

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

Floor Debate  
March 18, 2019

---

[]

FOLEY: Good morning, ladies and gentlemen. Welcome to George W. Norris Legislative Chamber for the forty-third day of the One Hundred Sixth Legislature, First Session. Our chaplain for today is Pastor Kent Rogers of the Grace United Methodist Church in Hastings, Nebraska; Senator Halloran's district. Please rise.

PASTOR ROGERS: (Prayer offered.)

FOLEY: Thank you, Pastor Rogers. I call to order the forty-third day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There's a quorum present, Mr. President.

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

ASSISTANT CLERK: I have no corrections.

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

ASSISTANT CLERK: I do, Mr. President. Bills read on Final Reading last week have been presented to the Governor (re: LB8, LB16, LB29, LB48, LB112, LB112A, LB116, LB124, LB125, LB127, LB139, LB145, LB156, LB160, LB195, LB224, LB284, LB302, LB319, LB384, LB486, LB575, LB660, LB660A, LB699.) Senator Kolterman: LR43 and LR44, those will be read and laid over. That's all that I have at this time.

FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following two legislative resolutions: number 39 and 40. Senator Moser, for what purpose do you rise?

MOSER: For point of personal privilege.

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

Floor Debate  
March 18, 2019

---

FOLEY: Please proceed.

MOSER: Thank you very much. Colleagues, I'm glad to be with you again today. Friday there was no way to get to Lincoln from where I live and I appreciate everybody who texted and called about the flooding in my district. Luckily, our levee held and some lost everything. Some got away with just minimal damage. Two people died that I know of, one was a good Samaritan helping a neighbor. We want to thank all the volunteers, the National Guard, the first responders, county and city employees who worked countless hours to try to help citizens, Nebraska Emergency Management, Platte County Emergency Management, did a great job. Thank you for your diligence and bravery in helping the citizens of Nebraska. This is the third hundred-year flood we've had in 52 years and it's very fortunate in how it turned out it. It could have been much worse. And we're so sorry for the losses and for those who died in it. But we're thankful for all the good help and volunteers who tried to make it the best we could. Thank you, Mr. President.

FOLEY: Thank you, Senator Moser. We'll now proceed to the agenda. First item is legislative confirmation reports. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the Agriculture Committee reports upon the appointment of Chris Kircher to the Nebraska State Fair Board.

FOLEY: Thank you, Mr. Clerk. Senator Halloran, you are recognized to open on the first of three confirmation reports. Senator Halloran.

HALLORAN: Thank you, Mr. President; colleagues, Nebraskans. The Agriculture Committee recommends confirmation of the appointments of Chris Kircher, Dawn Caldwell, and Jeremy Jensen to the State Fair Board. Mr. Kircher has served two full terms on the State Fair Board as the representative of the business community at the 2nd Congressional district and is eligible for a third and final three-year term. He is also now serving in his third year as a chairman of a fair board. At the time of his initial appointment, Mr. Kircher was employed as president of the ConAgra Food Foundation and vice president of corporate affairs responsible for the company's public community and governmental initiatives. He lists his current employment as self-

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

Floor Debate  
March 18, 2019

---

employed consultant. Mr. Kircher received a bachelor of science in marketing from Wright State University. He lists membership in executive committee leadership with the Omaha and Nebraska Chamber of Commerce, among a number of board and advisory councils he has served upon. Dawn Caldwell is appointed to replace Dennis Hoffman, who did not seek reappointment. Dawn represents the business community of the 3rd Congressional district and is eligible for this and two additional three-year terms. She is employed as head of government affairs for the Aurora Farmers Cooperative in Aurora, Nebraska.

FOLEY: Excuse me, Senator. Members, if you could please keep your conversations a bit lower. Thank you. Senator Halloran.

HALLORAN: Thank you, Mr. President. She has previously been employed by the Deshler Grain and Feed and as an UNL Extension Assistant for Nuckolls, Thayer, and Fillmore Counties. She is a graduate of Guide Rock High School and earned a bachelor degree in animal science from the University of Nebraska. During the hearing, Dawn also talked about her long-time association with the fair as a livestock exhibitor during her childhood and as a frequent visitor and volunteer throughout her adulthood. Aurora Co-op is a prominent sponsor in the State Fair and is involved in coordinating Aurora's co-op contribution. Finally, Mr. Jensen is appointed to fill the remainder of the term vacated by Harold Hoch who resigned to assume a position on the Liquor Control Commission. Mr. Jensen would be eligible for this and two additional three-year terms. Mr. Jensen is self-employed, financial advisor for HELIX Wealth Advisors in Grand Island. He also lists employment as a varsity coach in Grand Island schools. Mr. Jensen served as a mayor of Grand Island from 2014 through 2018. He served on the board of directors of Grow Grand Island and other miscellaneous boards, advisory commissions, and community organizations. He graduated from Grand Island High School and attended the University of Nebraska in business and finance. All three appointees appeared in person before the committee on March 12 and responded to the committee's questions. The committee voted 7 ayes and no descending votes to recommend appointments of all three appointments. I urge adoption of the committee's report. Thank you, Mr. President.

FOLEY: Senator Halloran, just for clarification, you introduced all three members. Are we doing this as three separate votes or as one vote...

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

Floor Debate  
March 18, 2019

---

HALLORAN: We passed it through committee as a group of all three appointees.

FOLEY: I see. Very good. So we'll do this as one vote. Thank you, Senator Halloran. Discussion is now open on the confirmation report of the Agriculture Committee. Senator Kolterman, you're recognized.

KOLTERMAN: Good morning, colleagues. I would just like to rise in support of Jeremy Jensen, the third person that was just talked about. He is a strong advocate for Grand Island. He's a good mentor for the coaches, and he's got a strong work ethic. I think he will serve the state of Nebraska very well on that board and would encourage you to vote green on this. Thank you.

FOLEY: Thank you, Senator Kolterman. Additional discussion? Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator-- my friend in the front row was speaking in such solemn sepulchral tones and everybody was standing up. I thought inadvertently I'd stumbled up here before they got through with the prayer. But then when I started listening to what he was actually saying, I didn't have to speed out of here like a bat out of the downstairs corridor, which is what's going on now. I do support what Senator Halloran is asking us to do. That's all I have to say. Thank you.

FOLEY: Thank you, Senator Chambers. Is there any additional discussion? I see none. Senator Halloran, you are recognized to close on your confirmation report. He waives close. The question for the body is the adoption of the confirmation report of the Agriculture Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of the committee report.

FOLEY: The confirmation report is adopted. Proceeding on the agenda to General File, 2019, senator priority bill, LB619. Mr. Clerk.

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

Floor Debate  
March 18, 2019

---

ASSISTANT CLERK: Mr. President, LB619 introduced by Senator Kolowski. (Read title.) The bill was read for the first time on January 23 of this year and reported to the Banking, Commerce and Insurance Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Kolowski, you're recognized to open on LB619.

KOLOWSKI: Thank you, Mr. President. LB619 is about insurance coverage of mental health services, specifically, when those services are provided to a student inside a school building. [LB]619 does not expand the mental health services a health plan would cover, nor does it reduce the coverage. Neither does it change the kind of provider that can provide mental health services. The person billing for this service is the independent provider who is billing the parent's insurance company. No school employee is providing this service or billing for it, nor are they being reimbursed. This bill only affects a situation when a mental health provider is willing to go to the school to provide the service to a student. This keeps the student in school more of the day instead of traveling to and from a provider's office. Parents sometimes have transportation issues, so having this service provided at school can help them out also. LB619 does not mandate any school policy to allow mental health providers into the buildings. That is still up to the judgment and policy of each school. Examples of when this happens includes when Project Harmony in Omaha, Hope Spoke of Lincoln, and individual mental health providers go into schools when needed to provide services to students. In today's educational setting, we need to remove every possible barrier to meeting the needs of children. A child who needs mental health services and receives those services is better able to learn and to interact appropriately with other children and teachers. LB619 simply states that insurance coverage cannot be denied on the basis of service being provided at a school. This clarification is necessary because there's confusion in some areas of the state about whether having the school as the place of service should affect reimbursement. Some insurance companies pay for it, but some do not. Now to the mechanics of the bill. The green copy of LB619 reads like an insurance mandate when my intention was more of a clarification. AM287, the committee amendment rewrites the language in a way that makes it clearer that it is not a change of coverage for mental health services and therefore not a new coverage mandate. I will let Senator Williams address the amendment. LB619 was unanimously advanced from committee. Proponents at the hearing included several

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

Floor Debate  
March 18, 2019

---

school districts, several educational organizations and two insurance companies. The original fiscal note, of course, was written to the original bill. When amended, the fiscal note goes away. That, colleagues, is LB619. I will be happy to answer questions and I ask for your support with a vote to advance to Select File. Thank you very much.

FOLEY: Thank you, Senator Kolowski. As the Clerk indicated, there are amendments from the Banking, Commerce and Insurance Committee. Senator Williams, as Chair of the committee, you are recognized to open on the committee amendment.

WILLIAMS: Thank you, Mr. President, and good morning, colleagues. LB619, as Senator Kolowski said, was heard in the Banking Committee on March 5, and along with LB619 came AM287. AM287 was offered during the testimony at the hearing. The committee amendment becomes the bill. The key provisions are found in Section 2 which states that an insurer offering a health insurance policy shall not deny coverage for a mental health service solely because the service is delivered in a school. It is important to note the phrasing of that requirement does not create a new mandated benefit to the insurance industry. It only speaks to where an otherwise covered benefit is delivered. This change should knock out any fiscal impact which can be confirmed by noting that representatives of the health insurance industry testified in favor of the bill with this amendment attached. AM287 would add definitions for the terms "health insurance policy" and "school." The amendments would provide that the bill will not (1) require an insurer to pay for mental health services that are otherwise excluded from the policy; or (2) prevent application of any other provisions of the policy. AM287 would also provide additional clarity by stating that the bill, (1) will apply to policies issued or renewed on or after January 1, 2020, and (2) will apply to claims based on such policies for cost incurred on or after January 1, 2020. I would urge the adoption of the committee amendment, AM287, and the advancement of LB619 to Select File. As Senator Kolowski stated, there was no opposition testimony on this piece of legislation and it was advanced on an 8-0 vote. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Debate is now open on LB619 and the pending committee amendment. Senator Arch.

ARCH: Thank you. I just have a question for Senator Kolowski, if he's willing.

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

Floor Debate  
March 18, 2019

---

FOLEY: Senator Kolowski, would you yield, please?

KOLOWSKI: Yes, of course.

ARCH: Just a question of clarification so that I understand, are private therapists right now going into schools to provide what I would-- what I-- not-- you said that this bill does not involve employees of the schools but rather private therapists, psychologists going into the schools, is that correct?

KOLOWSKI: That's my understanding also. That you would have outside people not employed by the district.

ARCH: And so these therapists in the community then would be willing to go in, and if they are allowed to bill for those services for the students-- for the-- the students, correct? This isn't-- is this adults coming in to do counseling as well? Do you have an understanding of that?

