

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

Floor Debate
April 16, 2009

[LB27 LB35A LB35 LB36 LB60 LB63 LB84 LB94 LB113 LB122 LB129 LB131 LB133
LB137 LB152 LB163 LB175 LB195 LB208 LB209 LB235 LB237A LB238 LB274 LB278
LB285 LB294 LB299 LB302 LB306 LB339 LB343 LB347 LB348 LB355 LB360 LB362
LB372 LB384 LB389 LB394 LB412 LB422 LB432 LB434 LB436 LB441 LB445 LB446
LB447 LB450 LB463A LB488 LB497A LB498 LB500 LB501 LB524 LB528 LB531
LB533 LB537 LB540 LB551 LB562 LB571 LB587 LB598 LB604 LB627 LB631 LB675
LR80 LR81 LR88]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-second day of the One Hundred First Legislature, First Session. Our chaplain for today is Pastor Bill Ritter of the First United Methodist Church in Columbus, Senator Stuthman's district. Please rise. []

PASTOR RITTER: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Pastor Ritter. I call to order the sixty-second day of the One Hundred First Legislature, First 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 corrections for the Journal? []

CLERK: I have no corrections. []

SPEAKER FLOOD: Are there messages, reports, or announcements? []

CLERK: Enrollment and Review announces LB35 and LB35A to Select File, and LB463A to Select File, some of which have Enrollment and Review amendments; Senator McGill, an amendment to LB84 to be printed; Attorney General's Opinion to Senator Haar (re LB235); and an announcement, Mr. President: Judiciary will have an Executive Session at 10 a.m. today in Room 2022. That's all that I have. (Legislative Journal pages 1051-1057.) [LB35 LB35A LB463A LB84 LB235]

SPEAKER FLOOD: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR80 and LR81. We will now proceed to the agenda, General File 2009 consent calendar. Mr. Clerk, the first bill is LB432. [LR80 LR81 LB432]

CLERK: LB432 by Senator Nelson. (Read title.) Introduced on January 20, referred to the Banking Committee, advanced to General File. There are committee amendments,

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

Floor Debate
April 16, 2009

Mr. President. (AM177, Legislative Journal page 372.) [LB432]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Nelson, you are recognized to open on LB432. [LB432]

SENATOR NELSON: Thank you, Mr. President and members of the body. I rise today to introduce LB432 which would better enable the State Treasurer to return unclaimed property to the people of Nebraska. This bill will protect Nebraskan's personal account information from danger, fraud, or identity theft, and preserve their right to make an informed decision when claiming unclaimed property. Section 1 of the bill states that unclaimed property records maintained by the State Treasurer concerning the Social Security number, date of birth, amount due, and last known address of a holder shall be treated as confidential. Section 1 also requires professional finders to disclose information to unclaimed property recipients. LB432 would provide that to claim a professional finder's fee a professional finder must disclose to the property owner when the abandoned or not yet abandoned property was or will be reported to the State Treasurer. The professional finder must also disclose that the property can be claimed from the State Treasurer free of charge. Also the fee that can be charged by professional finders would be limited to 10 percent of the value of the unclaimed property that is presumed abandoned. Section 2 would have required that all state warrants be transferred to the State Treasurer's Office. However, after consultation with the State Treasurer and the Department of Administrative Services, Section 2 will be stricken from LB432 in the committee amendment that follows. I'd like to thank State Treasurer Suborn and his talented staff for their hard work on this bill, and I encourage your support of LB432 and ask that you vote to advance LB432 to Select File. Thank you, Mr. President. [LB432]

SPEAKER FLOOD: Thank you, Senator Nelson. Members, you've heard the opening to LB432. There are committee amendments. Senator Pahls, you are recognized to open on AM177. [LB432]

SENATOR PAHLS: Good morning, Mr. President and members of the body. LB432 was introduced and had two general topics: unclaimed property records and outdated state warrants. The committee amendments would strike from the bill all provisions regarding outdated state warrants. In the part of the bill regarding unclaimed property, the committee amendments would clarify that confidential records concerning Social Security numbers, dates of birth, amount due, and last known addresses are those of the owner of the unclaimed property and not the holder of the unclaimed property. Also the committee amendments would make certain that the Auditor of Public Accounts would have access to these confidential records in order to carry out the duties of his office. As Senator Nelson had indicated, these committee amendments came from him as the introducer of the bill, and I urge you to adopt the committee amendments. Thank you. [LB432]

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

Floor Debate
April 16, 2009

SPEAKER FLOOD: Thank you, Senator Pahls. Members, you've heard the opening to AM177. There are no lights on. Senator Pahls, you are recognized to close. Senator Pahls waives closing. The question before the body is, shall AM177 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB432]

CLERK: 42 ayes, 0 nays, on adoption of committee amendments. [LB432]

SPEAKER FLOOD: The committee amendments are adopted. Returning to discussion on LB432, there are no lights on. Senator Nelson, you're recognized to close. [LB432]

SENATOR NELSON: I'll waive closing, Mr. President. [LB432]

SPEAKER FLOOD: Senator Nelson waives closing. The question before the body is, shall LB432 advance? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB432]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB432. [LB432]

SPEAKER FLOOD: LB432 advances to E&R Initial. Mr. Clerk, LB137. [LB432 LB137]

CLERK: LB137 by Senator Avery. (Read title.) Introduced on January 9 of this year; referred to General Affairs; advanced to General File. I have no amendments at this time, Mr. President. [LB137]

SPEAKER FLOOD: Senator Avery, you are recognized to open on LB137. [LB137]

SENATOR AVERY: Thank you, Mr. President, colleagues. LB137 creates a defined western boundary for the University of Nebraska-Lincoln campus. This boundary would lie along the east right-of-way of 10th Street from R to Holdrege. I have passed out a multicolored map to show you where this boundary would be. If you look very carefully at the map, there is a red line just to the east of 10th Street. That would be the defined western boundary of the campus. This defined boundary addresses the statutory requirement for private businesses that hold liquor licenses to maintain a distance of 300 feet from the university. There is precedent for establishing a border for this purpose. Several years ago the university officially designated the southern boundary as R Street from 10th to 17th. There is at least one building south of R Street: the journalism college. The purpose of this is to allow for the university to expand its functions and buildings without restricting businesses that may already have licenses to sell liquor. The western boundary serves the dual purpose of maintaining the university and student needs and preserving the rights of downtown and Haymarket business owners to obtain their liquor licenses. The university does have plans to expand in the Haymarket. If you look at the map again, you will see a yellow line stretching from the

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

Floor Debate
April 16, 2009

red line, which will be the new boundary of the western campus. That yellow line stretches over to the left to the University Press warehouse and distribution center. That will become an annex for the Sheldon art gallery. They expect to put in multiuse facilities with that expansion. It might involve restaurants. Restaurants, of course, would want liquor licenses. That is the purpose of this legislation. I would ask you to approve it. Thank you, Mr. President. [LB137]

SPEAKER FLOOD: Thank you, Senator Avery. Members, there are no other members wishing to speak. Senator Avery, you're recognized to close. Senator Avery waives closing. The question before the body is, shall LB137 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB137]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB137. [LB137]

SPEAKER FLOOD: LB137 advances to E&R Initial. Mr. Clerk, we now proceed to LB152. [LB137 LB152]

CLERK: LB152, Senator Pahls. (Read title.) The bill was introduced on January 9; referred to the Banking, Commerce and Insurance Committee, advanced to General File. At this time I have no amendments, Mr. President. [LB152]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Pahls, you're recognized to open on LB152. [LB152]

SENATOR PAHLS: Thank you, Mr. President and members of the body. LB152 would eliminate the basis in statute for two Nebraska Supreme Court cases which generated unintended results regarding the extent of coverages under the Uninsured and Underinsured Motor Insurance Coverage Act. In the insurance world, uninsured and underinsured coverages are called UM and UIM. First, the bill would amend Section 44-6413 to provide that no motor vehicle liability policy shall be defined as insured so as to exclude any person occupying the motor vehicle with the permission of an insured from UM or UIM coverage. These amendments would undo the basis for a holding in the case of Jones v. Shelter Mutual Insurance Companies decided in 2007. The court looked at Section 44-6408 and concluded that persons insured for purposes of UM and UIM motorist coverages are only those persons insured under the liability provisions of a motor vehicle policy. Thus, passengers who are not, for example, relatives, related household members, or additional listed insured might not have this coverage unless they have it under another motor vehicle liability policy pursuant to which they would be described as persons insured. This bill would change this result. Now let's take this. This is an example to hopefully make this thing a little bit more clear. Let's say you and your spouse give a lift to a lady who lives down the street. She has no car and she does not drive. Then we are hit by an uninsured motorist. The statutes, according to the court, says that your UM coverage does not apply to her like otherwise would apply to

Floor Debate
April 16, 2009

you and your spouse. That result has been a surprise to much of the local property and casualty insurance industry and is at odds with the general public expectations about our motor vehicle insurance policies, what it does cover and what it does not. So in other words, if this individual does not have a policy she would not necessarily have to be covered by the insurance companies. Most of the insurance companies do that but this does cause pause for those insurance companies who would utilize that. Second, the bill would amend Section 44-6413 to provide that UM and UIM motorist coverage shall not apply to injuries of a injured while occupying a vehicle instead of a motor vehicle owned by but not insured by the named insured or a spouse or a relative residing with the named insured. The amendment would undo the basis for the holding in the case of Steffen v. Progressive Northern Insurance Company decided in 2008. As a result of this case, off-road vehicles are now automatically covered for UM and UIM benefits on a motor vehicle liability policy without being listed on that policy and without having been any premiums paid for the coverage. The quiriness of this Steffen's case is compounded when you realize that only UM and UIM coverages are extended to off-road vehicles. No other coverage in that policy extends to the off-road vehicle. The Steffen case has produced an odd result. Now you get UM and UIM coverage under your motor vehicle liability policy for your off-road vehicle because you have not listed the off-road vehicle on that policy. The Jones case and the Steffens case produced results that were unintended by the Legislature and unexpected by the insurance world. The Jones case opens the gap in coverage. The Steffens case undid a generally accepted exception to coverage. This bill would change those concepts. At the public hearing there were no opponents to this bill. Thank you. That concludes my statement. [LB152]

