date from 2017-18 to 2025-26, why is all the new language necessary, the underlined part in the bill, why is all that about bonding and ad valorem taxes and all that, why is that included in the bill if, in fact, you are just changing the date ten years? [LB98]

SENATOR FRIESEN: I don't recall. I'll have to look. [LB98]



Floor Debate  
March 30, 2017

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SENATOR ERDMAN: But anyway, I see that on my copy. Maybe my copy is not right, but I look at that. Well, while you are trying to figure that out or can find the answer, the NRDs that are overappropriated or fully appropriated are in my district, Senator Groene's district, Senator Friesen has a little bit, Senator Hughes, Senator Brewer, and Senator Stinner. So what we're going to do is we're going to allow everyone in this body, excuse me, that has an opportunity to vote on the issue that you will vote on whether my district gets to levy 3 more cents on all the property taxpayers in my district. So those people who live in the city, their property will be assessed 3 extra cents because they are in the NRD. And I understand everybody benefits from having water. I understand that. Been a farmer for 42 years. I understand the significance and the very much importance of water in my area. Irrigation water is more significantly used in my area than any in the state and I understand that. But as I see the NRDs that are overappropriated or fully appropriated and some of those choose not to use the 3 cents at all. And I understand their management practices and the things they must do, but some of these are figuring it out. Some of the districts I see have raised their tax asking this last year 17 percent, and some of them have raised them 25 percent. That's a significant increase in property tax asking. So as we begin to realize how important water is and I understand that very much, but one thing I don't understand is when you take your mill levy from 3 cents to 4 cents and you say, it's only 1 cent, but in fact it's 33 percent. There's a significant amount of increase going on. And we have things happening that in this agricultural sector we're operating under today in the climate we're working under that are a burdensome thing for our land owners and farmers in agriculture. And we are in this probably as bad a times as we have been in for 40, 50 years because of the high taxes, the high input costs, and the low commodity prices. And I have a little concern with allowing this not to sunset. We put things in place and put a sunset there for a reason. I understand some of that reason is so it forces us to go back to analyze what we did at that time. And does it need to be advanced for an additional period of time? I believe that these NRDs are doing a good job with the money they have. And I think that as with all agencies who collect tax dollars we need to tighten our belts. We need to step up and make a decision on how we can spend our money more efficiently... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR ERDMAN: ...and not take any more money from the taxpayers. So I will finish with that, and I am, as I said, in support of AM486 and opposed to LB98. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Erdman. (Visitors introduced.) Continuing debate on LB98, Senator Kuehn. [LB98]

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. I'm going to borrow a line from Senator Krist here this morning and I will give them credit for using it. When he talks

Floor Debate  
March 30, 2017

---

about and when our urban colleagues talk about things like the Learning Community and issues that maybe affect the metropolitan cities in the state, some of us tend to not engage and think it doesn't necessarily affect me. And Senator Krist likes to chastise us about coming to the floor and participating. And so I am going to reiterate that advice today. So those of you who maybe don't think that this necessarily affects you or this is an issue for agriculture and rural water users, I hope you pay attention today to some of the things that are going to come up this morning as we address LB98 and some of the attached amendments, especially as we walk you through the funding mechanisms and as we have broader discussions about property taxes. I also want to just make clear that I fully support the NRD system. I fully support local control. I am not implying that the system has somehow been abused or mishandled or that we're not managing water appropriately. What I will tell you is that this is a system from how it originally was introduced and intended has evolved in a wide variety of ways over the past two decades. And as such, has kind of created a very complex network of funding mechanisms, rules, and controls which in totality don't always make sense. And as a result when we see things like let's just extend the sunset, I fully agree with Senator Friesen, we need to be having this discussion. We need to understand why that additional levy authority was put in place and why it's not needed now. So I stand in opposition of LB98. I support the Groene amendment just as a matter of point. I think it makes the bill better. But ultimately I oppose this additional levy authority. I'm going to several times today walk through some of the funding mechanisms and what levers that NRDs and water interests have to pull in terms of funding water preservation, protection, and conservation in Nebraska. But on my first time on the mike, I want to give you an example of how this additional 3-cent levy authority just doesn't make sense in practicality. And I am going to use it describing a piece of ground which I've referred to several times and I'll refer to it several times this session that is owned by my family. And it's a piece of pasture ground that straddles the Kearney-Adams county line. So it straddles a political boundary. So it's the same piece of ground, the 90 pairs that will go on that piece of ground in the end of May this year, they walk back and forth in and out of the brand area because there is a brand area division there. But it also means that we have the same piece of ground with the same value in undivided that straddles a number of different political subdivisions. And in this case, it straddles between two NRDs. It straddles the Tri-Basin NRD and it straddles the Little Blue NRD so two different political subdivisions, same piece of ground. The Little Blue is not an appropriated...fully appropriated basin. So if you look at the map that was handed out by Senator Groene, it is not a fully appropriated basin. So the basin itself is not eligible for this additional 3-cent authority. However, because I live in Tri-Basin's and Tri-Basin has the Platte River as well as the Republican, as well as the Little Blue, it's considered an appropriated, fully appropriated NRD and is eligible for this additional 3-cent levy. So let me tell you what the levy rate is on two sides of this political boundary on the same piece of ground. On the west side of the political boundary, the levy rate is 3.93 cents. On the east side of the boundary, same piece of ground, cows walk back and forth, same value, indivisible, the levy rate is 1.7 cents. Same basin, same piece of ground. The difference is that on the west side of the political boundary... [LB98]

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

Floor Debate  
March 30, 2017

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PRESIDENT FOLEY: One minute. [LB98]

SENATOR KUEHN: Thank you, Mr. President...Tri-Basin is able to add an additional 1.3 cents of the 3-cent levy authority on top of the base levy. So we're required to pay that additional levy for groundwater functions in an overappropriated basin that isn't...while we exist in the basin that is not overappropriated, on the same piece of ground but on the opposite side of the political boundary has literally half of the property tax levy. As currently applied, the 3-cent additional levy authority, while it may be functional in some districts, is not functional in all. And it's these kinds of inequities that have developed as we've hodgepodge and added on and crafted together bits of individual levy authority when we look at a funding scheme for water in Nebraska. And at future times on the mike, I'm going to walk through all the different levy options and funding options that fully appropriated basins have at their disposal to meet their needs, let you know that they are not using the full value... [LB98]

PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR KUEHN: ...of those authorities... [LB98]

PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR KUEHN: Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Kolowski. [LB98]

SENATOR KOLOWSKI: Thank you, Mr. Lieutenant Governor. I want to thank our colleagues for their comments thus far this morning and add to this as we look at the material before us. I stand opposed to AM486 by Groene and for this bill, LB98, from Friesen. Colleagues, what we're looking at and what we're listening to this morning has some things to do with term limits. We have had quite a few discussions on water in the last five years I have been here, and before that I was on the NRD board for eight years, three as chairman of the Papio NRD. As you look at the map that's been handed out to you, you see the 23 NRDs from across the entire state. Senator Friesen has mentioned this morning and I would repeat the things that we have heard at different regional and national conventions concerning the NRDs in Nebraska. We are envied by all 49 states that don't have NRDs because of the efficiency and the effectiveness of how these are formed and operated in the state of Nebraska. Senator Friesen also talked about the water sustainability study and the work we did in that particular area for almost 18 months to come up with a very long-range and wide-ranging set of plans that could be operated on in Nebraska to bring us to a standard of water sustainability and water in our futures so what that's all about.

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Floor Debate  
March 30, 2017

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Now I certainly understand the issues on property taxes, not wanting more of those. My question is, do you want water? Do you need water? Can we exist without water? I think everyone in this room knows the answer to that. Part of the issues that we have with different NRDs in different boundaries, as Senator Kuehn talked about, can also come down to mixed projects, combination projects that are going on and could go on between various NRDs for water sustainability, whether it's dam production, water backup, water retention, safety and security concerning water runoff. That's a very big thing in the Papio NRD, which has the most population of all of the NRDs in the state of Nebraska. But we have too much water, where out west you don't have enough water. Those issues all were part of the discussion that we had as I served, along with Senator Friesen, on that water sustainability study for over almost a year and a half. The things that we came up with also connect to the ability of NRDs to do matching funds internally or with this 3-cent override possibility externally that would be able to come into play and be used for these projects that are being identified across the state of Nebraska. The water sustainability fund itself is not enough to fund all the projects that have been brought to our attention and in need of being done in the next decades. This gives them a chance to raise the funds and do the projects as quickly as possible in their areas as they become okayed by their various NRDs and then are into the building plans... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR KOLOWSKI: ...of what we are doing across the state for the sustainability. Keep the big issue in mind. Where will we be without water? We have to spend some places to make these things happen, to make these things work, and this is an urban guy talking and knowing what you need and what you have decided upon in the water sustainability work that we did for all that duration of time, especially in the western parts of our state. Look at that map, understand the 23 NRDs, how efficient and effective they are. I don't know where some people are talking about the misuse of funds or the extension...extensive use of rainy day funds in the NRDs' bank accounts. That is unknown to me... [LB98]

PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR KOLOWSKI: ...and I really question where that is coming from. Thank you very much. [LB98]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Groene, you are recognized. [LB98]

SENATOR GROENE: Thank you, Mr. President. I've calmed down; passion is over; widow lady quit crying. This is a good amendment, folks. Let's go back to the amendment. Why would

Floor Debate  
March 30, 2017

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anybody be opposed to striking obsolete language in a bill so that citizens aren't confused, future NRD members and directors aren't confused that they can raise 10 cents for a state purpose? It strikes obsolete, unconstitutional language from our statutes and it replaces it with the correct language. The proceeds of such tax shall not be used for a state purpose or to stay in compliance with an interstate compact. What the proponents of this bill are saying it can because they oppose AM486. Are they saying we should blur the law, blur the lines? Because that's what's happening out west. They are blending this money with their General Fund taxes, and they're coming down here and partying with it. That's what's happening. Are the NRDs doing their job? Yes, out west after this body and the Supreme Court and lawsuits from Kansas forced them to do it. Yes, the Upper Republican in the past did a good job, led the state in meters and allocations. They were forced to because they have a low water basin. And Senator Hughes is right--it's not connected to the Ogallala Aquifer. There's a ridge in there. It is only recharged by its own rain. Has it done some good things, the NRDs out west? Yes, and across the state. The terraces you see across the state, the erosion control, the shelter belts you see, the free trees you can get from your NRD, those are good things. The flood ponds, the pasture ponds, good. Making sure the next generation of farmers and children, our grandchildren and my grandchildren can take part in irrigated agriculture is a good thing. They don't need this 3 cents, folks. I've been calculating. They have a 4.5 cent levy authority. One of them is at 2 cents, but is using...but a penny and a half of that is...we've passed out this chart, folks. The white lines are the NRDs that are overappropriated and underappropriated. We messed up on the tax levies. In the second from the right column, that is in pennies. And the last column, the total levy is in levy. So you need to move the decimal points over about three in the right column. So in other words, Central Platte NRD has a total levy of 3.582 cents and 1.507 cents goes to this, LB98. So the 4.5 cents Central Platte is at on their general fund levy is a little over 2 cents. Middle Republican is at a little over 2 cents, but they're using a cent of the other levy. North Platte NRD is at--they know how to spend money--they're the highest of all of them, as Senator Erdman said; they're at 4.3 cents, so they got a little room there. South Platte is at a half a penny--now there's a good--no, they're at 5 cents. I don't know how they are at 5 cents, maybe a levy override, but they are not using any of LB98. The Twin Basin is at 3.9 cents total so their general fund is 2.564. Upper Blue is 1.3 basically. Upper Big Blue is 1.7, but they're using some of LB98. Makes no sense, folks. I haven't seen yet where anybody can document--and I am sure there are NRDs that do, of these overappropriated--that they need that extra money. Because, see, here's the point. [LB98]

PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR GROENE: All right, thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Krist. [LB98]

Floor Debate  
March 30, 2017

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SENATOR KRIST: Good morning, Mr. President. Thank you. And good morning, colleagues. Good morning, Nebraska. I am going to come down on one side or the other of these two issues that are before us, LB98 and AM486, before the day is over; and I will vote red, green, or not vote, depending upon what I hear. But I think Senator Kolowski...first of all, thank you, Senator Kuehn, for quoting me. I always love that to start out the day chastising people, but I think what Senator Kolowski said and what Senator Kuehn said you should pay particular attention to because it is a function of term limits. Some of you were not here to represent your particular districts during the 2011 floods. I stood on this floor in February. Let me go back just a bit. I have an intimate relationship flying the airplane for the United States Army Corps of Engineers and have been boots on the ground in almost every location in the past 17 years that has been a function of either a drought, a flood, a construction zone, lengthening a runway on a federal reservation, etcetera, etcetera. I was in North Platte...I stood on this floor in February of 2011 and said, Katie bar the door, you're going to see the convergence of a flood situation down the Missouri that we have not seen in decades, probably in 100 years. It had to do with the overabundance of water up on the other side of the Continental Divide, the runoff and the thaw that happened in the mountainous areas, and how the Missouri expands down below. You see, after Gavins Point, there is no control of the Missouri River--after Gavins Point. Now, think about that. The control of the river itself went bank to bank, went bank to bank and over. If you remember, I-80 and some interstate systems were closed. Complicate that with the fact that the management of that water system was completely in the hands of the United States Army Corps of Engineers and was politically pressured to allow certain reservoirs, not lakes, reservoirs, to fill up beyond capacity. So from my perspective, the fact that the Governor of the state of Nebraska did not declare an emergency when he should have...we almost lost Eppley Airfield to the flooding. It was a local effort that saved it, a local effort. And then the convergence of the Platte and the Missouri at a point that expanded the Missouri downstream, we almost lost three power plants from that point down. You can have too much water and you can have not enough water. The Governor of the state of Nebraska was quick to declare an emergency when we didn't have enough water for agriculture in the western side of the state. I find that an issue and I also find an issue that NRDs did not speak up on the eastern side of the state or along the Platte. I stood at the North Platte Airport and watched the water encroach upon the airport. I stood with the Corps of Engineers advising the locals that they needed to raise the levee. I stood and watched the railroad raise the rail tracks, the tracks around there, and raise the levee for the locals. I've seen water and lack of water. I also stood on this floor last year when we had to take \$10 million out of our General Funds to protect Offutt Air Force Base. Now every one of you I know has been there now as a result of your trip in our symposium before the session started. [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR KRIST: So you understand how critical the resources are around that base and how many people we have working in the area. We had to take \$10 million out of General Funds--and

Floor Debate  
March 30, 2017

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if I'm wrong, I'm sure Senator Kuehn or others will correct me--because the NRD didn't want to fund that project. And yet, and yet at the end of the year, I believe they had \$18 million left in reserve and there was a municipality, a political entity in Senator Stinner's district that was having clean water issues that couldn't be funded. What were they saving the money for? So I have a fundamental problem with the way the NRDs are managed throughout the state. Senator Kuehn outlined one of those problems and that is my foot is on this part of my land and my foot is on this part of my land and they're managed differently. We have too many... [LB98]

PRESIDENT FOLEY: Time. [LB98]

SENATOR KRIST: Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Krist. (Visitors introduced.) Senator Erdman. [LB98]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Let me start with this. I want to apologize to Senator Friesen. I was on the wrong bill when I was looking at the underlying copy, and I apologize for that. I clicked on LB98 and LB72 came up. Anyway, as we proceed here, I am in favor of Senator Groene's bill. It kind of cleans up the language that is unnecessarily there. If it's already been struck as unconstitutional, I think it needs to be removed. And I was listening to the conversation and I...being under review, those NRDs and their levying authority and how much they do levy. The one that comes to mind here, I look at the South Platte NRD and on the 1 cent levy, they levy .524 cents. And on the 4.5 cent levy, they have maxed out at 4.5. But it's kind of unusual when you look at the 3 cent that they have available, they use 0 in that category. So as I review all of those NRDs and their levying authority, they are the only one that is clear up to the maximum 4.5 cents. Most all of the others are significantly lower. In fact, the average for all of those NRDs, the 23, is just slightly over 2 cents. And I understand Senator Hughes and Senator Kolowski talking about water is important. And one time there was a great American by the name of Will Rogers (sic--Mark Twain) and he made this statement. He said: Whiskey is for drinking and water is for fighting over, and how true that was back in the '30s when he made that comment. So I understand the significance of water. And what we're discussing today is not do we need water, do we like water, do we have to have it? That is not the discussion. The discussion today is how much property tax are we committing to doing those things that protect our groundwater? And the question is, are those NRDs, do they have enough resources to do what they need to do? And I believe if you look at the mill levy that they are now levying and the room that they have left in the 4.5-cent levy limit and the 1-cent levy limit, those two together combined will cover every one of the NRDs' needs except for one. So to follow up on my comments earlier, I believe that the NRDs can function and do those things that they need to do under the current 5.5-cent maximum that they're able to levy. So that is why I'm opposed to advancing that another ten years. And I believe that if you adopt Senator Groene's AM486, it

Floor Debate  
March 30, 2017

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cleans up the bill and makes the language more understandable and it clears up that issue. So those are the issues that I see. And as we look at this situation, I do not want to restrict the NRDs from being able to accomplish their purpose. And they do a lot of good things and they protect our groundwater, but I'm telling you they can do that under the limitations that we now afford them if it's allowed to sunset. So I would ask you to vote against LB98 and let this 3-cent levy lid sunset in '17 and '18. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Quick. [LB98]

SENATOR QUICK: Thank you, Mr. President. I'll be supporting LB98 and I'm also opposed to AM486. One of the things that I know Senator Krist brought it up but on flooding, and I can tell you that the NRDs do a lot of good work. They have a lot of projects. I know it has benefited my district by some of the work they've done in the Central Platte NRD to divert water around the city and away from some of the residents there which has benefited the residents by taking them out of the flood plain. So I know that there is differences in the NRDs and what they need the money to do to fund their projects, and I think you have to look at each NRD a little differently because they each have their own projects that they're working on. They do a lot of good work making sure that we stay in compliance with Kansas and those kind of things on those water issues. And we also need to make sure that we have enough water for irrigating our crops and good drinking water. So with that, thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Groene. This is your third opportunity, Senator. [LB98]

SENATOR GROENE: Thank you. Thank you, Mr. President. Senator Erdman made the point. He...this is unnecessary taxation. We need to send a message to all of our local property tax entities that when we give them ability to tax, that isn't a credit card limit to raise it where they need to, to spend. And many of the NRDs didn't, but some do because it's money. It's free money. It's only a small amount on your property tax statement when you look at it, the community colleges and NRDs, but it's still a lot of money. It adds up, especially when valuations keep going up. If we're going to control property taxes, we have to send a message we're going to control property taxes. Does anybody think the NRDs are very efficient? Have you gone to one of their functions down here? Have you gone to the hotels that they stay at; how many functions they have, lobbying functions? Why is that money even necessary to be spent there? Why? We need to send a message. We need to cut property taxes. There are 23 NRDs, 10 of them are involved in this LB98--10, and most of them are out west; follow the Platte River and the Republican Rivers and you've pretty much got them covered. We have changed a lot since this 3 cents went in. Most of those NRDs have IMPs in place. They have meters on their wells. They have allotments in place. They're diverting water from the river, as Senator Krist



Floor Debate  
March 30, 2017

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said, into canals and stuff. It's done. If they divert any water or if they build a retention pond like the RJ (phonetic) project to refurbish the Platte River, that is a state purpose. I hope they're not using these property tax dollars to do that. They have an occupation tax to do that. That Supreme Court case limited and reaffirmed what this state did in the 1960s when we went away from a property-tax-based taxing system to an income, sales, and property tax, supposedly the three-legged stool. We need to make sure that everybody understands you do not use sales tax for state purposes. They don't need this 3 cents. They should have everything in place. Yes, my NRD, I'm upset with them. They were the only one of all these overappropriated and fully appropriated don't have meters on their wells. Now I'm in agriculture and I sell high-tech equipment. You can take a planter and you can count the kernels and you can place them on a hillside at a different rate than in the valley where the corn grows better. You will know exactly how many kernels you plant. You know what I'm told by them? Meters technology aren't accurate. They're not reliable. Let me tell you, technology is reliable; but they didn't use any of that 3 cents to set up a meter program to buy meters for their farmers. No. They're cowboys; it's their water. Those that are on the board, it's not the state's water, it's not your water, it's theirs. I want to send them a message. No, it's our water. It's everybody's water. It's these young people's water. We let you use it and you pay high property taxes to use it, and we expect you to conserve it to make it sustainable for the future. (Inaudible) the state? You know what I hear from the experts? Just ride it out, Mike. The state is going to end up taking it over here pretty soon the next drought. The hydrologists say the next drought. This 3 cents isn't going to make a difference. It doesn't help. They're paying legal fees to fight off mandates from other states. That's what they're using the 3 cents for. My NRD don't have an allotment on the water. You can pump as much as you want yet. [LB98]

PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR GROENE: Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Kuehn. [LB98]

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. I do want to just take a little bit of time to walk the body through the different levying authorities and different pots of money for local control. And again, I want to reiterate I'm not making any sort of accusation that there has been mismanagement of the funds. I'm not saying the NRD system has not been highly successful, has not rightfully earned the opportunity to be the envy of other states. What I want to point out to the body is the different mechanisms because I think we need to have a conversation and a broader policy discussion about this specific 3 cents. So certainly water is important. And to that end, we have established statutorily that all of the NRDs have an ability to go up to a 4.5-cent levy limit. Only one of the 23 NRDs has so far hit that 4.5-cent base limit. So that's the primary when you think about the primary funding mechanism via property taxes for

Floor Debate  
March 30, 2017

---

local control of water management in the state would be that levy. So as we're talking about extending this 3-cent authority, we're talking about that 22 of the 23 haven't even hit their base limit on their levy yet. Now on top of that, statutorily, the NRDs are able to assess an additional 1-cent over their 4.5 cents for the purposes of administrating Ground Water Management and Protection Act projects. So those NRDs that have specific projects that fall under that statute and that authority have the ability to levy an additional 1 cent. And there's a few of them that have reached the maximum of that limit. The vast majority have not. In addition to that 4.5-cent base limit, in addition to that additional 1 cent for Ground Water Management and Protection Act levying authority, initially those NRDs that were involved in interstate compacts were given the ability to assess an occupation tax of up to \$10 per irrigated acre for the purposes of essentially a user fee. So those who benefit from the ability to irrigate on their ground as a result of the interstate compact would be those paying for the additional fee on their ground. Statutorily, that was expanded so all of the NRDs now have the ability to levy or assess up to a \$10 per acre occupation tax. In addition, NRDs have the ability to issue bonding for long-term projects. Only one of 23, which is Papio which Senator Kolowski has worked on and been a part of, is the only one who has actually exercised that bonding authority. So at this point, we're talking about two separate property tax levies, an occupation tax levy, and a bonding authority before we even talk about this additional 3-cent over the 4.5-cent limit. So we're talking about a supplemental levy authority over previously existing multiple levying authorities that are not fully utilized at this point. In addition, we have added a number of state programs since this first 3-cent over the limit authority was granted. There have been additional state programs, some of which have already been referred to, that enable and permit dollars to be assessed to utilize for the purposes of groundwater management, groundwater conservation, groundwater quality issues. And it's important to recognize, depending on where you're at in the state, the issue is different. If you're out west, it's an issue of water quantity. If you move to the central part of the state, it becomes a real issue of water quality and assuring we have quality of groundwater and water going into our surface waterways. As you get to the eastern part of the state, we have issues with flooding, an overabundance in terms of the quantity issue as well as the quality issues that come along with it. And we've addressed that in a number of ways. This Legislature has the Water Sustainability Fund... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR KUEHN: ...which continues to help provide funding for those larger projects on a cost-share basis with local NRDs. So as we talk about extending this 3-cent authority, do not be under the impression or the assumption that a failure to extend this authority somehow creates a financially crippling effect on our ability to spend dollars to appropriately manage water at the local level. There's multiple avenues; there's multiple levers that can be pulled. And depending upon the NRD, they're using a very interesting combination of those different levying authorities. And next time through, we'll take you through and walk you through some of the different

Floor Debate  
March 30, 2017

---

combinations that some of the different NRDs of the 23 across the state are using these combination of funds. But do not be under the assumption that if you vote red on LB98 that somehow you are inhibiting the ability of the NRDs to have the dollars they need to manage groundwater. [LB98]

PRESIDENT FOLEY: Time. [LB98]

SENATOR KUEHN: You're simply sunsetting an extension. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Krist. [LB98]

SENATOR KRIST: Thank you, Mr. President. To continue on where I was, the management of the NRDs statewide comes to issue, comes to the forefront for me. And again, I think when you've sat through these issues and you understand too much water, not enough water, how things are managed and the priorities in which they're managed. Last year, again, the NRD had a surplus at the end of the year and, in my opinion, was not taken care of as I mentioned. A political subdivision in Senator Stinner's district that were having massive problems with safe drinking water, and Senator Kolowski made the point: You want to have safe drinking water, don't you? Yeah, we do and that's what I thought in terms of the act itself fell partly to the NRD. I don't think as a central management, as a state management function, when they come together, that they are understanding the needs of the state across the state. I don't think that there's an equal representation--Senator Kuehn alluded to part of it--in terms of funding when it comes to different parts of the state. Some people spend a lot of money, almost out of control money. Some people, not so much. I believe that before we add to our property tax problem--and Senator Groene alluded to in his last comments--we need to see some performance from that organization. I fundamentally have a problem with any organization in the state just automatically getting \$20 million dumped into their pot to spend the way they think they need to spend it if the representation and the management of that function does not represent the state across the board, and I don't believe it does. And by the way, if we're giving this authority to anyone, any NRD, why are we not giving it to all of them? If it's such a good idea to give additional authority to some NRDs--and then we get back to appropriated, fully appropriated, fully funded, whatever--if we're giving it to one, why are we not giving it to everyone across the board so that they can exercise their rights, their management skills? I, quite frankly, think that until we see proper management and, yes, I am calling you out, NRDs. I am calling you out and I'm saying that I don't believe that you handled the North Platte Airport situation in a correct way during the flooding. I don't believe you followed probably the expert in water management, the United States Army Corps of Engineers, when they said you need to let water out at this point and you need to raise the levees over here. Interesting story about the North Platte Airport, it was the railroad around one side in this unbelievable machine that crushes the aggregate behind it,

Floor Debate  
March 30, 2017

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raises the rails 2, 3, 4 inches in front of this machine--and it's a rail, it's on the rails itself, it's a locomotive--and then fills in the aggregate to raise the levee across the board. That's how we saved...that's how the North Platte Airport in part was saved, not with the local NRD taking any suggestions from anybody who knew anything about water, but in concert with the railroad. So from my perspective and from my eight years, I want to see more management. I want to see more statewide management, solid management. I want to see more of those issues taken care of. The Lincoln Airport Authority had a flooding issue that in terms of long-term funding for both our Guard and Reserve functions... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR KRIST: ...and the airport itself needed to be mitigated in terms...need to be mitigated, it's partially mitigated in terms of levee. Why aren't we taking a more aggressive approach, NRDs, to solving water problems on both sides--not enough and too much--and most importantly, providing safe, clean, drinking water for all towns, all political subdivisions across the state? Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Halloran. [LB98]