KOLOWSKI: My understanding is that the paid professionals would come into the schools with school permission, of course, if they have a desire to meet with a particular student in that particular school. That can take place in the school setting, rather than in the-- outside of school in the city or anywhere else.

ARCH: Okay. I don't want to get too far down into the weeds here, but I'm assuming then that that therapist would have some arrangement with the school district or the individual school, however they would do it, that would be a contract, because, of course, that would be a private practice going into the schools, so I would assume that there would be some type of rent, but I-- but-- but this bill doesn't address that. That would be dealt with at the local school level on the arrangements with that private therapist and how the cost of the room and all of that would be handled. Is that your understanding?

KOLOWSKI: That's my understanding. And in most cases, the school has an advantage when someone comes to the school rather than out into the community on time and lost instruction time with the student. All those things are now eliminated because the person is in the school.

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

Floor Debate  
March 18, 2019

---

ARCH: OK. And I'm not sure who brought the bill to you, but I would assume as well that a therapist identifying that particular address, a site of service, would be a matter of filing that site with the various insurance companies, Medicaid included, identifying that as a location for that therapist private practice. But apparently there is some need for this bill to allow them to do that?

KOLOWSKI: That's my understanding, yes.

ARCH: OK. All right. Those are my questions. Thank you very much.

KOLOWSKI: Thank you.

FOLEY: Thank you, Senator Arch. Senator Crawford.

CRAWFORD: Thank you, Mr. President; good morning, colleagues. I rise in support of LB619. I think one of the issues that I hear about quite often is the concern about access to mental health, access to mental health for our children and also how access to mental health impacts the classroom and the teachers who are trying to teach. So I support this effort to increase access to mental healthcare in our schools. And I appreciate Senator Kolowski and the Banking, Commerce and Insurance Committee for their work on this bill. Thank you.

FOLEY: Thank you, Senator Crawford. Is there any further discussion? Senator Groene.

GROENE: Thank you, Mr. President. I'm still confused on this, that it has to be a private psychologist because it says, notwithstanding an insurer offering a health insurance policy shall not deny coverage or payments for a mental health service solely because this service is delivered in a school. Senator Kolowski, would you take a question?

FOLEY: Senator Kolowski, would you yield, please?

KOLOWSKI: Sure. Yes, I'd be glad to.

GROENE: So if the school has a licensed psychologist on staff--



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

Floor Debate  
March 18, 2019

---

KOLOWSKI: Yes.

GROENE: --that doesn't include them?

KOLOWSKI: It may, depending on the situation and the school psychologist's comments as to additional help that might be needed, that might be out of their realm.

GROENE: So if that school psychologist is licensed and makes a recommendation to the parents and does a diagnosis, the school could then-- because their employer could they turn around and send a bill to the parents and then they apply to their insurance?

KOLOWSKI: That's my understanding. You go through the parents for the possible payment of an outsider coming in.

GROENE: Senator Williams, you were shaking your head. Would you take a question? What is your understanding of how--

FOLEY: Senator Williams, would you yield, please?

WILLIAMS: Yes, I would.

GROENE: What is your understanding of an employee of the school and the parents agree to let the employee of the school talk to their child or try to treat them--

WILLIAMS: The situation we have is the legislation is not designed to cover school employees, like a counselor at the school. What we have had happen is we've had insurance companies deny coverage for mental health because the psychiatrist provided those services in a school rather than in their private office. So this simply expands where a private service, not from the school, but a private service can be conducted.

GROENE: But-- the-- unless there's language in existing law, this legislation doesn't make that clear. It says: shall not deny coverage or payment for mental health services solely because the

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

Floor Debate  
March 18, 2019

---

service is delivered in a school. So how am I assured-- I've got nothing against what you just said.

WILLIAMS: Right.

GROENE: If the private psychologist had diagnosed and has a patient, if they want to come and the school provides a room, I don't think it's any different than taking athletic physicals with the doctor charging so much, but I'm concerned about a school employee and the schools start a medical practice with the school budget. That is my concern. You can guarantee me that won't happen?

WILLIAMS: I can't guarantee that, Senator Groene. It's not my bill, so I didn't follow it that closely, but that's not where the testimony was to the Banking Committee was not about a school employee, a school psychologist or counselor providing these services. It was an outside person coming in and using the school-- the physical facility of the school to have an appointment with someone.

GROENE: Thank you, Senator Williams. Thank you for your clarification and Senator Kolowski. I'm going to sit on this and do a little bit of job of looking at it and make sure-- maybe I need to bring an amendment, because school dollars are school dollars and they are for education, not for healthcare. And I don't like breaking that line. We have a hard time right now funding our schools for the educational purposes. We don't need to be using it for healthcare which is an HHS issue. So I'll sit on the first time, and Senator Kolowski and I can sit down, maybe, and he can define it better for me. Thank you.

FOLEY: Thank you, Senator Groene. Senator McCollister.

McCOLLISTER: Thank you, Mr. President; good morning, colleagues. I currently serve on the OneWorld Board and they actually provide services to some of the schools with the kind of arrangement envisioned by Senator Kolowski's bill. This would enable OneWorld and any other provider, that would include Charles Drew, also, in order to receive some of the insurance benefits. They come into the school, they're employed by OneWorld, they use the school

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

Floor Debate  
March 18, 2019

---

facilities, and I think provide an important purpose. So, I would encourage your green vote on AM287 and green vote on [LB]619, Senator Kolowski's priority bill. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Is there any further discussion? Seeing none, Senator Williams, you are recognized to-- Senator Kolowski, for what purpose do you rise?

KOLOWSKI: Yes, sir. I just want to add a comment if I may. I want to make sure that we understand that with all the help that we've had from different insurance agencies and different school people on this, if and when this passes, it makes the bill effective as of January 1, 2020, to allow insurance companies time to make sure their internal policies and contract language accommodates the place of service. I think that's important that they are with us on this, much as the handout that you received this morning on our schools ready to tackle the mental health crisis. I hope those will be helpful as well. Thank you.

FOLEY: Thank you, Senator Kolowski. Senator Clements.

CLEMENTS: Thank you, Mr. President. Would Senator Kolowski yield to a question?

FOLEY: Senator Kolowski, would you yield, please?

KOLOWSKI: Yes, of course.

CLEMENTS: Senator Kolowski, has-- have some companies been paying for these services and some have not?

KOLOWSKI: I don't have the information as far as a breakdown on what the status would be. Senator McCollister could probably react to that as to OneWorld and what they're doing currently in the Omaha area. I would defer to his background and knowledge in that.

CLEMENTS: Thank you. Would Senator McCollister yield to a question?

FOLEY: Senator McCollister, would you yield, please?

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

Floor Debate  
March 18, 2019

---

McCOLLISTER: Yes, I will.

CLEMENTS: Senator McCollister, are you aware whether insurance companies have been paying for these services in the past?

McCOLLISTER: Some insurance companies have, some insurance companies have not.

CLEMENTS: Do you know what basis they were denied?

McCOLLISTER: I can't tell you for sure, Senator.

CLEMENTS: Or approved-- yeah, seems to be a little confusion of the need for this.

McCOLLISTER: But I would mention that mental health services are supposed to be paid for in the same basis that benefits are paid for healthcare issues. That is currently in state law.

CLEMENTS: You mean for services outside of the school?

McCOLLISTER: Yes.

CLEMENTS: All right. And so the OneWorld clinic has been going into the schools.

McCOLLISTER: That's true.

CLEMENTS: And they're sometimes being paid and sometimes not, is that the answer?

McCOLLISTER: I can't state for sure, but I- I think in the case of some insurance companies, yes, and in other insurance companies, no. This would clarify the issue.

CLEMENTS: Thank you. I do agree with Senator Groene's concern that it does-- this bill in the text does not specifically exclude school employees from this coverage. And so I'll also want to think about this before I make a final decision. And with that I yield my time to the Chair.

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

Floor Debate  
March 18, 2019

---

FOLEY: Thank you, Senator Clements. Senator Arch.

ARCH: Thank you. I have just a couple of points to talk about on this particular bill. One is, my understanding that school psychologists, their scope of practice currently does not include therapy but is rather diagnostics. Now, that's something that's been communicated to me. So, the school psychologists are not the ones billing here for therapy. Second, I think-- I think, Senator-- Senator Clements, if I could ask you a question, please?

FOLEY: Senator Clements, will you yield, please?

CLEMENTS: Yes.

ARCH: Your point regarding the need for this particular bill, that was your question, was it not?

CLEMENTS: Yes.

ARCH: Okay. Thank you. I just wanted to make sure I was addressing that question. My understanding, again, with this, there are certain insurance companies that do allow for billing within a school. I talked earlier about a site of service that simply putting an address down and saying, well, that's where my office is, and so that's where I will be providing these services, the site of service. But there are certain insurance companies that have specific exclusions that say: but-- but cannot be identified in these particular places, and one of those may be a school. And so in this bill then my understanding is would allow for site of service in a school for the insurance company. So if they have insurance, they would be provided for that. With those questions that I needed to have answers, I'll be voting in favor of this bill.

FOLEY: Thank you, Senator Arch. Senator Cavanaugh, you're recognized.

CAVANAUGH: Thank you, Mr. President. Would Senator Kolowski yield for a question?

FOLEY: Senator Kolowski, would you yield, please?

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

Floor Debate  
March 18, 2019

---

KOLOWSKI: Yes. Thank you.

CAVANAUGH: Thank you for bringing this bill this morning. I was just reading it over and I'm a little confused that this currently isn't the practice. Is that-- how did you come to this bill?

KOLOWSKI: I guess you could say there's an old quote about find a need and fill it. And that's certainly what we were doing as we examined the possibility of enhanced services to students in the high schools. The handout that you received this morning is an example of the expanding aspect of mental health issues in the schools that we need to continue to look at. And this bill, with that date of 2020, January 1, gives the insurance companies and the schools a little more time to make sure they're doing the right things; process wise, bringing people into the schools and making that available. All your school counselors and school psychiatrists are not numerous enough to take care of all the issues we have.

CAVANAUGH: Thank you so much. Yes, we do know that mental health and behavioral health are a big issue across the country, in this state, and certainly in school settings. It is a medical issue. So having medical insurance covering that is really important standard, so I appreciate that. I did notice that this came out of committee unanimously.

KOLOWSKI: Yes, it did.

CAVANAUGH: That's wonderful. I wonder if perhaps Senator La Grone would yield for a question?

FOLEY: Senator La Grone, would you yield, please?

CAVANAUGH: Would you yield for a question?

La GRONE: Absolutely.

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

Floor Debate  
March 18, 2019

---

CAVANAUGH: Sorry for putting you on the spot like that. So, this bill came out of committee unanimously. And I know you're on the committee, could you speak to the virtues of this bill and why it came out.

La GRONE: Yeah. So I voted for-- I'm against insurance mandates, so obviously I had trouble with the initial version. After the amendment, really to me, it was just simply stuff that would be covered, but for where it took place, and it was the requirements pulling the kids out of school to get those services. I saw no reason that the site of that service should be an impediment to getting those services, especially when you had, I believe it's subsection (3) in the bill, I can't quote it off the top of my head, but essentially, providing-- it was clear it was not mandating to the insurance companies what they must and must not cover. So that has waged my concerns, so that is why I was in favor of the bill.

