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Floor Debate  
March 27, 2018

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[LB22 LB299 LB327 LB360 LB366 LB460 LB497 LB548 LB573 LB629 LB640 LB681  
LB682 LB692 LB714 LB717 LB731A LB731 LB733 LB738 LB738A LB749 LB751 LB766  
LB776 LB786 LB788 LB790 LB793 LB794 LB799 LB812 LB815 LB816 LB841 LB845  
LB848 LB852 LB853 LB859 LB868 LB889 LB909 LB932 LB937 LB944 LB947 LB957  
LB982 LB983 LB989 LB990A LB990 LB993A LB994A LB994 LB998 LB1000 LB1003  
LB1008 LB1030 LB1034 LB1036 LB1038 LB1040 LB1042 LB1047 LB1052 LB1070 LB1084  
LB1089 LB1090A LB1098 LB1103 LB1107 LB1110 LB1113 LB1118 LB1119 LB1121  
LB1121A LB1132 LR127 LR176 LR354 LR355 LR356 LR383 LR384 LR385 LR386 LR387  
LR388 LR389 LR390 LR391 LR392 LR393 LR394 LR395 LR396 LR397 LR398 LR399  
LR400 LR401 LR402 LR403 LR404 LR405 LR406 LR407 LR408 LR409 LR410 LR411  
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LR436 LR437 LR438 LR439 LR440 LR441 LR442 LR443 LR444 LR445 LR446 LR447  
LR448 LR449 LR450 LR451 LR452 LR453 LR454 LR455 LR456 LR457 LR458 LR459  
LR460 LR461 LR462 LR463 LR464 LR465 LR467 LR468 LR469]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fiftieth day of the One Hundred Fifth Session, Second Session. Our chaplain for today is Pastor Becky Saddler from the Arapahoe First United Methodist Church in Arapahoe, Nebraska, Senator Hughes's district. Please rise.

PASTOR SADDLER: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Saddler. I call to order the fiftieth day of the One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

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

Floor Debate  
March 27, 2018

---

CLERK: Mr. President, Enrollment and Review reports LB909, LB990, and LB990A to Select File. I have an amendment to be printed by Senator Ripe to LB1119. Legislative Resolutions, Senator Albrecht, LR383 and Senator Williams, LR384. An announcement, the Business and Labor Committee will have an Executive Session today at 11:00. That's all that I have, Mr. President. (Legislative Journal pages 1179-1182.) [LB909 LB990 LB990A LB1119 LR383 LR384]

PRESIDENT 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 three Legislative Resolutions, LR354, LR355, and LR356. (Doctor of the day introduced.) We will now proceed to the first item on the agenda, General File, 2018 senator priority bills. Mr. Clerk. (Legislative Journal page 1182.) [LR354 LR355 LR356]

CLERK: LB640, it's a bill by Senator Groene relating to school finance. It changes provisions of the Property Tax Credit Act. It provides for school district property tax relief. It changes levy limitations for school districts. It was introduced on January 18 of last year, referred to the Revenue Committee, advanced to General File. There are committee amendments. Senator Groene presented his bill last April, Mr. President. Committee amendments were presented as well. We also had some amendments pending when we left the issue. (AM752, Legislative Journal page 971, First Session, 2017.) [LB640]

PRESIDENT FOLEY: Senator Groene, before we get into this, you've had this bill on the floor earlier. Why don't we just get an update and refresher on where we stand on the bill. [LB640]

SENATOR GROENE: I would like to open on it. [LB640]

PRESIDENT FOLEY: That would be fine. Go ahead. [LB640]

SENATOR GROENE: Thank you. LB640 is an attempt to put tax equity back into the Tax Equity and Educational Opportunities Support Act, TEEOSA. Nebraska is in the bottom five nationally when comparing state aid to public schools. The fact is, Nebraska property taxpayers do shoulder the heaviest burden when funding public schools. Of our 244 school districts, 175 received no state equalization aid. Of those, 80 also do not receive any option enrollment aid. Students from Sutherland are one of those...attend one of those schools. Each of you has a spreadsheet in front of you showing how LB640 will affect your school districts. Over and over again we hear that the TEEOSA formula is broken and the only way to fix high property taxes is to alter the present overreliance on property taxes to fund our schools. LB640 addresses those concerns. Last year, LB640 was prioritized by Senator Friesen. It had good support but not enough to overcome a filibuster. What has changed in a year? The opposition to using Property

Floor Debate  
March 27, 2018

---

Tax Credit Fund has softened. The Governor adamantly opposed it last year. This year he himself originally proposed using this fund to initiate property and income tax relief. Farm groups' resistance has weakened. It is now evident that the Property Tax Credit Fund will not grow, but total valuations will, thus diluting the credit each property will receive as time passes. The outcry for property tax equity has increased statewide. There is the property tax school general fund 50 percent income tax credit that will probably be on the ballot. LB947, the Governor and Senator Smith's property tax, corporate income tax relief bill, and Senator Friesen's LB1103, attempt to create foundation...his attempt to create foundation aid as a percentage of basic school needs, or other legislation addressing property taxes. LB640 fits comfortably into any of those options because it's main purpose is to correct the TEEOSA flaw that allows valuation increases to distort the TEEOSA formula. I want to make it clear, LB640 addresses the funding side of TEEOSA formula. It does not make any changes to the needs side of the TEEOSA equation. Last year, the language in LB640 capped the effect of the act to the original \$224 million appropriated for the Property Tax Credit Fund. This year, AM2445 uses the Property Tax Credit Fund as seed money to ease the permanent fix in TEEOSA. Funding for the Property Tax Credit Fund will grow with the growth of TEEOSA funding. It will eliminate the effect of drastically changing local property tax valuations. What other mechanisms in LB640 that cause equitable property tax relief? It increases the state portion of public school funding by directing 100 percent of the income and sales taxes in the Property Tax Credit Fund to state aid for public schools, which is by constitutionally the only mandate that the state has to fund. Presently, the \$224 million appropriated to the Property Tax Credit Fund is divided among all local political subdivisions. Public schools in 2017 received \$133.6 million of the \$224 (million). LB640 will infuse \$90 million of additional state funding into public schools. The Property Tax Credit Fund is frozen at \$224 million. It doesn't grow unless we change appropriations. But the amount of total statewide valuations does cause an individual property tax relief to gradually deteriorate through the Property Tax Credit Fund. AM2445 removes the limit on funding of the \$224 million and allows it to grow as TEEOSA grows, making sure the state continues to fund its portion of school funding growth. LB640 creates a 55 percent factor for property taxes as a percentage of total school funding. For example, a district with a total funding of ten million and local property tax funding amounting to 75 percent of that, seven and a half million, the 55 percent factor it would be \$5.5 million. The state would fund 75 percent of the \$2 million difference. The local school board can recoup all or part of the remaining \$500,000 with a two-thirds majority vote of the board. LB640 will put local control in school spending levels. The flaw in the TEEOSA formula was that it did not foresee rapid valuation increases. It only attempted to control one variable, that being limiting the levy to \$1.05. The assumption was that valuations would increase in proportion to the growth of school needs, thus keeping a manageable ratio between state and local funding. History in time has shown us that the assumption was wrong. LB640 would control the answer at 55 percent, thus eliminating the effect of wide swings in valuations. Fifty-five percent factor, it does not just help taxpayers in rural Nebraska. Elkhorn, Westside, west Douglas County and Sarpy County south will also

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

Floor Debate  
March 27, 2018

---

benefit from the 55 percent factor. How do citizens that live in equalized districts gain tax relief from LB640? They're aided by lowering the maximum levy by 6.3 cents to 9.87 from the present \$1.05. Lowering the levy keeps their tax relief proportion to their home's valuation changes versus the PTF Relief, the Property Tax Credit Fund Relief diminishing over time. Down to the bare basics, folks, you will not get property tax or income tax relief unless we lower the rates, the multiplier. LB640 does that. To every formula fix there are outliers. In this instance there are a few districts who receive their state aid from option enrollment students. LB640 creates a correction, a 90 percent net option loss cap for those seven districts. I've been studying TEEOSA and its affect on property tax since I got here in 2015. And after being elected Education Committee Chair by my peers, I've been able to access the Department of Education, Finance Department's knowledge of the TEEOSA formula. LB640 is the result of accessing that knowledge, input from school business managers, and most importantly the property taxpayer. We look past the initial use of the Property Tax Credit Fund as a funding source, seed money, and look at the long-range benefits of the design of LB640 putting equity back into the TEEOSA formula, we may finally put an end to the rural-urban rift concerning funding of our schools. Please vote green on AM2445 and on LB640. Thank you, Mr. President. [LB640 LB1103]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Smith, if you would like to open on the committee amendment. [LB640]

SENATOR SMITH: Thank you, Mr. President. Good morning, colleagues. A public hearing on LB640 was held on February 16, 2017, and the bill was placed on General File on April 10, 2017, with committee amendment, AM752. AM752 becomes the bill beginning in 2018-'19. The maximum levy limit for school districts is reduced from \$1.05 to 98.987 cents. A district has the ability to assess up to an additional three cents of a temporary reduction of TEEOSA if TEEOSA aid occurs. Assessing the additional three cents requires a two-third majority of the Board of Education. If approved, only 75 percent of the reduced TEEOSA aid may be generated with the additional three cents. Beginning with tax year 2018, the Department of Education will certify to the State Treasurer the statewide increase in TEEOSA that results from reducing the statutory maximum levy. The State Treasurer will transfer an amount equal to this increase in TEEOSA from the Property Tax Credit Cash Fund to the TEEOSA fund to help offset the increase. Also in tax year 2018, the amount of property tax relief shall be the amount available in the Property Tax Credit Cash Fund after transferring funds for TEEOSA aid, in transferring funds to the newly created school district property tax relief aid. A school district qualifies for property tax relief aid if its general fund property tax receipts exceed 55 percent of its total generated fund revenue. A school district receiving relief aid will have its budget authority reduced by 25 percent of the property tax gap unless two-third of the Board of Education vote to override all or part of the reduction. When we left last session, AM992, which was introduced by Senator Groene, was amended into the committee amendment. The provisions of AM992 provide for a reduction of

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

Floor Debate  
March 27, 2018

---

the funds available for distribution if the amount of funds available for distribution exceeds the transfer of funds from the Property Tax Credit Fund. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Smith. Mr. Clerk. [LB640]

CLERK: Mr. President, as Senator Smith noted, Senator Groene had AM992. That was adopted as an amendment to the committee amendments last session. When the Legislature left the issue, Senator Briese had pending AM1036 as an amendment to the committee amendments. (Legislative Journal page 1067, First Session, 2017.) [LB640]

PRESIDENT FOLEY: Senator Briese, you're recognized to open on your amendment. [LB640]

SENATOR BRIESE: Thank you, Mr. President. Good morning, colleagues. I rise today to speak towards AM1036 to LB640. Nebraskans are demanding fairness and equity in our tax structure. And when we collect over 70 percent more in property taxes than we do in state, local, and motor vehicle sales taxes combined in Nebraska, we don't have a fair and balanced tax structure. When we collect 50 percent more in property taxes in Nebraska than we do state, individual, and corporate income taxes, we don't have a fair and balanced tax structure. It's no wonder that Nebraskans everywhere are clamoring for property tax relief. And that's why I offered AM1036 last year to this bill. It expands the sales tax base and closes a couple of income tax loopholes. The intent of AM1036 is to provide property tax relief by replacing the property tax credit dollars utilized by LB640. There's two ways to provide property tax relief. You can cut spending or you can change how you pay for things, but we're not going to be able to slash and burn our way to significant and substantial property tax relief. We have to buckle up and talk about new revenue, period. And we have to talk about sales tax exemptions. Colleagues, the ideal sales tax exemption is a one-time tax on a retail-consumer transaction. AM1036 recognizes it. In drafting it, care was taken to target items that are not business related. And it also targets items taxed in Iowa and Kansas. And we have to talk about sales tax on services. In the '30s when most sales tax mechanisms were put in place, goods comprised two-thirds of a typical state's economy. Now goods comprise roughly one-third of a state's economy with services comprising two-thirds of the economy. We've become a service-oriented economy. And data suggests that Nebraska only taxes about seventy-seven of the hundred and sixty-eight services taxed in at least some other states. We have to examine our sales tax base as it relates to service taxation. And I also note that services tend to be consumed at a higher rate among the more affluent of us and a failure to include more services into our sales tax base in effect penalizes our low-income folks. AM1036 also recognizes the need to bring more services into our tax base. Colleagues, Nebraskans are demanding that we provide substantial and significant property tax relief. And for the young farm families choking on red ink because of the fifth highest property taxes in the country, and the young, urban couples forced out of the housing market or unable to pay their property taxes

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

Floor Debate  
March 27, 2018

---

because of the six to seventh highest property taxes in the country, it must be immediate relief. For those folks, relief delayed is relief denied. If we're serious about providing property tax relief, we have to ask ourselves how are we going to get there? And I believe the only way to get there is with new revenue. And we're going to have that discussion here in a couple of days, but we also need to debate structural change to our tax policy. And structural change must include lessening our reliance on property taxes and lessening our reliance on property taxes will mean increasing our reliance on other forms of revenue. And colleagues, I believe that almost every one of us believes that we must provide property tax relief. However, the level of intensity varies among us. But regardless of your intents on property taxes, I believe all of us should support efforts to examine our sales tax base and consider the inclusion of more goods and services. We will attempt to bring new revenue to the property tax discussion this year in a different bill, but for now, Mr. President, I will ask to withdraw AM1036 from LB640. Thank you. [LB640]

PRESIDENT FOLEY: Without objection, AM1036 is withdrawn. Mr. Clerk. [LB640]

CLERK: Mr. President, the next amendment to the committee amendment is Senator Friesen, AM1065. (Legislative Journal page 1068, First Session, 2017.) [LB640]

PRESIDENT FOLEY: Senator Friesen, you're recognized to open on your amendment. [LB640]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Today, we want to talk a little bit about property taxes for a change. Last year we got to discuss this bill. It was my priority bill. It ended up not going anywhere. It had, I think, a few flaws back then and I hope that Senator Groene has fixed those, but I think the overall discussion needs to look at how we fund K-12 education in this state. And I think that's the bigger picture that we have to address as we discuss the different issues that come before us in the next remaining days of the session. There's going to be a couple of options for people to choose from. When we talk about property tax relief, we have to talk about how we fund K-12 education. That is what's driving the majority of the increase. When you look at property taxes in general when you look at all entities that levy property taxes, the increase is averaging anywhere from two and a half to three and a half percent a year. And schools is by far the largest component of any of the property taxes we pay. And if you believe in what the state Constitution says, the state shall provide for the free instruction of our K-12 students, and yet we have 72 percent of our schools receiving no equalization aid whatsoever and some schools receiving up to over 50 percent of their funding through equalization aid. Something needs to be addressed in order to bring this into balance and that the state could honestly say that it is helping to provide for the funding of our instruction of our K-12 students. It is no longer a fair and equitable method of doing it. It does not measure wealth whether you are in the urban area trying to buy a house or an ag producer trying to raise crops. It is no longer fair and equitable because of the changes we've gone through in our ag production

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

Floor Debate  
March 27, 2018

---

and the number of people we have left in the industry, and the lessening of the students out there where we are dropping numbers. I know that the Lincoln and Omaha schools are growing, but we're pushing our population continually east and we need to reverse that trend. Somehow, we need to address our whole economic picture, our economic development, and if we don't start turning around the population trends down the road, it's just going to cause more problems in how we fund our K-12 than what we have now. I'm looking forward to the discussion. With that, I wish to withdraw my amendment, AM1065. Thank you, Mr. Lieutenant Governor. [LB640]

PRESIDENT FOLEY: Thank you, Senator Friesen. AM1065 is withdrawn. Mr. Clerk. [LB640]

CLERK: Mr. President, I do have other amendments. However, Senator Chambers has filed a priority motion, that motion being to recommit the bill to the Revenue Committee. [LB640]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your priority motion. [LB640]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm not going to have a lot to say today on these various tax bills. What it puts me in mind of is a confused canine trying to catch a posterior appendage by running in circles. In other words, a dog chasing his tail. This is a bad bill, in my opinion, and I will not support it. I have to correct my good friend, Senator Briese. He said that certain categories of people are choking on red ink. Words mean something to me. I think it would have been more appropriate as an analogy to say that they're drowning in red ink. Thank you. Senator Briese can accept that probably because I'm so much older and the elderly people are allowed to teach the younger. I listened to the prayer this morning as I always do, not always, sometimes I can't. And as I've told you, I'm God's surrogate and I was given a message this morning. And the first part of it was, they on the floor this morning are not talking directly to me--talking about God--but to my alter ego, the Holy Spirit. And the message, Ernie, that I want you to give them this morning is to stop asking me, stop asking my surrogate, stop asking my alter ego for wisdom and these other things because remind them I gave them a brain. And I gave them that brain to think with and if they keep asking me these things and begging for things that they can do as a Legislature, their right arms collectively will lose their cunning and their tongues will cleave to the roofs of their mouth and nobody will have to listen to such things again. I was also given a message in addition to that. This is Women's History Month. And I was told to remind people that Palm Sunday is when they praised his son. Good Friday, for some reason they call it that, was the day that they crucified or executed him. And with a smile twitching in the corner of his mouth and a twinkle in his eye, which you all never see manifested in the God you serve or profess to serve, he said...he told me not to tell you that because it might blow you away. No, he said, blow your socks off. See, I obey and you all don't and that's the difference. But he said, tell them that with this being Women's

Floor Debate  
March 27, 2018

---

History Month, that they ought to look at what happened to his kid. When the men were there, Judas betrayed him. Peter denied him. The others deserted him. But the day when he was bleeding his life away, and so upset that he asked me to take this cup from him, but that's what he was there for. He said, who stayed with him? Who were not afraid to be in his presence? Not any of the men. The women. The women. Do you all read that "Bible"? Then why do you show such contempt for the women, lack of respect, lack of consideration. Bringing these anti-women's health bills, and the Governor over there pretending he is a man of faith and he hates women. He's a misogynist. Uh-huh, I hear you, Lord. Speak, Lord, thy servant heareth. Uh-huh. Okay. He told me, cool down. There will be a day of heat coming that none of them will enjoy, but it's not too late for them to avoid it if they would just straighten up and fly right. I handed out a rhyme this morning to show you that back there in the beginning the woman played a starring role, but since a man was writing the account, he blamed the woman for what he had done. The serpent was more subtle than any beast in the field. He probably was a forerunner to the Ricketts' family because he was full of deception. He went contrary to what God had said. Those two people were allowed to eat anything in the garden, anything, but there was one tree that they were supposed to leave alone. The first moral test. And that forerunner of Ricketts, according to what a man wrote, beguiled the woman and said, eat this fruit. She said, oh, no. The man upstairs said, or wherever he lives, that if we eat that fruit, the day we eat it, we'll die. And that forerunner of Ricketts called the serpent said, you will not surely die. He knows that if you eat that fruit, you will be as wise as he is, and he wants to keep you ignorant. He wants to keep you ignorant, barefoot, and pregnant. That's what he wants. Eat that fruit. So she looked at it. And I like to give my sources. She beheld it and it was pleasing to the eye. Very tempting, so she tasted it. Never tasted anything like that in her life. And by the way, the man who wrote it did not say it was an apple. But since traditionally that's what people say in their ignorance, and their tendency to tack on to what God supposedly said because what he said was not good enough, you can find this in all the dogmas, all of the traditions of these various churches. Ten Commandments, and yet thousands of books written about those Ten Commandments because people don't want to obey them. But at any rate, she said, this is too good for myself. I've got to share it with that old lazy man. So she took it and shared it with this guy called Adam, not Adam Morfeld. His day comes much, much later. He said, mmm, mmm, good. Mmm, mmm, good. That's what this fruit is, mmm, mmm, good. And before they finished singing it, their eyes popped open and Adam saw Eve for the first time. I mean, he actually saw her. He was aware of her, but he hadn't perceived. He said, good God almighty, and she looked at Adam, she said, wow. And their eyes came open and they realized they were naked. So at that point the first trade came into existence, which is sewing, making clothes. It didn't tell where they got the needle. Didn't tell where they got the thread. But somehow they had all it took and they sewed fig leaves together. I don't know what they sewed them together for. But anyway, that's what the book said. So the woman was the cause of mankind falling. And God, who was portrayed as a male, in his viciousness said, you are going to have pain in childbirth. And men being of the mind to inflict pain on women further down the road when anesthesia, anesthetics came into being, it was preached in the churches that



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

Floor Debate  
March 27, 2018

---

it was a sin for a woman to take anything that would relieve her pain in childbirth because God said she was supposed to be in pain, and if she took those anesthetics, it was a sin. And women were made to bear those children in great pain because of these so-called holy men who also say they should dictate what a woman should do when it comes to making reproductive choices, when it comes to determining whether she would carry a pregnancy to term. Men made the decision that that should not be allowed. And women, having been conditioned... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR CHAMBERS: ...to be supine, to go along with the program, a lot of them accepted it. And I've been told that my job is to bring a new truth and perhaps you will hear it from me. And I said, God, they hate me. Why do you think they'll listen to me? He said, I often take that which is scorned and despised to work my will. That's what I was told to tell you this morning and if I get additional messages, I'll pass them on. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Debate is now open on LB640 and the pending amendments and motions. Senator Brewer. [LB640]

SENATOR BREWER: Thank you, Mr. President, and good morning, colleagues. Well, let's see. Before I get started, we might want to put aside some rumors. Senator Chambers, would you yield to some questions? [LB640]

PRESIDENT FOLEY: Senator Chambers, would you yield, please? [LB640]

SENATOR CHAMBERS: Yes, I will. [LB640]

SENATOR BREWER: All right. I have heard some say that you're starting to lose it. We're going to see if that's true or not, all right? [LB640]

SENATOR CHAMBERS: Well, it depends on what it is they say that I'm losing. [LB640]

SENATOR BREWER: Memory, I think, is the critical one here. [LB640]

SENATOR CHAMBERS: And I would match mine against anybody including the one who proposed that question. [LB640]

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

Floor Debate  
March 27, 2018

---

SENATOR BREWER: All right. This is going to be tough so you got to be ready for it. What branch of service did you serve in? [LB640]

SENATOR CHAMBERS: I refuse to answer on the grounds that it might incriminate me. [LB640]

SENATOR BREWER: It won't, honest. And the next question is, what was your skill set in the military? [LB640]

SENATOR CHAMBERS: Everyone that anybody could ask for and more. And my commanding officer wrote a letter to that effect. [LB640]

SENATOR BREWER: And I did have a chance to see that letter, and he said you were an exceptional soldier, but to the question at hand, before in this body you have mentioned that as a 11 Bravo Infantryman, your duties were that of carrying the flame thrower, is that correct? [LB640]

SENATOR CHAMBERS: Yes. [LB640]

SENATOR BREWER: All right. That flame thrower had a very specific weight because not very many people were given that responsibility because it was heavy, and unless you were pretty disciplined, you couldn't carry it. Do you by chance, by going back about 60 years, remember what the weight of that flame thrower is? [LB640]

SENATOR CHAMBERS: 68 pounds, 8 ounces, to 70 pounds. [LB640]

SENATOR BREWER: All right. I'm done asking you questions. (Laughter) Thank you, Senator Chambers. All right, now to the issue at hand. LB640 has been an issue in the district because having 13 counties in western Nebraska, the issue of property tax is a constant. It's something that all of the mail and phone calls is constantly about. So I want to rise in support of Senator Groene's LB640. With that said, if you take a look at the sheet that was handed out with the highlights, I am assuming that everybody's schools were highlighted in here. After making a couple of runs at fully understanding that, I'm still having some questions. So if Senator Groene would be willing, I would like to yield the rest of my time to him and have him walk us through this spreadsheet and explain what we're looking at. [LB640]

PRESIDENT FOLEY: Thank you, Senator Brewer. Senator Groene, 2:00. [LB640]

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

Floor Debate  
March 27, 2018

---

SENATOR GROENE: Thank you. The spreadsheet I handed out should have been specific to each of you because we highlighted your school districts. It was created by the Department of Education's fiscal office with the parameters of what my amendment, AM2445, when we replaced the amendment, AM752, with it, would do. The major issue is the formula needs and the next line tells you how much money you could...the school district could raise from local property taxes at a \$1, well, at the LB937 LER. That option funding, that's the money school districts get for kids who transfer in. Income tax rebate, the Education Committee, my first year made sure everybody got that. Other receipts are game, you know, just at your games, from the taxes on vehicles and other things that everybody gets. Total resources is the total of those three columns. Districts, school district property tax relief aid is the 55 percent what the school districts would get if they were to 55 percent which they didn't get before. [LB640 LB937]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR GROENE: The 90 percent...I'll finish later. [LB640]

PRESIDENT FOLEY: No, you have one minute. [LB640]

SENATOR GROENE: Oh, well you wasted ten seconds for me. Ninety percent option is those seven schools I said that get option enrollment money because they...that's where their state aid came. Equalization aid is what they get now or will get with equalization aid with the new changes. Total state aid calculation is the total of all those columns. TEEOSA calculation, that's what it is now prior to if we enact this. The difference is how much more money you would get with each school district with state aid if it was passed. Percentage of change...then '17-18 state aid, TEEOSA aid, and then the difference which each school district will get more in state aid because we are taking all of the Property Tax Credit Fund and concentrating on schools. It's a good bill, folks. It's a good bill. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Chambers. [LB640]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, again, I will say I'm opposed to this bill. It will be interesting to see how many votes it will get, and although I will not discuss the tax aspects of it, I am listening, and I'm watching like a hawk. I'm not sure that all of these numbers are carrying any conviction to anybody, and were I the one presenting an issue like this, I would not get lost in numbers because people are not going to pay attention to them anyway. I would deal with the possible objections that people may have to the bill. When you get lost in numbers, people's eyes will glaze over, a metal shield will slide across the brain, and they will just sit there until whoever is giving the numbers will sit down. They may not say anything and there will be no way to know until a vote is taken where people really stand on this

Floor Debate  
March 27, 2018

---

bill, but between the time that I last spoke and the time that I have an opportunity to speak now-- and I'm not turning my light on right now--I got another message. That as has been said to you all on this floor earlier, the things that are held in contempt are the things used by the one you say you worship to bring a message. A woman who had faith that Jesus could heal her, she was suffering from what was called in those days a bloody flux. Jesus was surrounded by hundreds of people, the rock star of his day. And she touched the hem of his garment and Jesus turned around and he said, somebody touched me. And his disciples say, what are you talking about? Look at all these people, everybody touches you. He said, no, you still don't understand. This person touched me in a way that nobody else did. Virtue went out from me. Who is that person? And this woman, shamefacedly said, I'm the one. And again, he pointed out, faith is exemplified by what that woman did. Woman, you are healed. The doctors couldn't heal you. They didn't even know what you had. You're healed. A Samaritan whom the Jews hated. They were the condemned people, like black people today. What would have been a Christian was attacked by some robbers. They beat the stew out of him and left him battered, bruised, and all but naked. And a Samaritan came along, another of the hated ones. And he took this guy to an inn--and that is what they called hotels in those days--fixed him up, clean his wounds, call a doctor if he needs it, feed him, take care of him. When I come back, then I'll pay you. And some smart aleck...I have to confess it was I, said, yeah, he could say that because when he came back he's going to go a different way. And I was chastised and I was told in this message from on high, no, you think you're smart, but you're not. The only way an innkeeper will accept an order like that and carry it out at the risk of losing money, is that the man who gave the order was known to him, a man of standing in the community, a man whose word unlike that of Christians was his bond. If he promised to pay, he would pay. And he would not even make the innkeeper itemize it, just tell him what was owed and he would pay it. So once again, the Samaritan not only showed compassion but he had established a reputation in that community even though they hated Samaritans... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR CHAMBERS: ...as a man of his word. So another one who was condemned, held in contempt, was utilized by the one you all say you worship to try to get a message through you all's hard hearts and hard heads. It didn't work then, it won't work now, and without the fear of being struck dead, I kind of ribbed God. He can take it. He created the sense of humor. I said and I'll bet you two to one that they're not going to ever listen to you, and you certainly know they're not going to listen to me. That's all for right now. Thank you, Mr. President, and if I get another message, I'll pass it on. [LB640]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Friesen, you're recognized. [LB640]

Floor Debate  
March 27, 2018

---

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Over the years when we've talked about property tax relief and tax relief in general, everybody, I think, previously has seen the sheet where we have changed income tax rates. We've lowered the income tax liability over the years through different methods, whether we've indexed it for inflation and numerous other things that we have done. When you take all these components and put them together and you take our Property Tax Credit Relief Fund, those two funds basically balance out. So, in the past, we have provided with the Property Tax Credit Relief Fund approximately the same amount of money in income tax relief. And so when we go forward and we look at what the funding needs for schools are, if we are starting what we call from an equal base, it still points largely to property taxes in 72 percent of the schools provide the majority of funding by far. In these days, you know, you can talk either in urban or rural, it doesn't matter. You have urban residents, kids moving back to Omaha, Lincoln, or Grand Island, or wherever. They come back, they buy a house. They get preapproved for a loan. They buy a house that's at the upper end of their range, which is, you know, probably something they should haven't done, but when you look at that, and you look at how we're trying to measure wealth, you've got these young kids moving back, they buy a home, they start to have kids, and suddenly if property taxes would increase like the potential exists, if their property taxes would raise at the rate of 18 percent a year like mine did, they would lose their home because they don't have the ability to generate more revenue. They're on a fixed income, so to speak. They're not going to get a huge raise to cover their property tax liability that's coming. If one of them has to quit working in order to have kids at home yet and they suddenly have a slump in their income, they got property taxes going up, and so this is not just an urban-rural split here. This is property tax relief for everyone. And when you look at what has happened in the past and how TEEOSA did not have the ability to compensate for a spike in values, whether it's ag land or housing values, when I look back at what happened to ag land, I mean, we saw an 18 percent per year increase over ten years. That's 180 percent, and that's on top of all the property tax credit relief that has been granted. And as we go forward now and if we see ag land values dropping, that tax liability is going to get shifted to the urban residential homeowner because those values have been going up 20 to 30 percent. And so the tax shift that happened ten years ago is coming back the other direction. If we see interest rates climb in the near future here, which slowly they're raising the federal rates, you're going to see land prices drop accordingly. You'll either pay for land in interest or principle, it doesn't matter, it seems to balance out. So as ag land prices continue to drop in the next new years and we are on that three-year average, so to speak, it's not truly a three-year rolling average, but as we see those ag land values drop, there's going to be a corresponding increase in those urban residential areas that have ag land in their districts. And that value is going to spike exponentially higher for the urban homeowner because those housing values are increasing and right now I think out in our area, 68 percent of the funding comes from ag land or higher. So as that value shifts back, it's going to be... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

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

Floor Debate  
March 27, 2018

---

SENATOR FRIESEN: ...a burden upon that residential homeowner. Going forward and when we look at revenue of the state and how we're going to address this problem, in the long run if we do not address some sort of revenue increase, we will not be able to provide what I would call substantial property tax relief. Thank you, Mr. Lieutenant Governor. [LB640]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Linehan. [LB640]

SENATOR LINEHAN: Thank you, Mr. President, and good morning, colleagues. I agree with Senator Groene, Senator Friesen, and I think most of us in this body, that we have an issue with property taxes whether it be homeowners, ranchers, farmers, commercial property owners. Whether it's the fifth highest or the sixth highest or whatever we are in the country, it's... still I remember going door to door when I was running, almost...I ran into one out of the hundreds of doors I knocked on where they didn't think their property taxes were too high. So there's no doubt that what Senator Groene is doing here is addressing a concern that's widespread across our state. I do have some questions for Senator Groene because it is confusing. I do realize he has great knowledge of the TEEOSA formula. I've studied it and studied it, but I think many of our colleagues, it's still very, very confusing. So, Senator Groene, could you...could I ask you some questions, please? [LB640]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR LINEHAN: So this LB640 would, in fact, increase aid according to your chart you made out here to almost all school districts, right? There's a handful that get a hit but most of them get increases, and many, many significant increases in aid with...if LB640 becomes law? [LB640]

SENATOR GROENE: That's true. [LB640]

SENATOR LINEHAN: And the trade-off is, you are taking...their cap now is \$1.05, unless they have a levy override, so were you reducing that cap? [LB640]

SENATOR GROENE: Yes. I'm reducing it by 6.3 cents to offset...the equalized district residents will lose their property tax credit, lowering the 6.3 cents, the levy will offset that. [LB640]

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

Floor Debate  
March 27, 2018

---

SENATOR LINEHAN: So, I no longer...if I'm in Elkhorn, which I am, and I do get a property tax credit, I no longer get the credit which the state turns around and makes the district whole, but I just get...this would actually reduce my property taxes? [LB640]

SENATOR GROENE: Yes, but the neat thing about it is that lowering the levy, you will maintain or gain on your property tax relief because its a multiplier by your valuation. The Property Tax Credit Fund, every year, if it remains at \$224 (million), but it looks like it will, the amount you will get will be less because there's more homes built, valuations go up, and the \$224 million is stagnant and it's divided by total statewide valuations which increases, therefore, everybody gets less. By converting it into a reduction in levy you're guaranteed, no matter if there are five new homes go up next to you, you're going to be guaranteed your property tax relief. [LB640]

SENATOR LINEHAN: So, the way I read this, for Elkhorn, they would get a--it's a really tiny print, sir--36 percent increase in TEEOSA aid if LB640 becomes law. [LB640]

SENATOR GROENE: That's true. [LB640]

SENATOR LINEHAN: And I notice, I think Lincoln Public Schools would get an increase of 23 percent. [LB640]

SENATOR GROENE: Twenty-eight million dollars or so, isn't it in dollars? [LB640]

SENATOR LINEHAN: Almost \$28.5 million, yes, but a 23 percent increase. So, I guess my question is looking at this and I appreciate very much all the hard work and this is complicated and you clearly studied it and you're trying to answer a concern of many, many Nebraskans, why would there be 11 amendments filed against it? [LB640]

SENATOR GROENE: Some of it's not understanding the amendment. By the way, AM2445, when we get to it, replaces the committee amendment of AM752 and becomes the bill. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR GROENE: But the thing...they're against it a lot of the administration of our schools do not want to lose taxing authority. That's the biggest negative why they would call a senator and said, don't support this. If they can tax you \$1.05, that's guaranteed. They can sell your house at the courthouse steps and be paid. They do not want to lose taxing authority and have to rely on the state to fund education. Well, the problem is this. It is the state's duty. We are 47th, I think, the latest number in state aid support of our public schools. It's time for the state to step up, and

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

Floor Debate  
March 27, 2018

---

we will never get property tax relief, we will never get income tax relief unless you lower the levy. All sorts of gimmicks and credits and things will run out on you. Lowering the levy helps property tax relief and in this case, it puts the state...but with the \$224 million, the infusion is they're going to get 90 more million of state aid because we're going to take it away from the counties and the other entities. [LB640]

PRESIDENT FOLEY: Time, Senators. [LB640]

SENATOR LINEHAN: Thank you. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Linehan and Senator Groene. Senator Larson. [LB640]

SENATOR LARSON: I'll yield my time to Senator Groene. [LB640]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Groene, 5:00. [LB640]

SENATOR GROENE: I passed out another handout to you. It was the updated version of what we, my staff put together. Not my staff, but the Education Committee staff on funding of our schools in the state, all resources. It...and I passed it out first at the Legislative Council but we've updated it, and it gives you all of the funding sources. If you look on the bottom of the columns on state, from last year we dropped from 37 percent to 36 percent state support of our public schools. The state's portion keeps going down because the valuation of the way TEEOSA is set. And we're elected here to fund our schools, not to kick it down the road to property taxes. Number two, the local is at 58 percent. Federal has dropped from 6 percent to 5 percent. We spend on the bottom number, \$12,992.22 per student. And I had the staff put a note by the side of it what we...the last document I sent out to you was \$12,792. I keep hearing that we do not fund education, but for some reason that number keeps going up every year. How, if we do not fund it? Nationally, that's a pretty high number. We're in the top ten or fifteen of what we spend per student. I'm not here to argue that. I am here to try to fix TEEOSA, to put equity back into it. If those who think we don't spend enough on education want that debate, and you want everybody in that debate, you need to fix TEEOSA. So those schools and their representatives who do not get state aid are willing to discuss how we fund our schools and how much money we do and what programs...right now, 174 districts don't care. They would just as soon state aid probably went away because they don't get any of it. You hear about...I read the editorials in the two big cities' papers about the rural and the urban have to get along. We have for 150 years on our backs. You've taken our children and they moved to your communities. You take them there to educate. You get the economic...it's time to give us some economic lift and send some income and sales taxes back to our communities through state aid, so that we can lower our property



Floor Debate  
March 27, 2018

---

taxes and entice businesses and people to stay there and to live there. It's as simple as that. It's not a very big bill. It's not a very big bill because there isn't a lot of us. Forty, fifty million goes a long way in rural Nebraska. It's time to start working with us. LB640 is a good start. It's a very good start. Let's fix TEEOSA on the funding side of it and then we can look at the needs side. This bill doesn't go into effect until 1920 (sic). If we need funding when the numbers roll in, we can discuss that then, but right now we need everybody on the same page because there will be...if there are 17 senators to stop this, there will be 17 to stop any increase in TEEOSA because those senators represent people who do not get state aid or very little of it. You heard the Speaker the other day say let's start working together. It goes both ways, folks. It goes both ways. LB640 has been well thought out, a lot of input from individuals and knowledgeable on the issue. It's not Groene's bill. The idea didn't even come from me, it came from some individuals very knowledgeable in the Department of Education. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR GROENE: Let's see if this is politics or if this is good policy at the end of the day when we vote on this. But take a look at those numbers, folks. The state of Nebraska ought to be ashamed that we only fund 36 percent of our total funding for our schools and we dump it on the property taxpayer. That needs to change and with LB640 we can begin that by shifting \$90 million that we give to the counties and other taxing entities into education because they get \$133 million, and \$224 (million) now, LB640 would give them \$224 million. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Brasch. [LB640]

SENATOR BRASCH: Thank you, Mr. President. Good morning, colleagues, and good morning to those watching today. I do rise in support of LB640. Individuals do want relief, property tax relief. Individuals do want to know how we can better fund education, public instruction, instruction that parents also choose for their children. This has been a dilemma. It's my eighth year, I'm term limited, but from day one, individuals have talked, senators have talked, solutions have been proposed. I know that LB640 has been thoroughly vetted and it has changed immensely since the day it was originally introduced, and that's why I support that and AM752. I do not support the recommit to committee because we have been kicking this can down the road. Part of our first orientation here eight years ago was to go into then Senator Adam's office, who was Chair of Education, then Speaker, and look at drawings on a white board of silos and wants versus needs and growth, and it's a conundrum. It's a very difficult, confusing puzzle for many people, but the answer always seems to be taxation and increases in our property tax. So I do not support the recommit. I'm thinking this is a potential solution. I do believe that every session we just keep pushing it to the next session. We had the Tax Modernization study where we went

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

Floor Debate  
March 27, 2018

---

across the state. We had multiple town hall meetings. We called in consultants. We've had numerous meetings with the Revenue Department, with revenue experts, Revenue/Education Committee, Revenue/Appropriations Committee. We have had meeting following meeting, following meeting, looking at recognizing there's a problem, looking at ways to turn the tide around where there is less reliance on property taxes, but we are avoiding that tax shift. With a population...we do not want to increase taxes. We don't want to do that because our population has not grown to match the wants versus the needs, but our children do need a good, sound education. I yield the rest of my time to Senator Groene. [LB640]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Groene, 1:45. [LB640]

SENATOR GROENE: I would like to go in...well, I'd like to finish the spreadsheet. That second to last column is the difference. Yes, there is some school districts that get...take an original ding, but by far, countywide, the residents receive as much or more relief of property taxes as they did with the Property Tax Credit Fund. But that column will keep growing. The Property Tax Credit Fund will not. Why would OPS want the levy lowered? They have a crisis. We passed a bill out of Retirement yesterday where they want to be able to bond to bail themselves out of their retirement because it's going broke, folks. They want to generate 300 and some million dollars by selling bonds and then using up to 12 cents of their \$1.05 for bond payment for 30 years to take that money out of the classroom. If we can shift a little more to the state, that gives them more room, but if they need to have a vote override that they can go to the public and say we need to raise your property taxes. That's one reason they should support this, they're senators. They've got a mess. They've got a real mess and if something don't happen there with their funding, they continue to take money out of the classroom to bail out the retirement system. Twelve percent, folks, that's a pretty good chunk that other school districts are using in their classroom. If we can lower the levy, it gives them more room. To increase their levy, if you happen to live in OPS, you probably don't like that, but at least your levy won't be 12 cents higher and will take it down 6.5 cents and it could go up. But that's a good reason... [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR GROENE: ...for them. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Kuehn. [LB640]

SENATOR KUEHN: Thank you, Mr. President, and thank you, colleagues. I rise in opposition to the recommit motion. I do not think that LB640 is the solution. I have some concerns about some of the functionality, but at this point I do rise that we need to consider it and take seriously a number of the ideas and concepts that have been brought forward for consideration as we

Floor Debate  
March 27, 2018

---

address the property tax situation. I want to put a few numbers into the record and for those who are listening so that we can begin to conceptualize a little bit more why some of us continue to talk over and over and over again about property taxes. And I agree with Senator Chambers' assertion that all too often when you start talking about numbers and percentage increases and caps and levy rates, people tend to have their eyes roll back in their head. They check out and don't pay attention, and it doesn't have real applicability and meaning. And while I'm certainly not one who believes in making policy by anecdote, I wanted to apply a few of the numbers to some real situations that people are facing knowing that each and every taxpayer, every property owner has a somewhat unique and individual circumstance, but when we talked about 18 percent increases year over year in ag land property taxes, that doesn't mean a lot. When we talked about the implications of the tax burden on individuals and markets, it doesn't necessarily mean a lot. So I want to provide just a couple of numbers to help put this situation into perspective and also hope to underscore why the education funding issue is one that needs to be at the core of this debate. So, it's not uncommon if you go in my neck of the woods that the annual property tax bill for a quarter section or 160 acres of productive farmland is going to run in that \$10,000 a year. So \$10,000 annually in property tax payments is right out of, and included in the production cost, and for the most part comes out of the pocket of the profitability of that piece of ground and it's quite variable. And the variability all too often has nothing to do with the actual value of the ground itself or its earning potential, but oftentimes is political boundaries. I do...in some areas of my legislative district, in some areas of my part of the state, you see some pretty dramatic shifts. In fact, I've got one interesting example where the same property owner owns two equally valued pieces of ground across the road from each other, but that road creates a political boundary, and that's a school district line. And on one side of the road, he is paying \$7,000 a year for property taxes. On the opposite side of the road, an equivalent piece of ground is taxed at a rate of about \$14,000 a year. Now if you know anything about profitability and whether or not a piece of ground results in income taxes that then can be assessed and paid to the state or not, you know that that \$7,000 difference is a pretty dramatic piece of the pie. So when we have a system in which literally depending upon which side of a political boundary a piece of property is located of the same market value, that we see a 100 percent difference in the tax burden, we've got a significant problem. What that ultimately means that we need to look at long term down the road, is what that means for property valuations going forward. And earlier this spring when we go through winter sales, which is a common time for ag land to go onto the market, there's some interesting discussions among ag realtors at a couple of auctions that I attended, and with some of my neighbors who are in the market to purchase property. And if you've ever looked at a sale bill for a piece of ground, it always includes the property taxes paid somewhere on that listing. For the first time ever in my life... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

Floor Debate  
March 27, 2018

---

SENATOR KUEHN: Thank you, Mr. President...I heard farmers talking not necessarily about the property taxes paid, but were actually looking at what school district is it in. Who's on the board? What are the decisions that are going to be made? Because if I buy this piece of property, I'm not just buying the potential to earn its income, I'm buying with it the tax liability that I will pay year after year after year. And I saw a couple of pieces of ground that people didn't go in and purchase, did not invest in our state because of the ongoing tax liability and they knew that the potential for something in a different school district may come up, and that that had a long-term impact on their income and their profitability. Drive 45 minutes straight south of my house, folks, and you're in Kansas and I have neighbors who are looking at property in Kansas as opposed to investing in Nebraska. That's the very real consequence of the failure to structurally address how we fund schools in this state... [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR KUEHN: ...and our property tax problem. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Groene. [LB640]

SENATOR GROENE: Thank you, Mr. President. Why is it fair and balanced to lower the levy? Because we continue...the way the TEEOSA fund sets now, we let...the answer...well, let's start with the variable. It's a multiplication problem on property taxes. It's valuations times levy equals local effort rate subtracted from total funding of the school, and then the state fills in that little bit that's left. We allow in TEEOSA for that variable of valuations, just do whatever it wants to do, just increase. Has nothing to do with the ability to pay of a landowner or a homeowner, just has if somebody is willing to pay too much for a piece of property. By the way, God don't make any more, so there's a variable in there that causes land to go up faster than homes because you can always build another home. But we allow that variable to go up, but we fix the levy at \$1.05. And then this body every year creates the answer and says, we're going to spend this much money on schools because this is what the needs are. So two of the variables...well, the answer on one of the variables we play with. Isn't it a natural thing that if the one variable goes up, the other one should go down? We need to lower the levy to readjust the TEEOSA formula. It's common sense. It's common sense, folks, to lower that levy by, in this case, by 6.3 cents. Another advantage to the LB640 is it gets rid of the Property Tax Credit Fund. It has created a monster. What it has done has become state aid to local governments. If you look at your tax statement, you got your tax of each--at least mine does--has each tax entity and how much it gets in the levy and then it has a minus on the bottom of a property tax credit and the total amount you pay. Well, let me tell you what happens out there. Local tax in entities we give them \$10 of credit, they raise their taxes, spending by nine and a half dollars and claim there's been a tax cut. We raise that...that they're not spending as much. We give them another \$10 in credit. We added

Floor Debate  
March 27, 2018

---

another \$20 million the other day. They all raise their spending by \$19.5 million. The Property Tax Credit Fund has been a hiding place for tax increases locally. That Property Tax Credit Fund on the bottom of that statement disappears, and suddenly people are going to wake up to actually the amount of money their local governments are spending because they're paying it. They will look at their county, they'll look at their NRD, they'll look at their cemetery board, they'll look at their communities' tax. Now, because of the levy reduction, they'll say, oh, my schools cut their taxes thanks to LB640. Property Tax Credit Fund needs to disappear. We need to convert it into legislation that funds our schools. That's what LB640 does. Senator Harr is walking by, and I...he's leaving, but we would be good friends, better than we are, if we were on the same page on how we fund our schools through the TEEOSA formula. Urban and rural senators could get along on education spending. We'd start debating needs instead of who is getting it. LB640 is a needed fix to the TEEOSA formula. Notice in the articles in the paper about what's on the floor for property tax relief, LB640 hasn't been mentioned because we're not talking about increasing taxes or cutting... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR GROENE: ...or adding funding or taking away funding because we're using the Property Tax Credit Funds for seed money to get this thing started, get this fix started for the long run. Remember, when you think of LB640, look at the amendment that hasn't come up yet, AM2445. That becomes the bill. And as Senator Brasch said, sometimes a little age doesn't the wine. It helps the bill, too. The more debate over the last two years has helped refine and create a very good bill. So please support AM2445 when you get it. Don't recommit to committee, it's not necessary. And let's get a good bill passed and start a dialogue on how we fund our schools. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Kolowski. [LB640]

SENATOR KOLOWSKI: Thank you, Mr. Lieutenant Governor. I want to stand in opposition to LB640 and I have no problem with the recommit if that would take place at this time. I would like to point out to Senator Groene that he has spoken very seriously concerning the look at TEEOSA, at the TEEOSA formula, how we are funding education in the state. Over multiple months ago, I had the same request in one of my bills and I was told by Senator Groene that that would not come out. It would not come out for the simple reason that he did not want it out and that we were going to...and he said the...I will not bring it out and the only reason if I did bring it out, there wouldn't be an educator on the committee looking at TEEOSA because all educators do is feather their own nest. I take great offense to that. That was his comment at that time and that's where he was at that time and has not contacted me asking where we could be together on this bringing TEEOSA forward to examine it again. I find that rather hypocritical when he's

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

Floor Debate  
March 27, 2018

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bringing it forward at this time and wanting it to be examined because it's part of what LB640 could be all about. I think we can do better. The southwest Omaha area totally opposes LB640 and I hope the rest of the senators in the room will also hear the sound of what they are talking about and where they're coming from on that because of the lack of quality of this particular bill. I yield the rest of my time to Senator Baker. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Baker, 3:00. [LB640]

SENATOR BAKER: Thank you. Let me state in simple terms what happens with LB640 and its newest amendments. Right now, every real estate owner in the state gets a property tax credit. If you look at your tax statements right on there, state tax credit. So that is a property tax relief that all real estate owners in the state receive right now. So what this does, is to take all that back and redistribute it in some fashion. It's inconceivable to believe that it's going to be redistributed back out to benefit the individual taxpayer the same way that their current property tax credit does. There's going to be winners and losers. You know, this is a tax shift. It's going to move away from some taxpayers, and some will benefit, some will lose. It's not really a shift away from some other kind of...away from property tax and some other kind of tax because the whole thing is funded, the seed money, by property tax credits. So, I'm not against tax shifts, although some on the floor had said that tax shifts are tax increases. You know, I think we need to look at things like Senator Briese's LB1040 if you really want to look at tax shifts. As I see it, the only tax relief here is that some taxpayers in Nebraska are going to be relieved of the personal property tax credits. You know, you look at... [LB640 LB1040]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR BAKER: Thank you. And I'll need to continue later, but you look at page 10 of AM2445, which is coming, and it says a local system, meaning school district, shall qualify for school district property tax relief aid pursuant to this section for each tax year when...was currently available complete data year as of January 1 of such tax year, the general fund property tax receipts exceed 55 percent of the total general fund revenue for each local system. So when I get to the mike next time, I will start going through that, you know, which of the school districts are going to qualify for that property tax relief and which ones are not. Probably don't have much time, but, you know, we're talking about state aid and we're talking about the local effort rate. You know, state aid formula... [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR BAKER: ...is resource...all resources needed... [LB640]

Floor Debate  
March 27, 2018

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PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR BAKER: All right. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Baker. (Visitors introduced.) Senator Linehan, you're recognized. I do not see Senator Linehan on the floor at the moment. Senator Baker, you're actually next in the queue. [LB640]