SENATOR HALLORAN: Thank you, Mr. President. Thank you, colleagues. Water is always an emotional issue for all of us because we can clearly get along with food longer than we can water. But putting that aside, Nebraska's water resource is divided up in a number of watersheds--we discussed that--and those are managed by various natural resources districts. And I want to compliment Senator Kuehn on clearly pointing out the various means available to fund projects that shed light on the fact that this particular levy increase is not all that necessary. We're not leaving them out in the cold if this is not allowed to take place. There's been a lot of compliments about the natural resources districts and the way they're managed. And I'm a little bit more of a cynic. All bureaucracies start in the embryonic stage and we watched that happen with natural resources districts over the years. They start off with all the best intentions. Some of them have had various success at accomplishing the needs in their respective areas, whether it is shortage of water or whether it is dealing with water quality issues. But that being said, they become their own little serfdoms after a while, their own little kingdoms, and they tend to grow for the sake of growing, for growing the little bureaucracies that they manage. I'm not going to call out my personal local national resources district for doing anything wrong. But back in 1991, they set a goal for rationing water. We set a goal, a water table level, static water level, that when the water table reached that level we would start implementing water rationing. Well, this many years later, the water table has not reached that static level to start us rationing water. So in order to make a legacy for themselves at some level, they decided to look at changing the rules so that we can start making the rules' static level come closer to reality of where we are. And so

Floor Debate  
March 30, 2017

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we're probably going to end up with rationing water, not because the water table has fallen, but simply because we can do it. We can implement rationing upon the farmers, limit how much water they can pump. And water is bushels, folks, and so it is going to impact the economy. It is going to impact the local economy of the various farmers because they'll be able to pump less water. Every NRD has its own issues. I recognize that and respect that. But I'm not willing to vote for allowing for other NRDs to increase their levy upon their property tax. We have got to get property tax under control. If these NRDs want to have...if they want to increase revenue for projects, I would suggest to them that they need to look at efficiencies of operation. Many of them have become bloated. So I would like to thank the President for the time. [LB98]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Friesen. [LB98]

SENATOR FRIESEN: Thank you, Mr. President. I like where Senator Kuehn is going in kind of addressing all the different components of how the NRDs fund their different projects. And my experience with the Upper Big Blue NRD which I was a member of for a number of years, when I was on the board at least, we, you know, we each have our 4.5-cent lid limit that we can use; and then we each have assess to another 1 cent when we have a groundwater quality issue. And then if you are fully or overappropriated, you had access to the 3 cents. And so the Upper Big Blue...and we were one of the first in the state I believe to have a groundwater protection area. And what that was is groundwater quality, we had nitrates getting into the groundwater and we knew we needed to address it. And so at this point, we--this was before I was on the board--a committee was formed of different individuals in the district and we got together and we wrote a groundwater quality management plan. And so we put in place different procedures and most of it voluntary, a lot of it educational and we have been in that time period now I think started reducing the number of nitrates that are potentially could leach into the groundwater. So I guess NRDs, the way I look at it, each of them does operate a little bit differently and they have different things to do. There's two NRDs I believe who do not access the 1-cent water quality money that they could. And so again, as each NRD across the state is different, each of them have different needs and they use these funds differently. In the Upper Big Blue, for instance, we are not at our lid limit on the 4.5 cents so you could say that we don't need access to the 3 cents. But how we manage our main 4.5-cent lid is that if we have a large project that we want to do, and I'll reference a dam that we were going to build. So if initial approval would be given to build this dam, we would raise that levy to start raising funds to build a dam. And so building a dam usually takes 4 to 5 years. You go through the design process, you'll go through the land acquisition, you go through the building, and then you finish it up. And so if you start levying early and start building a fund, when you're done building the dam, it's finished, we'd drop our levy down back to where it was and move forward. We didn't require bonds. We didn't do any bonding. We just paid for our projects as we went. So by having a little cushion there and not using that full 4.5 cents for those other issues that we needed to address, we were able to build those dams or do things like that and not have to do any bonding. The Upper Big Blue also did a

Floor Debate  
March 30, 2017

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lot of work with villages and cities in our district. We did a lot of flood plain mapping; we worked on drainage. If a city was going to add a subdivision, they could come to us and we would do a study on the drainage needs of that new subdivision so that they didn't overload their drainage system and cause flooding issues. So the NRDs, the one I'm familiar with, were very proactive in helping cities and villages also to make sure that their drainage needs were looked at so that we wouldn't have those issues. We worked a lot with recreation in those cities and villages because some of these taxes do come from those cities and villages. Another function that is required by LB962 is that the NRDs are required to come up with the first 25 million gallons that any municipality would need. And so as you get into those fully and overappropriated areas where everybody has to come up with their own water use,... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR FRIESEN: ...the NRD is responsible for bringing that first 25 million gallons. After that, I mean, they will work with different methods. Each NRD operates a little differently in supplying those needs. But we wanted to at the time make sure that a city or village could still be growing and adding citizens and adding water use. And if industrial use came, we wanted there to be a path for them to grow also. So there is a lot of distinct differences between NRDs and how they manage these funds. But again, I think all three funds do serve a purpose. Some NRDs have no access to the 3 cents. Some NRDs are not using it. So other NRDs have dropped their levy. They used it at one time. When they no longer needed it, they dropped using it. So you can't say, I mean, each NRD has to be responsible. We need to make sure we get good board members elected. Thank you, Mr. Lieutenant Governor. [LB98]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Hughes. [LB98]

SENATOR HUGHES: Thank you, Mr. President. I just want to kind of follow on the coattails of Senator Friesen. These are locally elected boards. They're the ones that set the budgets. They're the ones who determine the priorities for the NRDs. So it is their job to make sure that the taxpayer dollars are being spent wisely. There's a lot of difference between the NRDs across the state. Out west, too little water; on the east, too much water. We all have unique challenges. But this 3 cents that we're talking about is only for fully or overappropriated NRD districts. So it's very limited to make sure that the unique challenges of being fully or overappropriated are met. Our NRD system is a model for the nation. We have a lot of people who wish they had the local control over their water in their states. A lot of other states it's first in time, first in rights. In the state of Nebraska, the state of Nebraska owns water; therefore, we get to say how it is spent. For Senator Kuehn's piece of property that is in two different districts, we can expand on that. There are a lot of pieces of property that go across state lines. I've got people in my district that have a piece of land that lies in Kansas and Nebraska. And you want to talk about a difference in the

Floor Debate  
March 30, 2017

---

amount of property tax being paid--there's no row, there's no fence. They farm from one state back and forth all the time. You know, these lines that we're talking about are arbitrary lines drawn by man. They don't follow the contour of the land. Our NRD districts try to follow river basins, but they're not perfect because they're lines drawn by man. We talked about the \$10 occupation tax that we pay in my district and in my NRD and across my district. The \$10 an acre, I'm glad to pay that because without that, we would not be able to irrigate. And the economic impact on the state of Nebraska for the ability to irrigate out of southwest Nebraska is worth billions of dollars of commerce. The amount of corn, dry beans, sugar beets, sunflowers, potatoes, there's a lot of things come out of that corner of the state that are driving a huge amount of the state economy. And that's part of the reason why we're in budget troubles now is because the prices of those commodities are down. But this is a tool that we need to use. We need to give our local boards the authority to use as they see best. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Krist, you're recognized. This is your third opportunity, Senator. [LB98]

SENATOR KRIST: Thank you, Mr. President. First of all, let me correct something because I got a call from my NRD. I am not saying that the...that one in particular NRD did not want to fund. My NRD actually went to the collaborative to ask for the money for their project, and their project--and the one that I'm speaking of--is the levee system around Offutt that protects it. They were very active. My NRD was very active in trying to--the Papio I'm talking about--was very active in trying to protect Offutt. It was the rank order in how the money was spent. And also to correct the issue, when I said General Funds, we took it out of the rainy day. We took money out of our rainy-day fund, \$10 million, and they had \$18 million left at the end of the year--bad management, poor management. I would refer you, and we're having a discussion here about constitutional law, and I would refer you to the Nebraska Constitution and basically show you that this water that we're talking about does not belong to the NRDs to manage. Let me say that again. The constitution, the state of Nebraska, says this water belongs to the state. And reasonably, my definition of belonging to the state is that the management of the water rests with this body. I would say that rules, laws, regulations, policies, procedures for the management of water owned by the state of Nebraska resides, that responsibility resides here in the Legislature. We're shirking our responsibility in my opinion by moving the management of the water system to the NRD. Shirking is a strong word, you may say, but when you don't pay attention and apply oversight, as we have not done in the last few years, and allow somebody else to manage your water and then have all these funding mechanisms that those people have to manage your water, you have to at some point show some oversight. And that is our function: legislate, appropriate, and show the oversight. I realize that the issue that I'm talking about is on a macro level and this bill, LB98, deals with it on an individual micro level across the NRDs. But if you can't reasonably link or thread what I'm saying in terms of individual NRDs and how the NRD process across the state has managed that, I don't...I don't understand how you can't understand that. It is

Floor Debate  
March 30, 2017

---

an issue. It is an issue where we have people competing for water, competing for the money to manage the water systems, and it's not being spent, and potentially managed, properly. Now I understand that the organization has many competing requests for their funding and for their money but it would seem to me that people having clean drinking water would be one of those things that you would pay attention to. And when you rank order the projects across the state as a state organization, it would seem to me that saving Air Force bases that have 40,000-plus people working there and missions that are being executed out of there, having \$40 million, I'm sorry, of economic value in the local area, you would be paying attention to some of those things. [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR KRIST: Thank you, Mr. President. The problem is I don't think, in looking back in the track record, from what I've seen in the eight years that I've been here, that people: (1) understand water does not belong to the NRD, water belongs to the state of Nebraska, and it is our function to make sure that it's being managed correctly; (2) that the NRDs are not managing the water system across the state efficiently and correctly and, until they do, I'm not going to support any more tax benefit or additional funding to the NRD. I think they need to come in and justify every dime they're getting and make sure that the oversight in the Appropriations Committee is strong enough to say, you're not going to get your \$20 million this year. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Albrecht. [LB98]

SENATOR ALBRECHT: Thank you, President Foley. Colleagues, water is always going to be the number-one issue when it comes to natural resources. And I will tell you, back in 1998, when I served on the Papillion City Council, I learned very early on from our city engineer at the time, Mr. Dreesen with TD2 talked about expanding the growth of our city. We needed to make certain that, you know, we understood that water is a commodity. It's not something that is always going to be there for us. We have to protect it. But we also, to be able to grow a city of the size from Papillion going from what it was back then to what it is today, certainly we partnered with the NRD at that time. And we could not have done what we did with the growth of the city at that time without their knowledge and expertise. But on the other side of the story, I move up to northeast Nebraska and fast-forward 2007...or 2010, actually, to 2017, and what I heard while I was walking around on the campaign trail is that our district in particular had some major issues with the NRDs and their transparency. They had supposedly a list of ten different farming communities that they were looking at...I should say ten different farms. And one of them happened to be in our family and they weren't even knowledgeable that they were on the list of people being considered to put...to buy their farm out and put a large reservoir on it. So I'm listening with open ears to what people are thinking here today and I believe that it's extremely



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

Floor Debate  
March 30, 2017

---

important to know the history. For 18 new senators to come in and understand what happens with this group, the NRDs are...I mean, they have...they really do help in a lot of ways but we have to hold them accountable for their funding, we have to be able to understand what they're doing with their funds, because it is tax dollars. So I'm going to yield the rest of my time to Senator Kuehn if he would like to help us out in understanding more of the history. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Kuehn, 2:20. [LB98]

SENATOR KUEHN: Thank you, Mr. President. Thank you, Senator Albrecht. I appreciate the time. I've got a handout, which we've got to the pages, I believe, which will be getting around. I want to walk everyone through the core issue here which I think is, is this levy authority needed, is it essential, and do we ultimately inhibit the ability of the NRDs to manage groundwater in an effective way, preserving local control by not extending this sunset? And my assertion is going to be no, which is why I don't support LB98. That said, if we need to make it better or improve the legislation as we have this conversation, I think we will do so. So again, remember that we're talking about a specific subset of NRDs. Of the 23, we're talking about this 3 cent coverage only applying to those which are considered fully appropriated or overappropriated and that's ten of those NRDs. And not all of them are utilizing this 3 cent levy. So that then begs the question: Why this 3 cent levy as opposed to maximizing the levy limits in the other areas? And again, you'll remember, I walked you through that there is the base levy of up to 4.5 cents; there's the additional groundwater management levy of 1 cent; there's the ability to levy an occupation tax. And I think some of that has to do with marketing and that is what is...where do people talk about when they talk about what their levy is as you look at a news report or a media report? Well, our levy limit is 4.5 cents and we're only using 1.6 cents of our 4.5 cent levy but yet on your property tax statement it shows that they're really looking at 3.9, 3.97 cents because they're pulling out of the supplemental or they're pulling out of this additional 1 cent. So it certainly clouds the transparency for a property tax voter and a property taxpayer with regard to what the actual levy rate is and how it's being utilized in the budgeting process by an individual NRD. And as we look at all of these different collection of levies, levy limits, occupation taxes, bonding authorities, the fundamental question is, what's the comprehensive goal? Are we simply wanting to ensure that each of the NRDs has the ability to raise the... [LB98]

PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR KUEHN: ...generation...thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Erdman, you're recognized. This is your third opportunity, Senator. [LB98]

Floor Debate  
March 30, 2017

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SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. I've been listening to the conversation and I've had several ask about my comment about Will Rogers. And Senator Riepe shared with me the fact that Will Rogers once said that fat cats don't hunt, so there are several things that he said. But getting back to the issue at hand here, I don't understand what the necessary need of this 3 cents is. And maybe Senator Hughes can answer a question for me if he would. [LB98]

PRESIDENT FOLEY: Senator Hughes, will you yield, please? [LB98]

SENATOR HUGHES: Of course. [LB98]

SENATOR ERDMAN: Hello? Okay. Senator Hughes, explain to me, if you would, if you know, is there a project pending that if we eliminate this 3 cents that will not be accomplished, completed? [LB98]

SENATOR HUGHES: I'm not aware of all the projects that the NRDs across the state are undertaking, no, I don't know that. [LB98]

SENATOR ERDMAN: Yeah. I didn't mean to ask if you knew everything. I just wanted to know if you were aware of some. The next question is, if we do eliminate the 3 cents, those NRDs still have the opportunity to use the occupation tax provision, is that correct? [LB98]

SENATOR HUGHES: That's correct. [LB98]

SENATOR ERDMAN: So as I look at the whole total of everyone's mill levy or tax asking, there's one NRD that exceeds the 5.5 cents which is the 4.5 plus the 1. And so I would assume that those people who are now using the 3 cents and not using the full portion of their 4.5 could surely do that. But what I'm concerned about is if there's a project that would be unfunded or not be completed because we eliminated the 3 cents. That's an important decision. Just so for the record I'm clear on this, I am not opposed to the NRDs. I am not opposed to what they do. But I am opposed to property tax. And so consequently, I stand up here today to speak on the behalf of those taxpayers who contribute that 3 cents that, as I said earlier, everyone in the state has to tighten their belt, make a decision how we're going to get through this difficult time. And I would expect the NRDs to do the same. But I appreciate what the NRDs do. As I said earlier, water is important. We must have water. Nobody knows that better than a farmer. All the cities must have water. The city of Oshkosh is dealing with that issue right now. Their water has arsenic in it and they have to drill a new well field. So I understand those situations are grave for everyone and everyone needs water. But I can't see how this taking this 3 cents away is going to

Floor Debate  
March 30, 2017

---

change a whole lot of what the NRD does. But what it does do, it helps with some of the property tax, and albeit it won't be much because if they have levy authority left in the 4.5 cents they'll surely transfer it to that. But as you look at the average amount of taxes levied, the NRDs are not near the top of what they can levy. So I do appreciate their being conservative in that approach. But as we go forward, I think it makes sense for us to let this sunset. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senators Erdman and Hughes. Senator Kolowski. [LB98]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I just wanted to remind the body that last year I had a bill that was proposing to bring the bonding authority to all 23 NRDs. Senator Kuehn mentioned this earlier, that the Papio NRD has bonding authority and has used it very significantly in the metro area to prevent the flood control...to put into place all the flood control measures that we do in the metro area. And we continue to use that. That will be sunsetted in 2019 and we can extend it at that time as we continue to build the reservoirs and protect the property and lives in the metro area. But the Papio is the only one that has that bonding authority at this current time of the 23 NRDs. Last year I had a bill to try to extend that to all NRDs to give them the opportunity to match with the bonding authority they could have, or this 3 cents we're talking about now at this time, with the water sustainability money to do the projects that have been identified across this state that need to be done to keep the aquifer alive and well and pumping for the future. That bill got tied up on the floor late in the session and, seeing that we didn't have the votes, I pulled it. It lost favor over time as people had more time to talk about it and discuss it. I don't know why in the outlying districts that was the flavor that came up besides from the factor that people were probably asking and saying we don't need this, we don't need that, we don't see the big picture, therefore, it's not important to us. We went through a lot of work on that water sustainability committee. I was one of the nonvoting people, adjunct as a senator, one of the six senators that was on that committee and very involved in the discussions that went on. It was one of the finest experiences I've had in all of my career of reaching consensus and coming up with proposed projects for the state of Nebraska. Without that bonding authority, and now without this 3 cents, we might as well take most of--most of--the water sustainability projects and put them on a shelf until people start squawking about I don't have enough water, I'm being restricted in my water use, I'm being told not to use this much water. All those things are going to happen if we don't take care of this because we had a chance to get this done. And we're losing the information as we lose people in this body on a yearly basis. This goes back again to term limits, what we're living with, and what's happening to this body over time. Pretty soon the water sustainability issue will mean nothing to most people. It's important to us. I live in Omaha. We have too much water. For everyone else that wants water and wants it regularly, listen carefully to what we're talking about and where we're going and what we're trying to get done. We are backing you in your desire to have the needed water you need for your

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

Floor Debate  
March 30, 2017

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future. If we keep doing this, keep shooting this down and thinking that it's not important or bickering over taxes at a level... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR KOLOWSKI: ...that can do wonderful things for our state, then we're going to get what we deserve in the end if we don't remember where we've been and what we have to get done. I wanted to bring that up about the bill that I'll probably bring back next year. I wasn't going to do it this year. They're going to have to come to me next year and we'll talk about that as to the possibility of bringing back that bonding bill for all NRDs in the future. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Kuehn, you're recognized. This is your third opportunity, Senator. Senator Kuehn. [LB98]

SENATOR KUEHN: Thank you, Mr. President. Colleagues, I put out for you, it should be on your desks, some data and some information, so I want to talk specifically so you can get your eyes on some actual data. I know that...and for the people at home, I'm going to let the viewers who are watching know, a number of colleagues are going out because they're being pulled right now by the NRDs, so keep track of how your tax dollars are being spent to lobby for more tax dollars where this is a classic example of the insane treadmill of tax dollars used to lobby for more tax dollars that's happening right here. So as you see people come and going to go out into the lobby, let's talk specifically about what some of these issues are. So what I did, I would have loved to have done this in color but times are tight and we want to save some money on copying, so you'll notice there are some grayed-out cells that are there. And those are the NRDs that have hit a levy limit on one of these different buckets that I have talked about during my times on the mike. So remember, of the 23 NRDs, there are 6 of them that have hit some sort of maximum along the way. So we've got the first column which is the 4.5 cent limit that we've talked about. The next column is the 1 cent limit. We have then the 3 cent supplemental limit and then we have the ability that they have to do an occupation tax. Now remember, they still have the bonding option of which Papio-Missouri is the only one who has utilized that option together. So if you look at each of these, you see the kind of strange combination of levying that they're utilizing, and revenue sources, and recognize at the bottom, Upper Republican, which in fairness is Senator Hughes, is the only one who would possibly be affected by reducing this authority. So if you take, for example, and look at each of those, we've got a few that have reached the 1 cent limit on the 1 cent overage for groundwater management. But they have room in their 4.5 cent levy and if you took away the 3.0 supplement, the third column, they have adequate room within their 4 cent, 4.5 cent levy limit to accommodate the funding. At the same time, if you look at South Platte, which is the only one to hit the 4.5 cent limit, they still have ability in their 1 cent

Floor Debate  
March 30, 2017

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limit. They're not even using this 3 cent supplemental and they haven't taken a look at utilizing occupation tax or user fee dollars either. So if you sum up Upper Republican total, they would be at, if you took the 3 cents away and put them over into their 4 cent, 4.5 cent levy, they would be at 4.52. They would be the only NRD which would be...have any impact whatsoever at 0.02 of a cent on their levy with regard to funding options for maintaining their spending in managing Nebraska's groundwater. So what we're talking about here is extending a levy limit, an overage from the levy limit that is currently not being used that is not needed by any of the NRDs while still preserving four other funding options to meet their funding needs. So the question again becomes why: Why are we here talking about extending a sunset date which was put in place for a reason? And we're taking a look through the legislative history right now and trying to find out what the promises were made on the floor when this was originally put in place. But I think we can probably all be fairly confident that it was sold as here's this 3 cent overage to get us across the line, accomplish what we need to accomplish, but it's got a sunset date, right? So it goes away. And now we're here talking about extending the sunset and we need to ask ourselves, is the extension needed? Is the additional 3 cent authority being utilized? The answer is no. Is there a reasonable reason to assume that it has to be maintained through 2025? And the answer is no. So while I appreciate all of us who are trying to put amendments onto this bill in the hopes of making sure that if something does move forward to Select File that it is at least improved, ultimately the base bill here, LB98, the extension of the sunset and this additional authority simply is not needed. [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR KUEHN: We've heard a lot of euphemisms. We've heard a lot of ifs and buts and what-ifs and how can we and give them the options. We have yet to hear a realistic reason why this levying authority has to be maintained or any example of work managing Nebraska's groundwater in terms of quantity or quality that will not be maintained without extending this sunset date. It's an example of unnecessary extension, unnecessary levying authority, at a time when we're talking about transparency in taxes and ensuring that we're being reasonable and thoughtful about property taxes and we're ensuring that we understand the impact of the revenues we collect on working families, on farm families, on small businesses. This continued hodgepodge of levying authorities and obscuring it by continuing this sunset is counter to everything that we've been talking about all session and counter to what...the issues that we're going to be talking about over the next 30-some legislative days. [LB98]

PRESIDENT FOLEY: Time. [LB98]

SENATOR KUEHN: So take a look at this data, take a look at the information. If any of you have specific questions, I'm happy to answer them for you and walk you through again... [LB98]

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

Floor Debate  
March 30, 2017

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PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR KUEHN: ...with this information. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Kuehn, I misspoke earlier. You still have one more opportunity if you care to use it later. (Visitors introduced.) Senator Hughes, you're recognized, and this is your third opportunity, Senator. [LB98]

SENATOR HUGHES: Thank you, Mr. President. Colleagues, I want to point out a couple of clarifications here. Probably the reason that some NRDs are not fully utilizing their levy authority is because the value of the farmland has skyrocketed so they don't have to. If we hadn't...if ag real estate had not skyrocketed and had only gone up like housing, residential and commercial, they probably would be at their max levy. If you live in a school district that doesn't have a lot of ag land, your school district is probably at the max levy. That's why the NRDs aren't maxed out. You know, that's...it's just because there's so much value out there and that value is coming down. You know, the price of land in my district is coming down significantly. The levy that...the NRD's is going to have to go up because there is less of a resource base. One point that Senator Kuehn made that I would like to clarify is there are a lot of people in the lobby today. Yes, the NRD is out there. But Voices for Children is out there. The Food Bank is out there. There are lobbyists pulling senators out, talking about a lot of different things. So just because there's someone here advocating for a piece of legislation doesn't mean that it's not right. That's the system that we have. Extending the sunset on this bill is not a tax increase. I know that's what a lot of you are hearing. It's in place. This just gives fully and overappropriated NRDs the ability to continue to do the work that they need to do in order to provide water for the future for our kids and our grandkids. We need to have the tools available and unfortunately those tools cost money. Technology is the thing that's going to get us through this. We need to be much more efficient. So I again would encourage you to vote red on AM486 and green on LB98. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Watermeier. [LB98]

SENATOR WATERMEIER: Thank you, Mr. President. Good morning, Nebraska. I rise in opposition to AM486, Senator Groene's amendment, and I am in support of LB98. And I may ask Senator Groene a question here shortly if he's going too...it looks like he's in a panic, so I hate to slow him down. But let me just tell you, in general, Nebraskans need to feel really good about the water that we have in the state and how we've managed it. There was a comment made earlier I believe about how we have split duties in the state of Nebraska, and that is very accurate. In 1971, Nebraska, in a very, very close debate, hotly debated subject, created the NRDs. And what that basically did was put the NRDs in charge of the groundwater. The state of

Floor Debate  
March 30, 2017

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Nebraska is in charge of the surface water. And in some ways it's been plotted that that's a bad thing for Nebraska. Talk to other states about our situation with water. Now we are definitely blessed with an excessive amount of water under the ground, and we actually have more water that comes in the...and leaves the state than comes into the state. I think we have one, quote, 1:8 ratio. Eight times more water leaves the state through the river and the tributaries than it does come into the state. But talk to Minnesota about the issues they're having today with their water regulation. They would come down here and trade with us in a heartbeat even excluding the Ogallala Aquifer. Our regulation process is second to none in the country. Ask people in California how poorly their water was managed and what they've got left with is a drop. And I don't want to hide the fact that we are blessed with the Ogallala Aquifer. That is part of our benefit. But it's not the only reason we're head and shoulders above everybody else. So if I could ask Senator Groene a question about his amendment right quick I would like to do that. [LB98]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB98]

SENATOR GROENE: Yes. [LB98]

SENATOR WATERMEIER: Senator Groene, on your amendment here I said it specifically goes to where it cannot be used for interstate compact issues. That's what...you want to prevent these funds from the 3 cent levy to be used for those interstate compacts. What's your reasoning and your rationale for that? [LB98]

SENATOR GROENE: Because, if you were here when I opened on it, the state constitution and the State Supreme Court...this puts into law what the constitution says and what the Supreme Court ruled on. [LB98]

SENATOR WATERMEIER: Would you rather see the individual entities that are maybe not necessarily cause a problem but are purposefully trying to make it better, if they were overappropriated for that reason, where would you rather see that control be at? Do you think the state is better off at doing that or do you think that control would be better off locally? [LB98]

SENATOR GROENE: That's not the question. [LB98]

SENATOR WATERMEIER: Indirectly the question is because you're stating that you won't allow them to help with the interstate compact issue that the state is involved in. [LB98]

SENATOR GROENE: I won't allow them to do it illegally. The state constitution says they can't use property taxes for a state purpose. The Supreme Court agreed. So are you telling me that you

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

Floor Debate  
March 30, 2017

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want me to say, bend the rules, the end justifies the means? Senator Watermeier, I won't state that. [LB98]

SENATOR WATERMEIER: No, I'm not asking you to do that. I wanted you to clarify where you think the control needs to be at in the state of Nebraska. So thank you, Senator Groene. I appreciate that. [LB98]

SENATOR GROENE: Yes. [LB98]

SENATOR WATERMEIER: I'm going to still stand in opposition to Senator Groene's amendment. But I want the state to seriously think about where we are at in Nebraska. LB962 years ago was created with a big group of stakeholders. They spent a lot of time, a lot of effort. Even in my term in the Legislature here four years ago with Senator Carlson leading Natural Resources, with the water sustainability group, we spent a lot of time and effort on this and we somewhat affirmed where we were at in the state of Nebraska. I fully believe that this control mechanism needs to be given to these fully and overappropriated NRDs. There is no better system in the country. I admire what they are doing. They are taking the problem and they're doing the very best they can. And even for Senator Hughes to stand up and say that they're okay with--and I believe he said this earlier and he can correct me if he wants--as far as a \$10 tax, I admire the individuals that are taking the bull by the horns and getting this problem figured out. I am fully supportive of the 3 cent when it's specific to water issues. Yes, there are some NRDs that are not even up to their levy limit. But what they are doing is dedicating a certain budget to taking care of these interstate problems, to taking care of some of the problems that they would probably have to admit in court they caused. They overused their water. Well, as a small business person, they're taking responsibility for their questions and their issues. So with that, I stand opposed to Senator Groene's amendment and I'm for LB98. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Wayne. [LB98]

