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Floor Debate  
January 18, 2008

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[LB202 LB205 LB210 LB235 LB235A LB312 LB379 LB579 LB639 LB641 LB706 LB707  
LB807 LB895 LB987 LB1043 LB1044 LB1045 LB1046 LB1047 LB1048 LB1049  
LB1050 LB1051 LB1052 LB1053 LB1054 LB1055 LB1056 LB1057 LB1058 LB1059  
LB1060 LR229CA]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighth day of the One Hundredth Legislature, Second Session. Our chaplain today is Beth Llewellyn, Mission Integration, Alegent Health in Omaha, Nebraska, from Senator Kruse's district. Please rise.

BETH LLEWELLYN: (Prayer offered.)

SPEAKER FLOOD: Thank you. I call to order the eighth day of the One Hundredth Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

SPEAKER FLOOD: Are there any messages, reports, or announcements?

CLERK: Mr. President, I have a proposed rules change offered by the Rules Committee, that will be laid over at this time; a confirmation report from the Nebraska Retirement Systems Committee; an amendment to be printed to LB579, by Senator Loudon. And I have a notice of hearing from the Transportation and Telecommunications Committee, signed by Senator Fischer. Two reports received in the Clerk's Office, available for member review: one from the Investment Finance Authority, and the second from the Department of Roads. And the report of registered lobbyists for this week, Mr. President. And that's all that I have at this time. (Legislative Journal pages 281-289.) [LB579]

SPEAKER FLOOD: Thank you, Mr. Clerk. (Doctor of the day introduced.) Mr. Clerk, we will now proceed to the first item on the agenda.

CLERK: Mr. President, new bills. (Read LB1043-1045 by title for the first time.) Those are all the new bills I have at this time, Mr. President. (Legislative Journal page 289.) [LB1043 LB1044 LB1045]

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

Floor Debate  
January 18, 2008

---

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to General File, Revisor's bills. LB706, Mr. Clerk. [LB706]

CLERK: LB706, a bill by Senator Engel. (Read title.) [LB706]

SPEAKER FLOOD: Senator Engel, you're recognized to open on LB706. [LB706]

SENATOR ENGEL: Mr. Speaker, members of the body, as an introductory reminder, Revisor bills are bills that are prepared by the Revisor of Statutes. They are technical correction bills. Pursuant to our rules, Rule 5, Section 3, they are introduced by the Chairperson of the Executive Board and are referred directly to General File. This year we only have two Revisor bills, LB706 and LB707. LB706 amends a section pertaining to the Nebraska Limited Cooperative Association Act, by deleting erroneous references to "corporation," and inserting "limited cooperative association." It repeals the original section and includes the emergency clause, so that the internal references are corrected as soon as possible. I ask for your support in moving LB706 to Select File. [LB706 LB707]

SPEAKER FLOOD: You've heard the opening on LB706. Are there any senators that wish to discuss the same? Seeing none, Senator Engel, you're recognized to close on LB706. [LB706]

SENATOR ENGEL: I waive closing. Thank you. [LB706]

SPEAKER FLOOD: Senator Engel waives closing. The question before the Legislature is, should LB706 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB706]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB706. [LB706]

SPEAKER FLOOD: LB706 advances to E&R Initial. Next bill, Mr. Clerk. [LB706]

CLERK: LB707 by Senator Engel, as the Chair of the Executive Board. (Read title.) [LB707]

SPEAKER FLOOD: Senator Engel, you're recognized to open on LB707. [LB707]

SENATOR ENGEL: Mr. Speaker, members of the body, LB707 amends provisions of the Nebraska Uniform Limited Partnership Act that are obsolete and outright repeals other sections that have terminated or are obsolete. I'd appreciate your support in moving LB707 to Select File. [LB707]

SPEAKER FLOOD: You've heard the opening on LB707. Are there any members that

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

Floor Debate  
January 18, 2008

---

wish to speak on this bill? Seeing none, Senator Engel, you're recognized to close.  
[LB707]

SENATOR ENGEL: I waive closing. [LB707]

SPEAKER FLOOD: Senator Engel waives closing. The question before the Legislature is, should LB707 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB707]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB707. [LB707]

SPEAKER FLOOD: LB707 advances to E&R Initial. Mr. Clerk, we now move to General File, 2008 senator priority bills. We begin with LB235. [LB707 LB235]

CLERK: LB235, a bill by Senator Nantkes. (Read title.) The bill was introduced on January 9 of last year, Mr. President, at that time referred to the Revenue Committee for public hearing. The bill was advanced to General File. I do have Revenue Committee amendments pending. (AM818, Legislative Journal page 940, First Session, 2007.)  
[LB235]

SPEAKER FLOOD: Senator Nantkes, you are recognized to open on LB235. [LB235]

SENATOR NANTKES: Good morning, Mr. President, colleagues. It's a red carpet day for Nebraska. I am so pleased to have introduced LB235 and to have worked in concert with the Revenue Committee to advance this important piece of legislation. The Revenue Committee does have amendments on the bill, and I've also recently filed an amendment on the bill, but we can get into some of those specifics later into the discussion. In my opening on the bill, though, I wanted to talk just generally about some of the public policy principles that LB235 contains. This bill would provide incentives for film production in Nebraska. The bill is currently on General File and up for debate today. The law...the bill was drafted based on a law passed in Oklahoma, and that program has been very successful in growing the film industry in that state. In fact, since similar incentives were passed in Oklahoma, that state has seen an increase of \$11 million in production in the first year alone, and last year an increase of over \$18.9 million. Last year in Nebraska approximately \$1.5 million was realized from film production. Imagine the possibilities if we offered incentives for film. Imagine the possibilities about the types of good jobs created by this industry. I believe that this program will make our overall economic tools more comprehensive, and it will also showcase the inherent and natural beauty of the Nebraska landscape. I believe this also is a vital step forward to retain and attract the creative class and help to stop brain drain in Nebraska. LB235 and the principles that it promotes really provide a unique opportunity for Nebraska. This legislation enjoys wide support from a diverse cast of supporting actors, as we're calling them. For example, I'm proud to report to you that the

Floor Debate  
January 18, 2008

---

city of Omaha has included this as a priority for the 2008 legislative agenda. It's supported by the Nebraska Chamber of Commerce and Industry, the Greater Omaha Chamber of Commerce, the Lincoln Chamber of Commerce, and the Teamsters Local 554, and Change to Win Coalition, the Nebraska State AFL-CIO, and is the top priority for the Nebraska Tourism and Travel Association. In addition, it is supported by the Motion Picture Association of America. What a unique opportunity to focus on common-sense legislation that enjoys wide support from these diverse groups. It's a rare opportunity to be able to promote and move forward with a piece of legislation that the business community and organized labor are walking hand in hand together to support. I think that is important to note, and I'm so proud to have worked with those groups on this issue. The basic principles contained in LB235 are as follows: This is pro-growth legislation. This is pro-jobs legislation. This makes our economic development tools more comprehensive. It also makes Nebraska more competitive. Over 37 other states already have some sort of film incentive program on the books. It helps to retain and attract an environmentally friendly industry. It helps to stop the brain drain, and it showcases the inherent natural beauty of our Nebraska landscape. Those are some of the broad principles contained in this legislation that I wanted to lay out for you as we begin our discussion this morning. With that, I will yield the balance of my time back and look forward to hearing Senator Janssen open on the Revenue Committee amendments. Thank you. [LB235]

SPEAKER FLOOD: Thank you, Senator Nantkes. You've heard the opening on LB235. Mr. Clerk. We now recognize Senator Janssen to introduce the Revenue Committee amendments to LB235. [LB235]

SENATOR JANSSEN: Thank you, Senator Flood, members of the Legislature. The committee amendment rewrites the bill and provides only one incentive, a rebate of production costs for film productions. The rebate would be 25 percent of the production costs incurred in Nebraska for a film with a budget of at least \$30 million. To be eligible, the production must have a budget of at least \$2 million, with at least \$1.25 million of the production costs incurring within the state of Nebraska. Production costs would be defined as wages of state residents, construction, wardrobe and accessories, editing, and rental of facilities, locations and equipment. Production costs also include the wages and salaries of persons defined as Nebraska ex partes (sic). By the newly created film office of the Game and Parks Commission, the Nantkes amendment, as I understand it, would change this agency to the Department of Economic Development. If the budget for the film is at least...is less than \$30 million, the rebates would still be 25 percent if more than half of the crew are Nebraska residents; 15 percent if between 25 percent and 50 percent of the crew are Nebraska residents; and 10 percent if fewer than 25 percent of the crew are Nebraska residents. These rebate percentages are slightly higher than the green copy of the bill. To receive the rebates, the production company is to document the production costs, file a Nebraska income tax return, and show that the production has adequate financing and financial backing and liability

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

Floor Debate  
January 18, 2008

---

insurance. The film office is also to determine that the proposed film project has a reasonable chance of economic success before they grant the rebate. If approved, the film office is to notify the State Treasurer, who is to issue payment of the rebate. The rebate is a check from the state, not a tax credit. Therefore, the amounts are known and the information is not confidential. Section 3 would create the Film Enhancement Rebate Program Fund, which is to contain appropriations and private donations. Approved rebates of production costs are to be paid from the fund. Section 4 would create the film office within the Game and Parks Commission. This last section would be eliminated by the Nantkes amendment, which will follow. Thank you. [LB235]

SPEAKER FLOOD: Thank you, Senator Janssen. Mr. Clerk. [LB235]

CLERK: Mr. President, Senator Nantkes would move to amend the committee amendments with AM1588. (Legislative Journal page 290.) [LB235]

SPEAKER FLOOD: Senator Nantkes, you are recognized to open on AM1588. [LB235]

SENATOR NANTKES: Thank you, Mr. President. Thank you, Senator Janssen, for your eloquent opening remarks on the committee amendment. Sorry for the late notice, colleagues, but this amendment, AM1588, that we're discussing right now, the amendment to the committee amendment, is an amendment that I drafted, actually, early in this session. And just to remove any confusion for folks, what it does simply is...the original legislation proposed creating the Nebraska film office within the Game and Parks Foundation. We did that for a couple of reasons: One, after visiting with those who have expertise within the industry, they apprised us of the fact that they frequently reach out to Nebraska Game and Parks Commission officers when scouting locations for these types of productions. Additionally, Game and Parks, as many of you know, does have a foundation under its jurisdiction as well, and we thought that may be helpful in drawing in additional private fund-raising activities. After talking with Game and Parks and working with DED, we concluded that it was probably a better fit to keep this program within the Department of Economic Development. And I'm hopeful that with this amendment, not only will it make the program fit consistently with our other economic development tools, but it will also help to reduce some of the administrative costs in administering this program. Since DED already has familiarity with this type of program and has some staff on hand who handle these type of activities, I think it's just a more streamlined and efficient approach to have the program be administered by the Department of Economic Development. And the department has been so helpful in helping us to work on logistical issues in relation to this legislation, and I have great confidence that, if we advance this bill, that they will be true champions in advancing this program across the United States. So with that, I yield the balance of my time. [LB235]

SPEAKER FLOOD: You've heard the opening on AM1588. We now go to discussion.