SPEAKER FLOOD: Thank you, Senator Pahls. Senator Gloor, you're recognized. [LB152]

SENATOR GLOOR: Thank you, Mr. President and members of the body. I rise in support as a member of the committee that advanced the bill of LB152, but I want to ask a question, I think by way of clarification and reassurance for the body overall. Would Senator Pahls yield to a question? [LB152]

SPEAKER FLOOD: Senator Pahls, will you yield to a question from Senator Gloor? [LB152]

SENATOR PAHLS: Yes, I will. [LB152]

SENATOR GLOOR: Senator Pahls, it's my recollection that in the discussion of this particular bill there was a list of, by way of further defining motor vehicles, there was a pretty extensive list of farm equipment that was exempted under the definition of motor vehicles. Is that correct? [LB152]

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

Floor Debate
April 16, 2009

SENATOR PAHLS: Yes. And I have that list in front of me if you want me to...if you'd like to have me go through that. [LB152]

SENATOR GLOOR: I don't think that's necessary but any member of the body who would like to see that, by way of assurance, I would encourage to visit with you. Thank you, Senator Pahls. [LB152]

SENATOR PAHLS: Thank you. [LB152]

SENATOR GLOOR: That's all. Thank you, Mr. President. [LB152]

SPEAKER FLOOD: Thank you, Senator Gloor. There are no other lights on. Senator Pahls, you're recognized to close. Senator Pahls waives closing. Members, the question before the body is, shall LB152 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB152]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB152. [LB152]

SPEAKER FLOOD: LB152 advances to E&R Initial. Mr. Clerk, we now proceed to LB302. [LB152 LB302]

CLERK: LB302 by Senator Campbell. (Read title.) Introduced on January 15, referred to the Revenue Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB302]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Campbell, you're recognized to open on LB302. [LB302]

SENATOR CAMPBELL: Thank you, Mr. President. LB302 specifically deals with one aspect of the homestead exemption. And just as a reminder to my colleagues, the Nebraska homestead exemption program is a property tax relief program for three categories of homeowners: persons over 65, certain disabled individuals, and certain totally 100 percent disabled veterans. Under the current law, if the owner buys and moves to a different home before August 15, they can transfer their homestead exemption to the new property only if the previous property is sold. If the previous property has not been sold by August 15, they lose the homestead exemption on both properties for the year. Removing the requirement that the old property be sold by August 15 will remove the possibility of someone losing their homestead exemption simply because they haven't been able to sell a house that they no longer live in. And I think all of you can understand that with the housing market the way it is, this is a critical bill to some of our older citizens in the state. LB302 still allows only one homestead exemption, still requires homeowners holding an exemption to occupy or live in that home, and the change is that they do not need to sell their old house before transferring

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

Floor Debate
April 16, 2009

the exemption. This bill fixes a shortcoming in current law that unnecessarily removes homestead exemption from very deserving applicants. That concludes my opening, Mr. President. [LB302]

SPEAKER FLOOD: Thank you, Senator Campbell. Senator Hansen, you're recognized. [LB302]

SENATOR HANSEN: Thank you, Mr. President. Senator Campbell, if I could ask you a couple of questions, a little bit of background first. Our homestead on our ranch was built... [LB302]

SPEAKER FLOOD: Senator Campbell, will you yield to questions from Senator Hansen? [LB302]

SENATOR HANSEN: I'm sorry. [LB302]

SENATOR CAMPBELL: Yes, absolutely. [LB302]

SENATOR HANSEN: Thank you, Senator Campbell. Our homestead house was built in 1897. We had to tear it down in 2007 after 110 years. The foundation just gave way. That was a homestead. So we built the new house in 1939 and now that's our homestead house. So the term...does the term homestead exemption have anything to do with actual homesteads? [LB302]

SENATOR CAMPBELL: No. [LB302]

SENATOR HANSEN: Okay. Then the exemption, let's talk a minute...I have one question about the exemption. Should blindness be an exemption if a spouse is blind? They have certain...I mean they have a lot of necessary expenses. Do you consider blindness to be a disability that should allow to be a...get a homestead exemption? [LB302]

SENATOR CAMPBELL: It is not at present. [LB302]

SENATOR HANSEN: Do you think it should? [LB302]

SENATOR CAMPBELL: You know, Senator Hansen, I've not thought upon that question. I know that there are...when I sat on the county board we had a number of exemptions that came before us. I would say your question should probably be brought in a separate question to the Revenue Committee who has looked at all the different exemptions. [LB302]

SENATOR HANSEN: It's been introduced several times, and the Revenue Committee

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

Floor Debate
April 16, 2009

still says that blindness is not a reason to get a homestead exemption. So I just wanted to ask you and get your feeling on that, and maybe with some new senators here we can get the Revenue Committee on board with that exemption. Thank you, Senator Campbell. That's all I have. Thank you, Mr. President. [LB302]

SENATOR CAMPBELL: Thank you, Senator Hansen. Having sat on the county board and looked at a lot of them, I think at some point it would be worthy to review the list. [LB302]

SPEAKER FLOOD: Thank you, Senator Hansen, Senator Campbell. There are no other lights on. Senator Campbell, you're recognized to close. Senator Campbell waives her opportunity to close. The question before the body is, shall LB302 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB302]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB302. [LB302]

SPEAKER FLOOD: LB302 advances to E&R Initial. Mr. Clerk, LB299. [LB302 LB299]

CLERK: LB299 by Senator Harms. (Read title.) The bill was introduced on January 15, referred to the Education Committee, advanced to General File. There are Education Committee amendments, Mr. President. (AM70, Legislative Journal page 396.) [LB299]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Harms, you're recognized to open on LB299. [LB299]

SENATOR HARMS: Thank you, Mr. President and colleagues. LB299 would simply add a member representing the fire safety to the Nebraska Safety Center Advisory Council. When the council was created in 1978, the legislative intent was to include a member representing the fire safety, however the members listed in the bill did not show that. And what this would do is simply correct that. LB299 would correct the oversight. They didn't discover this until the new safety director came aboard, Gordon Brooks, and they discovered that the intent was to have the Fire Marshal participate and...but the listing did not identify that office. So I would ask that you support this so we could correct it. Thank you, Mr. President. [LB299]

SPEAKER FLOOD: Thank you, Senator Harms. Members, you've heard the opening. Senator Adams, you're recognized on AM70, Education Committee amendment. [LB299]

SENATOR ADAMS: Thank you, Mr. President. Basically what the committee amendment does is merely take the language "fire safety" and harmonize it with other provisions in the statute. It's really that simple. Thank you, Mr. President. [LB299]

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

Floor Debate
April 16, 2009

SPEAKER FLOOD: Thank you, Senator Adams. Members, you've heard the opening on AM70. There are no lights on. Senator Adams, you're recognized to close. Senator Adams waives his opportunity. Members, the question before the body is, shall AM70 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB299]

CLERK: 37 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB299]

SPEAKER FLOOD: The committee amendments are adopted. We return to discussion on LB299. There are no lights on. Senator Harms, you're recognized to close. Senator Harms waives his opportunity. The question before the body is, shall LB299 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB299]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB299. [LB299]

SPEAKER FLOOD: LB299 advances to E&R Initial. Mr. Clerk, we now proceed to LB343. [LB299 LB343]

CLERK: LB343 by Senator Ashford. (Read title.) The bill was introduced on January 15, referred to the Judiciary Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB343]

SPEAKER FLOOD: Senator Ashford, you're recognized to open on LB343. [LB343]

SENATOR ASHFORD: Thanks, Mr. Speaker. Good morning. LB343 was introduced on behalf of the Supreme Court. It developed out of a situation in the 12th Judicial District where the judge was removed by the voters in the last election. The issue is that under current law there is no statutory definition of when a judge's term ends if the judge is not retained or if the judge does not file with the Secretary of State an indication of his or her desire to stay in office. Article V, Section 20 of the Nebraska Constitution reads, "All officers provided for in this Article shall hold their offices until their successors shall be qualified." LB343 creates a specific date to mark the end of a judge's term of office if the judge is not retained or the judge does not wish to continue for another term. The date is the first Thursday after the first Tuesday in January following the retention election. LB343 was advanced to General File by a unanimous vote and I urge the body to advance LB343. Thank you, Mr. Speaker. [LB343]

SPEAKER FLOOD: Thank you, Senator Ashford. Members, you've heard the opening on LB343. There are no committee amendments. There are no members wishing to speak. Senator Ashford, you're recognized to close. Senator Ashford waives his

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

Floor Debate
April 16, 2009

opportunity. Members, the question before the body is, shall LB343 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB343]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB343. [LB343]

SPEAKER FLOOD: LB343 advances to E&R Initial. Mr. Clerk, we now proceed to LB84. [LB343 LB84]

CLERK: LB84 by Senator McGill. (Read title.) The bill was introduced on January 8, at that time referred to the Health and Human Services Committee. The bill was advanced to General File. I have no amendments at this time to the bill, Mr. President. [LB84]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator McGill, you're recognized to open on LB84. [LB84]

SENATOR MCGILL: Mr. President, members of the body, LB84 repeals the sunset provision of the Women's Health Initiative that originally passed in 1999 and was reauthorized in 2004. The sunset language would terminate the Women's Health Initiative Council, which is an advisory committee to the Nebraska Health and Human Services, and particularly to the Office of Women's Health. The Women's Health Initiative was created in 1999 by LB480, legislation introduced by Senator Schimek, as well as ten other members of the Legislature. The bill established the Women's Health Advisory Council and the Women's Health Initiative in the Department of HHS. The purpose of the initiative is to improve the health of women in Nebraska by fostering the development of a comprehensive system of coordinated services, policy development, advocacy, and education. To give you a few examples of what the initiative has accomplished, it has provided support for cancer screening programs that serve over 12,000 people annually. It's hosted an annual women's health symposium, led an intergenerational physical activity scorecard campaign, created Web sites on women's and men's health with over 2,000 hits per month, and developed a Go Red for Women coalition to educate women on heart disease risk. Additionally, accomplishments for women have led to partnerships developing a new focus on men's health. Since its creation, the Office of Women's Health has received over \$28 million in federal and nonprofit grants, making the Women's Health Initiative almost entirely grant-funded. Their annual budget over the last few years has averaged around \$400. LB84 would allow this initiative to continue its great work of improving healthcare for women and men of Nebraska. I urge you to advance LB84. Thank you. [LB84]

SPEAKER FLOOD: Thank you, Senator McGill. There are no amendments. There are no members wishing to speak. Senator McGill, you're recognized to close. Senator McGill waives her opportunity. Members, the question before the body is, shall LB84 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr.