SENATOR WAYNE: Thank you, Mr. President. I'd like to yield my time to Senator Groene. [LB98]

PRESIDENT FOLEY: Senator Groene, 5:00. [LB98]

SENATOR GROENE: Thank you. Thank you, Senator Wayne. Thank you, Mr. President. This is not a debate on if NRDs are good or bad. They do have a purpose. They helped with erosion, soil erosion over the years by electing local individuals to manage terraces--well, that went through the federal government, too--and give out trees and watch the floods, the local creeks flood and



Floor Debate  
March 30, 2017

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put dams in for erosion and flood control. Out west they managed the groundwater and also we had wind erosion and they started programs. They do serve a good purpose. We are talking here about a 3 cent levy that is unnecessary. Senator Watermeier said we keep hearing about this 48 people on this task force that did such a great job, they did such a great job doing this. Well, that's the past. Things have changed. Laws have changed. A \$10 occupation exists. A lawsuit at the Supreme Court now exists. This law, the reason I could not get a budget...Senator Watermeier said they have projects that they budget with this money and if it...mine doesn't. The money blends. The 3 cents blends with the 4.5 cents. Why? Because if there was a document saying that we built a retention pond to put back in the river to satisfy the Republican or the Platte Compacts, it would be unconstitutional. The money blends. Senator Kuehn is correct. Most of them, the total dollars they are raising is under the 4.5 cents. Here's what politicians do and we do, conservative ones. You give me a 5 cent limit, I want to prove...or a 4.5 cent limit, I want to prove to you that I'm not a spendthrift so I go 4 cents. If you give me 4.5 plus 3 cents, 7.5, I will go 6.5 to prove I didn't go up against my credit card limit. Let's get them back to 4.5 cents. Let's make sure they are efficient, effective, and they're not throwing wild parties, because they don't have the money and they don't have the four-deep lobbyists out there behind the glass. That's your tax dollars out there. Our NRDs do a good job? Yes, but throwing threats around that they're going to save you from water, your water shortages, that's us combined as a state that we make sure we are sustainable with our precious groundwater. It is an unbelievable reservoir of the purest potable water in the world. Am I mad about it? Did I get elected by most of the farmers out there because my NRD and a few others are dumping--dumping--150,000 acre-feet into a creek? No time in the recorded history of man has man dug a well and dumped it in a creek. But that's what we're doing. I am upset with my NRD and until the management changes...they probably all voted for me because if I wouldn't have ran here I would have ran for the NRD and we would have had changes by now. But anyway, overall it is a good system but to control and send a message that we expect better,... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR GROENE: ...we expect effective government, we expect you to work on sustainability for our water for irrigated farming for the future. I'm not an environmentalist wacko. I am a steward of my natural resources. That's not happening now. They're building, in the process of building another pipeline from that well field to dump it into the Platte River, and I don't want to give them any money to do it. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Walz. [LB98]

SENATOR WALZ: Thank you, Mr. President. I have been listening to the concerns on both sides of this issue, and I'm really still thinking about how I'm going to vote. I do appreciate the

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

Floor Debate  
March 30, 2017

---

discussion and I certainly appreciate the education that I'm getting regarding this. I would like to yield the rest of my time to Senator Krist. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Walz. Senator Krist, 4:35. [LB98]

SENATOR KRIST: Thank you, Mr. President. And thank you for your courtesy, Senator Walz. I wanted to kind of wrap up some of my comments here. I think many of you that are listening to me and asking questions think that I was all over in terms of my concerns this morning. That comes from listening to these discussions for the past eight years and also being involved with the Papiio the way that I have been in function of Offutt and in function with the United States Army Corps of Engineers. If LB98 were Senator Kolowski's bill from last session that gave every one of those NRDs bonding authority up to a certain point, whatever that point would be, and I hope Senator Friesen is listening, but if it gave bonding authority, I would be voting green twice on this bill; I'd find somebody that wasn't here and punch their button as well. But this is not bonding authority. Remember what happens when you bond. The Papiio is the only NRD that has that bonding authority. And I am getting a shake of the head, yes, from Senator Kolowski, who was on that board, so I know it's correct. They have to go back to the vote of the people, local control. Local control, that's what we should be talking about here, not haphazardly giving some of our NRDs in some ways because they are appropriated, unappropriated, fully appropriated, whatever, giving them another 3 cents. We should be talking about giving them...if you want to give them tools that they can use, give them the bonding authority. Somebody put an amendment on there that says we're going to give another 2 cents bonding authority across the board to all NRDs and we're going to watch you very carefully to make sure that you are indeed--by the constitution, the water belongs to the state of Nebraska--managing that water, groundwater and well, in accordance with our wishes and our concerns and our oversight. I'll vote green. That's local control. That is local control in its purest form because, once again, all the citizens in North Platte and Scottsbluff and Banner County can vote yes or no. They can vote, yes or no, I'm going to give you money and you can bond and do the things you need to do. How I have come to this point, you heard parts of it this morning whether you agree with it or not. If you agree with part of my concerns...my experience, as I was told a long time ago, who you are is where you've been and what experiences you've had. So collective experiences and where I've been tells me today if that LB98 were bonding authority, I would vote green. But just to say arbitrarily you have an additional tax authority, I think we should think twice about that. Now AM486 doesn't do anything that the constitution doesn't already tell us we should do. It's reiterating what the constitution tells us. You can't mix/match the money and you can't spend the state money on a thing that is not state related. But we have to continue to remind ourself what the constitution says because I don't think...I don't think we read it enough. I don't think we understand what we already have in place. [LB98]

PRESIDENT FOLEY: One minute. [LB98]

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

Floor Debate  
March 30, 2017

---

SENATOR KRIST: Once again, thank you, Senator Walz, for listening to my discussion off the mike and for your courtesy in giving me some more time on the mike. But I hope you listen to the plain fact local control needs to be a factor in these decisions. And if we do believe in the NRD management process--and I think it's getting better, I don't think it's perfect--but if we do believe in the NRD management process, give them the tools but don't levy another tax on the citizens of the state. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Krist. (Visitors introduced.) Mr. Clerk. [LB98]

CLERK: Mr. President, a priority motion. Senator Groene would move to bracket the bill until June 2 of 2017. [LB98]

PRESIDENT FOLEY: Senator Groene, you're recognized to open on your bracket motion. [LB98]

SENATOR GROENE: Thank you, Mr. President. Bracket motions serve a good purpose. I've had a few senators which you hear a lot of times, and I've said it, too: I don't know enough about this. Hour and a half ago, I had no idea what we were talking about. Sometimes a bracket motion to send it back and for to allow senators to do more research on an issue before they raise the property taxes on my constituents, we'll put it back to June 2 and maybe it can come back next year. But this is not the time to tell the citizens of Nebraska that we're nonchalant about levies. I believe it was yesterday, if my...serves me right, my memory, there were some panicked, shy farmers in that lobby back there who, used to sitting in their tractor, came out and called senators out, begging for property tax relief. Many of you got called out. What kind of message do we send them the very next day? Well, this one is okay, this one is okay, we'll overlook this one, we'll extend this one for another ten years, when they've already extended it at least three times. The original bill said it was two years to get it passed. Then Langemeier, Senator Langemeier, brought it another five years and then I think it was Janssen who brought it another five years. It's fixed. It's not needed anymore. Like I said, a lot of things have happened, a lot of things have happened since we originally started this bill. That's what's wrong with government. Well, 48 guys got together and decided to do this, so we're supposed to honor it when evolution of time and situations change. It's time to get rid of this levy. Nobody is up against it. Senator Hughes made a good point. Land values have skyrocketed. Most of the valuation in NRDs is ag in most NRDs. But even at that, since 2006, natural resource districts have gone from \$48.7 million to \$78.3 (million), a 61 percent increase. This is on top of the ability of these NRDs that we talked...that's statewide, these NRDs that we speak of, the overappropriated, the ten of them that are overappropriated and fully appropriated, also taxing their farmers \$10 an acre, most of them, millions more. If money could solve the problem, it would be solved. What needs to change is the mind-set that we have a diminishing natural resource. And we need to work together,

Floor Debate  
March 30, 2017

---

statewide and NRDs combined that are in this situation, to seek sustainability, not hire lawyers to kick the can down the road, not hire lobbyists to call you guys out and offer you probably a dinner tonight. The mind-set needs to change. More money will not do it. More money allows them to kick the can down the road. So I would ask you for a green vote on the MO67, the bracket motion, and let's kick the can down the road. Thank you. But this time it needs to be done. I appreciate it. [LB98]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Friesen. [LB98]

SENATOR FRIESEN: Thank you, Mr. President. Let's bracket the bill. Let's take their spending authority away from them. And I want to know how many of you senators are then willing to someday dedicate state resources when we're short of revenue to work on water issues. Do you want to take it away from education? You want to take it away from Health and Human Services? This is a local issue. I'm a farmer. I've looked at this from day one as that we need to manage our resources. I feel responsible. They're managing acres. This is...it goes back to property taxes, and I have used this phrase before, that property taxes should be assessed commensurate to the services that that property receives. I'm receiving services on these acres. They're managing my supply so future generations can irrigate. They're helping my whole district, my whole area, the communities, the economic development that happens because of it, the ethanol plants that came because we increased our production because we irrigate. The seed corn companies that are out there, the jobs they've created are all based on us irrigating. I need to pay for managing that water. If I expect the state to do it, the state will tell me how to do it. And if we fail to put people on those NRD boards to do their job, that's our fault and someday the state will take over control and tell us how to do our water. That's not where I want to go. They're giving this 3 cents if they meet the criteria of having to manage an integrated water management plan; otherwise, they don't have access to it. If we take this away and I make them operate under the 4.5 cent lid, what if down the road suddenly another basin that's declared fully appropriated...and if they're near their budget limit at the time, if the Upper Big Blue would be building a dam or some other flood control project, we would not have room under our lid, we would be unable to come up with the dollars to fund the water management plan. Is the state going to contribute them? Are they going to send a few extra dollars? Maybe the university has got some to spare. But again, I feel this is a local issue. We are managing it local. We pay for it local. And, yes, I think the state needs to partner at times. That's what the Environmental Trust has done. That's what the Water Sustainability Fund has done. The state needs to be a partner in it, but I need to provide those matching dollars. And back when we were talking LB962 and we talked about those different funding methods, I always thought that there should be a match. Whether it's 50, 60 percent local, we can argue that, but the local districts have to have skin in the game. This is our issue. We need to work on it. We need to pay for it. Give them the tools to do it. If someday some NRD said, well, you know, we would have done a better job of managing our water resources but you took away some tools that we use, we couldn't do it, and so, I'm

Floor Debate  
March 30, 2017

---

sorry, we didn't get it done, state is going to step in and take it over and it's going to cost you money. Give them the resources they need. If anybody is complaining and whining about their NRD and you're ticked off about one NRD, get somebody on that board to fix it. Don't go destroy the system to try and fix one NRD. We've got cities who don't do a good job of managing resources. Do we just take care of all of them at one fell swoop and punish them all for what one did? [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR FRIESEN: We need to look at this as what they're doing, what the NRD system is doing and how they're managed. And if we want to maintain that system, let them fund themselves. Put people on those boards that are responsible. If they're not responsible, vote them out. Thank you, Mr. Lieutenant Governor. [LB98]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Hughes. [LB98]

SENATOR HUGHES: Thank you, Mr. President. Earlier during the discussion...I guess I rise to oppose the bracket motion from Senator Groene. Senator Erdman had asked me some questions earlier about projects, if I knew of any projects that would not get built if we took away this authority. I have been in contact with my local NRD, and they reminded me that they had three projects that they had applied for through the Water Sustainability Fund that were not taken. They were the next project up on the dividing line of what got funded and what didn't get funded. This 3 cents would be used as part of the cost share or the matching funds that are required when you do a project under the Water Sustainability Fund. So this 3 cents does come into play. And as I stated before, a big reason why most of these NRDs are not at their levy limit is because the ag land value has skyrocketed. And if they were taking their full advantage, there would be screaming going on and I would be one of them doing that because they would be taking advantage of a system, a flawed system. That is what's killing agriculture in the state of Nebraska today through the TEEOSA formula. But we need to remember that we're only trying to extend the sunset date. You know, one of the things when you get to the Legislature, why did this happen before? Why is it in place? What were the reasons that it was put in place? I think we've explored a lot of that territory, and I think it's very clear, especially with the amount of money that the state of Nebraska is willing to invest in our water across the state, is the Water Sustainability Fund. We put a lot of money into that. And hopefully we will continue to do that. But there also needs to be local buy-in, and they need to have the authority to do those things. And again I'll echo Senator Friesen's comments. This is local control. You know, the problem with government is one size has to fit all and that makes it very inefficient. By having local control, you have a lot better say of what the local problems are because the problems in my district are completely different than what they are in Senator Kolowski's district or Senator

Floor Debate  
March 30, 2017

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Baker's district. One size does not fit all especially, especially when it comes to water in the state of Nebraska. So again I would urge you to not support, to vote red on the bracket motion. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Krist. [LB98]

SENATOR KRIST: Thank you, Mr. President. A couple of corrections before I start. The Papio NRD has indeed spent over \$3 million on the levee project already and they plan on spending another \$7 to \$10 million before the levee project to protect and reinforce the levees around Offutt Air Force Base are actually complete. I wondered if Senator Hughes would yield to a question. [LB98]

PRESIDENT FOLEY: Senator Hughes, would you yield, please? [LB98]

SENATOR HUGHES: Of course. [LB98]

SENATOR KRIST: So I didn't tell you I was going to do this beforehand because I didn't hear your words on the mike and you came right before me. But in those projects in your local NRD, how many of them were millions of dollars? Do you know how much those were that fell below the line in terms of funding? [LB98]

SENATOR HUGHES: I believe the one that was at the cutoff line was a fairly large one. It was multiple millions of dollars. [LB98]

SENATOR KRIST: Okay. Thank you. And I appreciate that. And here is what I would say about that: \$18--1-8 million dollars--\$18 million left in the kitty at the end of the year not spent by the water sustainability collaborative board that was prioritizing that list last year. Mitchell is a town in Senator Stinner's district. They needed \$2.5 (million) if I remember correctly, and I can be corrected by anyone who knows that for sure, fell below the line. Eighteen million dollars available, \$2.5 (million) for one project, multiple million dollars for Senator Hughes's projects, partial funding could have happened. That's my problem with the management across the state. And I know you're going to say we're not talking about the total water sustainability or the collection of NRD, but who is on that NRD board? Who makes those cuts on that list? It's the NRD leadership and the individual NRDs that make up that board. Now the Water Sustainability Act changed that composite, or that equation, just a little bit. But, folks, I'm telling you, I was asked by Senator Wishart and Senator Walz a few minutes ago how I could confuse the two of them or if the two, if I was confusing the two of them, and I'm saying no. If I had a child...I don't want to equate the NRDs to my children because my kids are really bad kids. But if I had a child

Floor Debate  
March 30, 2017

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who was not going down the road that I wanted them to go down, why would I give them more allowance and reward bad behavior? So this is the last time I will talk about LB98, I promise, AM486, and the motion to bracket. I'm not sure we need to bracket it. But I'll go back again to the definition of local control for me is not just a person voting for a member on the NRD. It's actually voting for a bonding authority that says, yes, we need to do this. Is it an extra step? Is it cumbersome? But it gives the vote to the local people. It gives the vote to the people who are really being funded by those projects. Does it complicate this equation and this discussion? Yes. But as I said, if we would have voted for Senator Kolowski's bill during the last session, you would all have bonding authority and they would have another tool in their bag of tricks, in their toolbox. Just giving them additional taxing authority grates me the wrong way. I hope you consider that as part of my discussion on the mike today. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Kuehn. [LB98]

SENATOR KUEHN: Thank you, Mr. President. And, colleagues, I support Senator Groene's motion to bracket, MO67. And I think we need to just bracket this bill and move on. As I have described several times, I fundamentally oppose LB98 in terms of the extension of the authority. And I guess I don't disagree with the underlying philosophy that Senator Friesen shared with us. I think there's a little bit, maybe a lot, of hyperbole in regard to taking away local control. Nothing in failing to extend this sunset alters local control. It simply is saying that 3 cents over their levy limit is not going to be extended. And remember, this is, as we've provided you, the information, the documentation. Move away from platitudes and start talking about facts, dollars and cents. There isn't going to be anyone who has maxed out their levy limit at this point in time who has pulled all the levers at their option and at their disposal and without this will not be able to fund their needs to successfully manage their groundwater. We are simply saying, are we going to extend an unused authority to ten NRDs and give them a lot of excessive room if they so desire to increase property taxes on all of their property taxpayers, not just water users, not just landowners but on everyone who owns property, with this additional authority? I think we have to pay careful attention, again, to an idea which Senator Schumacher has been talking about a lot this session, and that is incrementalism within our tax policy. It's a bit here and a bit there. If we're wondering how we got to the point where 70-some percent of Nebraskans are saying their biggest concern is property taxes, right here is where it is, folks. It's where we say, why not extend it to a 3 cent levy limit, why not extend it over, why not keep going? Three cents here, 2 cents there, 1.5 cents there, that is exactly how we've gotten in the situation we're in. This levy limit, this overage from the 4.5 cent levy limit was put in place at a time when there were not other options. This Legislature and the senators who have come before us have given them additional options. It's not needed. They put a sunset on it for a reason. Let's let it sunset, increase the transparency and the levying authority that exists now so taxpayers know exactly what the levy is that boards are passing, so they can provide that feedback to their elected board members, so that the media understands when they're reporting what of the 4.5 cent levy

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

Floor Debate  
March 30, 2017

---

authority is actually being utilized, everyone is clear on what the ask is and what the benefit is. That's good tax policy. Continuing forward with multiple buckets and a little bit here and a little bit there and hodgepodging together a total levy limit, it's not transparent, it's not obvious, it's not conducive to good local control and good local government. Voting for the bracket motion or ultimately voting red on LB98 does not change local control; it does not change the ability of the NRDs to manage Nebraska's groundwater successfully. It does improve the line of sight between taxpayers, their elected officials, and all of us who are concerned about cost in government. It does take out unused levy authority that is simply sitting there that can come back at a point in time when we're not seeing it's happening and suddenly create a problem that we have to come in again as a Legislature and fix. I don't disagree with Senator Friesen's fundamental premise that we should have local control. But guess what? When things get tough and they can't work out their situations between each other, when they can't resolve issues between NRDs within a basin or whatever, who do they come to for help and additional funding? The state. We set the levy limit. We set the sunset. Let's leave it there for a reason. Let's let/allow the sunset to go into effect. Please vote green on the bracket motion and let's move on to other business of the state. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Walz. [LB98]

SENATOR WALZ: Thank you, Mr. President. And I am just opposite of what Senator Kuehn said. I stand in opposition of the bracket motion because I definitely feel that this is a very important issue. It affects not only our local communities but it also affects us statewide, and I think it's something that we all need to be educated on and really understand why we would be voting the way we would be voting. So I stand in opposition of the bracket motion purely because I think it's an important discussion and we need more education. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Walz. Senator Groene, you are recognized to close on your bracket motion. [LB98]

SENATOR GROENE: Thank you. This is a property tax issue. This is not a water issue. Senator Kuehn pointed out none of them are up against their limits. All the money is blended. Remember that, all the money is blended. So when they say they're taxing 2 cents of this one and 2 cents of that one, when they get it, it's blended because of the constitution. So if there's any project out there, which I doubt, that isn't funded that is funded supposedly by this, they can fund it with this. There's no, you can't do it with this money and you can do it with this money. It's blended. That's the answer to that question. So I'm going to ask you to vote green on the bracket motion. One more point. Local control? I like it. We, this body, gives all authority for local control. This body created the NRDs. This body has created the cities. This body created the laws that do the



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

Floor Debate  
March 30, 2017

---

counties. We create local control. We rein them in, we give them freedom. We are at the reins. In this case we need to rein them in. They need to come back to this body, as Senator Krist said, when they've got everything in order and they start acting like stewards of our natural resources again, all of them combined, and then they come back to this senator, I will consider giving them a little rein, a little head, let them go into a gallop again. But right now we need to rein them in. Thank you. So I would ask for a call of the house. [LB98]

PRESIDENT FOLEY: Thank you, Senator Groene. (Visitors introduced.) There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB98]

CLERK: 25 ayes, 2 nays, Mr. President, to place the house under call. [LB98]

PRESIDENT FOLEY: 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. Senators Kolterman, Stinner, Morfeld, Smith, Harr, Wayne, Chambers, the house is under call. Please return to the Chamber, Senator Ebke as well. Senators Stinner, Morfeld, Wayne, and Chambers, please return to the Chamber and record your presence. The house is under call. All unexcused members are now present. The question before the body is the adoption of the bracket motion. Senator Groene has requested a roll call in reverse order. [LB98]

SENATOR GROENE: (Inaudible) the other way. I'm sorry. [LB98]

PRESIDENT FOLEY: Regular order? [LB98]

SENATOR GROENE: I want to be able to vote sooner (laughter) so. I am a little scatterbrained. But anyway, I'd like to start with Senator Albrecht if that's the best way to say it. [LB98]

PRESIDENT FOLEY: There has been a request for a roll call vote in regular order on the bracket motion. Mr. Clerk. [LB98]

CLERK: (Roll call vote taken, Legislative Journal pages 849-850.) 19 ayes, 19 nays, Mr. President, on the motion to bracket. [LB98]

PRESIDENT FOLEY: The bracket motion is not adopted. I raise the call. Returning now to debate on LB98 and AM486. Seeing no members wishing to speak, Senator Groene, you're recognized to close on AM486. [LB98]

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

Floor Debate  
March 30, 2017

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SENATOR GROENE: Thank you, Mr. Speaker. Let's dispense with are you for the 3 cent tax or are you against the 3 cents tax, are you for property tax relief or are you "splitminded" that sometimes you're for it and sometimes you're not. This is a good amendment if the bill ever passed, which I hope it don't. But this does clear up the language. I would have thought the bill writers would have struck this language when they seen that the state constitution or the State Supreme Court said it was unconstitutional and to remind future users that they cannot use it for a state purpose. It's a good amendment. Pass it or not, my goal is to kill this bill because a sunset is a sunset, our word needs to be kept with the property taxpayers. Extending sunsets ought to be unconstitutional really because a sunset is set. If you want to increase a new tax, because this is a new tax, it's not an old one, it's a new one, by law this thing ends, it should go through the same process as every new tax increase. It's a new tax increase. It should go through hearings. It should be proven why they need it. I'm on the Revenue Committee. I think they thought they'd just sneak it through. They didn't come in a lot to testify for it, didn't organize any opposition because I didn't know it was coming. And if anybody is on a committee, you know bills come at you fast. But if this was a new property tax, the room would have been full, the room would have been full of individuals saying we don't want tax increases, enough is enough. But when you just roll over a sunset, it's easy. Let's not make it easy. Let's put an end to it. You can vote the way you want on the amendment. I'm going to vote green. But the goal is to kill this, to kill a property tax increase. It is a property tax increase for my citizens. So thank you, and I encourage a vote of green on AM486. [LB98]

PRESIDENT FOLEY: Thank you, Senator Groene. Members, you've heard the closing on AM486. The question before the body is the adoption of AM486. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB98]

CLERK: 21 ayes, 11 nays, Mr. President, on the amendment. [LB98]

PRESIDENT FOLEY: AM486 is not adopted. Mr. Clerk. [LB98]

CLERK: Mr. President, Senator Erdman would move to amend, AM819. (Legislative Journal page 850.) [LB98]

PRESIDENT FOLEY: Senator Erdman, you're recognized to open on your amendment. [LB98]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. My amendment, just basically the long and short of it, it strikes the date that's put in there to sunset in 2025 and '26 and leaves it as it originally was, '17 and '18. Senator Groene alluded to the fact that a sunset should be a sunset. I don't know that I would go as far as say it should be unconstitutional, but that's Senator Groene's opinion. I understand he has some. But as I look at this and I listened to what Senator

Floor Debate  
March 30, 2017

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Hughes had to say about those projects who may...that may not be accomplished if we eliminate the 3 cents. And so if Senator Hughes is still here, I may ask him a question if he would yield. [LB98]

PRESIDENT FOLEY: Senator Hughes, will you yield, please? [LB98]

SENATOR HUGHES: Of course. [LB98]

SENATOR ERDMAN: Senator Hughes, I don't want to put you on the spot or something you don't know, but can you tell me what you know about those projects? My question is, about those, what happens if we don't do that? Is somebody harmed? Is water going to be...groundwater going to be contaminated or what purpose do those projects serve? [LB98]

SENATOR HUGHES: There were three projects. I do not know the specifics on all of them. But the one that was closest to the cutoff level was aimed at reducing the amount of water that were being used to pump in the Upper Republican NRD to get us to sustainability in our groundwater in our water table. [LB98]

SENATOR ERDMAN: Okay. Thank you. So would that...would I...can I assume from that, that you're going to purchase some water rights and take that out of production? Would that be the procedure? [LB98]

SENATOR HUGHES: I...that's probably what was going to have to happen, but I am not...it's been a long time since I looked at that list. I apologize. [LB98]

SENATOR ERDMAN: Okay, thank you. Thank you. I'd like to share a little story about what happened a couple years ago when I was a Morrill County Commissioner. There was a landowner who wanted to put a perpetual easement on his land. And I asked the person who was going to place it there if he thought that perpetual easements were such a thing that he could tell what's good for this piece of property forever. And I gave him this example. In the early 1900s, Morrill County became a county. And let's say the first people who arrived in Morrill County looked around and they said this is great grazing land and we're going to put a perpetual easement in place and it says we can only graze cattle in Morrill County. Fast-forward 110 years later and we have a bunch of people there that are farming and bunch of businesses and we have a county courthouse. We have all those things that were built there. Had that easement been in place, we would have none of that. So I asked the gentleman if he knew forever what that land should be like. And so what happens in that case is someone decides that forever this land has to be just like this. The point is no one is that smart to understand what is going to happen even 10,

Floor Debate  
March 30, 2017

---

20 years from now. We put perpetual easements in place and we prohibit people from doing certain things that down the road we may discover that that was a detriment. And so what happens a lot of times is we perceive, have a preconceived notion that we know what's best forever. And some of these projects that we think are in dire need to be completed, buying a dam, whatever it is we think we need to do, in reality, if we don't do it, we don't understand exactly what may happen. It may be nothing. So a lot of these projects that need to be done have specific purposes and I understand that. Protecting groundwater is important; protecting water usage and consumption is important. I understand that. What we're talking about today is property tax. We're not talking about eliminating NRDs; we're not telling those people how to do whatever they do. We're saying that you can do it within these parameters of the 5.5 cents that you're allowed. There is the occupation tax that they can use if they get past that 5.5 cents and they need more funding. And I understand what the occupation tax does. That is a provision that's available for them. I am not opposed to the NRDs. I think they've done a marvelous job of protecting our groundwater and doing the things they need to do. The point is a sunset is a sunset and that's what this amendment does. It lets it sunset in '17 and '18 and I'd appreciate a green vote on AM819. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Kuehn, you're recognized. [LB98]

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. As we move forward and we look at AM819, essentially Senator Erdman's, as he explained, his amendment returns the sunset date to where it is, which was the original intended policy, in the absence of really any compelling reason or evidence at this point as to why we need to extend this sunset and this unused levy authority up through 2025. I do have some numbers that I would like to bring up. But before I do so, I want to recognize Senator Walz made a very good point that, as someone who has been here for a while and this is an issue that I've worked on for several years, I need to just clarify. And I think she made an excellent point for the body and that is she needed some more time to discuss this and think about it before she made a vote on the underlying bill with regard to the bracket motion. And I want to say that's a great sentiment and I appreciate her thoughtfulness and willingness to say, I'm not sure where I'm at on this, I need a little bit more time. And for those of us who this is an issue we deal with on a daily basis, it's often very easy for us to jump ahead and assume everyone is at the same base level of comfort with the information that we have. So I appreciate Senator Walz taking that moment to clarify and be deliberative with the body. With regard to the question of are we going to be able to fund the necessary functions to manage water without this extension of this 3 cent levy, I think that's the fundamental policy question that we're getting to which is, will we be able to meet the obligations, will this put NRDs in a financial bind and an ability to do what they need to do? And along with that has come this discussion, which we've talked a lot about with regard to property taxes, which is levy limits and increased valuations. And it's important for us to remember that property tax collected, the dollars going in to run a political subdivision, is the sum of the

Floor Debate  
March 30, 2017

---

product of the valuation times the levy. And we all know what's happened with regard to valuations; whether you're a homeowner in west Omaha or you're an ag landowner in Kearney County, you know the skyrocketing valuations, yet our...we're now talking in the face of skyrocketing valuations, extending a levy limit and continuing to allow unused levy authority to be present even in the face of these skyrocketing valuations. And with regard to what this has meant in terms of inflation-adjusted real dollars, let's look at what additional funding has been put into NRDs via property taxes over the last decade. If you look at a 2005 to 2015 adjusted for inflation, so after we've taken inflation to account, we're talking about a 46 percent increase in the actual dollars collected and spent. We look at some of these individual NRDs which are utilizing this 3 cent limit but not filling their other limits. We're seeing a, in some cases, you know, my home NRD, Tri-Basin, 264 percent increase over a decade in property taxes collected after inflation for adjusted, 264 percent. Central Platte, one that you notice on the handout: 105 percent. Upper Republican, which is maxed out: 170.6 percent. Lower Loup: 145. North Platte: 48.6. South Platte: 143.2. We're talking about giving additional and extending levy authority during an era of escalating valuations that has resulted in double-digit increases, in some cases triple-digit increases, over a decade in the total taxes collected. I think Senator Groene said it right. This is not an issue of water. This is an issue of tax policy and how we handle unused and unfilled levying authority and how much of that levying authority... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR KUEHN: ...in a very special bucket that we're going to extend forward without fulfilling our responsibility as a Legislature for ensuring that it is spent appropriately and that it's not compounding what we all recognize as a current problem associated with property taxes. These are the numbers, so don't be caught up with the fear of what if and, holy moly, we're just not going to have the ability to manage groundwater at the local level or we're going to somehow or another hamstring NRDs. This is about our responsibility as a Legislature when it comes to levying authority. And if we're just going to extend unused levy authority to NRDs, maybe we should be intellectually honest with ourselves and just get rid of levy limits altogether. If the idea is pure local control, let them spend it how it is, why do we have levy limits to begin with? Because we know what happens if we don't and it is a prudent and responsible action of this Legislature to allow these levy limits to sunset as appropriate. [LB98]

PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR KUEHN: Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Items for the record, Mr. Clerk. [LB98]

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

Floor Debate  
March 30, 2017

---

CLERK: Mr. President, a hearing notice from the Natural Resources Committee regarding a confirmation hearing. Amendments to be printed: Senator Kuehn to LB98; Senator Smith to LB263. An announcement, Mr. President, the Special Committee on the Election Challenge will meet at noon in Room 1524. Name adds: Senator Craighead to LB91; likewise, Senator Wishart to LB91; Senator Blood to LB267, LB427. (Legislative Journal pages 850-852.) [LB98 LB263 LB91 LB267 LB427]

Senator Craighead would move to recess the body until 1:30 p.m.