CAVANAUGH: Terrific. Thank you. That's all I have. I'll yield the remainder of my time to Senator Kolowski if he would like it.

FOLEY: Thank you, Senator Cavanaugh. Senator Kolowski. Senator Kolowski, there's 2 minutes remaining on Senator Cavanaugh's time if you care to use it.

KOLOWSKI: I'm fine, thank you.

FOLEY: Thank you, Senator Kolowski. Senator Clements.

CLEMENTS: Thank you, Mr. President. I had one more point of clarification if Senator Arch would yield to a question.

FOLEY: Senator Arch, would you yield, please?

ARCH: I will.

CLEMENTS: Senator Arch, I think I heard you say that the in-school counselor employees only do diagnostics, could you expand on what you mean by that?

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

Floor Debate  
March 18, 2019

---

ARCH: My understanding is that a school psychologist; and that's a specific license, but a school psychologist is their scope of practice is concerning diagnostics. Now, you know, where therapy begins and diagnostic ends, it's more than just testing, but that is-- that's my understanding is scope of practice is for a school psychologist diagnostic, meaning testing, evaluating, recommending, but not necessarily providing the services after that recommendation.

CLEMENTS: OK. So currently a student going to the school psychologist, then what would that psychologist then do after diagnosis?

ARCH: Again, my understanding is that psychologist then would sit down with the family or guardian, whoever may be responsible for that child, talk about the results, and make recommendations for follow-up, perhaps it's to see a therapist, whatever that recommendation might be, but it would not be to provide those services themselves.

CLEMENTS: So they would be referred to an outside therapist.

ARCH: Yeah, that would be the-- yeah, and of course, we understand the shortage of mental health therapists in some of our communities, so it could be-- it could be quite a distance. I think one of the challenges with this is going to be, of course, finding the willing therapists that would be able and willing to go into the schools to provide these services. Some of them are so busy right now providing services in their offices, that it's not a given that therapists will leap to this opportunity.

CLEMENT: I see. OK. Thank you, Senator Arch.

ARCH: Sure.

CLEMENTS: I appreciate the additional clarification and still listening for more information. And I yield my time to the Chair.

FOLEY: Thank you, Senator Clements. Is there any further discussion? I see none. Senator Williams you are recognized to close on the committee amendment.



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

Floor Debate  
March 18, 2019

---

WILLIAMS: Thank you, Mr. President. And I certainly appreciate the discussion that we've had this morning, the questions that were directed by several senators, in particular the concerns about doing something here that would change or put more financial burden on a school district itself, which this bill certainly does not do. Again, the question has been the need for this bill. It's very simple. We have had insurance companies that have been denying covered claims that would be covered under the policy only because that service was performed in a school. And what this bill simply does is it removes that, it does not create a new mandated benefit. It only speaks to where an otherwise covered service is delivered. Again, I point out that we had a substantial list of testifiers that testified in favor of this legislation, including insurance companies, including school districts, including Blue Cross Blue Shield, the Department of Education, and Medica, and there was no opposition testimony. And it came out of committee on an 8-0 vote. I would encourage your green vote on AM287 followed by your green vote on LB619. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Members, you've heard the discussion on the committee amendment, AM287. The question for the body is the adoption of that amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to. Record, please.

ASSISTANT CLERK: 28 ayes, 0 nays on the adoption of the committee amendment.

FOLEY: AM287 committee amendment is adopted. Further discussion on LB619 as amended. Senator Kolterman.

KOLTERMAN: Thank you very much. Good morning colleagues. We did hear this bill in the committee that I serve on in Banking, (Commerce) and Insurance. And having worked in insurance for a long time, I fully understood the need for this. Mental health is a problem; it's a challenge. I would tell you this really doesn't change anything other than making it easier for the kids that need the help, it allows the parents the opportunity to meet with them in the school setting instead of having to drag them on a separate trip to see a psychologist or psychiatrist. I think it-- it just is good policy. I would encourage you to support this bill. The insurance companies are on board with it. I mean, I don't know why we wouldn't work with them. And all

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

Floor Debate  
March 18, 2019

---

we're doing is making it simple for the parents to accommodate the challenges that the kids have. So with that I would encourage a green vote on LB619.

FOLEY: Thank you, Senator Kolterman. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. Would Senator Kolowski yield to a question?

FOLEY: Senator Kolowski, would you yield, please?

KOLOWSKI: Absolutely.

BOSTELMAN: Senator Kolowski, my understanding with this bill we're looking at now, is the parents are fully involved with this-- the parents understand, the parents agree with the counseling that's being provided and they're involved with the entire process. Is this something that the school or the student has organized separately without the parent's knowledge with the provider, is that correct?

KOLOWSKI: That is correct. Everything is touch base with the parents before anything is moved on and you're absolutely correct on that.

BOSTELMAN: OK, thank you, Senator Kolowski. And I yield the rest of my time back to the--

FOLEY: Thank you, Senator Bostelman and Senator Kolowski. Is there any further discussion? I see none. Senator Kolowski, you're recognized to close on the advance of the bill.

KOLOWSKI: Thank you, Mr. Chairman. I want to thank all those who worked on this bill with us. We have quite a listing of proponents, no opponents to this. It's fiscal note is, of course, being taken care of by the amendment. I want to thank Senator Williams for his guidance, for the committee that we worked through. And this is, again, a very important bill to line up services in our communities, with the least amount of time missing from school by having the professionals come to the school to make a difference with the kids in that particular situation. Thank you.

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

Floor Debate  
March 18, 2019

---

FOLEY: Thank you Senator Kolowski. Members, you heard the debate on LB619. The question for the body is the advancement of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 29 ayes, 0 nays on the advancement of the bill.

FOLEY: LB619 advances. Speaker Scheer, you're recognized.

SCHEER: Thank you, Mr. President. Colleagues, just wanted to inform you that Director Tuma and General Bohac will be giving us another briefing at noon in 1525 in regards to the damage and the floods and so forth. So if you are interested, we will again have a briefing at noon in 1525. Thank you.

FOLEY: Thank you, Mr. Speaker. Mr. Clerk, items for the record.

ASSISTANT CLERK: Thank you, Mr. President. Notice of committee hearings for the Appropriations Committee. Senator Scheer designates LB481 as his personal priority bill. Senator Walz designates LB570 as her personal priority bill. An explanation of vote from Senator Matt Williams-- Matt Hansen, sorry. And the Revenue Committee will meet today, March 18, 2019, in Executive Session beginning at 10:00 a.m. in Room 2022. That's all that I have at this time.

FOLEY: Thank you, Mr. Clerk. We'll now proceed to General File, 2019, committee priority bills. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB511, introduced by Senator Brewer. (Read title.) The bill was read for the first time on January 22 of this year and referred to the Government, Military and Veteran Affairs Committee. That committee reports the bill the General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Brewer, you're recognized to open on LB511.

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

Floor Debate  
March 18, 2019

---

BREWER: Thank you, Mr. President; good morning, colleagues. I'm here today to introduce LB511. This is a Government priority bill. This bill authorizes adjustments to the state employees' work schedules to participate in approved youth mentoring programs. LB511 does not allow for paid time for volunteers. [LB]511 allows for state employees to seek approval from their supervisors for an adjusted work schedule to participate in youth mentoring programs. This means they should be-- there should be no impact on productivity or the state budget. We also have a committee amendment to this bill, AM672 that addresses a concern with the bill. It will avoid making the director of personnel for DAS build a new database of programs. The director would be able to rely on publicly available resources maintained by the charities working in this area. Those changes would eliminate the fiscal note. So again, LB511 is simply giving an opportunity for adults to help youth that are in need of mentoring. The amendment also adds a provision for Senator Ben Hansen's LB381, that will move our state employees to per diem expense system instead of one based on receipts for meals and incidentals. Travel and lodging will still be authorized by itemized only. I will let Senator Hansen explain any details of that bill you might have. Thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. As the Clerk indicated, there are amendments from the Government Committee. Senator Brewer, have you already spoken to the committee amendments or do you need additional time?

BREWER: No, we're good on the amendment.

FOLEY: Very good. Debate is now open on LB511 and the committee amendment, AM672. Senator Ben Hansen.

B. HANSEN: Thank you, Mr. Speaker. Thank you, Senator Brewer, for incorporating LB381 into the committee priority bill. Just to update everybody, LB381 changes the rate of reimbursement from our current system, which is actual expenses reimbursed with receipts to a percentage of the federal per diem rate as determined by the Director of Administrative Services to be set within a statutory range of 75 percent to 100 percent of the federal per diem limit. The bill had no opponent testimony in the hearing and was advanced out of committee unanimously. This bill addresses meals and incidentals; lodging and travel expenses will still be reimbursed

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

Floor Debate  
March 18, 2019

---

based using an itemized receipt system. I appreciate the assistance of the Department of Administrative Services on this bill; Senator Brewer and the Government, Military and Veterans Affairs Committee, and I ask for your green vote. Thank you.

FOLEY: Thank you, Senator Ben Hansen. Senator La Grone.

La GRONE: Thank you, Mr. President. And I urge everyone's support of the amendment and the bill. This is a bill that we have been working on for awhile. And I just want to reiterate, I think it is really important because it gives kids who often don't hear that their dreams are valid, that they can have an opportunity for a brighter future. It helps give them that opportunity and it's really a win-win-win because the kid wins because they have someone in their life to tell them they believe in them. The government wins because employees who participate in this kind of activity are usually more efficient and more productive at their work. That's what many studies have shown. And then additionally, the employee wins because they have the value of the purpose in their life of mentoring. So this is really a great way to both help kids and provide for more government efficiencies at the same time. And if there are questions on the amendment, I can go into those in detail. But with that-- if not, I would just ensure-- urge your support of AM672 and LB511. Thank you, Mr. President.

FOLEY: Thank you, Senator La Grone. Is there further discussion on the bill or the amendment? Senator Brewer, you're recognized to close on AM672, committee amendment.

BREWER: I just, again, would ask for your support on LB511. It is a simple process, we're allowing giving adults to help youth in need of mentoring. And with that, also ask for your support on AM672. Thanks.

FOLEY: Thank you, Senator Brewer. The question before the body is the adoption of the committee amendment, AM672. Those in favor vote aye, those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of the committee amendments.

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

Floor Debate  
March 18, 2019

---

FOLEY: AM672 committee amendment is adopted. Is there any further discussion to LB511 as amended? I see none. Senator Brewer, you are recognized to close on the advance of the bill. He waives close. The question for the body is advance of LB511. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 40 ayes, 0 nays on the advancement of the bill.

FOLEY: LB511 advances. Proceeding now to LB34. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB34 introduced by Senator Kolterman. (Read title.) The bill was read for the first time on January 10 of this year and referred to the Nebraska Retirement Systems Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) And now the opening on LB34. Senator Kolterman.

KOLTERMAN: Good morning, colleagues. Mr. President, would it be all right if I spoke on AM591, it becomes the bill to LB34?