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

Floor Debate
April 16, 2009

Clerk, please record. [LB84]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB84. [LB84]

SPEAKER FLOOD: LB84 advances to E&R Initial. Mr. Clerk, LB394. [LB84 LB394]

CLERK: LB394 by Senator Fulton. (Read title.) The bill was introduced on January 16, referred to the Health and Human Services Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB394]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Fulton, you're recognized to open on LB394. [LB394]

SENATOR FULTON: Thank you, Mr. President, members of the body. LB394 represents several years of collaborative effort between the Nebraska Association of Pathologists and the Nebraska Medical Association, and as you can see in your committee statement it is supported by both groups. LB394 protects Nebraska patients by preventing the practice of marking up bills for medical services. This practice is not only an expressed violation of the AMA Code of Ethics but also contributes to rising healthcare costs and harms the doctor/patient relationship. LB394 ensures transparency to the patient or payor by requiring that physicians who order but who do not perform or supervise a pathology service disclose the identity of the pathologist or lab that actually performed the service, as well as the actual cost of the service. Violation of this requirement would constitute unprofessional conduct and could result in the loss of the physician's license. At least 14 other states have seen fit to enact measures similar to LB394 to protect patients and to reduce unnecessary costs within healthcare. I respectfully ask that we move LB394 forward. Thank you, Mr. President. [LB394]

SPEAKER FLOOD: Thank you, Senator Fulton. There are no members wishing to speak. Senator Fulton, you're recognized to close. Senator Fulton waives his opportunity. Members, the question before the body is, shall LB394 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB394]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB394. [LB394]

SPEAKER FLOOD: LB394 advances to E&R Initial. Mr. Clerk, we now proceed to LB131. [LB394 LB131]

CLERK: LB131 by Senator Dubas. (Read title.) Introduced on January 9 of this year, at that time referred to the Government, Military and Veterans Affairs Committee. I have no amendments to the bill, Mr. President. [LB131]

Floor Debate
April 16, 2009

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Dubas, you're recognized to open on LB131. [LB131]

SENATOR DUBAS: Thank you, Mr. Speaker, members of the body. Good morning. The content of LB131 was brought to me in 2007 by the members of the Polk and Merrick County boards. Their current boundary is defined by the Platte River, and the current language in statute that both counties want changed reads: the middle of the south channel of the Platte River. They want to make the middle of the south channel of the Platte River a stationary boundary line, and as we all know rivers are not stationary. They were able to establish this stationary boundary line by using GPS or global positioning systems which is a very sophisticated and precise way to detail exact location. I'm very impressed by their innovation and am learning that more counties are looking to do this. I agreed to carry this legislation. I'm sure if you used this bill as bedtime reading last night, it did help drift you off to sleep because it is a very technical bill filled with a lot of coordinates and positions. But again I want to reemphasize that this is an amenable agreement that the counties brought to me in a very respectable fashion. They've put a lot of work into this. I do appreciate their diligence. The letters that they sent to me with this request again just reemphasizes their willingness that they've worked together. This was a joint effort between the two counties and their respective surveyors that began in 2006 and resulted in the exact language that you see in the bill. So I would appreciate your support in moving this forward for Merrick and Polk Counties. [LB131]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Thank you, Senator Dubas. You have heard the opening on LB131. The floor is now open for discussion. Senator Fulton, you're recognized. [LB131]

SENATOR FULTON: Thank you, Mr. President. This is just going to be a quick question for Senator Dubas. [LB131]

SENATOR LANGEMEIER: Senator Dubas, would you yield to a question? [LB131]

SENATOR DUBAS: Yes, I will. [LB131]

SENATOR FULTON: I would have come over earlier but I was on a bill of my own. What prompted this? It was a request by both counties? [LB131]

SENATOR DUBAS: The counties decided themselves the boundary between these two counties is the Platte River, and as you know the river is constantly in changing. The language that's in current statute says the middle of the south channel; that's not always an easy thing to define. So with the advent of GPS it allows them to put that exact fixed

Floor Debate
April 16, 2009

stationary line in place. [LB131]

SENATOR FULTON: Do you envision potentially that this could be a way of marking other counties, going forward? [LB131]

SENATOR DUBAS: I know other counties are now in the process of doing this, yes. [LB131]

SENATOR FULTON: Okay. I actually did read through it, and as I was nodding off I got to this bill that talked about points and coordinates and whatnot, and it was refreshing. (Laugh) So this is something I would think that could be used for other counties. So okay, thank you, Senator Dubas. [LB131]

SENATOR DUBAS: They are using it. Thank you. [LB131]

SENATOR LANGEMEIER: Thank you, Senator Fulton and Dubas. Senator Karpisek, you're recognized. [LB131]

SENATOR KARPISEK: Thank you, Mr. President. I just wanted to rise to say that some of you have noticed that I not voted on this coming out of committee. My question was a little bit like Senator Fulton's, to wonder if this should be a statewide bill rather than just between two counties. As we talked about it more, I think there would be a lot more discussion because once we do that then do we also try and do it on our state boundary with Iowa, and then how do we work together on that? So I think the bill is fine. These two counties agreed. They have it all set up. But I do think down the road that we may want to look at doing it as a statewide bill rather than just going county by county. But I think this is a good way to do it. We've got the GPS technology. The boundaries will be set. It should alleviate a lot of bickering, especially between neighbors and counties. Thank you, Mr. President. [LB131]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Council, you're recognized. [LB131]

SENATOR COUNCIL: Yes, thank you, Mr. President. I want to state that I rise in support of the bill and particularly the intent to clarify the boundary. My only question is, and in light of some of the questions raised by Senators Karpisek and Fulton, did the counties consider rather than 32 pages of the GPS description, coming to some agreement that the boundary would be the center line of the south channel of the Platte River as established by GPS system, XYZ, as of this date, as opposed to...? I mean, the potential exists for a typographical error in repeating all this. I was just wondering if there was any thought given to picking whatever date that this was established as the boundary and just amending the statute to say that it would be that as established by GPS on whatever date? [LB131]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Senator Dubas, would you yield? [LB131]

SENATOR DUBAS: Yes, I will. I don't know if that was ever discussion. I know by taking it to Bill Drafters I believe this was a request from them, and there are at least one and I think two other counties that have already done this and that's the way it's in statute right now. So I suppose they were just following how... [LB131]

SENATOR COUNCIL: Okay, because that would give rise to some concern when we start doing this on a county-by-county basis, for example. I mean, we could have seven volumes of statutes that just contain these boundary references. And I was just wondering if maybe some thought could be given to coming up with a more succinct way of arriving at the same conclusion, which needs to be arrived at, because as that river ages it will move and it will leave parts behind and you will have questions as to whether the property is within Polk County or Merrick County. So that's important. But I was just urging maybe some consideration, maybe we talk to Bill Drafters. [LB131]

SENATOR DUBAS: I think that's definitely a possibility. [LB131]

SENATOR COUNCIL: Okay. Thank you. [LB131]

SENATOR LANGEMEIER: Thank you, Senator Council. Senator Stuthman, you're recognized. [LB131]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I truly support this bill. I think it's a good method. We had boundary disputes between two of the counties when I served as a supervisor. The fact is we did...we eliminated the center of the running channel because that running channel does move all the time, and we established points where we have identified as to so many degrees this way and so many degrees that way and that is the boundary line. I think because of technology that we have now is the fact that we can, with GPS, establish a boundary and that is to be utilized immaterial of where the main channel is running, because we do know that the main channel does change almost yearly. So I do support this. I think that gives the counties a method that they can establish the center line and develop the amount of acres on each side of the designated line. So with that I support this bill. Thank you, Mr. President. [LB131]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Haar, you're recognized. [LB131]

SENATOR HAAR: Mr. President and members of the body, I rise in support of this bill. I was on the Lincoln City Council when we first started to use GPS to map the whole city, and I know that if...when we go to this for the state, there's going to be some significant

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

Floor Debate
April 16, 2009

costs associated with it and some interesting legal battles come up that are our director, at the time, of the planning department had helped GPS a large city out east, and they came out with a strip of land down the middle of that city that they couldn't assign legally. So it's an interesting process if we're going to do it, but I think it takes a lot of thought and money to do the whole state. Thank you. [LB131]

SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Rogert, you're recognized. [LB131]