SENATOR BAKER: Thank you. So colleagues, just first of all, talking about the state aid formula, its needs...formula needs, you know, based on the number of students and another condition such as poverty, language, those kind of things, so its needs minus resources equals state aid. To calculate the resources you have, there's the local effort rate which is, Senator Groene referred to. The local effort rate is not something...it's got nothing to do what is taking the taxpayers. Local effort rate is what a district could raise if it chose to levy a dollar. And if in doing so, that shows the district has resources greater than the formula needs, then there's no equalization aid. So, normally lowering the LER which this amendment, AM2445, does, means it's going to require a lot more, lot more state input. And that's what's lacking. You know, Senator Groene talks in terms of seed money. You know, what's lacking is evidence of sustainability. We have been so many years in the past where TEEOSA has not even been fully funded. So to say local school districts' resources are less because I've lowered local effort rate, I mean, that's going to create a need for more money, and I'm not unwilling to do that. I don't have faith that would happen. So I was going to look at districts...you know, that paragraph I read to you before, if a school district receives over 55 percent of its funding from local property tax, then they are qualified for this extra aid that is proposed in the bill. But I'm going to read you off a list of districts that don't qualify and wouldn't receive that property tax credit aid specified in the bill. Hastings Public Schools, Amherst, Plattsmouth Public Schools, Cody-Kilgore, Sidney, South Sioux City, Chadron, Lexington, Fremont, so I'm listing the schools that would not qualify because they don't have over 55 percent of their school budget resources coming from local property taxes. So going on, so Omaha, Elkhorn, if you live, if you're a resident of Omaha Public Schools or Elkhorn, or Douglas County west, Millard Public Schools, Ralston, Bennington, Westside, no soup for you. You don't qualify. Going on. Beatrice doesn't qualify, Grand Island, Grand Island Northwest, Giltner, Stuart, Lincoln Public Schools, Malcolm, North Platte, Norfolk, Nebraska City, Bayard, Columbus, McCook, Crete, Bellevue, Papillion, Gretna, Yutan, Gering, Mitchell, Scottsbluff, Fort Calhoun, McCool Junction. You know, I'm going to use Senator Hughes for an example. I'm just not picking on Senator Hughes in any way, but Senator Hughes and people who live out in Perkins County... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

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

Floor Debate  
March 27, 2018

---

SENATOR BAKER: ...are tired of the fact that their entire cost of school, for the most part except for special ed systems and those kind of things, come from local property tax. But Perkins County has a levy of 49 cents...total levy, general fund plus bond levy. Now if you want to drive south of Lincoln, go down Highway 77, go down 68th street past Norris, go on down to Beatrice, what do you see? You see a lot of farmland. But those people, Norris District and Beatrice District are paying over \$1.00, \$1.10 and even \$1.20 in total property taxes. So it's hard to justify the fairness issue with the people out in Perkins County or other places in other rural areas. Same thing if you drive from Lincoln to Omaha, yes, we're in a more populated part of the state. What do you see in-between? A whole lot of farmland. And those people are paying...they're paying over a \$1, Ashland, Greenwood, Gretna, those school districts. So, how much time do I have? [LB640]

PRESIDENT FOLEY: Time expired, Senator. [LB640]

SENATOR BAKER: Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Baker. Mr. Clerk, items for the record. [LB640]

CLERK: Yes, Mr. President. Your Committee on Enrollment and Review reports LB993A, LB1090A as correctly engrossed. Senator Thibodeau files a conflict of interest statement. That will be available and filed in the Clerk's Office. Senator Ripe would like to print an amendment to LB1034. Study resolutions LR385 through LR401 all be referred to the Executive Board. Your Committee on Agriculture reports LB989 to General File with amendments. Mr. President, I've been asked by Senator Chambers to withdraw his motion with respect to recommit to committee. (Legislative Journal pages 1183-1194.) [LB640 LB993A LB1090A LB1034 LR385 LR386 LR387 LR388 LR389 LR390 LR391 LR392 LR393 LR394 LR395 LR396 LR397 LR398 LR399 LR400 LR401 LB989]

PRESIDENT FOLEY: Recommit motion is withdrawn. [LB640]

CLERK: Mr. President. The next amendment I have to the committee amendment, Senator Groene would move to amend with AM2445. (Legislative Journal page 1046.) [LB640]

PRESIDENT FOLEY: Senator Groene, you're recognized to open on AM2445. [LB640]

SENATOR GROENE: Thank you, Mr. President. I'm glad, Senator Baker, we had a conversation. We've been friendly on this. We've met a couple of times trying to explain the changes. We've agreed to disagree. But Senator Baker, he's kind of twisting it, like we are known



Floor Debate  
March 27, 2018

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to do. The reason we created two mechanisms in LB640, one for the equalized districts which is the school district property tax relief aid where their local effort is capped at 55 percent. If you look at that chart I passed out, it kind of coincides to right now with local effort is statewide, it's 58 percent. Can we at least let the local, them smaller school districts have close to that, what they have to put into their local effort? And then for the North Plattes, the Scottsbluffs, the Beatrices, who are equalized districts we are lowering the max levy \$1.05 to \$.987. That is how they are going to get tax relief, the locals, versus those who are unequalized. It works, folks. Everybody is covered. Everybody is covered. There's some ones that sit right in the middle that are doing halfway decent now that in the long run they'll be better off. Everybody will be better off. AM2445, I've been discussing it. That's what I've been talking about, it becomes the...will replace AM752 for Revenue and then will become the law. Talk about funding it, we made sure that we were two years down the road, '19-20, so the Department of Education can catch up with the formula. And we will know if we need to come up with funding to do the state's duty to provide free instruction in our common schools. It won't be that much, because we've already got that \$224 million seed money. I'm not picking on Senator Baker, but I did run his major county, Gage County. Presently, last year, which will go down as time goes by, Gage County received \$2,879,000 in property tax credit, all of their taxpayers. The very first year, the very first year that LB640 goes into effect, his taxpayers will receive...his schools will receive \$3,208,000 in more aid, which will equate into a lower property tax rate, lower property taxes paid to the schools for those individuals in those school districts. The fear by those in the education community in equalized districts is one and only one thing, that if we lower the levy, if we lower the max levy, the state will not fund the difference. That's an honest, honest criticism what they think of LB640. But we will not ever, ever get property relief in this state unless we address the state's involvement in our funding of our schools and what percentage they are mandated to fund. LB640 stops the shift. It stops it right now at 55 percent. Valuations go up and the levy has to go down because it has to match that 55 percent. Valuations go down, the levy goes up a little bit because it has to match 55 percent. It's simple math. No more will neighbor be mad at neighbor because he paid too much for a piece of ground and drove up his tax rate. It will still on the other 30 percent, 40 percent you pay taxes because now we've got to deal with the county tax rates and the NRD's tax rates and a few other tax rates, but one battle at a time. Let's take on the big one, the schools, which is 55 percent to 70 percent of your total property taxes. LB640 works and the amendment works. If you reject this, what is your answer? There is no simple answer. Raising taxes and throwing it at education, we've done that before. It's not an answer. Throwing foundation aid might work, but then if you do that then you leave out the people in equalized districts. LB640 is the only one that addresses everybody. It addresses every single property taxpayer. It fits comfortably if we pass the other bills. If the petition passes, it fits comfortably, because half of it, it would reduce the price tag of the petition by \$120 million or more because now property taxes are going to be lowered for the General Fund at the schools and 50 percent is less. It fits comfortably into Senator Friesen's LB1103 because now his foundation aid will be a resource first and it would force property taxes down for some of those districts, but it would fit

Floor Debate  
March 27, 2018

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right into the 55 percent. LB640 works. I can't repeat it often enough. It's been...we rinsed it, "threw" it out, washed it 50 times. And what has happened over the last 12 months with the property tax revolt in the state of Nebraska coming to a head, other legislation that has been introduced that has looked at property tax, the credit fund as a source to fund it, we have a whole new debate this year than we did 12 months ago. So I would like to see this passed. I understand the politics of it. The other side of it is if you played chess ever, you know there's three or four moves down the road. If we keep rejecting property tax relief on this floor and there's some attempt to put a fix to it, the people will do their duty and they will act as a second house. They are watching. They are watching what we do here. No matter what they do, no matter what other bills pass, LB640 fits into it because what we are addressing here is the TEEOSA formula and the equity within it. That's what we are doing, and we are putting it permanently into law. And we are then figuring what the state owes for aid. As to Senator Kolowski's claim that I killed his bill, just the prior year Senator Sullivan as Education Chair, the Education Committee and the Revenue Committee met in an LR three or four times to discuss the property tax issue and TEEOSA. It would have been redundant for this body to do it the very following year again. And it had done it three or four years prior to that with Senator Hadley as the Revenue on property taxes. Their main focus was state aid to education. As Chairman, you have to look after the body and do not repeat redundancy. The votes weren't there. It was the 4-4 split. Everybody has their own answer. Reject one and only take mine. LB640 helps everybody, pulls everybody in. It needs to pass. Doing studies on TEEOSA with the main focus of throwing more money at it, some have that idea. Some have the idea of slashing funding. I don't sit on either side of that. I like public schools. I support them and I support school boards, by the way. Sometimes in the battle in LB776 I said some things about some school board members. I only got about 12 e-mails out of 245 that were disagreeable and I threw them all in the same boat. I got five or six from good school board members and administrators who said, we'll do what you do. What you do down there, we will be good public servants. So I wanted to clarify that, Senator Kolterman. There are good school board members, a lot of them. A lot of them have taken what we gave them already. Under Senator Sullivan's guidance on the Education Chair, we got rid of the minimum levies. We got rid of them, but you had to fund... [LB640 LB1103]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR GROENE: ...a certain amount, and guess what? There are a lot of school boards who have dropped their tax asking below that minimum levy. We give them the tools and they will use it, but first we need 175 school districts to have a little bit of state aid in their budget to fund their schools. Is that too much to ask? Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. (Visitors introduced.) Continuing discussion, Senator Erdman. [LB640]

Floor Debate  
March 27, 2018

---

SENATOR ERDMAN: Thank you, Senator Foley. Good morning. Senator Groene has thoroughly explained LB640. The last two years serving on the Revenue Committee or the Education Committee, I wanted to say this. I believe Senator Groene is as hard a working chairman as there is, and he does a thorough job understanding the issue that he's presenting and he has done a thorough job of explaining that this morning in his explanation of LB640 and now AM2445, which I am in support of. As time has passed and one begins to discover what it is we do in the state of Nebraska as far as funding education, it has always been peculiar to me to see what the state constitution says about education. And it says it's the state's obligation to provide free instruction in the common schools K-12 and those students from 5 to 21. I'm not sure exactly why we consider funding education a priority for property tax, but I would assume that the state is filling their role for providing free instruction by forcing us to collect property tax to pay for it. It's time that we move past that. Senator Groene has given us an opportunity to try to help balance some of that and put the state back in the business of funding what they're supposed to fund. The state funds a lot of unnecessary things that we pay for that have no relevancy to the education of students and the well-being of a lot of the residents in the state, but we pay for those and we continue to do that. But when it comes to the most important thing that we're supposed to instruct students, fund education or instruction, we sidestep that and let somebody else pay for it. And Senator Baker alluded to the fact that in Senator Hughes's district their mill levy is only 49 percent...49 cents. I understand that. There's several communities out my way that have a lower mill levy as well. The point is, even in Senator Hughes's district the total funding is coming from property tax. I don't believe that was the intent of the founders of the state when they wrote the constitution and I don't believe it's correct. So I believe that we need to move on, we adopt AM2445 as Senator Groene has explained it to us. When we do pass the petition and the voters tell us we got to fix property tax once and for all, it will fit right in and we will make a difference. We've been talking about property tax relief for a minimum of 45 years, 45 years, and we keep kicking the can down the road and the can is getting pretty beat up. And it's time to stop doing that and it's time to make a decision. So moving forward, advance AM2445 and LB640 and we'll start to fix the problem that we are enduring. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Erdman. (Visitors introduced.) Continuing discussion, Senator Groene. [LB640]

SENATOR GROENE: Thank you, Mr. President. You can get from the Revenue Department how much property tax credit your counties have received, and then you can compare it to the school districts in there. I think you will like the difference. Some might be a little less...quite frankly, there are a few school districts where the individual taxpayers have such a low property tax rate and such a high amount of property tax credit that they will actually lose a little bit of property tax credit. But that's because they've been very efficient, they've merged, they've united, they've consolidated, they've done the right things with what is best for their children. And they will lose a little bit. There's always outliers on every--my phantom math--and it's hard to create a

Floor Debate  
March 27, 2018

---

formula that don't have a couple outliers on both ends of it. But they will become whole in the long run. In the long run, LB640 will help them. And I get tired of hearing about levies. I talk about levies, but it's a multiplication table. Those folks like Perkins County who have a high levy, every one of those taxpayers is paying a huge amount more in property taxes than they did when the levy was 60 cents, 70 cents, 90 cents, or \$1.05. It's because the valuations have increased such a vast amount that even lowering the levy they're still paying a lot more in property taxes. We pay property taxes in dollars. As I told the county commissioner...once he told me years ago that he lowered the levy. I said, when you show me what a levy looks like and what I can purchase with a levy, until then, I will judge my taxes in dollars. We need to look at what people pay and how much individuals are paying in property taxes, not in their levies in the unequalized districts. In equalized districts, yes, the only way we can give them property tax relief is to lower, because their valuations are going up, too. But the total valuations don't hit that 55 percent. But they are continually having the funding their schools shift to them. Their state aid drops because their valuations are going up, but their levy don't go down. Their levy can't go down, because the way the formula works, it's local effort at \$1 times valuations is what goes in first, anything leftover the state makes up. Those large districts like LPS and OPS, the only way this body is going to give them property tax relief long run is to lower the max levy. That's what we must do. That's not cutting taxes. It's actually not cutting taxes when you judge taxes in dollars. Those folks will still pay more taxes than they did ten years ago or five years ago. Valuations are increasing. That variable is increasing. We need, for fairness or whatever word you want to use, is to lower the levy, to lower the levy so that the state continues to pay its portion... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR GROENE: ...of what it should pay--if you read the constitution, they should pay 100 percent of it--but there's been a grand bargain made. The state pays 100 percent and they come in and tell you who's going to be hired in your town, what you're going to teach in that school, and we're creeping that way more and more all the time. But locals have said, we'll pay property taxes, just give us local control what happens in that building. That's kind of what the grand bargain was with the state and why we have property...you don't have to pay property taxes to provide free instruction, it says the state is supposed to. The state is not supposed to use property taxes for its purposes. The constitution says that, too, but we all blink and look the other way when it comes to public education, because we want to keep that local control. But the state has taken advantage of the local control. Past administrations and bodies have said, I only raised spending by 2 percent. How did they do it? They hung it on the property taxpayer. [LB640]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Linehan. [LB640]

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

Floor Debate  
March 27, 2018

---

SENATOR LINEHAN: Thank you, Mr. President. Again, I rise in support of Chairman Groene's efforts here. Everyone knows, the public knows, we know in the Legislature, the TEEOSA formula is very, very confusing and difficult to understand. We also know...well, I'm not sure all of us know and I'm fairly certain that taxpayers across the state are confused as to just how much the Legislature appropriates for K-12. We all talk about the billion dollars of TEEOSA, but we don't talk about the half a billion dollars in other funding for public education. It is not, I don't believe, well understood by most property taxpayers in the state of Nebraska when they get their property tax credit that shows up on their tax statement that the state turns around and gives 60 percent of that back to the school district in which they live. So it's kind of like shuffling cards and guessing where...what's under the glass. One of the reasons I think this is an important piece of legislation, what Senator Groene is doing here is making it clear what's actually already going on. And in the effort to make it clear what's going on, makes it more fair so we don't have schools, which we do now, who get 50 percent of their funding from the state of Nebraska--50 percent of their funding from the state of Nebraska--and we have other schools whose students aren't any less important who get 14 percent of their funding from the state of Nebraska. I don't understand some of the comments that have been made on the floor this morning about somebody, they're losing. When you look at the Douglas County schools--I wrote this out so I could actually read it in print--the way I understand this chart and I've listened this morning, and it's the last column, percentage of change, Omaha, who already gets 40 percent of their money from the state, 10 percent from the federal, and 50 percent from local property taxes--those aren't exact numbers, but that's pretty close--they get a 1 percent increase. They're already equalized. Elkhorn, which I represent, gets a 35 percent increase. DC West does get nicked, and I've got Senator Groene's staff trying to figure out why that is. Millard gets a 5 percent increase. Ralston gets a 16 percent increase. Bennington gets a 15 percent increase. And West Side gets a 19 percent increase. So I know...I've checked the queue and the speakers that are coming behind me are going to say they're concerned about metro area schools. Lincoln Public Schools gets a big increase. Beatrice gets an increase. My hometown of Lewiston, Nebraska, where I went to high school, where we have farmland, they get an increase. And it's actually understandable about what's going on. It takes a Property Tax Credit Fund that very few people understand and actually helps bring fairness to a state aid formula that have left 175 school districts without any equalization aid. It's a matter of fairness and I can't see where anybody gets hurt, so I'm very confused as to why there would be grief over this. With that, I'd yield the rest of the time to Senator Groene. [LB640]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Groene, one minute. [LB640]

SENATOR GROENE: I'm going to start turning into Senator Chambers and tell you stories, but I'm going to try to be...I'll try not to do that. He's got more history here, he's got more stories. This is all we hear, is property tax relief. And I...as Senator Linehan, I had a lot of folks talk to me and they don't understand how it works, they just don't understand the TEEOSA formula.

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

Floor Debate  
March 27, 2018

---

They just want property tax relief. They want something to happen. But the reality is, the only way we're going to do it is through funding for our schools. Add up your property taxes, folks, pull your statements out. If you live in an urban area, it's 55 or more percent probably on what you pay for your public schools. And you get up to the 60 percent range when you start throwing in bonds on the community college and there's another one...ESUs. It's where it is. It's what we have to address. [LB640]

PRESIDENT FOLEY: Time. Thank you, Senator Groene. Senator Harr. [LB640]

SENATOR HARR: Thank you, Mr. President, members of the body. Would Senator Groene yield to a question? [LB640]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR HARR: Senator Groene, does this provide relief of more than \$25 per household? [LB640]

SENATOR GROENE: I don't know how many households we have and divide \$240 million into it, sir. I don't...do you know the answer? [LB640]

SENATOR HARR: No, I don't. [LB640]

SENATOR GROENE: See, when we talked about variables here, I have to know all of them. [LB640]

SENATOR HARR: Okay, thank you. Let me ask you one more question. Would it give you a heart attack if I told you I thought you have a good idea here? [LB640]

SENATOR GROENE: Senator Brewer, will you grab me? [LB640]

SENATOR HARR: Thank you. Senator Groene's bill is approaching the property tax problem from the right point of view. And that is, we have a problem of how we fund education, he's exactly right. Now do I necessarily agree with the way he's done it? No. Do I think there are better ways of doing it? Yes. But, folks, if we're going to be serious about property tax reform, we got to find more money. This \$220 million is a start, but all we're doing is robbing Peter to

Floor Debate  
March 27, 2018

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pay Paul, because it already is in property tax relief through the property tax relief fund. We got to find a way to get new money into the state. And there's one of two ways to do it. Governor Ricketts would tell you we should raise taxes. I disagree with him there. Well, maybe he won't. I don't know, I guess I haven't talked to him lately. But the more important and the better way to do it is by figuring out what can we do to grow our economy in the state. What are we doing to make sure we keep our young kids here? What are we doing to make sure that the people who are here are eligible for the work force and are working at the fullest ability and capabilities so that they can earn money so that they can pay taxes? If you receive a high school diploma, you break even for the state. If you receive a community college or certificate, you are an asset to the state. You are less likely to take advantage of our prisons, you're less likely to need Medicaid, you'll be less likely to use unemployment. And so as a result you come out as a net ahead and then we have an advantage. We can start lowering our taxes. But until we start looking at how are we going to best utilize our tax dollars to make sure from a cost benefit analysis that our taxpayers--our citizens, are actually taxpayers--this is just window dressing. This is just a movement of property tax dollars from one fund to another fund for property tax dollars, but we're not doing anything to lower the cost per student, we're not doing anything to lower the cost of government and that's ultimately where we have to be. What are we doing as a state to make sure that we can continue to grow, so that our GDP continues to grow so that we can continue to fund the programs that we have and to make sure that we...we on the state are very good and saying, well, we don't have any money, so let's change the TEEOSA formula. And when we change the TEEOSA formula, guess what happens? We move more and more of the burden to property taxes. Senator Groene is right, we are. We've done it. Look over the last 20 years, it's undeniable. But also look at what we've done on our budget over the last 20 years. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR HARR: We have had a growth in HHS and prisons, two largest increases. Those are reactionary. Those mean we probably failed in some form or another, as opposed to K-12 and postsecondary education, two smallest growths in our economy...in our budget. Now, partially that is due to the fact that we pushed down K-12 to the state or to the property taxes, which is why we're having this bill today, but partially it's we are not getting the kids ready for the work force and ready for college, college and career readiness. We need to have a greater emphasis on that. It's going to take 20 years to correct this. It's not going to be LB640, it's not going to be LB947, which we'll hear tomorrow which gets me \$25 which, you know, I'm very excited about. So as we look at this, we have to look more long term. [LB640 LB947]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR HARR: Thank you. [LB640]

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

Floor Debate  
March 27, 2018

---

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Krist. [LB640]

SENATOR KRIST: Thank you, Mr. President. Good morning, Nebraska. I wonder if Senator Groene would yield to a question. [LB640]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR KRIST: In one of your times on the mike you talked about the state becoming more involved with the process, more money going to those school districts from the state, as I understand it, and then that would relieve the burden on the property taxes at the local level. Did I follow your conversation correctly? [LB640]

SENATOR GROENE: Yes, that's how the TEEOSA formula works. [LB640]

SENATOR KRIST: Right. So this bill with your amendment actually helps that process in terms of the amount of money that's going to those local school districts. Is that correct? [LB640]

SENATOR GROENE: Yes, the state would step up and fund more of their responsibility. [LB640]

SENATOR KRIST: Okay. So here...and I'd like to just have a dialogue with you. I believe I'm supporting the amendment and I believe I'm supporting the concept. But we had a situation happen with the Learning Community a couple of years ago, and I'm not going to get into whether I agree or disagree with it. I'm just going to say that by reducing the common levy across the board, we were told in no uncertain terms that that would indeed lower levies or the capability of lowering levies, but alas, it didn't happen for a number of reasons, and you and I both know what they are. But what gives us any assurance that if we do add money to the pot at the local level that the levies at the local level commensurately will be reduced and the property taxes will be reduced? What do we do to ensure that there is buy-in? That is, everybody on the ball field is playing by the same set of rules in order to reduce property taxes. [LB640]

SENATOR GROENE: One, I know what school districts you're talking about in the Learning Community. When you leave it at \$1.05 if they're local...if they can raise enough taxes with their local effort rate with property taxes they lower their levy, but quite frankly, I don't want to visit there again because I didn't handle it very well. But LB778, which I introduced earlier was that 14 cents that they could add to their building levy and both school districts did that. As I said in



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

Floor Debate  
March 27, 2018

---

some of my comments, the only way to force property tax relief is to lower the max levy so that they cannot tax it and replace it with state aid. [LB640]

SENATOR KRIST: Okay, but let's discuss, we both know that in the past six or seven years that we have taken an incredible amount of percentage of income tax that used to go to support education and we've reduced that, so let's just use a different analogy. Suppose we got back to that 30 percent to 35 percent of all income tax supporting education and we put that directly in the hands of the local school districts. What assurance is there that those local school districts and the counties will lower their levies in order to help us reduce property taxes? [LB640]

SENATOR GROENE: Well, for one thing, they can't tax at \$1.05, so we're going to force it to 6.3 cents down which is about 6 percent. That's a pretty good reduction. [LB640]

SENATOR KRIST: It is a good reduction. I agree with you and that's why I'm supporting. [LB640]

SENATOR GROENE: If you'll let me continue on those... [LB640]

SENATOR KRIST: Yeah, you bet. [LB640]

SENATOR GROENE: On those unequalized districts...they're creeping in on metro area, too, you've got Elkhorn and West Douglas County and Springfield Platteview, who are there. If you read the bill, which I haven't talked about, we're only to give them 75 percent of that difference between 55 percent. The other 25 percent, I think I read an example, that school board is going to have to have a public vote to say, yes, we need that money. We want part of it or all of it and we're going to raise our levy to raise the percentage over 55 percent. [LB640]

SENATOR KRIST: Okay. [LB640]

SENATOR GROENE: It takes local control. Now the excuse is, the state made us do it. [LB640]

SENATOR KRIST: Right. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR KRIST: Right. Thank you. And thanks for carrying on the conversation, I appreciate it. I am going to support AM2445. And just as a way in summary, I did talk to Senator Erdman

Floor Debate  
March 27, 2018

---

off the mike earlier and I've talked to many of you about it. I don't believe any of this can happen without a wholesale look at all of our tax system, that is three-legged stool, and making sure that we are again going back to 1960s and looking at dynamically what is good for the state in moving forward. This is a move in the right direction, although I believe a smaller move. But I still believe that if a local level is taking funds from the state that we should have some accountability for how that money is being spent. I don't think there is a big disagreement in this room that that is incorrect. I remember when we removed two cents from all of the funding years ago with NACO and how much up in arms they were about reducing funding, but yet continuing the dialogue. I thank you for the conversation, Senator Groene. Thank you, Mr. President.  
[LB640]

PRESIDENT FOLEY: Thank you, Senator Krist. (Visitors introduced.) Continuing discussion, Senator Baker. [LB640]

SENATOR BAKER: Thank you, Mr. Lieutenant Governor. Just going back to the basics here again, we were talking about some \$224 million that people have right now that goes toward property tax relief. So we're going to take that back and give it out in another way and call that we've given you property tax relief? It doesn't add up. People who are going to benefit from it are going to like it, people who are not going to benefit are not going to like it so much. There really is no way I know of to run a model to show what would happen to the individual taxpayer like any one of you or any other taxpayer in Nebraska. I've done a few calculations. My district doesn't get 55 percent or more so it qualifies for some, but I've done calculations on my own. Right now I get on my property tax statement I think it's close to \$400 state tax credit. By my calculations, I'll lose about half of that. I think the same would be true certainly for a whole lot of other people. If this is to be perceived as something new, new funds from somewhere, it's not. It's taking away the current personal property tax credits. So how is everybody going to be better off? It's like we're going to feed the multitudes with this property tax credit fish. It can't be done. Everybody can't be better off by taking your money away, redistributing it out, and making everybody better off. One of the statements made was, well, this is going to make the state pay its share, lowering the property tax to 98.6 or 98.7 or whatever is proposed in there, that's going to force the state to step up? You know, that hasn't worked very well in the last 20 years or so. How many times is a TEEOSA formula been fully funded? Rarely, just a few times. So to put that faith in, by golly, if we lower this levy cap, we're going to make the state step up? I don't think so. And consider what we're doing with this and some of the other proposals for tax cuts, we're doing a number on the people who are going to be serving right here in five or ten years. We're going to put them in an impossible situation. So I have to wonder if lowering that property tax cap to .987 isn't a dream to defund schools in some way and make it impossible for them to spend as much money as they are now. I just have to wonder if that isn't part of the motivation. And, again, I earlier used Senator Hughes, which he's not here again, but he came up to me afterwards and asked in what context I had used Perkins County? And I told him, 49 cent total

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

Floor Debate  
March 27, 2018

---

school levy, Perkins County. Driving south from Lincoln you go through the Norris District, total levy almost \$1.16; Beatrice, \$1.09; go on down to Wymore, it's over \$1, I believe; drive Omaha to Lincoln you go through Waverly, \$1.20, over \$1.20 total school tax. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR BAKER: One minute? [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR BAKER: Thank you. Ashland, Greenwood, \$1.01; Gretna, \$1.39 about. So, yes, Perkins County not getting the same state aid that Norris is, that Gretna is, that some of the districts here in the eastern part of the state, but they're paying more than twice the school levies. So it's what flavor of fairness and equity do you want to look at. So I just continue to be very uncomfortable with LB640 and the amendments that I've seen coming from it and prefer to look, if we're going to straighten out how schools are funded, look at something like Senator Briesse's LB1084, which may be amended on one of Senator Friesen's bills. [LB640 LB1084]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR BAKER: Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Baker. (Visitors introduced.) Continuing discussion, Senator Linehan. I do not see Senator Linehan at the moment, we'll pass over...oh, sorry. Senator Linehan. [LB640]

SENATOR LINEHAN: I'm sorry, some people dropped out. Yield my time to Senator Groene. [LB640]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Groene, 4:45. [LB640]

SENATOR GROENE: This is not in criticism of Senator Baker, but he sounds like me sometimes with my investments with \$224 million sticking under the mattress because you're scared you might lose it. LB640 invests that money in the TEEOSA formula. It grows. It will grow. That property tax relief will grow with the seed money of \$224 million. It's like buying a CD or any other investment. I would compare it to a CD because it's very, very safe. Do you think anybody in this body and the economic times we're in and the mood for tax breaks and tax

Floor Debate  
March 27, 2018

---

cuts that we will add any more money to the property credit tax fund in the near future? Who do you think we will fund...more likely to fund, that Property Tax Credit Fund or education? Invest the \$224 million in fixing the wounds between rural and urban by fixing the TEEOSA formula. It will grow in the formula, because state aid grows, TEEOSA grows, the needs formula does, or stick it under the mattress and let inflation. And the inflation in this case is the growth in the valuation statewide with new homes in Lincoln and Omaha and parts of the state that are growing and in some areas, I'm sure ag land will continue to march upwards. You can keep diluting it and let inflation and valuations eat it up or you can stick it in LB640 and invest it. I agree with Senator Harr, LB640 is not the entire answer, it is a start. We say about compromise, you start with small steps. We fix TEEOSA with a small step. And then we don't have the rural school districts and we don't have the stance and we don't have this group over here and this group over there. We have school districts united because everybody is treated pretty much the same. And that kind of scares me, they'll come at me at once now about more funding. Right now they're divided. LB640, don't be afraid of it. It's not an attempt to hurt public education. It throws \$90 million more at it. You don't see the counties out there and NRDs who were taking some of that tax aid to local governments out there mad about this. They understand the situation. They're willing to give it up apparently. They didn't testify against it. I haven't heard anybody worrying about not getting that \$90 million Property Tax Credit Fund money refunded to them. So let's take that extra \$90 million and invest it in our schools and lower property taxes with it. Is it a point where we...the first year does everybody get more property tax relief? No, but it grows. Investment grows. And we have Senator Friesen's bill, we have Senator Smith's bill, we have the petition process. This doesn't interfere with that. This fixes TEEOSA. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR GROENE: This fixes TEEOSA. Not 100 percent, we got other minor changes we need to do. We need to look at how the relationship of the option enrollment funding fits into the equation. We need to look at some Crawford and Chadron, wherever it's at where so much federal and state land causes them a grief. But those are the outliers. Let's fix the big part and then let's work on the outliers to make them whole. There's no magic panacea of a formula. If you know anything about a math that covers everything, you try to do the best to get the mean and from there out. But what we're doing now doesn't do anything. It's a refund going to J.C. Penney and buying a shirt for 50 bucks and getting 25 percent off when the price just went up on a coupon. That's what a Property Tax Credit Cash Fund is, it's meaningless. It doesn't tie to anything, any state purpose. [LB640]

PRESIDENT FOLEY: Time, Senator. Senator Erdman. [LB640]

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

Floor Debate  
March 27, 2018

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SENATOR ERDMAN: Thank you, Lieutenant Governor Foley and good morning. I was listening to Senator Harr's comments. I enjoyed the one about the \$25 property tax relief, I understand where he's going. He talked about, we have to find other sources of revenue. You all remember when we got the little yellow card, told you how much property tax relief you got. That little yellow card cost \$275,000. So had you not sent the little yellow card you'd have got a bigger property tax relief. There are other things we can do. For example, 12 of the highest paid Nebraska employees are psychologists...psychiatrists and they earn from \$327,241,000 a year plus benefits. We could privatize that and figure out a way to do it more economically. We hire people to stuff envelopes for new births for the Governor's Office. The list goes on. I've got a whole list of things that we do statewide...statewise that aren't necessary, that aren't required in the constitution. So there are plenty of things that we could cut. But last year we came here with a \$1.1 billion shortfall and we made about \$137 million in cuts and then we swept every cash fund known to man, we took from the rainy day fund, we lowered Cash Reserve and we did all that and we balanced the budget at \$1.1 billion deficit. So actually we did nothing and we will continue to do nothing until somebody forces us to do so. So, Senator Groene, this is a start, this is how you make incremental steps down the road to success a little at a time. And I listened to Senator Baker and I heard what he had to say about investing your money and what he was going to lose. And, consequently, it reminds me of the time when there was...Jesus was talking about this guy that went away and he left talents to people, one to one person, two to another, and five to another. And when we came back, he asked where those talents were and the one that had five said, I reinvested it and I got five more. And he said, well done, a good and faithful servant. To the one that had two, he said, what did you do with it? He said, I invested it and got two. And the other one said, what did you do with yours? He said, I knew you were a just person and require me to pay you back, so I hid it in a can. Here it is. And he said, take that from the one that made the big investment and give it to him. So that's what we're doing here with this program, we're going to give an opportunity for us to make a difference down the road with the information that we have. So, Senator Groene, as you move forward with LB640, I am in support of your AM2445 and your LB640 and I appreciate what you're doing. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Erdman. (Visitors introduced.) Senator Kolowski. Senator Kolowski, you're recognized. [LB640]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I yield my time now to Senator Baker. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Baker, 4:30. [LB640]

SENATOR BAKER: Thank you, Mr. Lieutenant Governor. So just think again about how you define fairness. And it's true, there is a high number of school districts who don't receive any

Floor Debate  
March 27, 2018

---

equalization aid, so they have a high amount of their school budget paid for by local property taxes. I get that. That is brought on by the big increase in land values. And then you look at it from the perspective of people who live in the more populated part of the state in the big cities and all. They're paying a lot more in property taxes than are some of those districts who don't get equalization aid anymore. Since I'm just basically using time here now, I might go back to the other night when we were talking on another bill and I read the news of the day about what had happened in D.C. about the lack of moving forward with Betsy DeVos' funding request. And people got up afterward and said they were confused. So never had a chance to get back on again, although I was hitting the button pretty regularly there. So if you pull the thread, there's a whole lot more attached to it. And you have Governor Ricketts, who's indicated that he likes the idea of charter schools, school vouchers, and the like. So when we were talking about Opportunity Scholarships, again, you start pulling on that thread you see what's connected to it. And do you think for a minute there's not going to be a bill introduced the next or the next to authorize charter schools in this state or vouchers? It's all connected. It's all of...generally, it's based on the fact, well, our public schools are doing so poorly. And I give the people credit on the Opportunity Scholarship bill, they did not say that. They did not begin by saying because our public schools are so bad, we have to do this kind of thing to let kids escape these awful schools. I would venture to say there is no one in here no matter what district you represent, you don't go back to your home district and go to your schools and tell them how doggone bad they are. You don't do it. First of all, because it's no doubt not true. But if you go into any community and I go into a lot of them directly or by phone or something in regards as a search consultant. Well, you start asking people, what's good about your community? I don't care where you are, they always list their local public schools as one the chief assets of that community. So I was thankful that the advocates of the Opportunity Scholarships did not use that as an example. But it's certainly being an example...held up as an example at the federal level. And frankly, I believe there probably are some really rotten public school districts in some of the decaying inner cities and places like that in our schools, but maybe that's just a bias on my part because I haven't set foot in any of those types of places since 1973. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR BAKER: Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Schumacher. [LB640]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I've been sitting there for two hours and finally decided the queue was clean and I could press my button and talk for free. Speaking of free, there is no free lunch. Little bit of history here, so you got a context on it. In like 2010-'11 things were pretty tough. There was a downturn nationally,

Floor Debate  
March 27, 2018

---

downturn in our funds, and we did such things as take away aid to cities and counties. Well, then things started to get a little bit better and we felt guilty. So we cooked up this property tax credit increase. It was only a small fund, it was like \$20 million or \$40 million, but we put some money into it. And then the commotion about, gee, we need property tax cuts, we need income tax cuts, we can't put anymore money on the sales tax because that's regressive in nature and the poor people pay that. And so we're really feeling maybe something should be done and the song in Revenue Committee was, well, gosh, we got to do something. And every something we tried to think through hit a brick wall. There was a good reason not to do that something. So being a creative bunch, what we did is we heaved more money into the property tax relief fund. And we kept heaving money into there until we got it up to a quarter of a billion dollars now. And it's kind of divided half among the ag sector, half among the commercial and residential sector. The ag sector, what they get, the bigger agricultural estates, in pure dollar terms, get bigger chunks of the money. So it's kind of...and we in order to fund that, we, of course, peeled off money from sales and income taxes. Well, we're thinking that's okay because rich people pay more on the income taxes or wealthy people than the average guy. We have a 6.84 percent tax rate basically, with a very low lower bracket on it, so just for easy figuring, 6.84 percent. And who pays that? Well, you think the wealthy pay more, but not necessarily because they get all kinds of breaks and the effective tax rate across the state is 4 point something percent. So who really is paying is your working people and your working professionals. They're the one that's picking up the tab. That money gets heaved into the Property Tax Credit Fund and then distributed out 50 percent urban and 50 percent ag by proportion to the wealth of the estate. So what Senator Groene is doing here does have some appeal, because what we had been doing and are still doing is robbing from the middle class to pay a good chunk toward the wealthy in the Property Tax Credit Fund. But we're at least here by seizing the Property Tax Credit Fund, taking in proportion from the wealthy to give in proportion to the wealthy. So there's some equity in the idea. What is uncomfortable is the idea that we're going to continue to throw into this TEEOSA fund in order to make this fund grow, because there is no free lunch. And if we're taking additional assets and putting it into what amounts to the Property Tax Credit Funds converted to this fund, you're going to have less money for prisons, for baby boomers, for retirement reimbursements to the school districts that are going broke because of the retirement things. And so we haven't accomplished a whole lot here except highlighted that you guys have got a big headache that's coming up. And it's a headache that will only be "exasperated" by the fact that you're running out of Cash Reserve, you swept the cash funds, and any magical property tax relief thing you cooked up and pass is going to come back to haunt you rather quickly. So there is no magic in Senator Groene's bill, but there is some appeal in that we are robbing from the rich to give to the rich in proportion to... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

Floor Debate  
March 27, 2018

---

SENATOR SCHUMACHER: ...what they lose in benefit from the property tax relief fund. The property tax relief fund generally was a bad and uncreative idea because what we did is we basically said, local government subdivisions go ahead and raise your taxes, do your thing, and we will pay part of that bill and once in a while send you a yellow postcard saying, hey, we paid part of your bill. It's kind of like giving the kids a credit card. So I'm almost inclined to support Senator Groene on this. And I will listen closely, but robbing from the rich to give to the rich does have a certain appeal. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Groene. [LB640]

SENATOR GROENE: Is there anybody in the queue after me? [LB640]

PRESIDENT FOLEY: There is. [LB640]

SENATOR GROENE: Oh, there is? All right. Well, I was hoping to close, but now I can't call the question so I will discuss it again. I don't know what rich we are giving to, Senator Schumacher. I'm sure if I sat down with you, you would fully explain it to me because I've had a good relationship with you over the last four years. What we're trying to do is correct an error in the TEEOSA formula and to convert a property tax existing funding into education funding. Otherwise, I would love somebody to call the question so we can get to the finish here. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Baker. [LB640]

SENATOR BAKER: Thank you, Mr. President. Would Senator Schumacher, yield to a few questions? [LB640]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LB640]

SENATOR SCHUMACHER: Sure. [LB640]

SENATOR BAKER: Senator Schumacher, I always appreciate your ability to analyze situations so maybe a good use of my time, talking back and forth with you. You indicated you think this may be a good idea. Help me understand. We're telling people we may be able to give you some property tax relief here by giving some money to your school districts, but in doing so we're going to have to take away your property tax credits. How does that work? [LB640]



Floor Debate  
March 27, 2018

---

SENATOR SCHUMACHER: It's called no free lunch. We'll take from the property tax relief they get from property tax credit, convert it into TEEOSA money, and kind of sprinkle it out hoping that we catch enough people--at least Senator Groene I think is hoping to catch enough people--to basically come to a zero sum game. [LB640]

SENATOR BAKER: Well, wouldn't it be a matter of a bird in the hand is worth two in the bush? I know I'm going to get my state tax property tax credit. I know I've got it and it's a nebulous idea out there. Depending on my school district's condition I may or not be able to pay lower school taxes? [LB640]

SENATOR SCHUMACHER: Well, you don't know if you got the property tax credit, because we're going to get real hard up...not we're, they are going to get really hard up in looking for money and it's just a matter of sweeping that property tax credit and taking it down to zero if the pinch gets tight enough. That's a quarter billion dollars a year you can find. So you don't know for such that you've got a bird in hand and there's no more assurance of that than there would be that Senator Groene's bill wouldn't be repealed at a future time. [LB640]

SENATOR BAKER: Wasn't there some promise made? That was before I got here I think when the first property tax credits...wasn't the word "permanent" in there somewhere? [LB640]

SENATOR SCHUMACHER: You can't...a Legislature by an appropriation like that can't bind a future Legislature and there's no permanency in the property tax credit other than a political one that you'll pay hell if you take it and don't give it back. [LB640]

SENATOR BAKER: But politically, wasn't there a statement made: Well, this is permanent. This is not a one-year shot, this is permanent? [LB640]

SENATOR SCHUMACHER: It's a budget line item, if I'm not mistaken, and it can be pulled. There's no way that anyone is guaranteed a property tax credit. And it is a nice pot of money that you can go rob at some point if you're really in a hard thing. The robbing of it would in effect be a property tax increase because people won't get that knocked off of their tax bill. [LB640]

SENATOR BAKER: Let's talk more about when you and I are both gone out of this body, what are things going to look like for people, sit in these chairs five years from now, ten years from now if we carry through with some of the things that we're talking about? What is it going to look like? [LB640]

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

Floor Debate  
March 27, 2018

---

SENATOR SCHUMACHER: They will look worse if we carry through than the worst they will look anyway. The numbers and our attitude toward taxes and our inability to cut anymore without making substantial institutional cuts like closing of the three state colleges or the four-lane highway program or who knows what consolidation of the university with something. Who knows what they'll have to think up, but they're in pretty sorry shape. [LB640]

SENATOR BAKER: So in Kansas they had to turn around and take away those tax cuts and raise the taxes back up almost \$2 billion. Could you see us putting ourselves in a situation where that could happen in Nebraska? [LB640]

SENATOR SCHUMACHER: Sometimes the only way that you can teach a kid not to burn his hand by putting it on the burner is to let him put it on the burner. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR SCHUMACHER: Are we done with time? [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR SCHUMACHER: Oh. Kansas put their hands on the burner and found out, gee, it was hot and they got a big blister. I think we're in that process here. It looks like that burner is so nice and red and it would really be nice to touch and we're surely toying with it and maybe we're going to burn our hand. [LB640]

SENATOR BAKER: I am concerned about that. Thank you for your time. Appreciate it. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Baker and Senator Schumacher. Senator Linehan. [LB640]

SENATOR LINEHAN: Question. [LB640]

PRESIDENT FOLEY: Question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate 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. [LB640]

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

Floor Debate  
March 27, 2018

---

CLERK: 14 ayes, 1 nay to place the house under call. [LB640]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desks, check in. The house is under call. All unauthorized personnel please leave the floor. The house is under call. Senator Linehan, when the members all arrive it would be your option to accept call-in votes. Thank you. We'll do that when they arrive. Thank you, Senator. We'll accept call-in votes when the members arrive, thank you. Senator Watermeier, McCollister, Hilkemann, Hughes, please return to the Chamber and check in. The house is under call. Waiting for Senators Watermeier, Hughes, and Hilkemann. Senator Linehan, we're lacking Senators Watermeier, Hughes, and Hilkemann. We could proceed on the calling of the question if you'd like to do so. Senator Linehan will accept call-in votes on whether or not to cease debate. Record please. [LB640]

CLERK: 25 ayes, 0 nays, to cease debate. [LB640]

PRESIDENT FOLEY: Debate does cease. We are still under call. Senator Groene, you're recognized to close on your amendment. [LB640]

SENATOR GROENE: I think the debate, everything that needs to be heard has been heard. Opinions have been hopefully changed towards favoring AM2445. I would ask for a call of the house and proceed with the vote. [LB640]

PRESIDENT FOLEY: We are still under call. [LB640]

SENATOR GROENE: All right. We're still under call. I didn't know. [LB640]

PRESIDENT FOLEY: We are under call. I think we may be lacking one or two members. So if you could all just check in, please, we can confirm who's here and who's missing. Senator Wishart, check in, please. Senator Baker, check in, please. Senator Baker, if you could check in. We're lacking Senator Watermeier. All unexcused members are now present. The question before the body is the adoption of AM2445. Those in favor of the amendment vote aye; those opposed vote nay. Record please. [LB640]

CLERK: 25 ayes, 8 nays on the adoption of Senator Groene's amendment. [LB640]

PRESIDENT FOLEY: AM2445 is adopted. I raise the call. Mr. Clerk. [LB640]

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

Floor Debate  
March 27, 2018

---

CLERK: Mr. President. A priority motion. Senator Baker would move to bracket the bill until April 18, 2018. [LB640]

PRESIDENT FOLEY: Senator Baker, you're recognized to open on your bracket motion. [LB640]

SENATOR BAKER: Thank you, Mr. Lieutenant Governor. I can't get comfortable with LB640 or the amendments. I just feel like it accomplishes nothing. It takes away money from people on the one hand and say, well, some of you are going to get it back and more than what you got before, some are going to get less. I am just not comfortable what we're doing. Would I like to see the state provide a whole lot more support for the funding of public schools? Absolutely, I would. Absolutely. And it used to be more. But during the hard times after the dot-com bubble burst early 2000's and then got tougher to fully fund TEEOSA, and then later the housing bubble burst, led to the recession, and we got propped up a couple of years with ARRA funds, but when they went away there was a bit of a cliff to go over. So slowly but surely a state share of funding of public schools has been eroded away, and it needs to be restored. It needs to be brought back in some way. But taking away people's property tax credits isn't the way to do that. The individual taxpayer doesn't benefit on average when you take \$224 million away from people in one manner and distribute it back out in another, for some it will be warm, some it will be cold, some it will be medium, but overall the net effect is zero. You haven't really changed anything, you've just shifted money away from...you've taken money out of one pocket and put it in another and said somehow that made me richer, that it's now in another pocket that wasn't where it started out. So I'm just unable to get comfortable with this bill and, therefore, I am proposing that it be bracketed until April 18 and let's move on. We've spent close to three hours on this, this morning. Let's wrap this up, put it outside, and move onto other things. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Baker. (Visitors introduced.) Continuing discussion, Senator Harr. [LB640]

SENATOR HARR: Thank you, Mr. President. You know, this is interesting because the more I listen to the debate, the more sense this seems to make. When we talk about tax reform--and that's what this is, folks, this is tax reform--there will be winners and there will be losers. If we are serious about making our tax system fairer, as Senator Groene said, we have to realize that the reason we're reforming the tax system is because there were some who are not paying their fair share to begin with and there were others who were probably paying too much. So by performing it and making it fair, you will have people paying more and people paying less. That's just a natural consequence. So when you see on here we have to hold everyone harmless, you can't do that unless you have more than \$1.5 trillion, because on the federal level there were

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

Floor Debate  
March 27, 2018

---

winners and losers on that tax reform and that cost \$1.5 trillion. Now, more winners than losers for sure, but this is an interesting dilemma, because I see that we have a property tax issue in this state and I see that we have a problem with how we fund public education. And we do need to step up as a state. I'm not sure this does enough. It's a first step for Senator Groene and others. I've heard Senator Briese say we need \$800 million to really bring the state back into equilibrium. So I appreciate what we're doing here. And the property tax relief fund, let's talk about that for a second. It's a quarter of a billion dollars and it makes us look...when we do those rankings out there, nobody cares about what your effective rate is, meaning what you actually pay. They care about the marginal rate. So think about it like buying a car. There is a sticker price, which is the marginal rate, and the effective rate, which is what you actually pay. So we look like we collect an additional \$220 million that we never spend on services or programming, but that, in fact, we then bleed down to the local level for property tax relief. So we never touch it, we never really see it. It's part of our budget, but it doesn't go into programming, so it makes the state government look like we're \$220 million bigger than we are. And then at the same time, because we look at effective rates, on the local level you may have a property tax liability of \$4,000, but you may only pay taxes of \$3,500 because of the property tax relief fund. So when they look at the property taxes, they look at the marginal rate and they say, my goodness, you have a high marginal rate. And so then you look and we look terrible in these rankings because we look like we're spending \$220 million at the state level that we in essence don't and we look like we're collecting \$220 million on the local level that we don't. So the property tax relief fund, while good in concept, in reality has been weighing the state down and making us look worse in a lot of studies and surveys than we probably need. And I would be interested to see who in this room actually defends the property tax relief package, because I don't think it's doing what it was intending to do. It's providing some property tax relief, but as I said my first time on the mike... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR HARR: ...thank you...Senator Groene's bill addresses the underlying issue of why we have high property taxes, which is that we do not properly fund our state government and that we are great on the state government of saying, hey, counties, hey school, pick up the tab. We can balance our budgets, why can't you? Well, because a rock rolls down hill. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Harr. (Visitors introduced.) Continuing discussion, Senator Linehan. [LB640]

SENATOR LINEHAN: Thank you, Mr. President. Since Senator Baker mentioned the scholarship opportunity act, I just wanted to take a little bit of time here and respond. And also

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

Floor Debate  
March 27, 2018

---

another Senator said some things and I'd like to ask him a question. So Senator Schumacher, would you yield to a question? [LB640]

PRESIDENT FOLEY: Senator Schumacher, would you yield to a question, please? [LB640]

SENATOR SCHUMACHER: Yes, I will. [LB640]

SENATOR LINEHAN: Senator Schumacher, when you were talking about this I think you said two or three times there's no such thing as a free lunch. [LB640]

SENATOR SCHUMACHER: That's right. So in the past during your time here, have you ever described something as a free lunch? [LB640]

SENATOR SCHUMACHER: I have. [LB640]

SENATOR LINEHAN: And what did you describe as a free lunch? [LB640]

SENATOR SCHUMACHER: The fact that some people are voluntarily willing to pay for parochial education and that brings down in some districts the cost of education. [LB640]

SENATOR LINEHAN: In Platte County, which you represent, is it true that about 24 percent to 25 percent of the students in that county go to private school? [LB640]

SENATOR SCHUMACHER: Oh, they've got a wonderful thing going. They've got some strong private schools, they've got among the lowest property taxes due to the private schools coupled with some really conservative boards and administrators, and they got kind of an interesting combination there. [LB640]

SENATOR LINEHAN: So it is true that 24 percent of kids... [LB640]

SENATOR SCHUMACHER: I don't know the exact percentage. [LB640]

SENATOR LINEHAN: But it's a higher percentage to your point, they have, what is it, four or five different private schools in Platte County? [LB640]

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

Floor Debate  
March 27, 2018

---

SENATOR SCHUMACHER: It depends how you count them, but I think you're very close to right. You've got a strong religious orientation in the county and there's a lot of culture built around it and so they're willing to fund the private schools. And part of the game is you then have very low property taxes because the proportion of students going to the private schools is rather high. [LB640]

SENATOR LINEHAN: So do those private schools receive state aid through the TEEOSA formula? [LB640]

SENATOR SCHUMACHER: No, no, no. [LB640]

SENATOR LINEHAN: Do they receive property tax funding, private schools? [LB640]

SENATOR SCHUMACHER: Well, in a way they do, because they pay less in their taxes to the public schools, and that money that would normally go there they get in donations. [LB640]

SENATOR LINEHAN: Okay. Thank you, Senator Schumacher. So where there is a strong private school system that takes no money from the state to operate actually helps reduce property taxes I think is what Senator Schumacher just said. That's not the subject here, so I will, if he would so desire, yield the rest of my time to Senator Groene. Thank you. [LB640]

PRESIDENT FOLEY: Senator Groene, you got just under two minutes. [LB640]

SENATOR GROENE: I believe I'm in the queue next, so if I could just continue. Senator Baker, my staff...since you brought it up, your property tax bill, my staff looked...because you can look up what I pay in property taxes and you can also look up what my credit is. And you received \$348 in property tax credits last year. If your levy was lowered 6.3 cents--I won't say what the value of the house was--you would get a \$378.38 reduction in your levy from the school; you would end up \$30 better. And I enjoy Senator Baker, he's always been a gentlemen, but by choice he's leaving the body, by choice. Some of us are going to be here, we hope we are, we're running for reelection. Some of you aren't up for election. It's easy to say we need to fund schools more, we need to fund TEEOSA. But if you have a core group of Senators who their constituents do not get their fair share--I hate to use that term, because that's used by another politician--fair share of that state aid, they are going to be the 17 standing up as you are, Senator Baker, stopping it. They will be the ones stopping it and they will say we can't afford it, we can't afford to spend more money on education because we're taxed to death, and I'll probably be standing by them. But then you've got our side of it who are saying, why do we spend any more on public education, we don't get any of it. And to stick the money under the blanket... [LB640]

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

Floor Debate  
March 27, 2018

---

PRESIDENT FOLEY: That's time, Senator. Thank you, Senator Groene. Items for the record, please. [LB640]

CLERK: Mr. President. Enrollment and Review reports LB1008 and LB776 to Select File. A series of study resolutions: LR402 through LR408, all to be referred to the Executive Board. Name adds: Senators Blood and Morfeld to LB738; Senator Lowe LB845. (Legislative Journal pages 1195-1200.) [LB1008 LB776 LR402 LR403 LR404 LR405 LR406 LR407 LR408 LB738 LB845]

Mr. President, Senator Vargas would move to recess the body until 1:30 p.m.