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

Floor Debate  
January 18, 2008

---

Senator White, you're recognized. [LB235]

SENATOR WHITE: Marlon Brando, Fred Astaire, Ginger (sic) Astaire, Nick Nolte, Alexander Payne, Dana Altman, and many, many others are all Nebraskans with deep ties to this state. The state has a tremendous history of being not only present but actually standing out in the entertainment industry. There are opportunities to advance economic interests in the state that may not be completely realistic. We may not have the natural resources, we may not have the training, we may not have the contacts, though we want the growth and the jobs. In this case, we have all the contacts in the world. We have all the talent in the world. We have everything we need to actually make this work, other than some laws that will put us on almost equal--not equal--almost equal footing with a few of the states. Alexander Payne, Dana Altman, and others have talked about their deep desire to bring more film industry into this state. The jobs that they create pay extraordinarily well. A job as a simple laborer on a film production crew will pay union rates of over \$20 an hour, with benefits. These are clean jobs. They do not add to pollution. They do not put additional burdens on the infrastructure. When they leave, they leave an image of the state behind. The reality is that Nebraska faces a national image or lack of image problem. The ability to put our state on TV and in movie screens, to show it in a light that it actually has sophisticated, intelligent people, extraordinarily successful, wealthy, healthy, is invaluable. I don't think there is a better place to invest our money than in this particular project. It will solve so many problems. Unless...often we think that...Nebraska, we have almost an inferiority complex. We don't think we deserve the national attention, unless it's in football. The reality is we often deserve it. The reality is we are not only equal to but often superior to other parts of the state (sic) in so many of the essential areas. This is a realistic opportunity to develop the state's image, and let me explain why I believe that. This year...in '07, I'm sorry, there was a film production centered in my neighborhood. My constituents got jobs that paid extraordinarily well. It was produced by Dana Altman, who lives in Omaha, Nebraska, who worked with other people from Nebraska. We have talented musicians who are nationally and internationally known. We have talented writers. An Omahan wrote Brad Pitt's recent movie about Jesse James. That's his book. He was an Omahan and he now teaches in California. They will come back, they will bring jobs, they will help us. They love this state, but we need to help them. I hope you will vote in favor of this. [LB235]

SPEAKER FLOOD: Thank you, Senator White. Senator Nantkes, you're recognized. [LB235]

SENATOR NANTKES: Thank you, Mr. President, and thank you, Senator White, for your comments on this important piece of legislation this morning. Colleagues, I wanted to run through just briefly for you the experience other states have had after they've developed similar programs to retain and attract the film industry into their local economies. In 2003, Washington State saw a \$656 million economic investment and the

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

Floor Debate  
January 18, 2008

---

creation of over 8,000 jobs in response to their film incentive program. In 2002, Virginia saw an investment of over \$191 million in response to their economic development efforts. In 2007, Wisconsin projected over \$100 million in new investment into their local economy in response to their economic development efforts. In New Mexico in 2007, they reported a \$1.48 billion investment in their state over the past five years, in relation to their economic development incentives. In 2003, Texas reported a \$2.8 billion net impact over the last ten years and the creation of over 4,000 permanent jobs in response to their economic development efforts. Connecticut reports the creation of over 8,000 jobs and an estimated impact of \$2.5 billion in additional investment in their local economy. Here in the Midwest and the West in 2003, Montana reported a \$5.7 million investment in their local economy in response to their efforts. Louisiana reports a jump from \$30 million to \$250 million in investment in response to their economic development efforts. Illinois saw a similar jump from \$25 million in investment to \$75 million of investment in one year, after adopting film incentives. Oklahoma in one year, as I noted in my opening, reported a \$5 million to \$6 million increased investment in one year. Mississippi, one of our states of the South, I wanted to point out, passed their film incentive program unanimously by both their house and their senate. How often do legislative ideas move forward in a body in a unanimous manner? I think that that's really important to point out. Additionally, there's 23 senators who remain in the body today that in 2005 were supportive of LB312, the Nebraska Advantage Act. The same principles that apply to those economic development efforts apply to LB235. With that, I'd waive my closing on the amendment and ask for your support. [LB235]

SPEAKER FLOOD: Thank you, Senator Nantkes. Senator Dubas, you're recognized. [LB235]

SENATOR DUBAS: Thank you, Mr. Speaker, members of the body. I rise in support of the amendment and also the underlying bill. I've had some conversations with the director of the convention and tourism bureau in Hall County, and she was hoping that I would be supportive of this bill and just gave me a little bit of information of what has happened in my area of the state and, in particular, in the Grand Island/Hall County area. In 1995, the film, My Antonia, was done at the Stuhr Museum in Grand Island, and at that time, in '95, it was a \$3.5 million budget, and they estimate it brought over \$500,000 just into that region. And that was the third film that was done in the Stuhr Museum location. I've also visited with people who are interested and involved in film and production who have said the cost of doing movies and productions such as that in Nebraska or in the Midwest, in general, are a lot less inflated than they are on the East and the West Coasts. So we have a lot to offer as far as the work ethic of our people, the cost of them doing their business, just the fact that we have a beautiful state with a lot of opportunities for a variety of different films. And so I hope that I can get...that Senator Nantkes can get the support of the body and that we can move this bill forward. Thank you. [LB235]

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

Floor Debate  
January 18, 2008

---

SPEAKER FLOOD: Thank you, Senator Dubas. Senator Carlson, you're recognized. [LB235]

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to address a question to Senator Nantkes. [LB235]

SPEAKER FLOOD: Senator Nantkes, will you yield to a question from Senator Carlson? [LB235]

SENATOR NANTKES: Yes, of course. [LB235]

SENATOR CARLSON: Senator Nantkes, certainly anything that has to do with economic development I would like to be able to support, and I have a question here, and I'm trying to work out an example and I'm not able to work it out, and so I'd ask for your help. Perhaps Senator White could be of help, as well. But if a firm comes in and spends \$25 million, one assumption we can make is that \$25 million is spent, so there's sales tax paid on that \$25 million. [LB235]

SENATOR NANTKES: That's correct, Senator Carlson. [LB235]

SENATOR CARLSON: And if I calculated that right, that's about \$1.3 million collected in sales tax. [LB235]

SENATOR NANTKES: I'll take your word for it. [LB235]

SENATOR CARLSON: Okay, but then the bill says that we might refund back to them up to \$5 million. [LB235]

SENATOR NANTKES: Uh-huh. [LB235]

SENATOR CARLSON: So what are some other ways that that money circulates and makes up the difference between \$1.3 million and \$5 million? And I want to see it; I hope it's there, but it's a question that I have. [LB235]

SENATOR NANTKES: No. Thank you, Senator Carlson. I appreciate that question. In addition to the sales tax issues that you address, qualifying investments on the rebate program could include wages and salaries for cast and crew, payroll taxes in that regard; investments and payouts made in regard to facilities rental, location rentals, equipment rentals, lodging, catering, all of those related expenses. [LB235]

SENATOR CARLSON: Okay, if we say that a portion of the money is spent and there's sales tax collected on it, a portion of the money is spent in salaries and there's income tax paid on it, that's still about a wash. [LB235]

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

Floor Debate  
January 18, 2008

---

SENATOR NANTKES: Uh-huh. [LB235]

SENATOR CARLSON: It's a similar amount, whether it's income tax, Nebraska income tax, or whether it's sales tax. And I'm not wanting to put you on the spot here, but anyone else that could provide some information...I know as money circulates the taxes paid on it increase, but that's quite a difference between \$1.3 million and \$5 million, and I'm just trying to work my way through it. [LB235]

SENATOR NANTKES: Sure. And, Senator Carlson, just to clarify as well that the \$5 million figure that is included in the committee amendment really equates to what the cap per year that could be rebated or incentivized underneath the legislation. That wouldn't necessarily go to one project, but that's the cap overall that would be returned to the qualifying production company. [LB235]

SENATOR CARLSON: Okay. Thank you, Senator Nantkes. And I think as this discussion proceeds, if we can have a comfort level that the economic benefit of the state reaches and exceeds \$5 million for a \$5 million refund, it becomes a no-brainer. Until that, I have some questions. Thank you. [LB235]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Fulton, followed by Senator White. Senator Fulton, you're recognized. [LB235]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator Nantkes yield to a question? [LB235]

SPEAKER FLOOD: Senator Nantkes, will you yield to a question from Senator Fulton? [LB235]

SENATOR NANTKES: Yes, of course. [LB235]

SENATOR FULTON: Senator, thank you for bringing this forward. This is forward-looking, and it's something that in principle I...I think I expressed I like the idea. Can you help me to understand how the fiscal note...I'm reading revision one of the fiscal note for LB235, and I don't quite understand, but maybe you can help me. It sounds like there will be an appropriations or a General Fund expenditure because of Game and Parks Commission, and then there's also a decrease in revenue on the revenue side. Am I correct, and can you clarify that? [LB235]

SENATOR NANTKES: Senator Fulton, that is correct according to the original fiscal note. I just wanted to point out again, the amendment that we're currently debating changes the location of administration for the program and houses it not in the Game and Parks Commission, but rather retains it within the Department of Economic

Floor Debate  
January 18, 2008

---

Development. So I'm hopeful that as we move forward, more recent fiscal analysis will demonstrate that administrative costs will be dramatically reduced, since there are existing resources within DED addressing these kinds of programs. And then on the revenue side there is the potential, if qualifying projects come in with requisite amount of jobs and investment, that we could see a loss to the revenue side of up to \$5 million a year. However, I think looking at the experience of other states, the clear economic benefit that these projects bring in far outweighs that revenue loss. [LB235]

SENATOR FULTON: Okay. The...and then my second question would be--my final question, I think--would be, how does...we had a package of tax incentives for businesses to entice their activity in Nebraska through the Nebraska Advantage Act, and previous to my tenure here, but we're still dealing with it and trying to enhance it. Is there any way that this bill fits, by way of policy, into the Nebraska Advantage or perhaps even to the new proposal that the Governor has out, the Super Advantage? Is there any way that they work together, and can this? Or is this not incorporated in some way in the Nebraska Advantage Act? [LB235]

SENATOR NANTKES: Thank you, Senator Fulton. Also, just to note on this amendment, we've changed the name of the original legislation to the Nebraska Advantage Film Production Incentive Act, just to highlight the very similarities that you bring up in your question. In the 30-plus other states that have this type of program, these programs and incentives work in concert with existing economic development programs already in place, like the Nebraska Advantage Act. The Nebraska Advantage Act as written would not currently allow these types of projects to qualify for an incentive. I'll tell you, before I joined this prestigious body, in working as a public policy attorney on the other side of the glass on behalf of low-income working people, I worked very hard in support of LB312 and the Nebraska Advantage Act because I believe it took a huge step in the right direction for creating good jobs for Nebraska working families. The logic underlying that massive program in Nebraska Advantage follows with this piece in LB235, and I expect the programs to work in concert. [LB235]

SENATOR FULTON: Is there any possibility of... [LB235]

SPEAKER FLOOD: One minute. [LB235]

SENATOR FULTON: ...a redundancy or a...would the film industry get twice the advantage, I guess? Is that a potential, or is that mitigated or addressed through the legislation? [LB235]

SENATOR NANTKES: Senator Fulton, I don't think that's been specifically addressed, but contained within the legislation is the ability for the department to promulgate rules and regulations to implement this, if adopted, and I think since the targets and the thresholds are a little bit different in each program, there wouldn't be a potential for a

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

Floor Debate  
January 18, 2008

---

repetitive rebate or incentive, but we can double-check that. I'm fairly confident that wouldn't happen, but we don't want to double incent; we just want to incent those who are bringing new jobs and new investments. [LB235]

SENATOR FULTON: Okay. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Fulton. Mr. Clerk. [LB235]

CLERK: Mr. President, Reference Committee will meet now in Room 2102; Reference Committee will meet now in Room 2102. [LB235]

SPEAKER FLOOD: Continuing on with discussion, Senator White, you're recognized, followed by Senators Heidemann and Gay. Senator White. [LB235]

SENATOR WHITE: Thank you, Mr. Speaker. With regard to Senator Fulton's question, let me advise, based on counsel for the Revenue Committee's opinion, there would not be a double benefit. The Advantage Act is designed for businesses with long-term investment goals. Generally, a film production company would not qualify as a business under that act and, therefore, cannot derive the benefits that we've already passed. This act is designed to provide an incentive for what is an intense, short-term investment in the state, not largely aimed at capital investment, like equipment, but aimed at salaries and talent and items that are consumable, therefore, subject to sales tax. So they really are very different economic enterprises and they need different incentives. And, Senator Fulton, it's my understanding we will not see double-dipping. I would like to point out that, yes, there will be a net cost, if this is successful, to the state treasury, but that does not include money that is spent that goes to the cities under their sales taxes. It would also not include secondary developmental issues that become profitable for the state. During testimony Mr. Altman pointed out the amount of money and how it is spent is staggering; that when they bring stars--Martin Landau is, as Senator Pahls indicated, is the star of the movie that was just filmed in my district--they spend a large amount of money on high-end consumables. They go to Borsheim's--and that's personal money that's not included in this--they go to the best restaurants, they stay at very expensive hotels, all of which help in economic development and is not clearly recaptured in the fiscal note. I'd also like to point out that with the rise of westerns and some other things like the Indian (inaudible), this is not an Omaha or Lincoln bill. Much of the best territory in the state to be filmed is in the rural areas, and this is a bill that will help the state provide scenic locations across the entire breadth of the state, bringing economic development, clean jobs, high-paying jobs all over the state. So if there are other questions, I would yield to them, if anyone has them. To the extent I can answer them, I'd be happy to. Thank you, Mr. Speaker. [LB235]

PRESIDENT SHEEHY PRESIDING

Floor Debate  
January 18, 2008

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PRESIDENT SHEEHY: Thank you, Senator White. Senator Heidemann. [LB235]