SENATOR ROBERT: Thank you, Mr. President. I just listened to a few of the comments here, and I sit in a little bit of a unique situation where I'm bordered on the east by the Missouri River. There are sections of Iowa on this side of the Missouri River and sections of Nebraska on the other side of the Missouri River, and the reason for that is after the floods of, I believe, 1952 and '53, the Army Corps of Engineers finished the dredging project of the Missouri River below the dams at Fort Randall and Gavins Point, and moved the river. Senator Heidemann probably has some similar situations in his district. And it's been brought to my attention many times that we should consider trying to change the boundaries and put it at the river rather than at the original boundaries of the state. I don't know quite where I sit on that except it is strange that I have school kids and that we're paying tuition for them to go to Monona County school in Iowa because they live in Nebraska but there's no easy way to get them across the river to come to school here, and I think it's the other way around in some spots as well. So I stand in support of this bill thinking maybe some time in the future we can look at a way to reestablish the borders. I think the intent of the bill in this is to say that the borders will not change even if the river does. But the opposite situation has taken place in my district where the borders did not change when the river did, and thus creates some confusion of who...what part of the...which state you're in when on what side of the river. So I support the bill but I think it will probably engage some further conversation in borders with other states as we move forward. Thank you, Mr. President. [LB131]

SENATOR LANGEMEIER: Thank you, Senator Rogert. Seeing no other lights on, Senator Dubas, you're recognized to close on LB131. Senator Dubas waives closing. The question before the body is, shall LB131 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB131]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB131. [LB131]

SENATOR LANGEMEIER: LB131 does advance. (Doctor of the day and visitors introduced.) Continuing on with today's agenda, LB133. Mr. Clerk. [LB131 LB133]

CLERK: Mr. President, LB133 offered by Senator Heidemann. (Read title.) Introduced on January 9, referred to the Government, Military and Veterans Affairs Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB133]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Thank you. Senator Heidemann, you are recognized to open on LB133. [LB133]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. LB133 would remove the requirement that a county postprimary convention of a political party be held at a courthouse or other suitable place in the county seat, instead requiring that it is to be held just in the county. The county postprimary conventions are to be held during the first ten days of June following the statewide primary election at an hour and a place to be designated by the chairperson of the county central committee of a political party. This issue was brought to my attention by a constituent in Otoe County. Otoe County is the county...the county seat of Otoe County is Nebraska City which is about as far east as you can get in Otoe County. It's just the thought that if the county postprimary convention could be held in a more centralized location that maybe it would be more convenient for the delegates and hopefully result in better participation. When working on the legislation, I was told that this issue also came up in other areas of the state. This past convention season and actually during testimony in front of the committee Senator Janssen told of a situation in his legislative district where a convention was held in another city...in a city other than the county seat, and they had to actually redo it. LB133 would allow for more flexibility, giving the county central committee chairperson the authority to determine where the convention is held within the count rather than specifying in state law that it be held in the county seat. LB133 was advanced in the Government Committee on a 7-0 vote. No one testified against the bill in committee and I would urge your vote favorably upon the advancement of LB133. [LB133]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the opening on LB133. The floor is now open for discussion. Seeing no lights on, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is, shall LB133 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB133]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB133. [LB133]

SENATOR LANGEMEIER: LB133 does advance. Mr. Clerk, next item. [LB133]

CLERK: LB113, Mr. President, offered by Senator Pankonin. (Read title.) Introduced on January 9, referred to the Banking, Commerce and Insurance Committee. There are committee amendments pending by the Banking Committee, Mr. President. (AM301, Legislative Journal page 450.) [LB113]

SENATOR LANGEMEIER: Thank you. Senator Pankonin, you are recognized to open on LB113. [LB113]

Floor Debate
April 16, 2009

SENATOR PANKONIN: Good morning, Mr. President and members. LB113 amends the Securities Act of Nebraska. The proposed changes resulted from a situation in my district in which many Nebraska City area residents lost millions of dollars as victims of misleading investment advice and probably outright fraud. As the legislative representative for constituents in the Nebraska City area, I contacted the Nebraska Department of Banking and Finance in 2007 to discuss the investigation of the Nebraska City incident and hopefully the recovery of some of the lost funds. My legislative office worked with the department and with the counsel for the Banking, Commerce and Insurance Committee to identify some changes to the act that may help the department to better respond to similar problems in the future. LB113 reflects a cooperative effort with the Department of Banking and Finance. LB113 proposes two key changes to the Nebraska Securities Act. The changes are intended to strengthen the department's enforcement authority under the act. LB113 would make it unlawful to tamper with evidence or to obstruct an investigation or other proceeding under the act. The bill would also authorize the department to petition the court for equitable action against a person, not just a firm who violates the act. Such action could include but not be limited to restitution, disgorgement, and a freezing of assets. Generally, I am not an advocate of more government regulation and expanded powers, but when Nebraska citizens suffer significant or total loss of their invested money, I think the Department of Banking and Finance needs to have and use the authority proposed by LB113. As you can see from the handout I provided, 33 states, including five that border Nebraska, already provide for similar authority. LB113 would help the department to (1) maintain documents and evidence that are needed to investigate a problem, and (2) freeze assets and possibly restore funds that were acquired unlawfully. These changes would better protect Nebraskans who put their money and their trust in the hands of investment advisors. The larger public policy issue we need to consider still applies. Many of us will probably be required to invest relatively large sums of money to support our retirement, long-term care, and healthcare needs. Government will have to try to help individuals have financial advisors who are responsible and subject to consequences when fraud is involved. Thank you. [LB113]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. As the Clerk has stated, there are committee amendments offered by Banking, Commerce and Insurance Committee. Senator Pahls, as Chair of the committee, you are recognized to open on the committee amendments. [LB113]

SENATOR PAHLS: Thank you, Mr. President and members of the body. The committee amendments are very simple. They would do one thing: They would add an emergency clause to the bill. After listening to Senator Pankonin and his description of the bill, we can see that the director of Banking and Finance could use these tools as soon as possible. I urge you to adopt the committee amendments. Thank you. [LB113]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Thank you, Senator Pahls. You've heard the opening on AM301, the committee amendments to LB113. The floor is now open for discussion. Senator Gay, you are recognized. [LB113]

SENATOR GAY: Thank you, Mr. President. I'd rise in support but also I wanted to thank Senator Pankonin. He's been working on this for the last couple years. I know when I was on the Banking and Insurance Committee this was a priority and I'm glad to see it get done and also that empowers the Banking Department to go do this. I think it is very good for the industry, especially now what we've seen in the last several years. This will enhance the trust, I think, in advisors and also help future...prevent these kinds of things from happening in the future. I know what he's been dealing with down in that area, very tragic situation. But I just wanted to commend Senator Pankonin on this. Thank you, Mr. President. [LB113]

SENATOR LANGEMEIER: Thank you, Senator Gay. Seeing no other lights on, Senator Pahls, you're recognized to close. Senator Pahls waives closing. The question before the body is shall AM301 be adopted to LB113? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB113]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB113]

SENATOR LANGEMEIER: The committee amendments are adopted. We return now to discussion on LB113, the bill itself. Seeing no lights on, Senator Pankonin, you are recognized to close. Senator Pankonin waives closing. The question before the body is, shall LB113 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB113]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB113. [LB113]

SENATOR LANGEMEIER: LB113 does advance. Mr. Clerk, next item on the agenda. [LB113]

CLERK: Mr. President, LB163 was a bill introduced by Senator Pankonin. (Read title.) Introduced on January 12, referred to the Education Committee, advanced to General File. There are Education Committee amendments pending. (AM298, Legislative Journal page 459.) [LB163]

SENATOR LANGEMEIER: Thank you. Senator Pankonin, you are recognized to open on LB163. [LB163]

SENATOR PANKONIN: Mr. President, good morning again, and colleagues. LB163 would amend Section 79-544 to allow a substitute teacher to be elected to serve on the

Floor Debate
April 16, 2009

school board for the district in which he or she substitute teaches. The proposal that prompted the introduction of this bill was brought to me by a constituent. After hearing about the individual's wish to expand his service to education in his community, I decided to bring the issue to the attention of the Legislature. As a former school board member in a small community, I can certainly see the benefit of expanding the pool of potential candidates for school board membership to include substitute teachers. LB163 received strong support from the members of the Education Committee. I now ask for the body's support as well. Thank you. [LB163]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. As the Clerk has stated, there are committee amendments. Senator Adams, as Chair of the Education Committee, you're recognized to open on the committee amendments. [LB163]

SENATOR ADAMS: Thank you, Mr. President, members of the body. I want to thank Senator Pankonin for bringing this bill because it's a small thing, but to a lot of communities and a lot of school boards across the state finding substitute teachers, finding people to run for school boards is a problem, and various school organizations have said to the committee, clarify the language, tell us what we can do. What the committee amendment does is this. We took Senator Pankonin's bill into due consideration and what we said in the amendment is that a substitute teacher can run and serve on a school board as long as they are not under contract with the school. There are some school districts out there that literally will contract with people to be full-time substitutes. That, in effect, to us said they are virtually a full-time teacher and probably should not be on that school board. But if they are not under contract, they may be substitute teaching one, two days a week, then I think they ought to be allowed to run for the school board. Thank you, Mr. President. [LB163]

SENATOR LANGEMEIER: Thank you, Senator Adams. You have heard the opening on the committee amendments, AM298, offered to LB163. The floor is now open for discussion. Seeing no lights on, Senator Adams is recognized to close. He waives closing. The question before the body is, shall AM298 be adopted to LB163? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB163]

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB163]

SENATOR LANGEMEIER: The committee amendment is adopted. We return now to discussion on LB163, the bill itself. Seeing no lights on, Senator Pankonin, you're recognized to close. Senator Pankonin waives closing. The question before the body is, shall LB163 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB163]

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

Floor Debate
April 16, 2009

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB163. [LB163]

SENATOR LANGEMEIER: LB163 does advance. Mr. Clerk, next item. [LB163]

CLERK: Mr. President, LB434, introduced by Senator Janssen. (Read title.) Introduced on January 20, referred to the Government Committee, advanced to General File. I have no amendments at this time, Mr. President. [LB434]