PRESIDENT FOLEY: Members, you heard the motion to recess till 1:30. Those in favor say aye. Those opposed say nay. We are in recess.

RECESS

PRESIDENT FOLEY PRESIDING

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

CLERK: I have a quorum present.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: Mr. President, your Committee on Health reports LB793, LB794, LB1042 to General File; Education reports LB1103 to General File. Study Resolutions: LR409-LR415. That's all that I have. (Legislative Journal pages 1200-1206) [LB793 LB794 LB1042 LB1103 LR409 LR410 LR411 LR412 LR413 LR414 LR415]

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

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Colleagues, just wanted to draw your attention to the agenda for today. We did not note, but I want to bring it to everyone's attention, we do go to consent agenda at 8:00. If we move rapidly through that, we very well may go back up on the agenda and pick up where we left off to try to finish some bills after we



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

Floor Debate  
March 27, 2018

---

get done with the consent agenda, dependent upon time, of course. So I just wanted to bring that to your attention because it was not notated on the agenda itself. Thank you.

PRESIDENT FOLEY: Thank you, Mr. Speaker. We'll proceed on with the agenda with the next bill. Mr. Clerk.

CLERK: LB738 is a bill by Senator Lindstrom. (Read title.) Introduced in January; referred to Revenue; advanced to General File. There are committee amendments. (AM1789, Legislative Journal page 1042.) [LB738]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Lindstrom, you're recognized to open on LB738. [LB738]

SENATOR LINDSTROM: Thank you, Mr. President. LB738 addresses our state tax on Social Security income. Nebraska is 1 of 13 states in the country that continues to tax its retirees on their Social Security income, and one of a handful of states that taxes it at the federal rate of 85 percent. Our surrounding states have either repealed or reformed their state taxation on Social Security. Iowa and Missouri have outright repealed their tax. While the state's overall income tax brackets are adjusted for inflation, the threshold at which an individual is subject to the state's Social Security is not. LB738 adjusts the threshold in the same ongoing manner in which we adjust our income tax brackets. By not continuing to adjust the thresholds for inflation, we are putting a real strain on the buying power, especially in times like 2010, 2011, and 2016 when retirees were not provided with a cost of living adjustment by the federal government or COLA adjustment. There are 330,309 Nebraskans receiving Social Security benefits; 47.2 percent rely on Social Security for 50 percent or more of their income, and 17.7 percent rely on Social Security for 90 percent or more of their income. While we have no control over the way the federal government treats our seniors, we can control how we treat our seniors in Nebraska. LB738 is a step in the right direction. Our retirees provide immeasurable resources to our community. They are speaking with their dollars and leaving Nebraska for border states who have either reformed Social Security or do not tax Social Security at all. We cannot afford our neighboring states to continue to profit off our losses. LB738 is the right thing to do for our seniors and the right thing to do for the state of Nebraska. Thank you and I would encourage you to vote green on LB738. [LB738]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. As the clerk noted, there are amendments from the Revenue Committee. Senator Smith, you're recognized to open on the committee amendment. [LB738]

Floor Debate  
March 27, 2018

---

SENATOR SMITH: Thank you, Mr. President; and, colleagues, the committee amendment is quite simple. AM1789 delays the implementation date from tax year 2019 to tax year 2020. And that is all of the committee amendment. Thank you, Mr. President. [LB738]

PRESIDENT FOLEY: Thank you, Senator Smith. Debate is now open on LB738 and the pending amendment. Senator Schumacher. [LB738]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I want to call a couple of things to your attention so that you maybe pack them in the back of your memory log and remember them at the appropriate time in the future. One trick that was done a whole lot in my first years here was the delayed implementation, because by working with that you can make it appear to the world that you're doing grand things and they don't cost or have any implication, because they don't appear on the financial notes. So they're out there in the future, and it was great fun. Except, I think, some of our problems that we have today financially are to the fact that those chickens are coming home to roost and are being fully implemented. So always beware and analyze delayed implementation of anything, because almost always it is to make you feel good that you've done something now, and make the guys and gals down the road have to worry about how to pay for it. The second thing is this whole deal about taxation of Social Security. Yes, everybody wants to be kind to everybody. And the truth is, if all you have is Social Security, you'll never hit the limits where you need to file a Nebraska income tax. We don't tax Social Security. What we do tax is your other income. And so by saying, okay, we're going to create a special zone, special exemptions, what we're saying is your other income between Social Security and whatever the magic number is, we won't tax. Now, think about the fairness of that in many cases, because in many cases that difference is in the form of some kind of 401(k), some kind of IRA, some type of benefit, in which your employer may have gotten a deduction when they made the deposit into your account. You may not have had to pay taxes when you put it in there, so tax-free money went into that program. And now what's being sought is tax-free money coming out of the program so that that increment of income has been tax-free all along. And that's a great deal if you can get it. The problem with that is, that the people that then that tax burden is shifted to are the young people with families. They're the ones that are going to have to make it up, either in income taxes--especially if they don't get one of these special deals that some of the really wealthy folks get--or in their sales taxes. So in spite of what I told Senator Linehan before lunch, there still is no free lunch, except that Senator Pansing Brooks brought me a cookie and there was a free cookie. So watch out for that, because the seniors are in a position where they have associations representing them. They've got time to appear before the committee, and they can plead a very good and worthwhile case. The people that are going to have to pay the bill are working. And how come it is that when we hear other states, oh, man, other states give away this and give away this so we got to giveaway this too, that we don't advertise to young people, you know, we're thinking about you, so come here to Nebraska. This is a two-edged sword, but we don't do that. [LB738]

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

Floor Debate  
March 27, 2018

---

PRESIDENT FOLEY: One minute. [LB738]

SENATOR SCHUMACHER: We have a tendency to be kindhearted and give away and give away. And while this particular bill will not cost much money now and over the years it will just keep up with inflation and you can hear the song being played, in the end we are shifting burden away from one class to another class. And this is a small scale; this is just a little nibble at the apple, but that seems to be what the game is about here, because there still is no free lunch. Thank you. [LB738]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Stinner. [LB738]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, I probably have a conflict since I've pulled down my first Social Security check this month, so I won't be commenting on that. But I did get out of a sick bed simply because I continue to hear people in this Legislature talk about the budget and disparage the work that we've done. Over the last two years, this Legislature, the Governor, the Appropriations Committee had to deal with a \$1,250,000,000 shortfall; and we did this through LB22, which was a deficit request adjusting the prior biennium. We did this through LB327 last year. We had two other forecasting shortfalls and we had a veto, and we tried a veto override, and we didn't...we weren't successful, let's put it that way. And now we have LB944 proposal, which I believe is a great proposal. And if we can get over Title X and we reach some consensus on that, we'll pass that as well. But just numbers. Let's just talk numbers. If you remember LB22, we did a large part of that correction through reappropriations. We offset \$72 million of reappropriations, and if I told you that that was the excess amount of cash within an operating budget that was accumulated over a period of time and that we normally reappropriate those dollars so that those agencies can use it, so we lapsed 76 percent of those dollars out. We took their savings account away and it amounted to \$72 million. We took another million dollars this time around so we're at \$73 million. So if you got transfers in, lots of lapses, lots of transfers, right? It's about \$200 million in total. Normally we'd be at \$100 (million), and I get the fact that we hit a lot of places pretty hard. But we took that excess cash, and we did it in the spirit that we did not want to do long-term harm, that we wanted to measure outcomes. Now remember, I talked about a half a toolbox, half a toolbox meaning cuts. That's all we had to do. Rainy day fund--we took everything out of the rainy day fund, \$273 million. That comes to \$546 million of those types of cuts, of those types of transfers. Now how do you get to...back to \$1,250,000,000? What's the difference, folks? Seven hundred million dollars. Provider rates, by the way, led the pack--\$58 million in provider rates--and you have to remember this is a zero sum game. So if we add to K-12, if we add to salary increases, if we add to Corrections, we have to take it out of someplace else. You go back and you ask, ask the agencies, did you take a cut? You ask higher ed, did you take a cut? And I also said we have to measure the total fiscal impact if we held somebody level. The operating costs continue to go up. You still have to pay people, you still have insurance, still got healthcare. The idea that we didn't

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

Floor Debate  
March 27, 2018

---

cut enough and the idea that we can quote a couple psychiatrists' salaries, therefore, we must be able to cut more. Look at your turnover report, folks. If we're paying such a great rate, why in the world do we have a Corrections problem? I had...Director Courtney Phillips was in my office... [LB738 LB22 LB327 LB944]

PRESIDENT FOLEY: One minute. [LB738]

SENATOR STINNER: Thank you. ...and asked me, why can't I attract social workers? We've got five vacancies out west. I said, because all the social workers that come out of Chadron State that normally would come down there go to South Dakota. They have a paid intern program and they pay about \$3, \$4 an hour better. Don't tell me that the state of Nebraska overpays. But I will tell you this and I will compliment the Governor on this, he has a technology initiative. I think there will be a couple \$10 million to \$20 million of savings in that. He has a process improvement program. I think we'll save dollars there. But to say that we're paying too much, that we're overpaying and that's where we could cut, how much you pay for a cancer doctor, \$100,000? Good luck. Not going to happen. Depends on industry. And if we want to have competent people running our state government, we have to look to industry and what we have to pay. And believe me, the state of Nebraska is not paying too much. Look at the turnover report. Why is there turnover at 21, 25, 30, 33 percent? [LB738]

PRESIDENT FOLEY: Time, Senator. [LB738]

SENATOR STINNER: Try to run a business that way. Thank you. [LB738]

PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Harr. [LB738]

SENATOR HARR: Thank you, Mr. President. If Senator Stinner would like some more time I'd be willing to give him some. [LB738]

SENATOR STINNER: I think I'm out of breath right now. [LB738]

SENATOR HARR: Okay, all right. Folks, this guy came from being sick two days with the flu and to make a point, and it's a valuable point that we're hearing. We have looked under every cushion. We've stolen from every cash fund that we can. I tried to work with the Governor on a tax policy this year. And the Governor, to his credit, looked at me and said, I don't have another \$5 million to give you. Right? So if we don't have another \$5 million, how are we going to afford these programs, these tax cuts that we keep seeing? This is a great program that Senator Lindstrom has brought. It's something that is very...after years of debate, every year I've sat on

Floor Debate  
March 27, 2018

---

Revenue, there's always a bill about Social Security for seniors. And this, after years of failure, is a very measured response. But I don't think we can still afford it. I don't think we can afford this. I don't think we can afford anything else that's going to have a long-term impact that only grows over time. I'm gone in ten days. Not that I'm counting, but it is ten days. And after that, this will no longer be my problem. This will be in the world...there are "me" problems and "you" problems. This will become a "you" problem. But I do feel I have some responsibility in my last days to get up and talk about what we can and what WE can't afford. And if we're going to do something like this, then the argument that I hear out there constantly of, we need to eliminate exemptions, that we need to broaden the base and eliminate exemptions, well, folks, here we are. There's a reason why we have those exemptions in there, it's because of good bills like this that Senator Lindstrom did a lot of hard work on this, and no one is denying the hard work he's done, and no one's denying that this is a good compromise. The question is, can we afford this at this time? And more importantly, are we serious about eliminating special exemptions, broadening the base, and lowering the rate? Because if you are serious about that, then I don't see how you can support this, because this is creating another special interest. And think about it, if you want another lobbyist in the body, give a special interest a tax cut; because soon enough they'll have their own lobbyist to protect this tax cut. And then when we go and have a hearing in Revenue there will be one more person to stand up against lowering the rate and broadening the base. Thank you. [LB738]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Smith, you're recognized to close on the committee amendment. He waives close. The question for the body is the adoption of AM1789. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB738]

CLERK: 37 ayes, 0 nays on adoption of committee amendments. [LB738]

PRESIDENT FOLEY: Committee amendments are adopted. Further discussion on the bill. Senator Krist. [LB738]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, Nebraska. Senator Stinner, would you like to continue or are you done? You're done, okay. I have to just say that with all the discussions that I've heard from all the conservatives in this body, and I think you are all conservatives, I think we're all conservatives; let me say that loud and clear. But from all the discussions that we've had and all the conservative viewpoints that we have projected, the one thing that seems to be clear is that we are forced to deal with a situation where we have given away our tax base and put exemptions into place. This is General File for LB738. Senator Schumacher is absolutely right. The committee amendment just postpones the draining of the swamp. It will still be a cost in 2019-20, whatever we pushed it to in that amendment. But the

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

Floor Debate  
March 27, 2018

---

problem is, it will, again, cost us in the long run. Senator Linehan's bill basically was going to cost money. I suggested when we had that debate that there's a time and a place to pursue those kinds of programs, and I don't think this is the right time to pursue the program. I will vote for LB738 on General File as it goes to Select, and then hopefully we'll have another discussion about LB738 between Select and Final. Can we afford this particular cut? Because the analysis is in an outyear--and many of you are going to be here in that outyear in the Legislature--you will have an additional burden on the budget and balancing the budget. Now, I personally think that this is one of those issues that we need to go forward with because of the people who are affected in a gross way. But heed the warnings. Again, which one of these special interest items, as Senator Harr said, is worth adding another lobbyist and protecting another tax giveaway? Thank you, Mr. President. [LB738]

PRESIDENT FOLEY: Thank you, Senator Krist. Seeing no further discussion, Senator Lindstrom you're recognized to close on LB738. [LB738]

SENATOR LINDSTROM: Thank you, Mr. President. And I appreciate the comments. I'm sure over the next ten days we'll have robust debate on other tax reform moving forward. This particular bill just, I think I've spoken to most of you on the issue, we do exempt Social Security tax at two different levels. One for the joint filer; anything under \$58,000, your Social Security is not taxed. And then for a single filer, \$43,000. So that is already in place. What this does, and it brings parody to the other tax brackets on how we do income tax where it brings in the consumer price index to keep up with inflation so that in retirement, folks that are living on a fixed income will be able to keep up with inflation and their dollar goes a lot further as inflation eats it up over time. I appreciate the comments on the floor today and would encourage you to vote green on LB738. Thank you, Mr. President. [LB738]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Members, you've heard the debate on LB738. The question before the body is the advance of the bill. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB738]

CLERK: 36 ayes, 0 nays on the advancement of the bill. [LB738]

PRESIDENT FOLEY: LB738 advances. Next bill, please. [LB738]

CLERK: LB738A is a bill by Senator Lindstrom to appropriate funds to implement LB738. I do have an amendment to the bill from Senator Lindstrom, Mr. President. (AM2693, Legislative Journal page 1207.) [LB738A LB738]

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

Floor Debate  
March 27, 2018

---

PRESIDENT FOLEY: Senator Lindstrom you're recognized to open on LB738A. [LB738A]

SENATOR LINDSTROM: Thank you, Mr. President. LB738A, there's a \$49,000 one-time charge paid to the Office of the CIO for the mainframe costs. And so the A bill follows the underlying bill. And I would appreciate your support. Thank you. [LB738A]

PRESIDENT FOLEY: Mr. Clerk. [LB738A]

CLERK: Senator, AM2693. (Legislative Journal page 1207.) [LB738A]

PRESIDENT FOLEY: Senator Lindstrom, you're recognized to open on AM2693. [LB738A]

SENATOR LINDSTROM: Thank you, Mr. President. The amendment, AM2693, again, mirrors the underlying amendment that we did on the underlying bill, not the A bill, but LB738. So this just mirrors the date of 2019 fiscal year, and 2020. So again would appreciate your support on amendment AM2693. Thank you, Mr. President. [LB738A LB738]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. (Visitors introduced.) Debate on LB738A and the pending amendment. Mr. Schumacher. [LB738A]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Just briefly, \$49,000 for mainframe programming cost...really? This is something that definitely needs to be looked at and find out why we have these charges, which seem to be enormous, to implement what has to be a simple mathematical formula in a program on a computer. Now, I'm not sure if that's intergovernmental transfers from one office to another. I'm not sure if somebody's brother-in-law doesn't have a really, really cushy contract with the state to program a computer, but really? Those costs appear on almost all the fiscal notes, they seem to be absolutely ridiculous in price. This is one of them. How come? Who gets the money? How many hours are really, really needed? I messed around with computer programming for 20 years, and it just strikes me at \$49,000 to program what amounts to a simple variable in a program is ridiculous. And along the line, when you have an extra moment from battling off the alligators trying to get at your rear ends because they're going to eat you because you don't have any tax money to feed them, that's something you should look at. That is not a realistic number. Thank you. [LB738A]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Harr. [LB738A]

SENATOR HARR: Thank you, Mr. President. I couldn't agree with Senator Schumacher more. Fiscal notes are a funny, little thing we have here. And if anyone watches Revenue, they will

Floor Debate  
March 27, 2018

---

have seen me rant and rave about how arbitrary and capricious they can be at times. And when the administration wants your bill, they can find a way that they can absorb the cost. And when they don't like it, they put a fiscal note on it. We had a bill earlier this year where one bill right after the other, and the bills were almost identical, except one cost \$65,000 for programming and one cost \$49,000. And if anybody wants, I can get you the fiscal notes. I found that amazing. I can go on and on. I have a community gardens bill I hope to bring back that when I first brought the bill, we had a different director of Ag. And he said, we have room, we think this is a good thing and we'll find room in our budget for it. When they didn't want it, now they're going to hang a fiscal note on it, is my understanding. Senator Ebke recently experienced this arbitrary and capriciousness on her bill about professional licensure in reviewing rules and regs. They hung a fiscal note on her bill. And yet the Governor, without any line item authority in the budget, was able to get all of his administrative agencies to put down their pens and pencils on new rules and regs and to review the old ones, and that was going to cost money to do...or that didn't cost any money to do. Now if they have to do it under Senator Ebke's bill, well, you're darn right that's going to cost money. So when we read these fiscal notes, I know Senator Stinner hangs a lot of faith in them, I'm not sure after eight years I hang the same amount of faith and say they're merely advisory. And I think we have a duty to ourselves over the long term in this Legislature to make sure that we have our own ability to contact and look at the raw data. We can't look at raw data. If you want to do tax policy in here, you have two chances to find out how much your bill is going to cost. When you introduced that bill in January, and then you won't find out until maybe February, maybe March, when a chairperson schedules it. And then if you want to make any changes on it, you can't find out that cost until Final Reading. Folks, that is no way to make policy. We're going to have more talk today about...or maybe tomorrow...about how we do tax planning and tax policy and how the way we do it now is broken because we have given all the power...because of controlling the raw data to the executive branch, and no one can refute that. In my eight years they can make good estimates, sometimes, if there's been a similar idea tried before; but if there hasn't, they can't. Or if some variable changes that they can't calculate because they don't have access to the data, they can't; we can't see aggregates in the Department of Revenue. It's a real problem that we need to address. And it's going to take some money. I know we don't like to spend money, but we have to invest in ourselves, and we have to find a way to work outside of the executive branch at times. [LB738A]

PRESIDENT FOLEY: One minute. [LB738A]

SENATOR HARR: Yes, we have to work with the executive branch, but we also have to find ways to work outside the executive branch. And maybe in a little bit I will get up again and talk about a letter that I received from our fine, fine Governor today that goes against constitutional law and everything that I have been experiencing for the last couple of days. So thank you. [LB738A]



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

Floor Debate  
March 27, 2018

---

PRESIDENT FOLEY: Thank you, Senator Harr. (Visitors introduced.) Senator Lindstrom, you're recognized to close on AM2693. [LB738A]

SENATOR LINDSTROM: Thank you, Mr. President. Just would encourage you to vote green on the underlying amendment to follow with the underlying bill. Thank you, Mr. President. [LB738A]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB738A]

CLERK: 26 ayes, 0 nays on the adoption of the amendment. [LB738A]

PRESIDENT FOLEY: AM2693 is adopted. Is there any further discussion to LB738A? Seeing none, Senator Lindstrom you're recognized to close on the advance the bill. He waives close. The question before the body is advance of LB738A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB738A]

CLERK: 26 ayes, 0 nays on the advancement of the bill. [LB738A]

PRESIDENT FOLEY: LB738A advances. Proceeding to the next bill. [LB738A]

CLERK: Legislative bill, LB845 is a bill by Senator Briese. (Read title.) Introduced on January 5 of this year; referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments, Mr. President. (AM2353, Legislative Journal page 984.) [LB845]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Briese, you're recognized to open on LB845. [LB845]

SENATOR BRIESE: Thank you, Mr. President; good afternoon, colleagues. I rise today to present to you LB845. LB845 is a bill which was originally brought to me by the National Federation of the Blind for Nebraska. And I thank Speaker Scheer for making this his personal priority bill. And I do note there is a Judiciary Committee amendment to the bill. I'll speak to the amendment here somewhat. My office worked on this extensively over the last year with a number of organizations in the state representing Nebraskans with disabilities. This bill recognizes that individuals with disabilities face the societal bias relative to their ability to successfully parent children, and the parents as well as the children can suffer on account of this.

Floor Debate  
March 27, 2018

---

As amended by AM2353, which will be coming up here soon, LB845 amends Nebraska Revised Statute, Section 42-364(2) to provide that a court in determining legal custody or physical custody shall not give preference to either parent based on one parent's disability. And under paragraph 8, disability is defined to have the same meaning as is in the Americans with Disability Act found at 42, U.S. Code, Section 12102. As originally drafted, the green copy of the bill provided that in a proceeding relative to custody, the party raising the allegation that the other party's disability had a negative impact on the child had the burden of proving that by clear and convincing evidence. The green copy also provided that the individual with the disability could then demonstrate how supportive parenting services could alleviate those concerns. However, the Nebraska State Bar Association had some concerns about this language. Specifically, they were concerned about the shifting of the burden, the burden itself, supportive parenting services in this context. So we worked extensively with the bar association to address those concerns. Those concerns have been resolved, and that's what we ended up with in the amendment. And I note that the best interest of the child still remains the primary consideration in the arena of child custody. This bill, this amendment does not change that. I also note that the Nebraska Supreme Court has said numerous times that courts can look at the health of a parent and parental capacity to provide care in making custody determinations. And again, the best interest of the child still is the determinative factor. Colleagues, I feel this is good commonsense legislation that protects the rights of parents with disabilities and protects the best interests of children. It reaffirms our commitment to the disabled community. I'd ask for your green vote on this bill. [LB845]

PRESIDENT FOLEY: Thank you, Senator Briese. As the clerk noted, there are amendments from the Judiciary Committee. Senator Ebke, you're recognized to open on those committee amendments. [LB845]

SENATOR EBKE: Thank you, Mr. President. AM2353 to LB845 is a white-copy amendment that replaces the bill. The legislative findings included in the bill are reauthored in Section 1 of the amendment. Section 2 of the amendment adds language to Nebraska Revised Statutes 42-364(2) which deals with a court's determination of legal or physical custody of a minor child by inserting the words, quote, or disability, unquote, after the statutes reference to sex. Adding this language ensures that in determining custody, a court cannot give preference to either parent based on the disability of a parent. Section 3 of the bill ensures that for purposes of applying the changes made in Section 2, disability has the same meaning as that supplied under the federal Americans with Disabilities Act. The change is made by AM2353 comes as a result, as Senator Briese noted, of a collaboration between Senator Briese's office, committee staff, advocates for the bill, and attorneys who practice in the area of family and custody law. The bill as amended was advanced from the Judiciary Committee on a vote of 7-0 with one member absent. On behalf of the committee, I ask for your green vote on AM2353. [LB845]

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

Floor Debate  
March 27, 2018

---

PRESIDENT FOLEY: Thank you, Senator Ebke. Debate is now open on LB845 and the pending committee amendments. Senator Larson. [LB845]

SENATOR LARSON: Thank you, Mr. President. Would Senator Ebke yield to a question? [LB845]

SENATOR EBKE: Senator Ebke, would you yield please? [LB845]

SENATOR EBKE: Yes. [LB845]

SENATOR LARSON: Thank you, Senator Ebke. And I guess...I understand a little bit about custody law, actually, having been through something of this nature. And so I have a few concerns. Senator Briese mentioned that there were issues with burden of proof and proving if one parent has...whether it's certain mental illnesses or whatnot, that that burden of proof has been taken away in the committee amendment, like one parent won't have to show beyond a reasonable doubt...or not beyond a reasonable doubt, it's probably the wrong way, but that they do have those mental disabilities for it to be considered, or they still will? Like they'll still need to go...if they want to say one parent has severe depression and has a hard time taking care of themselves let alone a six-year-old, will that parent have to go and get the other parent checked out and then have the expert come to prove these things for it to be taken into account. Am I making sense under this? [LB845]

SENATOR EBKE: Umm, maybe. (Laughter) [LB845]

SENATOR LARSON: You get my concern here. It looks like it's almost expanding what it will take to prove that the other parent might not be able to parent because of their mental illness. [LB845]

SENATOR EBKE: Sure. For those disabilities that fall under the Americans with Disabilities Act there will still be...there will be required to be a certain level of proof. That doesn't mean that the judge can't determine that there is a significant disability that is not in the best interest of the child. Does that... [LB845]

SENATOR LARSON: Yeah, and I get that. I guess, part of the reason...that I have concerns; obviously...and I've talked to Senator Briese off the mike here, and I understand that...and I'm not even focusing so much on the physical disability side or I understand that's why it's part of why LB845 was brought. But I guess part of my concern is when we talk about custody issues, and I understand that judges will have discretion moving forward and the judges aren't going to place

Floor Debate  
March 27, 2018

---

the children in harm, but I do worry about...I mean, custody battles are not nice things, obviously, to go through, and if things can back up or move forward very quickly I worry that we are putting a specific parent, whichever side it may be, in a position to where they are going to have to go through extenuating...not extenuating, just significantly more in terms of legal costs to prove certain things in order to move forward and show that there is an issue here and that isn't in the child's best interest to be with that, because, I mean, there are times when a parent can barely look after themselves let alone a six-year-old, and to go through how many extra costs to get there. Do you see my concern in that instance? [LB845]

SENATOR EBKE: Yes. I can see your concern. I guess my experience on the Judiciary Committee and on custody battles from afar is that I agree with you that there are indeed...that they are indeed not nice things and that it is full of contention and generally somebody is always going to disagree about whether the other parent is adequately fit to parent. But what this bill seeks to do, I think, and Senator Briese can perhaps jump in here in a few minutes, what this bill seeks to do is ensure that somebody who is otherwise a good parent cannot be discriminated against... [LB845]

PRESIDENT FOLEY: One minute. [LB845]

SENATOR EBKE: ...on the basis of their disability. [LB845]

SENATOR LARSON: And I guess I'm not even disagreeing with the purpose...or I understand the concept. I understand what we're trying to get at, and I'm not saying it's a bad bill. I think...I just have concerns that we are putting more on specific parents that oftentimes a child should be...more or less should be with, and it's going to, I don't know, I guess I can't say it's going to cause more problems, but create more consternation and a lot more money being spent in an effort to fix something that in the end, I mean, I hear the argument that the judge will still have the discretion to do what's in the best interest of the child, even taking that disability into account, then what is the purpose of LB845? And I've had the discussion with you on fathers' rights... [LB845]

PRESIDENT FOLEY: Time, Senator. You may continue on your second opportunity. [LB845]

SENATOR LARSON: Thank you. ...and had this discussion, and I have no reason to complain with how the court system worked out, but I guess what is the necessary reasons for LB845 if we're still falling back on that the court has the ultimate discretion? And I can wait a second while you... [LB845]

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

Floor Debate  
March 27, 2018

---

SENATOR EBKE: I'm sorry, ask the question again, please. [LB845]

SENATOR LARSON: I guess, my question...if, as I said, I don't have any complaints on how the system has worked for me, and I'm sure others do, though, but if LB845...if the reason we're saying that the courts will still have the discretion, the judges will still have the discretion in the end to take the best interest of the child at heart, what is the point of LB845 moving forward if they can...if the disability is severe enough that they can take into account...are we just saying...I mean, by putting it in statute saying, well, they just can't...it doesn't...they can't take it into account before, but they still can take it into account? I guess I'm at a loss of what LB845 is for if they can still do what's in the best interest of the child, but it could raise the burden of proof for parents that... [LB845]

SENATOR EBKE: That should have the... [LB845]

SENATOR LARSON: That should have it. [LB845]

SENATOR EBKE: And that, again, is a subjective judgment. Right? Depending on where you stand. [LB845]

SENATOR LARSON: You're not wrong. [LB845]

SENATOR EBKE: I think that that's one of the problems that we run into when we talk about any of these custody or family law issues that both sides think that they're right and they're the best. And what we're trying to do is just...and Senator Briese, maybe you can pull Senator Briese into this, here in a minute since we're on your time. I mean, I think with the amendment what we're trying to do is make sure that everybody has an even-playing ground and that one is not discriminated against unduly. I don't know if I've addressed any of your questions or not. [LB845]

SENATOR LARSON: Yeah, kind of. [LB845]

SENATOR EBKE: Maybe. [LB845]

SENATOR LARSON: Maybe. And I guess...thank you, Senator Ebke. Colleagues, I guess that kind of boils down, and I'm sure this one isn't going to take a whole lot of discussion. And I talked to Senator Briese about this earlier. I'm not...usually when I get on the mike I'm rather to go against something, it's rather hostile, and I'm not trying to do that here, actually. I just have legitimate concerns of what the point is. And, like I said, I understand there are certain

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

Floor Debate  
March 27, 2018

---

individuals that may feel that way, and Senator Ebke is right in terms of everything is subjective to the point of view in which we have it. I mean, that's politics in a nutshell as well. I mean, everything is subjective to our point of view. But I do worry, and as I said, having some experience in this matter, that it could create bigger problems to a certain extent. And not so much on those with, you know, I guess, it's hard to distinguish between physical and mental disabilities, but in terms of proving the mental disabilities will become significantly harder in terms of justification that it will cause a drop in parenting and I guess moving forward I'm not going to filibuster LB845 by any means, it's not worth that. But I don't know if I can support it because I just...I talked to a few divorce attorneys today about the concept... [LB845]

PRESIDENT FOLEY: One minute. [LB845]

SENATOR LARSON: ...and none of them were overly thrilled about having their clients go through this extra work and proving these types of things. I doubt I'll support LB845 moving forward. I'm sure it will have the support of the body, though. Thank you, Mr. President. [LB845]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Briese. [LB845]

SENATOR BRIESE: Thank you, Mr. President. And thank you, Senator Larson, for your questions there and effort to parse through this and get to the bottom of it...great questions, great comments. I think the purpose of this bill, it really reaffirms our commitment to the disabled community. This bill essentially precludes an automatic presumption of unfitness due to a disability. It's intended to ensure fair custody proceedings. And there's a suggestion there that the burden of proof may be altered. But no, it doesn't raise the burden of proof in my view. The green copy would have had that effect, and you mentioned that a family law attorney was concerned about it, but they might have been looking at the green copy. That's what the folks in the bar association, the family law folks there, really objected to. The green copy did make some fairly substantive changes, procedural changes, I should say, that also impacted the burden of proof. And the...prior to this bill under current law, the inquiry centers on the best interest of the child, this amendment, this bill won't change that. The inquiry will continue to focus on what's the best interest of the child. Thank you, Mr. President. [LB845]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Groene. [LB845]

SENATOR GROENE: Thank you, Mr. President. I'm glad Senator Briese said read the amendment, because I just read the amendment quickly, so my questions are not pertinent, but I was going to ask Senator Briese a question. [LB845]

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

Floor Debate  
March 27, 2018

---

PRESIDENT FOLEY: Senator Briese, will you yield, please? [LB845]

SENATOR BRIESE: Sure. [LB845]

SENATOR GROENE: Who wrote the original bill or brought it to you? [LB845]

SENATOR BRIESE: We were approached by an advocacy group for the disabled, and there was initially...last year there was some form statutory language that had been proposed. We tweaked that. We tweaked it again, and then this current LB845 is a variation of that. But then, obviously, the amendment is a complete... [LB845]

SENATOR GROENE: A lot shorter. [LB845]

SENATOR BRIESE: ...turn around from what we were talking about. [LB845]

SENATOR GROENE: Pared down. [LB845]

SENATOR BRIESE: Yes, yes it is. And that was... [LB845]

SENATOR GROENE: I was just concerned about Section 1. I see more and more in some of the statutes that they're coming out of certain committees where the opening remarks of an attorney are put in as the first section: when I see individuals with disabilities continue to face unfair, preconceived, and unnecessary societal biases, antiquated attitudes, antiquated attitude society biases. I'm wondering what's that have to do with statutes? But you took that out. [LB845]

SENATOR BRIESE: Pardon. [LB845]

SENATOR GROENE: But you took that section out, did you not? [LB845]

SENATOR BRIESE: There is an abbreviated Section 1 on the amendment, just one paragraph. I think the green copy had multiple paragraphs relative to findings, and we purposely took that out, thought that was too much. We did leave in about five lines in the amendment, and I don't know if you have that amendment. [LB845]

SENATOR GROENE: As far as I'm looking at the bill, it's not even needed. The bill should start with Section 2 where it says: It is the intent of the Legislature to protect the best interest...put in terms like enjoying meaningful time and societal biases and antiquated attitudes just gives

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

Floor Debate  
March 27, 2018

---

ammunition...well, all I know is the person bringing a law case wouldn't have to write their opening remarks, it's been put in the statutes. Overall, I like the concept, and we need to protect. A disability shouldn't stop you from being a parent and being around your children, but I see too much of that. I'm not a lawyer. I'm a citizen and I'm wondering why we're having that kind of stuff written into laws. Thank you. [LB845]

PRESIDENT FOLEY: Thank you Senator Groene and Senator Briese. Seeing no further discussion, Senator Ebke, you're recognized to close on the committee amendment. She waives close. The question before the body is the adoption of the committee amendment, AM2353. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB845]

CLERK: 28 ayes, 0 nays on adoption of committee amendments. [LB845]

PRESIDENT FOLEY: Committee amendments are adopted. There is any further discussion on the bill as amended? Seeing none, Senator Briese, you're recognized to close on the advance of the bill. [LB845]

SENATOR BRIESE: Just briefly, I would ask your support on the bill. I think this is just proactive, commonsense legislation that, again, reaffirms our commitment to the disabled community. In response to Senator Groene's comments earlier, we had four paragraphs of introductory material in the initial one; we did pare that down to one paragraph thinking that was appropriate. But anyway, appreciate your support on this. Thank you, Mr. President. [LB845]

PRESIDENT FOLEY: Thank you, Senator Briese. Members, the question before the body is the advance of LB845 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB845]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB845]

PRESIDENT FOLEY: LB845 advances. Items for the record, please. [LB845]

CLERK: Your Committee on Retirement Systems reports LB548 to General File. Senator Friesen would like to print an amendment to LB994 and to LB909. (Amendment, AM2647, is on file and available in the Bill Room.) Mr. President, I have study resolutions, LR416-420. That's all that I have, thank you. (AM2685, Legislative Journal pages 1207-1211.) [LB548 LB994 LB909 LR416 LR417 LR418 LR419 LR420]



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

Floor Debate  
March 27, 2018

---

PRESIDENT FOLEY: Thank you, Mr. Clerk. We'll move on the agenda to General File, 2018 committee priority bills. Mr. Clerk.

CLERK: LB841 is a bill originally introduced by Senator Pansing Brooks. (Read title.) Introduced on January 4 of this year; referred to the Judiciary Committee. There are Judiciary Committee amendments pending, Mr. President. (AM2092, Legislative Journal page 816.) [LB841]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Pansing Brooks, you're recognized to open on LB841. [LB841]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Members of the body, I bring LB841 before you today to help ensure preparation, planning, and public safety in the event of a prison overcrowding emergency. By statute, as you have heard, Nebraska has a looming deadline on July 1, 2020. That is the date by which we have to get our prisons to 140 percent or below of designed capacity. If we are over 140 percent at that time, an overcrowding emergency shall be determined to exist and the Board of Parole shall immediately consider or reconsider committed offenders for suitability for accelerated release on parole until which time we are at operational capacity of 125 percent or below. In preparation for this process, we must ensure public safety and determine whether additional legislation or funding will be necessary. Therefore, I've introduced LB841 which directs the Nebraska Board of Parole and the Department of Corrections to implement an accelerated parole review process. To ensure public safety, the Department of Correctional Services and the Board of Parole shall submit to the Legislature a proposed plan on or before December 1, 2018, which describes the process of implementing the accelerated parole review process required by Nebraska Revised Statute 83-962. This proposal follows the recommendations laid out by the LR34 Department of Corrections, Special Investigative Oversight Committee that I chaired, and it also follows the recent LR127 special investigative report which says, quote: The Legislature, the Department of Corrections, and the Board of Parole should develop a framework for a response to a declaration of a correctional system overcrowding emergency. And, quote, the LR127 committee believes that the Board of Parole and parole administration should review the implications of an overcrowding emergency and should work with the Department of Correctional Services to determine the cost of such a situation and determine the type of inmates that might be impacted by such a situation, unquote. The numbers show that we need to plan ahead. According to the 2017 Inspector General's Report, Nebraska prison overcrowding rank is now in second place, trailing only Alabama. The average daily population of Nebraska's prison system is 5,343 inmates, and our total design capacity is 3,435 inmates, according to Corrections data, putting us above 155 percent of design capacity. LB605, which implemented a number of criminal justice reforms in 2015, moved us in the right direction, but has not, thus far, resulted in dramatic reduction in the overcrowding numbers that we must have. In fact, our prison population has

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

Floor Debate  
March 27, 2018

---

only decreased by 142 inmates since the passage of LB605. At this point, the trajectory isn't moving quickly enough. We must continue to monitor the progress of LB605, but we must also take action now. I have other proposals in this session on sentencing reform, and there's no question that the lack of programming and understaffing in our prisons has exacerbated our overcrowding crisis, but so have our policies on sentencing. While we continue to examine those necessary changes, we must take action now to ensure individuals are released back into the community in a way that keeps all our citizens safe should an overcrowding emergency become necessary. We need to look at all options available; work together with both branches of government to facilitate the looming gubernatorial declaration of an emergency. LB841 represents a commonsense approach to ensure we meet our statutory requirements in a safe, collaborative way. This bill is about the three Ps--preparation, planning, and public safety. I want to thank the LR127 members who signed on to be as bipartisan cosponsors of this bill, LB841. And with that I ask you to advance LB841 to General File. [LB841 LR127]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. As the clerk noted, there are amendments from the Judiciary Committee. Senator Ebke, you're recognized to open on the committee amendments. [LB841]

SENATOR EBKE: Thank you, Mr. President. Good afternoon colleagues. AM2092 to LB841 is a committee amendment that includes a package of bills related to the adult criminal justice system. The package included in AM2092 as advanced from the Judiciary Committee includes portions of nine bills that work to implement reforms, many of which were based on recommendations made by special committees of the Legislature tasked with oversight of our adult criminal justice system. Those bills included in AM2092 include the following: LB841 as amended, LB366, LB692 as amended, LB816 as amended, LB852 as amended, LB853 as amended, LB868, LB932, and LB1118. The bills included in AM2092 were determined by the committee to generally be noncontroversial as there was no opposition testimony received to most of the bills or they were heavily amended by the committee to address concerns that were voiced. Upon the advancement of LB841 as amended by AM2092, I sent to all members of the Legislature a comprehensive memorandum that laid out the provisions of each piece of the amendment, the relevant testimony received at public hearing, if any, and the adjustments made by the committee in advancing the bill. In sending that memorandum and a copy of the amendment to each of you, I also sent a copy to interested parties in the executive branch, including the Governor, the Director of the Department of Corrections, and the Chair of the Board of Parole. For the record, the bulk of the substance included in that memorandum is also included on the committee statement for LB841. In distributing the memorandum, my, and the committee's intent, was to assure each and every member of the body and the executive branch that transparency and collaboration would be the primary focus of the committee's priority legislation on improving the Nebraska Criminal Justice System. It is my belief that the best and maybe only way to ensure lasting success in the operation of our criminal justice system is for all

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

Floor Debate  
March 27, 2018

---

branches of Nebraska's government to work cooperatively. With that goal in mind, the committee released the package and the memo with the hope of obtaining constructive and collaborative feedback from all interested parties. During the month since the bill was advanced to General File, senators and Judiciary Committee staff have been working with representatives from the Governor's Policy Research Office, the director and staff from the Department of Correctional Services, staff from the Office of Parole Administration, the Inspector General for Corrections, and staff from the Ombudsman's Office. The discussions had throughout this process brought to light some reservations and concerns about different aspects of the bill as proposed in AM2092. And in keeping with the committee's promise to ensure that its priority legislation would be the result of collaboration and compromise, although various members of the committee strongly believe that some portions should be retained, the committee agreed to remove the portions of the bill that have been objected to and to which a compromise regarding language could not be reached. That being said, I am offering an amendment to the committee amendment that seeks to alleviate the concerns expressed by the administration where amended language was not sufficient to address concerns or clear up issues. Although I offer the amendment personally, a number of members of the Judiciary Committee have discussed the administration's concern and are in general agreement with my decision to offer AM2634 in the hopes of moving a clean bill that can be agreed upon by both the legislative and executive branches. And with that, Mr. President, I would like to move forward with my open on AM2634 to the committee amendment. [LB841 LB366 LB692 LB816 LB852 LB853 LB868 LB932 LB1118]

PRESIDENT FOLEY: Yes, please proceed, Senator, with the introduction of the next amendment. [LB841]

SENATOR EBKE: Thank you, Mr. President. AM2634 removes four bills from the original package, and maintains five, some of which have been amended. The bills removed in AM2634 include LB816, LB853, LB868, and LB1118. The bills retained in AM2634 include LB841, LB366, LB692, LB932, and an amended version of LB852. For ease of understanding the rationale behind the decisions to remove or amend these provisions, and in keeping with my promise to maintain transparency and collaboration throughout the process, I have distributed to you an updated memorandum that includes all of the information included in the original committee amendment, the changes made in AM2634, and a brief explanation for why certain parts of the original committee amendment were amended or removed. AM2634 to the standing committee amendments includes the following bills: LB841, LB366, LB692, LB932 and LB852. I will provide a very brief summary of each component part in turn. LB841 is the carrier legislation for the Judiciary Committee's priority package. LB841 would require the Department of Corrections to collaborate with the Board of Parole to develop policies and procedures that would operate in the event a Correctional system overcrowding emergency is ever declared or determined to exist. A recommendation that such a plan be developed has been twice made by special committees of the Nebraska Legislature, first in the report of the LR34 committee, and

Floor Debate  
March 27, 2018

---

most recently in the report of the LR127 committee, and twice by the Legislature's Inspector General of the Nebraska Correctional System. LB841 was introduced by Senator Pansing Brooks and was cosponsored by Senators Baker, Brewer, Ebke, Morfeld, and Senator Schumacher. LB841 saw no opposition testimony at hearing. LB366 is a carryover bill brought by Senator Halloran last year. The bill was brought at the request of Parole to change the name of the Office of Parole Administration to the Division of Parole Supervision and would place the division within the Board of Parole. LB366, essentially, amounts to cleanup legislation. No opposition testimony was received at the bill's public hearing. LB692 would require the Department of Correctional Services to complete a comprehensive analysis of its system-wide staffing needs and provide a report of that analysis to the Legislature by September 15, 2020. LB692 works to place in statute a recommendation made by both LR34 Committee and the LR127 Committee. The bill further recognizes the recommendation made by the department itself when it acknowledged the need to complete such an analysis, writing in the executive summary of its internal analysis of custody-staffing needs completed in 2016 that, quote, it is recommended that further analysis be performed in other job classifications and departments within each facility; central office and staff-training academy, unquote. The department did oppose LB692 as originally introduced, but amendments by the committee have addressed the basis for the department's objection. LB852 would make a couple of changes. First, it would adjust provisions of statute that currently allow the department and parole to allow an inmate to leave a facility for work release and would provide them express authority to allow an inmate under certain conditions to leave a facility to essentially participate in community provided programming and treatment. Furthermore, the amended version of the bill included in AM2634 would adjust the current statutory framework that allows for medical parole to be approved by the Board of Parole for those inmates determined by the board to be terminally ill or permanently incapacitated. The amended version of the bill included in AM2634 simply strikes that portion of the current statute that requires an inmate to be otherwise eligible for parole to ensure the board more discretion in utilizing medical parole when appropriate. Finally, LB932 would require the medical director for the Department of Correctional Services to establish a protocol to determine whether an inmate, soon to be released, should be prescribed and dispensed a medication-assisted treatment that could assist in reducing or eliminating the inmate's use of opioids upon release. Colleagues, as I mentioned, we have worked hard to ensure that the Judiciary Committee's priority legislation dealing with Corrections is the result of collaboration and cooperation between the Legislature and the agencies and experts working on a daily basis to ensure the success of the Correction system. And while the package is proposed in AM2634 to the committee amendments has been adjusted and certain proposals have been removed, I think it important to stress that the bills included are good. The five bills in this package move us forward by implementing a number of recommendations made by our own oversight committees, while also ensuring that we as legislators are able to work with the agencies affected and have a more complete picture of the state of our Corrections system in the future. I want to thank all of the senators who introduced legislation that was considered in this package, representatives from the Ombudsman's Office,

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

Floor Debate  
March 27, 2018

---

the Inspector General for Corrections, the director and staff for the Department of Corrections, the Chair and staff of the Board of Parole, and representatives from the Governor's Policy Research Office for their responsiveness and collaboration in putting this piece of legislation together. I also want to sincerely thank the senators on the Judiciary Committee and the senators on the LR127 Committee and other previous special committees of the Legislature for their effort and commitment in doing the hard work, but important work, of the Legislature's oversight and accountability function. It is through cooperation of all branches of government that we ensure the future success of our criminal justice system. For these reasons I ask for your green vote on AM2634, AM2092, and LB841. Thank you, Mr. President. [LB841 LB366 LB692 LB816 LB852 LB853 LB868 LB932 LB1118 LR127]

PRESIDENT FOLEY: Thank you, Senator Ebke. Debate is now open on LB841 and the pending amendment. Senator Chambers. [LB841]

SENATOR CHAMBERS: Thank you. Mr. President, I offered LB816, but before I discuss that, I would like to ask Senator Ebke a question if she would answer. [LB841 LB816]

PRESIDENT FOLEY: Senator Ebke, could you yield, please? [LB841]

SENATOR EBKE: Yes. [LB841]

SENATOR CHAMBERS: Senator Ebke, who heads up the PRO Office? [LB841]

SENATOR EBKE: Lauren Kintner. [LB841]

SENATOR CHAMBERS: Was she married to former Senator Kintner? [LB841]

SENATOR EBKE: I believe she was...or is. [LB841]

SENATOR CHAMBERS: And I had a great deal to do with his being bounced from the Legislature, didn't I? [LB841]

SENATOR EBKE: Yes. [LB841]

SENATOR CHAMBERS: And she is the one who objected to my bill, isn't that correct? [LB841]

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

Floor Debate  
March 27, 2018

---

SENATOR EBKE: I don't know if she specifically did, but a member of her staff expressed some concern. [LB841]

SENATOR CHAMBERS: And staff members usually reflect what the head of the office would want, isn't that correct? [LB841]

SENATOR EBKE: Oftentimes, yes. [LB841]