SENATOR HEIDEMANN: Thank you, Mr. Lieutenant Governor and fellow members of the body. I just want to talk very briefly about the state's financial picture, probably where we're headed a little bit. I do want to say that it has nothing to do with Senator Nantkes' bill, but I think it's important that we start thinking about where we're headed with our budget. Once again, just to let you know as we deal with A bills, until the budget passes, they can only go so far and I call it, they sit on a side track. And until the budget goes, they can't move. Last year there was a lot of A bills and we was very fortunate through various circumstances that the majority of them--and I do believe all of them--we got to move forward. I will say that the state's financial picture at this time isn't quite as good as it was last year. Revenues are coming in still pretty good, but there is reason for concern out there. Our financial picture right now shows...the status shows that \$12.9 million that we can do various things would be tax cuts; there will be work done in the committee, and I'm sure when our budget hits the floor, we will not be at \$12.9 million. The Governor's budget shows \$4.7 million, I believe. What I'm trying to get at you, that our picture is a little bit different than it was last year. And as we move these A bills forward they're going to sit there, and I can almost say without a doubt that we will not be able to do everything. And once again, I'm not picking on Senator Nantkes' bill. But if you want to start picking your priorities early, that's okay. If you would rather kick everything out that you think has a chance and let it move forward through the process, and then we will have to pick our priorities after the budget passes, but I think there will have to be priorities chosen because we will not have enough room to do everything. Like I said, we have \$12.9 million left as the financial status says right now. When that budget hits the floor, it will not be that big. You might look at \$3 million to \$4 million to \$5 million, somewhere around where the Governor is at. So you need to look, as we pass these A bills on or as we pass bills that have a financial impact, what's your priority? I will go a just a little bit further right now and say that this year, we're going to be okay. We do have a February--I think it's February 22--Forecasting Board. We'll know a lot more at that time, how we're going to be able to move forward. If it comes in flat, we're okay. If it comes in a little bit more optimistic, we got some wiggle room. If it comes in pessimistic, we're already starting to hit some trouble. I will say that this year I am not so concerned, but I tend to personally look in the future. And I operate sometimes more in the future than I do in the present. But it's the out-biennium that scares me, and I want you to be aware of that. There will be some senators that will not be with us when we start working on the next biennium budget next year. But I ask you, please don't leave us in a bad spot. If you look at the financial status right now, in the out-biennium we are short \$240 million, and that concerns me and hopefully it concerns each and every one of you. We will have to deal with that, and if we're dealing with a \$240 million... [LB235]

PRESIDENT SHEEHY: One minute. [LB235]

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

Floor Debate  
January 18, 2008

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SENATOR HEIDEMANN: ...shortfall, it will not be a pretty picture. And I think, at least it's going to be my opinion, my perspective, that I am going to start dealing with that already this year. And hopefully you will help me do that. Thank you very much. [LB235]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Senator Nelson. [LB235]

SENATOR NELSON: Thank you, Mr. President, colleagues. Members of the body, I want to stand in support of this bill as amended by the Revenue Committee. I certainly am in accord with what Senator Heidemann has said about the prospects in the next few years. I do think we have to be very careful. However, I think, as modified, we're going to have to...we will see a reduction here in the fiscal note, which I assume that Senator Nantkes is going to address just a little bit farther on. Reference was made to the Nebraska Advantage Act. I just simply want to point that Nebraska now is at a real disadvantage compared with a lot of other states who have enacted incentives; 37 of them have. There is a very recent movie, Unforgiven, that takes place in Kansas, Wyoming, and part of Nebraska. That properly should have been filmed in those areas, especially Nebraska. Where was it filmed? Vancouver, Washington. We should have had that. Dances with Wolves, Kevin Costner, which many of you remember, should have been filmed in Nebraska in our Sandhills, but it was filmed largely in South Dakota. So here are a lot of instances where, if we had some incentives, at least some basic attractions here, we could bring a lot of these film companies in, both large and small, and have them come in and spend the money that Senator White was talking about and create a great deal of benefit for Nebraska. Now Senator Carlson has a question whether it might be a wash. I don't know; maybe it will be a wash. But at least we're going to be on a competitive basis with a lot of these other states, and I don't see that the film industry is going to go downhill. They may not be making as much money as they are now, but people still go to movies. They have traditionally. Even in hard times they've gone to movies, and I think that industry is going to thrive. It's expensive in California, so the producers are looking for other locations in other states that are going to be less costly and will assure them that perhaps there's going to be a profit. So I think, by and large...I should add that the original bill was a lot more extensive than we have here in the amendment, and may have left...the amendment may leave some things out that would have been good, as well. But let's make a start here. Let's begin with this amendment, the provisions there, provide these incentives which are not all that expensive in comparison with the benefits that we're going to derive, both for all the people that will be hired, houses have to be rented, motels. There's a lot of expenditures that have to be made in film production, and I think Nebraska should have at least an advantage of their own in comparison with the others, so that we can compete. Thank you, Mr. President. And if I have time left, I will give that to Senator Nantkes. [LB235]

PRESIDENT SHEEHY: Senator Nantkes, you have about 1:45. [LB235]

SENATOR NANTKES: Thank you, Mr. Lieutenant Governor. Thank you, Senator

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

Floor Debate  
January 18, 2008

---

Nelson. Just procedurally, I wanted to flag for the members of the body the Chairman's preference in how we proceed forward that I'm entirely agreeable with. I'd like to see us take a vote on this amendment and the committee amendment, and then continue debate on the legislation as amended, as we move forward. I know there's a lot of other ideas and voices and senators who want to weigh in on this, and I appreciate all the comments. But I'll defer to the senior member and his sage advice on how to proceed this morning. So with that, thank you. [LB235]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Are there others wishing to speak on AM1588? Seeing none, Senator Nantkes, you're recognized to close. Senator Nantkes waives closing. The question before the body is, shall AM1588 be adopted to the committee amendment? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB235]

CLERK: 31 ayes, 0 nays on adoption of the amendment to the committee amendments. [LB235]

PRESIDENT SHEEHY: AM1588 is adopted. We will return to discussion on the committee amendment. Senator Raikes. [LB235]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. You may have noticed, if you happened to look, that on the committee statement, that I was a "no" vote on this bill. And I, unfortunately, have not become enlightened since. I'll remain such. And to some extent, I want to make it clear that my "no" vote here relates more to some of my beliefs, certainly, than it does to Senator Nantkes or this particular proposal. I think we have issues to address as a state regarding the overall tax burden. This, in my opinion, is not the way to do it. This disrupts our tax base and actually puts off the day at which we can do some changes in our taxing structure, which would be a...provide tax relief to everyone. To the extent that you allow certain people to be exempted from the tax base, whoever is left is going to have to bear more of the burden. In this particular case, there's nothing about nonprofit, not that there necessarily should be, but what you're doing here is enhancing the profit potential for most likely a very high-income, very high-wealth person. It's not that there's anything wrong with people who have been successful financially. I'm all for them. It's just that, from equity and other considerations, I don't see that we do these sorts of things. Senator Carlson asked a question which I think was on point. At a time in the past, and I think we actually had to drop our efforts in this regard during the budget crunch that we were in, in the early 2000s, but we used to have a couple of economic models we used to evaluate particularly tax incentive programs. And the questions that were addressed to those models were pretty much exactly the ones that Senator Carlson raised. If we do this, will the state actually come out ahead? If we offer this in the way of a tax benefit, which is a reduction to our revenue base, can we as a state expect that at some point in the future we'll recoup everything we came up with and more besides? The answer in

Floor Debate  
January 18, 2008

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every instance I can remember was, no, it won't. And it was really a range of from how bad an investment it was to how really bad the investment was. And if you think about it a little bit, you can understand why these sorts of things happen. I'm not talking about a film company here, but, for example, if there is a company considering making an investment, they come to Nebraska and, well, what's the deal? Well, suppose the deal that Nebraska offers them actually is a good deal for Nebraska. The company, unfortunately, is not headed by fools. What they do is go to another state. Well, look, you know, the other state figures out that this is a good deal for Nebraska, so they up the ante. And pretty soon, what has happened in all this, with business tax incentives, is there's been way more offered than is what is received by the states. So that in effect what happens, you end up with another state making really what turns out to be a stupid offer from their standpoint of their own financial security, and unfortunately, the only way you can win the game as a state is to do something even stupider. And this is the game we've gotten into. It's certainly not a slam dunk or a simple situation to deal with. [LB235]

PRESIDENT SHEEHY: One minute. [LB235]

SENATOR RAIKES: You do have to consider the economic base for the state, job creation, and so on; and if you're competing in an environment where other states do this, sometimes you're left with no alternative. So that's the context in which we look at that. In this particular case, I don't see that this is a wise thing for us to do from a tax policy standpoint, so I will continue to oppose it. Thank you. [LB235]

PRESIDENT SHEEHY: Thank you, Senator Raikes. Senator Burling. [LB235]

SENATOR BURLING: Thank you, Mr. Lieutenant Governor and members of the body. I didn't know I was going to follow Senator Raikes so soon, but that's fine. I just would say that I echo his feelings on this. As a member of the Revenue Committee, I've also had people ask me about my opposing vote. I generally oppose narrowing of the tax base. I think there are sometimes reasons to consider that, but I don't think this is a situation where I would support this bill. The tax reform commission that completed their work, if you've read the report, cautioned the Legislature against narrowing the tax base, because it often results in a shift to other people who are still left with a base. The proponents of this bill cite the economic benefits. I don't discount that, but I also agree that these companies are going to be looking at the deal that's best for them. They're not going to be caring about Nebraska; they're going to be caring about their own business. An example that I might give to you regarding a time when I might support narrowing of the tax base has been something that we've discussed in Revenue Committee, and that is a situation, what we have right now--some of you may not be aware of it. Agriculture is our number one industry in the state of Nebraska--been here forever. We all know the economic benefits of agriculture in this state. We in Nebraska have a sales tax on ag equipment repair parts. No state around us has a sales tax on

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

Floor Debate  
January 18, 2008

---

ag equipment repair parts. I think maybe that is one time we should look at a change in the tax base. I believe that if we took the sales tax off of farm equipment repair parts, we could bring business back into the state of Nebraska that has gone to other states, and it would exceed the economic benefit that this bill might bring, because these are people that are here, year in, year out. Agribusiness isn't going to go anywhere. We could do something for the number one ag business...or number one industry in the state, and it would be economic development that would be sustained; bring it back from other states. So this is just an example of when I think maybe we should consider narrowing the tax base, not in situations like this bill presents. And that's the reason for my opposition in committee, and I'll continue to oppose this bill on the floor. Thank you very much. [LB235]

PRESIDENT SHEEHY: Thank you, Senator Burling. Are there others wishing to speak on the committee amendment? Seeing none, Senator Janssen, you're recognized to close. [LB235]

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. The committee amendments do rewrite the bill and make it a better bill, not quite as erroneous as the original bill was. With that, I ask for your positive vote on the committee amendments. Thank you. [LB235]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You have heard the closing. The question before the body is, shall the Revenue Committee amendment, AM818, be adopted to LB235? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB235]

CLERK: 36 ayes, 0 nays on adoption of committee amendments. [LB235]

PRESIDENT SHEEHY: AM818 is adopted. We will return to discussion on the LB235. Senator Pahls. [LB235]

SENATOR PAHLS: Mr. President, members of the body, Senator Nantkes, I want to thank you. This summer you gave me the opportunity to see two Academy Award actors in the city of Omaha, Martin Landau and Ellen Burstyn. Your office called mine up or let me know by e-mail that there was a film currently being produced in Omaha. So I went down, and I had the opportunity to talk to a number of the individuals who were working on that film, and it was surprising the age, the youth. And I was discussing this with them a little bit, and a number of them were from other states. And I said, what attracted you about coming to Omaha? And they said, first of all, they came here to work on this film, but they also said they would like to live here. They actually told me that they were getting tired of living on the Coast, and if they could find a place where they could settle down, that would be a good thing for them. They were very positive about that. I had the opportunity to...they showed me how the film was being made and I talked to some of

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

Floor Debate  
January 18, 2008

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the extras, so I did get into some of the joyous parts of it. And I think this was the same film that Senator White...it was also in his neighborhood. And I started looking around a little bit, and I...oh, there's a young man that I know! So all of a sudden I found out this young man wrote and was directing this film. And I started thinking a little bit. I said, this guy, he really looks familiar, and then it dawned on me. He at one time worked at the restaurant in Millard called Shirley's, a restaurant that his parents own. So here's an example of local talent who wants to stick around. He's a very...and he's just one of those young men who needs an opportunity to stay in the state of Nebraska. So I thought it was sort of like a Hollywood scenario--young man works in a restaurant, probably a future star. So that is just one indication of one person who could have an effect on the state of Nebraska using his talent, keeping him here. And if you haven't...the film that he was filming was called Lovely, Still. Thank you. [LB235]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Janssen, followed by Senator Carlson and Senator White. Senator Janssen. [LB235]