FOLEY: Yes, we can do a joint opening on both the bill and the committee amendments. Thank you, Senator Kolterman.

KOLTERMAN: Thank you. Colleagues, committee amendment, AM591 becomes the bill. In addition to the original provisions of LB34, it also incorporates LB35, LB36, and LB565 as amended by the committee. Neither LB34 nor any of the bills incorporated by the committee amendment have a fiscal impact on the state. LB34 is introduced and eliminates the authority of the Nebraska Public Employees Retirement System, known as NPERS, to distribute up to \$25,000 to a county or state plan member during the [INAUDIBLE] of a grievance. In meeting with NPERS over the interim, a number of concerns were raised. The cash balance benefit of the state and the county's plans is treated as a defined benefit plan for a federal tax code purposes unless it is subject to a single sum distribution rule under the federal tax code. This means that

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

Floor Debate  
March 18, 2019

---

all the benefit must be distributed at a substantially the same time. Cash balance members are required to take a distribution of the remainder of their account balance, if any, and if they lose or withdraw their grievance. This eliminates the member's option to keep the money in the account and continue to draw the guaranteed 5 percent interest on the cash balance accounts. If the member is under age 59.5 at the time of the withdraw, then a federal tax penalty will also attach when the money is distributed to the member. Repayment of the distribution must be repaid within two years. Generally, it has been NPERS's experience that the member has spent most or all of the money that was distributed. NPERS is consequently put in the position of being a bill collector and frequently has difficulty collecting repayment of distributed funds when a member is reinstated. These issues affect the majority of the state and county plan members since currently approximately 85 percent of the state and county plan members are in the cash balance plan. We work very closely with NACO and NAPE and held a number of meetings with them to discuss and explain this change. Both NACO and NAPE are supportive of this change. LB35 clarifies that a county or state permanent employee must be at least 18 years old before the employee is eligible for membership in the county or state employees retirement plan. It also clarifies rules and codifies the practice defining the benefit and tier county and state plan members will be in upon re-employment. Effective date for this codification is January 1, 2020. This bill was also supported by NPERS, NACO, and NAPE. LB36 amends the School Employees Retirement Act. It modernizes language and codifies NPERS practice of awarding service credit by unifying the credible service definition across all School Employee Retirement Plan tiers. It grants NPERS additional time to process refund buy-back payments from members who are employed on April 17, 2014, and who timely submit their refund buy-back applications through NPERS by April 16, 2020. Finally, LB565 was introduced by Senator Bolz and has the support of NSEA, NACO and NAPE. It prescribes changes to the county, state, school, and Class V School Employees Retirement Act and to the deferred compensation plan. In the event a member of one of these retirement plans is married at the time of the member's death, and no designated beneficiary is on file, then the spouse married to the member on this date of the member's death is determined to be the beneficiary. These are all changes that we worked with the organizations I mentioned over the interim this past summer. We worked very closely with NAPE, NACO, and NSEA; and we had no opposition. The only opposition we had, and I want to read this into the record, we did receive one letter in opposition to LB565 from Gary Bush. That

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

Floor Debate  
March 18, 2019

---

was not on the committee statement simply because we're not putting that on there any longer. With that I would take your questions and ask for approval of AM591 and LB34. Thank you.

FOLEY: Thank you, Senator Kolterman. Members, you've heard the opening on both the bill and the committee amendment, AM591. Is there any discussion on the bill or the pending committee amendment? I see none. Senator Kolterman, you're recognized to close first on AM591 committee amendment. He waives close. The question for the body is the adoption of the committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of the committee amendment.

FOLEY: AM591 committee amendment has been adopted. Is there any further discussion on LB34 as amended? I see none. Senator Kolterman, you're recognized to close on the advancement of the bill.

KOLTERMAN: Thank you, Mr. President. I forgot to add that every one of these amendments and bills came out of committee unanimously and would appreciate your green vote. Thank you very much.

FOLEY: Thank you, Senator Kolterman. Question for the body is the advancement of LB34 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of the bill.

FOLEY: LB34 advances. Proceeding to General File. LB348. Mr. Clerk.

ASSISTANT CLERK: LB348, introduced by Senator Quick. (Read title.) The bill was read for the first time on January 16, 2019, and referred to the Urban Affairs Committee. That committee placed the bill on General File with no committee amendments.



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

Floor Debate  
March 18, 2019

---

FOLEY: Senator Quick, you're recognized to open on LB348.

QUICK: Thank you, Mr. President; and good morning, colleagues. LB348 would update our state building code. Currently, the International Building Code, the International Residential Code, and International Existing Building Code operate under the 2012 edition and this bill would bring our state building code up to the 2018 code while maintaining the three current exemptions. LB348 was supported in committee by the Nebraska Code Officials Association and the International Code Council and had no opposition. We can't automatically adopt the new codes to update the state building codes automatically. So what we have to do is every so often we have to update the building code through the legislative process. So I would appreciate your support on this bill and your green vote and advance LB348. Thank you, Mr. President.

FOLEY: Thank you, Senator Quick. Members, you heard the opening on LB348. Is there any discussion on the bill? I see none. Senator Quick, you're recognized to close on the advance of the bill. He waives close. The question for the body is advancement of LB348 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 32 ayes, 0 nays on the advancement of the bill.

FOLEY: LB348 advances. Next bill, Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB405, introduced by Senator Hunt. (Read title.) Bill was read for the first time on January 17 of this year and referred to the Urban Affairs Committee. That committee placed the bill on General File with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Hunt, you're recognized to open on LB405.

HUNT: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Today I'm presenting LB405. This bill would update the state energy code standard from the 2009 edition of the International Energy Conservation Code, the IECC, to the 2018 edition. This is just setting the state standard. It means that any locality that wishes to modify the code for any reason can

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

Floor Debate  
March 18, 2019

---

choose to do so. There's also a delayed operative date of July 1, 2020, which gives localities time to look at the code and decide if they'd like to adopt any amendments. The bill would also require counties and cities to notify the State Energy Office upon modifying their local building or construction codes just so that the state, as a whole, has an idea of what energy code landscape looks like around the state. Building energy codes define the minimum requirements for the insulation, mechanical equipment, and lighting of a building in terms of energy efficiency for new construction or major renovations. Model energy codes are updated every three years at the national level in a collaborative, transparent process by a diverse group of stakeholders. When we fall behind in adopting updated energy codes, we fall behind in securing the best interests of Nebraska homeowners. A study commissioned by the Nebraska Energy Office found that updating the statewide energy code to the 2018 version could significantly reduce the energy use in Nebraska homes and save residents money on their energy bills. If we adopt this new code, new homeowners in Nebraska could expect to reduce their energy use by an average of 15 percent and save an average of \$191 on their energy bills annually, compared to homes built today. The adoption of the 2018 code will ensure that prospective homeowners will be able to afford to stay warm in the winter and cool in the summer, and will improve the health and safety of Nebraska families by increasing air quality as a result of lower demand on power generators and a reduction in greenhouse gas emissions. Building energy codes play a key role in reducing our energy costs, our reliance on fossil fuels and carbon emissions, and increase the comfort of Nebraskans in their homes. It's in the interest of Nebraska taxpayers that we acknowledge the benefits of improving energy efficiency to generate energy savings for homeowners. Our current energy standards are ten years older than those recommended by the International Code Council. I think that's enough time to let pass before we update our codes again, and I think we all understand that the longer we kick the can on this the more work we're making for ourselves later. So I would ask for your green vote on LB405, and I'd be happy to answer any questions from the body as well. Thank you.

FOLEY: Thank you, Senator Hunt. Debate is now open on LB405. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. Would Senator Hunt yield to a couple questions, please?

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

Floor Debate  
March 18, 2019

---

FOLEY: Senator Hunt, would you yield, please?

HUNT: Yes, I would.

BOSTELMAN: My first question deals with city administrator, city planning. Does your bill allow if a city administrator or planner decides not to address or update or include these energy plans? Does it give them the opportunity to, I'll say, opt out or not-- not follow that code?

HUNT: Yes, it does. Any locality can modify their code if they'd like to do that. This just sets a state standard.

BOSTELMAN: And the other one, do you know what cost per home this might be on a home, on a new homeowner?

HUNT: We don't have a firm number on that. There will be likely an increased cost of construction, but according to a paper that Senator Arch has that was put together for the State Energy Office, those experts said that those costs would begin paying for themselves in year one.

BOSTELMAN: And would these-- I guess what type of improvements? Are we talking about using heat pumps? Is it lighting? Is it R factor on insulation? What are the areas that this covers?

HUNT: I would have to get back to you about specifics about that. But the biggest difference is the requirement for the blower door test, which measures how airtight a structure is. And that checks for leaks in walls, attics, mechanical penetrations. So that's the main difference between this 2018 version and the 2009 version of the code that we're currently on.

BOSTELMAN: And we're talking about heat loss or-- or, correct, not necessarily air intrusion into the area?

HUNT: Yeah. Heat loss, energy loss, any-- any kind of leaks in the-- in the structure.

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

Floor Debate  
March 18, 2019

---

BOSTELMAN: Well, right. The heat loss I would see as lack of insulation or-- or not sealing around windows. But there needs to be some air leakage within a-- within a building just from the normal course of-- of construction. But I do believe it's a-- a heat loss that they're looking at to make sure that they have the right amount of insulation or the-- the right sealant, if you will, around doors, windows, those type of things, I believe. Would you agree?

HUNT: Yeah.

BOSTELMAN: OK. All right. Thank you. That's the only questions I have. Thank you.

FOLEY: Thank you, Senator Bostelman and Senator Hunt. Is there further discussion on LB405? I see none. Senator Hunt, you're recognized to close on the advance of the bill. She waives closing. The question before the body is the advance of LB405 to E&R Initial. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 16 ayes, 4 nays to place the house under call.

FOLEY: Members, the house is under call. All senators please return to your desk and check in. The house is under call. All senators please return to the floor. The house is under call. Senators could please be seated at your desks. The house is under call. Senator Morfeld, would you check in, please. Senator Walz, check in, please. Senator McCollister. Senator McDonnell and Senator La Grone, please return to the Chamber. The house is under call. Senator Hunt, at this point we're lacking Senator McDonnell. We could proceed with call-in votes, at your request, or-- call-in votes are accepted? Thank you, Senator Hunt. Mr. Clerk. Members, we're looking for call-in votes on LB405. The question before the body is the advance of the bill. If you'd would like to raise your hand with a call-in vote, you may do so.

ASSISTANT CLERK: Senator Bolz voting yes. Senator Hilkemann voting yes. Senator Scheer voting yes. Senator Lathrop voting yes. Senator Crawford voting yes. Senator McCollister voting yes. Senator Matt Hansen voting yes.

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

Floor Debate  
March 18, 2019

---

FOLEY: A roll call vote has been requested. Mr. Clerk, please call the roll.

ASSISTANT CLERK: (Roll call vote taken.) The vote is 25 ayes, 8 nays on the motion to advance.

FOLEY: LB405 advances. I raise the call. Next bill, Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB130, introduced by Senator DeBoer. (Read title.) Bill was read for the first time on January 10 of this year and referred to the Urban Affairs Committee. That committee reports the bill to General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator DeBoer, you're recognized to open on LB130.