PRESIDENT FOLEY: Members, you've heard the motion to recess until 1:30. All those in favor say aye. Those opposed say nay. We are recessed.

RECESS

PRESIDENT FOLEY PRESIDING

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

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Are there any items for the record?

ASSISTANT CLERK: Not at this time.

PRESIDENT FOLEY: We'll now proceed to the 1:30 item on today's agenda, General File, 2017 Senator priority bills. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB535, introduced by Senator Hughes. (Read title.) Bill was introduced on January 18. It was referred to the Revenue Committee. That committee placed the bill on General File with amendments. (AM203, Legislative Journal page 710.) [LB535]

PRESIDENT FOLEY: Senator Hughes, you're recognized to open on LB535. [LB535]

SENATOR HUGHES: Thank you, Mr. President. Good afternoon, colleagues. LB535 would exempt oil, gas, and mineral leases which includes an easement from existing requirement that

Floor Debate  
March 30, 2017

---

Form 521 be filed with the register of deeds. Such leases are recorded with the register of the deeds pursuant to state statute 57-208, and because such leases do not affect the ownership or the value of the land, filing the Form 521 is unnecessary. An easement is simply a right granted by the landowner for the use of real estate for a limited purpose. An easement does not affect the ownership of the land. Recent amendments to the definition of deed in state statute 76-203 unintentionally caused easements to fall under the definition of deed. State statute 76-203, which now includes, and I quote: every written instrument by which any real estate or interest therein is created. Therefore...end quote. Therefore, the Department of Revenue instructs county register of deeds to require real estate transfer statements, commonly referred to as Form 521s, be filed with easements, in this instance an oil, gas, or mineral lease, at the same time they are recorded even though the ownership of the property is not transferred nor does the value change. Form 521 identifies the owner and the purchaser, any tax, a description of the property, and the price paid. The reported price becomes part of the property tax valuation mechanism. For oil and gas...for oil, gas, and mineral leases, the lease itself does not trigger a change in the property value. Only when oil, gas, or mineral has actually been found to exist can a value for that oil, gas, or mineral be determined. Oil, gas, and mineral companies file numerous lease agreements and argue that Form 521 filings serve no useful purpose and are overburdensome. LB535 would exempt oil, gas, and mineral leases from filing the Form 521 requirement. I do support the committee amendment and the amendment that Senator Harr would like to add. In visiting with Larry Dix from NACO, he said he asked all of the assessors in the state of Nebraska if there were any concerns with the elimination of filing the 521 for oil and gas leases, and he had no response. I would certainly encourage your adoption of the amendments and LB535. Thank you, Mr. President. [LB535]

PRESIDENT FOLEY: Thank you, Senator Hughes. As the Clerk indicated, there are amendments from the Revenue Committee. Senator Smith, as Chair of the committee, you're recognized to open on the committee amendment. [LB535]

SENATOR SMITH: Thank you, Mr. President. And good afternoon, colleagues. At the request of Senator Hughes, the Revenue Committee has proposed AM203. AM203 would expand the exemption to include "any subsequent assignment of an easement or such lease." Again, as explained by Senator Hughes, LB535 would no longer require leaseholders to file a Form 521, a real estate transfer statement, and the committee amendment would include the subsequent assignment of any easement or lease. That is all there is to this amendment, colleagues, and I ask that you advance AM203. Thank you, Mr. President. [LB535]

PRESIDENT FOLEY: Thank you, Senator Smith. Debate is now open on LB535 and the committee amendment. Senator Krist. [LB535]

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

Floor Debate  
March 30, 2017

---

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. I just wanted to make sure this one took 11 minutes for you to get by. Could you just give that to me in English again? What are we trying to do here? [LB535]

PRESIDENT FOLEY: Senator Hughes, would you yield, please? [LB535]

SENATOR HUGHES: Of course. When an oil or gas company comes into an area, they want to lease a big block of land so normally, in my part of the country, that's 80 acres of 160 acres. Very rarely does a block of land contain more than that. So there's a...that is listed as a parcel. They want to lease thousands of acres. So they would have to list this form for every single parcel so that could be four or eight or more per section of land, and they literally want lots of sections. So it's just a paperwork reduction. And there was a change in the law a couple of years ago that triggered this to happen. Department of Revenue said, yes, it has to be filed. The assessors that I've talked to and what Larry Dix from NACO indicated, they don't look at it. It's filed and it's recorded, but the assessor has no need to look at it. [LB535]

SENATOR KRIST: Is this aimed at some more property tax relief? [LB535]

SENATOR HUGHES: There's no dollars here at all. The value of the land does not change until there is production indicated. [LB535]

SENATOR KRIST: Okay. Thank you. And I wondered if Senator Smith would yield to a question. [LB535]

PRESIDENT FOLEY: Senator Smith, will you yield, please? [LB535]

SENATOR SMITH: I will. [LB535]

SENATOR KRIST: In your introduction you said that this amendment came at the request of Senator Hughes on the issue. Did the committee have any questions about the additional amendment? [LB535]

SENATOR SMITH: Yes. When we originally "execed" on the bill there was a good discussion in committee Exec and it was through some give-and-take inside of the committee that I believe that this came back to Senator Hughes and he agreed to bring this amendment. [LB535]



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

Floor Debate  
March 30, 2017

---

SENATOR KRIST: Okay. I thank you both for your courtesy. And thank you, Mr. President. [LB535]

PRESIDENT FOLEY: Thank you, Senator Krist, Senator Hughes, and Senator Smith. Seeing no other members in the queue, Senator Smith, you're recognized to close on the committee amendment. He waives close. The question before the body is the adoption of committee amendment, AM203. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB535]

ASSISTANT CLERK: 37 ayes, 0 nays on adoption of committee amendments. [LB535]

PRESIDENT FOLEY: The committee amendments are adopted. Mr. Clerk. [LB535]

ASSISTANT CLERK: Mr. President, Senator Harr would move to amend with AM795. (Legislative Journal page 845.) [LB535]

PRESIDENT FOLEY: Senator Burke Harr, you're recognized to open on AM795. [LB535]

SENATOR HARR: Thank you, Mr. President. Members of the body, AM795 was originally LB535. I want to thank the Senator Hughes for allowing me to amend this onto his LB5...excuse me, it was LB38, LB38. I want to thank Senator Hughes for allowing me to amend this onto his LB535. This also has to do with the register of deeds. This is a simple, straightforward change that authorizes individuals to submit documents for recording with digital or electronic signatures to the office of the register of deeds. Many register of deeds already accept these. These just clarifies the law that says it is explicitly allowed but not required that it is an electronic signature. This passed out of committee on a...to General File on an 8-0 vote. This is supported by the Nebraska Land Title Association and there is no fiscal impact associated with this change. With that, I would ask for your support on AM795 to LB535. Thank you, Mr. President. [LB535 LB38]

PRESIDENT FOLEY: Thank you, Senator Harr. Seeing no members request...whoops, excuse me. Senator Pansing Brooks, you're recognized. [LB535]

SENATOR PANSING BROOKS: Yes. Thank you, Mr. President. Is the Speaker in the room? [LB535]

PRESIDENT FOLEY: I do not see Speaker Scheer at the moment, Senator. [LB535]

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

Floor Debate  
March 30, 2017

---

SENATOR PANSING BROOKS: I guess what I'm just interested in is that this comes from two different committees, and we had been told that we cannot amend two bills that are from different committees, so I'm just trying to...could Senator Hughes answer a question? [LB535]

PRESIDENT FOLEY: Senator Hughes, would you yield, please? [LB535]

SENATOR HUGHES: Of course. [LB535]

SENATOR PANSING BROOKS: Are you aware of the rule that the Speaker created that we can't merge bills from separate committees? [LB535]

SENATOR HUGHES: I don't recall him saying that but I...if you remember it, we're at a draw. [LB535]

SENATOR PANSING BROOKS: Okay. What about Senator Smith? Or Senator Harr, do you remember that? [LB535]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB535]

SENATOR HARR: As a member of the Rules Committee, I'm not familiar with any rule that prohibits that. [LB535]

SENATOR PANSING BROOKS: Okay. How about Senator Ebke? [LB535]

PRESIDENT FOLEY: Senator Ebke, would you yield, please? [LB535]

SENATOR PANSING BROOKS: Senator Ebke, didn't we have some bills that we were trying to put together from two different committees and then we were told, no, we weren't supposed to do that in Judiciary? [LB535]

SENATOR EBKE: I think we were basing that on last year's precedent. There was a bill that was... [LB535]

SENATOR PANSING BROOKS: Okay. [LB535]

SENATOR EBKE: ...added on last year. [LB535]

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

Floor Debate  
March 30, 2017

---

SENATOR PANSING BROOKS: Okay. Senator McCollister. [LB535]

PRESIDENT FOLEY: Senator McCollister, would you yield, please? [LB535]

SENATOR McCOLLISTER: Yes, thank you, Mr. President. I did, in fact, ask Speaker Scheer about that this morning and he told me that wouldn't necessarily be verboten. [LB535]

SENATOR PANSING BROOKS: Okay, it is not? [LB535]

SENATOR McCOLLISTER: It is not. [LB535]

SENATOR PANSING BROOKS: Okay. I just want to make sure that on the record that we have that this is possible and that all of a sudden we don't have somebody and they say, oh, well, you cannot combine two bills from different committees, so just... [LB535]

SENATOR McCOLLISTER: Well, seems to me it's fait accompli since it's fair. [LB535]

SENATOR PANSING BROOKS: Yeah. Well, it looks like. So I want to make sure that we are clear that this is an intentional act, that nobody later says, oh, well, we didn't mean to do this. So, okay, thank you very much, Mr. McCollister. Thank you, Mr. President. [LB535]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Harr, you're recognized to close on your amendment. [LB535]

SENATOR HARR: Thank you, Mr. President. And thank you, Senator Pansing Brooks, for bringing that up. That is a first impression to me. I have not heard that. Having read the rules and we debated the rules for a good, fun 30 days, I don't recall that ever being brought up or being an issue. If it is, and it kills LB or causes a slowdown of LB535, come Select I'll ask that we amend it and take AM795 off. It is not my intent to weigh down LB535 in any way possible. The intent here is to streamline our register of deeds office, whether that's filing a 521 Form, which LB535 eliminates, or allowing them to accept electronic signatures. But it is not my intent to slow this bill down. So with that, I would ask for your support on AM795. [LB535]

PRESIDENT FOLEY: Thank you, Senator Harr. Members, the question before the body is the adoption of AM795 to LB535. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB535]

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

Floor Debate  
March 30, 2017

---

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of the amendment. [LB535]

PRESIDENT FOLEY: AM795 is adopted. Returning to debate on LB535. Seeing no members in the queue, Senator Hughes is recognized to close. He waives closing. The question before the body is the advance of LB535 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB535]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill. [LB535]

PRESIDENT FOLEY: LB535 advances. Next bill, Mr. Clerk. [LB535]

ASSISTANT CLERK: LB91, introduced by Senator Hilkemann. (Read title.) Bill was introduced January 5 of this year, referred to the Health and Human Services Committee. That committee placed the bill on General File with committee amendments. (AM331, Legislative Journal page 563.) [LB91]

PRESIDENT FOLEY: (Visitors introduced.) Senator Hilkemann, you're recognized to open on LB91. [LB91]

SENATOR HILKEMANN: Thank you, Mr. President. I offer for your consideration my priority bill, LB91, which would modernize terms in existing statute and add a definition for pharmaceutically manufactured foods. LB91 also changes the fee that is set by the Department of Health and Human Services for the administration of the Newborn Screening Program to no more than \$20. The current fee of \$10 has been in place since Nebraska screened six diseases in its newborn screening. Today we screen for 29 different metabolic and genetic diseases and the program has not received an increase in this fee for the administration of the program. These recommendations, as well as the additions of the three disease screenings you will see in AM331, which will be discussed next, were all proposed by the Newborn Screening Advisory Committee. This committee is made up of 23 people, including neonatologists, a family physician, pediatric pulmonologist, pediatric endocrinologist, pediatric hematologist, dieticians, metabolic specialist, pediatric genetic endocrine and metabolic specialist, pathologist, pediatric allergy and immunology specialists, clinical pathologist, parents, and representatives from the Nebraska's Children's Metabolic Clinic, the March of Dimes of Nebraska, and the Nebraska Hospital Association. The Newborn Screening Program in Nebraska is celebrating its 50th anniversary this year. It got started in 1967 with testing of a condition you've heard of or known as phenylketonuria or PKU. When not diagnosed and treated, PKU causes severe developmental disabilities. But babies diagnosed and put on special formula in their first seven days can have a life like any other. In 2015, 27,000 babies in our state were screened for those 29 diseases, and 58 newborns were identified with conditions and treated in time to prevent or reduce problems

Floor Debate  
March 30, 2017

---

associated with those conditions. That's 58 children who otherwise would be facing unimaginable challenges, hardships, and death at far too young of an age. It's also 58 families whose expenses for care would be exorbitant and could potentially fall to the liability or responsibility of the state of Nebraska under our Medicaid Program. Senator Riepe will open on the committee amendments here shortly. Once he's had the opportunity to open, I look forward to telling you of why it is important that we adopt this amendment and move LB91 to Select File. Thank you, Mr. President. [LB91]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. As the Clerk indicated, there are amendments from the Health and Human Services Committee. Senator Riepe, as Chair of the committee, you're welcome to open on the committee amendments. [LB91]

SENATOR RIEPE: Thank you, Mr. President, colleagues, and all the guests that are with us today. First, I would like to say that newborn screenings are very important, as Senator Hilkemann has said. Newborn screening is done for every baby born in Nebraska. A set of blood tests are done to find conditions that could be harmful to the newborn. Even after a baby is born there are usually no signs or symptoms so parents cannot tell whether or not their baby may have a condition. Newborn screenings have been around since 1960s. AM331 adds X-ALD, MPS-1, and Pompe disease to list of mandatory screening for newborns. I have reviewed the fiscal implications of AM331. My understanding from the department and Legislative Fiscal Office is that with the increased fees in LB91, the General Fund impact for LB401 will convert from a General Fund impact to a cash impact...cash fund impact. I am now supportive of AM331. However, I do suggest that we continue this review of newborn screenings to an interim study, and Doctor or Senator Hilkemann and I have discussed this, to determine what tests are best for Nebraska's newborns. There are an additional 30 federal recommended secondary screenings, and I believe we should proceed in a logical manner, not just based on individual constituents coming in and adding test by test but looking at the bigger picture. I ask you to vote green on AM331 and green on the underlying bill of LB91. Thank you, Mr. President. [LB91 LB401]

PRESIDENT FOLEY: Thank you, Senator Riepe. Debate is now open on LB91 and the committee amendment. Senator Hilkemann, you're recognized. [LB91]

SENATOR HILKEMANN: Thank you, Mr. President. As you heard from Chairman Riepe, AM331 would add three diseases to the already existing Newborn Screening Program. Those diseases are X-linked adrenoleukodystrophy, or X-ALD; mucopolysaccharidosis type I, or MPS-1, as it's referred to; and Pompe disease. I could spend the rest of the day and we could talk about those, but let's talk about the bill itself. At the national level, these three diseases have been added to the Recommended Uniform Screening Panel, or RUSP, by the United States Secretary of Health and Human Services. These three diseases were recommended to the Secretary by the

Floor Debate  
March 30, 2017

---

Advisory Committee on Heritable Disorders in Newborns and Children. By law, this committee includes the administrator of the Health Resources and Services Administration, the director of the Centers for Disease Control and Prevention, the director of the National Institutes of Health, the director of the Agency for Healthcare Research and Quality, the Commissioner of the Food and Drug Administration, and others. There is an arduous process for adding diseases to the RUSP, including the following three criteria: number one is that there is documented medical benefit to the affected infant from early detection and treatment; number two, that the screening test itself of the disorder is reliable; and number three, that by early detection these newborns can be treated and their lives improved. At the state level, it has been recommended by the Nebraska Newborn Screening Advisory Committee, through expert subcommittee recommendations on these diseases. This subcommittee was comprised of a pediatric metabolic genetic endocrinology specialist, clinical pathologist, and others who evaluated the disease screenings on four essential criteria. The targeted disease has significant mortality and morbidity in the neonatal infant or childhood period when it is not diagnosed presymptomatically. Secondly, the targeted disease is not consistently identified clinically on the neonatal period, either not prior to symptoms appearing or symptoms are so nonspecific they are generally precluded early diagnosis, or physiologically the disease is progressing and damaging, is occurring insidiously but the signs and symptoms are not apparent. Third, the individual can benefit from presymptomatic diagnosis and/or treatment in infancy and childhood. And fourth, an affordable, effective screening method that is both sensitive and specific is available. Until a couple of years ago, I was unaware of the amazing group of individuals who make up the Newborn Screening Advisory Committee in our state. It was all due to a constituent who contacted my office and requested a meeting with me. Her name is Meghan. We met for coffee and she told me of her story of X-ALD. Meghan is a carrier of X-ALD. She wasn't tested as a baby. [LB91]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB91]

SENATOR HILKEMANN: Instead, she found out after her father became ill, was diagnosed, and eventually died from the complications of X-ALD. He had AMN, which is called adrenomyeloneuropathy. It's a genetic neurodegenerative disease. And many of you are very familiar with ALS. ALD presents many similar symptoms. There are marked...there are three types of manifestations in this disease. The women are the carriers; the men are the one who get the disease. The earliest stages occurs in young children. They're frequently misdiagnosed up-front because they think they have some learning disability, and by the time they get the diagnosis at generally 9 or 10 it's too late, and most of the time they're dead by the age of 12 or 13 years of age. And the adult form, it starts when they're about 40. [LB91]

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

Floor Debate  
March 30, 2017

---

SPEAKER SCHEER: Time, Senator. Time, Senator. [LB91]

SENATOR HILKEMANN: Thank you. Mr. Speaker. [LB91]

SPEAKER SCHEER: Thank you, Senator Hilkemann. Senator Brasch, you're recognized.  
[LB91]

SENATOR BRASCH: Thank you, Mr. Speaker. And I stand with a few questions on this bill yet. Science is a wonderful thing. We have new paths discovered every day, and I believe this is a path that will help the infants. The reason I stand is I did ask Senator Hilkemann about this is I do see that...and from what I'm hearing, to avoid the fiscal note the fee has almost doubled. And as I'm reading the note in there, it talks about for the tracking, for etcetera. I do believe it's technology that does the tracking, and so when the fee used to be up to \$10, and now the fee is up to \$20, and I understand the hospital will pay this fee, but who pays the hospital? I believe it will all come back to the individuals who enter that hospital. Would Senator Hilkemann yield to a question, please? [LB91]

SPEAKER SCHEER: Senator Hilkemann, would you yield, please? [LB91]

SENATOR HILKEMANN: Yes. [LB91]

SENATOR BRASCH: Senator Hilkemann, I do thank you for introducing this bill and I do see value in it, but I do question the increase and whether it is truly needed to increase it from...to double it, basically. Can you explain what is...will be cumbersome or involve personnel other than technology to increase this? Do you believe they could do it without the fee increase?  
[LB91]

SENATOR HILKEMANN: Senator, the answer to that question is, no, they would not be able to do it without the increase. As I mentioned earlier, this fee was set when we had...we were testing six diseases. We are now testing 29. The staff is...already feels it's at its max and it had...they're overworked. That's part of why we brought the bill. We were bringing this bill as well, that it was separate. We put these two together to work this. But I think that it's very justified when you go from 6 to 29 tests. We add these 3, it's 32. I think that that was established back in the early 1990s, maybe even before then, and so therefore I think it's quite justified. It doesn't say it goes to \$20. It said it could go to \$20. [LB91]

SENATOR BRASCH: Exactly, and that's why I question on...and must it go to \$20, because it was up to \$10 and now it is up to \$20. And it makes me wonder, again, during a economy where

Floor Debate  
March 30, 2017

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individuals are stressed, institutions, that do we need to ask for more fees during a period of time where individuals are trying to keep more of their own dollars. And even though you explained it's the hospital that will pay these fees, with the words "up to" I believe a real dollar amount could be specified. And with that I could potentially support this, but with the fee increase it makes it very difficult. I have no other questions. Thank you, Mr. Speaker, and thank you, colleagues. [LB91]

SPEAKER SCHEER: Thank you, Senator Brasch and Senator Hilkemann. Senator Crawford, you're recognized. [LB91]

SENATOR CRAWFORD: Thank you, Mr. Speaker, and good afternoon, colleagues. I rise in support of LB91 and AM331. I appreciate Senator Hilkemann bringing this bill to us and I appreciate his effort to work with families who have seen the benefits of these infant screenings and families who have experienced harm from not having instant screenings and working with those individuals in our state who are assessing the evidence. And so I especially appreciate that LB91 with AM331 is seeking to improve the evidence-based choices that we're making as a state in terms of what our public health policies are on infant screenings. I appreciate Senator Hilkemann's work on that. And I, as a member of the Health and Human Services Committee, we have the opportunity to be at this hearing and hear some of the stories. And I would also say I've been honored, as a member of the Health and Human Services Committee, to at times have someone come back to our committee and tell us stories about what a difference a particular screening has made in their lives. And it was just last year we were in a hearing on a confirmation and someone at that hearing talked about how important a hearing screening was that was one of our required screenings, and what a difference it had made in their child's life and the family's life to have caught that hearing early, and what that was able to do. I would like to share with you a story from one of the testifiers, and she has given me permission to share this story with you as well, about the screenings that we have here in LB91. My name is Jennifer Henning. My son Connor Henning, "Con Man," has the disease called Pompe disease. Baby Connor was born nine weeks early and spent the first month of his life being cared for by the Bergan Mercy NICU team. Due to several failed car seat tests, the staff required Connor to go home with an apnea monitor. Days after we brought Connor home, he went into cardiac arrest. Thank God for that monitor and those wonderful angels at Bergan NICU who were concerned enough to send him home with a monitor. After months of testing and repeated apnea events, we were left with no logical diagnosis, scared, confused, and frustrated with the differing opinions of medical professionals and no real answers or treatment. At five months old, out of sheer desperation, we demanded genetic testing. When we got the results back we were shocked to find out Connor has infantile Pompe disease. Our pediatrician hadn't even heard of Pompe disease. In fact, four out of five doctors in the office were unaware of this disease or the symptoms it causes. We understand that Pompe disease is rare and is not something that most pediatricians have on their radar; however, it deserves awareness and prompt diagnosis. Babies



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

Floor Debate  
March 30, 2017

---

with infantile Pompe disease who are left untreated will die prior to their first birthday. Oftentimes in states where newborn screening is not mandated, families receive the diagnosis when it is too late. Our family has private insurance and Conner has secondary coverage through a disability waiver through Medicaid. The costs associated with five months of care, testing, and unknowns is excessive. A \$20 test, of which private insurance would have paid 100 percent, could have saved the state of Nebraska over \$295,000. As a Nebraska senator, you are responsible to represent the people of our great state. It's important for you to be fiscally responsible, which I believe early diagnosis would be a cost saving to the state. Had Connor been given appropriate newborn screening, we would have received the diagnosis immediately. Treatment would have started right away. Instead, we spent months trying... [LB91]

SPEAKER SCHEER: One minute. [LB91]

SENATOR CRAWFORD: ...to figure out...thank you, Mr. President, trying to figure out what was going on and our son suffered greatly while we desperately searched for answers. Our little boy has been through more than most adults. And she asks for your support for LB91. And let me just repeat again the financial balance that she lays out. A \$20 test could have saved the state of Nebraska over \$295,000 for the care and tests that were given in this five-month period when they did not know what was wrong with Connor, when they could have begun treating Connor right away had he had that test. So I urge your support for AM331 and LB91. Thank you, Mr. Speaker. [LB91]

SPEAKER SCHEER: Thank you, Senator Crawford. Seeing no one in the queue, Senator Riepe, you're welcome to close on the amendment. [LB91]

SENATOR RIEPE: Thank you, Mr. President and colleagues. I'd simply like to ask you to vote green on AM331 and green on LB91. Thank you. [LB91]

SPEAKER SCHEER: Thank you, Senator Riepe. The question before us is adoption of AM331. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB91]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of the amendment. [LB91]

SPEAKER SCHEER: AM331 is adopted. Seeing no one in the queue, Senator Hilkemann, you're welcome to close. [LB91]