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor, members. I don't want to prolong this, but I just had to get up and talk a little bit about what happened in the community that I have my business in. This has been, oh golly, maybe 10, 12 years ago. I can't remember the right name of the film, but Wesley Snipes was in it, and I think...To Wong Foo, or something like that. But that film was, one segment of it, was produced in the city that my business is in. I remember getting to town that morning and here were cars all over the main street. All of the church parking lots were filled up, and I went, what is going on here? Well, they were filming one segment of that production in that small town of around a thousand people. There were people all over town. They had rented one of the churches to have a cafeteria in. The restaurants were all full, and here come this train. It was an excursion train, an old steamer. And that's the reason they were there, to film one of the parts of that movie. But they left that small town in a couple of days, and I hate to tell you how much money that they dropped in that town. I know we sure had a good day and a half because of those people. And in a small town like that, a one-shot deal means a lot to that town. It also meant a lot to Fremont, because a lot of those people stayed there. So I can see the economic impact. Yes, we are creating another revenue loss there, but I wonder if that filmmaking process stays in a large city for, say, even a week, the money that can be pumped in. We're going to lose some in tax revenue, I realize that. But when you adopted the committee amendments, it did make that a lot better. That's all I have to say on the bill, and I look forward to the passage of LB235. Thank you. [LB235]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Senator Carlson, followed by Senator White. Senator Carlson. [LB235]

SENATOR CARLSON: Mr. President and members of the Legislature, as we have debate on LB235, I always want to be very, very careful in opposing anything that has to

Floor Debate  
January 18, 2008

---

do with economic development. I don't want to be caught on that side very often. I think there's a little caution here in that, unless I'm not understanding it correctly, this type of investment into the state of Nebraska is not a permanent business. These people come in, they invest, they make money or they wouldn't be here, and they leave. And so I think it's even more important that we have a quick recovery on this type of legislation, to have made it a good bill. Now Senator Pahls really hit a soft spot for me when he stood up and talked about these people coming in and finding out what kind of place Nebraska is and saying, I'd like to live here, because I think that we have a tremendous amount of potential in recruiting people from outside of the state of Nebraska and actively recruiting people from outside of the state of Nebraska to move here for our quality of life, and promoting that it's a wonderful place to raise a family. Senator Janssen just commented on the example that he had observed and he said, we had a good day. And I wouldn't argue with that. It was a good day, but then it needs to be a good day after day after day, and year after year after year. So I'm going to vote for this bill, and between now and Select File, I really want to see some solid examples of a quick return so that I can be comfortable on voting for it in Select File. Thank you. [LB235]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator White. [LB235]

SENATOR WHITE: Thank you, Mr. Lieutenant Governor. Just a couple of points: Senator Raikes raises legitimate concerns about narrowing our tax base, but I don't think this is the type of bill that does that, because in fact, after going through the hearings and the testimony, overwhelmingly these are people who won't be here. They won't be here. It won't be an industry that we're cutting down. Narrowing the tax base, to me, is to...exempting certain parts of the industry that's here. What instead this is, is inviting a new industry to participate in the state. And what I can tell you, based on the testimony that we had, is that this is an industry that can help us solve what I believe to be the most critical problem we face, which is not just the next biennium, which is very much a concern, but it is the loss of our youth and the loss of the young people with talent, from the state to other states. And they leave for a number of reasons. They leave because primarily there's a perception that life is more exciting, more prosperous, in another place. And nothing shapes opinion more effectively and thoroughly than movies and TV. And when we have natives who do want to stay here, who have been on the Coast, who want to come back and have their industry here, they will present the place they grew up and love in a good light. We have not even discussed a number of the major films here, things like About Schmidt, or Election, or perhaps the most incredibly influential film ever to affect this state, Boys Town. Boys Town alone drove the economic development of one of the largest nonprofit enterprises that has done tremendous amounts of good in this state. That really grew out of a movie--one man of great faith helping children, and then a movie to spread that message. We need to look forward at presenting ourselves to the world as what we really are. This bill will help us do that. Thank you. [LB235]

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

Floor Debate  
January 18, 2008

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PRESIDENT SHEEHY: Thank you, Senator White. Senator Louden. [LB235]

SENATOR LOUDEN: Thank you, Mr. President, members of the body. I guess I have some questions that I was concerned about on this, and since Senator Janssen isn't here, perhaps Senator White would answer my questions for me, since he was on the Revenue Committee, if Senator White would yield, please. [LB235]

PRESIDENT SHEEHY: Senator White, would you yield to some questions? [LB235]

SENATOR WHITE: I will try to answer them to the extent I'm able. I may need George around for the technical stuff, Senator Louden, though. [LB235]

SENATOR LOUDEN: Well, this isn't very technical where I am. I just do what I see in front of me. And it says on page 2, I think, of this amendment, a rebate, you know, is provided up to 25 percent of documented production costs incurred in Nebraska for production of a film. Is that...that's still in the bill; is that correct? [LB235]

SENATOR WHITE: Yes, and that is really limited to...most of those, by the way, are going to be in the form of either expendable goods purchased in the state or salaries paid, and there's a strong bias in the bill for salaries paid to residents of the state of Nebraska. [LB235]

SENATOR LOUDEN: Yeah, the percentage is changed, but that would just...but anyway, I was getting at this rebate. Now what...is that going to be the state of Nebraska gives them back dollars for... [LB235]

SENATOR WHITE: Yes. [LB235]

SENATOR LOUDEN: If they show how much their costs were, then they get back 25 percent of their costs? [LB235]

SENATOR WHITE: Yes, but it's 25 percent of their documented...not all costs. It has to be the documented production costs, which are then outlined in the back of the bill. And if you look at it, those are the kinds of money that stay in the community and circulate. They're stuff spent here. [LB235]

SENATOR LOUDEN: Well, true. There will be...if they hire local people for labor and probably housing and everything else. I understand what... [LB235]

SENATOR WHITE: Go to the lumberyard, buy equipment for sets. [LB235]

SENATOR LOUDEN: ...whatever they...production costs. I guess what I'm wondering

Floor Debate  
January 18, 2008

---

about is, how come we're giving this particular, what would you say, operation or type of business this kind of a percentage rebate to come to Nebraska and work for a short period of time and then move on? Why are we giving it to them? Where would, say, grain harvesters fit in on this? They come through for a short period of time, spend a lot of money, buy parts, repairs, buy fuel, and they're gone in awhile. What...where would there be any correlation between giving them 25 percent of their production costs in a rebate, as we would to with a film company? Where would be the difference, I guess, is my question. [LB235]

SENATOR WHITE: Well, I would suggest to you on a couple of things. Grain harvesters have to come here. I mean, this is where the business and the grain is. They can't opt not to come. If they want to do business, they can't say, well, we'll just skip Nebraska. I mean, Nebraska, the grain is here. If they want to make money here, they've got to be here. You can count on that. [LB235]

SENATOR LOUDEN: Well, it wouldn't be any difference than a production company. If they want to use this particular scenery that they want that's in Nebraska, they would probably have to do it, or if they wanted to use Omaha streets or something like that. I mean, the grain harvesters can skip Nebraska. They can go to South Dakota, Montana and on up, North Dakota. But I just...these are both businesses that come in for a short period of time, do some production, spend some money, and move on. And I guess I was just curious that...would that come up in the future, that perhaps there's other businesses that we should give the same benefit to. [LB235]

SENATOR WHITE: Well, I guess I can address a couple of points. I would disagree that a film production company is limited like a grain harvester is. As I think Senator Pahls made clear and Senator Nelson, for example, Unforgiven was shot in Vancouver. They can make it anywhere they want, Senator, and that is a factor. [LB235]

PRESIDENT SHEEHY: One minute. [LB235]

SENATOR WHITE: But the grain harvesters, the grain will be harvested. The grain is here. Somebody is going to harvest it, and that will develop that economic activity. These folks, they don't have that problem. They can film in Budapest and call it Omaha. And one of the things, the timing is everything. The dollar has dropped, and the dollar has taken a beating. It's helped us on corn prices, but it has also made these film companies want to rethink filming in Canada, and they are looking aggressively at this moment in time for new homes to start really focusing the industry. I'd like to see Nebraska be one of them. [LB235]

SENATOR LOUDEN: Yeah, thank you, Senator White. And one other point I mention, I think Senator Nelson said something about that Dancing (sic) with Wolves. The reason that was done in South Dakota, it was up there around Custer on that wide-open

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

Floor Debate  
January 18, 2008

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Badland country, and they used the buffalo, I think, out of Custer State Park. We don't...up to now, Turner don't have quite that many buffalo yet to photograph. Thank you, Senator, and thank you, Mr. President. [LB235]

PRESIDENT SHEEHY: Thank you, Senator Loudon. Further discussion on LB235? Seeing none, Senator Nantkes, you're recognized to close. [LB235]

SENATOR NANTKES: Thank you, Mr. Lieutenant Governor. Thank you, colleagues, for your insightful comments this morning. I think, as the record clearly demonstrates, this industry has already had dramatic and interesting advancements and developments in so many different areas of Nebraska, from Senator Janssen's district to Senator Pankonin's district to Senator White's district, and many, many others. I think that I'm hopeful as we move forward with the debate that, you know, we can come to a consensus that this is an idea whose time has come. This is an idea who enjoys wide support from a wide variety of interest groups and industries and individuals. I think as we move forward, we'll be working very hard with the Department of Economic Development and the Revenue Committee and the Department of Revenue to try and get a more concrete and simplified, updated numbers on the fiscal impacts contained in this legislation. And then just finally, I wanted to share in my closing some correspondence I've received from people within the industry and who wanted to share their personal experiences and wanted to talk about how this legislation would really impact their lives, their production companies, and their families. This is a letter from Mark Hager, who is the president of Oberon Entertainment Company, and a native Nebraskan who has been absolutely instrumental in helping us to craft this legislation and to move forward. He's talking about how currently his production company is working on putting together a \$20 million film, the financing for which has already been secured. It will be shot in 2008, but it will not be shot in Nebraska. None of this money will be spent in Nebraska, and that would be his and his production company's first choice, would be to shoot in his native Nebraska. But they can't justify to their investors why they should spend 10 to 25 more percent, 10 to 25 more in percentage costs to keep the production here in Nebraska. Additionally, we've received correspondence from Senator Nelson's son, Andrew Nelson, who also has been very supportive of this legislation, and I truly appreciate the time and energy he has devoted to it. But he also notes that we have two growing motion picture education programs here in Nebraska, one at UNL and one at Metro Community College in Omaha. And incentives like this will help to grow and develop those educational opportunities for our young people. I think that's an important note that I wanted to point out, as well. And then finally, I've received a letter from a gentleman named Sean Rourke, who is a native Nebraskan and currently living in Hollywood and who is an executive producer within the industry. He is putting together a film that...his first choice would be to shoot in his native Nebraska; however, when visiting with his executive producer, the response was: No one can shoot in Nebraska; they have no incentives; we have to look elsewhere. We heard that exact same sentiment expressed from Laurie Richards in the Nebraska Film Office currently,

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

Floor Debate  
January 18, 2008

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that we can't even start a conversation with those people within the industry who want to film here, when the second question that usually follows is, what type of incentives to do have... [LB235]

PRESIDENT SHEEHY: One minute. [LB235]

SENATOR NANTKES: ...so that we can shoot in Nebraska and take advantage of the inherently beautiful natural landscape, take advantage of our strong and proud work ethic. And the conversation stops when it comes to incentives. Let's open up that conversation. Let's dig in deeper and find out exactly what will happen. Let's see if instituting a program that promotes all of these different public policies will not only help to promote Nebraska but will have great and significant positive economic benefits, today and into the future. With that, I thank you for your comments, I thank you for time and your consideration, and I ask for your support as we move this bill forward. Thank you. [LB235]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. You have heard the closing. The question before the body is, shall LB235 advance? All those in favor vote yea; opposed, nay. Senator Nantkes. Please record, Mr. Clerk. [LB235]

CLERK: 25 ayes, 2 nays, Mr. President, on the advancement of LB235. [LB235]

PRESIDENT SHEEHY: LB235 does advance. We will now proceed to new bill introduction and items for the record. [LB235]

CLERK: Mr. President, thank you. A Reference report referring LB1012 through LB1042; hearing notice from Natural Resources Committee, and from the General Affairs Committee, signed by the respective Chairs; and new bills. (Read LB1046-1054 by title for the first time.) That's all that I have at this time, Mr. President. (Legislative Journal pages 290-293.) [LB1046 LB1047 LB1048 LB1049 LB1050 LB1051 LB1052 LB1053 LB1054]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Speaker Flood, you are recognized.