DeBOER: Thank you, Mr. President. Good morning, colleagues. LB130 is a bill that would adopt radon resistant new construction standards. In 2017 the Legislature passed LB9 which created the Radon Resistant New Construction Task Force. The task force, composed of experts from throughout the state, unanimously voted to create the recommendations which are included in this bill. You should have a copy of the task force recommendations and a list of the members on your desk. LB130 incorporates those minimum standards into the state building code. You should also have a letter from the Home Builders Association, who testified in a neutral position at the hearing, that states their support of the bill based on the changes made by AM298. The final handout I've passed out today is a map created by DHHS that shows the average radon concentration by county in Nebraska. Remember, that that's the average. As you can see, high radon concentration is an issue that affects all parts of our state. We know that exposure to radon has detrimental effects on an individual's health. Section 76-3502 of the Nebraska statutes lists the following findings, among others, on the dangers of radon. Radon is the leading cause of lung cancer among nonsmokers. The United States Environmental Protection Agency estimates that more than 20,000 Americans die of radon-related lung cancer every year. And according to the World Health Organization, there is no known threshold concentration below which radon exposure presents no risk. Adopting standards that resist radon entry is vital to-- to ensure the health of our citizens. With that, I would ask for your green vote on LB130.

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

Floor Debate  
March 18, 2019

---

FOLEY: Thank you, Senator DeBoer. As the Clerk indicated, there are amendments from the Urban Affairs Committee. Senator Wayne, you're recognized to open on the amendment.

WAYNE: Thank you, Mr. President and members of the Legislature. I know where a lot of people are "execing" and trying to get things as we come to the priority deadline, but I do want to mention this amendment and talk a little bit more about why this is important. The committee amendment, AM298, makes two changes to the bill. First, the amendment strikes the language referring to local building codes that exceed the minimum radon standard adopted underneath this bill. With the amendment, amendment language, the county, city, and village may adopt an alternative minimum-- minimum standard for radon resistant construction. Second, the amendment corrects statutory references to Engineering and Architects Regulation Act. I would ask for your green vote on AM298.

FOLEY: Thank you, Senator Wayne. Debate is now open on LB130 and the pending committee amendment. I see no-- excuse me. Senator Hughes, you're recognized.

HUGHES: Thank you, Mr. President. I wonder if Senator DeBoer would yield to a question.

FOLEY: Senator DeBoer, would you yield, please?

DeBOER: Yes, I would.

HUGHES: Thank you, Senator. So during-- during-- I've spent some time on Urban Affairs my first two years here and recall this discussion. Have you gotten any type of cost, of what this would cost to a single family dwelling?

DeBOER: So I have the number \$200 to \$250 in my notes, but I don't know where that came from. So I will get a more definite number to you. But it's apparently between \$200 and \$250. And maybe-- maybe Senator Wayne, who's also worked on this, might-- might have a-- an answer to that question.

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

Floor Debate  
March 18, 2019

---

HUGHES: OK. We'll-- we'll go with that figure at this point. I guess my concern is adding additional cost, additional burden to a new home construction. For those of us in more rural parts of the state, we are really struggling of getting new homes built out there. And having an additional layer of requirements, you know, makes it just another hurdle for us to cross. In-- in the more metropolitan areas where you have-- your construction costs are much cheaper, I think it's probably an OK thing. But for-- for rural parts of Nebraska, this just doesn't make sense to me. I visited with Senator DeBoer a little bit before and told her that I was going to probably oppose this bill, but I do need to have some additional information on the cost. So Senator Wayne indicated he may have some information, so would Senator Wayne yield to a question?

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Yes. And I pushed my light to answer any more questions you may have too. To the question at hand, we had a task force that was developed four years ago, three years ago, and they were the ones who recommended this bill. That included the home builders. And during those conversations, the home builders said that it would cost \$200 or \$250 to test at the time of building construction versus after, postconstruction, it can go anywhere from \$2,000 to \$3,000.

HUGHES: So when you say to test, not to implement mitigation--

WAYNE: Sorry, to test and to implement if it is an issue 'cause you're not-- 'cause you don't-- you haven't already put the footings in, you haven't put the foundation in. You're testing as you're building so it's easier to make that change. And from what the home builders told us during the task force was it was \$200 to \$250 to make those modifications, if needed, while building.

HUGHES: I, you know, if that's what they said, I guess I-- I-- that seems way low from the conversations that we had back when I was on Urban Affairs my first two years. I'm not saying they're-- they're not correct, but it just-- that seems a lot lower than the numbers that were being discussed. Senator Wayne, will you yield to a question?

FOLEY: Senator Wayne, would you yield, please?

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

Floor Debate  
March 18, 2019

---

WAYNE: Yes.

HUGHES: Do you have additional information?

WAYNE: Yeah. Yeah, I have additional information. So that is a passive system, which people believe would be the majority of the new construction they would have to do. What you're probably thinking of is an active system where they're building on an area that has much radon. Those can go up to \$3,000 to \$5,000, if sometimes a little more, depending on how bad the radon is. But most home builders believe that a passive system will be enough to remedy the situation as they build. So we're talking two different systems.

HUGHES: Right. There now, that that's more in line of-- of what my memory was.

FOLEY: One minute.

HUGHES: I-- I guess the challenge that I have with yet another mandate for new home construction when in parts of Nebraska, you know, it is not an issue. And we are really struggling of making sure that we can get any kind of home built. And just adding more costs, more regulation, more inspectors, another engineering fee, it is simply just-- you know, I don't-- I don't think the threat is that great to cause this. Now, if-- if, you know, we want to maybe amend the bill that it should apply to cities of the metropolitan class and primary class, you know, that may be something that I could live with. I can visit with Senator DeBoer about that if-- if that's a way we want to go. But a blanket across the state, I-- I just don't think I can support that. Thank you, Mr. President.

FOLEY: Thank you, Senator Hughes. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. And good morning. I listened closely to Senator DeBoer when she made her opening remarks about the radon and-- and I believe that she said that no level of radon is safe. But I'd like to ask her a question to clarify that so I know I'm talking correctly.



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

Floor Debate  
March 18, 2019

---

FOLEY: Senator DeBoer, would you yield, please?

DeBOER: Yes.

ERDMAN: Senator DeBoer, did you say in your opening statements that no radon level is accept-- is-- is acceptable?

DeBOER: What I was doing was quoting the World Health Organization and they said that there is no known threshold beneath which radon exposure is safe. So there's no-- they haven't been able to find a low enough threshold where it's safe.

ERDMAN: OK. Thank you for clarifying that. So not knowing a whole lot about radon except what I've heard when I visit with some people, I visited with a pathologist a couple years ago and he said he has examined thousands of patients and he said, as near as he could tell, probably one person died from radon exposure. So personally-- this probably won't be accepted very well-- I think radon exposure and problems is in the same category as global warming. So I did a little research and on the Internet you can find all kinds of studies that have been done, and here's one done by the Science Daily and the headline said this: Exposure to low levels of radon appears to reduce, let me say that again, exposure to low levels of radon appears to reduce the risk of lung cancer. And the whole study is about four pages long and I read the whole study and they've done a pretty thorough, pretty thorough research of a control group that they watched and analyzed and monitored for several years, and their attitude is if it's below 150 becquerel, or however you say that word, per cubic meter, the opportunity for you to develop a resistance to that and actually make it-- make you resistant to lung cancer is better. One of the things that the study did say is this that I thought was interesting: It said the study also noted and revealed that a dramatic correlation between the level of education and lung cancer at risk is found. So subjects, at least some college education, found to have a 30 percent increase in lung cancer risk to those who have a high school degree. Now I don't know what that means, but I know this, that what Senator Hughes was talking about, the cost of construction, is a real cost. And we're having trouble building homes now and we want to add more money to that. Somewhere in between what Senator DeBoer said and somewhere in between what this research paper shows is the truth, somewhere. I think the jury is still out on radon. I think it can be dangerous if it's at high

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

Floor Debate  
March 18, 2019

---

levels. I don't know that it's at a level that we need to have everybody mitigate for radon. I just wish at one time the government would get out of our way and let us live our lives. Things happen to people. Doing things like driving and all these other things are dangerous. We can't protect everybody from everything. I am not going to support AM298 or LB130. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Wayne.

WAYNE: Thank you. I just want to give some background on-- thank you, Mr. President-- some background on how we got here. So we put together a task force, and this was prior to me there was a task force. We brought industry, the people who actually build homes, in and engineers and they provided the joint recommendation. This is not a senator who decided, oh, you know what, we're just going to go after radon. This was a committee recommendation by people in the industry. And what I find ironic is we're staying back and saying, we're not going to regulate. We're not going to impose regulations on the industry that wants them. They sent a letter of support. Home Builders Association of Lincoln and Metro, and there's other ones who sent their-- a letter of supports saying they support this, this bill and the amendment. There weren't opposition testimony, if I remember. There wasn't this large crowd saying this is a bad thing. Again, industry leaders got together with the help of a bill from four to six years ago saying we want to come together and deal with this. And in fact, Nebraska State Homeowner [SIC] Builders Association entered a testimony of support. Again, these are the people we're trying to protect from regulation who are saying, yes, we want this regulation. I don't know how more ironic that can be. No other industry will we probably do this. If all the pharmaceutical people came together and said, hey, we need this regulation to deal with the opioid problem, no, we don't want to add that regulation, although you want it. These are the resident experts in their field, and they are asking this body to do this because they see the importance and the safety issues that are growing among radon. So I'm just-- I'm kind of baffled that we're resisting what the organizations in the industry wants to make sure that we are building safer homes. And with that, I will yield the rest of my time to Senator Lowe if he wants it.

FOLEY: Thank you, Senator Wayne. Senator Lowe, you've been yielded 2:40 if you care to use it.

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

Floor Debate  
March 18, 2019

---

LOWE: Thank you, Senator Wayne. It's a big surprise. [LAUGHTER] I'm-- I'm against this bill, so I appreciate the extra time.

\_\_\_\_\_ : He wants that time back.

LOWE: Yeah. Would you like it back? The-- right now there's nothing stopping these homeowners from putting a passive radon--

\_\_\_\_\_ : Mitigation.

LOWE: --mitigation system in their homes. Thank you. I'm still flustered. The a-- there-- there's absolutely nothing stopping them. They can do this now. We don't need the government to tell us to do this. In Urban Affairs the other day we had a bill come in that wanted us to tell Omaha to do something and yet it was Omaha coming in to tell us to do it. They can do it now. Why do we need the government to come in and tell everybody that they need to do this? We are trying to reduce the cost of our homes so that we can get more people to move to Nebraska. And we're doing that by raising the cost of homes? That doesn't make sense. This doesn't say for a house of \$300,000 or \$400,000. This could be a house of \$100,000 and it raises the cost. Why are we trying to do that to people? If you're a good contractor--

FOLEY: One minute.