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

Floor Debate  
March 30, 2017

---

SENATOR HILKEMANN: Thank you, Mr. President. I shared with you the story of Meghan. She came to me and talked about her father. Her father passed away when he was 52 years of age and a very debilitating death, in deed. I'm very honored today in this Chamber to have Bob Rauner with us. We met him just a few moments ago. He's up in the balcony. Bob also came to me with his story and we've shared his story. His testimony has been passed out, too. Bob is the parent of a child who has been affected by ALD. I shouldn't say child; I should say children. Imagine your young child showing a reversible...showing a reversal of his educational development, having difficulty interacting with fellow classmates, and also having vision problems. You're told that the child has ADHD for years and you treat him for that. And then you find out when he's 11 years of age that he's been misdiagnosed, indeed, that he had ALD. That was Kevin's story, one of Bob's sons. Bob's son died several years after that diagnosis. Paul is another one of Bob's sons. Paul is affected by the adult form of this disease called AMN. Paul now uses a wheelchair for mobility and the disease has also affected his ability to continue at his job. One family, two sons. Bob's quest to find anything that could help save his sons led him to his current role as president of the United Leukodystrophy Foundation. There was no cure, nor were there any effective treatments for Kevin or Paul at the time of their birth. There weren't any newborn screenings for ALD. But it is available now. It is available and it is a fraction of a cost to the families, insurance companies, or the state of Nebraska that we would spend just for one child. Bob's written testimony, as I've said, we passed it out. I admire Bob because he isn't working for himself or for Kevin or Paul. He's working for all of the families, all of the families. One in seventeen thousand have ALD, a disease that we can treat now and people can have normal lives. You also heard the story of...that Senator Crawford shared of the folks with Pompe. We had people who testified who have the M-1. Ladies and gentlemen, I am...colleagues, the Newborn Screening Program is a worthwhile investment in the health of Nebraska healthy babies. Thank you all for those who have signed onto this bill and are cosponsors. I ask for your green vote and advancement of LB91. Thank you, Mr. President. [LB91]

SPEAKER SCHEER: Thank you, Senator Hilkemann. Question before us is advancement of LB91 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB91]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill. [LB91]

SPEAKER SCHEER: LB91 is advanced to E&R Initial. Next item, Mr. Clerk. [LB91]

ASSISTANT CLERK: Mr. President, LB180, introduced by Senator Bolz. (Read title.) Bill was read for the first time on January 10 of this year. It was referred to the Judiciary Committee. That committee placed the bill on General File with no committee amendments. [LB180]

Floor Debate  
March 30, 2017

---

SPEAKER SCHEER: Senator Bolz, you're welcome to open on LB180. [LB180]

SENATOR BOLZ: Thank you, Mr. President. LB180 establishes bridge orders. By way of background, this bill was brought to me by members of the Legal Parties Task Force of the Nebraska Children's Commission, of which I am a member. Senator Pansing Brooks and Senator Howard are all members. LB180 addresses jurisdiction between district courts and juvenile courts through a new bridge order. Juvenile courts handle matters of child abuse and neglect when a child is made a ward of the state, while district courts handle matters of custody and child support between separated parents. Sometimes the custodial parent may be deemed unsafe. In those circumstances the child may be made a ward of the state but can be safely placed with the safe noncustodial parent. Currently, the juvenile court may not close the case until the district court rules on the underlying case relating to the parent's custody and other matters. This can relate in waiting periods when a child remains a ward of the state but is living with a safe parent. Nebraska already has too many children remaining in the child welfare system for too long. LB180 and its amendment create a bridge order to establish physical custody and parenting time so that the juvenile case can be closed. AM43 is an amendment to LB180 that I drafted with the assistance of Kim Hawekotte, the executive director of the Foster Care Review Office, and I should say that I appreciate her help on this bill all along. The combined amendment allows a guardian ad litem to file a bridge order motion, as well as the parent, and allows the court to waive an evidentiary hearing if appropriate. I would also like to reference LB180A, the trailing fiscal note. I'll note again that this is cash funds and it is cash funds from the Court Automation Cash Fund which was established for just this type of purpose. When there's an update to the way the court is processing, the Automation Cash Fund is there to update the systems. So LB180 recognizes that in some circumstances closing open juvenile cases is appropriate and in the best interest of the child, and will reduce the workload of our overworked juvenile courts. I will also add that I have fact sheets and a flowchart available on my desk if anyone has interest. There has been a little bit of confusion about how the jurisdictional changes would happen, but essentially it allows us to close child welfare and juvenile court cases, move those issues to the district court, and let parents decide issues of things such as child support in that system rather than through the juvenile court and the child welfare system. That closes my introduction. I'd be happy to answer any questions. Thank you, Mr. President. [LB180 LB180A]

SPEAKER SCHEER: Thank you, Senator Bolz. Mr. Clerk. [LB180]

ASSISTANT CLERK: Mr. President, Senator Bolz would offer AM43. (Legislative Journal page 844.) [LB180]

SPEAKER SCHEER: Would you like to open on your amendment again, Senator Bolz? [LB180]

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

Floor Debate  
March 30, 2017

---

SENATOR BOLZ: (Laugh) I've already referenced the amendment. But again, it references the guardian ad litem and allows for waiving of an evidentiary hearing. Thank you, Mr. President. [LB180]

SPEAKER SCHEER: Thank you, Senator Bolz. Seeing no one in the queue, Senator Bolz, you're welcome to close on AM43. She waives closing. The question before us is adoption of AM43. All those in favor please vote aye; all those opposed vote nay. Have all that voted wish to? Please record, Mr. Clerk. [LB180]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of Senator Bolz's amendment. [LB180]

SPEAKER SCHEER: AM43 is adopted. Seeing no others in the queue, Senator Bolz, you're welcome to close on AM180. Senator Bolz waives closing. The question before us is advancement of LB180 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB180]

ASSISTANT CLERK: 35 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB180]

SPEAKER SCHEER: LB180 is advanced to E&R Initial. Next item, Mr. Clerk. [LB180]

ASSISTANT CLERK: LB180A, introduced by Senator Bolz. (Read title.) [LB180A]

SPEAKER SCHEER: Senator Bolz, you're welcome to open. [LB180A]

SENATOR BOLZ: Again, this is the trailing A bill on LB180. Thank you all for your green votes on LB180. LB180A uses the appropriate cash fund for this purpose to implement the provisions we just passed as a body. I'd appreciate your green light on LB180A. Thank you, Mr. President. [LB180A LB180]

SPEAKER SCHEER: Thank you, Senator Bolz. Seeing no one in the queue, you are welcome to close on LB180A. Senator Bolz waives closing. The question before you is the adoption of LB180A to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all those that voted wish to? Please record, Mr. Clerk. [LB180A]

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the A bill. [LB180A]

SPEAKER SCHEER: LB180A is advanced to E&R Initial. Next item, Mr. Clerk. [LB180A]

Floor Debate  
March 30, 2017

---

ASSISTANT CLERK: LB267, introduced by Senator Linehan. (Read title.) Bill was introduced on January 11 of this year, referred to the Health and Human Services Committee. That committee placed the bill on General File with committee amendments. (AM41, Legislative Journal page 484.) [LB267]

SPEAKER SCHEER: Senator Linehan, you're welcome to open. [LB267]

SENATOR LINEHAN: Thank you, Mr. President. The ironies of today, since I am suffering from a bit of a cold (laugh) anyone obviously can get the flu. I will say I have a cold, not the flu, because I got my flu shot this year. Anyone could get the flu but the disease is more severe for some people. Currently in Nebraska, hospitals are required to provide access to the flu vaccines to their staff and their patients. Nursing facilities are currently required to offer vaccines to their residents but not employees. Under LB627, nursing facilities would be required to offer the flu vaccine to their employees as well. Why is this important? Multiple studies have been done to determine why there are still flu outbreaks in the nursing facilities. The results of those studies show that unless both the residents and the employees, who are spending time with them, receive the vaccine, there's still a risk. One problem is that someone that has the flu can spread the flu for up to a day before they even feel sick because symptoms start up to four days after the virus enters the body. Adults can continue to pass flu virus to others for another three to seven days after symptoms start. There are even times when a person is infected with the flu virus but has no symptoms. They can still spread the virus to other people. People who are 65 years and older, people of any age with chronic medical conditions, and very young children are more likely to get complications from the flu. Pneumonia is one of the major complications seen in those who are over age 65, and that is why we currently require nursing facilities to offer pneumococcal vaccines to their residents. The CDC estimates that between 71 percent and 85 percent of seasonal flu-related deaths have occurred in people 65 years of age and older, and between 54 percent and 70 percent of seasonal flu-related hospitalizations have occurred among people in that age group. The most recent Nebraska influenza survey report: 149 out of 253, almost 60 percent, hospital inpatient admissions for influenza were for those 65 and older. Finally, there have been four influenza-associated deaths in Nebraska so far this season, with the median age of 87. The CDC and the Advisory Committee on Immunization Practices, ACIP, recommended that all U.S. healthcare personnel get vaccinated annually against the influenza. Healthcare personnel who get vaccinated help to reduce the following: transmission of influenza, staff illness and absenteeism, influenza-related illness and death especially among people at increased risk for severe influenza illness. Higher vaccination levels among personnel have been associated with the lower risk of healthcare facility associated influenza cases. Influenza outbreaks in hospitals and long-term care facilities have been attributed to low influenza vaccination coverage among the healthcare personnel. Higher influenza vaccination levels in healthcare personnel can reduce influence of related illnesses and even deaths in settings like nursing homes. There is an amendment, a committee amendment, that Chairman Riepe will speak to. [LB267]

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

Floor Debate  
March 30, 2017

---

SPEAKER SCHEER: Thank you, Senator Linehan. As the Clerk stated, there are amendments from the Health and Human Services Committee. Chairman Riepe, as Chair of the committee, you're recognized to open on that amendment. [LB267]

SENATOR RIEPE: Mr. President and colleagues, thank you. AM41 removes the pneumococcal requirement for employees in Section 1 of the bill. According to the CDC, pneumococcal vaccinations are recommended for babies and children younger than 2 years old and adults 65 years or older, except for those with certain medical conditions. It was determined pneumococcal vaccine requirement was not necessary. Long-term care facilities play an important role in our communities throughout Nebraska and, as many of you know, I am not a fan of "mandatories." Additionally, it is my understanding that the nursing facilities and skilled nursing facilities already offer on-site vaccinations, such as the on-site vaccination required in Senator Linehan's bill. Senator Linehan's bill is placing in statute what is already being done by these facilities in Nebraska. However, AM41 and LB267 will provide notice to other national chains coming into Nebraska as to what the current standards are in Nebraska. I am supportive of AM41 as pneumococcal vaccination is not required for employees, and I ask for your green vote on AM41. Thank you, Mr. President. [LB267]

SPEAKER SCHEER: Thank you, Senator Riepe. Seeing no one in the queue, Senator Riepe, you're welcome to close on the committee amendment. Senator Riepe waives closing. The question before us is adoption of AM41. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB267]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of committee amendment, Mr. President. [LB267]

SPEAKER SCHEER: AM41 is adopted. Seeing no one wishing to speak, Senator Linehan, you're welcome to close on LB267. Senator Linehan waives closing. The question before us is adoption of LB267 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB267]

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance the bill. [LB267]

SPEAKER SCHEER: LB267 is advanced to E&R Initial. Next item, Mr. Clerk. [LB267]

ASSISTANT CLERK: LB137 by Senator Lindstrom. (Read title.) The bill was introduced on January 9 of this year, referred to the Banking, Commerce and Insurance Committee. That committee placed the bill on General File with no committee amendments. [LB137]

Floor Debate  
March 30, 2017

---

SPEAKER SCHEER: Senator Lindstrom, you're welcome to open on LB137. [LB137]

SENATOR LINDSTROM: Thank you, Mr. Speaker. LB137 is a bill introduced at the request of our Director of Insurance. It would enact the Unclaimed Life Insurance Benefits Act which is based on a model act developed by the National Conference of Insurance Legislators, also known as NCOIL. The model act has been adopted in more than 20 states. The purpose behind the bill is to get more life insurance benefits into the hands of people who are entitled to them. The bill would require life insurers at least semiannually to perform a comparison of its insured in-force policies against the Death Master File of the United States Social Security Administration to identify potential matches. If a potential match is found, the bill would require the insurer to complete a good faith and documented effort to, (1) confirm the death; (2) determine whether or not benefits are due; and, (3) if benefits are due, attempt to contact the beneficiary and provide the beneficiary with forms and instructions on how to proceed with the claim. The bill would not limit the ability of the insured to request a death certificate. If an insured determines that benefits are due to a beneficiary, the benefits plus applicable interest are payable to the beneficiary. If the beneficiary cannot be found, the insurer must comply with the relevant and already existing provisions of our Uniform Disposition of Unclaimed Property Act which governs the disposition of unclaimed funds held and owning by a life insurer. It is important to emphasize that this bill in no way would alter the existing provisions of our unclaimed property statutes. Instead, its principal aim is to require life insurers to determine which of insureds had died and then find beneficiaries and assist them in making claims for benefits. Nothing in the bill would limit the ability of the State Treasurer as Nebraska's unclaimed property administrator from conducting or authorizing audits of life insurers. The bill would provide that violations of it would be subject to our Unfair Insurance Trade Practices Act. That means direct review of compliance would be performed by the market conduct examiners of our Department of Insurance. There were no opponents at the hearing and the bill was advanced on an 8-0 vote count. I would urge the advancement of LB137. Thank you. [LB137]

SPEAKER SCHEER: Thank you, Senator Lindstrom. Seeing no one wishing to speak, you're welcome to close. Senator Lindstrom waives closing on LB137. The question before you is advancement of LB137 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have you all voted that wish to? Senator Lindstrom, are you wanting to vote? Please record, Mr. Clerk. [LB137]

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the bill. [LB137]

SPEAKER SCHEER: LB137 does advance to E&R Initial. Next item, Mr. Clerk. [LB137]

Floor Debate  
March 30, 2017

---

ASSISTANT CLERK: Next bill, Mr. President, LB172, introduced by Senator Albrecht. (Read title.) Bill was introduced on January 10, referred to the Business and Labor Committee. That committee placed the bill on General File with committee amendments. (AM162, Legislative Journal page 454.) [LB172]

SPEAKER SCHEER: Senator Albrecht, you're welcome to open on LB172. [LB172]

SENATOR ALBRECHT: Thank you, Speaker Scheer and colleagues. LB172 revises the Nebraska Employment Security Law by clarifying provisions to make the law easier to understand for claimants, employers, attorneys, policymakers, and others. LB172 was introduced at the request of the Department of Labor and I'd like to thank Commissioner Albin and the Department of Labor's general counsel, Katie Thurber, and the committee counsel, Meghan Chaffee, for their work on this important section of law. I would also like to thank Speaker Scheer for making this LB172 a Speaker priority bill this year. LB172 is a cleanup bill to the Nebraska Employment Security Law that eliminates obsolete language and clarifies other provisions to make the law easier to understand. Without making any substantive changes to the law, it is a reintroduction of Senator Harr's LB828 from the 2016 Legislative Session. LB828 and its committee amendment advanced out of Business and Labor Committee on a 6-0 vote. Senator Chambers was absent. Due to time constraints, even though it advanced to General File, the bill did not make it on the agenda because it lacked a priority designation. I would like to thank Senator Harr for extensive work on LB828 and for being a cosigner on LB172. In regards to the changes made in LB172 in a number of instances, definitions applicable under the act are not contained within the definitional section found in 48-602 but, rather, are scattered throughout the act. LB172 moves those definitions to section 48-602 making the definitions easier to find and the substantive sections easier to read. It breaks out unnecessary long and complicated sections into individual sections containing topic-specific provisions that are more easily understood. Additionally, the bill removes references to effective dates that are no longer relevant and correction references to federal legislation, such as the Workforce Investment Act, that now have been repealed and replaced. I want to reiterate that LB172 contains no policy changes, I repeat, no policy changes. We wanted to keep the bill free of policy debate; hence, we have three different bills introduced at the request of the department this session related to the unemployment and are not contained in this bill. During the public hearing, LB172 had no opposition testimony and it contains no fiscal note. LB172 and its committee amendment were advanced with full support of the committee on a 7-0 vote. I would ask for your support on LB172 and the committee amendment. Thank you. [LB172]

SPEAKER SCHEER: Thank you, Senator Albrecht. As the Clerk stated, there are amendments from the Business and Labor Committee. Senator Albrecht, as Chair, you're welcome to open on that amendment. [LB172]



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

Floor Debate  
March 30, 2017

---

SENATOR ALBRECHT: Thank you, Speaker Scheer. AM162, the committee amendment, AM162, provides for a definition of hearing officer. In LB172 we replaced references to an appeal tribunal with the hearing officer. While the Nebraska Department of Labor is subject to the Administrative Procedure Act, which provides a definition of hearing officer, the committee felt it best to have a definition contained within the Employment Security Law for ease of reference. Again, AM162 was adopted by the committee on a 7-0 vote, and I would like to answer any questions you may have and ask for your support of AM162. Thank you. [LB172]

SPEAKER SCHEER: Thank you, Senator Albrecht. Seeing no one in the queue, Senator Albrecht, you're welcome to close on the committee amendment. Senator Albrecht waives the closing. The question is advancement of AM162 into LB172. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB172]

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB172]

SPEAKER SCHEER: AM162 is adopted. Moving back to floor discussion, seeing no one in the queue, Senator Albrecht, you're welcome to close. Senator Albrecht waives closing on LB172. The question before us is advancement of LB172 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB172]

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB172]

SPEAKER SCHEER: LB172 is advanced to E&R Initial. Next item, Mr. Clerk. [LB172]

ASSISTANT CLERK: LB276, introduced by Senator Albrecht. (Read title.) Bill was introduced on January 11, referred to the Committee on Agriculture. That committee placed the bill on General File with committee amendments. (AM50, Legislative Journal page 412.) [LB276]

SPEAKER SCHEER: Senator Albrecht, you're welcome to open on LB276. [LB276]

SENATOR ALBRECHT: Thank you, Speaker Scheer. Good afternoon, colleagues. LB276 was introduced on behalf of the Department of Agriculture. For those of you who may not be familiar, crops improved via hybrid breeding methods first became widely commercially available in the 1930s. These types of hybrid seed crops gained popularity when they outperformed open-pollinated varieties. The intent of this bill is to update sections first adopted in 1937 relating to hybrid seed corns that have remained substantially unchanged since that time.

Floor Debate  
March 30, 2017

---

Some of the methods listed in the current statute have fallen out of favor, while others have emerged. The legislation before us today is the result of conversations between the Department of Agriculture, leaders from the seed industry updating the statutes. Finally, this legislation updates the enforcement language in Section 3 to make it consistent with the enforcement provisions found in a number of laws and acts administered by the Department of Agriculture, including the Commercial Dog and Cat Operator Inspection Act, the Nebraska Pure Food Act, and the Pesticide Act, and others. I appreciate the feedback that I received during the hearing process. The result of those conversations led to the committee amendment which Chairman Brasch will introduce, and I appreciate Chairman Brasch for making this a priority out of the Ag Committee. And thank you again. I'd appreciate your green light on LB276. [LB276]

SPEAKER SCHEER: Thank you, Senator Albrecht. As the Clerk stated, there are amendments from the Agriculture Committee. Senator Brasch, as Chair of the committee, you're welcome to open on the amendment. [LB276]

SENATOR BRASCH: Thank you, Mr. Speaker. And thank you, colleagues and Senator Albrecht, for the introduction of the bill. The amendment, AM50, is that as LB276 was introduced, it included revisions to 81-2,157, which sets forth enforcement remedies for selling seed corn varieties that were misrepresented as a hybrid variety, which does not meet the standards for hybrid identity. As in the past, when the department has reviewed statutes for necessary revisions, the department offered updates regarding associated enforcement provisions. LB276 continues to define violations of the provisions of the hybrid corn statutes as a Class III misdemeanor but further adds equitable remedies of restraining orders or injunction as an available remedy. Injunctive relief is often the more practical and useful enforcement option, particularly when there are not administrative options. LB276, as introduced, adopts drafting conventions that are utilized in a variety of enforcement provisions for acts that are administered by the Department of Agriculture in other areas of law. The new subsection inserted by the bill states that, in addition to a criminal penalty, injunctive relief may be imposed upon anyone violating or threatening to violate the hybrid seed provisions. The new subsection (3) recognizes the jurisdiction of the Attorney General or county attorney to pursue the appropriate criminal or civil actions, as described in the subsections. As written, it would be inferred that the bill would create a new violation of the threatening...of threatening to violate the act that would be subject to both criminal and equitable remedy. The committee amendment strikes the prospective language in the bill to avoid the creation of a new offense of, quote unquote, threatening to violate the prohibition defined in the hybrid statutes. The purpose of that prospective language is already served by the authority to seek a restraining order or temporary injunction and is, therefore, redundant and unnecessary. [LB276]

SPEAKER SCHEER: Thank you, Senator Brasch. Senator Schumacher, you're recognized.  
[LB276]

Floor Debate  
March 30, 2017

---

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. There seems to be two phases to this particular bill, as I look at it, and I don't see any problem with AM50 at this time, but I had my light on. I do see some questions, though, with LB276. The first part deals with just the technology of, I suspect, how you produce kernels of corn that are going to be planted. But the second part makes kind of big changes in or at least questionable changes in what happens when the law is violated. And it used to be fairly simple language that said that a violation of the law was a Class III misdemeanor, and the Department of Agriculture would report that to the proper county attorney or Attorney General for prosecution. And I would take that to mean in the normal course of how they prosecute everything else. But this strikes that language and it inserts two new sections. The first one requires the county attorney or the Attorney General to pursue a restraining order in the district court, and that is to get the district court to issue an order to whoever is being bad, to stop and stop now. And those things can be expensive procedures and it looks like we're going to be asking the county attorney to engage in this civil, rather than criminal, mechanism of a restraining order without reimbursing the county attorney's office for the costs that it might take in order to prove up that case and not sending him any money. It looks like a big unfunded mandate to the county attorney to pursue a restraining order in the district court. And then it goes on to say that the Attorney General and the county attorney have a duty, when notified by the Director of Agriculture, to pursue action. And that raises a question whether or not they have a duty when not notified or, if they are notified, does it remove their prosecutorial discretion to settle a case or otherwise treat it as an item of normal prosecution. Would the Senator Albrecht yield to a question? [LB276]

SPEAKER SCHEER: Senator Albrecht, would you please yield? [LB276]

SENATOR ALBRECHT: Yes, sir. [LB276]

SENATOR SCHUMACHER: Senator Albrecht, who should...am I interpreting that right, that if the Department of Agriculture says to the county attorney go spend county money on a district court case to get an injunction, that that would be the county's bill? [LB276]

SENATOR ALBRECHT: Well, I know that this was a bill debated whether it should go to Judiciary or if it should go to Ag, and Senator Chambers was on the...is or does sit on the Ag Committee with me and had suggested to the committee to change "threatening" and take that word out. But he did not...it didn't go into who was going to pay and who was not. I will say this bill has been around for 80 years and never looked at. I don't know that anyone has actually been prosecuted in that time frame. So I can't really answer that question for you. I'd probably have to check with Senator Brasch and whoever helped her draft the amendment in their department. Maybe they could answer that for you. [LB276]

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

Floor Debate  
March 30, 2017

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SENATOR SCHUMACHER: Was it your intention then to restrict or reduce the jurisdiction of the county attorney or the Attorney General in the enforcement of this or make it contingent upon their authority... [LB276]

SPEAKER SCHEER: One minute. [LB276]

SENATOR SCHUMACHER: ...and contingent upon a report from the Director of Agriculture? [LB276]

SENATOR ALBRECHT: Well, I believe that if somebody does report it to the Department of Ag that they believe somebody is mislabeling a sack of seed corn that they would have to report it to someone, which I would imagine they would have to stop him from doing that. So I would believe it would have to be a court order. [LB276]

SENATOR SCHUMACHER: Well, could they go direct to the county attorney or the Attorney General? Or do they have to go through the middleman of the Department of Agriculture, or director? [LB276]

SENATOR ALBRECHT: Well, again, if it's...if it's reported to the Department of Ag, I would imagine they would go right to the courts to get it stopped, but they might also send a law enforcement officer. So I would think that somebody would have to stop it from happening if they, in fact, are doing it. So if it is the county attorney then it would have to be specified in the law. [LB276]

SENATOR SCHUMACHER: Okay. Thank you, Senator. [LB276]

SPEAKER SCHEER: Time, Senators. Thank you, Senator Schumacher and Senator Albrecht. Senator Harr, you're recognized. [LB276]

SENATOR HARR: Thank you, Mr. President, members of the body. If you look on the committee statement, it states that I was absent and I want to clarify the record and maybe tell you a little bit about my home life. My wife and I have an agreement. I watch the kids from 8:00 at night until 8:00 in the morning and we don't pay for childcare for my 12 hours, so it makes it difficult. I live in Omaha. It's an hour to get down to Lincoln. This Exec Session was held at 8:30. And I understand time is tight down here, but I didn't get a chance to really talk about this or--I serve on Ag--or to participate in the Executive Session on this, through nobody's fault. But I just want to clarify the record. And I do, I want to echo Senator Schumacher's concerns regarding page 3, lines 10 through 15. So it says: It shall be the duty of the Attorney General or

Floor Debate  
March 30, 2017

---

county attorney of the county in which the violations of sections 81-2,155 and 81-2,156 are occurring. Okay? So I don't know how you rectify that because there are no violations till it's proven in court. Right? So that probably should be alleged violations because it hasn't been proven yet, because this is what you're doing is referring it to the county attorney and/or the Attorney General to then make a determination if a violation did or did not occur. Then it goes on to say: when notified of such violation. Again, there's been no proof, no court action as to whether an actual violation did or did not occur. There's an accusation but nothing has been proven. When notified of such violation by the Director of Agriculture, to pursue appropriate actions as provided. It's the duty and it's notified...it looks like again we're taking away judicial discretion, because if you are notified of this, again, alleged violation, there's no proof of violation, we're putting the cart before the horse. So we just need to clean this up a little bit. And just because it means it's a duty, I'm not sure if that means they have to do anything. It just says it's their duty but I don't know what "duty" is in this situation. In others I know what duty means. So I'm not quite sure what is expected of the county attorney or what direction I'm giving the county attorney and/or Attorney General to do in this situation when there is what appears to be a violation of this. I guess what I would say is I'm more than willing to work with Senator Albrecht and Senator Brasch between General and Select to try to clarify this language. I'm not sure if this is something that's worth weighing down the session at this point for myself, but I do think this probably needs a little cleanup. And again, this goes to the importance of why we do what we do in the Legislature. And when you start involving county attorneys and prosecution, "Attorney Generals," that's the jurisdiction of the Judiciary Committee because they see this stuff every day. They have two committee attorneys, legal staff. That is their job to look this stuff over. When we do referencing, and this in no means is an indictment of any single member, I want it very clear, but this is something for this reason probably should have been looked over by a couple attorneys more closely and those attorneys from... [LB276]

SPEAKER SCHEER: One minute. [LB276]

SENATOR HARR: ...the Judiciary Committee. So I'm willing to and will, I will vote for this today, but...and I'll work with Senator Albrecht and with Senator Brasch between now and Select to try to clarify what it is we're trying to do and to make sure that the language matches our intent. Thank you, Mr. President. [LB276]

SPEAKER SCHEER: Thank you, Senator Harr. Senator Brasch, you're recognized. [LB276]

SENATOR BRASCH: Thank you, Mr. Speaker. And I want to thank Senator Schumacher and Senator Harr for your questions today and I will try to answer a couple of them. And I understand your duties between 8:00 p.m. and 8:00 a.m. Those are "precedented" over all duties. That's why we try to give 24-hour notice, but we do understand and appreciate that you have

Floor Debate  
March 30, 2017

---

priorities there. But I did want to take note that although we...it didn't go to Judiciary, we did work very closely with Senator Chambers and others to try to make this judicial in his eyes and align with any reservations he may have. And before we made this a committee priority, he'd agreed that his questions were answered. And to try to answer your questions here or even add an amendment if you would like at...hopefully this bill advances, there's two areas that I would like to address and perhaps on the side we can go discuss it with the analyst. But under Nebraska seed law it talks about the restraining order or injunction application by a director issued without bond and the paragraph under that, which I will I guess not take floor time with, talks about what our actions were aligned with. And then the other, when you asked about it shall be the duty of the Attorney General, that is also a part of, I'll give you the documentation, where it basically acknowledges that there is jurisdiction available by the Attorney General, that it's not a mandated role but that is acknowledging his jurisdiction. And I would ask that we could have this and look at it. If you have better language you would like to contribute, we're happy to do that and...but I do encourage my colleagues to vote green for the amendment and LB276, and we're happy to work on any modifications moving forward. [LB276]

SPEAKER SCHEER: Thank you, Senator Brasch. Senator Schumacher, you're recognized.  
[LB276]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. I beat this drum just slightly more here because it kind of demonstrates how things tie together. This bill looks like it imposes a new duty and it is a duty upon a county attorney to go after a restraining order. That's not a criminal case. It's a restraining order; it's a civil case--different standards of proof, different procedures, all kinds of things like that--when one of these seed corn violations occur. Now I was at a social function the other night and a taxpayer lit into a county board member about how come my property taxes are going up? How come they're going up? You're spending more money. And of course since I was dumb enough to be there, the county board member said, ask him, he's the one that keeps cramming these unfunded mandates down on us. And you know, of course, I defended us. But this underscores how this happens. Who has to pay that county attorney? Who has to pay the cost of bringing whatever witnesses in to fight that injunctive action, this new thing we're requiring the county attorney to do? Seems pretty easy just to throw it in here and let it roll right on through, but with it we are sending the bill to the county who has to turn around and bill the taxpayers. And this is how it'sy-bitsy, one step at a time, we create property tax liability. If this is a state concern then shouldn't the state pay the bill for injunctive action? Now we've gotten along apparently for 30-40 years without this injunctive action thing, without this requirement on county government and the county attorney. And suddenly now we find that it's necessary to have there and, of course, we don't want to pay the bill, because I don't see an A bill on this thing. I don't see a check going to the county attorney. I don't see the Department of Agriculture covering the fees and the costs for doing this. And hopefully this doesn't occur often, but when it does who gets stuck with the bill? And this is how stuff happens.