SENATOR CHAMBERS: Thank you. Members, I want you to know what's at play here. I told Senator Ebke I would not allow my bill to pull down the package that the Judiciary Committee offered. There are petty people in the Governor's Office working for the Governor, and I'm sure Ms. Kintner never got over the fact that her husband, who was bounced from the Legislature, was consistently under a drum beat by me, insisting that he not be allowed to stay here. He had used state facilities, one of these gadgets to carry on a masturbating session via Skype with a woman. The woman, for all we know, could have been a minor. He was not going to leave the Legislature. The Governor knew about it, but didn't say anything for an entire session because he wanted Kintner's vote. Kintner's lawyer then obtained delays by the commission that looks at and investigates misconduct by public officials. And what Kintner did violated the law. It was a crime. The Attorney General would not prosecute because he said, although it would be considered a crime, it occurred in Massachusetts, or wherever he carried on his activities, and such being the case it couldn't be prosecuted in Nebraska. But the crime consisted of his misusing the state property. And when the state property and he returned to the state, all of that was under the jurisdiction of the state. But the Attorney General and the Governor are as thick as thieves. And in a way, on one matter, they behaved as thieves. They misspent \$50,000-something to a known drug dealer overseas in India for drugs that never were delivered and they misspent those state fund. Not only did they misspend them, they did not follow the ordinary procedure for making purchases. No purchase order, no evidence of the things that needed to be there. And I had asked for...what do you call that that the state treasurer does, I meant the auditor does, is it called an audit? And for some reason he couldn't conduct an audit, but he said he'd make some study, but he audited Planned Parenthood. So all these "Repelicans" are in these things together. And I intend to have some more things to say on this bill. But I will add this, when I offered my bill it was very simple. There are investigators who are employed by the Corrections Department. They investigate crimes committed in the department. The Ombudsman's Office and I, for some time, felt that the Corrections Department should not investigate itself. [LB841]

PRESIDENT FOLEY: One minute. [LB841]

SENATOR CHAMBERS: It was made clear that if an upper echelon employee had done wrong, those investigations would terminate. So all this did was to transfer those people to the State

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

Floor Debate  
March 27, 2018

---

Patrol and the State Patrol would be in charge of investigations committed in the Corrections Department. Other amendments were added by the Judiciary Committee. And, apparently, those added amendments are what Mrs. Kintner objected to. As far as some things related to pensions, Senator Kolterman and I had worked some things out, but I'll have a chance to deal more with that later. Let what Mrs. Kintner agreed to go forward, and she rules this bill as the Governor rules Title X considerations. Thank you, Mr. President. [LB841]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Continuing discussion. Senator Howard. [LB841]

SENATOR HOWARD: Thank you, Mr. President. I rise in support of LB841, the Judiciary amendment, and Senator Ebke's amendment in large part because it includes my bill, LB932, which creates a discharge protocol in Corrections around medication-assisted therapy for individuals who are addicted to opioids. So you've heard on this floor, this year has really been an innovative year in Nebraska's fight against opioid addiction. And one of the pieces of the puzzle was really revolving around individuals in Corrections. They become addicted to opioids. They're discharged, and in Nebraska we have a dearth of substance abuse services and substance abuse providers. And so often, individuals end up "recidivising" or going back to a substance abuse diagnosis because of that. And so we wanted to look at different ways that other states are trying to prevent that type of recidivism and assist individuals who are struggling. And so one of the ways that states are doing this is by offering inmates who are about to be released the opportunity for a discharge protocol around medication-assisted therapy. It's commonly...you can get a long-acting shot, it's called naltrexone, sometimes called VIVITROL, but it lasts for about 30 days. It not only curbs your cravings, but it means that if you do take a drug during that time period, you won't be able to get high off of it. And so it really gives inmates, if they would like to take the opportunity to receive this injection, the opportunity to not have those cravings for at least a month while they find that substance abuse support that they need. So with that, Mr. President, I would urge the body's adoption of AM2634, AM2092 and LB841 and help me help us continue this fight against opioids in every corner in our state. Thank you, Mr. President. [LB841 LB932]

PRESIDENT FOLEY: Thank you, Senator Howard. Continuing discussion, Senator Krist. [LB841]

SENATOR KRIST: Thank you, Mr. President, and good afternoon, Nebraska. Again, I will echo some of the comments made by my Chair and I will say that it is good to live to fight another day in some ways. Jettisoning a couple of bills from this package has made it more palatable for PRO, and God knows that's what we're all about is making sure PRO is happy. But one of my bills that I am extremely disappointed in not reaching the package, I hope some or all of you

Floor Debate  
March 27, 2018

---

would support next year is LB1118, and it was removed. There was already a good deal of private money that was invested trying to make sure that these Coordinated Reentry Council would be successful. Now, I talked to you on the mike several times before about a bill that I introduced, and we all passed 48-0 or 48 in favor, 1 absent, that created an atmosphere whereby if you were qualified for Medicare and Medicaid, at basically CMS qualified before you went in and were incarcerated, we all know that that money cannot be used while you are incarcerated. But when it comes time for you to be released, if you go out the door and that was your only funding for a medical process or for drugs or for treatment, and you go out the door and you don't have insulin or you don't have your psychotropic drugs, or you don't have the things that are life sustaining, that you will probably put yourself back in a position...about 20 percent to 30 percent of those people put themselves back in a position where they recidivate. Two thousand fifteen. Two thousand fifteen. This is 2018, and that bill has still not been implemented. That law still has not been implemented. LB1118 is very similar to that in the fact that this Coordinated Reentry Council helps people stay on the straight and narrow, helps them achieve the goal of being a taxpaying citizen again, helps them across the board in terms of the coordinated council in the aspects. And I want to just read for you, one of the big reasons that the executive branch didn't like it, according to the folks that communicated with our legal counsel and with the Chair, is that there were a multitude of different folks involved. Wow. Stakeholders from three different branches of government, stakeholders from the private sector, financing from the private sector, too many people involved trying to make sure that these folks had an opportunity not to recidivate. The council would be comprised of the executive director of the commission, the director of Correctional Services, the Chair of the Board of Parole, the parole administrator, the Director of Behavioral Health, and the Division of Behavioral Health, Department of Health and Human Services, and eight members appointed by the Governor and approved by the Legislature, including an executive director of the State Community College Association, a business owner who employs formally incarcerated individuals on a regular basis, two individuals that were formerly incarcerated, one mental health and substance abuse professional, one social worker, a researcher in the field of criminal justice in the university or college of Nebraska, and one full-time officer or employee of the law enforcement agency. That is an inclusive list of people that can direct the reentry council, reduce the recidivism rate, and stop the darn swinging door for people to go back into the prison system. [LB841 LB1118]

PRESIDENT FOLEY: One minute. [LB841]

SENATOR KRIST: So what's wrong with that bill? Did it have the wrong name on it? Because you know what, no one came to testify in opposition. We didn't even get a letter from the executive branch in total; didn't cost anything, no opposition, everything was going to be in place to have the key players, the stakeholders come together. I don't get it. I would hope that you would support AM2634 and the underlying LB841 because the package by itself is strong. It



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

Floor Debate  
March 27, 2018

---

would have been stronger, in my opinion, if a few things would not have been removed, but they were. I had to voice my concern. Thank you, colleagues. [LB841]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Pansing Brooks. [LB841]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. And speaking of concerns, one of the bills that was removed is also my LB868. And, again, I would agree there were no opponents and it was pretty simple. LB868 made several, simple changes to remove the barriers to successful parole. First, LB868 directed the Nebraska Board of Parole to inform the Nebraska Department of Correctional Services within ten days when an individual has been denied parole based on a lack of programming and to provide recommendations on the programming or treatment in which the offender should participate in order to enhance his or her likelihood of release. This is just saying communicate with each other. Know what's missing with this offender and what they need to take in order to get them moved out and off of the state dime. Second, LB868 provides that the Department of Corrections initiate the recommended programming or obtain written statements from the offenders who refused to participate in the programming. We heard that some offenders refused to participate, so we want to know which ones are refusing to participate to figure out if that's where the log jam is. And, third, the department also provides...was to provide reports to the Inspector General of the Nebraska Correctional System on individuals who have been deferred by Parole for lack of programming, and whether the programming took place or any reasons why the programming was received or was denied. This helps us know what programming is available, what kind of logger jam we have for inmates to be able to get their programming to get them out of the system and safer back into our society. I brought this bill because too many inmates are being deferred when they come up for parole because they've not received the clinical programming the Board of Parole requires. Further, when these deferrals happen, the state is not acting in a "systemic" way to get these individuals into programming. The end result is that more people are staying in prison longer at taxpayer expense and then jamming out. I have all kinds of figures. I was prepared to show to you and numbers that I received from Parole to show how necessary this commonsense bill would be. Supposedly, they're already doing it; that's what I heard. But the numbers say otherwise. This bill is not an indictment of any agency or any person, but it does represent commonsense measures that should already be occurring. In fact, the LR127 committee's report in December said, quote, the Department of Correctional Services should continue to prioritize its efforts to provide adequate and timely programming opportunities to inmates to ensure they are appropriately prepared for reentry into the community and to ensure they are parole-ready to alleviate overcrowding. As of 2017, there were 967 parole-eligible inmates in our Nebraska prisons, and 263 inmates on wait lists for some sort of behavioral or mental health programming or treatment whose parole eligibility dates had already come to pass according to the LR127 report. Again, we need to put the reporting standards in place so we can help as a body. As a Legislature, we can help and work with the executive branch to accelerate the programming

Floor Debate  
March 27, 2018

---

needed so that, which is much less costly than keeping these inmates in prison. And with that I will defer the rest of my time to Senator Ebke. [LB841 LB868 LR127]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Ebke, one minute. [LB841]

SENATOR EBKE: Thank you, Mr. President. I don't plan to take all of that minute, but I do need to correct myself a little while ago or clarify. Senator Chambers asked about LB816. And certainly we were approached first by PRO in terms of their concern with it. However, I should note that I did have conversations with officers of the State Patrol out in the lobby a little bit earlier. Their concerns were...revolved mostly around kind of infrastructure, structural kind of things in process, and they are more than willing and they agreed to sit down with us over the summer to see if we can work out some solutions over the interim. So thank you, Mr. President. [LB841 LB816]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Chambers. [LB841]

SENATOR CHAMBERS: Mr. President, members of the Legislature, we don't need the permission of the State Patrol, PRO, or the Governor to bring legislation. I don't expect anybody to fight for me on anything. I have never asked anybody to do that. I accept whatever comes. I'm the other. I'm the outsider, and I know it, and that's why I'm stronger than everybody in here because I'm able to stand alone and I will continue to do it. But what I offered was legislation that was very straightforward, very simple. It was drafted in collaboration, myself and the Office of the Ombudsman, which is a division of the Legislature. The only ones who testified on the bill in favor of it, Deputy Ombudsman for Corrections, they have a deep understanding of this problem. A person who is a former investigator for the Department of Corrections who talked about the number of cases that they had that they could not possibly handle, the fact that when certain levels of employees may have been involved, the investigations could not go forward. And then of all groups, the Nebraska Fraternal Order of Police supported this bill. Then the Judiciary Committee amended it to say that...and I'm short-circuiting a lot of the verbiage, if a crime was committed against certain categories of persons, then there was probable cause to believe that it had been committed, the State Patrol would arrest such a person, remove that person from the Department of Corrections to the county jail where the offense would be...where jurisdiction would obtain. That immediately brought opposition from NACO and the counties; that was not in my bill. I'm going to read it in the record to show how simple and straightforward it was and nobody testified against it. I don't need to rush, because I have plenty of time and will offer motions to get the time because more is involved than just this bill, and I will not oppose the bill watered down, diluted, and having the approval of the Governor, the PLO, (sic-PRO) whoever they are; and the State Patrol...although nobody from the State Patrol talked to me. This is it: The Nebraska State Patrol is authorized to conduct investigations of any criminal activity

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

Floor Debate  
March 27, 2018

---

that takes place within any Correctional facility operated by the Department of Correctional Services. On the operative date of this act, the Nebraska State Patrol shall employ and have oversight over all Correctional investigators employed by the Department of Correctional Services. The Superintendent of Law Enforcement and Public Safety, which is head of the State Patrol, shall conduct a study and issue a report no later than July 1, 2019, regarding whether the positions of the Correctional investigators of the Department of Correctional Services that were transferred to the Nebraska State Patrol shall become sworn employees of the Patrol. The report shall be provided to the Governor and electronically to the Legislature with the superintendent's findings and recommendations no later than July 1, 2019. When the positions of Correctional investigators are transferred to the Nebraska State Patrol, all funds used by the Department of Correctional Services... [LB841]

PRESIDENT FOLEY: One minute. [LB841]

SENATOR CHAMBERS: ...for the administration of and salaries for Correctional investigators shall be transferred to the Patrol. That did nothing other than transfer these people and the funds that were used to pay their salaries. That's why nobody objected to it. I don't know why the Judiciary Committee added the language it did. But I did not object to it. I didn't know that it was carrying all that baggage. It should be called the Samsonite amendment. But I will turn my light on and continue. Thank you, Mr. President. [LB841]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator McCollister. [LB841]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. Criminal justice reform has been an interest of mine for over eight years. During my tenure at the Platte Institute, we initiated Right on Crime, which is a program that came out of the state of Texas and has been very successful in reducing the prison population in that state. That is a rare instance of the right and the left joining together with a common purpose. Who would have ever thought...have thought the Koch brothers and George Soros working together for a common purpose? Amazing. Well, LB605 was a great bill, although our prison populations have not dropped considerably. It became obvious to me that one of the big problems that we had with our prison situation was the lack of programming. So I developed a bill that we asked the prison system to develop, and the bill didn't proceed because they agreed to go ahead and develop that program where we would get month...or, I'm sorry, quarterly reports to know how the program was going. If you would like to get those reports, let me know. Continuing our program development in our criminal justice system is absolutely essential if we expect our prison populations to drop. I also think that parole reform is another instance where we can reduce our prison population. So many people we have in our prison systems now don't need to be there, don't need to be there. Perhaps they've aged out or perhaps they have some sickness, but there are

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

Floor Debate  
March 27, 2018

---

a lot of reasons that we could parole people and perhaps reduce some of our over...our situation that we have too many prisoners in the jails. So I would encourage your vote for LB841 and the amendments thereon. Thank you, Mr. President. [LB841]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Krist. [LB841]

SENATOR KRIST: I will be brief, and then I will yield the balance of my time to Senator Chambers. Everything in this bill, in LB841, everything in LB841 came out of LR424, LR34, and LR127. Every item that we identified as a critical decision point, every failure, every success in order to continue the successful path, everything came out of the studies that this Legislature and your predecessors put together over the last seven years. There isn't any new idea in here. There's a new implementation idea. But actually correcting it and keeping it corrected, it's all here. So my assessment of the situation is, no, we don't need the permission of anybody else outside this Chamber to do something, but when it comes to actually enacting, enabling, putting the policy and procedure in place and doing what we do, I think the example I used of my own bill in terms of restoring CMS qualification...certification is a great example of how they will wait you out--we will do that in our pace. And I think that drove a lot of the decisions in this particular bill. But once again, I will emphasize that the remainder of this bill in AM2634, which becomes LB841, is quality. It's a great piece of legislation and I thank Senator Ebke and her legal counsels for doing yeoman's work getting it to where it is. With that, I'll yield the balance of my time to Senator Chambers. [LB841 LR127]

PRESIDENT FOLEY: Thank you, Senator Krist. Three minutes, Senator Chambers. [LB841]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Krist. Who would expect domestic kitty cats to behave like a black panther? They do what they're able to do, and they must be given credit for what they did. I would support each one of those bills individually, which are left in this package, and I would support and will support the package. I'm not going to try to add my bill on Select File to this package. However, this is what I will tell my colleagues. It's along the line of my trying to lecture us about the separation of powers. The Governor has the power to veto, and that occurs after we enact legislation: All provisions of law having been complied with, the question is, shall the bill pass? And if the answer is, yes, based on the number of votes, it becomes enacted by the Legislature. The Governor can veto it. He can hold it for five days without doing anything and it becomes law without his signature. When he can veto bills before they're even enacted or acted upon, then he's given additional power. My bill should not have been added in the first place. All of you in this place know how much hostility the Governor has toward me. He stated it even before he got the office. He started it. He started it and he completes it, he tries to, by working through people here. Why do you think I attacked the

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

Floor Debate  
March 27, 2018

---

fact that the Lieutenant Governor is here when there are matters that relate to the Governor and there's a person the Governor enticed to run against one of our members? [LB841]

PRESIDENT FOLEY: One minute. [LB841]

SENATOR CHAMBERS: That person is putting on a political activity the Lieutenant Governor is going to attend. I was the one who spoke against it because I think it infringes on our domain as a Legislature. But I don't look for and I would suggest that nobody ever try to defend me. What critter is as powerful as a black panther? You mean to tell me a panther is going to ask a jackal to defend a panther? Okay, the panther (growling and snarling), and the jackal, yip-yip-yip-yip-yip. So what the panther said in panther language, (using a deep voice) Mr. Jackal, will you defend me? And the jackal says, (using a high voice) yip-yip-yip-yip-yip, to the extent that I can but I'm better at following you and eating the carrion that you get and running away from something bigger than me, but I'll help... [LB841]

PRESIDENT FOLEY: Time. [LB841]

SENATOR CHAMBERS: ...you to the extent I can. [LB841]

PRESIDENT FOLEY: Time, Senator Chambers. [LB841]

SENATOR CHAMBERS: Thank you, Mr. President. [LB841]

PRESIDENT FOLEY: But you may continue on your third opportunity. You may continue on your third opportunity. [LB841]

SENATOR CHAMBERS: Thank you, Mr. President. And I'm not referring to any of my colleagues as jackals. I use analogies. I use metaphors. This place is neither my life nor my wife. I spend a lot of time here because I voluntarily became a member of the Legislature. I believe in defending the integrity of an organization of which I voluntarily became a member. Although I have said the three branches are coequal, actually the Legislature enjoys paramountcy. We can withhold money from the Governor's Office. We can withhold money from the judicial branch, and they know it. But we're too afraid collectively to do it. So you will generally find in a Legislature nobody like me, but somebody who will stand up and speak for the Legislature, is expected to do so, and all of the rest of them sit down, swallow spit, and say, thank God that one will speak because I cannot, but what is being said needs to be said. So this bill that I'm offering addresses a serious problem in Corrections. There are crimes committed in the facility. Some of the crimes are committed by high-ranking people in the Department of Corrections. So the

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

Floor Debate  
March 27, 2018

---

Governor and the State Patrol said, let those crimes alone because we think it will be inconvenient. That's crazy. When Senator Kolterman indicated to me that there might be some matters that needed to be worked out relative to pensions, since these individuals who work for the Department of Corrections would become employees of the Patrol, not sworn officers. And I talked to Senator Kolterman and those things were addressed. But those are not the things that were mentioned in the memo that Senator Ebke gave us as being objected to. They probably would have been until it was discovered that they had already been addressed. So I am going to support what's left of the bill. How much time do I have, Mr. President? [LB841]

PRESIDENT FOLEY: 2:40. [LB841]

SENATOR CHAMBERS: And this is my third time, right? [LB841]

PRESIDENT FOLEY: Correct. [LB841]

SENATOR CHAMBERS: But then I can speak on the bill itself. Okay. [LB841]

PRESIDENT FOLEY: That's correct. [LB841]

SENATOR CHAMBERS: There was a parable. A rich man, tradition said his name was Dives, who fared sumptuously every day. And the dogs ate the crumbs off his table. There was a poor man named Lazarus and he ate the crumbs from the rich man's table. And they say the only dog named in the Bible was in that parable named Moreover, because it said, Moreover, the dogs licked Lazarus' wounds. Well, both of them died. The rich man went to hell and Lazarus went to the bosom of Abraham, whatever that means. And the rich man said, send Lazarus, if he can't dip the tip of his finger in some water and give it to me, at least let him go back and talk to my brothers so they won't come to this place. Fine. That's the story. Here's what I say. What's left are the crumbs that fell off the table, the crumbs that the dogs under the rich man's table will eat. They're never going to sit at the rich man's table. Which member of this Legislature will be invited to sit at the Governor's table? I don't mean when he's just throwing some little crumbs and bits and pieces out there to the senators, because he does it. I mean invite you to a social function at wherever he lives, which is not Nebraska. Based on filings he made with the federal government, he lives in Colorado. He's not going to invite any of you all there. So all you'll get... [LB841]

PRESIDENT FOLEY: One minute. [LB841]

Floor Debate  
March 27, 2018

---

SENATOR CHAMBERS: ...are the crumbs. And you have to accept those crumbs and be thankful. Well, I'm not a crumb snatcher. I'm not a crumb eater. I wouldn't sit down with the Governor if I were starving and he was the only one with food. I have something called pride. None of us is going to live forever. All of us are going to have a date with the grim reaper. And I might meet him quicker than the Governor or vice versa. But there will be nothing left of me when I croak, as will be the case with everybody else. While I am here all I, as a black man, really have is my pride and nobody will take that from me, nobody, under any circumstances. So I'll just battle here and whatever the results are, wherever the chips lie...fall, that's where they will lie. Thank you, Mr. President. [LB841]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Schumacher. [LB841]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. We're back at the prison issue. I spent quite a bit of time on two legislative special committees looking into all the issues that have been spoken about this afternoon, including one that hasn't been mentioned yet and one which I had an amendment to a bill that would try to address, and that's solitary confinement. We basically have far more than normal, far more than we should have, folks in what amount to a little larger than dog cages and dog runs. We struggled with several bills in the past to try to limit the use of solitary confinement, sometimes called restrictive housing, and to deal with it, much to no avail. Within the last year a young man sentenced to a, what I would call, a minor felony for a few years was put into a cell with somebody who was a murderer. And they didn't necessarily get along and he was murdered. Double-bunked, we tried to address that issue. Apparently addressing that issue was too controversial to put in this bill, and I understand it. And I, too, support the one small step for humanity that is being taken by this bill. But when institutions do not want to comply, it's really hard, unless you are really aggressive as a Legislature, to make them comply. And in a term limited Legislature, they will outlive you. We want to know what smaller government looks like? This is what smaller government looks like. These kind of issues under the specter of a federal judge ordering massive expenditures or cutting loose a bunch of people who probably shouldn't be cut loose, that's smaller government. Having a Governor in the previous administration basically tell, in no uncertain terms, administrators that they are to bring him zero cost options, and they did and it dug the hole deeper. No matter how good the administrators are, if they don't have the money to do their job, if they are told to be members of a team, you must not spend money or ask for less than what you need or come in with lower-cost options, they'll do that to protect their jobs. Very few have the integrity just to walk away from the mess. So this is what lower-cost, smaller government looks like. It looks like not meeting our responsibilities. It looks like maybe a big, big cost in the not too distant future. It looks like digging a hole that we will probably have to backfill. No, you will probably have to backfill. This is smaller government. This is apparently how we are going to run things in a world which we just absolutely are enamored with cutting taxes and have promised people who expect us to keep our promises that we will cut taxes. Thank you. [LB841]

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

Floor Debate  
March 27, 2018

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PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Ebke, you're recognized to close on AM2634. She waives closing. The question before the body is the adoption of AM2634. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB841]

CLERK: 37 ayes, 0 nays on the amendment to the amendment. [LB841]

PRESIDENT FOLEY: AM2634 is adopted. Mr. Clerk. [LB841]

CLERK: Mr. President, Senator Geist would move to amend with AM2697. (Legislative Journal page 1212.) [LB841]

PRESIDENT FOLEY: Senator Geist, you're recognized to open on AM2697. [LB841]

SENATOR GEIST: Thank you, Mr. President. AM2697 makes one small adjustment to AM2634. It makes a one-word change from "shall" to "may" in Section 20 to provide that the department may collaborate with community providers in working to establish community-based options for inmates to obtain needed treatment and programming. This minor adjustment is brought in an effort to ensure that the...ensure department flexibility in effecting the intent of the rest of the provision which provides...which operates to give the director the authority and discretion to utilize community-based treatment options when appropriate. With this adjustment, I'm confident that the intent of the legislation is retained and that the department is given the tools necessary to further its mission of providing programming and treatment to inmates to fully prepare them to return to communities as productive members of society. I ask for your green vote on AM2697. Thank you, Mr. President. [LB841]

PRESIDENT FOLEY: Thank you, Senator Geist. Debate is now open on the amendment. Senator Chambers. [LB841]

SENATOR CHAMBERS: Thank you, Mr. President. I oppose this amendment. Obviously, it is not the intent of the committee and those who have done the work in this area. If the department is not going to do what the Legislature says it shall do, you know they're not going to do what it says they may do. Once again, Senator Geist, a new person, doesn't know what's going on, does the dirty work for the department and the Governor. I will oppose it, and the bill should die if they change it to "may" because it's a hoax. But here is something I'm going to sing to myself. (Singing) "You always won every time you placed a bet. / You're still damn good, no one's gotten to you yet. / Every time they were sure they had you caught, / You were quicker than they thought. / You'd just turn your back and walk." You all recognize it? (Singing) "You always said



Floor Debate  
March 27, 2018

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the cards would never do you wrong. / The trick, you said, was never play the game too long. / A gambler's share, the only risk that you would take, / The only loss you could forsake, / The only bluff you couldn't fake." Then he has this chorus: You're still the same. / Caught up with you yesterday. / "Moving game to game, / No one standing in your way. / Turning on the charm / Long enough to get you by. / You're still the same. / You still aim high. / "There you stood, everybody watched you play. / I just turned and walked away. / I had nothing left to say / 'Cause you're still the same. / You're still the same, / Moving game to game. / Some things never change. / You're still the same." That's me. I'm going to recognize what I have going and regret that more of you don't, and it's shameful for the Governor, following the tactic of Senator Murante, take a new member who doesn't know anything about what we're talking about and try to undercut all of it, all of it! That's something a Stepford wife might do, mechanical, an android, program: Do it because I said do it. Then with that plastic smile: I will do this; yes, this is good. And then all of the people who have worked so hard have to swallow spit and take it. Well, if they can get in this arena, they're going to receive what those in this arena get. When you jump into the boxing ring, the last words you hear from the referee is protect yourself at all times. If you don't want to get hit, don't get in the ring and throw punches. There have been different groups of senators who have labored months and months over periods of years to get to where we are. Then somebody is going to try to undermine it all. It would be better that this bill die than turn it into a travesty. That fool, Frakes, has hired people at the Department of Corrections who were fired because of their wrongdoing under former Director Houston, and Frakes brought them back. That's the corruption going on over there. And you all sit on this floor and you think that those of us who work hard are going to take it because the rest of you cowards... [LB841]

PRESIDENT FOLEY: One minute. [LB841]

SENATOR CHAMBERS: ...will take it? Kill the bill! And if you take her amendment, I will kill the bill and I will spare you. When are you going to stand up and have some backbone? You didn't do the work. You won't do the work. You get on these committees and you're a rubber stamp. Frakes is the worst thing that happened to this state. A man under 24-hour surveillance gets a razor blade and cuts his throat; 24-hour surveillance, gets an employee's badge and mutilates himself; under 24-hour surveillance, gets an employee's keys and swallows them. That's the mess going on in this state, and you support the Governor and Frakes? You all are out of your minds. No, you're worse than that. If you were out of your mind you wouldn't be responsible for what you're doing. You are in full control of your senses... [LB841]

PRESIDENT FOLEY: Time, Senator. [LB841]

SENATOR CHAMBERS: ...but you have no guts. [LB841]

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

Floor Debate  
March 27, 2018

---

PRESIDENT FOLEY: Time, Senator. [LB841]

SENATOR CHAMBERS: Thank you, Mr. President. [LB841]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Bolz. [LB841]

SENATOR BOLZ: Thank you, Mr. President. This amendment references portions of LB852, which I introduced and am pleased that it was included in the committee's package. The bill, as introduced, would promote goal-specific community participation and provide that inmates may be allowed supervised participation in community-based evaluations or treatment, rehabilitative programming, or to seek employment or housing. The bill, which is also included in the committee bill, would promote the definition of programming permitted by the Parole administrator to include evidence-based peer and family support programs, and allow for medical parole release of terminally ill or permanently incapacitated committed offenders not sentenced to life imprisonment, regardless of parole eligibility. I appreciate Senator Chambers' passion for this issue and give him a lot of credit for the work that has been done over the years to push and force change. I do have a little bit of a different reading than Senator Chambers regarding the AM2697 amendment. If you look at the full section of language, the section begins by saying that, "When the conduct, behavior, mental attitude, and conditions indicate that a person committed to the department and the general society of the state will be benefited, and there is reason to believe that the best interests of the people of the state and the person committed to the department will be served thereby, in that order, and upon the recommendation of the board in the case of each committed offender, the director may authorize such a person, under prescribed conditions, to," and here is when we insert the new language: participate in substance abuse evaluation or treatment, attend rehabilitative programming or treatment, seek residency or employment, or participate in structured programming. The amendment changes the next piece, and the amendment would say, "The department may collaborate with community-based providers to enhance the availability of community-based options for such participation that meet the department's requirements for rehabilitative programming or treatment or structured programming." So in my reading of it, it is already under the director's discretion as to whether or not that person will allow individuals to participate in the substance abuse evaluations and treatment and to attend rehabilitative programming. So because that discretion is already there, I don't have opposition to the follow-through that the department may collaborate with community-based providers. I think it follows, and I do think that the department is already participating in such collaborations. And so I do think it is proactive legislation. It's legislation that we use to encourage and make sure that the department has every tool in their toolbox they need to ensure programming and address our overcrowding situation. So I consider this something that the Legislature is communicating to the department as something that they should be using and that we will hold them accountable if they are not using. So that is my perspective on the legislation. I do respect Senator Chambers, his expertise on these issues, even though I

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

Floor Debate  
March 27, 2018

---

have a different perspective on it. And so I will yield the remainder of my time to Senator Chambers and add that he may continue to sing more, if he chooses to do so, as well as any other comments that he would provide. Thank you, Mr. President. [LB841 LB852]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Chambers, one minute. [LB841]

SENATOR CHAMBERS: Thank you, Mr. President. And I would ask Senator Bolz, who's been so kind as to give me some time, a question. [LB841]

PRESIDENT FOLEY: Senator Bolz, would you yield, please? [LB841]

SENATOR BOLZ: Yes. [LB841]

SENATOR CHAMBERS: Senator Bolz, why was "shall" put there? [LB841]

SENATOR BOLZ: "Shall" was put there because it was my intention the...my...it was my intention that if we were to allow these things to happen that what would be necessary would be for those community-based providers to participate. So whether it's "may" or "shall" is not as important to me, because that will be a necessity of the utilization of the new permissive language that we are giving the department under this statute. [LB841]

SENATOR CHAMBERS: Thank you. That's all I will ask you at this point. Mr. President, I thought that we were getting a little more realistic, toughening up things a little bit by saying you shall, and then let them put in our face, and maybe some other than myself will have the backbone to stand up and say it was a directive from the Legislature. If you all are going to put "may" in it, get rid of all of it. As you point out, he may do any of these things now. [LB841]

PRESIDENT FOLEY: Time, Senator. [LB841]

SENATOR CHAMBERS: Thank you, Mr. President. [LB841]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Krist. [LB841]

SENATOR KRIST: That was a deliberate amendment to put the word "shall" in that particular portion of this bill. I stand in strong opposition to AM2697. And when Senator Geist has been here for ten years or eight years, as she will probably, she can stand up here as a subject matter expert and say, I've tried to make changes but I said you can do it if you want to, time and time

Floor Debate  
March 27, 2018

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again. As Senator Bolz highlighted, that section says if the director...he may do this, but if he does may do this, he shall, he shall use the community-based services. Because, Senator Geist and others and anybody who's listening at home, the thing is years ago when we did away with the regional centers and we've condemned our prisons to become behavioral mental health and substance abuse psych wards across the state, we allowed that community-based services would be the alternative. We allowed that that would happen. We were hoping it would happen. It may happen. This word "shall" is very important at this particular juncture in my political career here in this Legislature. I refer to Black's Dictionary. May: To be permitted to. In other words, the plaintiff may close. You can close here in the Legislature or, you know what, you can waive it. That's a "may." That's a "may" statement. You shall, according to Black's Law Dictionary: has a duty to; more broadly, is required to. There's a whole bunch of difference in those two words. And we've already given the director the option to may, he may do something. But once he does it, he shall use those community-based services. Water it down. I'm like Senator Chambers. Okay, the cobras come out. If you...if you're going to water the whole thing down, all the work we've done in LR424, LR34 and LR127, fine, water it down. Kill the whole thing. If you can't stand up here and say the most...the three most important things we do in this Legislature is appropriate, legislate, and apply oversight, which this is, then go find another job. Go find someplace else to take up your time. The reason "shall" is in there is very, very clear. Once you may, once you decide to do this, Mr. Director, then you shall use those services that are available to you. I don't know what we're doing. I mean, it seems to me like a voice from beyond the glass is saying, as Senator Chambers said earlier, water it down; make sure I'm not held accountable. Senator Pansing Brooks talked a few minutes ago about trying to develop a ledger. Why is that person who is coming to the Parole Board not prepared to be paroled? Why is he there, he or she? What services are we missing? Can we put some emphasis on it? Can we look at these processes and can we make sure these people are ready to be paroled and not waste our time and, by the way, eliminate the overcrowding situation in our jails and prison system? AM2697 is a bad, bad change. There have been very learned people, legal counsels and other people, who have agreed that that word means something. Please vote against AM2697 and vote for LB841 unamended. Thank you. [LB841 LR127]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Morfeld. [LB841]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I rise in opposition to AM2697. It's been interesting. I served on the prison investigative committee my first one or two years here, and I found the thing that was...well, the thing that I found most fascinating in being a new legislator and serving on that committee is how often our laws are actually ignored by the administration. And so it's kind of this conundrum of mine that I'm going through right now in terms of whether or not I would support or oppose this amendment, because, quite frankly, sometimes it doesn't matter. And that's the sad part. That's why we're in the mess that we're in, in

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

Floor Debate  
March 27, 2018

---

many cases, and on other cases it's because we have starved the system of funding. Would Senator Bolz yield to a question? [LB841]

PRESIDENT FOLEY: Senator Bolz, will you yield, please? [LB841]

SENATOR BOLZ: Yes, I will. [LB841]

SENATOR MORFELD: Senator Bolz, as I understand this correctly, this amendment affects your part of the legislation? [LB841]

SENATOR BOLZ: That's right. [LB841]

SENATOR MORFELD: Okay. Did the administration or Department of Corrections come and talk to you about this at any point in time? [LB841]

SENATOR BOLZ: The information that I received came from the office of the committee Chair. And not being on the committee, it was my understanding that it was a part of the negotiations that were happening within the committee to make sure that the full package went forward, just like some of the other pieces that were originally in the legislation were pulled back. It was my understanding that this was something that was necessary to achieve collaboration and compromise. [LB841]

SENATOR MORFELD: Okay. Thank you, Senator. Colleagues, if this is something that the department is already able to do but yet the Legislature wants the department to do this because it's not currently always being done in certain circumstances, then there's no point in passing this piece of the legislation if we just put it to "may" in many cases. Now, Senator Bolz did make a good argument earlier that it's likely that they would do this if they implemented the other part...pieces of the legislation, but the bottom line is, is that when we pass laws, very rarely, in my opinion, should it be permissive because then what's the point of passing the law? It doesn't make any sense. The bottom line is, is that we have serious issues in Department of Corrections, and we have serious issues with many of these inmates going back into the community without the resources and supports that they need. And it shouldn't be "may." It should be "shall." I oppose AM2697 and I urge you to as well. Thank you. [LB841]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Blood. [LB841]

SENATOR BLOOD: Thank you, Mr. President. I would ask that Senator Geist yield to a question, please. [LB841]

Floor Debate  
March 27, 2018

---

PRESIDENT FOLEY: Senator Geist, would you yield, please? [LB841]

SENATOR BLOOD: Senator Geist still on the floor? [LB841]

PRESIDENT FOLEY: Senator Geist, would you yield to a question? [LB841]

SENATOR BLOOD: While she's walking down here, I'd just like to remind other senators that I think I'm the only senator on this floor that's actually ever worked in the prison system, and I did work maximum security. And I can tell you that this is not a new issue and that a lot of people worked really hard to put together a really good bill. With that, I'd ask Senator Geist, Senator Geist, knowing that you brought this amendment forward on your own, the question I would ask is that when you looked at this language, in your head did you think it was imperative, optional, or mandatory? [LB841]

SENATOR GEIST: Well, first, Senator, I will let you know I brought this in collaboration. It's not on my own. [LB841]

SENATOR BLOOD: Okay. [LB841]

SENATOR GEIST: And would you...was it imperative or whatever? [LB841]

SENATOR BLOOD: Imperative, optional, or mandatory. When you read that language and thought you would bring forward this amendment, that I forgot to mention that I do stand against, was your intent for it to be imperative, optional, or mandatory to change the language? [LB841]

SENATOR GEIST: Optional. [LB841]

SENATOR BLOOD: Optional. Okay. So you don't feel that it's of vital importance, and that's why you want to take out the word "shall"? [LB841]

SENATOR GEIST: No, I do feel that it is of vital importance. [LB841]

SENATOR BLOOD: And my question for you would be what...when you brought this amendment forward and spoke with Senator Ebke, what was her response prior to bringing it forward? [LB841]

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

Floor Debate  
March 27, 2018

---

SENATOR GEIST: I actually received this from Senator Ebke and her committee counsel. [LB841]

SENATOR BLOOD: So Senator Ebke is choosing to change the word from "shall" to "may". Okay. And so Senator Pansing Brooks, when you brought it forward to her, what was her response? [LB841]

SENATOR GEIST: Myself? [LB841]

SENATOR BLOOD: Yes. [LB841]

SENATOR GEIST: I did not bring this forward to Senator Pansing Brooks. [LB841]

SENATOR BLOOD: You knowing that this was her bill, you did not bring it forward? [LB841]

SENATOR GEIST: I did not. [LB841]

SENATOR BLOOD: Okay. Thank you for answering those questions. Friends, I'm not sure why Senator Ebke did this, and I'm actually quite disappointed, because I think of her as a very hard worker and very pro changing what's going on in the prison system right now. I think when we start dillydallying around with the language and we have clear intent to change things, the word "shall" needs to stay in the language. I am clearly not an attorney, but I do know the difference between "shall" and "may," as everybody on this floor should. And I think when we start changing this, that it's a path that takes us back to the past. Either we want things done or we don't. If we want things done, the word "shall" needs to stay in. If it's optional and we don't really care and we just kind of hope it gets done, let's change it to the word "may." With that, I would yield any additional time to Senator Pansing Brooks, if she's still here. [LB841]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Pansing Brooks, 1:50 if you're available. She waives it off. Thank you, Senator Blood. [LB841]

SENATOR BLOOD: All right. [LB841]

PRESIDENT FOLEY: Senator Chambers, you're recognized. [LB841]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I have spent many hours, many days, many weeks, many months, many years. Do you know who broke up the racial

Floor Debate  
March 27, 2018

---

segregation in Nebraska's prisons? When I came here the prisons were segregated, out there where the men are and out in York where the women are, and I was responsible for doing away with the segregation. You all can't say that. You don't even care. I was the one who got a pool table for the women at York, got books for them. The first one to get law books for the men's penitentiary, I did it. Then I'm going to stand here and watch some neophytes or those running for reelection throw it away. I'm not like Kipling. If you can stand to see the things you worked for broken and stoop and build them up again with worn-out tools, I'm not going to stand and watch it complacently. I will kill the bill first. Some people know what the term "scuttle" means. I'd like to ask Senator Brewer a question, if he's of mind to answer. [LB841]

PRESIDENT FOLEY: Senator Brewer, would you yield, please? [LB841]

SENATOR BREWER: Yes, sir. [LB841]

SENATOR CHAMBERS: Senator Brewer, are you familiar in a military setting with the term "scuttle" when it pertains to a ship? [LB841]

SENATOR BREWER: I am. [LB841]

SENATOR CHAMBERS: And what does it mean? [LB841]

SENATOR BREWER: It would mean that you would purposely sink the ship to usually prevent it from being used by the enemy or to block someone's path. [LB841]

SENATOR CHAMBERS: Thank you. Members, I will scuttle this bill, and I will scuttle the rest of the session. I know there are people trying to work on Title X. I don't give a care. And I'm going to start tonight. I'm going to start tonight with the consent calendar. I am fed up. I agreed, when Senator Ebke came to me trying to explain why my portion of this bill had to be withdrawn, and I cut her off. I said you don't have to justify yourself to me. You don't have to justify the committee. I'm aware of the problem. I will take mine out. They're not strong like me. I don't expect them to be. They have to get what they can. When you deal with Corrections you're dealing with a very "incalcitrant" group of people, a director who is incompetent, backed by a Governor who couldn't care less. Thank goodness for ACLU filing their lawsuit, and what we're doing here today will help give them additional grist for their mill. Nothing is to be done of consequence without the Governor's approval. With whom was the committee negotiating? The Governor and PRO, to get their permission. Well, when your enemy gives you permission to do something, it's clear that what you're getting is nothing. I'm not benefited by killing this bill. It makes me no difference. It's nothing. But when something is put into the bill that makes it an



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

Floor Debate  
March 27, 2018

---

actual negative, then the whole thing has to go. The whole thing has to go and I'll scuttle it. Tell me you don't believe I will. Challenge me. But I don't need any challenge. [LB841]

PRESIDENT FOLEY: One minute. [LB841]

SENATOR CHAMBERS: Now, I told you if I make a promise, the promise being made must be kept. When we get whatever time, 8:00 or whatever time, when we get to this consent calendar, I'm going to take every bill its full 15 minutes. All I have to do is put a kill motion on it, and then after 15 minutes it automatically gets a vote. Then we come to the next one. And it will be over and over and over. And I hope you all think I cannot do it or I will not do it. You crossed a line and there's no backing up over it. This bill is not worth the paper it's written on. They are showing us what went into putting it together. You should have left well enough alone. Don't show me what you've done. Don't show me that you've been a party to undercutting this bill and the work we've done in trying to do something in Corrections. You can look at the committees that were developed after some of us had been there. Frakes wouldn't even show up when he knew I was going to be at a hearing, and he was protected. [LB841]

PRESIDENT FOLEY: Time, Senator. [LB841]

SENATOR CHAMBERS: Thank you, Mr. President. [LB841]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Ebke. [LB841]

SENATOR EBKE: Thank you, Mr. President. I feel compelled to tell the rest of the story. The goal that the committee had, or at least I had, was to move the needle. We believed that something needed to be done with respect to Corrections. We knew that in a politically charged environment that it was going to be tough to get something done with Corrections. And so, as you recall, in the sheet, the handout that I gave you, there were nine bills that were originally in this package. We still have five bills in this package. Okay? We reached out on a number of occasions to PRO, Department of Corrections, the Ombudsman's Office. We tried to include everybody that we could. We were not 100 percent successful in some instances. We missed a few people. We didn't contact the State Patrol directly; hence, the LB816. Perhaps if we had contacted them more directly, we would have been able to work something out on that. We believed, as of yesterday afternoon, that we had an agreement on LB...or on AM2634, which you've now approved and which is now the committee amendment, AM2092. Last night when LB841 showed up on the schedule, my legal counsel was contacted by the Governor's PRO Office, the person who was working this bill, and they brought to our attention their concern with Section 20 in AM2634, the portion that is Senator Bolz's bill. And their concern was the "may" versus "shall." It's my understanding that there is a memo of some sort, a cheat sheet if you will,

Floor Debate  
March 27, 2018

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that tells people that if this amendment passes that the bill is okay to go, and if the amendment doesn't pass that it's not okay and that they should fight the underlying bill. It was my decision that we should go ahead and introduce the "may"...or the "shall" to "may" in an effort to get something rather than get absolutely nothing out of the committee package. I thought that having five bills largely intact was a better option than having no bills dealing with Corrections at all. So, to the extent that I have somehow offended my colleagues, I apologize, and it is my goal to get something done. This was not an easy process. We've got a lot of things going on this year. Policy Research Office has been busy. We've been busy in the Judiciary Committee, and we reached out at every effort to try to get them to talk with us. We wanted this to be collaborative and we wanted to actually make some progress. So with that, Mr. President, I thank you. I think I've vented. I've let everybody know where we stand. We brought this, we brought the amendment. We brought the introduction to Senator Geist as a way of showing our good faith and as a way for folks to understand that this was actually...that this was actually okay and as a signal. So thank you. [LB841 LB816]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Chambers, you're recognized. This is your third opportunity. [LB841]

SENATOR CHAMBERS: Mr. President, do people know what pouring gasoline on a fire means? You all are playing. I'm not playing. I am serious. That's why I spent all those hours studying Corrections, working. When I was on a committee, I was always reserved for last so everybody could get their pity pats out of the way or however they were going to do it, and I was the enforcer because I would ask the hard questions. And I was willing to do it because we were cooperating and each member of the committee contributed his or her part to it. But when we have something that's going to gut it...maybe Senator Ebke has got to get along with the Governor. I couldn't care less. I don't have any respect for that Governor. He cannot make me do anything. Let him try to threaten me. You let the State Patrol try to threaten me, anybody. You all entertained a challenge to my residency when the committee never should have done it, because you have all the documentation to know that I live where I live. But the Republican Party underwrote it and they called that the nuclear piece that was going to get me out of the Legislature. This was done by the Republican Party. The Governor has, as his address on a federal filing, someplace in Colorado. Why don't you challenge that? Because you're all white and you're all in it together and you're afraid of him. I'm so sick of the cowardice that I do here. I have contempt. I should not even be here. But I'm going to punish you by staying here. You cannot get rid of me. And you're going to listen to me whether you like it or not. And if you don't like it, you ought to be man enough to stand up to me here or anyplace else and tell me. Instead, you creep around like little mice, little lemmings, little moles and whisper, go to your little drinking parties, grumble. That's what you do. You don't know the manner of man you're dealing with. I'm a nice, elderly gentleman when you let me. But you be sure you know what you're doing when you challenge me. This body, after what I said about the Lieutenant Governor being

Floor Debate  
March 27, 2018

---

up there, should have taken some action. Yes, the constitution says he presides, but there are some things where common sense ought to prevail. There should be an avoidance of even the appearance of impropriety. And what could be more improper in appearance than the Lieutenant Governor presiding over the Legislature when he has declared a position in support of one running against a member of the Legislature? What could be more improper? But I'm not going to beat that dead horse to death. You all don't care. I've expressed what I feel about it. And I've expressed what I feel about this bill. I didn't know about the kind of cravenness that was in play that produced what's here now. I still will not offer my bill as a part of it. I wouldn't want it to be associated with what this thing actually is. Frakes will not do what we tell him you shall do, because the Governor tells him he doesn't have to. And the Legislature can't fire him. Only the Governor can, and the Governor will not. And he uses Frakes as a stick to beat the Legislature with, and you all are afraid to stand up. You have no backbone. You have no pride. Whitney Houston sang a song that you all ought to listen to. Learning to love yourself, that's the greatest love of all. Don't walk in somebody else's shadow. [LB841]

PRESIDENT FOLEY: One minute. [LB841]

SENATOR CHAMBERS: Be your own person. But you can't. When you have walked in a stoop all of your life, you're incapable of standing straight up. When you are accustomed to lowering your eyes because you're too cowardly to hold eye contact with another human being, you will never be able to do it. But I'm here, and you're going to know that I'm here. And when I no longer am here, they'll know that I was here. Thank you, Mr. President. [LB841]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Schumacher. [LB841]

SENATOR SCHUMACHER: Thank you, Mr. President. Will Senator Ebke yield to a question? [LB841]

PRESIDENT FOLEY: Senator Ebke, would you yield, please? [LB841]

SENATOR EBKE: Yes. [LB841]

SENATOR SCHUMACHER: Thank you, Senator Ebke. Senator Ebke, you described a memo or something that was circulated that contained certain instructions with regard to the fate of this bill. Could you tell us about that memo and who authored it? [LB841]

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

Floor Debate  
March 27, 2018

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SENATOR EBKE: Yeah. I haven't seen the memo. I heard about it just sort of in conversation. So this was...this was what I heard. I do not know for a fact. I haven't seen it. But that was what I was told. Yeah. [LB841]

SENATOR SCHUMACHER: And who's under...who wrote that memo or where did it come from? What's your understanding of that? [LB841]

SENATOR EBKE: My understanding is that it may have originated in the Governor's Office in some way or with the PRO. But, like I said, I don't...can't say that I've seen it. [LB841]

SENATOR SCHUMACHER: We recognize that you may be relaying hearsay to us. And the contents of this memo as you understand it? [LB841]

SENATOR EBKE: As I understand it, as I understood it as it was related to me, that there were some bullet points in terms of the way that it should be...that the system should be...that this bill should be approached; that if my amendment, AM2634, was adopted, that was good; that if another amendment that changed the "shall" to "may" was adopted, that that was good. If those weren't adopted, that the bill as it stands was to be opposed, with the Judiciary Committee amendment alone. Again, hearsay. [LB841]

SENATOR SCHUMACHER: Thank you, Senator Ebke. Best we can go on is hearsay right now, and I guess we've taken the position in the past that hearsay is okay to go on when it's the best that you have. The cookie that Senator Pansing Brooks gave me almost put me to sleep. I don't know what was in that. But what woke me up was the mention of this memo. We are the Legislature of the state of Nebraska. We are independent. We are designed to be the superior branch of government. And we are, in a state of duty with the constitution, to pass laws and to see that the executive branch administers those laws. This kind of intrusion, this kind of directives coming into this Chamber from the branch of government that we are supposed to be the ones controlling is abhorrent. I don't care how little a difference the "may" and "shall" may or may not make, but when the instruction is that something that's supposedly a minor, little technical change carries with it the mandate that the bill die if it isn't made seems to be nothing more than an attempt to show authority, an attempt to march the troops, an attempt to usurp power. We cannot, we should not,... [LB841]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB841]

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

Floor Debate  
March 27, 2018

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SENATOR SCHUMACHER: ...and, to the extent we can, we will not yield the authority placed in us by the constitution of this state. This may be the most meaningless word change that we'll hear all year. I don't know. But it has been made extremely meaningful by the command that has been issued that, but for the change of these words, this bill shall die. So maybe it's a sword that somebody is going to have to fall on. Thank you. [LB841]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Geist, you're recognized. [LB841]

SENATOR GEIST: Thank you, Mr. Speaker. And I want to clear this up, for one thing, and so, Senator Schumacher, you might want to hear this. I was never given that directive. I was asked by Senator Ebke's office to take this amendment. It had nothing to do with the Governor. It had nothing to do with PRO. It had to do with me helping them in order to move this bill forward. I am not coordinating with anyone else. Now, I'm sorry I brought this amendment to help them and, therefore, will pull this amendment, and I'm still voting for the bill. So there's no directive here, so that's wrong information. It has nothing to do with my amendment. So I withdraw my bill (sic--amendment). [LB841]

SPEAKER SCHEER: Thank you, Senator Geist. Returning back to AM2092. Senator Chambers, you're recognized. [LB841]

SENATOR CHAMBERS: Thank you. Mr. President, we've gone through a lot. Which time is this for me to speak on this particular amendment? [LB841]

SPEAKER SCHEER: Let me check, just one moment. We believe this is your first. [LB841]