LOWE: --and you want to put-- thank you, Mr. President-- and you want to put a radar [SIC] mitigation system in your home, do it. Con-- talk to your-- your client. Say, would you like this? I believe it's necessary. Let's not force these people to do something that is not needed. Senator Erdman brought up a point that the studies are not complete yet. Why don't we protect everybody from everything? That's not what we are here to do. Let's use common sense. Thank you, Mr. President.

FOLEY: Thank you, Senator Lowe. You're actually next in the queue. He waives that opportunity. Senator Bostelman, you're recognized.

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

Floor Debate  
March 18, 2019

---

BOSTELMAN: Thank you, Mr. President. A couple things this morning, colleagues, to talk about. First off, I support AM298. That is a needed amendment onto-- onto the bill just to clarify a little bit of language there on the-- on the engineering side of things. The other thing is a couple things I just talked to Senator DeBoer about and some of the discussion went on here on the floor is about. I do believe within the bill itself, does allow your local coding officials to exempt or write different codes, so not necessarily to exempt out but to have the opportunity to speak to this and to-- to make their levels or their determinations whether it's needed or not. Also talked a little bit about, with Senator DeBoer, about testing first. If we could amend this, and we'll talk between General and Select if it gets there, that we allow local author-- local coding, local builders to test first to see if it's actually needed. And then if it's needed, that's something that could be addressed in local code, in the local code by the local authorities, administrators, and-- and those who are involved in that process. But it's not a mandatory, you have to. But we test first and if the testing proves positive or it is needed and required, then they could go ahead within local code authority to-- to implement the appropriate radon mitigation that's needed. But I think that's an important thing that we're-- when you look across the state, it's kind of an eastern state issue, part of the state issue, not necessarily a broad. There is a few in the south. It really comes back to your soil types and type of construction. But I think something we can talk about to-- to alleviate perhaps some of the discussion here on the floor today is if we have an amendment in there that talks about we test, we look if that's actually something that's needed in that part of the state or in that community, wherever that's being built at. If it's not needed, if it's not a concern, then they don't need to do it. The other thing is, is on-- I don't-- let me pull it up here. I believe in the bill what it has, real quick here, it's on page 3, I believe it is, line 11. It talks: A local building or construction code shall be deemed to conform generally with the state building code-- code if it-- so I believe that or another area, we'll look at that, may allow them to put their own parameters as to when you would actually have to do this radon mitigation or if it needs to be built in the house. So that's a couple of things I think we could talk about some more to-- to discuss further on the bill. But I-- I would really like to see that a testing, local testing be a part of an amendment going forward 'cause that alleviates some of the concerns I'm-- I've been hearing. Well, we don't have this problem in our part-- in-- where we live in our part of the state, so we don't want to mandate that on to those individuals. But we can do some testing and if it's required, then I think our local folks can take care of it through coding with some guidance from this, from this bill. I yield the rest of my time to Senator DeBoer if she would like it.

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

Floor Debate  
March 18, 2019

---

FOLEY: Thank you, Senator Bostelman. Senator DeBoer, 1:40 if you care to use it.

DeBOER: All right. Thank you very much. I wanted to say that I am open to talking between General and Select File about how we might incorporate Senator Bostelman's local testing idea in. And I did just want to remind everyone that what we're talking about here is when new construction is being built that a passive system is put in. That same passive system, if put in later, would cost substantially more money on an order of magnitude, and that it's really important to think about that. Because if we say, well, everyone has an option. If you buy a speck new home, then you don't have an option to do the cheaper cost if they haven't already put in the passive remediation. In fact, if you want to have the passive remediation at that point, it's going to cost you thousands of dollars.

FOLEY: One minute.

DeBOER: And--

FOLEY: One minute.

DeBOER: And then at that point you're-- you're actually going to have thousands of dollars of cost where you would have had about \$200, which the home builders have told me since we started talking about this bill that \$200 is the number for this passive remediation at the time of new home building. Thank you.

FOLEY: Thank you, Senator DeBoer. You're actually next in the queue if you care. Five, five minutes.

DeBOER: Thank you. So the point that I want to make is that when we're saying we have high causing-- housing costs, I recognize that and I want to help with that. I think we should have safe, affordable housing, and one of the ways to do that is by putting these systems in place early on. Maybe there is some sort of local testing provision that would localize that, but we want to have the cheapest houses that we can at the safest level, and I think that the way to do that is to put this system in place before you have to go back and, you know, jackhammer through some

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

Floor Debate  
March 18, 2019

---

cement or something like that, which obviously is not only expensive but is also disruptive to the folks who are living there. One additional matter is that I was talking about this bill with my brother last night and he was saying that one additional advantage of having a passive remediation system in your basement when you move into a new house is that even if you did not know what it was, you say, what is this pipe here? And it helps with some of the education as you try to learn about your new home. So thank you very much.

FOLEY: Thank you, Senator DeBoer. Senator Cavanaugh.

CAVANAUGH: Thank you, Mr. President. I rise today in support of Senator DeBoer's bill, LB130, for a very personal reason. I spoke to a few of my colleagues yet this morning about this. Three years ago my mother-in-law passed away from lung cancer and it was a ten-year battle. She was diagnosed when she was 45 and she passed away when she was 55. She didn't get to meet three of her current grandchildren and she spent ten years seeking medical treatment, doing radiation on her brain because it had spread to her brain, radiation on her back because she had a tumor that if she didn't do this radiation it would have actually broken her back. And this all was because their house had significant levels of radon in it. She saw specialist after specialist, took extraordinarily expensive medications for ten years. But for ten years we had Grandma Michele in our lives, and we were so blessed for that. She was able to be at my wedding. She was able to meet my first two children, but she never met Barrett and she never met her other two grandchildren that were born since. And if they would have known when they built her house to do this, to spend \$200 to do this, my husband's mother would be with us now. Two hundred dollars is not an exorbitant amount of money to have somebody in your life. Two hundred dollars is significantly cheaper than ten years of chemotherapy, trips to the Mayo Clinic, trips to UNMC, surgeries and procedures. Two hundred dollars is nothing. And I encourage everyone today to consider that and to consider your own "Grandma Michele" and what you would do to have that person back in your life. I'm pretty sure everyone in this room would spend \$200 willingly and freely. And with that, I will yield my time to Senator DeBoer if she would like it.

FOLEY: Senator DeBoer, 2:30 if you care to use it. She waives the opportunity. Senator Hughes.

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

Floor Debate  
March 18, 2019

---

HUGHES: Thank you, Mr. President. Looking through the list of members of the Radon, New Construction Task Force, looking at where they're coming from, you know, the old adage is, you know, let me know where you sit before you tell me where you stand. And of course, number-- number one on that list, a couple of them I do know, number one on that list is Jan Bostelman who is definitely a better half to our own Senator Bostelman. She's a-- she's a very smart lady, so I do respect her judgment and I do take-- put a great amount of creed in what Senator Bostelman has said of his concerns on this bill because I am sure that a member of the task force has had input there. But looking down through the rest of them, a community health director, realtors, you know, home builders, environment, architect, you know, this is not costing any of those people anything to implement this. To me, this is a matter of education, that I think the word is much better spread than it was 20-30 years ago about the challenges we have of radon. And I think if we're going to spend some money, I think that's where it should be. Not requiring, you know, more money to be spent on every house. You know, the typical-- the way government works is as soon as you mandate something, the price doubles or triples, you know? So, yeah, it's only \$200, \$250. Well, automatically the home builder finds a way that, oh, yeah, we've got to charge more for that because it's mandated. You know, let's spend the money on education. I agree with what Senator Lowe said. You know, this is not-- should not be a state issue. You know, this is a local issue. Let the local contractors, you know, and let the ultimate person who's paying the bill decide, you know, whether they want to, you know, and do the testing. I guess I do, I do have a question for Senator DeBoer if she will answer.

FOLEY: Senator DeBoer, would you yield, please?

DeBOER: Yes.

HUGHES: So thinking about this, it's the same thing if you pour a house on a slab or whether you have a basement? Is it any new construction or what, you know, are they treated the same? And do they need to be treated the same?

DeBOER: So you'd have to ask an engineer for the specifics of why they're treated the same, but the recommendation was to treat them the same. And so this would be for all new housing, new housing construction. So it would be regardless of whether they're on a slab or with a basement. I

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

Floor Debate  
March 18, 2019

---

don't-- I don't know why it would matter. At some point, the dirt is coming in contact with your house, so.

HUGHES: And going back to my time on the Urban Affairs Committee, I do recall there was some discussion of the increased potential for gas when you do dig a basement and not-- not as much if you're just pouring a slab on top of the ground because you're not-- you're not digging down, you know, through the topsoil and those types of things. So, you know, that is another concern that I do have that, you know, unfortunately, the inefficiencies of government is one size does have to fit all. And-- and I will stand by the comment that once we mandate this--

FOLEY: One minute.

HUGHES: --that \$200, \$250 will increase and it will increase significantly. I guess if there's an opportunity to make adjustments in this bill, as Senator Bostelman had, if-- if Senator DeBoer is willing to do that, you know, there may be an opportunity for me to support moving forward. But at this time, yeah, I'm-- I'm still not convinced this is a mandate that the state needs to-- to bring forward. Thank you, Mr. President.

FOLEY: Thank you, Senator Hughes. (Visitors introduced.) Continuing discussion on the bill, Senator Cavanaugh.

CAVANAUGH: Thank you, Mr. President. I just wanted to add that my husband informed me that his mother's insurance was going to drop her because the coverage had meet-- met the lifetime maximum of \$1 million. So again, when we're talking about the fiscal impact of this, it's pretty significant: \$200 versus \$1 million in healthcare costs. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. President. I rise in support of AM298 and LB130. There's a study that we can pass out to everybody that was put on by the Nebraska Department of-- of Health and Services [SIC], and they did a whole EPA study and that study showed that in Nebraska 39,000-- or 39,096 homes have been tested for radon and 58 percent of those were



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

Floor Debate  
March 18, 2019

---

over the EPA action level of 4.0 pCi/L liters. And that the average radon level for Nebraska is 6.2 pCi/L. So Nebraska is third in the nation for the prevalence of radon. And if you look at the map that Senator DeBoer has passed out, it's pretty clear that the problem levels are especially in the eastern part of the state, but also part of the western part of the state. It's-- it's pretty scary. So I rise in support and thank you, Mr. President.

FOLEY: Thank you, Senator Pansing Brooks. Is there any discussion on LB130 and the committee amendment? I do not see any. Senator Wayne, you're recognized to close on the committee amendment.

WAYNE: Thank you, Mr. President. Just so you know, the amendment actually helps with the standard of-- of reducing a standard a little bit. There is some local language, Senator Bostelman and Senator Hughes, that Senator DeBoer said that she's willing to work on and I am willing to work on it as the committee Chair. I do want to remind everybody that this has been over a six-year process with the task force industry people and I don't know how-- what better of a way you can come to a recommendation in a bill than by bringing everybody together to tell this body what they want. And that's exactly what happened here. So with that, I would ask for a green vote and I'd ask for a call of the house.

FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 13 ayes, 2 nays to place the house under call.