SENATOR LANGEMEIER: Thank you. Senator Janssen, you are recognized to open on LB434, [LB434]

SENATOR JANSSEN: Thank you, Mr. President and members of the Legislature. LB434 changes the questions on the ballot when voting on township organizations. When a county is deciding whether to adopt the township organization, the questions on the ballot will be, "For changing to township organization with a seven-member board of supervisors; or Against changing to township organization." The current language states, "For township organization; or Against township organization." When a county is deciding whether to discontinue township organization, the questions on the ballot will be, "For discontinuance of a township organization and creation of a...county board of commissioners; or Against changing to a commissioner form of county government." The county votes on whether there will be five or seven county commissioners. The current language states, "For continuance of township organization; or For discontinuance of township organization and creation of a...county board of commissioners." Many voters expressed frustration in the last few election cycles regarding the choice between two of four options. LB434 would make clear that the voter is either for or against the proposal in question. LB434 came out of the Government Committee unanimously. Thank you, Mr. President. [LB434]

SENATOR LANGEMEIER: You have heard the opening on LB434. The floor is now open for discussion. Seeing no lights on, Senator Janssen, you're recognized to close. Senator Janssen waives closing. The question before the body is, shall LB434 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB434]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB434. [LB434]

SENATOR LANGEMEIER: LB434 does advance. Mr. Clerk, items for the record. [LB434]

CLERK: Thank you, Mr. President. Health and Human Services Committee reports LB195 to General File with amendments attached. Senator Coash, an amendment to LB498 to be printed; Senator Haar to LB436. That's all that I have, Mr. President. (Legislative Journal pages 1059-1061.) [LB195 LB498 LB436]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Continuing on the agenda to the next item, LB348. [LB348]

CLERK: LB348 by Senator Janssen. (Read title.) Introduced on January 15, referred to Government, advanced to General File. There are Government, Military and Veterans Affairs Committee amendments pending. (AM191, Legislative Journal page 464.) [LB348]

SENATOR LANGEMEIER: Thank you. Senator Janssen, you're recognized to open on LB348. [LB348]

SENATOR JANSSEN: Thank you, Mr. President and members of the Legislature. LB348 would allow any person to have access to a deed to real estate, memorandum, or contract, or land contract at the office of the register of deeds. Currently, these statements are available at the office of the tax commissioner or the county assessor. LB348 was proposed to help provide information to the public. Specifically I am referring to those statements commonly known as 521 forms that record the purchase price and address of property that has been bought and sold. For many years the warranty deeds that transfer ownership of a piece of property have been recorded in the register of deeds' office in each of the county seats. The 521 form is recorded first at the register of deeds' office; then it is transferred to the county assessor's office. Current law has historically provided for a review of these documents only in the county assessor's or tax commissioner's office. The 521 form is a document that is filed in multiple parts. As near as our research can tell, we believe the reason for not making it public at the register of deeds' office is due to the Social Security numbers being on the top copy of the 521 form and redacted on the other copies. The form has not been...has not requested a Social Security number for many years however. In some counties, the register of deeds or county clerks may hold these 521 forms until the end of the month, and transfer all of them en masse to the county assessor. While this is certainly legal, it does not mean the public isn't able...it does mean the public isn't able to access these records unless the county clerk carries them over to the county assessor. This inconveniences the newspapers that choose to print this information, real estate agents and/or title and escrow companies that need access to this information, as well as others that are looking to know what certain properties in their neighborhood sold for. LB348 just cleans all this up. LB348 advanced unanimously out of the Government Committee. Thank you, Mr. President. [LB348]

SENATOR LANGEMEIER: Thank you, Senator Janssen. As the Clerk has stated, there are committee amendments offered by Government, Military and Veterans Affairs Committee. Senator Avery, as Chairman of the committee, you are recognized to open on the committee amendments. [LB348]

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

Floor Debate
April 16, 2009

SENATOR AVERY: Thank you, Mr. President. The committee amendment removes from the bill the provision providing free copies of the real estate tax statements to legal newspapers. This provision caused a minor controversy at the hearing but all the parties that testified stated they were in favor of the bill if this provision was removed. The committee then decided to amend it and advance the bill with the amendment on a 7-0 vote with one member absent. I urge you to support the committee amendment and the underlying legislation. Thank you. [LB348]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the opening on the committee amendments, AM191 offered to LB348. The floor is now open for discussion. Senator Nelson, you are recognized. [LB348]

SENATOR NELSON: Thank you, Mr. President. I'd like to ask a question of Senator Janssen if he will yield. [LB348]

SENATOR LANGEMEIER: Senator Janssen, will you yield? [LB348]

SENATOR JANSSEN: Certainly. [LB348]

SENATOR NELSON: You referred to form 521. I'm just a little fuzzy on the number. Is that what we know as the real estate transfer statement? [LB348]

SENATOR JANSSEN: That is as I know it, yes. [LB348]

SENATOR NELSON: Yes, where it shows the buyer and the seller and information, and then also shows the amount and also the location of the property. Is that correct? [LB348]

SENATOR JANSSEN: Right. [LB348]

SENATOR NELSON: And it's a multipart form or is down to a single form right now? [LB348]

SENATOR JANSSEN: It's a multipart form and, like I said in the opening, the reason it probably was not given public access or transparency initially is that the Social Security number used to be required to be on this form, and it no longer is required for obvious reasons. [LB348]

SENATOR NELSON: All right. Okay, thank you very much, Senator Janssen. [LB348]

SENATOR LANGEMEIER: Thank you, Senator Nelson and Janssen. Seeing no other lights on, Senator Avery, you're recognized to close on the committee amendments. Senator Avery waives closing. The question before the body is, shall AM191 be adopted

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

Floor Debate
April 16, 2009

to LB348? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Have all those voted to wish to? Record, Mr. Clerk. [LB348]

CLERK: 26 ayes, 0 nays on adoption of committee amendments, Mr. President. [LB348]

SENATOR LANGEMEIER: The committee amendments are adopted. We return now to open floor discussion on LB348, the bill itself. Seeing no lights on, Senator Janssen, you are recognized to close on LB348. Senator Janssen waives closing. The question before the body is, shall LB348 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB348]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB348]

SENATOR LANGEMEIER: LB348 does advance. Mr. Clerk, next item. [LB348]

CLERK: Mr. President, LB540 was a bill introduced by Senator Gay. (Read title.) Introduced on January 21, referred to Health and Human Services, advanced to General File. There are committee amendments, Mr. President. (AM115, Legislative Journal page 475.) [LB540]

SENATOR LANGEMEIER: Senator Gay, you are recognized to open LB540. [LB540]

SENATOR GAY: Thank you, Mr. President and members of the Legislature. LB540 changes membership of the Children's Behavioral Health Task Force. The task force was originally created in 2007 with the passage of LB542. The task force has met approximately 14 times since July 2007. Right now, the task force has submitted a children's behavioral health plan in December 2007, containing several recommendations. The Department of Health and Human Services submitted a children's behavioral health plan in response to the task force in January 2008. The bill makes two changes. It makes representatives of the department on the task force, including the administrator of the Office of Juvenile Services to be nonvoting ex officio members. The bill also adds a probation administrator or his or her designee as a member of the task force. Current law requires the task force to oversee implementation of the children's behavioral health plan until June 30, 2010, at which time the task force shall submit to the Governor and the Legislature a recommendation regarding the necessity of continuing the task force. LB540 also contains an emergency clause. The Department of Health and Human Services has recommended removing department representatives from membership on the task force altogether. That will be the subject of the committee amendments of this bill. Thank you, Mr. President. [LB540]

SENATOR LANGEMEIER: Thank you, Senator Gay. As the Clerk has stated, there are committee amendments offered by Health and Human Services. Senator Gay, as Chairman of that committee, you are recognized to open on the committee

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

Floor Debate
April 16, 2009

amendments. [LB540]

SENATOR GAY: Thank you, Mr. President. The committee amendment removes the two representatives from the Department of Health and Human Services and the administrator of the Office of Juvenile Services as members of the task force, but adds the probation administrator or his or her designee to the task force. I'd ask for your adoption of the committee amendment and advancement of the bill. Thank you. [LB540]

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on the committee amendments, AM115, offered to LB540. The floor is now open for discussion. Seeing no lights on, Senator Gay, you are recognized to close on the committee amendments. Senator Gay waives closing. The question is, shall AM115, the committee amendments, be adopted to LB540? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB540]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB540]

SENATOR LANGEMEIER: AM115 is adopted. We return now to discussion on the bill itself. Seeing no lights on, Senator Gay, you're recognized to close. Senator Gay waives closing. The question is, shall LB540 advance to E&R for initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB540]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB540]

SENATOR LANGEMEIER: LB540 does advance. Mr. Clerk, next item on the agenda. [LB540]

CLERK: LB528, a bill by Senator Fulton. (Read title.) Introduced on January 21, referred to the Banking, Commerce and Insurance Committee, advanced to General File. There are committee amendments, Mr. President. (AM247, Legislative Journal page 526.) [LB528]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Fulton, you're recognized to open on LB528. [LB528]

SENATOR FULTON: Thank you, Mr. President and members of the body. LB528 updates the Nebraska Business Corporation Act in a manner consistent with the American Bar Association's model Business Corporation Act to allow companies to post shareholder meeting proxy materials on a Web site and then notify shareholders by mail that the proxy materials are available on-line. Under current Nebraska Business Corporation Act rules, companies are required to physically mail all meeting materials to