SENATOR CHAMBERS: Thank you. I'd like to ask Senator Geist a question, if she's still here. [LB841]

SPEAKER SCHEER: Senator Geist, would you please yield? [LB841]

SENATOR GEIST: I am here and I will answer. [LB841]

SENATOR CHAMBERS: And, Senator Geist, this is for the purpose of the record, because outsiders don't know. Are you a member of the Judiciary Committee? [LB841]

SENATOR GEIST: I am not. [LB841]

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

Floor Debate  
March 27, 2018

---

SENATOR CHAMBERS: Did anybody tell you why they wanted you to offer it rather than a member of the committee? [LB841]

SENATOR GEIST: Because I am a member of the LR127 Committee. [LB841 LR127]

SENATOR CHAMBERS: And that does what? [LB841]

SENATOR GEIST: That was the committee that convened this summer and visited the prisons and did oversight. [LB841]

SENATOR CHAMBERS: Okay. Thank you. Members of the Legislature, those of us who have been here know better. I'd like to ask Senator Ebke a question or two. [LB841]

SPEAKER SCHEER: Senator Ebke, would you please yield? [LB841]

SENATOR EBKE: Yes. [LB841]

SENATOR CHAMBERS: Senator Ebke, did I make a request that LB816, which is my bill, be included in any package? [LB841 LB816]

SENATOR EBKE: I don't believe you actually made a request. [LB841]

SENATOR CHAMBERS: And when that action was taken, I don't think I was even at the committee for that to be done. [LB841]

SENATOR EBKE: I believe that's true. [LB841]

SENATOR CHAMBERS: So it's not where I was pounding on the door saying, give me a vehicle to carry my bill. I have not tried to pressure the committee on anything that I put before the committee while you've been Chair. Is that true or false? [LB841]

SENATOR EBKE: That's true. [LB841]

SENATOR CHAMBERS: Thank you. Members of the Legislature, this is not somebody speaking from hurt feelings. I don't have feelings when it comes to things like that. I'm looking at the integrity of our system, and we need to know everything that goes into behind-the-scenes

Floor Debate  
March 27, 2018

---

activity that will bring something to us when that something is controversial and there are questions raised about it. I will not ask Senator Ebke questions that might be embarrassing because that's not my intent, but I agree wholeheartedly with what Senator--I call him "Professor"--Schumacher stated. While I'm here I'm going to do everything I can to withstand actions by outsiders, meaning those outside the Legislature, to control this Legislature. You all will have the votes and you can do it anyway. But I will not be in that number. I have said on occasion, speaking of the Legislature, if for this once a flock of sheep could behave like a pride of lions. When you show yourself easily whipped you are most often whipped. That was a principle during the time of slavery. The slave most easily whipped was most often whipped. But because slaves were property and had a monetary value, if a slave stood up for himself the supervisor would leave him alone because that slave would take a whipping rather than have what shred of dignity and humanity he had left. He would say, you can kill me but you cannot make me submit. And they dared not kill him because he was worth money. And there are some of us who are black who feel that way today. No white man can cow me. There are too many black men and women who risk death just so we could register to vote, let alone vote,... [LB841]

SPEAKER SCHEER: One minute. [LB841]

SENATOR CHAMBERS: ...trying to make something better for us who came after them. And I'd stand on the floor of this Legislature and swallow spit and go along with some bald-headed white man who can intimidate these white people and he's going to intimidate me? He'd better leave me alone because I can deal with him in a way that nobody else has before, and I don't mean I'd kill him. I don't think even he should be killed. Killing is too good for him. But even if I said that, I'm immune to prosecution or anything criminal or civil. But if I have something to say to somebody, I'll say it not when I'm under any kind of immunity, and I'll say it where...to him where he can get his hands on me, if that's what he wants to do. And he might whip me. I don't know. But I know I'll do the best I can to keep that from happening. Thank you, Mr. President. [LB841]

SPEAKER SCHEER: Thank you, Senator Chambers, and you are next in the queue. [LB841]

SENATOR CHAMBERS: I cannot ask the Speaker a question because he's in the Chair, but here was the question I would pose. If we go to consent calendar and there's time left, then we come back to this mess, there's no incentive for us to hurry up and get through and go to consent calendar, is there? We may as well stay here till 8:00 and then go to consent calendar. There has to be an incentive. I understand incentives. The incentive should be...well, I won't tell you. It's not my job to give advice. But whatever the rule is that is put in play, that's the rule according to which I will play because I'm in this game. The rest of you can be run off, but not me. I could be the only one in this Chamber, because there are other people listening outside this Chamber who

Floor Debate  
March 27, 2018

---

are sane, who understand and know what a political body ought to be, but it never is because it's populated by cowards, and they're happy to see somebody who is not a coward, who will say things publicly that they wish they could say, who will stand up in the way they wish they could stand up. And even if they were here, they acknowledge they couldn't stand like they should, but they wouldn't try to hinder somebody who would stand up. But I know that being in this office is the be-all and end-all for a lot of people. It's the only thing that ever happened to them in their life that made them feel like somebody. So when being here, in and of itself, is the goal in life, then you do whatever it takes to stay here. You'll swallow spit. You'll let them insult you. You'll let them ridicule you. You'll let them embarrass you. And you're too afraid to stand up and say, I am a man, or, I am a woman; you will respect me, and if you don't you'll get from me what you try to put on me. Those people wouldn't all be crowded in that lobby if this Legislature were full of people like me. They wouldn't dare. They wouldn't want to come within 50 feet of this place. But they can send a note in and you go trotting out there like a little puppy dog. Then you come back in here and try to do what they told you to do. And that's why they treat you like that. You think those people in the lobby respect you? When do they have you around? When do they have a function inviting you all when it's for you all? They have friends. They have social gatherings. Are you all ever invited? Guess who came to dinner? I don't know but I can guess. I don't have to guess, I know who ain't going to be at dinner. None of you. You think the Governor would rub elbows with any of you all and say, this person is on a par with me. No, you'd be the butt of a joke. This is one of my sycophants. This is one of my lapdogs. I say come and he and she come. I say go and they go. And if I'm really in a bad mood I just say, (whistling and kissing) come on, puppy, come on, come to daddy. And they come trotting on their hind legs. Roll over! And they roll over. Sit! And they sit. Give me a paw and let's shake hands. And you put a paw up there and shake hands. You think he respects you? Would you respect anybody like that? You know you wouldn't. And my job is to tell you and describe for you just what it is you've become. You know you're afraid to stand up. You know you're afraid. And if the Governor vetoes a bill and it's an attack on the integrity of the Legislature, we've got 49 people here, 30 of us will vote to override him. [LB841]

SPEAKER SCHEER: One minute. [LB841]

SENATOR CHAMBERS: We will do it to teach a lesson. Did you say time? [LB841]

SPEAKER SCHEER: One minute, Senator. [LB841]

SENATOR CHAMBERS: Oh, thank you, Mr. President, because I play by the rules. And the game is very interesting now. And like basketball games, sometimes everything happens in the last two minutes, one minute, sometimes a second. You don't have to watch any of the game because it's all decided at the end. Baseball games, boxing matches, there are people who have



Floor Debate  
March 27, 2018

---

been knocked out in the 15th round. That's why you don't quit until the final bell rings or the gun sounds and the game is over. But you all don't have what it takes. You're weak. You get tired. You give up. You give in. Don't give up, don't give in, and you just might be amazed. That's a song sung by a white guy called Mike and his group was called The Mechanics. Get it, Mike and the Mechanics. He'll teach you something that all your religious upbringing,... [LB841]

SPEAKER SCHEER: Time, Senator. [LB841]

SENATOR CHAMBERS: ...all of your education didn't do. Thank you, Mr. President. [LB841]

SPEAKER SCHEER: Thank you, Senator Chambers, and this is your third time at the mike. [LB841]

SENATOR CHAMBERS: Thank you. When we started I didn't intend to offer any motions on this bill. One of the things or amendments I offer will not be to put my bill in it. I wouldn't want my bill sullied. I would not want it to be a part of this. We're all grown people. Then expect to be treated like an adult even if you don't act like one. I listen to how many times Senator Groene throws away young people. They don't need a lawyer. They need hard lessons. Then he can't even take a hard lesson. People here cannot take what they give out and put on somebody else. And today we have a graphic demonstration of why the Governor has no respect for this body, and he shouldn't have. When those other senators were negotiating, as they call it, about Title X, was the Governor a party to it? If the Governor didn't approve, it's not going to be done. You all were like little children playing games. You had little toy soldiers who had little toy guns, little toy tanks, and you move them around. And the person who is the adult in the room, as long as he or she hears the scraping of these little toys moving around, nothing to worry about. But the adult gets worried when all of a sudden everything goes quiet. Those quiet ones are the ones you have to watch. Or using the grammar and syntax of my colleagues, them quiet ones is the ones you have to watch. But the Governor doesn't worry about anything. He's probably over there laughing right now, saying if they would listen to Chambers I'd be in trouble. See, he and I understand each other. I know that he's a rich man, spoiled brat. He didn't create a fortune. And the "Bible" has said, how do you know if you've accumulated a lot, when your gone it will be left to a wise man or a fool? You don't control that. And the one who's getting some of Daddy Ricketts' money is a fool. And just because he can control this Legislature should not be a feather in his cap. This Legislature is nothing. Look at them! Where are they? And when they come back, what are they going to do? They're going to roll over and swallow spit or run for another office and that's the only reason they're here. And what is the office? Nothing. Nothing at all. See, the reason they don't talk loud under the balcony anymore, because I talk about them and how they don't have a good upbringing, they were brought up in a barn and that I was taught better than that when I was a child. Now everything is quiet. You going to support this bill? I had said I

Floor Debate  
March 27, 2018

---

would. I won't now. There's no way I would. I haven't decided completely whether I'll try to kill it, but it's something that I can use to take a good amount of time on. And my first motion will be to give those who have sinned an opportunity to convert and do the right thing. And if they can't do the right thing, scuttle it, take it back to committee and don't send it back out here. If you take it back to committee, do the right thing with it. Sometimes too much information is given.  
[LB841]

SPEAKER SCHEER: One minute. [LB841]

SENATOR CHAMBERS: They say what you don't know won't hurt you. That's not true. Ask some of these people in Afghanistan and Iraq who didn't know that some of those improvised explosive devices were in the street, the trail, the road they were walking. They didn't know. And not only did it hurt them, it killed them. It maimed them. And while they call these people heroes and so forth, they're not treated like that when they come back here. They're put on television and commercials. But if you see one in real life they are not respected and especially if one of them behaves as somebody whose been in war might behave: talks to himself, mutters, doesn't practice hygiene, doesn't shave, has dirty clothes. His clothes were dirty when he was on the battlefield. As long as he's far away, or she, everything about this society is hypocritical. Thank you, Mr. President. [LB841]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Pansing Brooks, you're recognized. [LB841]

SENATOR PANSING BROOKS: Thank you, Mr. Speaker. I'm standing up to, again, try to take a breath and to remind people of a couple of things, and a couple of things that I found. And, number one, I want to thank Senator Geist for her work on the LR127 Committee. I want to thank her for her willingness to take this amendment. I have spoken with legal counsel for Judiciary and that legal counsel said he went to Senator Geist rather than those of us on the committee because of the fact that she was on the LR127 Committee. That was his decision, and that's fine. I respect him. And both counsel are doing a fair job for our Judiciary Committee, and I do commend both of them for the work that they continue to do for us. Meanwhile, we have this issue that has raised a lot of bristles and hair on our back because, you know, it relates a little bit to the bill Senator Murante brought, which brought up all the words about changing "must" to "shall"... "must"...or "shall" to "may" on a number of issues. And so I think that those have to be looked at separate from one another. Senator Bolz was willing to go forward with this amendment. I wasn't thrilled with it, but, again, that was her portion of the bill. So I want to get us back to what we need to do and get us out of the pit of politics, because that's where I think we are right now. We're mired down in the pit of politics. And I want to remind you that we have this date looming, 2020, and the Governor is going to need to act. But you know what? We also,

Floor Debate  
March 27, 2018

---

as a branch, need to act, and that's what a lot of these...the amendments and the underlying bill relate to is making an effort to provide some opportunity so that we are participating in the duties that are going to become...that are going to come upon our state about dealing with the Correction overcrowding problem. We have bills here that are reasonable. They are not outrageous, but they speak directly to the issue that we have looming again in 2020. So I want to bring us back to that. That's what is important that we do here. That's what is important as a legislative branch. If we do nothing about that overcrowding issue and then wait again till next year in 2019, think how close that is to the state of emergency. We have an opportunity to work with the Governor, with the executive branch, to move forward and try to help provide some commonsense legislation. Again, taken out of context, that "shall" to "may" riled people because of what had happened before under Senator Murante's bill. The skeptic says that they're directly related. I am giving a little benefit of the doubt that Senator Bolz was willing to make that change because of some information she found. So, again, I would ask us to remember that what is within this amendment... [LB841]

SPEAKER SCHEER: One minute. [LB841]

SENATOR PANSING BROOKS: ...and this bill is an attempt by our branch, our legislative body, to deal with 2020. And if we don't, fine. But then we all have to go back to our constituents and say to them, sorry, we couldn't do it; there was too much politics involved and we didn't want to go forward and help the Governor and work in a collaborative manner to deal with this emergency. It's better if we deal with it than wait for the ramifications of the lawsuit that's pending. And I'm willing, for one, to work with the Governor, to work with the executive branch, to work to make sure that our communities are safe and that we can go forward in a positive way protecting our communities from what could happen if people are precipitously released. So I ask that we move forward. Get the politics out of this and... [LB841]

SPEAKER SCHEER: Time, Senator. [LB841]

SENATOR PANSING BROOKS: ...pass the bill and the amendment. Thank you, Mr. Speaker. [LB841]

SPEAKER SCHEER: Thank you, Senator Pansing Brooks. Mr. Clerk. [LB841]

CLERK: Mr. President, I have a priority motion on the desk. Senator Chambers would move to recommit the bill to the Judiciary Committee. [LB841]

SPEAKER SCHEER: Senator Chambers, you're welcomed to open. [LB841]

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

Floor Debate  
March 27, 2018

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SENATOR CHAMBERS: Thank you. And, Mr. President, I'm not going to withdraw this motion. The kinds of things have been revealed here which never should have occurred, and had they occurred, there should have been a forthright disclosure. It dribble, drabbled out, bits and little pieces. Somebody had said...I'm going to ask if Senator Pansing Brooks would yield to a question. [LB841]

SPEAKER SCHEER: Senator Pansing Brooks, would you please yield? [LB841]

SENATOR PANSING BROOKS: I'd be happy to. [LB841]

SENATOR CHAMBERS: Senator Pansing Brooks, I'm not sure if you said it. Did you say a staff member of the Judiciary Committee decided to ask Senator... [LB841]

SENATOR PANSING BROOKS: Geist. [LB841]

SENATOR CHAMBERS: ...Geist to bring this amendment? [LB841]

SENATOR PANSING BROOKS: Yes, that's my understanding. [LB841]

SENATOR CHAMBERS: And based on what? [LB841]

SENATOR PANSING BROOKS: Based on the fact that Senator Geist was on the LR127 Committee and thought that... [LB841]

SENATOR CHAMBERS: No, I meant that a staff member is the one who decided this. [LB841]

SENATOR PANSING BROOKS: Yes. [LB841]

SENATOR CHAMBERS: Why do you say that? [LB841]

SENATOR PANSING BROOKS: I spoke with the staff member. [LB841]

SENATOR CHAMBERS: Thank you. Members of the Legislature, there are some things in a military setting that a private should not make a decision about when it's the captain's responsibility. Sometimes people become presumptuous. Now, I think the staff of the Judiciary Committee has done very good work, but for them to become...be presumptuous. See, they don't

Floor Debate  
March 27, 2018

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know what can happen when those kind of bad decisions are made. I don't even know if Senator Ebke anticipated it. But it means that people don't know me. I am not going to allow a disrespect for our processes to go by without me saying something about it. I cannot determine that won't happen, because there are others you listen to. But you're not going to listen to me before you make a decision. But you're going to listen to me afterward or leave here, like these others have done. And then wherever you are, you will listen because you know there are things that you ought to hear and you know that I'm going to say them. The Governor is just a little, old, white man to me. I cannot, when I look at him, believe that you all are so afraid of him. Does he own you for real? I say that, but I really didn't know that it was true to the extent that it is. You slip and slide around here, afraid, talk about taxes but you have to be concerned about what the Governor is going to say about it? If you had any sense, you would try to build something in the way of a togetherness in this body to protect this branch against incursions by the executive branch, but you won't do that because he contributes to your campaign or he works against you and he scares you. The people who threaten me, I challenge them. Don't just threaten me. Do what you say you're going to do! Threats to me are just words. If I listened to threats, Senator Lowe, I wouldn't step...set foot outside my house. Never! I don't wear clothes where I could hide a gun or a knife, none of that. I don't skulk and look around corners, hide behind trees, every time a leaf crackles I say there's a lion in the streets. Or they say somebody is waiting to waylay you out there in the parking lot, so I'm not going to go out and get in my car. They kill Presidents. If somebody wants to do something to me or you, you think you could stop them? They're the ones who have total control of the situation. So either you are going to live your life according to the standards you set for yourself, or you're going to be everybody's cupcake. If they make a ugly face at you, you begin to tremble. If they holler at you, you shake and quake. If they tell you, get, you scurry off. "Scoot and Skedaddle," that ought to be your name, and the Governor knows it. You think they don't joke about you people in here? You don't think he's got senators who try to carry out his will? There are people who do know the law, but they manipulate and they twist it and they turn it, knowing but convincing themselves that nobody is here who understands the gyrations they're going through and why. Then they wonder why nobody respects them, begging, apologizing for existing, trying to impress people who don't even like you, will not respect you anyway. I was driving down here today and they mentioned that Trump or somebody uses a lamppost like a drunk, not for illumination but for a prop or support. That's what you all do. And that's why people would say, I'd rather be a lamppost in Council Bluffs than the mayor of Omaha, rather be a lamppost in Council Bluffs than the mayor of Omaha, rather be a fence post in a feedlot than the Governor of the state of Nebraska. You all bow down to badges and titles. The only one thing wearing the badge or the title is a human being like you. Take the badge off, take the title off, take their clothes off. And if you take a look at them without their clothes, you'd say, I don't think I want to look at that. But they put on their suit, put on the badge, Governor, and you bow down and worship. Well, since I'm here I have to demonstrate that I mean what I say and I'll do what I say. Do you all realize that this is the fiftieth day, I believe? I only have ten more days to do this. Then all of you all will be gone. I'll

Floor Debate  
March 27, 2018

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still come down here because I have work to do. Ten more days, and you think I cannot hold out? You think what your little opinion of me might be means anything to me? When I see you suck up to the Governor and run from him, why should I worry about what you think about me? Means nothing. I told you it has less impact on me than the sweat of a gnat has on the Rock of Gibraltar. And you all could not make me sweat enough sweat to baptize a gnat with. Things like that shouldn't be sayable about you all and they be true. And like the Queen of Sheba said when she came to Solomon--beautiful, black woman, he had not seen anything like that in his life--she said, though, about his wisdom, the half had not been told to me. The half had not been told to me. But when it comes to the cowardice, the half has not been told to anybody. What is the purpose of this that we're going through today? Of what value is that bill? It's already been made clear that the members of the Legislature do not expect anything to result from anything in that bill. It has the Governor's imprimatur--and if you don't know what the imprimatur is, ask a Catholic--the Governor's imprimatur. The Governor is at odds with the Legislature. So if he approves of it, of what value is there to it? None whatsoever. Some people just want their name on a bill that was enacted into law. Laws should mean something. A law should be aimed at a problem that is identifiable, that is quantifiable, and can be addressed by the law that is enacted. [LB841]

SENATOR WILLIAMS PRESIDING

SENATOR WILLIAMS: One minute. [LB841]

SENATOR CHAMBERS: And the purpose of the law is to achieve the goal that is stated as its purpose. We are dishonest with the public, we violate the oath or the affirmation that we deliver when we take this office if we put things on the books that we know good and well are not going to do what we said it would do; that when we stand on this floor we tell lies through our teeth, which proves you don't believe in God because all liars will have their part in the lake of fire, wherever that may be. You don't believe that. You use it to scare and frighten children with. Well, I'm not a child, and I don't frighten very easily. I don't know what it would take to frighten me. But you can startle me. If a jet plane crashed through that window now I would jump like everybody else, but I would recover my composure. I would have been startled. For example, if Senator... [LB841]

SENATOR WILLIAMS: Time, Senator. [LB841]

SENATOR CHAMBERS: Thank you, Mr. President. [LB841]

SENATOR WILLIAMS: Thank you, Senator Chambers. Senator Ebke, you're recognized.  
[LB841]

Floor Debate  
March 27, 2018

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SENATOR EBKE: Thank you, Mr. President. I rise in opposition to the recommit motion at this point. A couple of things: just a reminder to my colleagues that we are now at the point where the bill that we are considering is the Judiciary Committee amendment, as amended by AM2634, which 37 people in this body voted for just a little while ago. Okay? Senator Geist's bill...Senator Geist's amendment is no longer with us. Let me just say as well that I did have someone show me the supposed bullet points checklist. It's a little more complicated than I was led to believe, and it does say that the...that PRO or the Governor's Office encourages with the currently pending amendment, AM2634, which we passed, the adoption of the...that they encourage the adoption of the amendment. What might come on Select I don't know. My staff and I were probably a little bit overeager in trying to be proactive to avoid all potential problems on the day in asking Senator Geist to carry that amendment. Let me just also say my staff and I discussed this. I won't let Senator Chambers throw my staff under the bus. I mean throw me under the bus if you want, but I...my staff is not responsible. I am responsible. Let me also say that you will notice that my name is not on any of the bills in this package. It's not on any of the bills in this package because my goal was to find the best bills that we could that had received the least amount of opposition in committee that would help us to move the needle. I think this Corrections issue is one that's serious. It's one that the Legislature ought to be dealing with on a regular basis, that we ought to keep stirring the pot, if you will, to make sure that progress is made. This was what the committee came up with. In multiple Executive Sessions and multiple conversations, we came up with this. We also agreed in our Executive Session that if there were any bills that looked like they might bring the entire package down that we would pull them out, and that's what we have done. I appreciate the fact that Senator Pansing Brooks was willing to carry the bill, let us attach all of these to her bill. I still think that the full package is good, but I would ask Senator Chambers if he would yield. [LB841]

SENATOR WILLIAMS: Senator Chambers, would you yield? [LB841]

SENATOR CHAMBERS: Yes. Yes. [LB841]

SENATOR EBKE: Senator Chambers, is it your intention now to kill the full package? [LB841]

SENATOR CHAMBERS: My intent is to offer motions and amendments, and whatever the result is that's what the result will be. [LB841]

SENATOR EBKE: Thank you. [LB841]

SENATOR WILLIAMS: Thank you, Senator Ebke and Senator Chambers. Senator Chambers, you're recognized. [LB841]

Floor Debate  
March 27, 2018

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SENATOR CHAMBERS: Thank you. Members of the Legislature, Mr. President, see, winning at all costs is what some people will do, but it depends on what you are winning and what comprises all costs. When my dignity is insulted, demeaned, then nothing means more to me than that. Yeah, and it's about me now. And I didn't attack the staff. I said that kind of decision is not one that the staff should make. I said that they do good work, and they do. That still doesn't erase the fact that it was a decision that should have been made by the Chair. I'm not going to change what I'm doing because people get a sorrowful look. Tomorrow all of this will look different, won't mean a thing. But what I am means something to me all the time because I will not be different tomorrow from what I am today. I had said, before this thing even came before us, and told Senator Ebke take my part out of it. I didn't ask for it to be put in anyway. And I was not even at the committee hearing when the decision was made. I don't beg that committee for anything. I don't beg anybody on this floor. I'm not trying to be humorous, but on my black-tailed prairie dog bill did I ever beg you all? No, I showed you the law and how foolish you are to leave something like that on the books. I didn't say, please, please, poor, poor pitiful me. That's not the way I operate and I never will. Win at all costs? If I want to win then I'll do everything I can to win, but I will not sacrifice my integrity as I perceive integrity, because you know what people would try to tell me? Well, Ernie, this is important and we didn't have this before, but if you back off then we'll now get this. Do you know when they were having that kangaroo thing to determine whether I live where I pay bills, I spend large amounts of money for upkeep. And some of my colleagues who worry about me and knowing how petty this Legislature is actually came to me. And I was going after Kintner at the time. Ernie, maybe you shouldn't do that because...and then they'd mention what the Legislature could do to me. First of all, I knew they couldn't do it. But I also read the rules. And the Rules of the Legislature, because of the way they were crafted, would allow me to go to court because the rules refer to court decisions as being precedents, which means that the Legislature, by its rules, opened up the doors to the courthouse. And there's no court in the land who would have allowed that silliness to deprive me of my seat in the Legislature. But even if it did, you think I'm going to back away from doing what I'm supposed to do? When I ran for this office and had won the primary, and a young man, who at that time was named David Rice, and another, Edward Poindexter, were railroaded for having set a booby trap bomb that killed a cop named Larry Minard, and I defended David and Ed because I knew both of them. And there were black so-called leaders in the community who said, Ernie, you're running for the Legislature, you got a chance to win, just don't say anything now; you know how mad these white people are. I said, do you think Ed and David did it? No. Then why shouldn't I say something? Because we need you in the Legislature. I said, well, if I'll shut up now to get in the Legislature, once I'm there they can make me shut up down there, too. Do you want me to be somebody who will be pressured into shutting up? And do you think I'm like you? [LB841]

SENATOR WILLIAMS: One minute. [LB841]



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

Floor Debate  
March 27, 2018

---

SENATOR CHAMBERS: Then they backed away and they were ashamed. I'm not like the run of people who get in politics. I'm not like you all. My hand is not stuck out for anything. And so you think that because you would fold I should fold. You think I will give up what I need in order to respect myself for this or any other bill in the Legislature? I have a bill in the Judiciary Committee languishing whose intent is to abolish the death penalty. I did not ask them one time to hold an Exec Session on it because I know they're not going to do anything on it. Why should I even bring it up? That's the way I operate. Have Senator Hilgers convene an emergency session of the Rules Committee and see if you can craft some rules to stop me. Do it, I want you to, and I'll show you what a fool... [LB841]

SENATOR WILLIAMS: Time, Senator. [LB841]

SENATOR CHAMBERS: ...I'll make out of all of you. Was that my third time, Mr. President? [LB841]

SENATOR WILLIAMS: No, it was not. Thank you, Senator Chambers. Speaker Scheer, you're recognized. [LB841]

SPEAKER SCHEER: Thank you, Mr. President. Per the request of the bill's sponsor, we will pass over this bill. Let's move on to the next item. Thank you. [LB841]

SENATOR WILLIAMS: Mr. Clerk. [LB841]

CLERK: Mr. President, some items if I might. Series of study resolutions LR421-455. Those will all be referred to the Executive Board. I also have an amendment to be printed to LB1015 by Senator Quick. That's all that I have, Mr. President. (Legislative Journal pages 1212-1236.) [LR421 LR422 LR423 LR424 LR425 LR426 LR427 LR428 LR429 LR430 LR431 LR432 LR433 LR434 LR435 LR436 LR437 LR438 LR439 LR440 LR441 LR442 LR443 LR444 LR445 LR446 LR447 LR448 LR449 LR450 LR451 LR452 LR453 LR454 LR455 LB1098]

Mr. President, the next bill, LB1089 is a bill originally introduced by Senator Smith. (Read title.) The bill was introduced on January 18 of this year. Referred to the Revenue Committee, advanced to General File. I do have committee amendments, Mr. President. (AM2049, Legislative Journal Page 727.) [LB1089]

SENATOR WILLIAMS: Senator Smith, you're recognized to open on LB1089. [LB1089]

Floor Debate  
March 27, 2018

---

SENATOR SMITH: Thank you, Mr. President. This bill, LB1089, is the Department of Revenue's annual housekeeping bill, which means it is highly technical in many areas and addresses various matters throughout the tax code. The largest number of changes are within the homestead exemption program and are intended to harmonize and simplify this area of the law. Originally, the homestead exemption was allowed for a surviving spouse of a service person who died while on active duty who did not remarry. Two years ago we passed LB683, which allowed a surviving spouse who remarries at age 57 to qualify. These two classifications related to service persons who died while on active duty are merged into the classification for disabled veterans or their spouses. There has been confusion for several years regarding the transfer of a homestead exemption when a recipient changes homes. This language clarifies that the deadline for filing an application for transfer of Nebraska homestead exemption is August 15th of the same tax year of the transfer, or within 30 days of receiving a notice of rejection of homestead exemption. There have been several situations where a homestead applicant did not receive the notice of rejection until after they were already delinquent in payment, paying their property taxes, and interest was already accruing. This language provides that rejection of a homestead exemption for any reason is required to be sent within 10 days after the rejection. Homestead recipients have been required to file an annual certification that they have had no change of medical status. The department determined that this requirement was unnecessary and burdensome. The language now simply provides that they must file their application for exemption each year and only provide notice when there is a change in medical status. And then the final provision adds county assessors, along with county treasurers, as the county officials responsible for certifying the lost tax revenue due to granted homestead exemptions. This allows the department to obtain information directly from the assessor's office as well as the county treasurer's office. The other three sections of the bill address various issues. The first is the Department of Revenue uses various methods to detect fraud or inconsistencies in tax returns or to identify nonfilers. There has been some concern that these important methods are not clearly protected under current law. This language clarifies that these methods and techniques shall be confidential. There were objections to this provision from Senators Harr and Schumacher during committee and their concerns have been addressed in the committee amendment. A court...another issue in this package, is a court case back in 2013 created confusion regarding interest on refundable income tax credits. This language clarifies that such credits are deemed to be an overpayment only to the extent that they exceed the taxpayer's tax liability. And then finally, the department and county officials have been discussing how to address the situation where property is destroyed or damaged by a major calamity after the property's assessment date. Obviously, the value of property can be dramatically impacted. However, a resolution has not yet been found on this particular item. Accordingly, the language that attempted to address this issue was removed by the committee amendment. And then I would note that the bill also contains an emergency clause. I will, again, address more in the committee amendment. Thank you, Mr. President. [LB1089]

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

Floor Debate  
March 27, 2018

---

SENATOR WILLIAMS: Thank you, Senator Smith. As the Clerk stated, there are amendments from the Revenue Committee. Senator Smith, you're recognized to open on the Revenue Committee amendments. [LB1089]

SENATOR SMITH: Thank you again, Mr. President. Committee amendment, AM2049, as I just explained at the end of my introduction on the bill, that the section that addressed property that is destroyed or damaged by a major calamity has been removed under the amendment. Secondly, concerns were raised by members of the committee as to the confidentiality of fraud identification and audit selection techniques, specifically with regard to legislative access to this information if it is needed. This is addressed by adding language to clarify that information that may be disclosed to the Performance Audit Office under statutory Section 50-1213 includes this type of information. This clarifies that the legislative branch may be able to see the information if necessary as well. That concludes the opening on AM2049. Thank you, Mr. President. [LB1089]

SENATOR WILLIAMS: Thank you, Senator Smith. Mr. Clerk. There is an amendment to the committee amendment? [LB1089]

CLERK: There is, Mr. President. Senator Smith would move to amend the committee amendments with AM2188. [LB1089]

SENATOR WILLIAMS: Senator Smith, you're recognized to open on your amendment. [LB1089]

SENATOR SMITH: And I would like to withdraw that amendment, please. [LB1089]

SENATOR WILLIAMS: That amendment's withdrawn. We're waiting for another amendment. [LB1089]

CLERK: Mr. President, Senator Chambers would move to amend the committee amendments. (FA138, Legislative Journal page 1236.) [LB1089]

SENATOR WILLIAMS: Senator Chambers, you're recognized to open on your amendment. [LB1089]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is a very straightforward amendment. Words mean something. So I will tell you what the amendment would do. On page 1, in line 17, I would strike the word "considered." That's what this

Floor Debate  
March 27, 2018

---

amendment would do. If you're talking about information that is confidential, it's confidential. As we talked earlier, and some people were not here for that discussion, when Senator Howard...I meant Senator Crawford had a bill dealing with depositions and the word was in a sentence telling how the judge could consider something. And it was hard to get a fix on what the word "consider" means. So since this is Senator Smith's bill, I would like to call his attention to page 1, line 17, and determine whether or not he can tell me what the term "considered" means. If Senator Smith would yield to a question. [LB1089]

SENATOR WILLIAMS: Senator Smith, would you yield? [LB1089]

SENATOR SMITH: Yes. [LB1089]

SENATOR CHAMBERS: Senator Smith, that is the question I'm asking. What does the word "considered" mean? [LB1089]

SENATOR SMITH: In this context I'm not certain it adds much value to that particular line, Senator Chambers. I understand what you're saying there. [LB1089]

SENATOR CHAMBERS: So...excuse me. If I struck the word considered, here's the way the sentence would read: tax avoidance...you know, it lists all these things and it says "shall be confidential information." Not considered, but it is confidential. Do you think the removal of the word considered weakens the bill or takes away from what this sentence, of which is a part, does it take away the meaning that is supposed to be conveyed by that sentence? [LB1089]

SENATOR SMITH: Senator Chambers, I am not trained in the law as well as you, but I have consulted with my legal counsel and I don't think it weakens the bill to remove that word. [LB1089]

SENATOR CHAMBERS: Well, here's my next question. Are you going to oppose the amendment? [LB1089]

SENATOR SMITH: FA138? [LB1089]

SENATOR SMITH: The one that I'm offering, whatever it's labeled, that would strike the word "considered." [LB1089]

Floor Debate  
March 27, 2018

---

SENATOR SMITH: I think that would be fine if anyone would like to support your amendment. That would be fine with me. [LB1089]

SENATOR SMITH: Touche. But I must say a word or two. Members of the Legislature, clearly this is a technical bill. I did not draft it. I think from having read it there is a surplusage of language, but it is not different from the way that these bills traditionally are drafted. Words have meaning, and I think the more sparse the language that we use in technical bills the better it would be. I don't mean we should eliminate words just so we have a certain number of words in each sentence, but every word should have something that it contributes to that sentence. And if it doesn't then we should eliminate it. Or if we can find one word that would convey what a group of words has been used for we should eliminate the group. My conviction is that the more technical a bill is the more precise our language ought to be. This is really an example of what I would be talking about. Unfortunately for me, I've been otherwise occupied today, and I could not give time to this bill. But glancing at it I was able to see that right away as something where we could eliminate a word and say precisely what we mean. This information, in fact, is confidential. It's not considered that, it's not deemed to be that. It is. And that's all the amendment does. But I'm not 100 percent surprised that Senator Smith does not disagree with it, but I'm about 98.5 percent surprised because I was ready to deliver a lecture in grammar and bunglesome language that usually is found in these kind of bills. Frankly speaking, I have no idea what this bill is about. By that I mean Senator Smith could turn to a page and read something to me that is technical and ask me what it means. I would say, well, it means what you're trying to make it mean, but I'm not able to say whether it actually does or not because I haven't examined it. I wish that I had the time to carefully read every bill that comes before us. Unfortunately, what happened on the last bill had nothing to do with the bill itself. It was what you call collateral damage. The goal was to address tactics that were utilized which I found deplorable and unacceptable. So I took the action that I believe I was obliged to take, and whatever the result is that's what the result is. Everything in that bill can be offered next session. And maybe it would be best to let each bill stand on its own merit or fall instead of getting into all this entanglement with the Governor's Office, mysterious memos that I knew nothing about. Others didn't know anything about it. But when agreements have to be made with an agency or another branch of government, a branch of government which is separate from the Legislature and which those who constructed this government intended a tension to exist between the two. It was intentional. They are not to be friends. When you talk about a check and a balance, that's a not talking about friendship. It's saying that you have three branches: A, B, and C. And each is watching the other two and each will stand in the way and hinder the other two to prevent them from doing what that branch that's studying it feels should not be done by them. Branch A does not have the power to intrude into the actions of branches B and C, but using the power that branch A has it can influence what branches B and C will do. And when there is paramountcy in the Legislature we voluntarily give up that paramountcy. If we were in the physical world, the existential world apart from this Legislature and we were trying to be a superpower and we could

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

Floor Debate  
March 27, 2018

---

convert the power that the Legislature has into weapons of destruction, nobody, no country on the face of the earth would challenge us. [LB1089]

SENATOR WILLIAMS: One minute. [LB1089]

SENATOR CHAMBERS: The legislators don't realize what this branch of government is, the powers that it has. It should not suffer insult from either of the other two branches. And it should quickly take offense at that kind of attempt. But if I'm weak and I can intimidate the strong, I'm going to have them running and whining every minute of every hour of every day. And I will tell people, watch me make him run, watch me make her whine, watch me make this elephant try to climb a tree. And they say, well, you're nothing but a lemming. I'll say, but in the mind of that elephant I am doomsday. Watch this. And then I would chirp or whatever sound a lemming makes and the elephant tries to climb a tree. The elephant should be ashamed of itself. This Legislature is the elephant being intimidated by a lemming. [LB1089]

SENATOR WILLIAMS: Time, Senator. [LB1089]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1089]

SENATOR WILLIAMS: Thank you, Senator Chambers and Senator Smith. Senator Smith, you're recognized. [LB1089]

SENATOR SMITH: Thank you, Mr. President. I would like to thank Senator Chambers for his detail and dedication to reviewing bills and amendments that are before us. I wish I were half as detailed and dedicated as he in doing that. And with that, I will support FA138 and yield Senator Chambers the remainder of my time. [LB1089]

SENATOR WILLIAMS: Thank you, Senator Smith. Senator Chambers, you're yielded 4:38. [LB1089]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Smith. I can now not use this bill for the purpose I intended. Senator Smith is a wise person in the way that I am. If I had a bill and I thought it was in the shape it needed to be in and somebody offered an amendment that I could readily see improved it, I would adopt it immediately. There wouldn't need to be a lot of discussion or debate. We are supposed to combine our efforts to produce well-crafted, meaningful, necessary, or at least needful legislation. That doesn't mean that other senators will agree with us and help us get that legislation into the law books. But when I cannot obtain in a positive or affirmative way what I think should be done, namely the passage of

Floor Debate  
March 27, 2018

---

meaningful, wise, just legislation, then I have to go into the mode of trying to prevent the passage of what I deem to be bad legislation. Legislation which, on its own may be neither...what do they say, comme ci comme ca or fit former Senator Loran Schmit's mantra: it doesn't do anything, it doesn't hurt anything, it doesn't cost anything. In other words, it's a piece of nothing. Then let it go rather than have a big fight over that and deal with that another day. But when there is legislation which can do positive or affirmative harm, it has to be fought at all costs and defeated, if possible. There's another category, which is exemplified by what happened on Senator Pansing Brooks' bill. Her original bill was worthwhile, those provisions that remained in it when a package was constructed were worthwhile, the totality was worthwhile. But then when it became clear what had happened, it was an unclean thing and nobody could bring a clean thing out of that unclean thing. To defeat it or prevent it from going forward does not end the world, does not end this session. Maybe they can find bills to which they can attach some of those provisions as amendments and maybe not. But if we adjourned, sine die, right now, it wouldn't be the end of the world. If we reached the 40th day, 60th day and haven't passed a budget, we can extend the session. If we can't do that, the Governor can call a special session. The Governor can restrict us to subjects to be dealt with, but he cannot tell us how to deal with them. Contrary to what some people suggested, we would not have to accept what the Governor put into a proposed budget bill. We can manipulate it, we can do anything we want to with it and we can refuse to pass it. We cannot be dictated to, unless we allow that to happen. We must come to the realization of these truths and act on them. But the Governor knows we are not because he purchased so many people. And he knows what he purchased. You think he'll purchase somebody who is going to stand up to him? Why, certainly not. [LB1089]

SENATOR WILLIAMS: One minute. [LB1089]

SENATOR CHAMBERS: There was a turtle sitting on a fence post and this "goofus" came by. And the turtle was asked by the "goofus," what are you on the fence post for? And the turtle said, I need somebody to put me down on the ground. And the "goofus," doofus said, well, don't look at me. The turtle said, well, actually, I'm a magic turtle. And if you sit me on the ground, I'll tell you what I'm going to do. I will speak on that when I'm recognized. Thank you, Mr. President. [LB1089]

SENATOR WILLIAMS: Thank you, Senator Smith and Senator Chambers. Senator Schumacher, you're recognized. [LB1089]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Would Senator Smith yield to a question? [LB1089]

SENATOR WILLIAMS: Senator Smith, would you yield? [LB1089]

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

Floor Debate  
March 27, 2018

---

SENATOR SMITH: Yes. [LB1089]

SENATOR SCHUMACHER: Senator Smith, this is for purpose of clarification on the record. I call your attention to the top of page two of the amendment. [LB1089]

SENATOR SMITH: I'm there. [LB1089]

SENATOR SCHUMACHER: Okay. My question is, at line 5 it says "the amount allowable." And at line two it says "the amount allowable." Is the amount allowable in line 5...does that refer and is that limited to the amount allowable...are those...in line 2. Are those the same thing? [LB1089]

SENATOR SMITH: They are not the same. They are exclusive. [LB1089]

SENATOR SCHUMACHER: And could you tell me what the difference is? [LB1089]

SENATOR SMITH: I am going to get advice from my counsel and I will get that to you. [LB1089]

SENATOR SCHUMACHER: Okay, thank you, Senator Smith. It would appear from reading this that these are two...referring to the same thing. The amount allowable as a credit for income tax withheld would be what is withheld from your paycheck, presumably, or what an employer with an incentive tax credit would withhold from the employees' paychecks. And that (3) would say that they would get a refund of that amount withheld if their tax liability wasn't equal to the tax that was withheld. And that's kind of important because one could make an argument that the language that appears at line 5, if it were any other thing, would be creating a debt against the state's General Fund, which is unconstitutional. So I'll be very interested to listen and hear Senator Smith's explanation as to why those are two different amounts allowable and why they would be. And I think that is an important clarification. I'm not trying to obstruct anything here, but I think it's important as to what exactly is being referred to if...in line 2 and line 5. And if they are different, exactly what is different about them. Thank you. [LB1089]

SENATOR WILLIAMS: Thank you, Senator Schumacher and Senator Smith. Senator Chambers, you're recognized. [LB1089]

SENATOR CHAMBERS: Mr. President, I will finish telling that little story, and then I have a question for Senator Smith, if he would yield. But I'm going to try to let him finish discussing what he is with Senator Schumacher. So I may say a few words. The doofus asked the turtle,



Floor Debate  
March 27, 2018

---

what are you doing on that fence post? And without telling the doofus what he was doing, he said what he wanted. I want somebody to help me off this fence post. And the doofus laughed at him and he said, you don't expect me to help you, do you? And the turtle said, well, actually I'm a magic turtle and whoever helps me off this fence post I will grant three wishes. So the doofus put on his thinking cap, he thought it through, and he gently and carefully picked the turtle off the fence post and set him on the ground. The turtle, in the slow deliberate way of turtles began to walk off, or amble off, which is more like what turtles do. So the doofus ran in front of the turtle, got down in front of him so they could be eye to eye and he said, you lied to me. And the turtle said, why do you say I lied to you? Nobody wonders how a turtle could talk to the doofus and vice versa, but they were conversing. And the turtle...the doofus said, well, you told me that whoever helped you off that fence post you would grant three wishes. And the turtle said, so? The doofus said, I want my three wishes. The turtle said, if I was a magic turtle, do you think I would have needed you to let me down off this fence post? Sometimes we have to look at the situation and the circumstances. I dragged that out because I have a question I would like to ask of Senator Smith. [LB1089]

SENATOR WILLIAMS: Senator Smith, would you yield to a question? [LB1089]

SENATOR SMITH: Yes, I will yield. [LB1089]

SENATOR CHAMBERS: Senator Smith, you can thank Senator Schumacher for this. In line 5, there's underlined language. The last word, if it's a word, is the letter a. Then right next to that is the capital letter A. If the language that's underlined refers to that capital letter, then the small a should be the word and, and A refundable. Otherwise, I would ask you, why does the language say if I read it, "If the amount allowable as a A refundable"? Why would there be two A's? [LB1089]

SENATOR SMITH: There's no good reason for there to be two A's. One should be stricken. [LB1089]

SENATOR CHAMBERS: Which one? The capital A or small one? [LB1089]

SENATOR SMITH: I would say the capital. [LB1089]

SENATOR CHAMBERS: Thank you. And do you thank me once again for my meticulous reading? [LB1089]

SENATOR SMITH: Absolutely. [LB1089]

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

Floor Debate  
March 27, 2018

---

SENATOR CHAMBERS: And do you blame Senator Schumacher for calling my attention to this? [LB1089]

SENATOR SMITH: Not at all. I blame myself for not catching that. [LB1089]

SENATOR CHAMBERS: Members of the Legislature, what Senator Smith is doing is known as pulling one's fangs. But if he doesn't want to make the amendment, I would offer that in a strictly friendly amendment. And anybody who is following along would see that the A should in fact be stricken. And it's something that could easily occur in a bill of this kind. And I'm going to say again, to the extent that we are able to focus on these different kinds of bills, if we see ways to improve it then I think we should. [LB1089]

SENATOR WILLIAMS: One minute. [LB1089]

SENATOR CHAMBERS: And so far, the two items that I would offer, the one I'm not going to talk on that anymore. We'll take a vote on it. But then I will offer one to strike is A. That's all I have to say. Thank you, Mr. President. [LB1089]

SENATOR WILLIAMS: Thank you Senator Chambers and Senator Smith. Senator Smith, you're recognized. [LB1089]

SENATOR SMITH: Thank you, Mr. President. Senator Chambers, my apologies, but I did not have my glasses on. And that A is already stricken in the amendment. You can't see it very well, but there is a line through that A. So nice catch, nonetheless, but I think the amendment in that regard is correct. Thank you, Mr. President. [LB1089]

SENATOR WILLIAMS: Thank you, Senator Smith. Senator Schumacher, you're recognized. [LB1089]

SENATOR SCHUMACHER: Thank you, Mr. President. I'll eat up just a couple of seconds here while legal counsel has a opportunity to bring Senator Smith up to speed. But it's my understanding what she will be informing him is what she informed me, that at line 5, page 2 of the amendment, that the purpose of that language is only for the purpose of doing an interest calculation on the refund and is not to change the nature of the amount allowable. This only refers to calculating interest on a refund and how that is to be done and to resolve a court case, not change the nature of the credit. Senator Smith, when you have had a chance to confer with counsel, would you yield to a question? [LB1089]

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

Floor Debate  
March 27, 2018

---

SENATOR WILLIAMS: Senator Smith, would you yield? [LB1089]

SENATOR SMITH: Yes, I will yield. [LB1089]

SENATOR SCHUMACHER: Senator Smith, did you have an opportunity to hear what I said, or were you involved in conversation and not able to hear? [LB1089]

SENATOR SMITH: I was involved in conversation. So if you could repeat, please. I'm sorry. [LB1089]

SENATOR SCHUMACHER: Okay. Thank you, Senator Smith. It is my understanding of what counsel has told me and presumably told you, and you can confirm or not, that language that appears at page 2, line 5, is there for the purpose of computing interest on an overpayment and not intended to expand or change the nature of the underlying credit. [LB1089]

SENATOR SMITH: That is correct. [LB1089]

SENATOR SCHUMACHER: Thank you, Senator Smith. Thank you, Mr. President. [LB1089]

SENATOR WILLIAMS: Thank you, Senator Schumacher and Senator Smith. Seeing no one in the queue, Senator Chambers, you're recognized to close on FA138. Senator Smith (sic) waives closing. The question before the body is the adoption of FA138. All in favor vote aye; opposed vote nay. Senator Smith? [LB1089]

SENATOR SMITH: We're okay. [LB1089]

SENATOR WILLIAMS: Record, Mr. Clerk. [LB1089]

CLERK: 25 ayes, 0 nays, Mr. President. [LB1089]

SENATOR WILLIAMS: The amendment is adopted. We are back to the committee amendment, AM2049. Seeing no one in the queue, Senator Smith waives closing. The question before the body is the adoption of AM2049. All in favor vote aye; opposed vote nay. Have all voted that wish? Record, Mr. Clerk. [LB1089]

CLERK: 27 ayes, 0 nays, Mr. President on adoption of committee amendments. [LB1089]

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

Floor Debate  
March 27, 2018

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SENATOR WILLIAMS: Thank you, Mr. Clerk. AM2049 is adopted. Moving on to LB1089. Seeing no one in the queue, Senator Smith waives closing. The question before the body is the adoption of LB1089. All in favor vote aye; opposed vote nay. Record. [LB1089]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB1089. [LB1089]

SENATOR WILLIAMS: Thank you, Mr. Clerk. LB1089 is advanced. Announcements. [LB1089]

CLERK: Thank you, Mr. President. Series of study resolutions, LR456-469. Mr. President, LB994, is by Senator Friesen. (Read title.) The bill was introduced on January 11, referred to the Transportation Committee. The bill was advanced to General File. I have committee amendments, Mr. President. (AM2358, Legislative Journal pages 1237-1244.) [LR456 LR457 LR458 LR459 LR460 LR461 LR462 LR463 LR464 LR465 LR467 LR468 LR469 LB994]

SENATOR WILLIAMS: Thank you, Mr. Clerk. Senator Friesen, you're recognized to open on LB994. [LB994]

SENATOR FRIESEN: Thank you, Mr. President. Members of the body, I'm bringing you LB994. This bill was introduced in response to public hearings our committee conducted during the interim on LR176, which is a study of rural broadband in Nebraska. During those hearings in McCook, Central City, and Lincoln we heard of the vital importance of broadband access to the Internet in all areas of the state. Broadband use will support innovation and entrepreneurship. Broadband with sufficient upload and download speed is needed to support rural businesses and agriculture. Broadband is needed to support education and healthcare needs in our rural areas, and we must do what we can to attract new residents and retain our youth. It is vital to Nebraska's future well-being that our rural residents have similar opportunities to participate in the information highway as our urban residents. Based on research we did in anticipation of the our LR176 hearings, about 55,000 Nebraskans have no wired Internet providers. Almost 70 percent of Nebraskans without access to fixed advanced telecommunications live in rural areas of the state. LB994 is a bill which I hope jump-starts the process for bridging the digital divide between urban and rural Nebraska. Section one of the bill states our intent to have comparable service between rural areas of Nebraska and the urban areas of the state. Section 2 is the meat of the bill and it creates the Rural Broadband Study Task Force. We made some changes to the committee amendment that I will explain later. But the task force will study issues and make recommendations to the Legislature on how to improve broadband services to rural Nebraska. Members of the task force would include legislators, state department heads, and members appointed by the Governor from stakeholder groups. The office of the Nebraska Information Technology Commission would staff the task force with assistance from staff in the Public