Floor Debate  
March 30, 2017

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And I'll be happy to work with Senator Brasch and Senator Harr to see if we can clear up some of this. But in itsy-bitsy ways we generate cost in a very innocent way, and this one appears to be one of those cases where we're telling the county they have a duty to do something, a duty to pay the bill, a new requirement that never existed before to accomplish a state end. And we sure don't want to send a check because, well, just because. Thank you. [LB276]

SPEAKER SCHEER: Thank you, Senator Schumacher. Seeing no one in the queue, Senator Brasch, you're welcome to close on AM50. [LB276]

SENATOR BRASCH: I only have a few words here. I perceive that Senator Schumacher is seeking a booming career in this area following his term limits because there hasn't been a case in 80 years and he would be happy to launch a new horizon there. Again, the question came up by our good friend and colleague, Senator Chambers. And what we wanted to do is assure him that the language was satisfactory and we're happy to make that language one that Senator Schumacher and Senator Harr would also find suitable. So I would like to close and thank them both for their astute consideration. Please vote green on the amendment and the legislation, LB276. [LB276]

SPEAKER SCHEER: Thank you, Senator Brasch. The question before us is the attachment of AM50 to LB276. All those in favor please vote aye, all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB276]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments. [LB276]

SPEAKER SCHEER: AM50 is adopted. Seeing no one wish...oh, Senator Krist, you're recognized. [LB276]

SENATOR KRIST: Thank you, Mr. President. Good morning...or good afternoon, colleagues. And again, good afternoon, Nebraska. I wasn't going to speak on this at all, but given the closing that Senator Brasch just made and the comments that were made by Senator Harr and Senator Schumacher, I don't believe that every bill needs to go to Judiciary, but I don't think we should thumb our nose at the fact that we have lawyers in this body that will bring up an issue that creating a new offense or creating a new task for a county attorney or public defender should be scoffed at in any way. Now if that wasn't her intent, I apologize to Senator Brasch. We do have legal counsel in the Agriculture Committee and he's good. But to dismiss the comments of Senator Schumacher or Senator Harr at this point, this is new language. It is a new task. And Senator Schumacher is absolutely right. Everything we pile on at the local level without attaching compensation for is an unfunded mandate, as tiny as it might be. So again, I'm not advocating that everything go to Judiciary. We've got enough on our plate, 162 or so I think this

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

Floor Debate  
March 30, 2017

---

year. Is that right, Senator Ebke? I think that's a close number. Yes. She's giving me a thumbs up. Not advocating for anything else to be sent there. But at some point understanding what those issues are and understanding that there's a new offense or a new task or we're telling the county attorneys or public defenders or county officials that they need to do something different, that should bear some attention with the legal profession in here, as I would say would be any of us who are recognized as experts. I would go talk to Senator Vargas about a school board issue. I would go talk to Senator Erdman about a county official issue. I still would like you to vote green on LB276. I just wanted to get up and put that on the record. Thank you, Mr. President. [LB276]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Thank you, Senator Krist. (Visitors introduced.) Senator Albrecht, you're recognized to close on your LB276. [LB276]

SENATOR ALBRECHT: Thank you, President Foley. And I appreciate all the information that we can on these bills. An unfunded mandate would be the last thing I'd want to do, so I appreciate both Senator Schumacher and Senator Harr's comments. And I hope to see a red...or, excuse me, not a red, green, green on LB276. And I'll vote for it too. Thank you. [LB276]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Members, you've heard the debate on LB276. The question before 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. [LB276]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB276]

PRESIDENT FOLEY: LB276 advances. Items for the record, Mr. Clerk. [LB276]

ASSISTANT CLERK: Mr. President, I do. Thank you. Amendments to be printed from Senator Baker to LB225, from Senator Krist to LB539. And a communication from the Chair of the Special Committee on Election Challenge regarding the affirmation of the burden of proof. That's all I have at this time. (Legislative Journal pages 854-855.) [LB225 LB539]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Next bill when you're ready.



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

Floor Debate  
March 30, 2017

---

ASSISTANT CLERK: LB217, introduced by Senator Harr. (Read title.) Introduced on January 10, referred to the Revenue Committee. That committee placed the bill on General File with committee amendments. (AM634, Legislative Journal page 776.) [LB217]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on LB217. [LB217]

SENATOR HARR: Thank you, Mr. President. Members of the body, LB217 was a bill I originally introduced, however it has been shelled out and there is a committee amendment which becomes the bill. And with that, I would turn my time back to Mr. President so that Senator Smith can introduce the actual bill. Thank you. [LB217]

PRESIDENT FOLEY: Thank you, Senator Harr. As the Clerk indicated, there are amendments from the Revenue Committee. Senator Smith you're recognized to open on the committee amendments. [LB217]

SENATOR SMITH: Thank you, Mr. President. And LB217 is a Revenue Committee priority bill, and committee amendment AM634 replaces the green copy and becomes the bill just as Senator Harr said. It is the committee's omnibus bill for the session and contains the provisions of several other measures heard and considered by the committee. The provisions of LB217 remain in the bill, and as you heard from Senator Harr--and I'm going to just comment on this briefly--this bill would change the process in determining when interest accrues when a homestead exemption is rejected by the Tax Commissioner. Also contained in AM634 are other bills heard in committee in part or in their entirety. First, provisions of LB49, which was introduced by Senator Schumacher and heard on February 1. These sections would require the Tax Commissioner to report within 60 days any enactment of amendments to the Internal Revenue Code and how those changes impact state income taxes if the effect is more than \$5 million. Next, LB228, introduced by Senator Harr, which had a public hearing on March 3 and is basically a technical cleanup bill. It would allow for reports related to the valuation of rent-restricted housing projects to be filed electronically and would require the Department of Revenue to forward such reports to the appropriate county assessors. Also, LB233, which I introduced on behalf of the Revenue Department. The hearing was held on January 25 and the bill makes several technical changes, including eliminating obsolete language with respect to raffles and lotteries; clarifies the method for claiming an employer tax credit for hiring former recipients of TANF, which is the Temporary Aid to Needy Families, and the benefits for those; allows for the use of electronic filing of reports remitted to the Tax Commissioner and the Property Tax Administrator; matches the federal filing date for withholding tax reports; matches federal provisions for the correction of mathematical or clerical errors on income tax information; clarifies property tax exemption provisions under the Nebraska Advantage Act; and changes the reporting date for county assessors to report school-adjusted value and amended values. Next, LB238, introduced by

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

Floor Debate  
March 30, 2017

---

Senator Erdman and heard on February 23. This section allows for the electronic filing by county assessors regarding certified, taxable property values. LB288, introduced by Senator Harr. A public hearing on LB288 was held on February 24 and that proposal changes requirements regarding notification to owner, occupants, or other entitled persons for purposes of a treasure's tax deed. And finally, portions of LB387 are included in AM634. LB387 was introduced by Senator Lindstrom and the public hearing was on February 9. These changes have been proposed by the Department of Economic Development to help streamline the agency's ability to administer programs; removes unnecessary language regarding distressed areas from some incentive programs; and provides for a more effective way of allocating funds from the Affordable Housing Trust Fund. I know there's a lot contained in AM634, colleagues, but most of the changes proposed by these various bills would be considered cleanup or technical in nature. I do not see anything here that would be considered necessarily controversial. In fact, the committee amendment was adopted unanimously and none of the individual bills drew any opposition testimony. I would encourage you to vote green on AM634, which then becomes the bill, and then to please vote green to advance LB217. Thank you, Mr. President. [LB217 LB49 LB228 LB233 LB238 LB288 LB387]

PRESIDENT FOLEY: Thank you, Senator Smith. Mr. Clerk. [LB217]

ASSISTANT CLERK: Mr. President, I have an amendment to the committee amendments from Senator Harr, AM814. (Legislative Journal page 855-857.) [LB217]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on AM814. [LB217]

SENATOR HARR: Thank you, Mr. President. This amendment was originally in LB233, which is the cleanup bill for the department. However, there were some concerns with the wording, so it was pulled out of LB233. Since then there has been an agreement on the wording. This has to do with the affordable housing tax credit. It fixes an issue regarding stub years to make sure that the credit expands for 72 months. It clarifies who can own and how they can own these credits. It notifies...it clarifies the notification process to the Department of Revenue if there is a sale of these credits. And finally, it clarifies the process for recapture if there's a violation of the underlying Affordable Housing Trust Fund and how that is done. I spoke with Mr. Kilpatrick earlier today. He is in agreement with this along with the individuals who are in the field of affordable housing tax credits. So with that, I would ask for your support on AM814, but would also entertain any questions you may or may not have. [LB217]

PRESIDENT FOLEY: Thank you, Senator Harr. Debate is now open on LB217 and the pending amendment. Senator Smith. [LB217]

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

Floor Debate  
March 30, 2017

---

SENATOR SMITH: Thank you, Mr. President, and I did fail to mention that this amendment was coming. And I do appreciate Senator Harr bringing it and explaining it. And I do ask for your support of AM814 as well. Thank you, Mr. President. [LB217]

PRESIDENT FOLEY: Thank you, Senator Smith. Seeing no members wishing to speak, Senator Harr, you're recognized to close on AM814. He waives closing. The question before the body is the adoption of AM814 to the Revenue Committee amendments? All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB217]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of the amendment to the committee amendments. [LB217]

PRESIDENT FOLEY: AM814 is adopted. Proceeding now to consideration of the bill with the committee amendment. Seeing no members wishing to speak, Senator Smith you're recognized to close on the committee amendment. He waives close. The question before the body is the adoption of the committee amendment to LB217. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB217]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of the committee amendments as amended. [LB217]

PRESIDENT FOLEY: The committee amendments are adopted. Seeing no members in the queue, Senator Harr, you're recognized to close on LB217. He waives close, and the question before the body is the advance of LB217 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB217]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB217]

PRESIDENT FOLEY: LB217 advances. Next bill, Mr. Clerk. [LB217]

ASSISTANT CLERK: Mr. President, LB356 by Senator Bolz. (Read title.) The bill was introduced on January 13, referred to the Appropriations Committee, and advanced to General File with committee amendments. (AM652, Legislature Journal page 815.) [LB356]

PRESIDENT FOLEY: Senator Bolz, you're recognized to open on LB356. [LB356]

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

Floor Debate  
March 30, 2017

---

SENATOR BOLZ: Thank you, Mr. President. LB356 is a bill to change the purpose of existing funds from a tax credit that is not fully utilized for the purpose of establishing a Civic Engagement Cash Fund. This concept came to me by way of a conversation that I had with a constituent, actually a neighbor, on his doorstep. He suggested that at this time of divisiveness and conflict we could do more to reengage ourselves as citizens and that small steps together can build social cohesion. He suggested the concept of a Civic Engagement Cash Fund might be useful for neighbor associations and other initiatives that promote community well-being. So LB356 extends a temporary reduction in the Community Development Assistance Tax Credit program of \$75,000 a year, and dedicates that money to the purpose of a Civic Engagement Cash Fund to be located at the Nebraska Arts Council. The tax credit is already designated for community development purposes, which can be used for the physical betterment of developing communities. So rededicating these funds to a cash fund purpose remains in line with the general purpose of a tax credit. Additionally, the credit has not been used to its full potential. Over the last eight years between \$79,000 and \$175,000 of the \$350,000 credit has been claimed. So my bill would use some of those unclaimed funds and repurpose them to the purpose of awarding grants for nonpartisan, nonprofit civic engagement projects. The types of projects that would be funded are low- and middle-cost projects that promote volunteerism, engage in nonpartisan voter registration, encourage membership in community and neighborhood organizations, and increase confidence in our civic institutions. The bill explicitly bars any funds from being used for organizations advocating for or against candidates or political parties or for activities that make any kind of communication for or against candidates for public office, ballot initiatives, or political parties. I want to be very clear that no money from such a fund should be used for any partisan activities. I think there is real value in building community, to understanding each other better, and to communicating and discussing our shared concerns. I think that this initiative will help communities engage in doing so, and I appreciate your support for LB356. There is a small amendment that came from Appropriations Committee discussions that I'll share the details about when it comes up following the introduction of the bill. Thank you, Mr. President.  
[LB356]

PRESIDENT FOLEY: Thank you, Senator Bolz. As the Clerk indicated, there are amendments from the Appropriations Committee. Senator Bolz, you're handling that amendment? [LB356]

SENATOR BOLZ: Sorry? [LB356]

PRESIDENT FOLEY: You're going to speak to the committee amendment? [LB356]

SENATOR BOLZ: I'll speak to the committee amendment. [LB356]

PRESIDENT FOLEY: Yes. Please proceed. [LB356]

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

Floor Debate  
March 30, 2017

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SENATOR BOLZ: Thank you. The committee amendment addresses two small changes. The first is on page 2, line 28. It strikes "shall" and inserts "may." The Nebraska Arts Council may establish a different way of operating the fund if the fund grows and the Arts Council needs to administer it differently, similarly to the way the Nebraska Humanities Council has become an outgrowth of the Nebraska Arts Council. And the second change just requires that the Arts Council shall develop and publish guidelines for the application, distribution, and awarding of funds and that such guidelines shall be published electronically. So that is just a small clean up to LB356 and I appreciate your support for both AM652 and LB356. Thank you, Mr. President. [LB356]

PRESIDENT FOLEY: Thank you, Senator Bolz. Debate is now open on LB356 and the committee amendments. Senator Brasch, you're recognized. [LB356]

SENATOR BRASCH: Thank you, Mr. Vice--I almost said vice president--Lieutenant Governor. Excuse me. I was wondering if Senator Bolz would answer a question, please? [LB356]

PRESIDENT FOLEY: Senator Bolz, will you yield, please? [LB356]

SENATOR BOLZ: Certainly. [LB356]

SENATOR BRASCH: I do believe this is a good program, but when I first read it I thought it overlapped somewhat with the Secretary of State's Office because they produce materials and have activities focused around voter and civic engagement. Have you spoke with the Secretary of State's Office at all or is it completely on a different type of... [LB356]

SENATOR BOLZ: Sure. [LB356]

SENATOR BRASCH: Okay. [LB356]

SENATOR BOLZ: So I had not spoke with the Secretary of State's Office until we introduced the bill. We had put it under the Nebraska Arts Council because their community engagement activities and their existing infrastructure seemed to make the most sense with the purpose we were trying to achieve. I did receive a letter in the neutral capacity from the Secretary of State's Office, and after receiving that letter went upstairs and had a face-to-face conversation with Secretary Gale. I think he may have done it differently if he were to have done it himself, but I think that they think that the amendment is an improvement and have not heard any opposition from his office. [LB356]

Floor Debate  
March 30, 2017

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SENATOR BRASCH: Very good. I have not had a conversation with the Secretary of State, but as I was listening and reading I felt that this fell very nicely with his agency, and perhaps creating a separate entity may be suitable as well. I have no other questions. Thank you, Senator Bolz and thank you, Mr. Lieutenant Governor and colleagues. [LB356]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Kuehn. [LB356]

SENATOR KUEHN: Thank you, Mr. President and thank you, colleagues. This is a bill that came through Appropriations. And I had a number of significant questions with the bill during the bill hearing and I continue to do so. And I've had some conversations with Senator Bolz and I think there's some additional items which I still have a great degree of unease with, with regard to this particular program, starting with the utilization of the Community Development Assistance Act tax credit dollars. I recognize that Senator Bolz, based on the tax expenditure report, is referring to this as an underutilized fund and that last year \$75,000 from this fund was transferred to fund a task force and an interim study. My problem with that as a funding source, I guess, is twofold. First, while I appreciate that she feels that this particular project, which has got laudable goals and is certainly a laudable idea, fits within the Community Development Assistance Act. I guess I would respectfully disagree, especially when looking at what that tax credit dollars have been used for. So this is a program which provides a tax credit for private donations in economically distressed areas. And as I'm talking to you, local economic development districts throughout Nebraska which are the community resources that put communities together and help them align with these types of programs, they're telling me that there's exceptional demand for this, but they were actually told by DED not to promote it simply in prior years because the fund didn't have funds available because the limit was lowered from \$350,000 available to \$300,000 in 2016 by statute. The kinds of projects that are funded with the Community Development Assistance Act are things like a local community grocery store, community centers where private funds are utilized and raised within a community from private businesses, from private philanthropists, from private individuals to build community infrastructure. And locally, I'm getting from my communities that they want these dollars, there's more than enough opportunity, and that the accounting gets a little bit different. So the idea that it's underutilized is coming from the Tax Expenditure Report, which is trying to estimate whether or not this fund is, quote unquote, fully subscribed. And that's not a simple act of being able to do it in a single year, because you have up to five years to utilize these tax credits against your tax liability. So while you apply for them within the calendar year of which you made the donation, there's up to a five-year period. So there's not nice, easy boxes by which we can ascertain that these dollars are not being utilized or this fund is not being utilized. So I have a lot of concerns which have yet to be answered with regard to whether or not we're sweeping funds away from economically-distressed communities that need them. And if the question is we're not using them or the communities aren't accessing them. I think the second question is, why? Did they simply not know? Have they been discouraged from applying, which I think is one of the

Floor Debate  
March 30, 2017

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considerations that I've been given from some of the communities in my district which have used these funds in the past and would like to use them. So if it's a question that the funds aren't utilized, the need in economically distressed areas for this kind of private investment and private donation is certainly great. And so sweeping \$75,000 away from these tax credits and their intended purpose for another purpose, I think, is one significant concern that we have to look at. The second is, is I guess a broader one, which is if we have extra money in a fund which can be transferred to the General Fund when we are looking at cutting other programs and reducing General Fund dollars to other programs, I'm not sure why we're creating a new program at a time budgetarily when we're looking at reduction in funding to other specific programs. So first and foremost I oppose the movement to these funds. [LB356]

PRESIDENT FOLEY: One minute. [LB356]

SENATOR KUEHN: Thank you, Mr. President. I oppose the movement of these funds from the Community Development Assistance Act till we have greater clarity that communities in economically distressed areas simply don't want to use them. So until we have that clarity I cannot support this transfer. Second, I think we need to be asking ourselves, should we be creating new programs from General Fund dollars where we're sweeping funds...money from one fund into the General Fund and creating a new program simultaneously while we are cutting others? So I think those are some initial discussions that we need to have as we're contemplating and discussing this...advancing this legislation here today. So thank you, Mr. President. [LB356]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Harr, you're recognized. [LB356]

SENATOR HARR: Thank you, Mr. President. And I want to thank Senator Kuehn, because I have a lot of questions about this. Maybe not this bill particularly. I like what we're trying to do, but I find it interesting--and this is not an indictment of any individual or anyone--but we have the civic engagement or Community Development Assistance Act, which is a tax credit. And what I see us doing is we are cutting programs across the board. That's what Appropriations is doing, and that's what they should be doing when we don't have money. But then my question is, on the other side, what are we doing on tax credits? They're both expenditures, right? And why are we only going after appropriations and not looking at some of these tax credits and saying to people, hey, these programs that receive their money as an appropriation are going to take a hit. Your program is funded through a tax credit. It probably should take a hit as well. It's something we brushed around the edges at in Revenue. We had LB373, which was Senator Schumacher's bill that looked at how effective they are and what they are. We had Senator Stinner's bill which put a moratorium on a couple of them. But why does it matter how you're paid. If you're paid through a tax credit, you're fine. If you're paid through appropriations, we're going to cut you. Look up in the balcony right now. We have a whole bunch of white coats up there, young doctors

Floor Debate  
March 30, 2017

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who are providing...hopefully, will provide care to our less fortunate in society. And we're cutting their rates of reimbursement and we're cutting into a rate they may not or cannot afford to do that anymore. Why are we doing it on the appropriations end but not on the tax credits? It costs the same whether you buy something through a tax credit or you buy it through appropriations, it costs the state the exact same amount of money. Some could argue, if it's a transferable tax credit there's a lot of leakage and it probably costs the state a lot more to have the same result. That's another story for another day and it's a lot more complicated than I can explain with the remainder of my time left. I support this bill, what Senator Bolz is trying to do, but I do think it is worthy of conversation of as we cut, should we be looking at some tax credits? And as Senator Kuehn said, maybe taking some of those tax credit dollars and putting them back into the General Fund, fully appropriated or not fully appropriated. Thank you, Mr. President. [LB356 LB373]

PRESIDENT FOLEY: Thank you, Senator Harr. (Visitors introduced.) Senator Schumacher, you're recognized. [LB356]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. It would appear that this is another one of those things and confusing issues we get involved when we start playing with tax credits instead of real money through a real appropriations process that's properly reviewed from year to year. And it looks like this is a deal where an initial fund...not fund, an additional system was set up where a business who made a donation to this enterprise got to turn in that donation and in exchange for that got a tax credit back and we allowed the Tax Commissioner to grant that credit up to a certain limit; I think it was maybe \$350,000. And some businesses might know about that, some may not, and all the credits weren't being claimed. Now, credits against a business's income result in less state revenue. And apparently in this particular case, even though \$350,000 or whatever credits were granted, not enough businesses made application for it. And in that case we don't lose the revenue. On the other hand, what's being done here is a new program created, funded by the same credit mechanism in which \$75,000 of the old credits that might have been available to the first \$350,000 worth of claims are now going to be used in a new program. And if you're confused, don't feel bad because it's very confusing. And these credits can be carried forward in case you don't use them in one year, which makes it more confusing. Fortunately, these are not refundable credits in which a taxpayer, even though they don't owe money can make a claim for money. Also in this particular bill you get the language that may not even be constitutional. It says that this fund is to be awarded to the Nebraska affiliate of a grant-making body that provides financial assistance to organizations. Who do you suppose that would be? Are they talking about more than one or is that a clever way of saying, to this favorite body, nonprofit or for profit who knows what, a private body. Because if we said it will be granted to the Red Cross, for example--not to pick on them--or something else, it would look kind of odd in the statutes. So you got to watch for that language as to when



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

Floor Debate  
March 30, 2017

---

somebody special is being cited in the statute under the guise of other words. So would Senator Bolz yield to a question? [LB356]

PRESIDENT FOLEY: Senator Bolz, would you yield, please? [LB356]

SENATOR BOLZ: Sure. [LB356]

SENATOR SCHUMACHER: Senator Bolz, are we talking about a specific organization that is the beneficiary of this credit? [LB356]

SENATOR BOLZ: No, not any specific organization. [LB356]

SENATOR SCHUMACHER: So how many of these organizations do you know of or have you ran across that would fit the criteria of being the Nebraska affiliate of a grant-making body that provides financial assistance to organizations? [LB356]

SENATOR BOLZ: Very good. Thank you for the question, Senator Schumacher. The amendment clarifies what was my original intent--and this was a language issue that I should have caught--but the amendment changes from a "shall" to a "may," and the intent of that is that if the Civic Engagement Cash Fund grows larger, has donations, gets more appropriations, etcetera, if it takes off, then Nebraska Arts Council may need to establish a different way of administering the program similarly to the way the Humanities Council is nested under the Nebraska Arts Council. And so it gives that flexibility without having to reopen the statute. [LB356]

SENATOR SCHUMACHER: But if it's "may" and they don't, who gets the money then? [LB356]

SENATOR BOLZ: If it's "may" then the Nebraska Arts Council administers the Civic Engagement Cash Fund grant program, using the procedures and guidelines also referenced in the amendment. [LB356]

SENATOR SCHUMACHER: Now, granted \$75,000 isn't a whole lot of money, but we've been penny pinching something fierce this year and cutting into a lot of things. Wouldn't it...if there's \$75,000 is not being used in this...out of this \$350,000... [LB356]

PRESIDENT FOLEY: Time, Senator. [LB356]

Floor Debate  
March 30, 2017

---

SENATOR SCHUMACHER: Thank you. [LB356]

PRESIDENT FOLEY: Thank you, Senator Schumacher and Senator Bolz. Senator Geist, you're recognized. [LB356]

SENATOR GEIST: Thank you, Mr. Lieutenant Governor. I got confused there, too. And to follow up on your...Senator Schumacher's thinking here, I'm new at this so I'll concede, correct me if I'm wrong. On page 2, line 19, it says, fund for each fiscal year for fiscal year 2017-18 through 2026-27. So is that \$75,000 every year for ten years or one payment of \$75,000? Actually, I guess I would ask Senator Bolz if she would... [LB356]

PRESIDENT FOLEY: Senator Bolz, will you yield, please? [LB356]

SENATOR BOLZ: Certainly. So the answer to your question is that \$75,000 would be allocated to the purpose of the Civic Engagement Cash Fund each year over the fiscal year period as referenced in the bill, '17-18 through '26-27. So there is a sunset in this...contemplated in this bill so that there is an opportunity to revisit it if the cash fund is not functioning as it should be. [LB356]

SENATOR GEIST: So is that \$750,000 total? [LB356]

SENATOR BOLZ: So this is an initiative that takes existing budget authority from a tax credit and applies it to a cash fund. And basically what we found when we did research on this effort was that the tax credit didn't apply to all of the uses and needs that we were seeing in communities. If, for example, you had a park that wasn't well lit enough you might want to purchase new lights. [LB356]

SENATOR GEIST: That's all, I understand. Thank you. [LB356]

SENATOR BOLZ: Very good. [LB356]