Floor Debate
April 16, 2009

shareholders in advance of such meeting. In 2007, the Securities and Exchange Commission adopted electronic proxy delivery rules to allow publicly traded companies to provide shareholders with Internet access to proxy materials and annual reports in connection with shareholder meetings. Many states have already updated their statutes to allow companies to use these federal e-proxy rules. This bill would allow public companies incorporated in Nebraska to use these same federal rules that are already available to most publicly traded companies just because they are incorporated in other states. Essentially, these proxy rules provide shareholders a choice in how they would like to receive their proxy materials. Companies are still required to send all shareholders printed notice of a shareholder meeting, but it allows shareholders to get their proxy materials on-line if they so choose. A shareholder without access to the Internet or who prefers to receive traditional paper proxy materials can still receive these printed materials or could still receive these printed materials from the company without charge. The intent of LB528 is to update the Nebraska Business Corporation Act to make it clear that publicly traded companies incorporated in Nebraska can use the federal e-proxy rules to provide proxy statements and annual financial statements to shareholders by electronic delivery or through Internet access, and to authorize shareholder voting by proxy through telephone or Internet voting procedures which are commonly utilized by companies incorporated in other states. The benefits...there are a number of benefits to this bill. Number one, shareholders are given the choice on how they would like to receive proxy materials: paper or electronically. And overwhelmingly, investors have elected to receive proxy materials on-line and be able to vote electronically when they are given the opportunity. Secondly, the e-proxy rules save companies a substantial amount of money in printing and mailing costs, and lastly, more and more public companies are able to use the e-proxy rules as they are. It is a significant green benefit, as less paper and printing and ink are used to print proxy materials. I've gravitated toward bills that have to do with technology. This is another such bill and I respectfully ask that you vote favorably on LB528. Thank you, Mr. President. [LB528]

SENATOR LANGEMEIER: Thank you, Senator Fulton. As the Clerk has stated, there are committee amendments offered by the Banking, Commerce and Insurance Committee. Senator Pahls, as Chair, you're recognized to open on the committee amendments. [LB528]

SENATOR PAHLS: Thank you, Mr. President and members of the body. The committee amendments were suggested by Senator Fulton as the introducer of LB528. The committee amendments are intended to remove matters of concerns raised at the hearing by representatives of the Nebraska State Bar Association and the Secretary of State. The bar was uncomfortable with part of the green copy that would allow for notice to be communicated by a corporation to shareholders by voice mail. The committee amendments would delete this reference to voice mail from the bill. Next, the committee amendments would assert and amend two more sections of the Business Corporation

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

Floor Debate
April 16, 2009

Act to provide for a couple clarifications. First, the committee amendments would provide that there is no authorization for a corporation to deliver documents for filing to the Secretary of State by electronic transmission. The committee was told that the Office of the Secretary does not at this time have the technological capabilities to handle all that would be e-mailed to them. Second, the committee amendments would provide that a corporation may deliver the annual statement to shareholders by electronic transmission. These are the committee amendments and I would urge you to adopt them so we can have further discussion with Senator Fulton, since these were his amendments. Thank you. [LB528]

SENATOR LANGEMEIER: Thank you, Senator Pahls. You've heard the opening on the committee amendments offered by Banking, Commerce and Insurance Committee. The floor is now open for discussion. Senator Lathrop, you are recognized. [LB528]

SENATOR LATHROP: Thank you, Mr. President. I'd like to ask Senator Fulton a few questions if I can. [LB528]

SENATOR LANGEMEIER: Senator Fulton, would you yield? [LB528]

SENATOR FULTON: Yes. [LB528]

SENATOR LATHROP: Senator Fulton, I certainly agree with the idea of getting material from corporations--shareholder material from companies by e-mail if I choose to. My concern with these bills where we now authorize notification by e-mail is twofold. One is, is it required that the...does your bill require that the only time they can satisfy a notice requirement by sending an e-mail or sending it through the Internet is if it's been authorized by the recipient? [LB528]

SENATOR FULTON: Yes, the shareholder. Right. [LB528]

SENATOR LATHROP: So there's people a little bit older than me that don't own a computer or might not want to get this stuff by e-mail, and I want to make sure--have you represent to me--that your bill won't allow the corporation to elect to send proxy material and shareholder material to someone who maybe doesn't check their e-mail or doesn't have e-mail. A person has to elect to get their materials by e-mail, is that what you're telling me? [LB528]

SENATOR FULTON: That is correct. There is an element of volition on the part of the shareholder and I just, off the top of my head I believe it's in the green copy of the bill, page 6, subsection...Section 3 I think is where your concern would be specifically addressed. I could find more specificity, but you're correct. [LB528]

SENATOR LATHROP: Okay. I just want to make sure if you represent that to me--and

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

Floor Debate
April 16, 2009

maybe you and I can talk about this because I saw that and I thought, I don't want to...if I haven't asked you to send it to me by e-mail I don't want to know because that's the next problem, and that is, if I send 90,000 of these out from Microsoft to the shareholders, they're likely to go into their junk mail, right? [LB528]

SENATOR FULTON: Right. [LB528]

SENATOR LATHROP: So I have to go into my computer and say anything from Microsoft is not junk, right, or I'm never going to see it unless I'm going through my junk mail. [LB528]

SENATOR FULTON: Yeah, technologically there...I mean different spam filters operate in different ways, but at the basis of this, the shareholder has to grant by way of his volition that indeed he wants to receive this electronically. [LB528]

SENATOR LATHROP: Okay. So no one is getting any e-mails that they haven't asked for. [LB528]

SENATOR FULTON: Correct. [LB528]

SENATOR LATHROP: Got it. Okay, thank you. [LB528]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Seeing no other lights on, Senator Pahls, you're recognized to close on the committee amendments. [LB528]

SENATOR PAHLS: The question that Senator Lathrop had was brought up during the discussion. Thank you. [LB528]

SENATOR LANGEMEIER: Thank you, Senator Pahls. You have heard the closing on the committee amendments, AM247, offered to LB528. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB528]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB528]

SENATOR LANGEMEIER: The committee amendments are adopted. We return now to discussion on the bill itself. Seeing no lights on, Senator Fulton, you are recognized to close. Senator Fulton waives closing. The question before the body is, shall LB528 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB528]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB528. [LB528]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: LB528 does advance. Mr. Clerk, next item. [LB528]

CLERK: Mr. President, Senator Campbell offers LB450. (Read title.) The bill was introduced on January 20, referred to the Government, Military and Veterans Affairs Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB450]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Campbell, you are recognized to open on LB450. [LB450]

SENATOR CAMPBELL: Thank you, Mr. President. I would draw attention, colleagues, to a map that was handed out to you by the pages a short while ago. LB450, as it indicates on your map, is to protect the Capitol view corridor and sight line to the Capitol tower when entering the city from the west via Rosa Parks Way elevated roadway. This is a bill that is a great pleasure for me to introduce and speak about because the sins of one's youth you can correct. When I was on the county board the vistas for the east, north, and south were protected by the Legislature. The one to the west, and if you exited this building and stood at the Lincoln statue and looked to the west you would see the County-City Building for Lincoln and Lancaster County. At the time that the west vista was proposed, the county board and the city council said, stop; could we please review that at a later time because we may want to add a fifth floor to the County-City Building, which would have obstructed the view. The city of Lincoln and the county of Lancaster decided not to add that floor. Unfortunately, we never came back to the Legislature and said it's okay to protect that vista. That vista became so important to protect when Rosa Parks Way was constructed and many of you enter the city and see that beautiful view of the Capitol as you are driving down. Senator Sullivan noted that to me one evening. This bill is important because it does protect the historical heritage of this great building and the view of it as people enter the city of Lincoln. It has been endorsed, as you can see, by all of the local entities that work so hard to protect the environs around the Capitol through our Planning Commission so that we do not get unusual buildings that would obstruct the view. I would also add that in the red outlined on the far left part of your map, most of the property that would be affected is owned already by the city of Lincoln and the county of Lancaster. And with that I'll close my opening, Mr. President. [LB450]

SENATOR LANGEMEIER: Thank you, Senator Campbell. The floor is now open for...you have heard the opening on LB450. The floor is now open for discussion. Senator Gloor, you are recognized. [LB450]

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Campbell would yield to a question? [LB450]

SENATOR LANGEMEIER: Senator Campbell, would you yield? [LB450]

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

Floor Debate
April 16, 2009

SENATOR CAMPBELL: Absolutely. [LB450]

SENATOR GLOOR: Senator Campbell, so I'm to understand that the area we're talking about is not just the area in red. That's the area that's already addressed through zoning--or owned? [LB450]

SENATOR CAMPBELL: No, we are just dealing with the area in red. [LB450]

SENATOR GLOOR: Is there a reason...and I happen to know this area fairly well. My morning runs usually take me down G Street to about 4th or 5th. It's all either school, park, or two-story residential homes, I believe. Is there a reason though that we didn't go over to G? If I'm considering my route in on Rosa Parks Way, there is an opportunity for viewing as you come up from that westerly direction. I just wonder if there is a specific reason from a sighting standpoint we've only limited it to about a two-blockwide area? [LB450]

SENATOR CAMPBELL: Thank you, Senator Gloor, for that question. That's a very good question. Essentially the topography of the land as you go west and particularly on the opposite side of the County-City Building begins to decrease so the building height could become higher. We are restricting the building height of any building in that area, not that there wouldn't be any buildings. It has been determined by the architects and engineers who sit on the Capitol Environs area that this is the area that must be protected. [LB450]

SENATOR GLOOR: Okay. Thank you. [LB450]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Seeing no other lights on, Senator Campbell, you're recognized to close. Senator Campbell waives closing. The question before the body is, shall LB450 advance to E&R for initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB450]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB450. [LB450]

SENATOR LANGEMEIER: LB450 does advance. Mr. Clerk, next item. [LB450]

CLERK: Mr. President, LB274, a bill by Senator Christensen. (Read title.) Introduced on January 14, referred to the Judiciary Committee, advanced to General File. At this time I have no amendments, Mr. President. [LB274]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Christensen, you are recognized to open on LB274. [LB274]