Floor Debate  
March 27, 2018

---

Service Commission. The task force would make its first report to the Legislature on December 1 of 2019 and every odd-numbered year after that. Section 3 was eliminated by a committee amendment, Section 4 would allow the PSC to open a docket to consider implementation and operation of reverse auction program to award Nebraska Universal Service Funding to broadband Internet service providers if unserved or underserved areas were not receiving adequate services from their current providers who are receiving those funds. Section 5 would provide authority to the PSC to establish and maintain a registry of locations in Nebraska for complaints where there is a lack of coverage for wireless telecommunication service. The PSC would then use that information in determining where to support grants for the construction of towers, which is how a portion of the Nebraska Universal Service Funds are currently used. This is the explanation of the introduced bill, and we have committee amendments that make changes. And I have two amendments that I would like to explain when they come up. [LB994 LR176]

SENATOR WILLIAMS: Thank you, Senator Friesen. As the Clerk stated, there are amendments from the Transportation Committee. Senator Friesen, as chair of the committee, you're recognized to open on the amendments. [LB994]

SENATOR FRIESEN: Thank you, Mr. President and members of the Legislature. The committee amendment substitutes for the bill and makes the following changes. The name of the task force is changed to the Rural Broadband Task Force, we took the word study out of it. The membership of the task force is changed. We added a member of the wireless telephone industry and we made the legislative members nonvoting ex officio. The chairperson of the task force will be the chairperson of the Nebraska Information Technology Commission. And the task force could appoint advisory groups and hire a consultant. We expanded the language for issues to be studied. We also defined broadband services at a speed of 25 megabits down and three megabits up as a minimum. The amendment creates a fund and transfers \$50,000 to that fund from the Nebraska Internet Enhancement Fund to pay for the study. The amendment strikes Section 3 of the original bill, which would have provided the Public Service Commission the authority to adopt a connections-based methodology for contributions to the Nebraska Universal Service Fund. Section 4 of the bill and amendment give the PSC authority to establish reverse auction mechanism, and the committee amendment requires the PSC to adopt procedural due process requirements before it withholds funds from a Universal Service Fund Recipient. Also, if funds are withheld in an exchange area, the funds must be redeployed in that same exchange area by the company that would be the successful auction bidder. Finally, the committee adopted a limited version of the LB573, which was introduced and considered last year. The committee amendment relates specifically to local landline service rate regulation, but does not change the law relative to the quality of service or customer complaints. It would eliminate requirements for local exchanges, companies to notify their customers and the PSC at least 90 days prior to a change in rates. It would eliminate the opportunity for impacted customers to petition the PSC to determine the rates if the customers disagreed with them. The amendment would eliminate the

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

Floor Debate  
March 27, 2018

---

required public meeting in each PSC district, that allows customers to meet with the company representative in noncompetitive areas. The same rules would apply for rates in areas deemed competitive and those deemed noncompetitive. All companies would file a tariff with the PSC that includes a new rate at least 10 days before implementation. The amendment would provide an operative date of July 1, 2018. And I urge you, the committee, to adopt LB994. [LB994 LB573]

SENATOR WILLIAMS: Thank you, Senator Friesen. Mr. Clerk, there is an amendment to the committee amendment. [LB994]

CLERK: Mr. President, Senator Friesen would move to amend the committee amendments with AM2387. (Legislative Journal page 991.) [LB994]

SENATOR WILLIAMS: Senator Friesen, you're recognized to open on AM2387. [LB994]

SENATOR FRIESEN: Mr. President and members of the body, this amendment to the committee amendment relates to the wireless registry portion of the bill and amendment. It would remove the requirement in the bill that the PSC prepare and make a publicly available report describing areas that fail to receive adequate wireless service. Our point in maintaining a registry, I believe, is to assist the commission in determining areas where the deployment of cell towers funded by the Nebraska Universal Service Fund make the most sense. It did not add a publication requirement for the PSC that could be used for competitive reasons that would not be in the commission's or the citizens' best interest. And I urge you to adopt this amendment to the committee amendment. [LB994]

SENATOR WILLIAM: Thank you, Senator Friesen. Debate is now open on the committee amendment. Senator Walz, you're recognized. [LB994]

SENATOR WALZ: Thank you, Mr. Speaker. I want to thank Senator Friesen for bringing this bill. But I would like to consider a few things. It is becoming increasingly clear in the world we live in that affordable and reliable Internet access is no longer a luxury, but it is a necessity. Almost all facets of a community, from education to healthcare to agriculture to economic opportunities, can be drastically improved by high-speed Internet. Recently, more populated areas of the state, such as Lincoln and Omaha, have been able to utilize these benefits for their residents, while many, if not most, rural communities are left without them at critical moments of growth and change. Nebraska currently ranks toward the bottom in the country in Internet speeds; 51 percent of Nebraska's rural population do not have access to broadband services. The world is changing quickly and rural communities will soon require high-speed Internet to not only stay competitive, but to grow and prosper. Much like the railway and the interstate system,

Floor Debate  
March 27, 2018

---

broadband services are becoming a critical component of infrastructure to help communities connect and compete with the rest of the nation. I campaigned on the idea that we needed to expand broadband, especially in rural areas. I carried a few different broadband bills over the last two years, including my priority, LB1113, which is stuck in committee. For me, Senator Friesen's bill raises questions. Number one, do we have any recommendations from the past studies that we have done? And number two, have we ever taken any action from the studies? Rural Nebraskans need action on broadband now, not another repetitive study. What can we possibly study that we haven't already studied either in our own state or looking at what other successful or unsuccessful states have done in the past? I asked my staff to do some research on these studies. In the short amount of time that they had they found nine studies, task forces, or informal groups just that we know about since 2006. This doesn't include the research individuals have done and the many long hours that are not documented. They include LB645, the broadband services task force in 2006; LR181, introduced by Senator Fischer in 2007; LR443, introduced by Senator Fischer in 2010; LR343 introduced by Senator Dubas in 2013; LR319, introduced by Senator Smith in 2015; LR538, introduced by Senator Smith in 2016; LR176, introduced by Senator Friesen in 2017; the informal task force led by Public Service Commissioner Ridder this past year; and the Nebraska Broadband Initiative. Again, do we have recommendations from the past and have we acted on them? This year, I introduced LB1113 which is aimed at giving rural areas of the state the ability to modernize this critical infrastructure without burdensome regulation oversight that prevents private entities from expanding broadband services into all areas, especially rural areas, in Nebraska. One way is to accomplish broadband in rural areas is to form a public/private partnership around broadband. Currently, public/private partnerships are permitted, but face heavy restrictions by the Public Service Commission. The Public Service Commission sets the price and terms of the dark fibre leases. Our goal is to allow a political subdivision, such as a city or a public power district, to lay the fiber and partner with private companies providing the service without this unneeded government oversight. [LB994 LR176 LB1113]

SENATOR WILLIAMS: One minute. [LB994]

SENATOR WALZ: Right now, local governments are investing in dark fibre but don't know what they will get on their investment. And private companies aren't pushing for it for the same reason. Rural communities are in desperate need of this infrastructure. LB1113 seeks to empower local officials to partner with the private sector to invest in their communities and build a platform that will allow them to grow and improve the quality of life for their residents. Our rural communities are declining. And now is the time for legislation. What good is a study if we don't look at the study and take its recommendations? We don't need another study, we need to take action. The evidence is in front of us. Thank you, Mr. President. [LB994]

Floor Debate  
March 27, 2018

---

SENATOR WILLIAMS: Thank you, Senator Walz. Senator Chambers, you're recognized. [LB994]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask Senator Friesen a question. [LB994]

SENATOR WILLIAMS: Senator Friesen, will you yield? [LB994]

SENATOR FRIESEN: Yes, I would. [LB994]

SENATOR CHAMBERS: Senator Friesen, what constitutes being rural? [LB994]

SENATOR FRIESEN: When we talk about rural broadband expansion, we are talking about anything outside of a city or village limits. [LB994]

SENATOR CHAMBERS: Is that stated in the bill? [LB994]

SENATOR FRIESEN: Yes, I believe Universal Service Funds cannot be used inside a city limits. [LB994]

SENATOR CHAMBERS: So then if I wanted to find out what rural means for this bill, there's someplace that says outside city limits? And I'm not trying to be a...split hairs. [LB994]

SENATOR FRIESEN: It does not define those rural areas in the bill. But our current statutes of where you can use the Universal Service Funds do spell that out. [LB994]

SENATOR CHAMBERS: It's your bill. But I just was curious. Now, there were attempts to set up some study committees or whatever with reference to HHS, and some of the conservatives had said that you cannot have members of the legislative and the executive branches on it. Well, on this rural broadband task force there are members of the executive branch, and appointed by the Governor, and two members from the Legislature. How do you get around that? [LB994]

SENATOR FRIESEN: The members of the Legislature are ex officio nonvoting members. So they are just participants, I guess. And then the department heads are specific as to who would be on there, I believe. Yeah, the Speaker had sent us a memo earlier saying we had to change our bill. So one of the amendments changes those components in the original section. So they are not



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

Floor Debate  
March 27, 2018

---

voting members any longer, and I think the way we structured it now meets those requirements. [LB994]

SENATOR CHAMBERS: Are they allowed to serve in any capacity on this task force? Because they can participate in discussions and everything else, isn't that true? [LB994]

SENATOR FRIESEN: As long as they are nonvoting members, yes. [LB994]

SENATOR CHAMBERS: Then they can be...have you, and I'm not, again, splitting hairs. Has the Attorney General been asked if this status is sufficient to prevent that objection from members of the Legislature serving on executive...I meant executive branch organizations? [LB994]

SENATOR FRIESEN: We feel we met the requirements of the Speaker's memo to us saying that we needed to meet those requirements. [LB994]

SENATOR CHAMBERS: And the Speaker had based it on some kind of legal opinion? [LB994]

SENATOR FRIESEN: My committee counsel just said it was based on the Conway decision. [LB994]

SENATOR CHAMBERS: Based on what? [LB994]

SENATOR FRIESEN: The Conway decision. [LB994]

SENATOR CHAMBERS: And it says that a member of the Legislature could serve on an executive organization such as this? An executive branch? [LB994]

SENATOR FRIESEN: As long as that member is a nonvoting ex officio member. [LB994]

SENATOR CHAMBERS: Would you turn to page 3 of the bill? [LB994]

SENATOR FRIESEN: The original bill or the committee amendment that replaced the bill? [LB994]

SENATOR CHAMBERS: The amendment. [LB994]

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

Floor Debate  
March 27, 2018

---

SENATOR FRIESEN: Okay. [LB994]

SENATOR CHAMBERS: I'm starting at line 19. "Task force members shall serve on the task force without compensation but shall be entitled to receive reimbursement for any actual expenses incurred for such service". Would these two members of the Legislature be allowed to receive reimbursement for those expenses? [LB994]

SENATOR WILLIAMS: One minute. [LB994]

SENATOR FRIESEN: I think going back to those sections, we'd have to look. But I think the way it's drafted, maybe so. [LB994]

SENATOR CHAMBERS: But you're not sure? [LB994]

SENATOR FRIESEN: I'm not sure. [LB994]

SENATOR CHAMBERS: And the reason I'm asking questions, this is the first time I'm reading it, but I do have questions. And if I have additional questions, I will ask them. And I'm not going to promise to do the research on this because if it falls down then it will just fall down, but not because of my doing. And that's all I would have. Thank you, Mr. President. [LB994]

SENATOR WILLIAMS: Thank you, Senator Chambers and Senator Friesen. Seeing no one in the queue, Senator Friesen, you're recognized to close on your amendment to the committee amendments. [LB994]

SENATOR FRIESEN: Thank you, Mr. President. Again, I think we'll clarify some of the issues that were brought up. We'll make sure that everything is correct. But the way we looked at it, we got the Speaker's memo saying how the committee could be staffed. We have gone through that. And that's why we drew it up the way we did. So we'll look into the reimbursement, whether or not the legislators would get reimbursed. But we will take care of any changes that need to be made there. So I would urge you to vote green on AM2387. Thank you, Mr. President. [LB994]

SENATOR WILLIAMS: Thank you, Senator Friesen. The question before the body is the adoption of AM2387. All in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB994]

CLERK: 25 ayes, 0 nays on adoption of the amendment to the committee amendments. [LB994]

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

Floor Debate  
March 27, 2018

---

SENATOR WILLIAMS: The amendment is adopted. Mr. Clerk. [LB994]

CLERK: Senator Friesen would move to amend the committee amendments with AM2685. [LB994]

SENATOR FRIESEN: Senator Friesen, you're recognized to open on your amendment. [LB994]

SENATOR FRIESEN: Mr. President, members of the body, there are three parts to this. And we will call this the Schumacher amendment. Or we could almost call it the Schumacher amendment, because the main portion deals with objections to the original committee amendment by Senator Schumacher. That portion of this amendment eliminates the provisions that adopted limited version of the LB573 into the committee amendment. Senator Schumacher had real concerns with the removal of those provisions, so this amendment leaves that existing law alone. We also incorporated some of his suggestions, such as adding representative healthcare providers to the task force and adding language that the task force should study potential negative impacts that have occurred as a result of the formation of the Nebraska Universal Service Fund. The second part of the amendment would incorporate the provisions of LB966, which clarifies the law relating to the sales or releases of dark fibre between telecommunications company. There is no fiscal impact of the bill, which was advanced unanimously from the Revenue Committee. The third part of the amendment is to Section 5 of the amendment, which relates to the wireless registry. And that clarifies how the PSC may use information it receives about complaints regarding lack of wireless coverage. It clarifies that it may only use the information for purposes of determining where to locate towers which it supports from the Nebraska Universal Service Fund. And I urge you to adopt this amendment to the committee amendment. [LB994 LB573 LB966]

SENATOR WILLIAMS: Thank you, Senator Friesen. Debate is now open. Senator, McCollister, you're recognized. [LB994]

SENATOR McCOLLISTER: Thank you, Mr. President. I wonder if Senator Friesen would yield to a few questions. [LB994]

SENATOR WILLIAMS: Senator Friesen, would you yield? [LB994]

SENATOR FRIESEN: Yes, I would. [LB994]

SENATOR McCOLLISTER: Senator Friesen, the fiscal statement indicated an \$88,000 expense from cash funds. Is that correct? [LB994]

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

Floor Debate  
March 27, 2018

---

SENATOR FRIESEN: That would be from a fund within the lease of dark fibre in the past. So it's a cash-funded. [LB994]

SENATOR McCOLLISTER: Those are state funds, I presume, Senator Friesen? [LB994]

SENATOR FRIESEN: Yes, the money comes from the Universal Service Fund and goes to the PSC for that work. [LB994]

SENATOR McCOLLISTER: And what will that \$88,000 be spent on? [LB994]

SENATOR FRIESEN: It would be spent if they need to hire a consultant or if they reimburse those expenses that we are talking about. [LB994]

SENATOR McCOLLISTER: This has nothing do with the small cell bill that's also before the Legislature? [LB994]

SENATOR FRIESEN: No. [LB994]

SENATOR McCOLLISTER: Okay. You talked about the speed of Internet coverage in Nebraska. Has there been any major improvement in the amount of rural coverage over the last five or six years? [LB994]

SENATOR FRIESEN: There has been. We found that there are numerous companies, the company where I live actually has provided fiber to the home. There is numerous other companies that have done that. Hamilton Telecommunications recently announced that they were doing fiber to the home over the next four years. So there is expansion happening. [LB994]

SENATOR McCOLLISTER: Thank you, Senator Friesen. How much money is currently in the Universal Service Fund? [LB994]

SENATOR FRIESEN: Roughly \$39 million. [LB994]

SENATOR McCOLLISTER: And that constitutes what, a year or two years' worth of construction costs? [LB994]

SENATOR FRIESEN: Collections this year were I think a little bit below \$30 million. [LB994]

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

Floor Debate  
March 27, 2018

---

SENATOR McCOLLISTER: I see. And how much does the fund bring in every year from telephone users? [LB994]

SENATOR FRIESEN: Currently, like I said, I think it's around a little bit under \$30 million. It used to bring in around \$70 million. [LB994]

SENATOR McCOLLISTER: Okay. Thank you, Senator Friesen. Thank you, Mr. President. [LB994]

SENATOR WILLIAMS: Thank you, Senator McCollister and Senator Friesen. Seeing no one left in the queue, Senator Friesen, you're recognized to close on AM2685. Senator Friesen waives closing. The question before the body is the adoption of AM2685. All those in favor vote aye; those opposed vote nay. Have all voted that wish? Record, Mr. Clerk. [LB994]

CLERK: 28 ayes, 0 nays on adoption of Senator Friesen's amendment to the committee amendments. [LB994]

SENATOR WILLIAMS: The amendment is adopted. Moving on to the committee amendment. Seeing no one in the queue, Senator Friesen waives closing. The question before the body is the adoption of committee amendment AM2358 to LB994. All in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB994]

CLERK: 30 ayes, 0 nays, Mr. President on the advancement. [LB994]

SENATOR WILLIAMS: The amendment is adopted. Senator Hilkemann, you're recognized. [LB994]

SENATOR HILKEMANN: Thank you, Mr. Speaker. I'm wondering if Senator Friesen would take a quick question. [LB994]

SENATOR WILLIAMS: Senator Friesen, would you yield? [LB994]

SENATOR FRIESEN: Yes, I would. [LB994]

SENATOR HILKEMANN: This morning as we were driving in we were listening to POTUS and they had an interview with the Secretary of Agriculture, talking about the farm bill that was just passed recently. Are you aware that there's over \$500 million being allotted for exactly the

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

Floor Debate  
March 27, 2018

---

program that you are talking about for Internet connections in rural Nebraska or in rural America? [LB994]

SENATOR FRIESEN: Yes, I am. [LB994]

SENATOR HILKEMANN: And how will that incorporate in with what you are attempting to do here with this bill? [LB994]

SENATOR FRIESEN: We don't know yet. We have been in conversations with people from the USDA. We are in discussions with them to see once...until they develop a program, we are hoping we can leverage some of our dollars with theirs and do a bigger expansion. But right now we don't know how their program is going to be designed. [LB994]

SENATOR HILKEMANN: And we can assume it says that we need to have this on top of the \$500 million that we are getting from the feds? [LB994]

SENATOR FRIESEN: I couldn't say that. I mean, all I know is we would like to leverage what we have with it. But again, typically what they have said and how they want to do things is, theirs is always matching money. And so I'm assuming we have to provide some base funding. [LB994]

SENATOR HILKEMANN: Thank you, Senator Friesen. [LB994]

SENATOR WILLIAMS: Thank you, Senator Hilkemann and Senator Friesen. Seeing no one in the queue, Senator Friesen, you're asked to close on LB994. [LB994]

SENATOR FRIESEN: Thank you, Mr. President. Again, this bill will not be probably the final answer yet. But we are hoping the way we have established the committee, and when they bring forth their recommendations they will be based on data that we can probably deal with things at this level when they bring their recommendations to the Legislature if they need to make changes. It is going to be an expensive process. And I think what the committee is instructed to do is to look at all different systems of delivery. And so we're not...we didn't want to tie any one specific technology into delivering broadband expansion out into the rural areas. So I think, I hope, we have done a good job of setting this up, and I hope that our process is good. But again, we will continue to look at this, I think, as the importance of this to rural Nebraska and to the other parts of the state that need to have some economic expansion happen in them. I think this is an important part of that so they have access to high-speed rural broadband. Thank you, Mr. President. [LB994]

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

Floor Debate  
March 27, 2018

---

SENATOR WILLIAMS: Thank you, Senator Friesen. The question is the advancement of LB994 to E&R initial. All those in favor vote aye; opposed vote nay. Would the members please cast their votes again? Have all voted that wish? Record, Mr. Clerk. [LB994]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB994. [LB994]

SENATOR WILLIAMS: The bill advances. Mr. Clerk. [LB994]

CLERK: (Read LB994A by title for the first time, Legislative Journal page 1244.) [LB994A]

SENATOR WILLIAMS: Senator Friesen, you're welcome to open on LB994A. [LB994A]

SENATOR FRIESEN: Thank you, Mr. President. We'll make this very simple. This is just the dollars that we needed to fund the committee's work. And so I urge you to vote green on LB994A. [LB994A]

SENATOR WILLIAMS: Thank you, Senator Friesen. The question before the body is the adoption of LB994A. Those in favor vote aye; opposed vote nay. Have all voted that wish? Record, Mr. Clerk. [LB994A]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB994A. [LB994A]

SENATOR WILLIAMS: The bill advances. Mr. Clerk. [LB994A]

CLERK: Mr. President, a priority motion. Senator Lindstrom would move to recess the body until 6:30 p.m.

SENATOR WILLIAMS: Motion by Lindstrom to recess until 6:30. All in favor say aye. Opposed. Motion carried.

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SPEAKER SCHEER PRESIDING

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

Floor Debate  
March 27, 2018

---

SPEAKER SCHEER: Good evening, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The evening session is about to reconvene. Senators, would you please record your presence? Roll call. Mr. Clerk, please record.

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

SPEAKER SCHEER: Are there any items for the record?

ASSISTANT CLERK: Not at this time.

SPEAKER SCHEER: Thank you. We'll proceed to the first item on this evening's agenda.

ASSISTANT CLERK: Mr. President, the first bill, LB731, which was introduced by Senator Williams. (Read title.) The bill was introduced on January 3; referred to the Health and Human Services Committee. That committee reported the bill to General File with committee amendments attached. (AM2432, Legislative Journal page 1045.) [LB731]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Williams, you're welcome to open on LB731. [LB731]

SENATOR WILLIAMS: Thank you, Mr. President, and good evening everyone and welcome back after dinner. I appreciate the fact that HHS Committee chose LB731 as one of their priority bills. And as you will find out as we go through the next few minutes, there are some other interesting and very solid good bills attached to this. LB731 was brought to me by the Nebraska Pharmacist Association on behalf of their members. The purpose of LB731 is to allow remote dispensing of prescription drugs to occur in Nebraska. As with all the healthcare industry, the practice of pharmacy is evolving, and yet we have many rural communities that have lost their community pharmacies due to the retirement of the owner and no new pharmacies wanting to set up their practice and live in those communities. Nebraska has allowed since 2008 with the passage of the Automated Medication Systems Act the practice of telepharmacy in our rural hospitals. LB731 would enhance telepharmacy framework to include remote dispensing. Remote dispensing allows a remote pharmacy to be operated by a certified pharmacy technician who is employed and supervised by a pharmacist at the supervising community pharmacy location with all work verified remotely via real time audio-visual communication. The remote dispensing pharmacy must be licensed by DHHS and follow the same statutory oversight as a community pharmacy. In addition, a remote pharmacy location must be further than ten driving miles away from the nearest community pharmacy to qualify for licensure. Most importantly, LB731 provides a framework for remote dispensing to occur in Nebraska with legal requirements in



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

Floor Debate  
March 27, 2018

---

place to ensure patient safety. The Nebraska Pharmaceutical Association convened a working group of pharmacists and pharmacy technicians from across Nebraska to develop the language that is in LB731. Patient safety was always the top priority in each item discussed. The working group reviewed laws from surrounding states that allow remote dispensing, such as Iowa, Minnesota, South Dakota, and others, and patterned much of LB731 after those successful models. During the testimony, a pharmacist from Lexington, Nebraska, talked about the fact that if we had remote dispensing, he would open a pharmacy in Franklin, Nebraska, a community about 50 or 60 miles south of Lexington that has lost their community pharmacy, so the people in Franklin don't have the availability of a local pharmacist. We anticipate no more than ten remote dispensing sites opening in the next five years based on economics and sound business practices of Nebraska pharmacists. The hearing on LB731 was held January 18, 2018. There was no opposition testimony, and this legislation was voted out of committee on a 7-0 vote. With that, I would encourage your green vote when we get to it on LB731. Thank you, Mr. President. [LB731]

SPEAKER SCHEER: Thank you, Senator Williams. Mr. Clerk, for an announcement. [LB731]

ASSISTANT CLERK: Thank you, Mr. President. Business and Labor holding an executive session at 6:45 in room 2022. [LB731]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Ripe, as Chairman of the Health and Human Services, you're welcome to open on the committee amendments. [LB731]

SENATOR RIEPE: Thank you, Mr. President, colleagues, and Nebraskans. And thank you, Senator Williams, for carrying this bill. AM2352 is the session-long effort of the Health and Human Services Committee members. This committee amendment includes LB681, LB788, LB790, and LB1107. There were numerous public health bills this session and these bills have been broken up into two different priority bills, LB731, that we're now hearing, and a second bill, LB1034, which we'll be hearing. These bills have been in a labor of substantial devotion from the committee members, and I appreciate all the committee work throughout this process. LB681 introduced by Senator Blood adopts the physical therapy compact. LB788 is my bill, and it provides requirements for continuing education for healthcare providers who prescribe opioids. LB790, introduced by Senator Ebke, creates a licensure option for mobile cosmetology, nail technology, and barbers. LB1107, introduced by Senator Linehan, incorporates LB1047, introduced by Senator Howard, and my LB794 to address changes for cosmetology and nail technology and barbers. The Google document has been shared with you today that highlights the sections of each bill and how they interact with the committee amendment in its entirety. The committee amendment was voted out of committee 7-0, and all of the bills attached to the committee amendment were also voted out on a 7-0 vote. I will continue with the introduction of

Floor Debate  
March 27, 2018

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my bill, LB788. And I have asked Senators Blood, Ebke, and Linehan to speak to each of their bills. As I previously said, LB788 is my bill, and it provides requirements for continuing education for healthcare providers who prescribe opioids. According to the CDC, the majority of drug overdose deaths in the United States involve opioids. Addressing this issue requires improving opioid prescription practices. It is crucial for patients to receive pain treatment that is not only effective but is also safe. In August, President Trump acknowledged the opioid crisis as an issue of national concern. In October, the President directed the Department of Health and Human Services to declare a public health emergency. As members of the Nebraska Legislature, we must continue to do our part to respond to this national emergency as it continues to draw closer to Nebraska. Previous national guidelines for prescribing opioids fell short by combating opioid abuse. As the CDC reports, those guidelines recommended higher dosages and focused access on risk of patients already known to be high risk. New guidelines provided for lower dosages, increased monitoring, and assessment of risks for all patients. It is critical for medical professionals to be familiar with the new guidelines in order to proactively address potential opioid abuse. Additionally, in October 2017, the Division of Public Health issued new Nebraska pain management guidance. In 2010, Senator...then Senator Gwen Howard introduced LB827, which would have required practitioners to complete at least two hours of continuing education in prescribing controlled substances every two years. That bill was IPPed. It proves that Senator Gwen Howard was spot on at the time. In light of the persistent opioid concerns affecting Nebraskans, I introduced LB788 to revisit continuing education for health practitioners regarding opioids. LB788 would require nurse midwives, dentists, physicians, physician assistants, nurse practitioners, podiatrists, and veterinarians to enroll in continuing education, specifically regarding the prescribing of opioids. Currently, medical professionals must complete a number of hours in continuing medical education. LB788 would require that five of those hours pertain to prescribing opioids. Additionally, LB788 originally provided that two of the five hours on prescribing opioids must cover the nationally-known Nebraska prescription drug monitoring program. There were a few concerns brought up at the committee hearing regarding which practitioners needed to be covered under this continuing education and how many hours are appropriate to accomplish the goals of LB788. The committee amendment to LB788 would only require one-half hour of continuing educational requirements for the prescription drug monitoring program that is unique to Nebraska. The amendment also removes nurse anesthetists and adds that only practitioners that prescribe controlled substances are required to complete the continuing education. This continuing education requirement will terminate on January 1, 2029. Thank you, Mr. President and colleagues. I ask for your green vote on AM2352 and on the underlying bill of LB731. Thank you, Mr. President. [LB731 LB681 LB788 LB790 LB1107 LB1034 LB1047 LB794]

SPEAKER SCHEER: Thank you, Senator Ripe. Mr. Clerk, there is an amendment to the committee amendment. [LB731]

Floor Debate  
March 27, 2018

---

ASSISTANT CLERK: Mr. President, Senator Kolterman would offer AM2611. (Legislative Journal pages 1245.) [LB731]

SPEAKER SCHEER: Senator Kolterman, you're welcome to open. [LB731]

SENATOR KOLTERMAN: Good evening, colleagues; thank you, Mr. President. AM2611 makes a specific change to Senator Riepe's bill, LB788. It's plain and simple. It moves it from a five-year continuing education commitment down to three years. It's a friendly amendment. Senator Riepe has accepted that amendment, as well as the committee has. I've talked to all of them and I would encourage you to support that. Thank you. [LB731 LB788]

SPEAKER SCHEER: Thank you, Senator Kolterman. Senator Blood, you're welcome to open. [LB731]

SENATOR BLOOD: Thank you, Mr. President. And I, too, would like to thank Senator Williams for allowing me to amend LB681 into this bill, as well as the Health and Human Services Committee and Senator Riepe for kicking it out of committee. LB681, adopt the Physical Therapy Licensure Compact was advanced from the Health and Human Services Committee on a 7-0 vote and had no opposition. The purpose of the Physical Therapist Interstate Compact is to increase consumer access to physical therapy services by reducing regulatory barriers to interstate mobility and cross-state practice. There are currently 15 states that are part of the compact and 8 additional states that are now pursuing legislation to become part of this compact. This compact is an important part of my military families initiative for this year. Military spouses, as a group, tend to be more educated than their civilian counterparts. When one must move every two to three years, these types of portable careers often come with new obstacles when a military spouse needs to renew a certification or state-issued license with each move. More than half of the military spouses work in a career field that requires licensure or certification, and more than 72 percent of those licenses must be reissued each time there's a government-ordered move to another state. Although the military families are in the forefront of my actions, this bill obviously benefits all of our physical therapists and physical therapist assistants in Nebraska, as well as those who may want to come and find employment in the great state of Nebraska. Additionally, with telemedicine quickly becoming such an important tool to our medical community, especially in the underserved communities of our state, physical therapists must be able to practice across the barriers that is created by geography. Passing this compact allows physical therapists to participate in a variety of service-delivery models to provide and coordinate care for patients here in Nebraska and in other participating states. This is win-win for Nebraska patients as it broadens their ability to choose. As Nebraska looks to adopt licensed reciprocity with other jurisdictions and looks to make additional licensing reforms in support of our existing and future workforce, what better way to keep that momentum than supporting another successful interstate

Floor Debate  
March 27, 2018

---

compact such as this one for physical therapists and physical therapist assistants. Should we be able to accomplish passing of this compact, know, as well, that we support our military spouses who only wish to come and participate in our workforce without the constant impediments of licensure issues. Remember, they also serve, and the stress of marital separation and relocating one's families are some of the most stressful life events that one can ever experience. Language in the compact was slightly tweaked before it was amended into LB731. In Article 7, Section G1, language for the compact was amended so the commission would have liability no greater than a state employee would have under the same or similar circumstances. This bill, among the others, brought into AM2432 can make a difference for these military families. With that, I ask that you vote green on AM2432 and the underlying bill, LB731. Thank you, Mr. President. [LB731 LB681]

SPEAKER SCHEER: Thank you, Senator Blood. Senator Ebke, you're recognized. [LB731]

SENATOR EBKE: Thank you, Mr. Speaker. Part of LB731, as amended, contains my LB790. LB790 addressed operations of mobile hair salons. Current statutes do not account for technology changes that have made mobile businesses in cosmetology feasible and the requirement in law of a fixed business location makes mobile operations impossible. This is not because the state is inherently against such operations, our predecessors just did not structure the law in a way that made it possible for these new businesses to operate. I was notified of this issue by a constituent who would like to bring his services to elderly clients. With many folks, my constituent has a long-established relationship, but they live a great distance away from his brick and mortar location. As age has crept up on them, they find it harder to make it into the salon. He had already begun the process of fitting a vehicle to meet these demands when he learned he wasn't able to legally operate "mobilely." He had gone to great lengths to meet foreseeable needs his physical location meets for his clients, and for safety and other mandated state business requirements. Yes, this bill is about business development, but it is also about human dignity. There's an issue of care and dignity here that we're currently not affording segments of our population. Allowing business owners to provide service to elderly and home-bound individuals is a good thing. The framework of LB790 allows these businesses to satisfy this need and to do so safely and responsibly. There were a few issues brought to our attention by HHS which my staff and HHS committee legal counsel have worked to address to the agency's satisfaction. We have also worked specifically with the barber's board to provide a similar mobile business option for barbers. I believe this is a modest step in making Nebraska more business friendly and for modernizing dated regulations that have not aged well. I would ask for your green vote on AM2432 and on LB790. And I want to thank Chair Ripe and the HHS Committee for making LB790 part of their priority package. Thank you, Mr. Speaker. [LB731 LB790]

SPEAKER SCHEER: Thank you, Senator Ebke. Senator Kuehn, you're recognized. [LB731]

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

Floor Debate  
March 27, 2018

---

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. I rise in support of AM2611, also the underlying amendment, AM2432 and the underlying bill, LB731. Wanted to just thank the colleagues who worked very diligently on the continuing education requirement. I appreciate Senator Kolterman bringing the amendment to address the three hours, as well as the work of Senator Ripe, when he introduced the bill, and his staff in really making sure that the language was practical, it was achievable, and it also addressed a continuing concern which we've talked about a lot in this body and certainly moves us forward and continues to keep Nebraska at the forefront of addressing the opioid issue, but serving as a model for other states. With that, I encourage enthusiastic support of AM2611 and AM2432 and LB731 by the entire body. Thank you, Mr. President. [LB731]

SPEAKER SCHEER: Thank you, Senator Kuehn. Senator Linehan, you're recognized. [LB731]

SENATOR LINEHAN: Thank you, Mr. President, and good evening colleagues. I would like to thank Senator Williams for allowing me to amend LB1107 onto his bill. LB1107 changes provisions relating to barber licensing and cosmetology, electrology, esthetics, nail technology, and body art practice. I would like to take a minute and just review how difficult it was to get all these pieces put back together. We started with a big bill. We broke it apart. Everybody on the committee took a part, including Senator Williams, Senator Kolterman, Senator Howard, Senator Crawford, Senator Erdman, and, of course, the Chairman. And then, when we all worked out our different parts, we cobbled it back together. It definitely was a labor of love. I introduce LB1107 after working over the interim with the Nebraska Barber's Board and the Nebraska Board of Cosmetology and Nail Technology and Body Art. I have to give a shout-out to the barber's board and the cosmetology board, they spent hours and hours on this working with us to come to agreement. And there are two different boards from two different worlds, cosmetology and barbers, and they managed to come to an agreement that helps everybody and reduces licensing requirements. LB1107 removes burdensome, unnecessary licensing requirements involving cosmetologists and guest artists and barbers. LB1107 reduces the number of hours of training required for licensed as cosmetologists, and the number of hours required to be a barber. In addition, unnecessary definitions of electrology establishments and guest artists are removed. Further, this bill updates the operating requirements for schools involving these practices. As amended, LB1107 includes provisions of Senator Howard's LB1042 and Senator Riepe's LB794. LB1042 addresses the regulations and licensure for nail technologists under cosmetology, and nail technology, and body art. LB794 removes a ban on clients from using or consuming alcohol upon the premises of a salon or nail technology salon. LB794, LB1042, and LB1107 received overwhelming support from the stakeholders and were advanced from the Health and Human Service Committee on a 7-0 vote. With that I ask you for your green vote on AM2432 and the underlying bill, LB731. Thank you. [LB731 LB1107 LB1042 LB794]

SPEAKER SCHEER: Thank you, Senator Linehan. Senator Baker, you're recognized. [LB731]

Floor Debate  
March 27, 2018

---

SENATOR BAKER: Thank you, Mr. President. Two years ago, I carried LB721; I was a member of the Health and Human Services Committee at the time. That led to the creation of the position of licensed surgical first assistant. As memory has it, a situation came up in western Nebraska where people were using...people in their capacity as surgical first assistant, but it was determined they needed to stop doing that because there wasn't any allowance for that to happen in Nebraska statute. So at that time, I think that what Senator Kolterman is proposing in AM2381 for other surgical assistance, I think it was an attempt to try to put those into that bill. At that time there was opposition, you know, the nurses association were against it, and so I respectfully declined to add that in. Will Senator Kolterman yield to a question? [LB731]

SPEAKER SCHEER: Senator Kolterman, would you please yield? [LB731]

SENATOR KOLTERMAN: Yes, I will [LB731]

SENATOR BAKER: Senator Kolterman, was that you, we were both on Health and Human Services, was that you who tried to get that in two years ago with LB721? [LB731]

SENATOR KOLTERMAN: Well, actually it was a separate bill, but they both do approximately the same type of work, yes. [LB731]

SENATOR BAKER: What have you learned now, I mean, are the nurses association, are those people for or against what you're proposing? [LB731]

SENATOR KOLTERMAN: The nurses association is still in opposition to the bill. [LB731]

SENATOR BAKER: Okay, all right. So I had just raised the question, I guess, about that. Thank you, Mr. President. [LB731]

SPEAKER SCHEER: Thank you, Senator Baker and Senator Kolterman. Senator Ripe, you are recognized. [LB731]

SENATOR RIEPE: Thank you, Mr. President and colleagues. I want to briefly express my support of Senator Kolterman's AM2611 to move the continuing education requirements from five hours to three hours. The three-hour request is reasonable. Thank you, Mr. President. [LB731]

SPEAKER SCHEER: Thank you, Senator Ripe. Senator Harr, you are recognized. [LB731]

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

Floor Debate  
March 27, 2018

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SENATOR HARR: Thank you, Mr. President. I have a couple questions on this large bill. Senator Williams, would you yield to a question, please? [LB731]

SPEAKER SCHEER: Senator Williams, will you please yield? [LB731]

SENATOR HARR: Thank you, Senator Williams. So my first question, this has to do with opioids, is that correct? [LB731]

SENATOR WILLIAMS: There is a...one of the bills that does have to do with opioids. [LB731]

SENATOR HARR: And that has to do with...are those Schedule IV narcotics? [LB731]

SENATOR WILLIAMS: Yes, they are. This bill has to do with the continuing education portion of prescribing opioids. [LB731]

SENATOR HARR: Okay. And this has to do with prescription of other medication as well from a distance? [LB731]

SENATOR WILLIAMS: I believe so. [LB731]

SENATOR HARR: Okay. And if you violate that, that's a violation of the law as well, is that correct? [LB731]

SENATOR WILLIAMS: I believe so. [LB731]

SENATOR HARR: Okay. Would you be upset if I brought an amendment that had anything to do with the Attorney General and conflict of interest? [LB731]

SENATOR WILLIAMS: Does the sunrise in the east? [LB731]

SENATOR HARR: Okay. Well, I will save it for another day then. I will keep looking for a bill to hang that on. I just thought you liked them on your bills. With that, I support AM2611, and I will have some questions on the next amendment, but thank you. [LB731]

SPEAKER SCHEER: Thank you, Senator Harr. Seeing no others wishing to speak, Senator Kolterman, you are welcome to close on AM2611. He waives closing. The question before us is

Floor Debate  
March 27, 2018

---

the advancement of the AM2611. All those in favor please vote aye; all opposed vote nay. Have all voted that wished? Please record. [LB731]

ASSISTANT CLERK: 29 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB731]

SPEAKER SCHEER: AM2611 is adopted. Mr. Clerk, there is another amendment to the committee amendment. [LB731]

ASSISTANT CLERK: Senator Kolterman would offer AM2381. (Legislative Journal pages 1245-1249.) [LB731]

SPEAKER SCHEER: Senator Kolterman you are welcome to open on AM2381. [LB731]

SENATOR KOLTERMAN: Thank you very much, Mr. President. Colleagues, I would like to thank Senator Williams and Senator Ripe for allowing me to amend this amendment onto the bill. This amendment adopts the surgical technology registry. It was originally introduced as LB360 last year, and many stakeholders have worked hard on this bill over the interim to come to an agreement on the language of this bill and to help ensure that it is passed in a timely manner. It was advanced from HHS Committee 7-0. That means that every aspect of this bill, including all the amendments and all the other bills, every one of them advanced 7-0. There have been two 407 reviews which involve surgical technologists; both acknowledge registry was appropriate to ensure public safety. In addition to a first-time registry, the surgical technologist bill also updates language in state statute clarifying delegation by physicians, including surgeons. Consider surgical techs, the entry level to a profession has become a critical part of every surgical team directed by surgeons in the operating room. There are about 800...800 surgical technologists in Nebraska. Currently in our state, the surgical technologist is the only member of the surgical team that does not have a minimum competency standard. This legislation allows for those who have on-the-job training to continue to work in their jobs giving them 180 days to register. And if they have not been certified or have gone through an educational program, they can register after competency assessment by a licensed professional in their place of employment. That was put in at the request of some of the independent surgical centers, as well as the hospital association. So we have worked very closely with them. The surgical technologist readies equipment and surgical instruments which number in the most basic surgeries in the hundreds. The surgical technologists take direction from the surgeon handling instruments, holding retractors and suctioning wounds. If I were on the operating table, I would want to know that everyone in that operating room had the training and expertise to conduct a surgery in a safe and sterile manner. Modernizing state statute to reflect what is actually going on in the operating room is what we are doing with this amendment and this bill. I believe there's significant need



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

Floor Debate  
March 27, 2018

---

for surgical technologists to be regulated by the state for the safety of our citizens. The amendment closes a circle by establishing a registry with competency and education standards in the Department of Health and Human Services. This bill started back in 2012, before I was even here. It's been negotiated and compromised between physicians, between hospitals, Department of Health and Human Services, and that's why I brought this bill to you today. Thank you, colleagues, and I urge you to vote green on AM2381. [LB731 LB360]

SPEAKER SCHEER: Thank you, Senator Kolterman. Senator Hilkemann, you are recognized. [LB731]

SENATOR HILKEMANN: Thank you, Mr. Speaker. I'm wondering if Senator Kolterman would yield to several questions. [LB731]

SPEAKER SCHEER: Senator Kolterman, would you please yield? [LB731]

SENATOR KOLTERMAN: Yes, I would. [LB731]

SENATOR HILKEMANN: First of all, I want to just say that as one who spent 39 years in the OR, surgical techs are absolutely make or break as far as I'm concerned. A good surgical tech can make or break a good surgery and I have the utmost of respect for surgical techs. What is this registration going to accomplish? That's my question. By registering them, what is this going to accomplish? [LB731]

SENATOR KOLTERMAN: Well, the first thing it will accomplish is it will create a registry that will...that the surgical techs have to sign up for through HHS, through the Health and Human Services Committee, and it details their level of expertise or what maybe school they graduated from, where they've worked in the past so that in the event that they are transferring from one institution to another there's a trail that you can call upon to check and see if there's any incompetencies or not. [LB731]

SENATOR HILKEMANN: So...and that's going to be monitored by the state, or is this going to be monitored by the surgical center or hospital? How is this going to be monitored? [LB731]

SENATOR KOLTERMAN: It's going to be monitored through the Health and Human Services Department. [LB731]

SENATOR HILKEMANN: How is this...how will this improve our present system? [LB731]

Floor Debate  
March 27, 2018

---

SENATOR KOLTERMAN: Well, at the present time, every professional occupation that we have in that surgical center or in that hospital is registered. So you have registered nurses, you have registered MD's, you have registered anesthesiologists, now you have registered assistant technologists or what we passed a couple years ago. All this does is create one more registry that people can go to to find out if they are educated properly and should be working in that surgical center. [LB731]

SENATOR HILKEMANN: Will this not create a barrier for some people becoming surgical techs? [LB731]

SENATOR KOLTERMAN: It shouldn't. That's why we work with the hospital association to create language where they could have on-the-job training. Many of the hospitals in rural Nebraska have trained their surgical assistants through coming to work there and then training. It will be up to them to just have them register and certify that they are trained in the proper manner. [LB731]

SENATOR HILKEMANN: Do you have any concern that by doing this registration that we are going to have...and part of the...there are certainly programs that our community colleges and some of our nursing schools for surgical techs, but is there any...is this going to keep people from going into surgical technology that may have been trained with on-the-job training previously? [LB731]

SENATOR KOLTERMAN: I don't know why it would. If they want to become registered and they are certified, that should allow them to move around even easier than they are now. I would tell you that there's three institutions in the state of Nebraska. One is at Scottsbluff, it's their community college out there; one is Southeast Community College; and the other one, I believe, is Methodist College, and they all train surgical techs. That's where the bulk of these people are trained, but that doesn't necessarily mean that's the only training people can have. If they want to learn on the job, they learn on the job and then become certified with the support of their professional staff that they are working with. [LB731]

SPEAKER SCHEER: One minute. [LB731]

SENATOR HILKEMANN: Okay. [LB731]

SPEAKER SCHEER: One minute, Senator. [LB731]

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

Floor Debate  
March 27, 2018

---

SENATOR HILKEMANN: Oh, oh, sorry. During the 407 process, were there reports that not having these registered created problems within the surgery centers or the hospitals? [LB731]

SENATOR KOLTERMAN: Under the 407 process, and I have got a copy of it if you would like to read it; that was actually the recommendation that they made that we do create a registry, and so that came from the 407 process. [LB731]

SENATOR HILKEMANN: Thank you, Senator Kolterman. Thank you. [LB731]

SENATOR KOLTERMAN: You're welcome. [LB731]

SPEAKER SCHEER: Thank you, Senator. Senator Ebke, you are recognized. [LB731]

SENATOR EBKE: Thank you, Mr. President. I wonder if Senator Kolterman might engage in a bit of a conversation with me. [LB731]

SPEAKER SCHEER: Senator Kolterman, would you please yield? [LB731]

SENATOR KOLTERMAN: Absolutely I would. [LB731]

SENATOR EBKE: Thank you, Senator Kolterman. You know that I've got a bill, LB299, which suggests that we ought to think carefully about creating more new licensures, correct? [LB731 LB299]

SENATOR KOLTERMAN: I believe I signed onto your bill. [LB731]

SENATOR EBKE: I believe you did, too. [LB731]

SENATOR KOLTERMAN: I think I'm a cosponsor. [LB731]

SENATOR EBKE: You are. So here's some questions that I would have. Using the potential LB299 framework, okay? Have there been any known harms done to anyone by any unregulated surgical techs in the country that you're aware of? [LB731 LB299]

SENATOR KOLTERMAN: I can't speak to that. There probably have been. [LB731]

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

Floor Debate  
March 27, 2018

---

SENATOR EBKE: Senator Howard says, yes. Senator Howard, would you yield? I wonder if Senator Howard would yield for a question? [LB731]

SPEAKER SCHEER: Well, I'll ask her if she'll yield? Senator Howard, would you please yield? [LB731]

SENATOR HOWARD: I would be happy to. [LB731]

SENATOR EBKE: Senator Howard, you heard that question. [LB731]

SENATOR HOWARD: So one of the things that I was going to talk about on my turn on the mike was an individual from the Association of Surgical Technologists came and told us the story of an individual named Rocky Allen in the state of Colorado who tested positive for fentanyl during surgeries. And so while he didn't harm anybody because he was on fentanyl, after it was found out that he had been high on fentanyl during surgeries, they decided to create a surgical technologists registration at that point. [LB731]

SENATOR EBKE: So would the surgical technologist registration prevent somebody from being high on fentanyl? [LB731]

SENATOR HOWARD: What it did...what they felt that it allowed for was a background check that would have shown that he had had previous brushes with the law in regard to his fentanyl usage and it would have precluded him from going into a surgical facility to perform as a surgical technologist. [LB731]

SENATOR EBKE: Okay. Thank you, Senator Howard. [LB731]

SENATOR HOWARD: Thank you. [LB731]

SENATOR EBKE: Senator Kolterman, you mentioned that surgical techs do have some direct patient contact in terms of retracting things and so forth during...do they have any other...I mean, they don't cut into people or anything like that, right? [LB731]

SENATOR KOLTERMAN: No. Actually, many of us, as a result of investigating this profession, we went to observe an open heart surgery. I think there were four of us that have been through that, watch the surgical techs in action. Their primary objective is to make sure that the operating

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

Floor Debate  
March 27, 2018

---

room is moving in a fair manner, handing the things off to the surgeons, but they don't do any suturing, they don't do any cutting or anything of that nature. [LB731]

SENATOR EBKE: Okay. And so what kind of things would be included in the registration that would be limiting of somebody's ability to practice. I mean, right now we don't have any regulations, correct? [LB731]

SENATOR KOLTERMAN: No. What we are really trying to accomplish, as Senator Howard just alluded, I thought you were talking about Nebraska, because we didn't have a registry. But what happened was, this person moved from one hospital to the other and there was no background check, there was no way of knowing they were registered because they didn't have a registry there either. So the person came, nobody followed up on it. [LB731]

SPEAKER SCHEER: One minute. [LB731]

SENATOR KOLTERMAN: Next thing you know, they had a huge lawsuit on their plate because the person that they were working with had...they created some real problems in the operating room. All we are trying to do is create a paper trail so that people can check on where did you work before, what are your credentials, what school did you go to, give us an opportunity to do a background check and things of that nature. [LB731]

SENATOR EBKE: So does...it seems to me that the hospitals, the employers still have the ability to conduct those background checks, whether it's a criminal background check. I mean, I know that most schools, most businesses will run some sort of a criminal background check now, so if the guy had been in trouble from that standpoint that, I would have thought, would have shown up. You know my predispositions with respect to adding registration, licensing, or other regulation within the state. I don't...I'm obviously not... [LB731]

SPEAKER SCHEER: Time, Senator. [LB731]

SENATOR EBKE: Thank you, Mr. President. [LB731]

SPEAKER SCHEER: Thank you, Senator Ebke, Howard and Kolterman. Senator Harr, you are recognized. [LB731]

SENATOR HARR: Thank you. Let me first start out by saying I think Senator Ebke left the Republican Party because she's too conservative for the Republican Party, and maybe I need to become a Libertarian because I might be the only conservative, I like to joke in here, because I

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

Floor Debate  
March 27, 2018

---

don't want more regulation and that's what this bill creates. I heard about a guy in Colorado that used fentanyl. Did they call the police? If they didn't, they should have. Right? And if you call the police, now you have a criminal record. When that person goes to apply, you say did you call...can I have a copy? Will you give me a release to check your criminal record. Boom. It's right there. And if they didn't, why do you think they would put it in a registry if they won't call the police. You know, I get that these techs are low paid, and I understand that they want some stability, but I'm not sure this is the right way to do it. Would Senator Ripe yield to a question? [LB731]

SPEAKER SCHEER: Senator Ripe, would you please yield? [LB731]

SENATOR RIEPE: Yes, I will. [LB731]

SENATOR HARR: Thank you, Senator. So we're here on LB731, and you have an amendment, AM2432. How many bills are on that amendment? [LB731]