SPEAKER FLOOD: Thank you, Mr. President and members. A couple of quick notes: We will adjourn today around 11:45 a.m., so that members may attend the Martin Luther King, Jr., ceremony that will be held in the Rotunda, in observance of the Martin Luther King, Jr., holiday on Monday. Another note, and this is somewhat of a significant announcement: Next Friday at 10:00 a.m. I have invited the Chief Justice of the Nebraska Supreme Court and all of the members of the Nebraska Supreme Court into this Chamber. Chief Heavican will deliver a State of the Judiciary speech to this body at that hour in this Chamber, next Friday, a week from today. This is an opportunity for us to hear from the court a summary of what is happening in our third branch of

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

Floor Debate  
January 18, 2008

---

government, the judicial branch, and I think it's important to recognize that it is a separate but coequal branch of government, and the Legislature is in due showing respect to the court by inviting Chief Heavican and the rest of the court into this Chamber for the State of the Judiciary speech. Finally today, if you want a bill introduced and you haven't visited with Bill Drafters, today is the day to do it. Requests must be in to Bill Drafters today if you want those requests ready for next Tuesday and Wednesday. Thank you very much, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Mr. Clerk, we'll move to next item under General File.

CLERK: LB235A, Mr. President. (Read title.) [LB235A]

PRESIDENT SHEEHY: Senator Nantkes, you're recognized to open on LB235A. [LB235A]

SENATOR NANTKES: Thank you, Mr. Lieutenant Governor. And thank you to all of my colleagues, again, who participated in the debate this morning. I'm encouraged that now we really, truly have an opportunity to move forward to get more specifics on the fiscal and financial impacts of LB235. And with that, I'd ask for your support and advancement of LB235A. Thank you. [LB235 LB235A]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. You have heard the opening to LB235A. Is there discussion from the floor? Seeing none, Senator Nantkes, you're recognized to close. Senator Nantkes waives closing. The question before the body is, shall LB235A advance? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB235A]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB235A. [LB235A]

PRESIDENT SHEEHY: LB235A does advance. Next item under General File. [LB235A]

CLERK: LB202 is a bill by Senator Louden. (Read title.) The bill was introduced on January 9 of last year, at that time referred to the Natural Resources Committee. The bill was advanced to General File. I do have committee amendments, as well as other amendments pending to the bill, Mr. President. (AM13, Legislative Journal page 677, First Session, 2007.) [LB202]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Louden, you're recognized to open on LB202. [LB202]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I introduced LB202 to assure that if any public entity or joint entity had the authority to place a lien on

Floor Debate  
January 18, 2008

---

real property, the members of the governing board would be elected officials. No nonelected persons could serve on those boards. During the hearing we received testimony from two communities regarding the solid waste boards. These boards have at least one nonelected person serving, and it's stated that if this bill was adopted it would be a hardship on the boards. The Natural Resources Committee did vote to advance the bill with two changes. As proposed in the committee amendment, the changes were technical in nature. The word "real" was added before the word "property," and the word phrase "consisting only" of elected officials was inserted after the word "board." We worked on this legislation during the interim with the League of Municipalities to address their concerns, and AM1540 is the result of that effort. This amendment incorporates the committee amendment and addresses the concerns expressed at the hearing. This amendment states only elected members of the governing board of a solid waste entity created under the Interlocal Cooperation Act or the Joint Public Agency Act that provides services of Integrated Solid Waste Management Act may vote on whether or not to impose a lien on real property for nonpayment of rates and charges. The League of Municipalities supports this amendment. With unanimous approval of the members of the Natural Resources Committee, I'm asking the body to vote down the committee amendment and vote for AM1540, and then vote to advance the bill. There's no fiscal impact under the bill or with the amendment. I thank you for your consideration. Thank you, Mr. President. [LB202]

PRESIDENT SHEEHY: Thank you, Senator Louden. You have heard the opening to LB202. We will move to the amendment offered by the Natural Resources Committee, AM13. Senator Louden. [LB202]

SENATOR LOUDEN: This is the amendment that I'm asking the body to vote down. This was put on by the Natural Resources Committee and it was mostly technical in nature, and so as we worked through the interim with the League of Municipalities, we've brought up an amendment that actually replaces the bill and the issues that were of concern to the different municipalities and solid waste boards that were involved. So with that, I would ask that you vote down this amendment. [LB202]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the opening to AM13, the committee amendment. The floor is open for discussion. Senator Langemeier. [LB202]

SENATOR LANGEMEIER: Mr. President, members of the body, thank you. As you can see on the amendment chart on here a little farther down, I have an IPP motion. I had some real issues with the bill itself, as well as the committee amendments. If we vote down the committee amendments and we do adopt Senator Louden's amendment that's to follow, I'm going to withdraw the IPP motion. So I would ask that you concur with Senator Louden and vote down the committee amendment, but yet vote for the amendment to follow. Thank you, Mr. President. [LB202]

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

Floor Debate  
January 18, 2008

---

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Further discussion on committee amendment? Seeing none, Senator Louden, you're recognized to close on the amendment. [LB202]

SENATOR LOUDEN: I waive closing. [LB202]

PRESIDENT SHEEHY: Senator Louden waives closing. The question before the body is, shall AM13 be adopted to LB202? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB202]

ASSISTANT CLERK: 4 ayes, 16 nays on the adoption of committee amendments, Mr. President. [LB202]

PRESIDENT SHEEHY: AM13 is not adopted. [LB202]

ASSISTANT CLERK: Mr. President, Senator Louden would offer AM1540. (Legislative Journal page 147.) [LB202]

PRESIDENT SHEEHY: Senator Louden, you're recognized to open on AM1540. [LB202]

SENATOR LOUDEN: This is the one that we worked on with the League of Municipalities and we worked through the interim to get this brought forward. And this is one that addresses the concerns that different boards have had with it. And so with the help of the League of Municipalities and through the interim, this is what we agreed to and everyone seems to be satisfied with the bill as it is written with this amendment on there. So I would ask that you vote yes on this amendment. Thank you, Mr. President. [LB202]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the opening to AM1540. The floor is open for discussion. Seeing none, Senator Louden, you're recognized to close. [LB202]

SENATOR LOUDEN: This amendment, I would ask you to vote for the green on this one. Thank you, Mr. President. [LB202]

PRESIDENT SHEEHY: Thank you, Senator Louden. You have heard the closing. The question before the body is, shall AM1540 be adopted to LB202? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB202]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of Senator Louden's amendment. [LB202]

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

Floor Debate  
January 18, 2008

---

PRESIDENT SHEEHY: AM1540 is adopted. [LB202]

ASSISTANT CLERK: Mr. President, Senator Langemeier would move to indefinitely postpone the bill. [LB202]

PRESIDENT SHEEHY: Senator Langemeier. [LB202]

SENATOR LANGEMEIER: I wish to withdraw that. [LB202]

PRESIDENT SHEEHY: Motion 108 is withdrawn. [LB202]

ASSISTANT CLERK: Mr. President, I have nothing further pending on the bill. [LB202]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. The floor is open for debate on LB202. Seeing none, Senator Louden, you're recognized to close. [LB202]

SENATOR LOUDEN: Thank you, Mr. President. Thank you for your votes on this amendment and working through this, and I just ask you now to advance the bill as there is no fiscal impact on it. Thank you, Mr. President and members of the body. [LB202]

PRESIDENT SHEEHY: Thank you, Senator Louden. You have heard the closing. The question before the body is, shall LB202 advance? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB202]

ASSISTANT CLERK: 32 ayes, 0 nays to advance the bill, Mr. President. [LB202]

PRESIDENT SHEEHY: LB202 does advance. Next item under General File? [LB202]

ASSISTANT CLERK: Mr. President, LB639. (Read title.) The bill was read on January 17 of last year, referred to Judiciary Committee. That committee reports the bill to General File with committee amendments attached. (AM483, Legislative Journal page 685, First Session, 2007.) [LB639]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Raikes, you're recognized to open on LB639. [LB639]

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. LB639, as introduced, would provide the county attorney with control over all legal matters of political subdivisions headquartered in his or her county beginning July 1, 2008. The county attorney would be compensated for the services provided to each political subdivision according to a schedule adopted by the county board. The county attorney

Floor Debate  
January 18, 2008

---

would be allowed to employ additional counsel as he or she deems necessary to represent the interests of political subdivisions on civil matters. Such additional counsel would receive reasonable compensation from the governing body of the political subdivision being represented, as agreed upon by the governing body, the county attorney, and such additional counsel. The purpose of this bill is to place local government under the same framework as state government with regard to legal representation. At the state level, legal matters are under the charge and control of a single party--the Attorney General. This bill would designate the county attorney as the party singly responsible for the control of the legal affairs of political subdivisions. To begin, I'd like to make it clear that this bill does not prevent local political subdivisions from pursuing their legal interests. It simply transfers that effort into the hands of an objective third party--in this case, the county attorney. In doing so, it is my belief that two positive consequences will result. First, some legal ventures that are currently pursued would not be if put under the control of an objective third party. Second, those efforts that are pursued may be done so at a lower cost. There's no doubt that many of the legal matters that confront political subdivisions provoke a great deal of emotion. In some cases, the very existence of a political subdivision is at stake. We've witnessed two examples of this recently in the metro area with regard to the one city, one school district issue and the city of Omaha's annexation of Elkhorn. The drawback of this emotion is that it easily colors to the objectivity of a political subdivision in deciding whether to pursue legal action. There's also a tendency in situations like these to immediately heed the advice of legal counsel without stopping to consider a second opinion. When faced with a threat, it is natural reaction for a local entity to do all it can as soon as it can to maintain its interests, regardless of the cost. But what happens when the odds are so long or the costs are so high that fighting that battle from the standpoint of an unbiased third party isn't worth the cost to taxpayers? This bill transfers control over legal matters into the hands of such a party who's in a position to make a more reasonable assessment of the situation at hand and who may also be able to represent the interests of the subdivision in a more cost-efficient manner. In addition, this bill was offered to raise awareness as to the use of taxpayer dollars on the part of some political subdivisions to pursue litigation. Again, I realize that there are occasions when such action is necessary. But at what point does it become too much? Statewide, school districts spent \$7.3 million in legal fees during the 2005-06 school year. Of that, \$3.8 million, or 52 percent, was attributable to the Omaha Public Schools. To some, the fact that OPS spent more than any other district makes sense given that it's easily the largest district in the state. However, in an effort to provide some context, I put together a sheet that compares the legal expenditures of the 15 largest school districts in terms of enrollment. As you can see, OPS spent nearly \$3.2 million more in legal fees than the second largest district in the state, Lincoln Public Schools. To better put that in perspective, the amount spent by OPS is more than 7 times the amount spent by Lincoln, even though its enrollment is only about 1.4 times larger. What's more, the \$81 per student spent by OPS in legal fees easily outpaces every other school in the top 15 in terms of enrollment. Though preliminary, the data for 2006-07 is much the same.