Floor Debate
April 16, 2009

SENATOR CHRISTENSEN: Thank you, Mr. President and colleagues. LB274 is a bill that was brought to me by the Department of Correctional Services. It provides for more flexibility for the Department of Corrections in placement of inmates at the Work Ethic Camp in McCook. This proposal furthers the original intent of Work Ethic Camp to reduce prison overcrowding and allows both probationers and inmates to avail themselves for a short-term treatment program availing at the facility. Under the provision of the bill, the director of Corrections is given the authority to assign felony officers to the Work Ethic Camp if he or she believes it is in the best interest of the offender and of society. Offenders convicted of capital punishment or of sexual assault crimes under Sections 28-319 and 28-321 are not eligible for placement. Certainly, only the courts or the Nebraska Board of Parole determines placement at the Work Ethic Camp...or I should say currently. Such placements are continued under this bill. I believe that LB274 is an appropriate addition to the authority to the director to ensure that good work of the Work Ethic Camp is being used to its fullest. LB274 provides an avenue for those inmates who need additional preparation time before reunification with their family and the community. Something else that's just been started is with Valmont Industries and Work Ethic Camp and Mid-Plains Community College; they've got a joint program that if the inmates go through this welding program they are guaranteed a job coming out. And in two weeks, the first person will be coming out of this program. In fact, I believe the family was from Papillion and just moved to McCook. The guy is still in jail for two more weeks, then he'll be reunified with his family. He has a job to go to at Valmont. This is an excellent program. This is just allowing us to expand the ability of training people to become functional in society. Thank you. [LB274]

SENATOR LANGEMEIER: Thank you, Senator Christensen. You have heard the opening on LB274. The floor is now open for discussion. Senator Carlson, you're recognized. [LB274]

SENATOR CARLSON: Mr. President and members of the Legislature, I certainly am in support of LB274. I've said this before and I'll say it again that I think in our state we have too many incarcerations for too many offenders, and our prison system costs us too much money. We need to do things and encourage those things that reduce recidivism. And we need to encourage those things that prepare the offenders for release to help them become positive members of society. When we do that, the family benefits, the state benefits, and costs are reduced. This is a good step in that direction and we'd encourage other plans and efforts to follow. Thank you, Mr. President. [LB274]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Council, you're recognized, followed by Senator Ashford. [LB274]

SENATOR COUNCIL: Thank you, Mr. President. I rise in strong support of LB274 and thank Senator Christensen for its introduction. One of the difficulties that we encounter

Floor Debate
April 16, 2009

particularly in District 11 is the fact that we have offenders reentering without employment opportunities, without necessary skills to make that transition from incarceration back into the community. And anything that will assist offender reentry into our communities this body should support. And the Work Ethic Camp has demonstrated that it can provide those transitional opportunities for our offenders. I think the Legislature in the immediate future needs to look at the expansion of Work Ethic Camp opportunities. Its capacity is currently limited. I think there are significant numbers of the incarcerated population who would be eligible for the programs and opportunities through the Work Ethic Camp. And as a member of the Community Corrections Council, I strongly urge the passage of LB274. [LB274]

SENATOR LANGEMEIER: Thank you, Senator Council. Senator Ashford, you're recognized. [LB274]

SENATOR ASHFORD: Yes, thank you, and I know we're on consent and I will make this very brief. But I, too, want to stand and applaud Senator Christensen for bringing this bill. As we think about how we're going to address the issue of youth violence, we need to think about first of all, how to separate young people from violent acts. But then the second level of discussion is where do they go? And this is a tremendous idea, it works. What I would like to see now is we take this very basic good idea and expand it exponentially. There are several thousand young people in our state who need to be given an opportunity and a chance to succeed and be employed. And this idea of Senator Christensen's is a key element to that. It's the kind of work where there are immediate positions open. We need to...and work hard at finding those fits. And I applaud Senator Christensen, again, for his efforts and I appreciate Senator Council's comments and Senator Carlson who always gets up and makes the same point. And it's getting...and hopefully it gets across to all of us. This needs to be a very top priority. It is so expensive to pay for failure in the area of youth violence. It is the most expensive part of our budget. It keeps going up and up and up and up. So with that, I also urge the advancement of LB274. Thank you. [LB274]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Pirsch, you're recognized. [LB274]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just wanted to perhaps give a little more detail. I think...well, first of all, I'd like to say I do rise in support of Senator Christensen's bill. I think it is a good bill, and it is a concept that I think we need to be looking at, at all times. Incarceration of offenders is something that is a big expense to the state. And in recognizing a steep growth in incarceration, in 2003 this body passed...created a Community Corrections Council of which Senator Council and I have been appointed to. And it's a 20-member board. Former Speaker Kermit Brashear does...currently chairs that board. And the focus of that Community Corrections Council is exactly concepts along this line that if we have jail overcrowding, what happens is one

Floor Debate
April 16, 2009

of two things. The courts will get involved and they will order...they will decide which prisoners, which could include, you know, ones that we would normally think of as very scary prisoners, to be released. And so it'd be the courts in charge of deciding which prisoners are released from jail as opposed to this body. And the second thing is they could order the state to build new prisons, and that would be, you know, on the order of hundreds of millions of dollars. And so, you know, we are approximately 138 percent of maximum capacity, so we have to at all times look at dividing those who are incarcerated into one of two groups. Those who we are mad at because they just haven't done the right thing. We're not necessarily scared of them, but we are mad at them because we have certain rules and they didn't follow our rules. And for those nonviolent offenders, we need to...who will make the decision that they will voluntarily do the things that need to be done, take the steps that need to be stepped to correct those problems in their life and are...I think those are the population that we need to look at for alternatives because it costs about \$28,000 to \$32,000 for the taxpayer to house a prisoner per year. And so for people who are just doing things that we're mad at them for, if we can do...if we can have them correct their actions in a cost-effective basis for the taxpayer, then that's the path that we should take. Now, of course there are other incarcerated individuals who are there because we fear them as a society, they've done horrific things. And those individuals we ought not use this community corrections for. And the problem is we always want to make sure that there's enough space for those people in jail who we do fear who are incorrigible. And so to make sure that that does happen we have to have these community corrections programs. And so I think you're going to see...you know, I've very excited about my membership on the Community Corrections Council. I know Senator Council is as well. And over the next, you know, months and years, we're going to be coming forward I'm sure with additional proposals and bill ideas to make sure that... [LB274]

SENATOR LANGEMEIER: One minute. [LB274]

SENATOR PIRSCH: ...that we are...that we always have enough room, that we're not clogging our jails with people who we could remedy on a more cost-effective basis, and that we always have enough space for those individuals who really are a menace to society. Thank you. [LB274]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Nordquist. [LB274]

SENATOR NORDQUIST: Thank you, Mr. President. I agree that the Work Ethic Camp has a great direction and provides a lot to our society. You know, I'm just a little concerned about efficiency in government and making sure we're making the most out of it. My predecessor John Synowiecki in '07 passed a bill that allowed people on probation to go to a Work Ethic Camp. I just want to ask a quick question of Senator Christensen if he'd yield. [LB274]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Senator Christensen, would you yield? [LB274]

SENATOR CHRISTENSEN: Yes. [LB274]

SENATOR NORDQUIST: Do you have any numbers on the current utilization capacity and the number of individuals that are out there? [LB274]

SENATOR CHRISTENSEN: I don't know if I got the numbers up here with me. I know they're about 110 percent full, and they have made accommodations to go larger. But I didn't bring that with me. I apologize. [LB274]

SENATOR NORDQUIST: Okay. Thank you. Thank you, Senator Christensen. I know in the past there had been some underutilization. That's why Senator Synowiecki introduced and got the bill enacted two years ago. So I hope we continue to make the most out of that facility in McCook. If there's enough time, I'd like to yield just to Senator Langemeier or Lautenbaugh the rest of my time. [LB274]

SENATOR LANGEMEIER: Senator Lautenbaugh, 3:48. [LB274]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I rise in support of Senator Christensen's bill because that's what I do. I welcome the rest of you. Thank you. [LB274]

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. Senator Lautenbaugh, your light is on. He waives that time. Seeing no other lights on, Senator Christensen, you're recognized to close on LB274. [LB274]

SENATOR CHRISTENSEN: Waive. [LB274]

SENATOR LANGEMEIER: Senator Christensen waives his time. The question before the body is, shall LB274 advance to E&R for initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB274]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB274. [LB274]

SENATOR LANGEMEIER: LB274 does advance. (Visitors introduced.) Returning to items on the agenda. LB339, Mr. Clerk. [LB274 LB339]

CLERK: LB339 by Senator Friend, relates to cities and villages. (Read title.) The bill was introduced on January 15, referred to the Urban Affairs Committee, advanced to General File. There are committee amendments, Mr. President. (AM197, Legislative Journal page 544.) [LB339]

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Friend, you are recognized to open on LB339. [LB339]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Isn't it appropriate that I am able to take the microphone after the lovefest that we just went through (laughter). The Love Boat. I feel like I'm on the...that was my favorite show. (Laughter) The swiftness and alacrity with which we are moving right now is quite refreshing, I have to tell you. Consent calendar is Latin for let's get out of here and go have lunch. Members, LB339 is a serious bill. It's pretty easy. The bill deals with community development authorities under the community development law proposing to authorize the appointment of alternate members. That's what the original bill does. It is applicable to community development authorities in cities of all classes of city and villages. The legislation proposes to amend Section 18-2102.01, a portion of the community development law which governs the exercise of tax increment finance authority to allow for the appointment of an alternate member to a Community Redevelopment Authority or a CRA. The alternate would act as a member of the CRA with full power and authority when acting in the absence of a regularly appointed CRA member. As provided in the community development law, CRA is composed of five members. Current law 18-2102.01(3) found at page 6 in line 6 of the bill requires the presence of four members to constitute a quorum for meetings, and the approval of three members is required before formal action can be taken or approved. If more than one members is absent, the CRA cannot act because of lack of a quorum. That's the problem, even if all members were in approval of the item. LB339 proposed to address the issue by allowing the city or the village to appoint an alternate member to the CRA. The alternate member may attend a meeting and may serve as a voting and participating member of the authority at any time when less than the full number of authorized members is present and capable of voting. This would allow for a quorum to be reached and business to be conducted if any single member was absent from the meeting. Although, the requirement for three positive votes to take action would remain in affect. That was the original bill. We have actually changed it with the committee amendment that will be upcoming. Mr. President, that's all that I have at this moment. Thank you. [LB339]