SENATOR RIEPE: Four. [LB731]

SENATOR HARR: Four, okay, plus the underlying bill, LB731, so that's five. [LB731]

SENATOR RIEPE: Yes. [LB731]

SENATOR HARR: And you left AM2381, which is originally LB360, off that train. Why did you choose to do that? [LB731 LB360]

SENATOR RIEPE: Well, I think there was enough concerns that we thought that we only wanted to add so many to our lineup, and that was the one we fell short. We didn't want to give it too great or it puts the entire underlying bill LB731 at risk. [LB731]

SENATOR HARR: Okay. Thank you. I see, looking at the committee statement, because LB360 was, in fact, voted out, that you had the Nebraska Association Independent Ambulatory Centers testifying against it. You had the Association of PeriOperative Registered Nurses, Nebraska Nurses Association, and the National Alliance of Integrated Afib Centers testifying against this bill. Now knowing Senator Kolterman as I do, I know he probably did some hard work on this, and I'm sure he has tried to come up with the best compromise he thinks he can. But the fact of the matter is, I know there are a number of people that still have concerns. Given that, would Senator Kolterman yield to a question? [LB731 LB360]

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

Floor Debate  
March 27, 2018

---

SPEAKER SCHEER: Senator Kolterman, would you please yield? [LB731]

SENATOR KOLTERMAN: Sure, I will. [LB731]

SENATOR HARR: Thank you, Senator Kolterman. I'm looking at AM2381. Do you have a copy of it in front of you? [LB731]

SENATOR KOLTERMAN: Yes, I do. [LB731]

SENATOR HARR: Okay, thank you. On the first page, line 14...well, let's start on line 12. It says: Beginning January 1, 2019, any surgical technologist employed by a facility licensed under the Healthcare Facility Licensure Act or by a physician shall register within 180 days of employment. Would you be willing to amend your amendment from "shall" to "may?" [LB731]

SENATOR KOLTERMAN: No, I will not. [LB731]

SENATOR HARR: Okay, all right. Because there's a difference between "shall" and "may," isn't there? [LB731]

SENATOR KOLTERMAN: There is, and you know there is. [LB731]

SENATOR HARR: Okay, all right. Well, it was worth a try. When I get up on the mike next, I'm excited to see that Senator Howard is in here, because I consider her a resident expert or maybe I can ask Senator Ripe about the 407 process and how it works, and then specifically how it worked in this instance, because I think we will probably have some time to talk about that. How much time do I have left, Mr. Speaker? [LB731]

SPEAKER SCHEER: One minute. [LB731]

SENATOR HARR: One minute. All right, well, I think I will come back to...let me ask one more question. Senator Kolterman, do you know how much a tech is generally paid? [LB731]

SENATOR KOLTERMAN: Pardon me. [LB731]

SENATOR HARR: Sorry, do you know how much a tech is generally paid? [LB731]

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

Floor Debate  
March 27, 2018

---

SENATOR KOLTERMAN: No, I do not. [LB731]

SENATOR HARR: Okay. Senator Ripe, would you yield to a question? [LB731]

SPEAKER SCHEER: Senator Ripe? [LB731]

SENATOR RIEPE: Yes, I will. [LB731]

SENATOR HARR: Do you know how much these surgical techs are generally paid? [LB731]

SENATOR RIEPE: It would only be speculative on my part. Obviously, they are significantly less than a registered nurse would be paid. I don't know an exact dollar amount that they would be paid on an hourly basis, and that would obviously vary from if they are in a high tech orthopedic versus a general surgery. [LB731]

SENATOR HARR: Okay. And do you know how much training they're required to get at this time? [LB731]

SENATOR RIEPE: Well, the training right now, as we heard, is much of this is sort of on-the-job training, understudies under physicians, and in concert with nurses that would be in the surgical suite. [LB731]

SPEAKER SCHEER: Time, Senator. [LB731]

SENATOR HARR: Thank you. [LB731]

SPEAKER SCHEER: Thank you, Senator Harr, Senator Ripe and Senator Kolterman. Senator Howard, you are recognized. [LB731]

SENATOR HOWARD: Thank you, Mr. President. I rise in support of AM2381. I just wanted to explain my support. This bill has, sort of, been coming on for a few years. And it really for...in my opinion, it came from the surgical first assist bill that we passed last year. In 1898, in the state of Nebraska, there was a court case. It was the State of Nebraska v. Howard Paul, and I don't just remember it just because it has my name in it. I actually also remember it because it is the case that ties physicians' hands from delegating medical functions to nonlicensed medical personnel. Right now surgical technologists are really in this gray area, because they are not licensed. And so essentially if the department wanted them to become licensed, they could



Floor Debate  
March 27, 2018

---

enforce this 1898 case. And that's exactly what happened for surgical first assists. Now, surgical first assists are able to close a wound, which is different than surgical technologists who's only able to suction and hold the retractor. That being said, I have always considered...I found this hearing fairly shocking that there's somebody who is suctioning in my body or holding a retractor in an open wound on my body who has never received any sort of training, right? They get trained in there, they can have a comprehensive exam, but the state of Nebraska doesn't know who they are and has never performed any type of background check or made sure that they are able to meet any type of requirements. I found that personally terrifying. And so when the department...and I will say that the Department of Health and Human Services, as far as I know, supports this type of registry. And for the 407, because I know Senator Harr is just dying to hear about it, the 407 is a three-legged stool. You have a technical review committee, and the technical review committee recommended a registry. You have...the Board of Health then reviews the technical review committee; and then finally the chief medical officer or the head of the Department of Health and Human Services signs off. And in this instance, just reading Director Phillips' letter dated February 5, 2016, that's how old this is: I agree that there is a need to provide greater assurances that surgical technologists are adequately trained and educated to do their job safely and effectively, however, I don't believe that licensure is necessary. This could be accomplished under our registry. And that's exactly what LB360 and AM2381 purports to do. I can't imagine that there's anybody in this body who doesn't find it shocking that there's somebody in the surgical suite who the state of Nebraska doesn't know who they are and has never performed any sort of background check or comprehensive understanding of their educational experience. And so I think AM2381 is very much an appropriate level of licensure for this type of medical provider. And with that, thank you, Mr. President. [LB731 LB360]

SPEAKER SCHEER: Thank you, Senator Howard. Senator Kolterman, you are recognized. [LB731]

SENATOR KOLTERMAN: Thank you very much. I just wanted to elaborate a little bit on why I brought this bill. As indicated, the first couple years I was on Health and Human Services, there was a bill that was brought by the surgical assistants. And actually there had been a cease and desist order put on them so that they couldn't practice in their profession any longer. There was some surgical assistants that came to Scottsbluff from Colorado, and they found out that they weren't...there was no licensure for them in the state of Nebraska, so they did that. And then Health and Human Services came in and said, hey, we're going to put a cease and desist order on. They do very similar types of medical procedures, although there is a difference. But we license them, and we set up a registry for them. About the same time I discovered that...I believe we'd had a bill that had been around since 2012 dealing with this same issue that Kathy Campbell, Senator Campbell had started with. So I picked up from there. The other thing that I wanted to answer was these people are paid in the mid-20s, \$25,000 to \$30,000 entry level types of jobs. They are good paying jobs. And as Senator Howard just indicated, I, like her, would really like to

Floor Debate  
March 27, 2018

---

make sure that the people that are working in a surgical center--and we happen to be watching heart surgery in south Lincoln--I would like to know for a fact that those people are registered and certified to be capable of working in those environments. Over the last week to ten days, you should have received e-mails from surgical assistants or surgical techs talking about the value that they bring, and many of them are RN's that went on to become surgical technologists. So I would encourage you to support AM2381 as well as the rest of the bill. Thank you very much. [LB731]

SPEAKER SCHEER: Thank you, Senator Kolterman, Senator Harr, you are recognized. [LB731]

SENATOR HARR: Thank you, Mr. President. So when we were off the mike, I went and asked how much the surgical techs make. Generally in the realm of \$10 to \$15 an hour. You are not going to get rich doing this. Good job, right? These are the type of jobs that I want training for on my work force development because I think it gets people to the next wrung, and YOLO, we need to work on that. That being said, I listened to what Senator Howard said, and while I respect her greatly, I might disagree with her, because this bill is a registry bill. All you have to do is register, no different than what make other people register for. It doesn't have any extra or additional requirements that I heard about. I mean, ultimately at the end of the day that surgeon in Nebraska is called the "captain of the ship." He or she is ultimately responsible for what happens in that room. They are the ones who have to know how many sponges go inside a person when operating. They are the ones who do a sponge count when they come out. You might have a surgeon or tech who keeps track of how many went in, but they also know how many they started with, whether it's 50, and they pulled out 50. You know, whatever that number is. But this bill wouldn't change any requirements for what they can and can't do or what education they should or shouldn't have, unless this is a first step towards more regulation. But what this is right now is merely a chance to have a registry so that our employers out there don't have to do the work that everyone else has to do so that they say, all right, you're on this registry. I'm going to verify this registry. I assume verifies your educational background, which any employer should do; it verifies whether you have a criminal past, which any employer should do; and it will have your previous employers on there, which again any employer should check your references. So I'm not sure this bill has the intended consequences that Senator Kolterman is hoping for. I think, in fact, what it does is add another layer of bureaucracy and gives, as Senator Erdman would tell us, more jobs to state government. So while I appreciate what he's trying to do, and lord knows I would like to see these people earn more money, \$10 to \$15. If someone is in an operation room with me when I'm under, I hope that they are making more than \$10 to \$15 an hour, and I hope that all the sponges get out, and that all the proper equipment gets out of me, but I don't think this bill would do anything to change that. And I think the fact that this was not included on the health bill, the omnibus health bill under AM2432 and LB731, tells you that the committee had their concerns about it. They may have voted it out 7-0, but there's definitely some concerns

Floor Debate  
March 27, 2018

---

about is this something we should or shouldn't be doing, especially in this era of...that was started in 1980 with Ronald Reagan of deregulation that continues to this day. Do we want to add more regulations to the book? So, again, as being the resident conservative, I say no to adding more regulations. And I unfortunately don't have more time or I would harass Senator Howard asking her about the 407 process and how this actually went through the 407 process. So if anyone would be willing to give me a little time, I think Senator Howard and I could have a nice dialogue because I think I only have one more time on the mike. Thank you. [LB731]

SPEAKER SCHEER: Thank you Senator Harr. And, Senator Harr, this is your third time at the mike. [LB731]

SENATOR HARR: Thank you. Senator Howard, how are you this evening? Would you yield to a question? [LB731]

SPEAKER SCHEER: Senator Howard, would you please yield? [LB731]

SENATOR HOWARD: Yes, I will. Reluctantly, I will. [LB731]

SENATOR HARR: Okay. First question, how are you this evening? [LB731]

SENATOR HOWARD: Ah, I'm very well. Thank you for asking. [LB731]

SENATOR HARR: Okay, thanks. So I have a short nine days left, but who's counting, and I never learned the 407 process. And I know that we have a young body here where I think two-thirds of the body have less than...are on their first term, four years or less, so can you give a quick tutorial on the 407 process? [LB731]

SENATOR HOWARD: Yes, absolutely. So the 407 was created in the mid-'80s by Senator Wesely and Senator Beutler, and it was to remove the contentious scope issues around medical scope of practice from the conversations...from senators because we didn't have the expertise in specific medical areas. And so, essentially, what they created was a three-legged stool. The first leg is a technical review committee. So when a group puts in a request for a 407, they say I'm a "surg" tech and I would like to have a registry or a license. Then a technical review committee will be appointed. They're all volunteers and they really dig into the issue and make recommendations. After the technical review committee completes its work, their review goes to the Board of Health who also has their own review. And then finally, both reviews are considered by the Chief Medical Officer or the Director of the Department of Health and Human Services. [LB731]

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

Floor Debate  
March 27, 2018

---

SENATOR HARR: And so they ultimately...who ultimately makes the decision whether to do or not do something? [LB731]

SENATOR HOWARD: Senators. [LB731]

SENATOR HARR: Okay. And it's based on this 407 report, correct? [LB731]

SENATOR HOWARD: It doesn't have to be. I mean, we could absolutely go rogue and change scope without a 407. But we rely heavily on the 407 for technical support, at least in the Health and Human Services Committee. [LB731]

SENATOR HARR: And I'll be quite frank, I hate scope of practice bills. [LB731]

SENATOR HOWARD: Me, too. [LB731]

SENATOR HARR: Right? They're about the only area where it's a win-lose situation. For every winner, there's an equal loser. And so I don't like them, and so I really like the 407 process as much as possible. And so I was reviewing the director's proposal from February 5, 2016. Have you had a chance to review that? [LB731]

SENATOR HOWARD: Yes. [LB731]

SENATOR HARR: Looking at the summary of technical committee and board of health recommendations, I see that the technical review committee members recommend in favor of the applicant's proposal, is that correct? [LB731]

SENATOR HOWARD: Yes, the technical review committee recommended for a license. [LB731]

SENATOR HARR: Okay. And the Board of Health recommended against the applicant's proposal? [LB731]

SENATOR HOWARD: Against a license. [LB731]

SENATOR HARR: Okay. All right. I think I will have to read this a little bit more. I appreciate the dialogue and a quick 407 for dummy's tutorial from you. I feel a little more enlightened. Thank you. [LB731]

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

Floor Debate  
March 27, 2018

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SPEAKER SCHEER: Yes, Senator. [LB731]

SENATOR HARR: If I could yield the remainder of my time to Senator Kolterman. [LB731]

SPEAKER SCHEER: Well, we've already clicked the clock, so you've lost it. But thank you for the offer, Senator Harr. Senator McDonnell, you are recognized. [LB731]

SENATOR McDONNELL: Thank you, Mr. President, I'm going to yield my time to Senator Harr. [LB731]

SPEAKER SCHEER: Senator Harr, 4:55. [LB731]

SENATOR HARR: I will see your pass and raise you one to Senator Kolterman. [LB731]

SPEAKER SCHEER: Senator Kolterman, will you please yield? [LB731]

SENATOR KOLTERMAN: Yes, I will. [LB731]

SENATOR HARR: Senator Kolterman, is it my understanding that you intend to pull AM2381? [LB731]

SENATOR KOLTERMAN: I thought you yielded your time to me. [LB731]

SENATOR HARR: I thought I did, but I found out I can't yield upon a yield. [LB731]

SPEAKER SCHEER: Cannot yield your time if it's been yielded to you by someone else. So you can bring it back to the chair or you can use it, but you can't yield it. [LB731]

SENATOR HARR: I'm going to yield my...I'm going to see your and I'm going to pass it back to you, Senator McDonnell. [LB731]

SENATOR McDONNELL: I'm going to yield my time to Senator Kolterman. [LB731]

SPEAKER SCHEER: Senator Kolterman, you have 4:05. [LB731]

SENATOR KOLTERMAN: You know, I would just like to close on the bill. [LB731]

Floor Debate  
March 27, 2018

---

SPEAKER SCHEER: Thank you, Senator Kolterman, but there are others in the queue. Go ahead, Senator. [LB731]

SENATOR KOLTERMAN: Then I will take the time. First of all, nine days left for Senator Harr. He wonders who's counting. Right now I am. (Laughter) The other issue, adding a bill on the floor, why would we do that, Senator Ripe? I had the courtesy to ask you before I did this, didn't I? Senator Williams, I had the courtesy to ask you. The other night we had somebody who didn't have any courtesy. I'm going to pull this bill...or this amendment, and I'm really disappointed because I think what we are trying to do here, we had 7-0 vote on the committee. And I think it's unfortunate that these young ladies and gentlemen that are taking further education to get certified, to get registered are going to...when you have a problem in the surgical room and you are not getting the proper services, don't look at HHS because we are trying to do our job. Thank you very much. Mr. Chair you can pull AM2381. [LB731]

SPEAKER SCHEER: Thank you, Senator Kolterman. We'll move back to the committee amendments, AM2432. To speak, Senator Hilkemann, and Senator Groene. Senator Hilkemann, you are recognized. [LB731]

SENATOR HILKEMANN: Thank you, Mr. Speaker. The amendment has been pulled. I'll surrender my time back to the chair. [LB731]

SPEAKER SCHEER: Thank you, Senator Hilkemann. Senator Groene, you are recognized. I'm not seeing Senator Groene. Seeing no others in the queue, Senator Ripe, you are welcome to close on AM2432. He waives closing. The question before the body is the adoption of AM2432. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB731]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of committee amendments. [LB731]

SPEAKER SCHEER: AM2432 is advanced. Moving back to LB731. Seeing no one wishing to speak, Senator Williams, you are welcome to close. [LB731]

SENATOR WILLIAMS: Thank you, Mr. President, and good evening again, colleagues. And thank you for the discussion we have had tonight. I would first of all like to thank Senator Kolterman for carrying the surgical techs amendment forward and having the discussion on the floor tonight. I hope you all paid attention, because I suspect we will see that again. And again, it was voted out of committee on a 7-0 vote. I would like to thank Senator Blood, Ripe, Ebke and Linehan for the bills that they have added to LB731. This has helped us in the area of providing

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

Floor Debate  
March 27, 2018

---

high-quality healthcare to our residents of our state and I would appreciate your green vote on LB731 as amended. [LB731]

SPEAKER SCHEER: Thank you, Senator Williams. The question before us is advancement of LB731 to E&R Initial. All those in favor please vote aye; opposed vote nay. Have all voted that wish to? Please record. [LB731]

ASSISTANT CLERK: 34 ayes, 0 nays on the advancement of the bill, Mr. President. [LB731]

SPEAKER SCHEER: LB731 is advanced to E&R Initial. Next item, Mr. Clerk. [LB731]

ASSISTANT CLERK: Mr. President, LB731A by Senator Williams would appropriate funds to carry out the provisions of LB731. [LB731 LB731A]

SPEAKER SCHEER: Senator Williams, you are welcome to open on 731A. [LB731A]

SENATOR WILLIAMS: Thank you, Mr. President. Again, there is a very small cash fund requirement with 731A. And I would appreciate your green vote moving this forward. Thank you, Mr. President. [LB731A]

SPEAKER SCHEER: Thank you, Senator Williams. The question before us is the adoption of LB731A to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have you all voted that wish to? Please record. [LB731A]

ASSISTANT CLERK: 35 ayes, 0 nays on the advancement of the A bill. [LB731A]

SPEAKER SCHEER: LB731A is advanced to E&R Initial. Next item, Mr. Clerk. [LB731A]

ASSISTANT CLERK: LB1040, introduced by Senator Albrecht. (Read title.) Bill was introduced on January 17 of this year, referred to the Health and Human Services Committee, placed on General File with committee amendments. (AM1995, Legislative Journal page 767.) [LB1040]

SPEAKER SCHEER: Senator Albrecht, you are welcome to open on LB1040. [LB1040]

SENATOR ALBRECHT: Thank you, Speaker Scheer. Colleagues, LB1040 is a bill to help grieving families by creating an optional commemorative birth certificate for mothers who lose a

Floor Debate  
March 27, 2018

---

pregnancy prior to 20 weeks' gestation. We know that one in four women will experience a miscarriage, and a much higher percentage of all those pregnancies end this way. The vast majority of these losses occur within the first three months of pregnancy. Every pregnancy loss is a tragedy that has a profound impact on women and entire families, yet most go unrecognized. Any woman who has ever miscarried knows the pain and loss are real, no matter the gestation. Whether a pregnancy is lost at 5 weeks, 12 weeks, 19 weeks or 20 weeks and beyond, the pain of that loss can be severe and should be recognized and honored for those who wish to do so. Currently, the state of Nebraska offers birth certificates for pregnancies that end at or after 20 weeks' gestation. This is due to the work of former State Senator Danielle Conrad, who carried a bill that was passed by the Nebraska Legislature in 2008 to make this option available to women and families. I have introduced LB1040 to build on this legacy of helping grieving women and families by extending the same courtesy through a new type of optional, commemorative birth certificate for those who suffer a pregnancy loss prior to 20 weeks. Last year, Florida became the first state to make a special type birth certificate available to women and families who lose a pregnancy prior to 20 weeks, and I believe it is time that we do the same. LB1040 is a unifying bill drafted to ensure that there is no confusion or complications over what this new certificate is and is not. The certificate created under LB1040 is commemorative and has no legal effect. There are also provisions clearly stating that this is not an official birth certificate or legal document. It is a commemorative certificate for women who lose a pregnancy that has been verified by a healthcare practitioner prior to 20 weeks' gestation. It cannot be used to calculate live birth statistics and must be requested by the patient. It is not required or automatically administered. If a woman chooses to make this request, a healthcare practitioner simply gives her a letter or signs a form created by the Health Department...the Health and Human Services verifying the miscarriage and the woman sends her request for a certificate, along with a note or form verifying the miscarriage, goes to the Department of Health and Human Services. The requesting patient pays for the cost of issuing the certificate so there is no cost to the state. The certificate is to contain a name, if given by the requesting patient, and gender if known. If no name is given, the department shall fill in the certificate with the name "Baby Boy" or "Baby Girl" and the last name of the patient. And if the gender of the child is also unknown, the department shall fill in the certificate with the name "Baby" and the last name of the patient. The committee has introduced a friendly amendment that provides some additional language that the Nebraska Hospital Association had asked for and makes clear that the commemorative certificate created under this bill is different from the current definition of certificate under the Vital Statistics Act that should remove the original fiscal note given by the Department of Health and Human Services. I will let Senator Ripe go into further detail on that amendment. And I am proud to say that LB1040 had no opposition in the committee hearing and advanced from Health and Human Services unanimously. This bill is supported by the Nebraska Hospital Association and several letters of support were submitted by doctors and ob-gyns who desire to see this certificate made available to their patients. I would especially like to thank all of the courageous mothers--Jennifer Sommer, Laura Linder, Marci Petta, Jennifer Henning, Audra Pace, Lisa



Floor Debate  
March 27, 2018

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Bresley--for bravely coming to testify at the committee hearing, to tell their stories and describe how these certificates would mean the world to them and their families. That's who this bill is for, the mother forced to say good-bye to that child that she loved and longed for before she gets to say hello; for the father who is forced to helplessly watch his wife in labor or in pain only to bury their child; for the parents who hold their children in their hearts instead of their arms. And, no, it doesn't matter when the miscarriage happens because the pain is just as real as the pregnancy. These mothers and fathers are suffering silently. They grieve quietly and frequently feel hopeless and alone and they don't receive the same sense of closure and validation that they are seeking, that they deserve. All too often accompanying a searing pain of miscarriage is the reality that because you were short of 20 weeks of gestation mark, maybe the only way...only a few days from the 20-week gestation mark, there is no birth certificate or anything to say that you had a loss and it was real. The fact is that for many families when they experience this type of pregnancy and loss, they grieve the loss wholeheartedly and an earlier loss doesn't mean it mattered any less or there is any less mourning. By offering the choice of recognizing the loss of a pregnancy prior to 20 weeks, the state of Nebraska can help support the one in four women who will suffer a miscarriage and show these grieving parents that they are supported and not alone by allowing them to receive something tangible that acknowledges and validates their loss. I think this is the best...or the least, actually, we can do for those who have already been denied so much. And LB1040, again, is a simple way that we can help moms and families going through one of life's most difficult trials, and I ask for your green vote on the bill and the committee amendment. Thank you. [LB1040]

SPEAKER SCHEER: Senator Ripe, as Chair of Health and Human Services, you're welcome to open on the committee amendment. [LB1040]

SENATOR RIEPE: Thank you, Mr. President, colleagues, and Nebraska, and thank you to Senator Albrecht for this sensitive and very responsive piece of legislation. AM1995 is a clarifying amendment which provides a few technical changes. The amendment provides the definition of commemorative certificate. This definition addresses the concerns of the Department of Health and Human Services regarding the fiscal note and should eliminate the one-time expense since the commemorative certificates are not to be counted for Vital Statistics. It is my understanding once the committee amendment is adopted, there will still be a minimal cash fund fiscal impact for processing these commemorative certificates. However, the department is estimating the revenue will almost meet the expenditure for processing the certificates. If the revenue does not exceed these minimal expenses, the funds will come from the Vital Statistics Cash Fund. The committee amendment also allows the healthcare practitioner to delegate the duty of notifying the parent of the availability and ability to request a commemorative certificate. This is necessary as a healthcare practitioner is not always the correct person to deliver this information. It may be the grieving nurse. Therefore, this delegation language allows for flexibility. There is a change of vocabulary from "certifying" to "verifying"

Floor Debate  
March 27, 2018

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for content of the letter issued to the patient. There is also a requirement for the Department of Health and Human Services to provide a form on its Web site that may be used by a healthcare practitioner to designate, to affirm the nonviability of the birth. This will help the healthcare practitioner with a standard form that may be used. After talking to a Legislative Fiscal officer, this requirement should not have a fiscal impact to the department. Now that I have talked about the technicalities of the amendment, I would like to share one of these women's stories. The Health and Human Services Committee legal counsel, Kristen Stiffler, is one of these warrior moms and assisted with the drafting of this bill. I share this story with you with Kristen's full permission. Kristen "miscarriaged" (sic) shortly after the session opened. And this warrior mom and warrior moms like Kristen have enormous strength. These women go about their daily lives carrying the memory of their babies and I believe the Legislature should allow these mothers the opportunity to grieve and honor the babies they will never hold with this commemorative certificate. I'm a strong supporter of LB1040. I believe it's the right thing to do, it's the sensitive and kind thing to do, and I ask for your green vote on AM1995 and the underlying bill of LB1040. Thank you so much, Mr. President. [LB1040]

SPEAKER SCHEER: Thank you, Senator Ripe. Senator Bolz, you're recognized. [LB1040]

SENATOR BOLZ: Thank you, Mr. President. Would Senator Albrecht yield to a question? [LB1040]

SPEAKER SCHEER: Senator Albrecht, would you please yield? [LB1040]

SENATOR ALBRECHT: Yes. [LB1040]

SENATOR BOLZ: Senator Albrecht, I think what I heard you say regarding this bill was that it's your goal to help and support mothers and to make them feel as though they are not alone when they have experienced a nonviable birth. Did I understand that correctly? [LB1040]

SENATOR ALBRECHT: Yes, you did. [LB1040]

SENATOR BOLZ: Thank you. And would it be your preference, if you could have a preference, if you could have a say, if it were yours to influence, that no woman would ever experience this painful set of circumstances? [LB1040]

SENATOR ALBRECHT: Say the first part again? [LB1040]

Floor Debate  
March 27, 2018

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SENATOR BOLZ: If you could decide, would it be your preference that no woman would ever have to go through this, this painful experience? [LB1040]

SENATOR ALBRECHT: Well, a lot of us don't have a choice. [LB1040]

SENATOR BOLZ: Yeah. [LB1040]

SENATOR ALBRECHT: You know, it's not in our makeup to make it happen. We wish it wouldn't and if you've ever... [LB1040]

SENATOR BOLZ: If you could prevent it, would you, if there were something you could do? [LB1040]

SENATOR ALBRECHT: Well, I would feel if I could prevent it, I would have the power of the Lord because... [LB1040]

SENATOR BOLZ: Do you... [LB1040]

SENATOR ALBRECHT: ...I've experienced it myself. It's not something that you can choose whether it's going to happen or not. It's a miscarriage. [LB1040]

SENATOR BOLZ: Okay. Well, I think there are things that we can do to prevent nonviable births. Specifically, mothers who receive late or no prenatal care are more likely to have babies with health problems, and mothers who do not receive prenatal care are three times more likely to give birth to a low-weight baby and their baby is five times more likely to die. And that's heartbreaking to me and when I have opportunities available to me to try to do something to try to make people more healthy and prevent difficult health circumstances, I think it's part of my obligation to do that. And that is why I am working as much as I can to protect access to prenatal care through our budget and why we must find a fix to the Title X language in our budget. And I'm not rising to stir the pot or pull off scabs on this conversation. I'm not rising to reopen the budget debate, because we are working as hard as we can and every day to find a solution. But I could not let this opportunity pass by without saying that if you support this legislation, if you support LB1040, I beg you to also support the opportunity to prevent nonviable births when possible by supporting access to prenatal care and taking no chances with that access. So the stack of information is still on my desk. We're still working. We'll be working tomorrow. We'll be doing everything we can do. And I hope that if you push your green light on this bill, you'll be open to a solution on the budget bill. Thank you, Mr. President. [LB1040]

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

Floor Debate  
March 27, 2018

---

SPEAKER SCHEER: Thank you, Senator Bolz. Senator McCollister, you're recognized.  
[LB1040]

SENATOR McCOLLISTER: Thank you, Mr. Speaker. Good evening, colleagues. My youngest child is 33 years old, so it's been a long time since I've dealt with birth certificates, but it's my recollection that the hospitals issue the birth certificate. Senator Albrecht, is that correct? Would you yield to a question? [LB1040]

SPEAKER SCHEER: Senator Albrecht, would you please yield? [LB1040]

SENATOR ALBRECHT: No, I don't believe it is the hospital that offers that. [LB1040]

SENATOR McCOLLISTER: So I know that the state issues the legal birth certificate, but isn't that process initiated by the hospital? [LB1040]

SENATOR ALBRECHT: I'm quite certain they would give them some information, yes.  
[LB1040]

SENATOR McCOLLISTER: I'm just curious. This commemorative certificate that we are considering here, does that have any legal standing at all? [LB1040]

SENATOR ALBRECHT: No, it does not. [LB1040]

SENATOR McCOLLISTER: I'm curious to know then, why is the HHS Department involved at all in the process for such a commemorative certificate when it in effect has no legal standing?  
[LB1040]

SENATOR ALBRECHT: Because I do think they also take care of the birth certificate.  
[LB1040]

SENATOR McCOLLISTER: Can you repeat that? [LB1040]

SENATOR ALBRECHT: Because they also take care of the birth certificate. [LB1040]

SENATOR McCOLLISTER: The birth certificate, as we just indicated, has legal standing, correct? [LB1040]

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

Floor Debate  
March 27, 2018

---

SENATOR ALBRECHT: Correct, and this does not. [LB1040]

SENATOR McCOLLISTER: Well...this does not, so why would they have any influence or any desire to indicate...there's no death certificate involved in such a birth, is there? [LB1040]

SENATOR ALBRECHT: No, there isn't. That could be next year. [LB1040]

SENATOR McCOLLISTER: I see. I'm just...can you answer me why the HHS Department is involved when there is no birth or death certificate? [LB1040]

SENATOR ALBRECHT: Because when the patient loses that child, there has to be a doctor that validates that that baby was in fact alive and at that time the parent has a choice, when the miscarriage happens, if they would like that viable commemorative certificate to remember the day that it happened, what gender, and give the baby a name so they can share that date with their family for the rest of their lives. [LB1040]

SENATOR McCOLLISTER: I understand the answer. In fact, the same occurrence happened in our family, so I'm not trying to be insensitive... [LB1040]

SENATOR ALBRECHT: I'm just telling you... [LB1040]

SENATOR McCOLLISTER: ...to the plight of a mother in which this occurs. I'll ask Senator Ripe for...if he'd yield to the same question. [LB1040]

SPEAKER SCHEER: Senator Ripe, would you please yield? [LB1040]

SENATOR RIEPE: Yes, I would. [LB1040]

SENATOR McCOLLISTER: The question is HHS recognizes live birth certificates by presenting the family with a certificate, and that has legal standing. When a birth or when a baby either is stillborn or arrives before 20 weeks, does that have any legal standing by HHS? [LB1040]

SENATOR RIEPE: Actually, it has no legal standing. But let me...may I continue on your time? The hospital of course does give out a birth certificate, but that's more of a, you know, a celebratory process. The official birth certificate comes from the state of Nebraska. The reason the state of Nebraska would issue this particular document would be is because they are in the

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

Floor Debate  
March 27, 2018

---

business of the other statistics, the other issuing of birth certificates, so it seemed like a logical home to have this particular commemorative certificate issued from. [LB1040]

SENATOR McCOLLISTER: But when the event occurs before 20 weeks, it's not a statistical event, is it? [LB1040]

SENATOR RIEPE: Well, and as we noted or at least I noted in the amendment, it would have to be reported to the Department of Health and Human Services... [LB1040]

SPEAKER SCHEER: One minute. [LB1040]

SENATOR RIEPE: ...to initiate the commemorative document. [LB1040]

SENATOR McCOLLISTER: Fair enough. Thank you very much, Mr. President. [LB1040]

SENATOR RIEPE: Thank you. [LB1040]

SPEAKER SCHEER: Thank you, Senator McCollister, Senator Albrecht, and Senator Ripe. Mr. Clerk for items. [LB1040]

ASSISTANT CLERK: Mr. President, one item: an amendment to be printed to LB714 from Senator Howard. (Legislative Journal pages 1250-1252.) [LB714]

SPEAKER SCHEER: Being the appointed time at 8:00, we will move now to the consent agenda. Mr. Clerk, first item.

ASSISTANT CLERK: Mr. President, LB1070, introduced by Senator Brewer. (Read title.) [LB1070]

SPEAKER SCHEER: Senator Brewer, you're welcome to open. [LB1070]

SENATOR BREWER: Thank you, Mr. President. Colleagues, LB1070, which we'll refer to as the small schools bill, the current law requires small schools with fewer than 35 students in grades 9 through 12 to have a special election every year and put a question on the ballot asking voters if the schools should be closed or consolidated. LB1070 changes the law requiring this action to be put on the ballot only once and, upon passing, determined whether the question should be put on the ballot again is left up to the school board for a period up to four years, after

Floor Debate  
March 27, 2018

---

which the question will go back onto the ballot in that cycle. That concludes the opening on LB1070. [LB1070]

SPEAKER SCHEER: Thank you, Senator Brewer. Mr. Clerk. [LB1070]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend. (FA139, Legislative Journal page 1252.) [LB1070]

SPEAKER SCHEER: Senator Chambers, you're welcome to open on your amendment. [LB1070]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, as I look at the...by the way, a bill on consent calendar can't be killed because it's going to get a vote after 15 minutes, but it shouldn't take me that long on this one to deal with what I'm dealing with here. But as I look at this committee statement, the Nebraska Department of Education testified for it, Loup County Public Schools Board of Education testified for it, Loup County Public Schools testified for it, Nebraska State Education Association testified for it, Nebraska Rural Community Schools Association testified for it. The light is not the best. Here's what my amendment does...and I have to give a grammar lesson, not to Senator Brewer but to all these educationists who were there. When you deal with "less" and "fewer" or "less" and "more," if you have a quantity or an object and you're going to say one has less substance than the other, "less" is appropriate. But when you're dealing with a collection of individuals, the word should be "fewer." So on page 3, where I'm amending it, they're talking about the district membership. It has an average daily membership of "less than 25 students." That word should be "fewer." And I'm sure that all these educationists and these groups who deal with education ought to know that. The reason I call them educationists, rather than educators, they should be mindful of these things. I'm a mere state senator. I have to read these bills. This that I'm offering does not alter what the thrust of this bill is, but words have meaning and it would be good if young people would happen to read the statutes and see that the grammar, the syntax are what they ought to be in terms of what the child is being taught in school. If lawmakers don't have to know grammar, why should I in grade school have to know? If the people that we're taught are the leaders of society don't need to know grammar, why should I know it? To young people...I was young one time. (Singing) Son, can you play me a melody / I'm not really sure how it goes / But it's sad and it's sweet and I knew it complete / When I wore a younger man's clothes / La-de-da, la-de-da. Now I wore a younger man's clothes many, many decades ago. And when I was wearing a much, much younger man's clothes, I didn't care about grammar at all. I loathed it. I detested it. I dreaded it. The word "English" came to have a negative context or connotation to me. But as I grew older and did some studying on my own outside the classroom, I realized that there was a logic to language. Words do have meaning and I think we are obliged to know the meaning of

Floor Debate  
March 27, 2018

---

words. And if we happen to blunder, as has...as was done in this case, if there's some eagle-eyed person, even if those eyes are 80 years old, then it's fortunate that such a person is in our midst. And I'm really grateful that such a person is in our midst. I'm too modest to take credit for it, but reality is reality. So my amendment would strike the word "less" and insert "fewer." We're talking about a membership comprising individuals. We don't have less students, we have fewer students. And I'm not going to take the full 15 minutes on this amendment, but I made a promise when we got to this part of the agenda and I must keep it, with one exception. I had promised Senator Brasch earlier in the day that I would not have anything to say on her bill because of circumstances that led me to do that, just showing consideration for the Chairman of the committee of which I'm a member and the staff member for whom I have a great amount of respect. But for the rest of these, I'm going to take us to 15 minutes. I'm serious about this amendment, so I'm going to stop talking and if we can get a vote on it before we vote on the bill, so much the better. But if we don't, then it just means that I'm going to use...I'm going to mispronounce "ignorance" to correspond to what's in this current statute. We will pass a bill that contains "ig-uh-nur-ent-cy" (phonetically) or "ignorancy," whichever you prefer, because in any case it indicates ignorance. Do I seem to be talking down to my colleagues tonight? Yes. Do you know why that is? And now I'm talking down to all of them. Before Senator Briese sat, I was going to say with the exception of one. I'm standing and everybody else is sitting and it's necessary for me to look down, so I'm talking down to all of my colleagues. You can vote no on the amendment to fix me if you want to, but you're not fixing me. You're just fixing in the law that which is a manifestation of, I will say, inattention, rather than "ig-uh-nur-ent-cy" (phonetically). That's all that I will offer at this time, but if you have any questions of me, I may or may not answer them. Thank you, Mr. President. [LB1070]

SPEAKER SCHEER: Thank you, Senator Chambers. Seeing no one in the queue, you're welcome to close on FA139. [LB1070]

SENATOR CHAMBERS: Then I don't have anything more to say on this amendment. I will accept a machine vote. [LB1070]

SPEAKER SCHEER: Thank you, Senator Chambers. The question before us is adoption of FA139 to LB1070. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB1070]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of the amendment. [LB1070]

SPEAKER SCHEER: FA139 is adopted. Senator Chambers. [LB1070]



Floor Debate  
March 27, 2018

---

SENATOR CHAMBERS: Thank you, Mr. President. When they were putting together the concept of this consent calendar, I was opposed to ensuring and guaranteeing a vote on every one of these bills after 15 minutes. That gives these supposedly uncontroversial bills, in some cases insignificant bills, a higher status than the budget bill, any priority bill. And do you know why they did it? Because I would take my revenge and talk beyond the 15 minutes and there could be no vote. So I am enshrined in the Rule Book once again. You all didn't know that. You don't know anything about why things are the way they are, just like you didn't know why you could get expenses during the session. I did it all. Yeah, I'm boasting. I'm going to be like St. Paul. You all call him St. Paul the Apostle. I call him "Paul the Imposter." He tried to pretend to be modest. He was one of the most self-centered, arrogant, boastful individuals you will find either mentioned in the "Bible" or having written something that was included in the "Bible." He would start by saying, I will not boast; if I wanted to boast, I could say I sat at the feet of Gamaliel, I took this course, I took that course, and lays out an entire compendium of the various things that he had done about which he could boast but about which he will not boast but about which he did boast. That's the way religious people are, very hypocritical. I don't have to be that way, but I can be if I choose to and even tell you that's what I'm doing. But then I'm not being hypocritical, am I, because I'm laying it all out on the table. I said I'd go 15 minutes, take the bill 15 minutes. Let me tell you what else I did that nobody had done before. They don't think. Talk about thinking outside the box, I wish they'd think, period. We were in a bind. I include myself. That's that royal "we." I wasn't in a bind. There was a list of bills, over...there were more than 20. And you know what I did that had never been done before? I'm not going to give you any guesses. I will just tell you. On one motion I moved every one of those bills off General File to Select File. It had never been done before. But nothing has ever been done before it has been done. So the mere fact that it hasn't been done does not mean it should not be or that it could not be. I was not born before I was born and some people wish I had not been born. In fact, when I was writing articles as a very young man against the giving of Ritalin to schoolchildren--Ritalin is methylphenidate--they were doing it to children in black schools. If a black child were precocious, that child was a troublemaker and the parents could be prevailed on to get a prescription of Ritalin. And Ritalin was administered to these children, even though it's a narcotic. And there are adults who use Ritalin now to get a high because it's a form of methamphetamine, I believe. It's been a long time since I dealt with it. But they would give it to these children and it would quiet them down and it worked in a way that seemed... [LB1070]

SPEAKER SCHEER: One minute. [LB1070]

SENATOR CHAMBERS: ...counterintuitive. It is a stimulant but it would stimulate the part of the nervous system that would control movement and actually repress it. By stimulating, it repressed. There were some people who were given Ritalin, the upper when adults took it, then they had to take a downer to calm down. Everything was done by means of a pill. So what I am doing is stimulating your mind. And whether I do or not makes no difference. But by saying I'm

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

Floor Debate  
March 27, 2018

---

being a hypocrite prevents me from being a hypocrite because I'm not acting with the intent to deceive. I'm acting to advance your knowledge. And this evening I'm going to show you that I can speak on these bills. Now if I had a bill on... [LB1070]

SPEAKER SCHEER: Time, Senator. [LB1070]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1070]

SPEAKER SCHEER: Thank you, Senator Chambers. Meeting the appointed hour, the question before us, advancement of LB1070. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB1070]

ASSISTANT CLERK: 31 ayes, 0 nays on the advancement of the bill, Mr. President. [LB1070]

SPEAKER SCHEER: LB1070 is advanced to E&R Initial. Mr. Clerk, next item. [LB1070]

ASSISTANT CLERK: Mr. President, LB889, introduced by Senator Wayne. (Read title.) The bill was introduced on January 8, referred to the Urban Affairs Committee. That committee placed the bill on General File. [LB889]

SPEAKER SCHEER: Mr. Wayne, Senator Wayne, you're welcome to open on LB889. [LB889]

SENATOR WAYNE: Thank you, Mr. Speaker and members of the Legislature. LB889 is a bill that would update the statutes governing the State Fire Code and is the product of the LR81 interim study by Urban Affairs Committee, which examined the adoption and enforcement of fire codes. Unlike other fire codes and building codes, energy codes, electrical codes, plumbing codes under the jurisdiction of Urban Affairs Committee, the State Fire Code is not adopted by statute. It is adopted entirely through rules and regs processed by the State Fire Marshal. The current State Fire Code conforms generally to the 2000 edition of "Life Safety Code," which is promulgated by the National Fire Protection Association. The Life Safety Fire Code is also referred to as NFPA 101 or Pamphlet 101. LB889 would bring the adoption process for State Fire Code in line with the adoption process for other codes, specifically the edition of fire code that the state code shall conform generally to. Under the bill, the State Fire Code would be required to conform generally to the 2012 edition of the NFPA Pamphlet Number 1, often referred to as the Fire Code, and Number 101, the Life Safety Code. The State Fire Marshal is currently in the process of updating its rules and regulations to conform to the 2012 edition of the code, so LB889 simply codifies the pending update. In addition, LB889 would repeal a significantly outdated high-rise building fire code. Passed in 1981, the high-rise building fire

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

Floor Debate  
March 27, 2018

---

code was required to be adopted and promulgated through rules and regulations officed by the Fire Marshal. Statutes actually require the high-rise building fire codes to conform generally to the 1979 Uniform Building Code, which is no longer in publication. Because NFPA 1 and NFPA 101 now include provisions equivalent to the high-rise building fire code, this section is now obsolete. LB889 received no opposition testimony at the hearing and was advanced by Urban Affairs unanimously, 7-0. I would ask for a green vote on LB889 to Select File. [LB889]

SPEAKER SCHEER: Thank you, Senator Wayne. Senator Chambers, you're recognized. [LB889]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I had no interest in this bill until I made the promise to deal with all these bills. Then I became interested and I hope Senator Wayne will not go too far from his mike. I have a couple of questions I'd like to ask Senator Wayne about this bill. And I wouldn't have even noticed this had I not put myself in this bind of having to carry every bill 15 minutes. If Senator Wayne would yield to a question or two, I would be of a mind to ask him a question or two. [LB889]

SPEAKER SCHEER: Senator Wayne, would you please yield? [LB889]

SENATOR WAYNE: Yes. [LB889]

SENATOR CHAMBERS: Senator Wayne, if you want to get a copy of the bill itself, I will wait till you have it, but it would be on page 4, and it would probably be in the green copy, in line 10. [LB889]

SENATOR WAYNE: Yes. [LB889]

SENATOR CHAMBERS: Does yours begin, "The State Fire Marshal"? [LB889]

SENATOR WAYNE: Yes, sir. [LB889]

SENATOR CHAMBERS: Okay. It says, "The State Fire Marshal, first assistant fire marshal, and deputies." How many assistant fire marshals are there based on what you would know, you would have? [LB889]

SENATOR WAYNE: I did not ask that question. Because it's not plural, I hope it's only one. [LB889]

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

Floor Debate  
March 27, 2018

---

SENATOR CHAMBERS: There's only one? [LB889]

SENATOR WAYNE: I don't know for sure,... [LB889]

SENATOR CHAMBERS: Oh. [LB889]

SENATOR WAYNE: ...but because he wrote it singular, I hope there's only one. [LB889]

SENATOR CHAMBERS: And it is in the original law. [LB889]

SENATOR WAYNE: Correct. [LB889]

SENATOR CHAMBERS: So that wouldn't be the subject of your bill. But "first" is a word that has meaning only when there is more than one. They would have said or could have said, the deputy fire marshal. But if they said the first assistant, then there must be at least a second assistant also, logically. Would you agree? [LB889]

SENATOR WAYNE: Logically, that would follow. But I've seen many statutes that don't follow logic. [LB889]

SENATOR CHAMBERS: As short a time as you've been in the Legislature, you've detected that? [LB889]

SENATOR WAYNE: (Laugh) Yes, sir. [LB889]

SENATOR CHAMBERS: Why is this person who is the head of the fire activity called a marshal? Is a fire marshal a law enforcement person? [LB889]

SENATOR WAYNE: I don't have the answer to that question. I will research it and get back to you on Select File. [LB889]

SENATOR CHAMBERS: Thank you very much. One other question: Is there any limit to the number of deputies that the State Fire Marshal may have? [LB889]

SENATOR WAYNE: I believe its budget, budget limits their number of deputies. [LB889]

Floor Debate  
March 27, 2018

---

SENATOR CHAMBERS: Thank you. You're excused. I appreciate that. Members of the Legislature, do you see how much you can find in the statutes that will engage your mind if you're just trying to find a way to while away some hours? You wouldn't have to watch television, where you will learn precious little. You're not going to read. I know that from what happens on the floor. So I think this guy's name was Jimmy Durante, and he would ask a question. Then he would say, tell you what I'm going to do. Or was it Ted Lewis? One of those people. Tell you what I'm going to do so that I won't waste the time. I'm going to read the underlying language in this bill, and I might leave out some words, I might transpose some words, I may insert words that are not there. And the examination for you all, if you have any interest, is to determine what, when, and where I did what or which. Starting on page 5, line 21, "The State Fire Marshal shall adopt and promulgate rules and regulations constituting a State Fire Code." [LB889]

SPEAKER SCHEER: One minute. [LB889]

SENATOR CHAMBERS: I would like to ask Senator Murante a question, if he's here. [LB889]

SPEAKER SCHEER: Senator Murante, would you please yield? [LB889]

SENATOR CHAMBERS: Then I will...that's okay. [LB889]

SPEAKER SCHEER: Well, he is walking in to the floor. Senator Murante, would you please yield? [LB889]

SENATOR MURANTE: I believe it's Senator Mor-ron-tay (phonetically), actually. [LB889]

SENATOR CHAMBERS: Ah, Mor-ron-tay (phonetically) has joined us. (Laughter) You had to be a big shot, didn't you, had to open up your mouth? [LB889]

SENATOR MURANTE: Billy Joel is not Italian, Senator Chambers. (Laughter) [LB889]

SENATOR CHAMBERS: Oh, but he did a good...he did a good rendering. And he knew. See, Senator Mor-ron-tay (phonetically) knows more than he'll let on to you all that he knows. He's trying to... [LB889]

SPEAKER SCHEER: Time, Senator. [LB889]

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

Floor Debate  
March 27, 2018

---

SENATOR CHAMBERS: ...live down to you. [LB889]

SPEAKER SCHEER: Thank you, Senator Chambers and Senator Murante. [LB889]

SENATOR CHAMBERS: Is the time up? [LB889]

SPEAKER SCHEER: Yes, sir. Senator Krist, you're recognized. [LB889]

SENATOR KRIST: Is, yeah, Senator Wayne on the floor, please? This is a legitimate question, while you're working your way back up. [LB889]

SPEAKER SCHEER: Senator Wayne, would you please yield? [LB889]

SENATOR WAYNE: Yes. Yes. [LB889]

SENATOR KRIST: I see in here that you had a neutral testimony from the architects. Can you tell me generally what that was, very quickly? [LB889]

SENATOR WAYNE: I can tell you on the closing. I have to go back and look again. [LB889]

SENATOR KRIST: Okay. Then I'll finish my time by simply saying, Senator Chambers, if you're paying attention, just because there's a first doesn't always mean there is a second or a third. In the commercial airline business there is a captain. He commands the airplane. He sits in the left seat. The person officially in the right seat is called a first officer because we didn't want to make him second in command. So he becomes a first officer. There are no others, unless it's an augmented crew to go overseas. Then there becomes a second and a third and a fourth. So a little trivia. Thank you. [LB889]

SPEAKER SCHEER: Thank you, Senator Wayne and Senator Krist. Senator Chambers, you're recognized. [LB889]

SENATOR CHAMBERS: And when it comes to the airlines, for Senator Krist's information, he cannot prove I'm wrong. That was the first person who was given that position, so he was first in line to be that officer. But here's what I want to ask Senator Murante. Senator, in the new language... [LB889]

SPEAKER SCHEER: Senator Murante, would you please yield? [LB889]

Floor Debate  
March 27, 2018

---

SENATOR MURANTE: I would. [LB889]

SENATOR CHAMBERS: ...it says, "The State Fire Marshal shall adopt and promulgate rules and regulations." Would it make any difference if that "shall" were changed to "may," that the Fire Marshal may adopt and promulgate rules and regulations? [LB889]

SENATOR MURANTE: It would make a difference. [LB889]

SENATOR CHAMBERS: And would it be a difference of consequence? [LB889]

SENATOR MURANTE: In the context of this bill, I believe that it would because, as I'm reading this bill, and I have not had an opportunity to talk about it at any great length with Senator Wayne, but the bill itself is not so prescriptive in statute that additional regulations would become redundant. And, accordingly, changing the "may" to a "shall" might actually have a policy implication. [LB889]

SENATOR CHAMBERS: And based on your very good and correct explication, it should not be a willy-nilly exercise to just change all "shalls" to "may" without considering each instance to see if it was a necessary "shall" or, to use your word, a redundancy that we're dealing with. So here's the question. Before a "shall" that already exists in statute is changed to "may," there should be a basis for doing it, other than simply saying all "shalls" should become "may." Would you agree with that? [LB889]