FOLEY: Members, the house is under call. Please return to your desk, check in, be seated at your desk. The house is under call. All senators please return to the Chamber. House is under call. All senators please return to the Chamber and check in. The house is under call. Senator Geist, Senator Groene, Senator Friesen, Clements, Chambers, Hilkemann, Lindstrom, Linehan, Vargas, Crawford, McCollister, Kolterman, all please return to the Chamber. The house is under call. Senator Slama, Senator Briese, please return to the Chamber. Senator Vargas, check in. Waiting for Senators Geist, Clements, and Hilkemann. Senator Clements, please return to the Chamber and check in. The house is under call. Senator Wayne, we're lacking Senator Clements. We can

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

Floor Debate  
March 18, 2019

---

proceed to a vote or we can wait. We'll proceed to a vote. The question before the body is the adoption of the committee amendment, AM298. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

FOLEY: Committee amendment is adopted. Is there any further discussion on LB130 as amended? Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. I would just-- hopefully, as we'll move between General and Select, I would really like to talk about that amendment on-- on testing as well as ensuring we have local control in our local areas to make sure that we're not mandating a statewide process but something that our local governing bodies can take part in, but as well as testing to be provided. I think that's a key thing. Because if there are places in the state that does have significant radon problems, especially Omaha, it is there. So I think that's a key part of what we're talking about today is our places in the state that this is-- this is an issue. And if we can test for that prior to actually forcing anyone to build or to remediate, if it's needed then it's needed, and if it's not then obviously it's not. But if we give that opportunity for our local coding and-- and zoning or administrators to be a part of that discussion, I think that's important. So I will be why-- I mean I am voting green on LB130 to-- to advance it to Select, but I am hoping that we can discuss in between times for an amendment that will come to clarify a little bit of language that I would like to see come about. Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. Senator Moser.

MOSER: Thank you, Mr. President. While this debate has been going on, I did a little bit of research. I called Good Neighbor Health District, which is in my community, to see. I know they have a mitigation plan that they promote. And I asked the mitigation radon specialist what the results of the tests were. She said last year they gave out 147 tests and 80 of the 147 came back at above 4, and that 25 percent, roughly, came in above 3, and so 25 percent then came in under 3 in concentration of radon. So that kind of indicates that this is a problem in my district. Would Senator DeBoer yield to a question?

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

Floor Debate  
March 18, 2019

---

FOLEY: Before we do that, Senator, I raise the call. Senator DeBoer, would you yield, please?

DeBOER: I would.

MOSER: Have you done research on whether home loans are requiring radon testing currently?

DeBOER: I don't have that information for all the parts of the state. I know in some places they do require it because my brother was saying he had to have it.

MOSER: Yeah, I knew it was required in some parts of the state. I didn't know if everywhere. But if it was required everywhere it would make sense to put the rough-in in when you're building the home rather than put it in later at a higher cost, I would think. But thank you. Thank you, Mr. [INAUDIBLE].

FOLEY: Thank you, Senator Moser and Senator DeBoer. Senator Groene.

GROENE: Thank you. As wet as it is, I'm surprised we got static electricity in here. Thank you, Mr. President. I just-- we had another TIF project in North Platte and the developer said the reason he has to do it in North Platte and not in Omaha is the cost. We have high costs of construction. If it was in North Platte he-- in Omaha he said, I wouldn't have to do this. We have higher labor costs, we have higher transportation costs, we have material costs. Anytime we add one more nickel to that cost it causes us grieve on this so-called work force housing. I remember this debate. We've had this bill up I think two-- at least it's the third time in the last three years, four years. We're pretty trouble free out there in most of our area. And why can't you just mandate that if you take a test prior to construction, if it has high ride-- really high radon then maybe you need a permit? Why put it on every house? It's added cost. Every time we come in with another one of these little regulations, we add cost. And it's the old straw on the camel's back. And then turn around, we got to TIF it then because it's too costly. We can't-- we can't overcome the market factors of cost. I can't support this. I can't support any added cost to-- to my contractors and to my home builders. So we're at the breaking point now. So thank you.

FOLEY: Thank you, Senator Groene. Senator Chambers.

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

Floor Debate  
March 18, 2019

---

CHAMBERS: Thank you, Mr. President. Members of the Legislature, Senator Groene's comments make me think of an old saw or maxim: being penny wise and pound foolish. This is not an unreasonable step that is being taken. We, as members of this Legislature, are to look out for what has been called the common good or the greater good, but the idea is that we formulate policy which is designed to benefit the public or the people as a whole. Most people have never even heard of radon. If a builder can get away cheap, he or she will do that. We have to look past that, and if the people in Senator Groene's district are on the verge of going broke and if radon, if this regulation is put in place they'll go broke, they shouldn't be in business now because they're cutting corners and endangering the public. Since the bill is going to move, I don't have a lot to say. But Senator Moser had said something which called my attention to him, and I'd like to ask him a question or two.

FOLEY: Senator Moser, would you yield, please?

CHAMBERS: Senate--

MOSER: Yes, I'll answer a question.

CHAMBERS: Senator Moser, first of all, could-- would you accept this definition of code, c-o-d-e, not like a building code, but it's a substitute of a number, a word, a symbol for another word to disguise what your meaning is, but the person you're dealing with will be able to unscramble what you have presented because he or she knows the key to unraveling the code? Would you accept that generally as being a valid statement?

MOSER: I would say that's a definiti-- one of the possible definitions of code.

CHAMBERS: OK. Now, Senator Moser, what I do when I'm standing here looking around, and a lot of times there are many words being spoken but not much is being said, I look at people's name. Have you ever heard of Samuel B. Morse?

MOSER: Yes, I have. He invented the Morse code.

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

Floor Debate  
March 18, 2019

---

CHAMBERS: Yes. And I'm sure that you've done this before. A small rearrangement of your letter-- the letters in your name will give us what? Morse.

MOSER: Well, it probably there-- probably be quite a few permit-- permutations besides that but I'll give you that's one.

CHAMBERS: That's where we use all of the letters. And they-- you-- you've given the name of a very important person, a well-known person. And Moser is a name which might even be mispronounced. What I want you to do in this Legislature is live up to that name that your letters in your name give us so that the good work you're able to do, have demonstrated you're able to do, will you done by you. And if you're ever in doubt, follow my lead. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers and Senator Moser. Is there any further discussion of the bill? I see none. Senator DeBoer, you're recognized to close on the advance of LB130.

DeBOER: Thank you, Mr. President.

FOLEY: Excuse me. Senator, I apologize. Mr. Clerk for an announcement. I apologize.

ASSISTANT CLERK: Thank you, Mr. President. The Appropriations Committee will be having an Exec Session now in Room 2022; Appropriations, now in 2022. Thank you.

FOLEY: Thank you, Mr. Clerk. Senator DeBoer, you're now recognized for your closing.

DeBOER: Thank you, Mr. President. I wanted to point out a couple of things and then review a couple of things. Number one, I think Senator Cavanaugh made an interesting point about the relative costs here to the state, the cost of treating someone who gets lung cancer as a result of radon is incredibly high. And that would go a long way towards offsetting the cost, certainly, not the human cost of course but the actual cost. I am willing to work with Senator Bostelman on coming up with local testing amendment or something of that sort. I do want to point out that already in the bill are provisions for local control. If you want to look at page 10 of the bill, 76-3505 says: New construction after the effective date of this act shall not be required to use

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

Floor Debate  
March 18, 2019

---

radon resistant new construction if the construction product-- project utilize-- utilizes the design of an engineer or architect registered under the Engineers and Architect Registration Act; or, other than for any residential dwelling, a local building official makes a determination after review of relevant guidelines for the intended use of the structure and property conditions, that radon resistant new construction is not necessary. So there is within this provision some nod already to local control and we can continue to work on that kind of language between now and Select File. I do want to once more point out that the \$200 cost or even if, as Senator Hughes has suggested, it goes up from there because people start charging a premium, that that cost is significantly less than the thousands of dollars which are required, not to mention the disruption that's required, if radon remediation passive systems need to be put in after the construction is finished. This is a preventative measure. If you look at the map that I handed out, you can see that there's a lot of red on this map. And that indicates areas where the average, the average is over 4 pCi. So this is-- this is a prevalent problem in Nebraska. With that, I would urge your green vote. Thank you very much.

FOLEY: Thank you, Senator DeBoer. The question before the body is the advance of LB130 to E&R Initial. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 17 ayes, 1 nay to place the house under call.

FOLEY: House is under call. All members please return to the Chamber and check in. The house is under call. All unauthorized personnel please leave the floor. The house is under call. All senators please return to the Chamber. The house is under call. (Visitors introduced.) Senator Halloran, check in, please. Senator Lindstrom, check in, please. Senator Clements, check in. Senator Erdman, check in, please. All unexcused members are now present. The question before the body is advance of LB130 to E&R Initial. Roll call vote has been-- did you say reverse order, Senator? A roll call vote in reverse order has been requested by Senator DeBoer. Mr. Clerk, please call the roll.

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

Floor Debate  
March 18, 2019

---

ASSISTANT CLERK: (Roll call vote taken.) The vote is 35 ayes, 5 nays on the advancement of the bill.

FOLEY: LB130 advances. I raise the call. Before proceeding on the agenda, Senator Walz, for what purpose do you rise?

WALZ: Thank you, Mr. President. I rise today for a point of personal privilege, please.

FOLEY: Please proceed.

WALZ: Thank you. I just wanted to talk real briefly about the weekend's events and leaving last-- leaving Lincoln last Thursday, as many of my colleagues also probably realize, you just never know what you're going to go home to. And I don't think that any of us are really fully prepared for something like that. I wanted to take a minute to say that the way our communities have come together has been extremely impressive. We had contractors that I want to recognize, subcontractors, grocery stores, restaurants, churches, nonprofits, first responders, city officials that work nonstop to divert water and provide food and resources to people who needed them. Our local United Way was key in responding immediately and getting shelters set up and coordinating services and food for people who have been displaced. Our hospital in Fremont had its helicopters running nonstop to and from Omaha. These emergency responders have done an amazing job and I just want to commend them for that. I know that many of them worked 72 to 96 hours nonstop without relief and they, again, should be commended for their efforts. Everybody played a part this weekend. There were hundreds of volunteers this weekend, from 8 years old to 80 years old, filling sand bags. The county extension, something I would have never even thought of, was hauling hay to farmers. And 4-H buildings were opened up for people to bring horses and pets. So there are so many things that I would have never thought of where people just stepped up and-- and knew they had to do something. I would also like to take a minute to thank General Bohac and Bryan Tuma. Their leadership has been extremely helpful throughout this process. Every time I called them, they were receptive to hearing what the community needed and worked very diligently to get back to me with a response. In fact, I want to tell you, colleagues, when those two men walk in the room, you already feel like things are going to get better. I also want to thank the Department of Health and Human Services and the

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

Floor Debate  
March 18, 2019

---

Department of Transportation for the work that they're doing and for reaching out. All of this demonstrates the wonderful spirit of Nebraska and shows how quickly we can all come together to support one another. This morning I had a really difficult decision to leave my community and come to Lincoln, I'm sorry, knowing that there are so many volunteers who continue to work and provide support to so many people. The towns of Nickerson, Winslow, North Bend, Inglewood, the southwest and southeast part of Fremont were evacuated, and those are just the towns in my district. In Fremont alone we have over 1,100 people in six to seven shelters. And I know that this week the Red Cross is going to be coming in to consolidate those shelters into three and performing needs assessments for every family to find out their housing needs, the number of kids in their family, pets, where they work, transportation in supporting those individuals. We also have behavioral and mental health professionals supporting people in this very traumatic time. Many people will be returning to a home that they can no longer live in. Housing will be an issue. As I reflected over the weekend, I thought about how important it will be for us as senators to come together and share ideas and share protocols and communication that work for you in your areas so that going forward we'll be better prepared and we'll be able to provide our communities the very best support that they need and they deserve. Thank you for the time, Mr. President.