SENATOR GEIST: So it is more than just a one-time payment of \$75,000. And I would just say that right now in a time where we're looking for money to add to the General Fund for things that are our budgetary...the things we really feel like are priorities for our budget this causes me concern, so that's all. Thank you. [LB356]

PRESIDENT FOLEY: Senator Geist, had you completed your remarks? [LB356]

Floor Debate  
March 30, 2017

---

SENATOR GEIST: I'm sorry? I have completed. Thank you. [LB356]

PRESIDENT FOLEY: Thank you, Senator Geist. Senator Bolz, you're recognized. [LB356]

SENATOR BOLZ: Thank you, Mr. President. I just wanted to address some of the comments that have come up on the floor and its positive dialogue. I guess I would say that without this bill the Civic and Community Engagement...sorry, the Community Development Assistance Act would continue as status quo. So without something to change the Community Development Assistance Act, the \$350,000 that is not fully utilized would continue under existing statute. So our idea was to repurpose some of those dollars for a similar function that implements the purpose in a different way. In other words, rather than a tax credit a cash fund, which for many communities who have needs and who have projects that's just a better fit because it's a little bit more accessible to neighborhood associations, to school groups, to those kinds of purposes. So the other issue that I wanted to address was the question of utilization and utilization over time. And I do want to share with the body to maybe put you more at ease that Department of Economic Development data from 1985 to 2010 shows that over 25 years \$2.1 million of the \$5.1 million in credits was unclaimed; about 42 percent. Data is available; I'd be happy to share that with anyone. But the point is that this is a purpose that the body has supported in the past. The concept, the idea of supporting communities in their own initiatives is something that the cash fund was designed to achieve, but wasn't maybe necessarily achieving that goal over time. And so simply by changing the way in which that goal is funded or implemented I think could achieve similar purposes with existing budget authority. Now if we wanted to, could we talk about whether or not some of these resources could be brought to bear in a tough-budget year? Most certainly, but I would say that we should remain committed to supporting our communities, to supporting civic life, and use the existing tax credit authority for a purpose that can really bring new projects to life in neighborhood associations, school settings, and communities all across the state. So I appreciate the opportunity to just answer a couple of questions, I would be happy to answer any more, and I'd appreciate your support on AM652 and LB356. [LB356]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Krist. [LB356]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of the Appropriations' AM652 and LB356. I was in the front of the Chamber when we recognized the last group that was in the balcony. And I just have to ask you, is it because I've had too much alcohol or not enough that I saw pink elephants up there? Just...it must be the elephant in the room, I guess. I just wanted that to confirm that I did see a pink elephant up there. I did? Okay, thank you. One of the reasons that I am very much in support of LB356 is I think there were areas in 2009 through '11 that we pulled a lot of support away from programs that were essential, in my mind, to the cultural development and to the continued historical documentation to this

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

Floor Debate  
March 30, 2017

---

great state. And although you might not draw the comparison to this one, I think this brings to light those kinds of things that if we can afford to continue these programs we need to put an emphasis on the things that we think are important. And to me this is one of those areas and I wanted to go on the record as saying that. Thank you, Mr. President. [LB356]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Groene. [LB356]

SENATOR GROENE: Thank you, Mr. President. I've got some questions about this. It says we're going to take from the Community Development Assistance Act by department for any fiscal year shall not exceed...let me start over. The total amount of a tax credit granted for a program approved and certified under the Community Development Assistance Act by the department for any fiscal should not exceed \$350,000, and they're going to lower that amount by \$75,000. Now, I'm not on the Appropriations Committee, but a tax credit has to be used. Senator Bolz, would you take a question? [LB356]

PRESIDENT FOLEY: Senator Bolz, will you yield, please? [LB356]

SENATOR BOLZ: Sure. [LB356]

SENATOR GROENE: Senator Bolz, do you know if the \$350,000 that the Community Development Assistant Act gave has been used in the past, all \$350,000 has been claimed? [LB356]

SENATOR BOLZ: Department of Economic Development data from 1985 to 2010 shows that over those 25 years only \$2.1 million of \$1.5 million (sic--\$5.1 million) in the credits was unclaimed, so about 42 percent. And it hasn't been fully utilized. All of... [LB356]

SENATOR GROENE: Thank you. [LB356]

SENATOR BOLZ: Well, just quickly, all of the claims have been approved. [LB356]

SENATOR GROENE: Thank you. So what we are doing on the fiscal note is claiming an unclaimed fiscal...unclaimed tax credit--which does not cause us any expenditures from appropriations--offsets an actual \$75,000 transferred from the General Fund, which is an expenditure. I don't know who did that fiscal note, but unless it was expended or taken--the tax credit--it wasn't an expenditure. So you took a \$75,000 maybe tax credit and turned it into a \$75,000 expenditure in the General Fund. To me, that doesn't add up. That is a net \$75,000 expenditure. I may be wrong, but that fiscal note doesn't add up. So, thank you. [LB356]

Floor Debate  
March 30, 2017

---

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Erdman. [LB356]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. I've been trying to get my hands around what this bill does. The question that come to my mind is, I need to start swinging a bigger loop because I never talk to people that have ideas like this. It's peculiar to me, so bear with me as I try to figure out what this is. And I'd like to ask Senator Bolz a question or two. [LB356]

PRESIDENT FOLEY: Senator Bolz, will you yield, please? [LB356]

SENATOR BOLZ: Sure. [LB356]

SENATOR ERDMAN: Senator Bolz, we put this in place. Who's going to make a decision who gets these funds? [LB356]

SENATOR BOLZ: The Nebraska Arts Council will develop the guidelines and publish those guidelines. [LB356]

SENATOR ERDMAN: So according to your amendment it says they shall develop those things, is that correct? [LB356]

SENATOR BOLZ: That's right. They have an existing mini-grants process that they would utilize for this new purpose. [LB356]

SENATOR ERDMAN: So if they get several applications in, then someone is going to have to make a decision on which ones are approved and which ones aren't? [LB356]

SENATOR BOLZ: Uh-huh, and I have a draft rubric here if anyone has interest it in. [LB356]

SENATOR ERDMAN: Okay. So then will that group also determine how much the appropriations will be for each group? [LB356]

SENATOR BOLZ: Correct. [LB356]

SENATOR ERDMAN: Can you give me an example of people who may apply for this grant? [LB356]

Floor Debate  
March 30, 2017

---

SENATOR BOLZ: Sure. The College View Neighborhood Association, of which I am a member, recently wanted to do some health initiatives based on a community assessment in their neighborhood, and they could have applied for funds to do a health assessment for the elderly neighbors in our community that was found to be a need after their community assessment. So my own College View Neighborhood Association is a good example. [LB356]

SENATOR ERDMAN: Okay, thank you. I'm trying to get my hands around whether anyone in District 47 would be applicable to this application...whether they'd be eligible. It's something I've not thought of. I've never had that approach before. [LB356]

SENATOR BOLZ: Is that a question, Senator? [LB356]

SENATOR ERDMAN: No. And then...so here's the question. So Senator Geist asked about \$75,000 annually. So is that a ten-year sunset? [LB356]

SENATOR BOLZ: Correct. [LB356]

SENATOR ERDMAN: That's \$750,000 in ten years. [LB356]

SENATOR BOLZ: Correct. [LB356]

SENATOR ERDMAN: So if I understand this tax credit right, if a business makes a contribution of \$75,000, then that person or that business that made that contribution can write that \$75,000 off of their tax liability? [LB356]

SENATOR BOLZ: That is maybe an understanding of the tax credit, but this would change the existing budget authority from a credit to a grant-funded program, so a small organization like the College View Neighborhood Association would apply and get grant funds. [LB356]

SENATOR ERDMAN: So then is the money going to come from a business that makes a donation and then they get a tax credit? Is that what I'm understanding? [LB356]

SENATOR BOLZ: Not in this Civic Engagement Cash Fund, no. [LB356]

SENATOR ERDMAN: Well, I guess I need to ask some questions off the mike to try to find out where this money comes from and how it's spent. I'll just tell you right now, I'm a red on this

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

Floor Debate  
March 30, 2017

---

deal. It doesn't look to me like this makes any sense to me, and let it be what it is and I'll listen to see. Maybe I can change my mind, but I doubt it. Thank you very much. [LB356]

PRESIDENT FOLEY: Thank you, Senator Erdman. Speaker Scheer. [LB356]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Would Senator Bolz yield to a question? [LB356]

PRESIDENT FOLEY: Senator Bolz, would you yield, please? [LB356]

SENATOR BOLZ: Sure. [LB356]

SPEAKER SCHEER: Senator Bolz, I'm just...I'm not trying to beat a dead horse, I'm just trying to clarify. There is actually not \$75,000 sitting in any account that we're utilizing or for that matter, there's not an account where there's \$350,000 sitting that we're going to withdraw the money from? [LB356]

SENATOR BOLZ: Well, it's budget authority that would be used. [LB356]

SPEAKER SCHEER: No, it's a yes or no question. [LB356]

SENATOR BOLZ: Oh, okay. [LB356]

SPEAKER SCHEER: Is there an account that this is being taken from? Is this...is there \$350,000 sitting there ready to be withdrawn? [LB356]

SENATOR BOLZ: The way you're asking your question I think the fair answer is, no. [LB356]

SPEAKER SCHEER: Okay. So what we're really doing is turning a tax credit where somebody earns that amount of credit to reduce their tax obligation and turning it into a cash distribution from the state of Nebraska to the arts or humanities or whoever is determining the grant funding. Would that be correct? [LB356]

SENATOR BOLZ: Correct. [LB356]

Floor Debate  
March 30, 2017

---

SPEAKER SCHEER: Okay. Thank you, Senator Bolz. Colleagues, I have two problems. One, first and foremost we are in such a huge hole from a funding standpoint. This takes dollars out of our checking account. I mean, granted maybe it might have been affected, but as Senator Bolz has relayed to us, only about 60 percent of these credits have been used, so we're not out all the money. Not everyone has used those credits, so we haven't had to give away the money. This literally gets the cash out before a credit would ever be instituted. It gets money out of the state of Nebraska and it takes money out of a facility that offers credits to people that do make those type of investments. I am a big arts supporter. And it secondarily concerns me. I don't have a problem trying to help fund arts, but I...we are "gray aread" with arts. It also has civic engagement and neighborhood participation and working. That's not arts and humanities. We're sort of confusing a lot of different issues in one tent. And my concern is that we think we're doing something for the arts and humanities and it very well may turn out not to necessarily go to any of those directions. But my primary concern is the fact that we are literally going to be writing a check and pulling \$75,000 a year out of our funds to start a program when we are...have...well, we have somewhat started to look at reducing a lot of different programs because we don't have the money to fund them. And if, indeed, this is a program that we aren't being utilized, then we need to have another hearing in Revenue to discontinue the program so that we don't have to cut \$350,000 a year out of existing programs rather than using \$75,000 to start a new program. Thank you, Mr. Lieutenant Governor. [LB356]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Morfeld. [LB356]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I rise in support of LB356 and AM652 as the Appropriations Committee priority. I also understand that we have some concerns given the budget situation. It's interesting also hearing Speaker Scheer's concerns as well. Would Senator Bolz yield to a question? [LB356]

PRESIDENT FOLEY: Senator Bolz, would you yield, please? [LB356]

SENATOR BOLZ: Sure. [LB356]

SENATOR MORFELD: Senator Bolz, first off, thank you for introducing this. I do think that this fulfills a need, and after...I know you talked to a lot of other stakeholders, so I definitely think there is a need out there. Given the budget situation, some of the concerns brought up here today, would you be amenable just to simply creating the program, not funding it at this point in time? That way the Arts Council and other stakeholders can start putting together what the program would look like and then perhaps some private funding? [LB356]



Floor Debate  
March 30, 2017

---

SENATOR BOLZ: Uh-huh. Yeah, I mean I think that's a reasonable fallback position I suppose, if we do in fact take the obligation and use it towards budget purposes. So we've had to make other tough choices in this body. If we were to use it to address our budget shortfall, I would certainly be amenable to that. If we don't take any action on this bill, then the tax credit continues to exist and continues to be underutilized and that's not the best utilization of our existing budget authority, and so we'd have to negotiate something to try to make it all come together in a way that achieves everyone's goals. But do I think establishing the cash fund and potentially funding it in a future year is still something worthwhile and something I would consider as common ground, certainly? [LB356]

SENATOR MORFELD: Thank you, Senator Bolz. Colleagues, I do think that while some of the concerns that were brought up by Speaker Scheer and others, particularly the cash fund in general, excuse me not the cash fund but the credit, in general, I think are maybe some legitimate things that we need to work out and discuss. That being said, despite being in a budget deficit and in a revenue--well, not crisis, but some people would call it crisis--in a revenue...having revenue problems, I think that we should be making strategic steps forward community initiatives regardless where we can, when we can. And even if we don't fund them at this point I think that it allows some of these other agencies and other nonprofits such as the Arts Council and others to be able to lay the framework, lay the groundwork so that when times are a little bit better and we can make strategic investments like that, the strategic initiative is ready to go. So if people are concerned about the \$75,000 and the credit being utilized in that way, I would urge everybody support the bill so that perhaps on Select File we can make an amendment. That way these organizations can start putting together the strategic framework for when the times are a little bit better and we can start making the strategic investment if we choose. Thank you, Mr. President. [LB356]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Kuehn. [LB356]

SENATOR KUEHN: Thank you, Mr. President. I reached out to DED to find out some additional history and information and I think this is where we need to be careful about understanding the history about appropriations and budget authority and however we want to approach it, because again I continue to hear from my communities about why there's not dollars available, and then here in this Chamber this is an unused authority so we can just siphon it away. So I want to put on record here I have directly from Department of Economic Development the credits that were allocated, so those that were applied for and allocated to specific projects from 2009 through 2017. Now, remember the tax credits that are actually paid out are not paid out necessarily over a single year. You have up to five years to utilize the full amount of your tax credits. What I think is important to recognize is that this tax credit was established in 1984. The reason we don't have a fully utilized tax credit is because they're not fully allocated, because in 2011 LB345 by Senator Danielle Conrad reduced the allowable

Floor Debate  
March 30, 2017

---

amount by \$150,000 to fund the Economic Gardening Technical Assistance Act. So starting in 2011 we raided...from the \$350,000 authority we raided \$150,000 of it to fund the Economic Gardening Technical Assistance Act, so we swept the tax credit and created it into a cash payout. When that expired then at the end of 2013, in 2014 we took \$50,000 of it in LB1114, a Senator Mello bill. Then last year we reduced that and took \$75,000 out in LB1083 for the task force study on innovation. So it's kind of hard to have a fully subscribed \$350,000 fund when since 2011 we've reduced the overall authority. So if you actually look at the allocation that has been awarded from 2009 by DED, in 2009 it was \$350,000, \$350,000, \$350,000 up until, whoops, 2012 when we kicked in and we took \$150,000 out of it for the Economical Gardening Technical Assistance Act, then we dropped down to \$150,000. Yep, that's underutilization, because we removed the authority. It stayed up at \$150,000 up until 2014 when it jumped back up. We had the gap year, it dropped back down again as a result of the \$50,000 swept out by LB1114 and then again reduced again by \$75,000 last year. So the allocation, the utilization of this fund is distorted by the fact that we've diverted...again, I think Senator Scheer did an excellent job in presenting that we have tax credit, an available tax credit, a budget authority--if that's the term, the euphemism we want to use--and we're converting it into a cash fund, and we've been doing it now since 2011 to the tune of up to \$150,000 a year, and we're trying to pretend that it's actual money sitting in a fund and it is not. We're now then saying that we're going to lock up \$75,000 of this tax credit for the next ten years to the tune of about three quarters of a million dollars. That's not chump change, folks, and we're converting a credit into dollars. We're not actually just saying, oh, this is unused dollars that are sitting there. We're saying that communities aren't going to have access to do the projects that were established by the Community Development Assistance Act. Those dollars are not going to be available. We can't allocate them through DED for the laudable community projects to which they were assessed. Finally, I was wondering if Senator Morfeld would yield to a question? [LB356]

PRESIDENT FOLEY: Senator Morfeld, will you yield, please? [LB356]

SENATOR MORFELD: I will, all right. [LB356]

SENATOR KUEHN: Thank you. Senator Morfeld, I mean, I don't...I'm not trying to play gotcha here, but I understand you're empathetic, but have you filed a conflict of interest statement on this particular bill? [LB356]

SENATOR MORFELD: No, I haven't. [LB356]

PRESIDENT FOLEY: One minute. [LB356]

SENATOR MORFELD: Wait, actually I think I have. [LB356]

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

Floor Debate  
March 30, 2017

---

SENATOR KUEHN: I just want to be clear that your organization testified in favor of this bill and expects to be a recipient of some of these funds. Is that correct? [LB356]

SENATOR MORFELD: Can I respond... [LB356]

SENATOR KUEHN: Yeah. [LB356]

SENATOR MORFELD: ...since you've brought this up on the mike? So, my organization, Nebraskans for Civic Reform, I founded in 2008 and we take policy positions. When I was elected my board decided to not involve me in the policy position process anymore moving forward, so any time they talk about policy positions I'm not a part of that process and I have no say over that. And so in doing that I also told the board, despite me not having any part of that process, anything they take a position on, I'm going to file a conflict of interest. I think they took positions on 18 or 19 bills this year. I don't know if they're going to apply for any of these funds or not, quite frankly. [LB356]

SENATOR KUEHN: Thank you. I appreciate it. I just want to make sure that we're clear that as we're talking about and as we're advocating and working for these funds that there is an issue in where and how these funds are dispersed. And if we're going to talk about this... [LB356]

SENATOR KRIST PRESIDING

SENATOR KRIST: Time, Senator. [LB356]

SENATOR KUEHN: Thank you. [LB356]

SENATOR KRIST: Thank you, Senator Kuehn and Senator Morfeld. Senator Bolz, you're next in the queue. There's no one behind you. Would you like to take this opportunity to close? [LB356]

SENATOR BOLZ: No, I'd like my time, please, Mr. President. I appreciate the dialogue this afternoon. And as an Appropriations Committee member, I assure you that no one feels the budget crunch quite the way the Appropriations Committee feels the budget crunch. I appreciate the body's concerns about the funding source and the funding this year. Would Senator Scheer yield to a question? [LB356]

SENATOR KRIST: Senator Scheer, will you yield? [LB356]

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

Floor Debate  
March 30, 2017

---

SPEAKER SCHEER: Yes, I will. [LB356]

SENATOR BOLZ: Senator Scheer, funding aside, the idea of a Civic Engagement Cash Fund, do you think it might help your community? It might be good for Norfolk? [LB356]

SPEAKER SCHEER: It certainly would have some possibility, yes. [LB356]

SENATOR BOLZ: Sure. So if we were to create the cash fund but not use this funding source this year, would you be able to support it? [LB356]

SPEAKER SCHEER: I could support it as long as it was far enough in advance that we are showing positive growth in revenues and exceeding our budget expenditures, yes. [LB356]

SENATOR BOLZ: Sure. So my proposal to the body would be that...thank you, Speaker Scheer. My proposal to the body would be, given our budget circumstances, this year I'd like to create the Civic Engagement Cash Fund but not fund it at this point in time so that future Appropriations Committees, future legislators could decide whether or not that was something they would choose to investment in. Would Senator Kuehn yield to a question? [LB356]

SENATOR KRIST: Senator Kuehn, will you yield? [LB356]

SENATOR KUEHN: Yes, I will. [LB356]

SENATOR BOLZ: Senator Kuehn, did we have a meeting on the calendar on March 22? [LB356]

SENATOR KUEHN: I'd have to check but, yes, we've had some meetings on the calendar. Yes, we have. [LB356]

SENATOR BOLZ: And for whatever reason that meeting didn't happen, is that right? [LB356]

SENATOR KUEHN: Yes. If I recall correctly, I had another meeting prior that was going longer and we had to resolve some issues regarding a bill. [LB356]

SENATOR BOLZ: Right. So we had tried to have a conversation about this and other appropriations issues, so would you be willing to give me the opportunity to advance this bill on General File and work out the amendment that I just discussed with Senator Scheer? [LB356]

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

Floor Debate  
March 30, 2017

---

SENATOR KUEHN: At this point, I...until there's a funding mechanism for it, just philosophically the idea of creating a program that sits there and has no funding I guess I'm not quite sure the point. I think it's a laudable idea and it's a laudable concept, but like many ideas and concepts, if there's not dollars behind it to implement them, I'm not sure the point of putting it in statute. So at this point, no, I would not. [LB356]

SENATOR BOLZ: Okay, would it...Senator Kuehn, would it remove your proactive opposition? [LB356]

SENATOR KUEHN: My...pardon? [LB356]

SENATOR BOLZ: Would it remove your opposition? Would it make you decide that we could...if the will of the rest of the body was to move forward, we could move forward? [LB356]

SENATOR KUEHN: I think that amendment would have to be...the language for the cash fund would have to be stricken at this time before we moved it forward to Select File. [LB356]

SENATOR BOLZ: Okay. [LB356]

SENATOR KUEHN: You're welcome to bring that amendment and we can discuss it. [LB356]

SENATOR BOLZ: Sure. I'd be happy to bring the amendment. I struggle doing floor amendments because I want the technical language to be correct, so Senator Morfeld, would you yield to a question? [LB356]

SENATOR KRIST: Senator Morfeld, will you yield? [LB356]

SENATOR MORFELD: Yes. [LB356]

SENATOR BOLZ: Senator Morfeld, do you have an interest in civic engagement and civic activities? [LB356]

SENATOR MORFELD: It's one of the reasons why I ran for the Legislature. [LB356]

SENATOR BOLZ: Would you be willing to talk about that interest for a minute while I draft the amendment I just discussed with Senator Kuehn? [LB356]

Floor Debate  
March 30, 2017

---

SENATOR MORFELD: Sure, I'll buy a moment or two of time. [LB356]

SENATOR BOLZ: Thank you, Senator Morfeld. Thank you, Mr. President. [LB356]

SENATOR MORFELD: Thank you, Senator. Well, first off, again I appreciate Senator Bolz for bringing this legislation. Senator Bolz actually came to me with this idea over the interim because of my work in civic engagement, because of the fact that I founded a nonprofit that was dedicated to getting young people engaged in their community and involved in their democracy in nonpartisan ways. And so I told her that this is something that I thought would be a great idea. I never thought of it before. And that I thought her constituent had a good idea that was worth bringing legislation. So if she was going to bring that legislation, I certainly would be supportive. I know that she talked to my organization and because I don't take part in the policy decisions of that anymore... [LB356]

SENATOR KRIST: One minute. [LB356]

SENATOR MORFELD: Thank you, Mr. President. Because I don't take part in those policy decisions anymore, that was the conversation that she had to have independently and that my organization, independent of me, decided to support as well. And so I think that these types of projects are projects...in response to Senator Erdman's question, these are types of projects that could quite frankly be used with community organizations, neighborhood organizations across the state. And these are things that have real needs, and just a little bit of money can go a long ways in addressing community needs that regular, ordinary, every-day citizens come up with. And I think the Arts Council and the Humanities Council is a great avenue for doing that, because they have a very simple grant process that provides some of these critical funds, small though they may be, to ensure that we have a strong democracy and a strong civic society. And so I hope that gave Senator Bolz enough time to draft her floor amendment, but I do appreciate everybody's conversation. I do think that there's legitimate points that have been brought up with the tax credit and I think that those are points that are well taken and hopefully we can go get the fund started and go from there and see what the Arts Council does. [LB356]

SENATOR KRIST: Thank you, Senator Bolz, Scheer, Kuehn, and Morfeld. Senator Scheer, you're recognized. [LB356]

SPEAKER SCHEER: Thank you, Mr. President. I rise in my Speaker's capacity. I am going to use something that is very seldom used. I am going to put a Speaker's hold on this bill. That will give Senator Bolz the opportunity to write an amendment up that is fully thought out and available to have a discussion rather than try to hurry and have something that probably is not going to be in the best form as we move forward. So, Mr. President, I would suggest that we

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

Floor Debate  
March 30, 2017

---

move forward and pass over LB356 and I will return it to the agenda at a later date. Thank you.  
[LB356]

SENATOR KRIST: Thank you, Speaker. Let it be done. Mr. Clerk. [LB356]

ASSISTANT CLERK: Next bill, Mr. President. LB487, introduced by Senator Morfeld. (Read title.) The bill was introduced on January 17, referred to the Judiciary Committee, that committee placed the bill on General File with committee amendments. (AM568, Legislative Journal page 691.) [LB487]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Morfeld, you're recognized to open on LB487. [LB487]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I would like to thank Senator Ebke and the Judiciary Committee for making this a priority bill and for the Nebraska Attorney General Doug Peterson for supporting this legislation and working with me to look at how this legislation aligns with other states on the cutting edge of fighting the overdose and opioid epidemic in our country. LB487 grants limited immunity, for possession only, to persons seeking help for themselves and/or someone else in the need of immediate medical attention due to a controlled substance overdose; so a drug overdose. The law applies to the person experiencing the overdose and the person or persons making the call for medical assistance as soon as the overdose is apparent. Such person or persons must also stay on the scene and cooperate fully with law enforcement when medical attention arrives. This legislation mirrors LB439 passed into law in 2014 that provides limited immunity for underage Nebraskans experiencing alcohol poisoning. Since then, countless Nebraska youth in serious need of medical attention have utilized that law while cooperating with medical and law enforcement authorities. This bill almost exactly mirrors that legislation. It's been in place for two years now and it's been very well utilized in a responsible manner. Colleagues, I have sent around some handouts today, but this entire country has seen an unprecedented rise in drug overdose deaths. Law enforcement and medical professionals alike stated that the key to saving lives is to enact proactive laws that provide access to medical care and put safety and lives first and possession charges second. According to a report published in 2014 by the Nebraska Department of Health and Human Services, drug overdose deaths have quadrupled since 1999 and are responsible for 146 deaths in Nebraska alone. With the prudent tightening of our prescription drug monitoring systems which I strongly supported, we will begin to see our friends and family with prescription drug problems turn to street drugs and often when we find out, the medical attention is too late for them. This is why the Attorney General supports this legislation, because he is involved with national efforts to combat this epidemic and this is a step that a majority of the states have taken to save lives. Nebraska would join 34 other states and the District of Columbia with similar laws in different

Floor Debate  
March 30, 2017

---

forms if LB487 is passed. It is also important to note that the law would only apply to possession of a controlled substance or drug paraphernalia if evidence for a charge was gained as a result of an overdose and the need for medical attention. It is very narrow and limited in scope. It does not provide immunity for distribution or other crimes or offenses. It also requires that those availing themselves of immunity cooperate with medical authorities and police. This bill gives ample discretion to law enforcement in the event of a person manufacturing or having intent to distribute a controlled substance, among other crimes. In addition, this type of immunity has already been tested through the passage of LB439 two years ago for minor in possession. LB487 ensures that we're putting the lives of Nebraskans first while ensuring accountability and I urge your adoption. Thank you, Mr. President. [LB487]

SENATOR KRIST: Thank you, Senator Morfeld. And as the Clerk stated, there are committee amendments. Senator Ebke, as the Chair of Judiciary, you are recognized to open on your amendment. [LB487]