SENATOR MURANTE: Of course. [LB889]

SENATOR CHAMBERS: And I figured you would. That's why I chose to ask you. Thank you, Senator Murante. Now I shall read. "The State Fire Marshal shall adopt and promulgate rules and regulations constituting a State Fire Code." I would like to ask Senator Wayne another question. [LB889]

SPEAKER SCHEER: Senator Wayne, would you please yield? [LB889]

SENATOR WAYNE: Yes. [LB889]

SENATOR CHAMBERS: Senator Wayne, when somebody has a very heavy cold, sometimes when they pronounce certain sounds they don't come out that way. For example, an "L" might

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

Floor Debate  
March 27, 2018

---

not sound like an "L." So if a person was going to say, I have a cold, it might sound like this: I have a code. Have you ever heard somebody pronounce like that,...? [LB889]

SENATOR WAYNE: Yes, sir. [LB889]

SENATOR CHAMBERS: ...I have a code? So if somebody were just speaking, the only way we'd know whether the person meant "code" of the kind we're talking about here or somebody had a cold and mispronounced "cold" as "code," we would have to have a context to know what that word was supposed to be. Would you agree? [LB889]

SENATOR WAYNE: Yes. [LB889]

SENATOR CHAMBERS: So when we're reviewing statutes, it might not be enough to even read a sentence. We should see what came before it, after it, and what the aim of that is. Would you agree? [LB889]

SENATOR WAYNE: Yes. [LB889]

SENATOR CHAMBERS: Would it be possible for a person to read one out of four sentences and if the person read that one sentence get a misperception of what the entire four-sentence paragraph might be saying? [LB889]

SENATOR WAYNE: Yes. [LB889]

SENATOR CHAMBERS: You're trained in the law. [LB889]

SENATOR WAYNE: Correct. [LB889]

SENATOR CHAMBERS: You practice the law. [LB889]

SENATOR WAYNE: Correct. [LB889]

SENATOR CHAMBERS: If you were given a document would you...and it's significant, would you scan it or would you actually read it word for word? [LB889]



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

Floor Debate  
March 27, 2018

---

SENATOR WAYNE: Actually I scan it and then go back and read it word for word to understand the context. [LB889]

SENATOR CHAMBERS: And you would scan it for what purpose? [LB889]

SENATOR WAYNE: To understand the purpose behind it, so when I read it I can get a better understanding of the context. I read every document at least twice. [LB889]

SENATOR CHAMBERS: It could be something like somebody flying over a piece of land at a high altitude to get a panoramic view. Then, in order to detect the objects, you'd have to come lower and closer and focus. [LB889]

SENATOR WAYNE: Correct. [LB889]

SENATOR CHAMBERS: That would be a good way for us to read statutes. Would you agree? [LB889]

SENATOR WAYNE: Yes. [LB889]

SENATOR CHAMBERS: Thank you, "Professor" Wayne. Members of the Legislature, that's what I'm going to go through tonight. And it might seem like a waste of time, but I don't think it is. Now, I'll tell you what the waste of time is--my having been put in a position to take all these bills to 15 minutes. But once I've said I will do it, I shall do it. I may even sing another song or two or tell a joke. But the thing about the Rules of the Legislature, some of which were put in place to stop me, serve my purpose and that is one reason... [LB889]

SPEAKER SCHEER: One minute. [LB889]

SENATOR CHAMBERS: ...that people should be very careful when they're reading something, especially if it's something that would harm that individual. Rather than presume that it means what the one presenting it says, read it carefully, because maybe in those words that are designed to condemn you, you will find your salvation. And that has happened on more than one occasion and that's called turning the tables. But you will not be able to turn the tables if you don't even know what a table is. If you don't understand words, if you don't understand context then you're adrift at sea. You don't know whether you're coming or going. If you don't know where you are, then you don't know if you're coming towards something or going away from something. But you could be doing both at the same time, depending on what your point of reference is and what your moving for. [LB889]

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

Floor Debate  
March 27, 2018

---

SPEAKER SCHEER: Time, Senator. [LB889]

SENATOR CHAMBERS: Thank you, Mr. President. [LB889]

SPEAKER SCHEER: Reached the allotted time for LB889. All those wishing to advance to E&R Initial please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB889]

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of the bill, Mr. President. [LB889]

SPEAKER SCHEER: LB889 is advanced to E&R Initial. Next item. [LB889]

ASSISTANT CLERK: Mr. President, LB766 by Senator Brasch. (Read title.) Bill was introduced on January 3, referred to the Agriculture Committee, placed on General File with no committee amendments. [LB766]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Brasch, you're welcome to open on LB766. [LB766]

SENATOR BRASCH: Thank you, Mr. Speaker. Good evening, colleagues. And I do want to thank Senator Chambers once again. Earlier in the day I spoke to him. It is the policy in my office that I do not ask staff to work evenings unless I have a bill on the floor, and if he was indeed to have some concerns on this bill I would ask my staff to be here. And otherwise, they are required to work normal business days, with the exception of holidays and...but Rick Leonard, I want to thank him. I told him he could stay home tonight, but he did want to come in if there are other questions from this floor or should Senator Chambers have a question. LB766: Under the Nebraska fence law, adjoining rural landowners have a shared obligation for the construction and maintenance of division fences on property lines between them. Section 34-112.02 provides a mechanism where a landowner may file a fence dispute claim to compel an adjoining landowner's fulfillment of the mutual fencing obligation. Currently, law provides that recourse to filing a fence dispute claim arises only after a landowner gives written notice to the adjacent landowners of the intent to build or repair a division fence and requests the adjacent landowner or owners to share in the costs or the actual physical construction. If the adjacent landowner refuses or ignores the request, a landowner may file a fence claim provided at least seven days have elapsed since giving that notice. LB766 makes the following changes. It resolves an ambiguity to make it clear that a landowner must give written notice to adjacent landowners prior to beginning fence construction or repair to have recourse to filing a fence dispute claim. It also provides that a fence dispute claim could not be filed until at least 30 days

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

Floor Debate  
March 27, 2018

---

had elapsed since giving notice, rather than the current 7 days. A recent Lancaster County Court ruling interpreted the section amended by the bill as allowing a fence dispute claim to be filed at any time prior to the completion of fence work. The court's decision indicates that the landowner who filed the claim had not discussed with neighbors before starting work on the fence that they intended the neighbors to contribute to the construction of that fence. The first notice that the neighbors received was the written notice sent only after the fence construction was almost completed. The fence law has always served as a remedy of last resort and contemplates that neighbors first exhaust good faith efforts to reach agreement before making use of the fence dispute remedy. LB766 does not change the policy but reaffirms and reinforces that expectation. The committee heard the bill on January 30 and advanced the bill unanimously, 8 to 0. There was no opposition in testimony. I would move for the advancement of LB766. Thank you, colleagues. Thank you, Mr. Speaker. [LB766]

SPEAKER SCHEER: Thank you, Senator Brasch. Senator Chambers, you're recognized. Seeing no others wishing to speak, Senator Brasch, you're welcome to close. She waives closing. The question before us is the advancement of LB766 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB766]

ASSISTANT CLERK: 34 ayes, 0 nays on the advancement of the bill, Mr. President. [LB766]

SPEAKER SCHEER: LB766 is advanced. Next item, Mr. Clerk. [LB766]

ASSISTANT CLERK: Mr. President, next bill, LB717, introduced by Senator Howard. (Read title.) Bill was introduced on January 3 of this year, referred to the Health and Human Services Committee, placed on General File with no committee amendments. [LB717]

SPEAKER SCHEER: Senator Howard, you're welcome to open on LB717. [LB717]

SENATOR HOWARD: Good evening, colleagues. Tonight I'm presenting LB717, a bill that deals with safe sleep training for licensed childcare providers. This is a very small change that I believe will make a big impact. And this bill was advanced from committee unanimously. It had no opponents or opposition testimony. LB717 clarifies that licensed providers of childcare programs shall be trained in sudden unexpected infant death syndrome before they receive their license to provide care, as opposed to after. Right now the way that our statutes read, "after" can be anywhere from one month to three years in order for these childcare providers to get that training. So any person who's providing care to babies and children needs to be educated in safe sleep requirements so that no child is put in harm's way. In 2016 the Nebraska Office of the Inspector General for Child Welfare investigated four deaths that occurred in licensed childcare facilities. Each death involved an infant dying suddenly and unexpectedly in an unsafe sleep

Floor Debate  
March 27, 2018

---

environment. In her annual report, Inspector Rogers recommended that Public Health revise childcare licensing regulations to ensure that all caregivers are trained on safe sleep before a childcare license is issued. The OIG determined the current Nebraska regulations, which give providers three years before getting trained on infant sleep, safe sleep were inadequate. Some of the childcare providers in the deaths the OIG investigated had never been trained on safe sleep for babies. The department accepted the recommendation and in 2016 put in a request that the requirement for training on safe sleep be addressed through legislation. No legislation was introduced in 2017 and that is exactly why we are here tonight. I have...I didn't think of it before, but I did ask Senator Thibodeau to review them, and so we are going to review the statute just to make sure. And so if there are any concerns, we will address them on Select File. But I appreciate her review of this legislation. Again, LB717 was advanced unanimously from the Health and Human Services Committee and it just makes a slight change to our childcare licensure regulations. Thank you, Mr. President. [LB717]

SPEAKER SCHEER: Thank you, Senator Howard. Mr. Clerk. [LB717]

ASSISTANT CLERK: Mr. President, I have a motion from Senator Krist to suspend the rules, Rule 6, Section 3; Rule 7, Sections 3 and 7; and vote on the advancement of LB717 without further amendments, motion or debate. [LB717]

SPEAKER SCHEER: Senator Krist, you're welcome to open on your motion. [LB717]

SENATOR KRIST: Thank you, Mr. President. The rule suspension was just explained to you. It takes us to a vote on all of these bills without any further debate. In the event that there is a committee amendment or something that needs to be added, it would be added on Select File. I ask you to allow for the rules suspension and let's move these bills forward in an expeditious way. [LB717]

SPEAKER SCHEER: Senator Krist, could you approach the front, please? Senator Krist, for what reason do you rise? [LB717]

SENATOR KRIST: The rules are the rules, and to suspend the rules and do what I'm doing is completely within the rules. I think it should be noted that, just as Senator Chambers vowed that he would take the time with it, I am asking him at this point not to make me go through with this, but let's move the consent calendar tonight the way it was intended to be moved. And with that, if Senator Chambers agrees, I will withdraw this motion. [LB717]

SPEAKER SCHEER: Was that a question directed at Senator Chambers? [LB717]

Floor Debate  
March 27, 2018

---

SENATOR KRIST: Yes, it was. [LB717]

SPEAKER SCHEER: Senator Chambers, would you please yield? [LB717]

SENATOR CHAMBERS: I, frankly, didn't understand the question. I was talking to Senator Blood. What was the question? [LB717]

SENATOR KRIST: Yeah, I'm sorry, I should have asked to you yield before I asked the question. Just as you were put in a position earlier, and I regret that position because I felt like we should have all been communicated with before, I'm trying to ask you, do you want me to go through with this for the rest of the night? I don't really want to, but I'd like to move the consent calendar list without interference. And if you'll concur to not take 15 minutes, I'll pull this motion and we'll go through the remainder of consent so that we have a legislative record. [LB717]

SENATOR CHAMBERS: If it were me, I would do again what I had told you that I had done before. I would suspend the rules so that every bill on consent calendar could be moved with one vote. But if this is done on each bill, then the motion to suspend the rules is subject to debate. Even if it should pass, by the time it passes we probably would have spoken more than 15 minutes on each bill. And I admire people who are ingenious, but I have to admire myself even more (laughter) because if you're playing chess then make the other individual think that he or she at least would have you in stalemate. That's where you cannot move the king without being taken and nobody, in effect, has an ability to move. In other words, it's a tie; nobody can win. If you can create that impression and the person buys into it and decides to just mess around and makes one move that's wrong, then you can make one move and then you say mate, checkmate. Chess is a game of psychology as much as of skill and you always have to be one move ahead. And I will never object to somebody...well, let me say this. I will never tell somebody, don't try something that hasn't been tried before. It will demonstrate to my colleagues that never is everything so bleak that under the rules you cannot find some way to get around it. But that works only if you're dealing with somebody who's not a master of masters. [LB717]

SENATOR KRIST: Okay, Senator, I acknowledge you are the master of masters. And now I will ask you again. I'd like to withdraw the motions that I have up there. I'd also like to move along with consent calendar tonight. So in the spirit of collegiality, I'm asking you, will we, can we move along with the consent calendar without this kind of rule suspension? [LB717]

SENATOR CHAMBERS: Let me ask you a question. [LB717]

SENATOR KRIST: Yes, sir. [LB717]

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

Floor Debate  
March 27, 2018

---

SENATOR CHAMBERS: I often quote Abraham Lincoln where he said the promise being made must be kept. I promised that I would take all these bills to 15 minutes. If I don't do it, I'm breaking a promise. The promise was made in the presence of all these people on the floor of the Legislature. If they think that I will make a promise and break it, then the promise means nothing. My word is not my bond. So you're going to have to get a unanimous vote of everybody here, even those who don't like me, every single one of them must raise his or her hand on queue to say that I'm released from that promise. [LB717]

SENATOR KRIST: Well, Senator, could I see a show of hands? (Laughter) Okay, with that show of hands, Senator, I will withdraw my motion because we're relieving you of your promise. [LB717]

SPEAKER SCHEER: Thank you, Senator Krist and Senator Chambers. Senator Kolterman, you're recognized. [LB717]

SENATOR KOLTERMAN: Good evening, colleagues. Thank you. I rise in support of this bill. It came out of committee unanimously. Senator Howard has worked hard on this bill. It's been a couple of years. I would just tell you that even though they have...people have the training, sudden infant death syndrome does occur. And even though modern technology has come a long ways, this is one thing we can do to help educate our day-care people on how to safely put a baby to sleep. So I'd encourage you to vote in support of this bill. Thank you. [LB717]

SPEAKER SCHEER: Thank you, Senator Kolterman. Senator Chambers, you're recognized. Senator Howard, you're welcome to close on LB717. She waives closing. The question before us is advancement of LB717 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB717]

ASSISTANT CLERK: 41 ayes, 0 nays on the motion to advance the bill. [LB717]

SPEAKER SCHEER: LB717 does advance to E&R Initial. Next bill. [LB717]

ASSISTANT CLERK: LB859, by Senator Hansen. (Read title.) Bill was introduced on January 5; referred to the Government, Military and Veterans Affairs Committee; placed on General File. There are no committee amendments. [LB859]

SPEAKER SCHEER: Senator Hansen, you're welcome to open on LB859. [LB859]

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

Floor Debate  
March 27, 2018

---

SENATOR HANSEN: Thank you, Mr. President. And good evening, colleagues. I rise to introduce LB859. And, first, let me thank Speaker Scheer for placing it on consent calendar. At its basic level, this bill would increase access to public records by allowing family members access to law enforcement reports following the death of a family member who died in a workplace accident. At the hearing for LB859, the committee heard impactful testimony from multiple Nebraskans who had lost a close relative due to an accident at the job. When they tried to learn details of what happened, they had been denied access to investigation records and cut off from learning the circumstances following...surrounding their loved ones' deaths. LB859 would allow family members access to records relating to the investigation surrounding the death of a family member who died on the job but only after the investigation by law enforcement or other public body charged with the investigation is concluded. Additionally, only family members of a person who died can request and be granted access to these records. I would like to thank the Government, Military and Veterans Affairs Committee for advancing this bill 8-0. And would ask the body for a green vote on LB859. Thank you. [LB859]

SPEAKER SCHEER: Thank you, Senator Hansen. Seeing no one in the queue, you're welcome to close. He waives closing. The question before us is advancement of LB859 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB859]

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill. [LB859]

SPEAKER SCHEER: LB859 is advanced to E&R Initial. Next bill, Mr. Clerk. [LB859]

ASSISTANT CLERK: LB1000, introduced by Senator Briese. (Read title.) Bill was introduced on January 16; referred to the Government, Military and Veterans Affairs Committee; placed on General File with committee amendments. (AM1717, Legislative Journal page 728.) [LB1000]

SPEAKER SCHEER: Senator Briese, you're welcome to open on LB1000. [LB1000]

SENATOR BRIESE: Thank you, Mr. President. Good evening, colleagues. I rise to present to you this evening my LB1000. This bill closes what I consider to be loophole...a loophole in the Public Facilities Construction and Finance Act. And I do note that we have AM1717 replacing Sections 5 through 7 of the original bill. I'll speak to both at this point. The Public Facilities Construction and Finance Act is found at Nebraska Revised Statutes, Section 72-2301 to 2308. Under those statutes, the stated purpose of the act is to allow local governmental units that cooperate with other governmental units to issue bonds to finance joint projects. Section 2304 of that act authorizes such bonds to be issued by a qualified public agency simply after holding a public hearing on the issue. Paragraph (3) of that statute provides that no election by the voters

Floor Debate  
March 27, 2018

---

of the qualified public agency issuing the bonds is required unless, within 60 days after notice of the issuance of the bonds, a remonstrance petition is filed by 5 percent of the registered voters. Paragraph (4) provides that no election is required of the qualified public agency not issuing the bonds that does participate in the joint project for which bonds are issued unless a similar remonstrance petition is filed. Each of these paragraphs puts a burden on the taxpayers disagreeing with participation in a bond issue by their qualified public agency to secure signatures to get the matter on the ballot. These paragraphs put the burden on citizens to prevent an additional bond being levied on them without their consent. I believe that, instead, the burden must be on the governing body of the qualified public agency who wishes to issue bonds to first seek and gain voter approval before a bond can be issued. LB1000, with the amendment, would require voter approval by a majority of the electors of each of the qualified public agencies participating in a joint project before a bond issue can proceed. I see no fundamental problem with governmental subdivisions pooling their resources to finance joint projects which neither might have the ability to pay for otherwise. The problem, I believe, lies in what I think many would describe as a loophole in the law, allowing bonds to be issued separate and apart from a vote of the people. LB1000, as amended, will preserve this ability of subdivisions to creatively solve problems through joint projects while bringing the process into more complete accountability to those who will pay for and benefit from the project. I believe that LB1000, as amended, is good legislation and it will strengthen our communities. I also believe Nebraskans will appreciate us closing this loophole. I'd ask for your support on LB1000. Thank you.  
[LB1000]

SPEAKER SCHEER: Thank you, Senator Briese. Senator Murante, you're welcome to open on the committee amendment. [LB1000]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening. AM1717 conforms the election process in the bill to existing election procedure. It does this by eliminating Section 6 and 7 from the bill, and amending Section 5. The amended Section 5 extends the notice for the election to 50 days, rather than 20 days in the green copy, and it also adopts the general procedures of the Election Act for conducting elections. I would encourage your support of the committee amendment and advancement of LB1000. Thank you, Mr. President. [LB1000]

SPEAKER SCHEER: Thank you, Senator Murante. Seeing no one wishing to speak, you're welcome to close. He waives closing. The question before us is adoption of AM1717 to LB1000. All those in favor please vote aye; all those opposed vote nay. Has everyone voted that wish to? Members, while people are coming, I would appreciate it if you would stay close to your spot so that we are not waiting for people coming in and out in order to vote. Please record. [LB1000]

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of committee amendments. [LB1000]



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

Floor Debate  
March 27, 2018

---

SPEAKER SCHEER: AM1717 is adopted. The question before us...seeing no one wishing to speak, Senator Briese, you're welcome to close on LB1000. He waives closing. The question before us is adoption of LB1000. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB1000]

ASSISTANT CLERK: 34 ayes, 0 nays on the advancement of the bill. [LB1000]

SPEAKER SCHEER: LB1000 does advance to E&R Initial. Next bill. [LB1000]

ASSISTANT CLERK: Next bill, Mr. President, LB1003, introduced by Senator McDonnell. (Read title.) Bill was introduced on January 16; referred to the Government, Military and Veterans Affairs Committee; placed on General File with committee amendments. (AM1911, Legislative Journal page 729.) [LB1003]

SPEAKER SCHEER: Senator McDonnell, you're welcome to open. [LB1003]

SENATOR McDONNELL: Thank you, Mr. President. Good evening, colleagues. I'm here to introduce LB1003 to change the leave of absence without loss of pay provisions under the Military Code. Under current statute, all employees, including elected officials of the state of Nebraska or any political subdivision who are members of the Guard or Reserves, are entitled to a military leave of absence without loss of pay when employed with or without pay under the orders or authorization of a competent authority in the active service of their state or the United States. Members who regularly work or who are regularly scheduled to work 120 hours or more in three consecutive weeks shall receive military leave of absence of 120 hours each calendar year. Members who work less than 120 hours in three consecutive weeks shall receive a military leave of absence each calendar year equal to the number of hours they normally work or would normally have worked in their scheduled workday. The intent of LB1003 would be to adjust the paid military leave hours and increase the hours for members who work 159-plus hours in three consecutive weeks and work 24-hour shifts to 360 hours of paid military leave. The committee amendment, AM1911, reduces the number of hours from 360 to 168, which we had come to an agreement with the Military Department of Nebraska, as they are fully reimbursed by the federal government for paid military leave hours up to 168 hours. With the current state deficit, increasing to the full 360 hours was not possible at this time, but even the increase of 48 hours will help those serving our country. By decreasing to 168 hours there is no fiscal note. LB1003 would also change the language from 120 hours to between 120 and 159 hours for members who would receive 120 hours of paid military leave. While the most recognizable impact will be those working 24-hour shifts--firefighters--there's another impact that is less recognizable but just as important. There are many individuals, including some of our own staff, who are dedicated public servants both to their state and to their country. For example, last year a legislative aide,

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

Floor Debate  
March 27, 2018

---

who is also a member of the Army Reserve, spent 52 days on active military duty, 52 days. The minimum requirement by Military Code is 38 days, one weekend a month and two weeks of training each year. However, as the training requirements by military have increased, the amount of paid military leave hours has not increased. Last year, when this individual had over 52 days, 50 days of active duty, if you do not include the weekend drill, this is still 104 hours beyond the paid 120 hours of paid military leave. This individual is not a firefighter, does not work 24-hour shifts. This bill is a small step in the direction to keep the paid military leave hours consistent with the amount of active duty training required by the Military Code. Recognizing the sacrifice that our members of the military make, both financially and personally, it is important that we as employers appreciate and do what we can to try to ease some of those hardships by increasing the number of paid military hours for those members regularly working 159-plus hours and 24-hour shifts. Let us show those who serve our country that we support and appreciate their service by giving a green vote on the committee amendment and LB1003. Thank you. [LB1003]

SPEAKER SCHEER: Thank you, Senator McDonnell. As the Clerk stated, there is amendments from the Government Committee. Senator Murante, you're welcome to open on those. [LB1003]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening. AM1911 reduces the 360 hours contained in the original bill to 168 hours. This brings the bill into line with the total number of hours that are federally reimbursable, which eliminates the fiscal note. I encourage your adoption of the Government Committee amendments and your advancement of LB1003. Thank you, Mr. President. [LB1003]

SPEAKER SCHEER: Thank you, Senator Murante. Seeing no one wishing to speak, you're welcome to close. He waives closing. Question before us is adoption of AM1911. All those in favor please vote aye; all those opposed vote nay. Have all those voted that wish? Please record. [LB1003]

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of committee amendments. [LB1003]

SPEAKER SCHEER: AM1911 is adopted. Senator Chambers. [LB1003]

SENATOR CHAMBERS: Briefly, Mr. President, I'd like to ask a question of Senator McDonnell. [LB1003]

SPEAKER SCHEER: Senator McDonnell, would you please yield? [LB1003]

SENATOR McDONNELL: Yes. [LB1003]

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

Floor Debate  
March 27, 2018

---

SENATOR CHAMBERS: Senator McDonnell, is your name of Irish derivation? [LB1003]

SENATOR McDONNELL: Yes. [LB1003]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I've often said that Oscar Wilde is one of my favorite authors. Only somebody of Irish derivation could convert AWOL, which to Senator Brewer and myself at least and Senator Krist, AWOL to us wasn't something good. But Senator McDonnell has turned AWOL, absent without loss, into something very positive. And only somebody of Irish derivation should do such a thing. So I want to mix something: viva la Irishman. That's all I have. [LB1003]

SPEAKER SCHEER: Thank you, Senator Chambers and Senator McDonnell. Question before us is closing, and he waives closing. The question now becomes the adoption of LB1003 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have you all voted that wish to? Please record. [LB1003]

ASSISTANT CLERK: 40 ayes, 1 nay on the advancement of the bill. [LB1003]

SPEAKER SCHEER: LB1003 is advanced to E&R Initial. Next bill, Mr. Clerk. [LB1003]

ASSISTANT CLERK: LB983, by Senator Ebke. (Read title.) Bill was introduced on January 11, referred to the Judiciary Committee, placed on General File with no committee amendments. [LB983]

SPEAKER SCHEER: Senator Ebke, you're welcome to open. [LB983]

SENATOR EBKE: Thank you, Mr. Speaker, and thank you for placing LB983 on consent calendar. LB983 is a bill introduced on behalf of the Supreme Court and the Court Administrator. In furtherance of the court's commitment to transparency in Nebraska courts, this past year the Nebraska Supreme Court updated the court rules related to the allowance of media cameras in Nebraska courtrooms. In developing those rules the court vetted the proposal with review and collaboration from several stakeholders, well-versed in remote appearance technology. The resulting rule provides a framework for when media and others covering hearings in Nebraska courts can take video or photographs during certain court appearances. Since the rule was implemented on March 1, 2017, the Nebraska Supreme Court has allowed news media cameras into trial courts for news reporting purposes. Unfortunately, the new Supreme Court rule did not contemplate the statute this bill addresses at the time that the rule was written. The proposed change to Nebraska Revised Statute 29-4205 in LB983 is needed to

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

Floor Debate  
March 27, 2018

---

allow the court rule to be effective in authorizing Nebraska media to photograph or take video of court arraignments when an individual appears in court via remote video technology. The bill had no opposition at public hearing and was advanced by the Judiciary Committee on a vote of 8 to 0. I ask for your green vote on LB983. Thank you, Mr. President. [LB983]

SPEAKER SCHEER: Thank you, Senator Ebke. Seeing no one wishing to speak, you're welcome to close. She waives closing on LB983. The question before us, advancement to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB983]

ASSISTANT CLERK: 41 ayes, 0 nays on the motion to advance the bill. [LB983]

SPEAKER SCHEER: LB983 is advanced to E&R Initial. Next bill. [LB983]

ASSISTANT CLERK: LB982, introduced by Senator Morfeld. (Read title.) Bill was read for the first time on January 11, referred to the Judiciary Committee. That committee placed the bill on General File with no committee amendments. [LB982]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Morfeld, you're welcome to open. [LB982]

SENATOR MORFELD: Thank you, Mr. Speaker. Colleagues, tonight I introduce LB982, a bill that lowers the age of majority to 18 for individuals seeking consent for mental health services. Right now we are the only state in the nation that requires parental consent for mental health services until 19. A group of students brought this to me because they were concerned because they wanted mental health services, however, they had to get consent from their parents in order to get them. And they thought that that would prevent some individuals from being able to get those mental health services or make them hesitant to do so. I ask for your approval of this legislation. Thank you, Mr. President. [LB982]

SPEAKER SCHEER: Thank you, Senator Morfeld. Seeing no one wishing to speak, you're welcome to close. Senator Morfeld waives closing. The question before us is adoption of LB982 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB982]

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill. [LB982]

SPEAKER SCHEER: LB982 is advanced. Next bill. [LB982]

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

Floor Debate  
March 27, 2018

---

ASSISTANT CLERK: LB1036, by Senator Kolowski. (Read title.) Bill was introduced on January 17, referred to the Government Committee, placed on General File with no committee amendments. [LB1036]

SPEAKER SCHEER: Senator Kolowski, you're welcome to open. [LB1036]

SENATOR KOLOWSKI: Thank you, Mr. Speaker. Good evening, colleagues. I want to first thank Senator Murante and the Government Committee for their assistance in moving this forward as we presented it in his committee. I'm here tonight to introduce LB1036 to increase the maximum cost per person from \$25 to \$50 for local government award recognition dinners. The amount has not increased since the statute was enacted 25 years ago. The intent of these dinners are to provide recognition to employees, volunteers, or elected or appointed members of local governments. Twenty-five years ago a limit of \$25 per person would be able to provide a nice recognition dinner. As inflation costs have increased, it is harder and harder to find catering under that limit. I believe it is time to update the statute to keep up with inflation. Looking at the Consumer Price Index, \$25 in 1993 is equal to \$43.88 in today's dollars. Thank you for your consideration. I'd be happy to answer any questions you might have. [LB1036]

SPEAKER SCHEER: Thank you, Senator Kolowski. Senator Erdman, you're recognized. [LB1036]

SENATOR ERDMAN: Thank you, Mr. Speaker. Senator Kolowski, you are correct. I have a couple of questions. [LB1036]

SENATOR KOLOWSKI: (Microphone malfunction) Sure. [LB1036]

SENATOR ERDMAN: So when you were talking about a recognition... [LB1036]

SPEAKER SCHEER: Senator Kolowski, would you please yield? Senator Kolowski, would you please yield? [LB1036]

SENATOR KOLOWSKI: Yes. Thank you. [LB1036]

SENATOR ERDMAN: Sorry about that. Senator Kolowski, when you're talking about a recognition dinner, you're talking like, say, the county had a dinner and they were recognizing an employee for outstanding service with the city. Is that what you're referring to? [LB1036]

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

Floor Debate  
March 27, 2018

---

SENATOR KOLOWSKI: Yes, sir, something like that, or anniversary of a...for example, 2020 we have the 25th anniversary of Millard West High School where I was principal. I'm sure they'll have quite a bang at that one. [LB1036]

SENATOR ERDMAN: It would apply to public schools as well? [LB1036]

SENATOR KOLOWSKI: Yes. [LB1036]

SENATOR ERDMAN: So right now the limit is at \$25? [LB1036]

SENATOR KOLOWSKI: It currently is, yes. [LB1036]

SENATOR ERDMAN: And this would raise it to \$50. So these are tax dollars being spent on these recognition dinners? [LB1036]

SENATOR KOLOWSKI: It can be that. It can be a combination also, depending if someone else...if a different group is assisting with the payment for that particular dinner or paying half of it or whatever combination might be coming up with. [LB1036]

SENATOR ERDMAN: How many people would be eligible to be...have their meal paid for, everyone in the group? [LB1036]

SENATOR KOLOWSKI: That's up to the local group in controlling their own finances. [LB1036]

SENATOR ERDMAN: So everyone that would be invited could have a free meal on the back of the taxpayer, right? [LB1036]

SENATOR KOLOWSKI: Depending where the money comes from and depending on how they've adjusted that with the group. [LB1036]

SENATOR ERDMAN: Okay. Thank you. [LB1036]

SPEAKER SCHEER: Thank you, Senator Erdman, Senator Kolowski. Seeing no one else wishing to speak, Senator Kolowski, you're welcome to close. He waives closing. The question before us, advancement of LB1036. All those in favor please vote aye; all those opposed vote nay. Have you all voted that wish to? Please record. [LB1036]

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

Floor Debate  
March 27, 2018

---

ASSISTANT CLERK: 27 ayes, 5 nays on the advancement of the bill. [LB1036]

SPEAKER SCHEER: LB1036 is advanced to E&R Initial. Next bill, Mr. Clerk. [LB1036]

ASSISTANT CLERK: LB1038, introduced by Senator Thibodeau. (Read title.) Bill was introduced on January 17, referred to the Government Committee, placed on General File with no committee amendments. [LB1038]

SPEAKER SCHEER: Senator Thibodeau, you're welcome to open. [LB1038]

SENATOR THIBODEAU: Thank you, Mr. President. And thank you, Speaker Scheer, for designating LB1038 as a consent calendar bill. This bill did advance from the general...Government, Military and Veterans Affairs Committee on a 7 to 0 vote with 1 committee member being absent. I introduced this bill at the request of the Nebraska Secretary of State, John Gale. This bill extends the on-line voter registration deadline from 5:00 p.m. to prior to midnight on the deadline date cited in Nebraska Revised Statute 32-304. Thank you, Mr. President, and I would appreciate a green vote on this bill. [LB1038]

SPEAKER SCHEER: Thank you, Senator Thibodeau. Seeing no one wishing to speak, you're welcome to close. She waives closing. Question before us is adoption of LB1038 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB1038]

ASSISTANT CLERK: 42 ayes, 0 nays on the advancement of LB1038. [LB1038]

SPEAKER SCHEER: LB1038 is advanced to E&R. Next bill. [LB1038]

ASSISTANT CLERK: LB682, introduced by Senator Blood. (Read title.) Bill was introduced on January 3, referred to the Government Committee, placed on General File with committee amendments. (AM2321, Legislative Journal page 927.) [LB682]

SPEAKER SCHEER: Senator Blood, you're welcome to open. [LB682]

SENATOR BLOOD: Thank you, Mr. President. I would like to thank the Speaker for placing this military-friendly bill, LB682, on the consent calendar tonight, as well as my cosponsors, Senator Brewer and Crawford, who join me in championing legislation that embraces Nebraska's military families and Offutt Air Force Base. LB682 is an uncomplicated yet important bill as we work

Floor Debate  
March 27, 2018

---

together to have Nebraska designated as a military-friendly state prior to the next BRAC round. Service members are currently protected as consumers through the federal Servicemembers Civil Relief Act, also known as SCRA. However, the federal law does not protect service members concerning certain obligations that occur while on active duty. The Department of Defense has encouraged Nebraska to mirror and expand on the existing SCRA, ultimately bringing it up-to-date with current technology. They requested that we consider updating with the following protections: that the statute be applicable to active duty for members of the uniformed services; that new statute addresses contracts that provide telecommunication services, Internet services, television services, athletic club or gym memberships, or satellite radio services; and that it be applicable as well to certain residential lease and rental agreements due to mandatory moves into government-owned or leased housing. LB682 enables those serving to terminate certain contracts due to military orders for relocation. The relocation must be for at least 90 days and be in a location that is not included or covered under the existing contract area. The service member may terminate at any time after receiving the relocation orders. Termination must be made by written or electronic notification with a copy of the relocation orders. The service provider or lessor is barred from charging those serving an early termination charge or retaliating against the service member by adding an additional cost or in a future contract or interaction. The service member remains liable for any tax or obligation that was due but unpaid at the time of termination. The service provider or lessor has 60 days to refund the service member any fee or charge that was paid for services or rental that extended past the termination of the contract. This right of early termination applies to the following contracts: telecommunication services, Internet services, television services, athletic club or gym memberships, satellite radio services, a residential lease but only if the service member is required to move into government-owned or leased housing. LB682 also requires the Nebraska National Guard to provide its members with a list of their rights under this bill and the federal Servicemembers Civil Relief Act. The Government Affairs Committee will be offering a friendly amendment that better clarifies details pertaining to rental agreements. LB682 had no opposition in the hearing and was voted out with 7 votes with 1 committee member being absent that day, and has no fiscal note. On a personal note before I close, I want to say, hi, Mom, welcome home from the hospital; I promise to call when we're done tonight. Please vote green and to help Nebraska...and help Nebraska continue to move forward as being designated a military-friendly state. Thank you, Mr. President. [LB682]

SPEAKER SCHEER: Thank you, Senator Blood. Senator Murante, as Chairman of the Government Committee, you're welcome to open on the amendment. [LB682]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening. AM2321 has two provisions. First, it clarifies that the bill does not apply to a lease of residential rental property in which a spouse of a service member is still a tenant. And, second, it establishes that termination of a rental contract pursuant to the bill is effective 30 days after the next rental payment is due. I



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

Floor Debate  
March 27, 2018

---

encourage your support of the committee amendment and your advancement of LB682. Thank you, Mr. President. [LB682]

SPEAKER SCHEER: Thank you, Senator Murante. Senator Schumacher, you're recognized. [LB682]

SENATOR SCHUMACHER: Thank you, Mr. Speaker. Just briefly, would Senator Blood yield to a question or two? [LB682]

SPEAKER SCHEER: Senator Blood, would you please yield? [LB682]

SENATOR BLOOD: Yes, sir, I'd be happy to yield. [LB682]

SENATOR SCHUMACHER: Senator Blood, I didn't have a chance to parse through every word, but does this apply only to contracts after...and arrangements after, that were entered into after the effective date of the act? [LB682]

SENATOR BLOOD: Yes, because it won't become law until, since there's not an emergency clause on it,... [LB682]

SENATOR SCHUMACHER: Right. [LB682]

SENATOR BLOOD: ...it won't become law for... [LB682]

SENATOR SCHUMACHER: So if somebody has a contract for cellular services that was entered into before this act becomes effective, this does not apply to it, correct? [LB682]

SENATOR BLOOD: Oh, I misunderstood. No, that is not the case, sir, because it applies to anybody who is active duty who's in a current contract until... [LB682]

SENATOR SCHUMACHER: Then how is that not an impairment of contract prohibited by our constitution if it's retroactive to something entered into beforehand? [LB682]

SENATOR BLOOD: That's a really good question, sir, that is definitely out of my knowledge base. [LB682]

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

Floor Debate  
March 27, 2018

---

SENATOR SCHUMACHER: Okay. I think we've got an issue there. Won't oppose it on General File, but I think if you want to avoid it being declared unconstitutional, you might check that out. [LB682]

SENATOR BLOOD: Sir, I would say that I do know it's been passed in other states without issue and has been found to be legal, so I'd be happy to sit down with you and discuss this. [LB682]

SENATOR SCHUMACHER: If the contract was entered into before the date of this legislation, we cannot impair that contract under state or federal contract. I'm fairly sure that's accurate. But I encourage you to check into it. Thank you, Mr. Speaker. Thank you, Senator. [LB682]

SPEAKER SCHEER: Thank you, Senator Schumacher and Senator Blood. Seeing no one else wishing to speak, Senator Murante waives closing. The question before us, adoption of AM2321. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB682]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of committee amendments. [LB682]

SPEAKER SCHEER: AM2321 is adopted. Returning back to LB682, seeing no one else wishing to speak, Senator Blood is welcome to close. She waives closing. The question before us is advancement of LB682 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Please record. [LB682]

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of the bill. [LB682]

SPEAKER SCHEER: LB682 is adopted...or is advanced to E&R Initial. Next bill, please. [LB682]

ASSISTANT CLERK: LB749, introduced by Senator Williams. (Read title.) Bill was introduced on January 3, referred to the Government Committee, placed on General File with no committee amendments. [LB749]

SPEAKER SCHEER: Senator Williams, you're welcome to open. [LB749]

SENATOR WILLIAMS: Thank you, Mr. President. First of all, a thank you to the Speaker for putting this on consent calendar. LB749 amends Section 21-1905 of the Nebraska statutes to better reflect the current practice of the Secretary of State's Office regarding filing fees for

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

Floor Debate  
March 27, 2018

---

nonprofit corporations. LB749 would eliminate from statute the requirement that nonprofit corporations pay an additional filing fee of \$5 per page when filing their nonprofit biennial report. This report is required to be filed every two years by the nonprofit and provides updated information, such as the location of the principal office and the list of officers and directors. Secretary of State's Office brought this to my office after reviewing their statutes this past year as part of a replacing and updating of their current filing system. Their office has historically never charged the per-page filing fee, which if charged would potentially increase the \$20 flat fee currently charged to \$30 or more, depending on the number of pages. Currently they do not charge a per-page filing fee to...for nonprofit or LLCs. Finally, LB749 would add language which clarifies that fraternal societies are to pay the same filing fee as nonprofit corporations. Secretary of State's Office has traditionally charged fraternal societies the same filing fees as nonprofits so this would simply put into statute that practice. It's not often that we have an opportunity to reduce fees. That's what this bill does. The hearing was held on January 24, 2018. There was no opposition testimony. And it was voted out of committee with no dissenting votes. I would request your green vote to advance LB749. Thank you, Mr. President. [LB749]

SPEAKER SCHEER: Thank you, Senator Williams. Senator Erdman, you're recognized. [LB749]

SENATOR ERDMAN: Thank you, Mr. Speaker. I read the statement of intent of LB749. And as I read that, some things came to mind. It says statutes are in place concerning filing fees for nonprofit corporations and this LB749 would better reflect what is done in the better practices of the Secretary of State. Would Senator Williams yield to a question? [LB749]

SPEAKER SCHEER: Senator Williams, would you please yield? [LB749]

SENATOR WILLIAMS: Yes, I would. [LB749]

SENATOR ERDMAN: Senator Williams, so right now the statute says the state Secretary of State should collect \$5 per page. Is that correct? [LB749]

SENATOR WILLIAMS: That's correct. [LB749]

SENATOR ERDMAN: And so, obviously, the Secretary of State has not been following the statute. Is that true? [LB749]

SENATOR WILLIAMS: That's correct. [LB749]

Floor Debate  
March 27, 2018

---

SENATOR ERDMAN: Why would that be? [LB749]

SENATOR WILLIAMS: I think they determined that it had...it would cost them more to track that than it was that they would recoup by charging that amount. And with their new system that they are implementing right now, they want to equalize it. Also you could have a situation where a nonprofit, if they had this number of pages, would actually be paying more for their biennial report than a for-profit corporation, which is fixed at \$26 on a biennial basis. [LB749]

SENATOR ERDMAN: Okay. Maybe a better question would be, and I'm not asking this to you, but maybe a better question for the body to think about is--and Senator Morfeld made a comment about this, this morning--to see what statutes we adhere to and which ones we don't. So if we pass a statute that says the Secretary of State's Office is to collect \$5 for every page, I would assume that's what the Secretary of State's Office is supposed to do. I would assume that's why we pass laws here and we put things in statute, so that state organizations, state agencies do what we ask them to do. And so what they do is they just don't do what we ask them, and then they come back and ask to have it changed because they're not doing what we've instructed them to do. Doesn't make any sense. So why should we even pass bills or statutes? Why don't we just let the agencies run whatever they want to do and make the decision they want to make and then let us know how they like that? I'm not opposed to what you're trying to do, Senator Williams. I'm just saying I'm dumbfounded by the fact that we pass laws all the time and nobody implements them. That is very peculiar to me. Thank you. [LB749]

SPEAKER SCHEER: Thank you, Senator Erdman. Seeing no one wishing to speak, Senator Williams, you're welcome to close. He waives closing. The question before us is advancement of LB749 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB749]

ASSISTANT CLERK: 35 ayes, 2 nays on the advancement of the bill, Mr. President. [LB749]

SPEAKER SCHEER: LB749 is advanced. Next bill. [LB749]

ASSISTANT CLERK: LB786 was introduced by Senator Vargas. (Read title.) Bill was introduced on January 3, referred to the Government Committee, placed on General File with no committee amendments. [LB786]

SPEAKER SCHEER: Senator Vargas, you're welcome to open. [LB786]

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

Floor Debate  
March 27, 2018

---

SENATOR VARGAS: Good evening, colleagues. I want to thank Speaker Scheer for putting this on consent. This will be very brief. LB786 is a very straightforward bill. It updates outdated language in 14 sections of Chapter 23 of the Revised Statutes which deals with county government and officers of the county. There are no policy changes or impacts. The changes merely reflect modernized language. LB786 had no opposition testimony and was advanced to General File with no opposition from committee members. I'll ask for your green vote on LB786. Thank you. [LB786]

SPEAKER SCHEER: Thank you, Senator Vargas. Seeing no one wishing to speak, you're welcome to close. He waives closing on LB786. The question before us, advancement of LB786 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB786]

ASSISTANT CLERK: 34 ayes, 0 nays on the advancement of LB786. [LB786]

SPEAKER SCHEER: LB786 is advanced to E&R Initial. The next bill. [LB786]

ASSISTANT CLERK: LB1030 was introduced by Senator Friesen. (Read title.) Bill was introduced on January 16, referred to the Revenue Committee. That committee placed bill on General File with no committee amendments. [LB1030]

SPEAKER SCHEER: Senator Friesen, you're welcome to open. [LB1030]

SENATOR FRIESEN: Thank you, Mr. President. In 2016, the Legislature passed LB783. This bill required public power districts to license their vehicles in a central location, which was the location of their headquarters. The intent of the bill was to simplify the process for large utilities that serve in multiple counties with vehicles housed in multiple locations. The bill was not intended to move dollars from one county to the next or omit revenues to municipalities where vehicles may be housed. LB783 did not address the sales taxes on such vehicles, and, since there was no guidance, counties collected sales tax based on the location of the headquarters of the public power district and not where the vehicle was housed. LB1030 corrects that error and adds language that states, "except that the sale of any motor vehicle or trailer operated by a public power district and registered under section 60-3,228 is consummated at the place where the motor vehicle or trailer has situs as defined in section 60-349." LB1030 has an operational date of January 1, 2021. This was done so that the new motor vehicle registration system currently under development by DMV will be on-line and capable of making the appropriate sales tax transfers. DMV anticipates that it will be on-line in 2019, but this date adds an acceptable cushion so that there would not be an additional cost to implement the changes proposed in

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

Floor Debate  
March 27, 2018

---

LB1030. LB1030 was advanced from Revenue Committee with an 8-0 vote. I would ask that you advance LB1030. Thank you, Mr. President. [LB1030]

SPEAKER SCHEER: Thank you, Senator Friesen. Seeing no one wishing to speak, you're welcome to close. He waives closing. The question before us is the advancement of LB1030 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Please record. [LB1030]

ASSISTANT CLERK: 37 ayes, 0 nays on the advancement of LB1030. [LB1030]

SPEAKER SCHEER: LB1030 is advanced to E&R Initial. Next bill. [LB1030]

ASSISTANT CLERK: Mr. President, next bill is LB1052, which was introduced by Senator Pansing Brooks. (Read title.) Bill was introduced on January 17, referred to the Education Committee, placed on General File with no committee amendments. [LB1052]

SPEAKER SCHEER: Senator Pansing Brooks, you're welcome to open. [LB1052]

SENATOR PANSING BROOKS: Thank you, Mr. President, members of the body. LB1052 includes a number of provisions to help ensure that children with dyslexia receive the evidence-based interventions they need. On our school tour this past fall with Senator Linehan, we found that teachers consistently reported to us that they were not properly trained in how to recognize, understand, and provide evidence-based interventions for dyslexia. Further, we saw whole language being taught by a few teachers rather than the phonics-based instruction that can help all students and particularly those with dyslexia. LB1052 does several things. First, it provides State Department of Education shall develop and distribute technical assistance document to provide guidance for school districts and teachers on how to understand and provide evidence-based interventions for dyslexia. It also provides that students exhibiting characteristics of dyslexia shall receive evidence-based structured literacy instruction using a multisensory approach. Third, it prevents school districts from requiring a medical diagnosis in order to receive interventions from dyslexia. And finally, LB1052 provides that each teacher education program approved by the State Department of Education shall include instruction in dyslexia as part of its initial course requirements. Last year we were one of ten states with no laws on dyslexia. We added a definition of dyslexia last year. And so when I started looking into these...the laws on dyslexia in Nebraska, there were a lot of misconceptions, including whether it needed a medical diagnosis. We learned on the tour that even some teachers were told not to even mention the word "dyslexia." I feel gratified that we have developed a bill that has broad support of dyslexia advocates, teachers, special educators, school administrators, and others. In the end, LB1052 means we are providing more interventions and opportunities for kids to learn

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

Floor Debate  
March 27, 2018

---

and thrive. In closing, I would ask you to vote green on LB1052. Thank you, Mr. President.  
[LB1052]

SPEAKER SCHEER: Thank you, Senator Pansing Brooks. Seeing no one wishing to speak, you're welcome to close. She waives closing. The question before us, advancement of LB1052 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have you all voted that wish to? Please record. [LB1052]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill. [LB1052]

SPEAKER SCHEER: LB1052 is advanced to E&R Initial. Next bill. [LB1052]

ASSISTANT CLERK: LB1110, introduced by Senator Vargas. (Read title.) Bill was introduced on January 18, referred to the Education Committee. That committee placed the bill on General File with no committee amendments. [LB1110]

SPEAKER SCHEER: Senator Vargas, you're welcome to open. [LB1110]

SENATOR VARGAS: Thank you very much, Speaker. Good evening again. I am the last consent. I want to thank Speaker Scheer for putting this on consent calendar. I introduced LB1110 to uphold the original legislative intent of former Speaker Greg Adams' LB438, which created and enacted new state accountability model for public schools known as the Accountability for a Quality Education System, Today and Tomorrow--A QuESTT. Now A QuESTT requires the Department of Education to measure a number of criteria from individual schools and districts, report the data that is collected, and to use that data to guide the prioritization of statewide investments in school and district improvements. A QuESTT was created in 2014, and to date the Department of Education has only reported full scores in 2015 and partial scores in 2016. No scores were reported in 2017. The original intent of Senator Adams' LB438 was to have data and scores collected and reported annually. LB1110 makes that expectation clearer by adding the word "annually" to a few places in existing statute and by providing a reporting deadline of December 31 of each calendar year. LB1110 was advanced out of the Education Committee on an 8-0 vote. The bill was supported by the Department of Education, the Nebraska State Education Association, and former Speaker Greg Adams. There were no opposition or neutral testimony at the hearing. I'd ask for your green vote on LB1110. Thank you very much. [LB1110]

SPEAKER SCHEER: Thank you, Senator Vargas. Seeing no one wishing to speak, you're welcome to close. And he waives closing. The question before us is the advancement to E&R

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

Floor Debate  
March 27, 2018

---

Initial of LB1110. All those in favor please vote aye; all those opposed vote nay. Have you all voted that wish to? Please record. [LB1110]

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of the bill, Mr. President. [LB1110]

SPEAKER SCHEER: LB1110 does advance to E&R Initial. Items, Mr. Clerk? [LB1110]

ASSISTANT CLERK: Mr. President, your Committee on Enrollment and Review reports LB998, LB957, LB751, LB1121, LB1121A, LB497, LB799, LB812, LB815, LB733, and LB848, all to Select File, some with E&R amendments. Amendments to be printed: Senator Pansing Brooks to LB1132, Senator Harr to LB909. Name adds: Senator Brewer to LB909, Senator Bolz to LB998. (Also, LB629 reported to Select File, Legislative Journal pages 1254-1264.) [LB998 LB957 LB751 LB1121 LB1121A LB497 LB799 LB812 LB815 LB733 LB848 LB1132 LB909 LB629]

And a priority motion: Senator Pansing Brooks would move to adjourn until Wednesday, March 28, 2018, at 9:00 a.m.

SPEAKER SCHEER: You've heard...colleagues, you've heard the motion. All those in favor please say aye. Any opposed? We are adjourned.