Floor Debate  
January 18, 2008

---

Legal spending across the state totaled \$6.4 million. Omaha Public Schools again accounted for 52 percent of that total, and its \$70 per student in legal fees, though down from the previous year, was still by far the highest in the state, especially when you calculate the state average with Omaha taken out of the mix. The handouts I have provided you detail this information. These numbers provide an indication of the amount being spent for legal services by OPS. What troubles me about this isn't the fact that OPS is acting to represent its interests. In fact, OPS would continue to be able to represent its interests through the county attorney under the provisions originally proposed in this bill. The problem is that this is money, a significant amount of money, that could have been used to educate the students of the district and instead ended up being used to finance high-cost legal services. It is clearly not in the broader interest of the state for government entities to wage political battles against each other using public funds. Doing so takes away from the ability of these governments to provide necessary services to their citizens. And when that service is education and those citizens are our children, we simply cannot afford to allow ourselves to continue down this path. I realize that there are concerns that this bill poses an unfunded mandate for county attorneys. That concern, I believe, is not founded. Remember that LB639 requires that the county board establish a reimbursement schedule for services provided by the county attorney that would apply equally to all political subdivisions. Thus, it is totally within the ability of the county board to ensure that the county attorney is adequately compensated for his or her services. The bill would create an unfunded mandate only to the extent that the schedule adopted by the county board is insufficient. Also, some may ask what would happen in the event that a county attorney is confronted with having to represent both sides of a legal dispute, as would have been the case had this bill been in effect during the Omaha-Elkhorn annexation battle. We have some guidance for that in what the Attorney General does when confronted with competing interest of state entities. In those situations, my understanding, in speaking with AG Office, that the Attorney General will often represent one of the sides, with the other party having to seek outside counsel at its own expense. It would be possible to use the same approach at the local level, but doing so would result in giving at least one party the very opportunity that this bill is intended to avoid. Though it isn't expressed in the bill, a way to avoid this might be for the county attorney to issue an opinion the matter and see if the two sides might agree to proceed on the basis of that opinion. As you might suspect, the bar association, county attorneys, as well as individual cities and school districts are likely opposed to this measure. That opposition shouldn't come as a surprise if you consider the benefits under the current situation. This bill would eliminate clients, as I've previously detailed, some high-paying clients for attorneys. It would create the potential for an increased workload for county attorneys. Political subdivisions would have a predetermined source of legal representation, which many probably would not support. Meanwhile, the primary beneficiaries of this measure are those whose voices too often go unheard--the taxpayers. This bill would provide some much-needed oversight to ensure that taxpayer dollars, when spent to pursue legal matters, will be spent wisely. Doing so will result in more money being available for the purpose for which they were

Floor Debate  
January 18, 2008

---

collected--to provide services to the public. I'll stop there. There is a committee amendment and I'll let us get on to that. Thank you. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Raikes. You've heard the opening to LB639. We will move to Judiciary Committee amendment, AM483. Senator Ashford. [LB639]

SENATOR ASHFORD: Thank you, Mr. President. Senator Raikes brought this bill to us after...as a result of the extensive spending within the learning community on legal fees over the last two to three years. And we've had an opportunity to discuss that issue on the floor in connection with LB641 and I, for one, as a member of the Education Committee and the Judiciary Committee, am hopeful that the learning community bill, the passage of LB641 and the cooperative spirit within which the school districts hopefully will now operate, will preclude the necessity of fees that have been charged and paid, and all other costs that go into...direct costs and indirect costs and having confrontation and not collaboration as the rule of the day. I'm, for one, very confident that we're on that right track, that the school superintendents are working together. Certainly, the school districts within the learning community and all school districts have a right to have...select their own legal counsel. And the Judiciary Committee certainly acknowledges that. We did hear Senator Raikes's bill. There was opposition, as was suggested by the bar association and by others, the County Attorneys Association. We did adopt some committee amendments. And the committee amendments do change the bill fairly significantly. Essentially, the bill...the jurisdiction of this particular legislation would be only school districts within the learning community. And I know Senator Kopplin, I believe, has an amendment that makes it clear that it's the school districts and not the learning community that would be seeking legal counsel. And that's certainly an acceptable and a good amendment. But what we did in the Judiciary Committee is we basically focused this initiative on the learning community school districts and, simply put, what we're asking them to do is what many governmental entities...certainly the federal government does when they solicit proposals for legal work, and that is to put the work out for bid every three years in a public way so that the school boards can have an opportunity to benefit from bids for that legal work. You know, I've been asked whether or not the school districts would be required to accept bids based only on price. And the answer to that is no. The bill...the amendments, committee amendment set forth various criteria that the school districts may utilize in determining which is the best law firm for them. And I, speaking for myself, no one is doubting the level of competence of the lawyers who worked through these disputes within the learning community over the last four to five years. But it is...it does cause pause, cause one pause, to look at the extent of these fees. And again, the dispute resulted...caused the fees to occur. The lawyers didn't cause the dispute; the school districts were in dispute for a variety of reasons. And not all the school districts clearly were in the dispute. There were a couple that were most obviously fighting with each other. And of course, there's a lawsuit involving the state of Nebraska still pending. And I'm hopeful, and I know my

Floor Debate  
January 18, 2008

---

colleagues on the Education Committee and all of us are hopeful that that lawsuit involving state aid formula can be resolved in an amicable manner and that we can get on with the business of educating children. The point here is a serious point. I don't think this was offered by Senator Raikes, I know it wasn't, in any jocular way. It wasn't offered to tweak anybody. And certainly, I think the Judiciary Committee took this bill very seriously and in so doing adopted, we believe to be, reasonable measures to make certain that this whole legal fee issue, which did receive a lot of press and a lot of attention last year, is vented to the public so the public knows what the fees are, the public knows where those fees are going, and that's appropriate and important and is done in many other agencies. With that, Mr. President, I would just summarize that this, the committee amendments, limit the extent of this bill to school districts within the learning community. No other school district in the state would be affected by the bill. I know Senator Kopplin has some amendments that clarify the jurisdiction or the right of the school district itself to go through the bidding process and not the learning community coordinating council, which is an appropriate amendment. And then we set forth bidding procedures for sealed bids and then have them opened in a public way and make certain that the criteria do not make it impossible for a school district to hire the firm that they feel will provide the most competent legal counsel, price being only one of several considerations that the school district board can look at in selecting an attorney to represent it. With that, I certainly would urge the adoption of these amendments and then we can get on with a discussion about whether or not, which I'm sure is going through many of your heads, is whether or not we should interfere at all in this process of selecting attorneys or not. And that's another debate. But I think these committee amendments are much more focused than the broader approach in the original bill, not that Senator Raikes's bill was not brilliantly written. But with that, I would urge the adoption of the committee amendments, AM483, to LB639. Thank you, Mr. President. [LB639 LB641]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening to the Judiciary Committee amendment, AM483. Mr. Clerk, you have an amendment on your desk? [LB639]

ASSISTANT CLERK: Mr. President, Senator Kopplin would offer AM729 to the committee amendments. (Legislative Journal page 885, First Session, 2007.) [LB639]

PRESIDENT SHEEHY: Senator Kopplin, you are recognized to open on your amendment to the committee amendment, AM729. [LB639]

SENATOR KOPPLIN: Thank you, Mr. Lieutenant Governor and members of the body. I became intrigued with this bill when it was first introduced last year, and then I saw the committee amendments and I got to looking at it real closely and I thought, you know, how can I help out on this bill because certainly we need to be cooperative, I think was one of the words used here today, and not jocular about it. Well, I'm not certainly not a

Floor Debate  
January 18, 2008

---

jocular guy so it doesn't matter there. But I looked at this and so I drafted a couple amendments and I hope I drafted them right, because I would never want to be seen as putting a roadblock in front of one of Senator Raikes's or Senator Ashford's bills. I was really afraid this bill was going to come up yesterday because I had a real problem yesterday. I forgot my hearing aids. Now for a guy like me, forgetting to put in your hearing aids is just as serious as forgetting to put on your pants. But I had a reason for it. Since I live less than 50 miles from the Capitol, I have to go home every night and it snowed and I had to clear my driveway. You don't wear hearing aids when you're running a snowblower. It hurts. So anyway, I got late and I headed down the interstate and I didn't have my hearing aids and I thought, how am I going to get through? Well, I thought I'd be okay because I don't always wear my hearing aids at home. It irritates my wife and my doctor would yell at me because he says you got to get used to the clearing out the background noise and all that. But nevertheless, I got down here and I thought, what can I do? Well, the rest room has a great speaker system and I thought maybe I could just hang out there for the day. (Laughter) And then I thought, no, probably not a good idea. So I got along as best I could. Today I have my hearing aids in. They're state-of-the-art. I can hear a fly walk across the carpet in the next room. (Laughter) And I'm going to tell you, since they're state-of-the-art, they were extremely expensive. But that's okay because you know, people, sometimes you just don't care about low bid. Looking at the amendment that I have, I think Senator Ashford misinterpreted what I put down. Maybe I didn't do it right, because I'm not real skilled at all of this. But I looked at this idea of having learning community schools go out for low bid on attorney fees and I thought, well, why do we want that just on the learning community? That should be a great thing for the entire state, shouldn't it? So I took out all references to the learning community. It just says school districts are going to do all these things, go out and get low bid and everything else that's in this bill. So it's a simple, simple one. I'm sure, though, you Lincoln senators are going to want to support me on this because, I know, I'm sure the school district of Lincoln is just really wanting to get into low bidding and finding attorneys that will do it really cheap. I listened a little bit, you know, and talked about...one of the reasons for this is Omaha spends so doggone much on attorney fees. So I looked at that for a little bit, and they're probably right because they did spend a lot of attorney fees. But wait a minute, what did they get for it? If Omaha had not filed a suit against the state and said, you have a lousy state aid to education policy in this state, if they hadn't gone to their attorneys and said research this, what law can we use to increase our base for property taxes, if they hadn't done those things we wouldn't have a learning community, would we? So the return to them on what they spent on attorney fees means that we in Sarpy County are going to give them their money back in about two years. Good investment for them. Wasn't wasted taxpayer money. Man, they come out smelling like a rose. Well, nevermind, I got to be cooperative so I am. I just want to see that everybody in the state gets treated the same and has the same opportunity to protect their school districts with a low bid. Thank you. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Kopplin. You have heard the opening,

Floor Debate  
January 18, 2008

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amendment to the committee amendment, AM729. The floor is open for discussion. We have Senator Flood, followed by Senator Lautenbaugh, Senator Gay, Senator Lathrop, and others. Senator Flood. [LB639]

SPEAKER FLOOD: Mr. President, I'm rising to oppose the Senator Raikes special, LB639. We are not buying snow plows; we are hiring lawyers. The idea of taking the low bid makes no sense. And the committee amendments I also oppose. My question is, if you're going to have lawyers come in and bid, before I bid as a lawyer I'd want to know what the case was about. So is the school board going to sit down with a lawyer and give them all the discovery, give them all the information, share all their dirty secrets, all the ideas about the case so that the lawyer can put in a reasonable bid as to what it's going to do? This bill is not good for Nebraska. It's a waste of time and it needs to go away. I strongly oppose LB639 and I think our time can be spent doing other things, more productive things. Thank you, Mr. President. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Lautenbaugh. [LB639]

SENATOR LAUTENBAUGH: Thank you, Mr. Lieutenant Governor. Thank you, fellow members. I'll take Speaker Flood's admonition to heart and not waste a lot of time on this either. This is a quintessential local issue, it seems to me. If we wanted to talk about saying that somehow state aid couldn't go for attorneys fees or there would have to be some accounting, I understand that. But what we're talking about here is something the local school boards or the local constituents should make their school boards deal with if they feel their school boards are overspending. I don't know how the underlying bill would work. Now the county attorneys don't support it because they've kind of thought this through and would they have to have a huge staff on hand in case litigation came up or would they just be hiring and firing attorneys as big cases came and went? That's not how the county attorneys' offices are designed to function. And thinking this through, even the bidding process really is something we really shouldn't support in that, once again, if a school district wants to hire attorneys and wants to put it out for bid, that's really the school district's business. If the school district chooses not to, they will answer, presumably, to their voters at some point. This is not something that should involve us, and I oppose both as well. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Gay. [LB639]

SENATOR GAY: Thank you, Mr. President. I rise to oppose the overall bill but speak on the amendments and speak on this. We know what the cost of the legal fees are. It's right here, so it's public knowledge. It's unfortunate, and I agree with Senator Raikes, it's unfortunate the amount of money that's being spent on this litigation. No one likes it, but there's a legitimate reason they're doing it. I'm not going to stand here and support lawyers or their fees or anything like that. But this is a professional services contract. If we're going to do this, I'll put an amendment in; possibly every professional services