SENATOR EBKE: Thank you, Mr. President. AM568 would become the new white copy of LB487, making it into the second 2017 Judiciary Committee omnibus bill. The central focus of this bill is controlled substances. Careful consideration was given by the committee to ensure that the bills that would make up this package are substantially related and germane to one another. This resulted in a much smaller omnibus than has been seen from the Judiciary Committee in the past. As with the previous Judiciary omnibus, I have encouraged the introducers of each individual bill to say a few words as to the form, function, and purpose for their legislation. AM568 would retain all of the provisions of LB487 and a number of other bills. Senator Morfeld will be bringing a small technical amendment, AM822, to address liability concerns raised by Senator Chambers and the trial attorneys during the committee hearing on his bill. LB487 itself was advanced from committee on a vote of 7-0 and one not voting. And aside from the mild concerns previously mentioned that will be addressed in AM822, there was no opposition. LB167 was introduced by me. That would include cannabidiol as a Schedule V controlled substance, and I will explain this in more detail just in a few minutes. That bill advanced to General File by a unanimous vote. LB293 by Senator Larson would include the designer drug U-47700, known by its street name "Pink" as a Schedule I controlled substance under the Uniform Controlled Substances Act. LB293 was heard in committee and saw no opposition and was advanced to General File by a vote of 7-0 with one not voting. LB296 as amended by AM276 by Senator McCollister would change immunity provisions with respect to administering drugs to counter asthma and allergic reactions in public schools. LB296 was heard in committee and had one opponent with mild concerns. Those concerns were hashed out among the parties and were addressed in AM276. LB296 advanced to General File with AM276 on a unanimous vote. Having introduced the pieces that make up LB568, I would take a moment to return to the detail of my bill in the package, LB167. LB167 would reschedule cannabidiol in a drug product approved by the United States Food and Drug Administration into a Schedule V of



Floor Debate  
March 30, 2017

---

the Nebraska Controlled Substances Act. Currently, cannabidiol in any form is a Schedule I controlled substance with no approved medical use and possession, distribution, and sale of cannabidiol is a criminal act in Nebraska. Later this year cannabidiol in a pharmaceutical formulation will be submitted to the FDA for approval. The drug is called Epidiolex and it is a pure cannabidiol CBD investigational product that is being studied as a potential anticonvulsive treatment for childhood with certain types of childhood onset epilepsy. These are medication resistant epilepsies, including Dravet syndrome and Lennox-Gastaut syndrome. These types of epilepsies are severe and highly resistant to treatment with existing medications. With uncontrolled seizures most patients will develop moderate to severe intellectual and developmental disabilities in childhood and require lifelong supervision and care. They face a significant risk of early death. They urgently need new treatment options. Currently there are no approved treatments for Dravet syndrome and the FDA has granted Epidiolex fast track and orphan drug designations, meaning FDA approval could come as soon as eight months after submission. LB167 seeks to address the problem that a cannabidiol-based pharmaceutical has a Schedule 1 substance, both federal and at state level. Upon FDA approval, rescheduling by the DEA will take place and take care of the federal law. However, Epidiolex must then be rescheduled in each state, including Nebraska. This bill allows our Legislature to proactively reschedule cannabidiol in an FDA approved product, ensuring that Epidiolex will be available to patients in Nebraska as soon as federal approval and rescheduling is complete. Again, this is a trigger piece of legislation. It doesn't happen unless the FDA has rescheduled and the DEA has done that as well. Without this proactive legislation, Nebraska children with these devastating types of epilepsy might not be able to obtain rapid access to an exciting new treatment option, especially if the federal approvals occur when our Legislature is out of session. There is no reason why these children and their families should suffer a day longer than is necessary if there is an FDA-approved treatment of these seizures. I would encourage you to support this legislation and all the bills in the package by voting in favor of the committee amendment and the underlying bill. Again, as with the previous Judiciary omnibus, this package was kept tight in an effort to ensure both that we kept the subject matter to each bill substantially similar to one another to ensure germaneness and also to show the utmost consideration for the body's time. We wanted to move these important bills forward and, hence, you see AM568 before you as an amendment to LB487. Thank you, Mr. President. [LB487 LB167 LB293 LB296 LB568]

SENATOR KRIST: Thank you, Senator Ebke. As the Clerk stated, there is an amendment to the committee amendments. Mr. Clerk. [LB487]

ASSISTANT CLERK: Mr. President, Senator Morfeld would offer AM822 to the committee amendments. (Legislative Journal pages 857-858.) [LB487]

SENATOR KRIST: Senator Morfeld, you're recognized. [LB487]

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

Floor Debate  
March 30, 2017

---

SENATOR MORFELD: Thank you, Mr. President. Colleagues, as Senator Ebke suggested in her statement on AM568, Senator Chambers and a few other people pointed out that the immunity that we were providing for the dosage of Naloxone for emergency medical service folks was not consistent with other immunities and this makes it consistent with other similar immunities within the statute. Thank you, Mr. President. [LB487]

SENATOR KRIST: Thank you, Senator Morfeld. You've heard the introductions to the AM822, AM568, and LB487. The floor is now open for discussion and debate. Seeing no one in the queue, Senator Morfeld, you're recognized to close on your amendment. Senator Morfeld waives closing. The question before you is the adoption of AM822. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB487]

ASSISTANT CLERK: 28 ayes, 5 nays on the adoption of the amendment to committee amendments. [LB487]

SENATOR KRIST: The amendment is adopted. Seeing no one in the queue, Senator Ebke you're recognized to close. Senator Ebke waives closing on the committee amendment, AM568. The question is an adoption of the amendment. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB487]

ASSISTANT CLERK: 31 ayes, 6 nays, on the adoption of committee amendments. [LB487]

SENATOR KRIST: AM568 is adopted. Seeing no one else, Senator Morfeld, you're recognized to close on LB487. [LB487]

SENATOR MORFELD: Thank you, Mr. President. Again, I want to thank Senator Ebke and the committee for making this a committee priority. I also want to thank the Attorney General for supporting this legislation and working with me to craft it and ensure that it is employing best practices and testifying in support. This is a bill that will ensure that when our family members have drug overdoses, they are able to get medical attention without any issues. Thank you, Mr. President. [LB487]

SENATOR KRIST: Thank you, Senator Morfeld. You've heard the closing on LB487. The question is the advancement to E&R Initial. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB487]

ASSISTANT CLERK: 35 ayes, 4 nays on the motion to advance the bill. [LB487]

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

Floor Debate  
March 30, 2017

---

SENATOR KRIST: LB487 advances. Next item. [LB487]

ASSISTANT CLERK: Mr. President. LB417, introduced by Senator Riepe. (Read title.) The bill was introduced on January 13, referred to the Health and Human Services Committee. That committee placed the bill on General File with committee amendments. (AM579, Legislative Journal page 707.) [LB417]

SENATOR KRIST: And I failed to recognize we're moving on General File, 2017 senator priority bills, the Hilgers division. Senator Riepe, you're recognized the open on LB417. [LB417]

SENATOR RIEPE: Thank you, Mr. President, colleagues, and Nebraskans. Today I present to you my priority bill LB417. I prioritized LB417 at the request of the Department of Health and Human Services and it addresses efficiencies within the department as it relates to the public health and welfare of Nebraskans. LB417 is the Department of Health and Human Services' omnibus bill. Because the bill addresses efficiencies within the department, it covers numerous areas. But before I talk about the bill, I want to address the committee amendment. Committee amendment AM579 removes the controversial portions of LB417. This includes the language regarding quality review teams or QRTs for developmentally disabled. The QRTs should be addressed later in session within a different bill. AM579 also removes the department's sections regarding alternative responses or AR. The Health and Human Services Committee addressed the AR concerns in LB225, which is Senator Crawford's priority bill. And while she's not here, I do want to thank her for prioritizing LB225 as her personal priority. With the adoption of AM579, it will eliminate the concerns opponents had regarding AR and the QRTs. Now, there were other concerns brought up at the hearing regarding the reporting requirements. I will address those issues as I address each report separately. Moving onto the actual bill, LB417 addresses outdated reporting requirements, nursing assistants, notifications regarding the Uniform Credentialing Act, peer review, and senior companion volunteers. First, LB417 amends Nebraska statutes to change the title of nursing assistant to nursing aide. This change will provide for consistent use of nurse aide and align state statutes with the federal statutes governing nursing aides. It also expands the definition of work settings so nurse aides may work and stay active on the registry, nursing aides maintaining active registration based on work in approved settings. Therefore, nursing aides will be able to be employed in a variety of healthcare settings and more nurse aides will be able to maintain their active status in the Nebraska work force. LB417 also amends the Uniform Credentialing Act pertaining to notifications sent to credential holders. The current statute requires that a written notice be mailed. The bill expands notice to allow the use of electronic notification of credential holders in certain situations. This will allow for optimal efficiencies by offering a faster way to send notices. Section 9 through 11 of LB417 deals with reporting requirements for Medicaid and the Medicaid Reform Council. There was some concern at the hearing the reporting requirements were being completely

Floor Debate  
March 30, 2017

---

eliminated. However, under LB417 the department will continue to provide the annual report the Legislature receives every December. I looked at the Medicaid Reform Council over the interim, which was LR553. My conclusions were that the Medicaid Reform Council is no longer meeting the requirements set in statutes. The last meeting was held in December 2013. Some of that repeal of the Medicaid Reform Council is within LB644, one of the Government Committee's priority bills. However, the changes in LB417 do not overlap. LB417 removes the biennial regulations report within Medicaid. The biennial report requires information on the implementation of Medicaid rules and regulations, state planning amendments, and waivers. The department provides public notice of these regulations to the Legislature, providers, and the general public prior to hearings and promulgations. Since this notice is already provided, this report is redundant. Moving on to the Nebraska Senior Companion Volunteer Program, the Nebraska Senior Companion Volunteer Program consists of individuals who are 60 years of age or older and provide companion services for frail elderly individuals. LB417 will revise the Senior Companion Volunteer Program to allow for a broader volunteer program within the State Unit on Aging. The current program is restricted by limiting those who may volunteer, the number of hours they are allowed to volunteer, and the individuals that may be served. This bill will broaden the scope of the program by providing additional community supports to Nebraska seniors. LB417 removes the reporting requirements of the number of waivers granted by the department for training requirements for relative foster care. The information in the report can be provided in better ways. DHHS and the partners such as the Foster Care Review Office have the ability to capture this information in a more comprehensive and detailed way. For example, the Legislature receives information about relative placement in the Annual Foster Care Review Office Report and providing information of the waiver granted within that report may be a more meaningful way to report to the Legislature and to the public. Moving on to peer support, peer support services consist of a qualified peer support provider who assists individuals with their recovery from mental illness and substance abuse disorders. Peer support services assist with navigating the healthcare system, helping obtain services, build skills, and identify community resources. Peer support services have shown the reduction of in-patient services, recurrence of hospitalizations, and improved relationships with providers, along with the increased ability of individuals to manage one's own care. LB417 also aligns state law with current practice and authorization from the Department of Behavioral Health Services to ensure the training, credentialing, and competencies of a peer service and supports work force. Per LB1083 passed in 2004, the Division of Behavioral Health is statutorily charged with ensuring quality services, including but not limited to services that emphasize beneficial treatment outcomes and recovery with appropriate treatment planning, case management, community support, and community peer support. Under LB603, passed in 2009, the Division of Behavioral Health was charged with training individuals to provide peer services through the Family Navigator Program. Under the office of Consumer Affairs, the Division of Behavioral Health implemented peer support training in 2009, developed a quality peer work force of consumers and family members for recovery from mental illness or substance use disorders, and provides support to the behavioral health

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

Floor Debate  
March 30, 2017

---

population. Further, the Division of Medicaid and Long-Term Care has submitted a state plan amendment to include peer support as a covered service. Moving on to additional reporting requirements, LB417... [LB417 LB644]

SENATOR KRIST: One minute. [LB417]

SENATOR RIEPE: ...thank you, sir...removes the Juvenile Association Annual Report. This report was created in 1981 and requires information on the care provided by juvenile associations for juveniles. Stakeholders expressed concern regarding this section. However, as the department acknowledged, juvenile associations are no longer in operation or receiving juveniles under the Nebraska Juvenile Code. As a result, this report is obsolete and no longer needed. LB417 removes the behavioral health data and management report as these data elements are obscure and redundant of current reports, including the Division of Behavioral Health's Annual Report and Strategic Plan. LB417 also removes outdated reporting requirements regarding the occupancy of any regional center reaching 20 percent or less of the licensed psychiatric hospital bed's capacity. It has never reached 20 percent or less since 2004 and this report was created prior to the creation of the regional centers. [LB417]

SENATOR KRIST: Time, Senator. Time, Senator. [LB417]

SENATOR RIEPE: Okay. [LB417]

SENATOR KRIST: Do I understand that that was your opening on both the bill and the amendment? [LB417]

SENATOR RIEPE: Yes, sir. [LB417]

SENATOR KRIST: Okay. You've heard the opening on AM579 and LB417, LB417 and AM579. Those wishing to speak? Senator Kolterman, you're recognized. [LB417]

SENATOR KOLTERMAN: Thank you, Mr. President. I want to make it...I don't know if Senator Riepe was going to talk about this. There was a lot of opposition to this bill that were listed, but at the same time we worked hard on this bill and it came out of committee on a 7-0 vote. I want you to know the committee has studied this pretty thoroughly, and a lot of effort went into the amendment. With that, I would yield the rest of my time to Senator Riepe so he can finish his open. [LB417]

SENATOR KRIST: Senator Riepe, 4:30. [LB417]

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

Floor Debate  
March 30, 2017

---

SENATOR RIEPE: Thank you, Senator Kolterman, and thank you, members. I appreciate your kind comments. I do want to finish and I will be brief. This LB417 removes the Care Management Units Report. This report was created in 1987 and requires information on only Care Management Units from the Area Agencies on Aging. The requirements for this report are outdated since Area Agencies on Aging provide more services than care management. There is a lot in this bill, I know that. And with its passage, it will allow the department to provide more efficiencies and effective governmental services to the citizens of Nebraska. With that, I thank you for your green vote or ask for your green vote on AM579 and LB417. Thank you, sir. [LB417]

SENATOR KRIST: Thank you, Senator Riepe. Senator Riepe, you're next in the queue if you'd like to continue. Senator Crawford, you're recognized. [LB417]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of LB417 with AM579. Just wanted to reiterate as a member of the committee, LB417 was a huge bill with many parts. And with AM579 we've really pulled together the components of the bill that were noncontroversial and that there was a lot of agreement on that these were important ways to clean up the statutes and remove reports that weren't being used and to update our policies in ways that will help our programs work better. So if you looked at the committee statement you might have been alarmed if you saw a number of opponents. And those parts of LB417 where there was controversy are now parts of other bills, as Senator Riepe noted. But I just wanted to reinforce that as another member of the committee. We've had important conversations about QRTs and about alternative response and those policy changes are now parts of other bills that we're debating in other places. And what is left in LB417 with AM579 are really important cleanup and improvements in the policies for Health and Human Services that allow us to make sure that those programs are working well, clarifying our behavioral health language, and improving our nurse assistant statutes to have language there that concurs with federal guidelines and allowing our credentialing, mailing notices to be done in electronic form and to update our Senior Companion Volunteer Act by eliminating restrictions on volunteers. So I encourage your green vote on AM579 and LB417. Thank you, Mr. President. [LB417]

SENATOR KRIST: Thank you, Senator Crawford. Seeing no one else in the queue, Senator Riepe, you're recognized to close on your committee amendment. Senator Riepe waives closing. The question before you is the adoption of AM579. All those in favor, aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB417]

CLERK: 35 ayes, 0 nays on the adoption of committee amendments. [LB417]

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

Floor Debate  
March 30, 2017

---

SENATOR KRIST: AM579 is adopted. Seeing no one in the queue, Senator Riepe, you're recognized to close on the bill. [LB417]

SENATOR RIEPE: I know you don't...Mr. President and colleagues, I know you don't want me to do my opening again, so I am simply going to ask for your support on AM579 as you had and I appreciate that, and now LB417. Thank you, sir. [LB417]

SENATOR KRIST: Thank you, Senator Riepe. You've heard the closing on LB417. The question is the advancement to E&R Initial. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB417]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB417. [LB417]

SENATOR KRIST: LB417 advances. Next item. [LB417]

CLERK: LB376, introduced by Senator Scheer. (Read title.) Introduced on January 13, referred to the Executive Board for public hearing, advanced to General File. There are committee amendments, Mr. President. (AM159, Legislature Journal page 453.) [LB376]

SENATOR KRIST: Thank you, Mr. Clerk. Speaker Scheer, you're recognized to open on LB376. [LB376]

SPEAKER SCHEER: Thank you, Mr. President. And I might add, folks, this is it between you and your ride home. So I will try to do this fairly quickly and hopefully everyone will get an early slate home. I brought LB376 this year to remedy a situation that I'd hoped had been settled in 2015. In April of 2015, LB56 was passed 47-0 and signaled the Legislature's intent that this land would go to the college. The college along with the city and other partners have plans to develop the property into a technology park to attract business and investment into Norfolk and the northeast Nebraska area. This project will create jobs, create wealth, generate additional tax revenue for the state and local government, and make our region of the state very, very competitive. This project will significantly help our entire region and we have been waiting far too long for it to begin. You have been passed out a map. It was showing the property in question. The property in question is that with the black lines. The area of red around it is the complete piece of property that is currently owned by the state. You will notice at the bottom part of that area is a small segment that looks perhaps like housing. That is the sex offenders regional center. It is a barbed wire, razor fenced facility to the south of the property. On the left you will see the current community college. The area around the area that I am requesting to be provided to the college is college ground that they use in their ag production area in production of grains

Floor Debate  
March 30, 2017

---

and so forth and cattle production as part of that facility. The area to the south or the bottom part of that, you'll see a red roof sort of in the middle of the page and then it looks like a lot of dirt sort of in the middle on the south...on the bottom part. That is the lineman's program for the college. And to the far right, another red roof and that is the agricultural department of the college. You may ask yourself, well, if we passed the bill in 2015, what are we doing trying to do it again today, and I'm glad you asked. The reason we're doing it is because two years ago we tried to make a fair market value transaction. It took 18 months for the state to get back to me and to the college with its first appraisal on this property. The first appraisal came back at \$32,900. The appraisal was completed in September of 2016, 18 months after the legislation passed. The appraiser assumed that the land was owned as industrial and appraised the property as such. City documents show that this property is, in fact, zoned as agricultural. The appraisal is flawed to begin with. Two of the three properties that they showed as comparatives--if you're familiar with Norfolk at all--were down on the southwest part of Norfolk, the highest traffic area, the highest value around the Walmart and our mall area; not even comparative. We brought this to the attention of the DS, so they asked for a second appraisal. The second appraisal came in last month. It took eight months to get that one. The land now valued from \$33,000 or \$34,000 now down to \$12,500. Now we're getting closer. But when we looked at this appraisal, there were 12 comparables that they showed, eight...four were zoned agricultural, eight were not. They were zoned on zoning potential. This has no zoning potential. This property is in this Norfolk strategic plan. It is designated as only being for public use. The city has told me that they would resist and would not rezone this under any circumstances. Both these appraisals have one thing in common. Neither one of them--getting back to Senator Krist's comment about the pink elephant in the room--neither one of them has anything in their appraisal that even mentions the sex offenders' facility on the south edge of the property. Now ask yourself, if you're a developer are you going to buy a piece of property that is abutted by a sex offenders' facility that has razor wire fence completely surrounding it? On page 62--this is a 62-page document, the second appraisal--it has one sentence that only mentions the property as "the regional center" and then quickly in the same sentence notes that it is abutted by a church to the south and private houses. Completely ignores the fact of what's sitting there. One has to argue that are either one of these even an accurate assessment of what we have? I'm to the point this year where I thought enough is enough. We have delayed this as a state for over two years and Norfolk has suffered. We're trying to develop and encourage development and economic development and activity within our area and our region. Now, I'm not asking for us to plow virgin earth. What I'm asking is for a fairness issue for Norfolk just like the rest of the state. Some of you may or may not be familiar with the veterans home that still is actually operating in Grand Island. In the last year the state of Nebraska has provided the city of Grand Island--and please listen because this is important--460 acres. Grand Island received...the city of Grand Island received 406 acres and when the facility is emptied they will receive another 55 acres. The ground that I am talking about is 43 acres in Norfolk. If the state can afford to give Grand Island literally 500 acres of ground, of which two-quarters of it I believe are irrigated farm property, we ought to be able to give 40 acres that is



Floor Debate  
March 30, 2017

---

abutted by a sex offenders' facility to the community college to try to develop and encourage economic activity in northeast Nebraska. The map should be beneficial. Attached to it is a letter from the college requesting that you provide this to them. You also have on your desk a note from Senator McCollister. Anything that he has said here I will tell you is factual. The first ground was valued at the \$35,000 or \$34,000, which equated to \$1.4 million. The second one was \$544,000. It is not...the state did provide \$500,000 roughly to tear down the old buildings there. We would have had to do that regardless. They were absolutely a liability trap. There are several senators here that came up to Norfolk that were on the buildings committee two years ago and reviewed what I was proposing at that time. The college initially, two years ago, had just simply tried to buy it for \$3,000 an acre and it was not accepted. We wanted to have an appraisal, so we got one and then we had to get another appraisal. And two years later we're still looking at an appraisal that is truly flawed. I'm asking for fairness from the floor, that we treat this facility just like we treated the one in Grand Island. This ground, by the way, if it's not close enough to the fact that we are looking at the veterans home in Grand Island, Norfolk's original veterans facility, the veterans home was located on this exact property. I don't know how much closer we can get to an apples-to-apples comparison. That's all I'm asking for is fairness. Let's let the state divest itself of that liability concern. Let the college take it over. This is an intergovernmental transfer. There is no money to be made. One governmental institution is transferring it to another and for a great cause, to be developed and help in the economic development of rural Nebraska. [LB376]

SENATOR KRIST: One minute. [LB376]

SPEAKER SCHEER: That's what we all should want. Thank you, Mr. President. [LB376]

SENATOR KRIST: Thank you, Senator Scheer. As the Clerk stated, there are committee amendments. Senator Watermeier, as the Chair of the committee, you're recognized to open on your amendments. [LB376]

SENATOR WATERMEIER: Thank you, Mr. President. Good afternoon, Nebraska. Yeah, this was one of these projects that I actually served on building and maintenance two years ago and did tour this with the other...as Speaker Scheer had mentioned. I don't have the amendment in front of me here. Clearly, I wasn't prepared for this. I apologize we didn't get to it, but I am fully supportive of Speaker Scheer's LB376. And I know there were several discussions inside of Executive Board on trying to sell it on auction and I would be opposed to that. So we're going to follow up with this AM159. Thank you, Mr. President. [LB376]

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

Floor Debate  
March 30, 2017

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SENATOR KRIST: Thank you, Senator Watermeier. You heard the opening on AM159 and LB376. Those wishing to speak, Senator Kolterman and McCollister. Senator Kolterman you're recognized. [LB376]

SENATOR KOLTERMAN: Thank you, Mr. President. I, too, served on that committee with...I think Senator Hughes was Chair of the committee and Senator Watermeier and Senator Scheer, Senator Stinner, myself went up there and looked at the facilities. We came back two years ago and recommended that we sell it to the community college. I don't think I need to tell you how important a community college is in a community like Norfolk. They're a strong economic driver. The facilities that were on the property were in complete disarray. They had been abandoned. Nobody had touched them for years. I think honestly it was a tremendous liability for the state of Nebraska. There was underground bunkers that connected the buildings that had to be all caved in or dug up. And we saw it as a real liability. So I support this amendment as well as Senator Scheer's bill. I think it's important that we help them in any way we can. I was astonished to see the sex offender facility right in the middle of this. I'm surprised that they wanted it, but at the same time it makes perfectly good sense that it's flanked on one side by the community college and they could use it in the community as an economic incentive driver. I think we ought to get behind Speaker Scheer and support this bill. So with that, I would ask you to give a green light on AM159 and LB376. Thank you. [LB376]

SENATOR KRIST: Thank you, Senator Kolterman. Senator McCollister, you're recognized. [LB376]

SENATOR MCCOLLISTER: Thank you, Mr. President. Good afternoon, colleagues. I also serve on the Executive Committee and was a part of the process on LB376. I supported LB56 last year or two years ago when this came before the Legislature. And the descriptions that we hear about the property are exactly correct; rundown buildings. And in fact it was a very dangerous situation. So the \$1 million that we spent on that property clearing the ground was well spent. Actually, it came in under bid so I think we spent \$565,000, certainly less than the \$1 million that we appropriated. Note the attachment that I put and gave to you. Speaker Scheer's comments that we've seen a number of appraisals for this property is exactly correct. We've seen anything from \$1,433,000 for those 34 (sic--43) acres clear down to practically nothing. The thing you should also note, the January 30 offer from the Northeast Community College included an offer of \$3,000 per acre, \$3,000. And that amount of money would give the state at least some money to offset the \$560,000 that we spent to do that...to clear the property. The state of Nebraska and the area served by the Northeast Community College are different geographic areas and different constituencies. I claim that it would be in the state's best interest to take that \$130,500 and reduce that amount of money and put that money in the General Fund. We're talking about pennies these days concerning the General Fund. And instead of simply giving the property away for nothing, we should at least get \$130,000 for that property. What about the Grand Island

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

Floor Debate  
March 30, 2017

---

situation? I would claim that that was a different time when we could give that many acres to the city of Grand Island for no money at all has passed. And we're now sitting at a time that we ought to be trying to recover at least \$30,000 that we spent for clearing that property and I think the \$130,000 is something that should be recovered from the college since they made an offer as late as January for that ground. Thank you, Mr. President. [LB376]

SENATOR KRIST: Thank you, Senator McCollister. Senator Watermeier, you're recognized. [LB376]

SENATOR WATERMEIER: Thank you, Mr. President. I really appreciate Senator McCollister's enthusiasm on it, but I am going to oppose the idea that we try to come back and try to sell it. On the AM159, the gist of it is if the college did decide to sell it within ten years, all the proceeds would come back to the state of Nebraska. So with that, I'll ask you for your green vote on AM159 and follow up with LB376 with a green vote. Thank you, Mr. President. [LB376]

SENATOR KRIST: Thank you, Senator Watermeier. Senator Scheer, you're recognized and there's no one else in the queue. [LB376]

SPEAKER SCHEER: I'll use this as my closing as well. Thank you, Mr. President. [LB376]

SENATOR KRIST: Actually, I'm sorry, Speaker. There is a closing required by Senator Watermeier and then yours. [LB376]

SPEAKER SCHEER: Oh, I'm sorry. [LB376]

SENATOR KRIST: Go ahead. [LB376]

SPEAKER SCHEER: Then I'll waive. Okay. [LB376]

SENATOR KRIST: Senator Watermeier, you're recognized to close. Senator Watermeier waives closing. The question is the attachment of AM159 to LB376. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB376]

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of committee amendments. [LB376]

SENATOR KRIST: Committee amendments are adopted. Senator Scheer, you're recognized to close on LB376. [LB376]

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

Floor Debate  
March 30, 2017

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SPEAKER SCHEER: Very quickly. I thank you for the green vote on the amendment and I would ask you for a green vote on the bill. I would just like to clarify with Senator McCollister's comments, this gift was not a long time ago to Grand Island. It was within the last 12 months so I don't know how much more applicable it could be in relationship to both gifts being within a 12-month period of time. I do find that very compelling and appropriate. And with that, I ask for your support of LB376. Thank you. [LB376]

SENATOR KRIST: (Microphone malfunction)...for the closing on LB376. The question is the advancement to E&R Initial. All those in favor, aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB376]

ASSISTANT CLERK: 33 ayes, 1 nay on the motion to advance the bill. [LB376]

SENATOR KRIST: LB376 advances. Items. [LB376]

ASSISTANT CLERK: Mr. President, a series of name adds: Senator Ebke to LB75; Senators Linehan and Quick to LB91; Senator Vargas to LB441; Senator Krist to LB562. [LB75 LB91 LB441 LB562]

And a priority motion. Senator Vargas would move to adjourn until Friday, March, 31, 2017, at 9:00 a.m.

SENATOR KRIST: You've heard the motion to adjourn. All those in favor, aye. Opposed nay. Drive careful. We're adjourned until 9:00 tomorrow morning.