FOLEY: Thank you, Senator Walz. Our next bill is LB130A. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB130A, introduced by Senator DeBoer. (Read title.) Was read for the first time on March 6 of this year and placed on General File.

FOLEY: Thank you, Mr. Clerk. Senator DeBoer, you're recognized to open LB130A.

DeBOER: Thank you, Mr. President. LB130A appropriates funds from the Health and Human Services Cash Fund to the Department of Health and Human Service-- Services. This appropriation is from the cash fund and does not have any effect on the General Fund. The funds appropriated by LB130A will allow the department to hire an additional employee to process an anticipated increase in radon mitigation license applications. The department anticipates that the licensure fee for revenue will exceed the appropriation from the cash fund. So, yes, we actually make money on this one. According to the fiscal note, that would be \$48,078 in '19 and '20,



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

Floor Debate  
March 18, 2019

---

fiscal year '19-20; and in fiscal year '20-21, \$63,255 according to the estimates. Thank you. And with that, I would urge your green vote.

FOLEY: Thank you, Senator DeBoer. Debate is now open on LB130A. Senator Chambers.

CHAMBERS: Thank you. Mr. President, I support this bill. I appreciate what Senator Walz said. But there's something I have to say also. Sociologists, psychiatrists have long said that if there is a large-scale catastrophe people will come together, but if there's a small one they will not. There are many people willing to volunteer time because large numbers are involved. When I say that I am concerned about the downtrodden, this gives me the opportunity to make a point if I can. There are a lot of people who need food now, so food will come from everywhere. Every day I see individuals, I see a family here, a family there, an elderly woman in a grocery store, and that's when I do what I call my good deed. Nobody knows. I don't publicize it. And I feel regretful that more people won't do that. Then I consider how we do as a Legislature when we're talking about a bill that will help a small, relatively small, group of people, those who are mentally ill, those families who cannot afford medical coverage for their children. And we, without hesitation, turn those people away. But now you would think that everybody is imbued with the spirit of generosity, concern for our brothers and sisters, and would all, to a man or woman, answer the question that Cain put to God in the affirmative: Am I my brother and my sister's keeper? And we would say, yes. When I hear about people losing their homes, I think about cities, communities who pass ordinances so that certain people cannot rent a house, cannot buy a house. But when it involves your kind then you can be kind, because you do not put the word "human" in front of that word so that we embrace all of humankind, every kind of person. So I hope that people continue to be generous. I hope they continue to volunteer, that they'll help their neighbors. And in this instance the neighbor is not the person who just lives down the street and around the corner but anybody in this state who has been affected by these acts of God. That's what you're dealing with, acts of God. No terrorist destroyed a levee. No terrorist opened the floodgates. This is the work of God. And you are being called upon to do something to remediate, to the extent that you can, the harm that an act of God has done to those God created. And I hope that if there is a spirit of generosity abroad in the state--

FOLEY: One minute.

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

Floor Debate  
March 18, 2019

---

CHAMBERS: --of Nebraska now, that it will continue to manifest itself when the television cameras are gone, when the reporters are gone, when everybody who's going to give praise will have left and we still must contend with those among us who remain less fortunate. And if that happens, then we can see that an act of God that was a tragedy may have been necessary to awaken people and call their attention to something in a way that we will react with kindness, consideration, and generosity all the time. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Further discussion on LB130A? I see none. Senator DeBoer, you're recognized to close on the advance of the bill. She waives closing. The question before the body is the advance of LB130A. Those in favor vote aye; those opposed vote nay. Senator DeBoer. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 22 ayes, 1 nay to place the house under call.

FOLEY: House is under call. All senators please return to the Chamber and check in. The house is under call. Cavanaugh, check in, please. Senator Cavanaugh, would you check in, please. Senator Morfeld, check in, please. Senator Morfeld, check in, please. Senator La Grone, check in, please. Senator DeBoer, you had 20 voted on the board. Will you accept call-in votes? Call-in votes will be accepted on the advance of LB130A. Mr. Clerk.

ASSISTANT CLERK: Senator Bolz voting yes. Senator Matt Hansen voting yes. Senator Wishart voting yes. Senator Friesen voting yes. Senator Scheer voting yes. Senator Vargas voting yes.

FOLEY: Record, please.

ASSISTANT CLERK: 25 ayes, 0 nays on the motion to advance.

FOLEY: LB130A advances. I raise the call. Items for the record, please?

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

Floor Debate  
March 18, 2019

---

ASSISTANT CLERK: Thank you, Mr. President. (Read LB570A by title for the first time.) A committee report by the Exec Board reports to General File LB600, LB713, and LB566, some having committee amendments. Committee report by the Judiciary Committee reporting to General File LB44, LB231, and LB352, some having committee amendments. Committee report by the Natural Resources Committee on certain gubernatorial appointments to the Nebraska Ethanol Board and the Niobrara Council. Committee report from the General Affairs Committee on certain gubernatorial appointments to the Nebraska Liquor Control-- Liquor Control Commission. Committee report: The Natural Resources Committee reports LB177 to General File with committee amendments. Notice of hearing from the General Affairs Committee. And Senator Pansing Brooks chooses-- prioritizes LB390 as her personal priority bill. It's all I have at this time, Mr. President.

FOLEY: Thank you, Mr. Clerk. Speaker Scheer.

SCHEER: Thank you, Mr. President. Colleagues, just one last reminder of the informational meeting at noon in 1525 with Director Tuma and General Bohac that will give you the latest information in relationship to the flooding that Senator Walz has talked about and the relief efforts. Thank you again.

FOLEY: Thank you, Mr. Speaker. Proceeding on the agenda, next bill, Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB409, introduced by Senator Kolowski. (Read title.) Bill was read for the first time on January 18 of this year and referred to the Urban Affairs Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Kolowski, you're recognized to open on LB409.

KOLOWSKI: Thank you, Mr. President. Good morning again, colleagues. LB409 is seeking the adoption of the 2018 design and construction codes for a variety of healthcare facilities, including hospitals, outpatient facilities, and nursing facilities. The organization that produces this set of codes is the Facility Guidelines Institute in St. Louis, Missouri. The Facility Guidelines Institute is a nonprofit organization made up of members of the American Institute of

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

Floor Debate  
March 18, 2019

---

Architects, Academy of Architects-- of Architecture for Health. The American Society for Healthcare Engineering and the National Institutes of Health also are involved. The Centers for Medicaid and Medicare Services also provides funding for this activity. They are the experts on building medical facilities. I'm going to address the obvious question right off the bat: Why place this code in statute when regulation addresses it? Building codes for commercial and residential building are in statute, but up to now the hospital building codes [SIC] have only been listed in regulation. However, the regulation by the department that adopted the earlier vision-- version of this standard has not been updated for 17 years. There have been a great deal of changes in healthcare in 17 years. There are only three states that have not updated these codes to more recent versions. You have at your desk a map that has been passed out to you on the regulate-- regulatory applications involved in this. Healthcare architects in the state have been requesting this regulation update for five years or so, but it has not been done. Hospitals and outpatient facilities are already building to the 2018 standards because the Centers for Medicaid and Medicare Services' reimbursement rules require at least the 2014 building codes and because they are-- they actually have to build for the hospital of tomorrow, to the greatest extent possible, to be able to accommodate changing healthcare technology, best practices, and to serve the needs of their patients. We see hospital expansions and new outpatient facilities, like surgical centers, being built or expanded constantly. Yet there is a problem created when the regulations do not keep up with current code, especially in a field where technology and best practices change as quickly as they do in healthcare. When the regulation is so far out of step with current building codes, it creates the potential for a violation of law and a great deal of uncertainty for the architects and facility administrators in charge of expanding hospitals and building new healthcare facilities. LB409 would address this uncertainty and provide clarification, making it easier to plan and develop healthcare facilities in our state. This set of building guidelines also includes nursing homes. Since the introduction of the bill, we've had a good deal of discussion on the effects this building code would have on nursing facilities, particularly nursing facilities in rural areas that are barely hanging on in some ways. AM221 is an effort to avoid putting further pressure on those facilities and to make these guidelines only applicable to construction of a completely new nursing facility. Senator Wayne and others could also speak to this. The committee voted unanimously to advance LB409, as amended, to General File. There was no opposition or neutral testimony. Lastly, the fiscal note is zero. I repeat, the fiscal note is zero. I ask your support of AM221 and LB409. Thank you very much.

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

Floor Debate  
March 18, 2019

---

FOLEY: Thank you, Senator Kolowski. As the Clerk indicated, there are amendments from the Urban Affairs Committee. Senator Wayne, as Chair of the committee, you're recognized to open on the committee amendments.

WAYNE: Thank you, Mr. President, on building code day. I really appreciate all the support we had this far. This committee amendment, AM221, provides for-- for the nursing homes. The 2018 edition of the FGI guidelines would only apply to new construction. We wanted to make that clear, that it only applies to new construction. So I'd ask for a green vote on AM221. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Debate is now open on LB409 and the pending committee amendment. I see no members wishing to speak. Senator Wayne, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of the committee amendment, AM221. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of the committee amendments.

FOLEY: Committee amendments are adopted. Is there any further discussion on LB409 as amended? I see none. Senator Kolowski, you're recognized to close on the advance of the bill. He waived. He's waived closing. The question before the body is the advance of LB409 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 27 ayes, 0 nays on the advancement of the bill.

FOLEY: LB409 advances. Items for the record, Mr. Clerk? Actually, Mr. Clerk, before we do that, Senator Moser, for what purpose do you rise?

MOSER: A point of personal privilege.

FOLEY: Please proceed.

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

Floor Debate  
March 18, 2019

---

MOSER: Thank you, Mr. President. Just a reminder for freshman senators, I know that they are giving a press release on the flooding and we're having a meeting with Senator Stinner, who's going to give us a budget overview. And so if you want to do both, great. Otherwise, we're meeting in the Senators' Lounge over the lunch hour and will be getting kind of a primer on the budget. And Senator Stinner will be there to answer questions if-- for explanations and concerns. Thank you very much, Mr. President.

FOLEY: Thank you, Senator Moser. Items for the record, Mr. Clerk?

ASSISTANT CLERK: Thank you, Mr. President. A series of name adds: Senator Pansing Brooks to LB138; Senator Moser to LB209. Finally, a priority motion: Senator Halloran would move to adjourn until Tuesday, March 19, 2019, at 9:00 a.m.

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