Floor Debate  
January 18, 2008

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contract should be low bidder. Of course, that won't go anywhere. But the point is this: There's a reason they're spending this money. And I don't want to open up this whole thing. We'll get plenty of chances to debate this. But it's an important issue that's being discussed in very few counties. Once again, this is limited to just a certain...in the learning community. Why don't we do this...I agree with Senator Kopplin's amendment. Let's do this for every school district then if we're going to do this. So as we have this discussion and we discuss this, it's an important matter and it's a matter that, you know, we're going to...looks like we're going to spend the morning on, or longer, but the morning at least. But I think it is a good opportunity to see what happens when we're creating this legislation. You're going to get things like this coming to the floor. One thing I would say just on this matter though, by the way, is any county attorney that would do this, you would run this to the county attorney's office, is the way I'm reading it. I just started looking at it. But they don't have the staff. Many times the county attorneys don't have the staff to go get involved in this legislation. It's very complex law. I don't think they're prepared to handle this kind of thing anyway. So...but as we hear the discussion, I agree with Senator Flood and others who oppose this. I strongly oppose this as well. I think the point being made here, I understand, is the enormous amount of legal cost being spent on the learning community, and other things, too, but no one likes that, no one wants that. But that's what's happening. It's a reality and the fact is it's very expensive fighting this. I don't know what's going to happen in the future on the learning community. I know Senator Raikes is making a good attempt to fix that and there's going to be more legislation this year talking about that. But until we get something done, there's...these things are going to occur. So the fact of the matter is, it's very expensive. But if we're going to do something like this, let's do it statewide and let's do it in all professional services contracts as well, then. So I'll watch and see how the debate goes and keep my ears open and see if there's other opportunities to improve the bill along the way. Thank you, Mr. President. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Lathrop, followed by Senator Friend, Senator Kopplin, Senator Ashford, and others. Senator Lathrop. [LB639]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I am standing in opposition to LB639. I, frankly, don't have any objection to Senator Kopplin's amendments, but I do have a problem with the idea of requiring that school districts in the learning community put out to bid legal services. And it really...I should tell you that it's not the kind of work I do. I'm not being contacted by one law firm who represents a school district, not even the state bar for that matter. But it's just a matter of principle, I think, with respect to retaining and providing professional services to a school district. And that can be...you could do the same thing with the accountants, you could do the same thing with the architects. And the fact of the matter is, when you enter into a contract and provide legal services as a law firm, you bring with you the experience of the lawyers that are in that firm, you bring institutional knowledge if you've represented the school district for 20 years, and suddenly you have the contract taken away. The

Floor Debate  
January 18, 2008

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new law firm would have to, even though they may do it for a few bucks an hour less, they're going to have to get up to speed on the issues. They're going to have to learn the law. And so there are a lot of reasons why you'd stay with one law firm that aren't just relationship-driven but have more to do with the skill of the people that are there. They're set up to do the work. And for us to require that they go through some process that then involves the county attorney weighing who is the more appropriate, imagine that process if you are in the city of Omaha or Douglas County and now we're asking the Douglas County Attorney to decide who's going to represent Westside and who's going to represent OPS, who's going to represent Millard, and they all may be headed for a fight over something. So now we got somebody who's an elected official going to try to decide who's going to represent people that are going to be involved in litigation. It's just not workable. I think the fact of the matter is, is that the school boards are responsible to the taxpayers that elect them. The learning community council will be responsible to those who have elected them, as well. And one of the things that they're responsible for is watching the costs and those costs include professional services. So I think that the fact that the school boards are elected and the learning community council is elected is our assurance that there is someone watching the attorneys, making sure that the services are necessary and the fees are reasonable. And for that reason I'd oppose LB639. Thank you. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Friend. [LB639]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. It strikes me...it's funny and intriguing where this discussion has gone so far. Senator Kopplin's amendment is almost appropriate. I don't even...I'm not so excited about the Judiciary Committee amendments. I like his bill. We've had folks stand up and say, you know, if OPS is doing something wrong as far as their attorneys are concerned, why should we punish the whole state; this isn't a state issue, it's a local issue. We've had folks say we're wasting our time here with this issue, it's something we shouldn't be dealing with at this moment. This bill came out virtually unanimously out of committee. I'm a little confused. I'll add one more thing. This is a state issue. Make absolutely no mistake about it. Okay, OPS is bilking the taxpayer? No, it's not all about OPS. Look down at the bottom of the sheet Senator Raikes sent out. Exclude the Omaha Public Schools for a minute. You're talking about a pretty good chunk of money. I would say, what, folks, 40 to 50 percent of that money comes from state aid? State aid. Where does state aid come from? The state, right? This isn't a waste of time. That's the first thing. Second thing is, it is intriguing because as a taxpayer sitting in the middle of Omaha and having people...when I used to go door to door, and I do sometimes every summer just for giggles to meet folks and to listen to things, how come we can't increase teachers' pay? How come we can't go after the bureaucracy? How come we can't go after the administration costs? What exactly...can somebody help me with this, what exactly are we talking about here if we're not talking about administrative costs in education? This isn't teaching kids. This isn't about the children. This isn't paying...if we

Floor Debate  
January 18, 2008

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take that \$3 million, is it going to go to the teachers or is it going to go to somebody else or some other piece of the bureaucracy? Look, LB639...I've acquired a respect and affinity over the last eight months for Senator Ron Raikes and the funny thing about it is, I would have a feeling he...on his issues and things like that. Let me make that clear. I have a really, really funny feeling he's going to bring some other stuff out here and I'm going to try to bash it. This isn't one of them. This isn't one of them. Look, let's be really clear about what he wanted from the very beginning with LB639. Did he stand up and say I want to punish Omaha? His original bill was a statewide...it affects the whole state, and the committee amendment actually waters it down. You know, I'll leave it at this: we should have this discussion, it should probably take a while. And I think that the folks that stood up earlier had some very valid points. All I'm saying is, all I'm saying is that if we dismiss this prematurely, that means maybe in the next ten minutes,... [LB639]

PRESIDENT SHEEHY: One minute. [LB639]

SENATOR FRIEND: ...or try to kill the thing or bracket it or throw it to March 31 or April 17 or something like that...look, a little bit of history. We've dealt with less...we've dealt with more innocuous subjects than this and we all know it. So legitimate discussion, especially with somebody that's sitting up in northwest Omaha with a tax base that's trying to figure out how come our teachers are paid so low. And then somebody turns around and says, well, not really much the state can do about that, is there? That irks me a little bit. And then we're spending \$7 million statewide a year in attorneys' fees? That man is actually trying to centralize some stuff. I think it's actually worth listening to. Thank you, Mr. President. Thank you, members of the Legislature. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Kopplin. [LB639]

SENATOR KOPPLIN: Thank you, Mr. Lieutenant Governor and members of the body. In my career, I had a number of contacts with...not a number, a whole lot of contacts with school attorneys. And I'd like to point out why I think you ought to be doing this to all the state. And what prompted it is some newspaper articles that I'd read over the past couple of years that I've been down here. One of them had to do with a small school whose school board members decided they should probably have a small compensation for their work. Made sense to them. Well, if they'd have spent a few bucks and asked an attorney, they'd have saved themselves a whole lot of embarrassment because they can't do that. I read about another school, hadn't completed an audit in years. Again, spend a few bucks, talk to an attorney, and he'd have told them, what are you guys doing, you have to audit your books every year. I had a parent come to me to try to convince me of something else, but nonetheless they said they didn't have any special education students in their school. And he said, well, we have a student that learning is kind of hard for, but we all understand that and we just help him along. And I'm thinking, man, you better go see a school attorney because it's going to cost you far more than you can raise. You see, I think all of you have a

Floor Debate  
January 18, 2008

---

school law book probably in your office. It's about, what, two inches thick. Superintendents are supposed to know all those laws. From those laws, the state department develops a whole set of rules and regulations. That thing is at least a foot high because I think there's over 100 of them. And you think maybe we should just get the cheapest attorney we can find? Senator Lathrop said he didn't...that wasn't his field. Well, we could get him to do that and of course overnight he's going to have to learn all those laws, all those rules and regulations. No, you go to a school attorney and sometimes it costs money. But it doesn't cost money because they keep you out of trouble, that you're not going to be clobbered by somebody else in some unforeseen situation. You know where you are. As a superintendent, I had all our school policies always reviewed by an attorney. I had school handbooks always reviewed by a school attorney because I'm not willing to take the chance of putting my district in harm's way because I forgot about some minute law that somewhere someone passed. And if you look at school law, it says specifically that school districts are allowed to sue and be sued. The Legislature gave them that authority. [LB639]

PRESIDENT SHEEHY: One minute. [LB639]

SENATOR KOPPLIN: Well, yeah, those things have to be paid. This is...when you talk about, think of how much money we could spend somewhere else in the school if we didn't have to pay school attorneys, well, sure, you could transfer it maybe to insurance policy because you're going to need a big one to keep you out of trouble. Thank you. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Kopplin. Senator Ashford. [LB639]

SENATOR ASHFORD: Thank you, Mr. President. I'd yield some time to Senator Erdman, if he'd like. [LB639]

PRESIDENT SHEEHY: Senator Erdman. [LB639]

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. I don't think this is a waste of time. I'm glad that the Speaker scheduled it, even though he doesn't admit that he scheduled it. He would blame it on the worksheet. But I think this is an important discussion, and here's what I think we should do. I think if you want to let OPS spend money, as Senator Raikes would like to joke about Class I's, as drunken sailors, let them do it on their own dime. Let Bayard High School do it on their own dime. So here's what I would propose. We propose that the county attorney be the default and if they want to hire their own, they do it outside the state aid formula and they get no reimbursement for it. Then they are responsible, it's a local issue, it's no longer a state issue. And they'll be accountable directly to the voters of their district about why they're spending \$3.8 million to represent their students. And I might throw in the idea that we would include any fees relating to lobbying outside of that as well,

Floor Debate  
January 18, 2008

---

because generally you're hiring the lawyers to stand behind the glass here and that might be included in your legal fees. But I think that's a workable solution, or at least something we should consider. And with that, I will yield the rest of my time back to Senator Ashford and thank him for his courtesy. Thank you, Mr. President. [LB639]

PRESIDENT SHEEHY: Senator Ashford, about 3 minutes, 30 seconds. [LB639]

SENATOR ASHFORD: Thank you, Mr. President. And I just want to comment briefly. I would support Senator Kopplin's amendment. It's appropriate amendment. I'm sorry I miscast it. I should have read it more closely, obviously, but I do support it. And I also would like to comment on Senator Kopplin's points, and he's absolutely right. We create laws, you need lawyers to figure them out, and it is an insurance policy. And I don't think there's anything, at least in my intent, and I don't think the Judiciary's intent in bringing this bill out, was to punish lawyers or to punish school districts. I think all we're suggesting, at least in the committee amendments, is that we...there's a bidding process that be undertaken. Senator Erdman has raised what I think is a very intriguing idea and something that is worthy of discussion and adds a new element to this: Is there a limit? Is there some limit to how much a school district should spend on attorneys in the normal course? And maybe, Senator Kopplin, your point is absolutely well-taken when we're dealing with personnel policies, when you need an attorney day in and day out to deal with those things, I absolutely agree that that's work that needs to be done on a daily basis to keep the school district from being sued, which is a savings, and I absolutely agree with that. Attorneys do a good job of that. The extraordinary expenses, however, that Senator Raikes has talked about, the extraordinary expenses that have been incurred, primarily in the learning community--and that's why we limited this bill to the learning community--does come out of state aid. It does come out of money for children. And I'm not suggesting that it's the lawyer's fault. There's nothing, at least in the Judiciary Committee amendments, that is intended to punish lawyers here. And clearly the price is not the only criteria that a school district can look at. There's a laundry list of other criteria that a school district can look at in hiring an attorney, past performance being one of them. I mean, in my...having done this as the executive director of OHA, we had to procure our attorneys every three years, every two years, and price was a consideration that we had to look at. But aside from all that, I appreciate Senator Kopplin's remarks. Again, he's the guy that's been in the trenches and has used attorneys and I'm sure has saved money for his district--I know has saved money for his district because of the decisions he made as superintendent. But the bottom line here is, Senator Raikes is absolutely right. We're going to have... [LB639]

PRESIDENT SHEEHY: One minute. [LB639]

SENATOR ASHFORD: ...a debate about the school...thank you, Mr. President. We're going to have a debate about the school aid formula that's going to take some time in this body and we're going to talk about school spending and how should we recognize

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

Floor Debate  
January 18, 2008

---

individual school district spending in the state aid formula. It's a big issue. And how should we handle the issue of growth in the school aid formula, and we're going to handle that. I don't think it is...and it's my profession. I have respect for my fellow attorneys. But I don't think anything is unfair to talk about when you're talking about spending and costs incurred by any political subdivision. Because we do send a lot of money, almost a billion dollars, to the school districts to educate our children. We do have a say in how that money is spent. Thank you, Senator Kopplin, for your amendment and I certainly support it. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Mr. Clerk, do you have items for the record? [LB639]

CLERK: Mr. President, hearing notices from the Judiciary Committee, Education Committee, and Agriculture Committee, signed by their respective Chairpersons. That's all that I have. (Legislative Journal pages 294-295.) [LB639]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Those wishing to speak are Senator Pahls, followed by Senator McDonald, Senator Raikes, and Senator Gay and others. Senator Pahls. [LB639]

