

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 14, 2006 LB 1060

SENATOR FOLEY: I think they are.

SENATOR CHAMBERS: Let's say the department did not. Could somebody file a successful lawsuit on the basis of this language, saying that 90 miles is too great a distance for somebody...

SENATOR FOLEY: No.

SENATOR CHAMBERS: ...to travel to procure the (inaudible).

SENATOR FOLEY: Senator, the difficulty we have is we cannot compel healthcare providers to file an application to participate in this program.

SENATOR CHAMBERS: Right. And if some...

SENATOR FOLEY: But we can make the dollars available to them and hope that they do. That's the best we can do.

SENATOR CHAMBERS: Now if some within that 90-mile distance between point A and point B are not willing to participate, then this does not shorten that distance, does it?

SENATOR FOLEY: If nobody steps forward to fill that gap, then we've got a problem.

SENATOR CHAMBERS: So talking about a reasonable person has nothing to do with what the language of the bill is or what may happen in the real world, does it? Does it? It doesn't. That's all I will ask you, Senator Foley. Members of the Legislature, if you read the language there is nothing mandated under Senator Foley's language. The department may do all these things now. There is nothing which says in this vast state of Nebraska that 90 miles is too great a distance as a matter of law, and that's what we're dealing with. We're dealing with law here, not what Senator Foley wants, what he thinks or what he believes. Courts look at what the language of the statute would be. The budget never becomes a part of the permanent volumes of statute. But if there's a mandate then its requirements must be carried out, and a person who is harmed by the failure of a