SENATOR PAHLS: Thank you, Mr. Lieutenant Governor and members of the body. I would like to give some of my time to Senator White. [LB639]

PRESIDENT SHEEHY: Senator White. [LB639]

SENATOR WHITE: Thank you, Senator Pahls, for this courtesy. As a contingency fee lawyer, a man who makes his living by winning and not making my living if I lose, and on behalf of Senator Lathrop who does the same, I would urge the body, please, for the good of our own bank accounts, urge the school boards to hire the cheapest lawyers you can find, please. It will only help us and it will only hurt the community. Thank you very much. [LB639]

PRESIDENT SHEEHY: Senator Pahls, you have about 4 minutes. [LB639]

SENATOR PAHLS: Thank you. (Laughter) I'll let that sink in a little bit. One of the things...one of the reasons why I think this discussion has extended itself is because there is a dissatisfaction. I think if you're listening to the number of the senators on the floor, there's a dissatisfaction with what is going on with the legal system and our schools. I agree with Senator Kopplin. If you are a superintendent or a board of education, you need competent people giving you some direction, because we are living in a world full of all kinds of things out there who are always looking to find a mistake that you made and...I think, so we do need competent help. But I question some of the things. I think...reason why some of us are questioning this, at times there appears to be

Floor Debate  
January 18, 2008

---

a little arrogance. Now just to point this out, not to relive the past, but if you can recall a year or two ago when I questioned the open meeting law and the Omaha school system said they did not violate it. Well, I'm sure there were one or two attorneys sitting there giving them advice. And we did have...the Attorney General did take a look at that. So I think that's the arrogance that gets to me. But I do think we need competent people to carry this on. What I'd also like to have us eventually look at is how much of that state aid, of that property tax gets into the classroom that touches the teacher and the child. I think that's the bigger picture. This money that we're talking here about, some of the attorney fees, of course, is a large amount. But I hope we start taking a look at all the state aid that we send back to the school districts because I'm very concerned about that that is not reaching the classroom teacher and that child. Thank you. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator McDonald. [LB639]

SENATOR McDONALD: Mr. President and members of the body, I think this is a discussion worth having. I think those senators that represent the learning communities in Omaha certainly have an interest in this. But the rest of us also have an interest in this because it affects state aid. It affects the bottom line. It affects the growth of TEEOSA and we all pay. And so it is something that is very, very important to us as the state coffers continue to have to put money into education. Is that money going to the kids or is it going to the attorneys to represent them? How many of our school districts have a law firm on staff that they pay on a regular basis? That's important for consumers to know, that's important for residents of the state of Nebraska to know, where our state dollars are going. And if we have to look at taking the attorneys out of the needs side of the formula and saying, hey, listen, if you want to do that you're going to have to pay that on your own, it's not coming out of property taxes or not coming out of General Funds, you need to find another way to do that, we all need to look at that because that money is not going to educate our kids. That's the bottom line. Thank you, Senator Friend, for bringing that to everyone's attention, that this is a statewide issue. Even though we don't think it affects us, it affects every one of us. Thank you. [LB639]

PRESIDENT SHEEHY: Thank you, Senator McDonald. Senator Raikes. [LB639]

SENATOR RAIKES: Thank you, Mr. President and members. I want to just reemphasize a couple of points that have been made, I think effectively, by several people, and that is the argument made that, gosh, this is a local decision and the local school board and so on and so forth. And I think that the counter to that has been made, and it's correct, that if it's an equalized school district, that decision or that decision about money spent for anything, including legal fees, becomes a part of General Fund expenditures, which in turn drives the needs calculation, which eventually results in state aid. So you cannot dismiss this issue simply by saying, well, the local people made a decision to spend whatever amount of money and it's all left on them. It is not. It becomes a statewide expenditure, one we have to deal with on a statewide basis. I

Floor Debate  
January 18, 2008

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would just also like to mention one other thing. You know, there seems to be a notion that it's just impossible to have some sort of a competitive process in which a law firm is selected to provide a service. I will tell you that, oh, it's got to be three or four years ago now, but the suit is still pending. The state was brought into a lawsuit by...a finance lawsuit involving four or five of the school districts in the state. It was up to the Attorney General to represent...to find representation for the state. The Attorney General in that process gathered a committee to be an advisor to him at that point. It involved a couple legislators and a couple other people. We did in fact receive proposals from--I can't remember for sure--three or four law firms. Those law firms came in, made a presentation as to what they thought the issues were, how they were going to address them. We then made a recommendation to the Attorney General. He did pick a law firm that has since represented the state. It was not an issue where you cannot compete. At least, it wasn't at all clear to me that law firms were unwilling to compete in trying to provide a service, nor was it a case where it was clear that you had to pick the lowest-priced firm regardless of the service provided. That is totally erroneous. The intent was to come up with the best value and I believe that's what was done. So I am not willing to accept the notion that you simply can't do that. I believe you can do it and, in fact, we did do it when it came to picking a representative for the state. And that legal law firm is still representing the state in that issue and, I will just say, I think has done a very good job. There possibly are...a number have mentioned state aid and the impacts, you know, how you might include this in state aid. There may be a way to use a circuit breaker mechanism of some sort to exclude high legal expenditures, however defined, from being included in the General Fund's expenditures that drive needs in the aid formula. Perhaps that's something that we can and should look at. But again, I would tell you, I think this is a relevant issue and I think the approach that has been suggested, counter to the idea that it simply won't work or it's totally unreasonable,... [LB639]

PRESIDENT SHEEHY: One minute. [LB639]

SENATOR RAIKES: ...I don't think is borne out by a logical look at it or by experience. Thank you. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Raikes. Mr. Clerk, you have a priority motion on your desk? [LB639]

CLERK: I do, Mr. President. Senator Ashford would move to bracket the bill until April 15 of 2008. [LB639]

PRESIDENT SHEEHY: Senator Ashford, you're recognized to open on your motion to bracket. [LB639]

SENATOR ASHFORD: Thank you, Mr. President. I'll just be very brief. I, again, would second what Senator Raikes said. And he gave a great example of the...how this

Floor Debate  
January 18, 2008

---

system actually works and can work in the public arena and involving the lawsuit brought against the state. And in that case, there were proposals from law firms that were made to the Attorney General. There was a process of selection. The Attorney General and the committee, including Senator Raikes, selected Fraser Stryker Law Firm from Omaha, and I would agree with Senator Raikes that they've done an excellent job in representing the state. I'm intrigued by Senator Erdman's idea and Senator Friend's comments, Senator McDonald. We're talking about spending and cost. And as we reflect on this further in the Education Committee, I think it will be an issue in the Education Committee and maybe that's where it most properly should go. But I certainly very...I respect Senator Raikes for his bringing this to our attention, but at this point I think, again, we're in a short session. We can handle this matter and have more reflection upon it in the Education Committee. Appreciate the comments but, with that, Mr. President, I would move to bracket the bill until, I believe it's, April 15...yeah, April 15, 2008. Thank you, Mr. President. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening to bracket until April 15, 2008. The floor is open for discussion. Senator Gay, followed by Senator Ashford. [LB639]

SENATOR GAY: Thank you, Mr. President. I support the amendment. In listening to the discussion, I think that it's been very productive discussion. Thanks for extending it. I probably got a little defensive there when it gets limited to a learning community only because, obviously, for obvious reasons on that for drafting policy should be statewide. The way the discussion is turning, though, I agree with Senator McDonald wholeheartedly. Maybe this is...why are we spending money to fight ourselves? In a way, we're beating up ourselves. This \$81, this is from '05-06, I assume a lot of that is fighting the school aid formula lawsuit, not the learning community lawsuit. So there's money that's being used against legislation we created and they're using the money to come argue against us. Then are we paying this out of the TEEOSA formula? So I commend...I would encourage us to go look and say, well, you don't get...we deduct that from your funds, if that's where we're going to go. Senator Raikes has a very good argument here. Spending this kind of money is just probably unnecessary, but from the standpoint of the local school boards, they're probably sitting there...they probably hate voting for this, as well, and doing it. So if there's a mechanism we can create that makes the state work with these local districts instead of going to court right away, I'm all for it. So I think we've had a very positive discussion. I'll be brief because we have a bracket motion that I'm going to support. But I liked the turn of the discussion. I thought there were some good ideas floated about and I'm going to support the bracket motion. Thank you, Mr. President. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Ashford, you are next in the queue, with no other lights on, or you may close. [LB639]

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

Floor Debate  
January 18, 2008

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SENATOR ASHFORD: I'll close. Thanks, Mr. President. Before I get started with my closing though, I would like to respond to Senator Gay's question about the number of city jails. (Laughter) There are four city jails. Okay, I just wanted to...not 1,730. But it was a good question. But anyway, seriously, I would ask that we (laughter) bracket this. But before, I'd give Speaker Flood the rest of my time. Thanks, Mr. President. [LB639]

PRESIDENT SHEEHY: Senator Flood. [LB639]

SPEAKER FLOOD: Thank you, Senator Ashford. I wanted to stand up to clarify where I was at on this. I don't agree with the vehicle or the approach to addressing this problem, but the idea of spending on lawyers in the Omaha area on this issue is a state issue and it does deserve discussion. Obviously, my preference would not be this solution. And to the extent that I sent the message that this wasn't an important issue, you know, that wasn't my intent and hasn't been my intent. But I do think when this proposal came out it was meant to get somebody's attention. I think this discussion has obviously raised the dissatisfaction of the Legislature with the excessive spending on legal fees. And if it's something that is worth addressing, I would hope that the Education Committee takes this under advisement in their discussions. And as we remodel the state aid to schools formula, why not put a cap on what schools can spend on lawyers and recognize excessiveness when it's there? Why not address it there? And I think Senator Raikes has brought forward and exposed to the entire Legislature some alarming numbers about the amount of money being spent in Douglas and Sarpy County on lawyers and it's an issue that not only the school boards and the patrons of those school districts but all Nebraskans should pay attention to. So I want to recognize and thank Senator Raikes, the committee, Senator Ashford for bringing this to the table. I do disagree with the bill and I will support the bracket motion. Thank you, Mr. President, and thank you, Senator Ashford. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Flood. You have heard the closing on the motion to bracket until April 15, 2008. The question before the body is on the motion to bracket. All those in favor vote yea; opposed, nay. [LB639]

SENATOR ASHFORD: I'd ask for a call of the house. [LB639]

PRESIDENT SHEEHY: Thank you, Senator Ashford. We do have a request for a call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB639]

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call. [LB639]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Senator Lathrop, Senator Preister, the house is under call. Senator

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

Floor Debate  
January 18, 2008

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Nantkes, Senator Synowiecki, would you check in. Senator Ashford? Senator Ashford indicates that we may proceed. How would you like to proceed, Senator? [LB639]

SENATOR ASHFORD: Just machine votes. [LB639]

PRESIDENT SHEEHY: Call-ins? [LB639]

SENATOR ASHFORD: Call-ins are fine. Thanks. [LB639]

CLERK: Senator Lathrop voting yes. Senator Avery voting yes. Senator Louden voting yes. Senator Engel voting yes. Senator Nantkes voting yes. [LB639]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB639]

CLERK: 25 ayes, 5 nays, Mr. President, on the motion to bracket the bill. [LB639]

PRESIDENT SHEEHY: The motion to bracket does pass. Mr. Clerk, do you have new bills for introduction, items for the record? The call is raised. [LB639]

CLERK: Mr. President, Select File reports: Enrollment and Review reports LB205, LB210, LB312, LB379 to Select File, some of which have Enrollment and Review amendments attached. Education Committee, chaired by Senator Raikes, offers notice of hearing. And new bills, Mr. President. (Read LB1055-1060 by title for the first time.) And a new constitutional amendment, Mr. President, LR229CA by Senator McDonald, proposes an amendment to Article XIII, Section 2 of the Constitution of the State of Nebraska. Name adds: Senator Howard would like to add her name to LB807; Senator Pahls, LB895; Senator Pahls to LB987. (Legislative Journal pages 296-298.) [LB205 LB210 LB312 LB379 LB1055 LB1056 LB1057 LB1058 LB1059 LB1060 LR229CA LB807 LB895 LB987]

Priority motion: Senator Flood would move to adjourn until Tuesday morning, January 22, at 10:00 a.m. []

PRESIDENT SHEEHY: You have all heard the motion to adjourn until Tuesday, January 22, 2008, at 10:00 a.m. All those in favor say aye. Oppose, nay. We are adjourned. []