SENATOR LANGEMEIER: Thank you, Senator Friend. As the Clerk has stated, there are committee amendments offered to LB339 by the Urban Affairs Committee. Senator Friend, as Chair of the committee, you're recognized to open on the committee amendments. [LB339]

SENATOR FRIEND: Thank you, Mr. President. Again, members of the Legislature, the committee amendments seek to address the same problem, but we took a different method. It was my bill. You'd think I could have figured this out before we went into committee, but my committee is quite wise and they said, there's a better way to do this. Current law specifies that the CRA must have five members. The committee

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

Floor Debate
April 16, 2009

amendment would allow for the appointment of five or seven full members to a Community Redevelopment Authority. The amendments provides for the staggering of terms for a seven-member CRA with initial appointments of one member each for one, two or five years, and two members each for three and four years. So we're giving them some flexibility here. The appointments would be made in the same manner as for a five-member CRA. Further, the amendment removes the current quorum requirement of four members and removes the provision which permits action by a majority of the members present at a meeting. The amendments replace these provisions with the requirements that official action can only be taken by the concurrence of three members of a five-member authority or four members of a seven-member authority. For example, a majority of the appointed members of those present and voting at a meeting of the authority. They're working on tax-increment financing. It's important to them. They've run into issues, our cities have run into issues with these things in the past. With that, if there are any questions, I would be happy to answer them. I would ask for the adoption of AM197 and the advancement of LB339. Thank you, Mr. President. [LB339]

SENATOR LANGEMEIER: Thank you, Senator Friend. You have heard the opening on the committee amendments offered to LB339. The floor is now open for discussion. Senator Carlson, you're recognized. [LB339]

SENATOR CARLSON: Mr. President and members of the Legislature, LB339 and AM197 is the worst bill that I've seen introduced in the last five minutes. (Laughter) We're going to be on this bill a long time. I have an amendment I'm thinking about introducing. I'm so upset with this bill I'd bring Senator Friend to the microphone, but things might get away. I really don't want to do that. And I'm at a loss for words right now because of this bill. And therefore I guess about all I have to say about it is I do support LB339. Thank you, Mr. President. [LB339]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Seeing no other lights on, Senator Friend, you're recognized to close on AM197. [LB339]

SENATOR FRIEND: Speechless? (Laughter) I think not. Senator Carlson is so funny. That's going to be sine die material. Mr. President, I'm going to seek out that tape. I'm going to make sure that he's part of sine die in a big part, and I'm going to control that. Now I'm speechless. I would ask for the adoption of the amendments and the advancement of the bill. Thank you, Mr. President. [LB339]

SENATOR LANGEMEIER: Thank you, Senator Friend. You have heard the motion to adopt AM197 to LB339. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB339]

CLERK: 40 reluctant ayes, 0 nays, Mr. President, (laughter) on the adoption of committee amendments. [LB339]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: AM197 is adopted. We return now to discussion on LB339, the bill itself. Seeing no lights on, Senator Friend, you're recognized to close. [LB339]

SENATOR FRIEND: You're not doing this behind my back (laughter). I'm standing right here. Thank you, Mr. President. [LB339]

SENATOR LANGEMEIER: Senator Friend waives closing. All those in favor of LB339 advancing to E&R for initial all vote yea; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB339]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB339. [LB339]

SENATOR LANGEMEIER: LB339 does advance. Mr. Clerk, next item. [LB339]

CLERK: LB412 by Senator Giese. (Read title.) Introduced on January 16, referred to Urban Affairs, advanced to General File. I do have committee amendments, Mr. President. (AM134, Legislative Journal page 547.) [LB412]

SENATOR LANGEMEIER: Thank you. Senator Giese, you're recognized to open on LB412. [LB412]

SENATOR GIESE: Thank you, Mr. President and members of the body. Continuing on with the lovefest minus the rendition of the love boat. I rise in support today of LB412 which is a clean-up bill intended to eliminate confusion between deadlines for sanitary improvement district elections and other type of mail elections. Under current law, the deadline for SID elections is 10:00 a.m. on the first Thursday following the election which could inadvertently place motors at the mercy of the postal service. Setting the deadline at 5:00 p.m. should ensure that ballots would not be affected by mail delivery. Simply put, uniformity of SID elections with other mail special elections make sense. Our county officials are already burdened with keeping track of a wide variety of election deadlines and other election related provisions. Setting the deadline for receipt of ballots in SID elections to mirror other mail-in elections should hopefully make things easier for county officials. And I would urge the body to advance LB412 to Select File. [LB412]

SENATOR LANGEMEIER: Thank you, Senator Giese. As the Clerk has stated, there are committee amendments offered by the Urban Affairs Committee. Senator Friend, as Chair of the committee, you are recognized to open on AM134. [LB412]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. This is a horrible bill, but this amendment makes it palatable. That was a joke. This is a good bill. This amendment was probably necessary. Members of the Legislature,

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

Floor Debate
April 16, 2009

LB412...since SID elections do not occur on the same day as general elections normally or ever I don't think, the language of the bill raised some questions simply because references made to the general election statutes which do not govern SID elections. This proposal as written would also require election offices to remain open significantly past the end of business day at the time when mail deliveries generally occur, thus increasing the cost of SID elections by requiring the election staff to incur overtime. The committee amendment would resolve those concerns by establishing that the ballots must be returned no later than 5:00 p.m. on the date set for that election. There's also consistency related to that. I would ask for the adoption of the committee amendments and the advancement of LB412. Thank you, Mr. President. [LB412]

SENATOR LANGEMEIER: Thank you, Senator Friend. You have heard the opening on the committee amendments offered to LB412. The floor is now open for discussion. Seeing no lights on, Senator Friend, you're recognized to close. Senator Friend waives closing. The question is, shall AM134 be adopted to LB412? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB412]

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB412]

SENATOR LANGEMEIER: The committee amendments are adopted. We return now to discussion on LB412, the bill itself. Seeing no lights on, Senator Giese, you're recognized to close. Senator Giese waives closing. The question before the body is, shall LB412 advance to E&R for initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB412]

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill. [LB412]

SENATOR LANGEMEIER: LB412 does advance. (Visitors introduced.) Returning now to the agenda, Mr. Clerk, LB27. [LB412 LB27]

ASSISTANT CLERK: Mr. President, LB27 introduced by Senator Pahls. (Read title.) The bill was read for the first time on January 8 of this year, referred to the Committee on Health and Human Services. That committee reports the bill to General File with committee amendments. (AM321, Legislative Journal page 550.) [LB27]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Pahls, you are recognized to open on LB27. [LB27]

SENATOR PAHLS: Thank you, Mr. President and members of the body. The Legislature passed LB482 in 2007. LB482 created an Autism Treatment Program at the Munroe-Meyer Institute at UNMC. That program is an intensive early intervention model

Floor Debate
April 16, 2009

designed to treat autistic children under the age of nine. It requires a cost-sharing by the recipient families, and the number of children served is limited because of available funding. The program created in LB482 is not supported by General Funds. It is supported through a unique combination of private funds and an appropriation from the health care fund. LB482 appropriated \$1 million from the Health Care Cash Fund each year for five years contingent upon \$500,000 of private funds donated each year for five years. The Sunshine Foundation has volunteered to lead the efforts to raise the private funds. LB482 has not been implemented yet. The entire program is on hold because of two issues: (1) approval of Medicaid waivers have been delayed and they are still not approved at the federal level because of the unique administration of the program by HHS and UNMC. This bill cannot be implemented without a Medicaid waiver. (2) HHS and UNMC have not been able to come to a workable agreement on various administrative issues not adequately addressed in LB482. The HHS Committee amendments to LB27 clarifies these issues. The Medicaid waiver will be more standard and swift approval is more certain. HHS and UNMC have agreed to the administrative positions in the committee amendments. The Medicaid portion will be administered by the HHS and the services will be administered by UNMC. With the passage of LB27, the program should begin operating by the end of 2009, hopefully sooner. The original five-year funding stream will begin this year. Thank you. [LB27]

SENATOR LANGEMEIER: Thank you, Senator Pahls. As the Clerk has stated, there are committee amendments offered by the Health and Human Services Committee. Senator Gay, as Chairman, you're recognized to open on the committee amendments to LB27. [LB27]

SENATOR GAY: Thank you, Mr. President, The committee amendment moves provisions of the Autism Treatment Program Act from chapter 85 to the Medical Assistance Act where this more appropriately belongs. It limits the purpose of the Autism Treatment Program Act to the development and administration of a Medicaid waiver and deletes references to administration of the Autism Treatment Program by the Center for Autism Spectrum Disorders at the University of Nebraska Medical Center. It provides for administration of the autism treatment program by the Department of Health and Human Services, provides for administration of the Autism Treatment Program Cash Fund by the department, and requires that the fund be used as the state's matching share for the Medicaid waiver and for expenses incurred in the administration of the program. It also clarifies that the Autism Treatment Program will use private funds deposited into the fund and funds transferred by the Legislature from the Nebraska Health Care Cash Fund to the fund. Transfers from the Nebraska Health Care Cash Fund in any fiscal year will be contingent upon the receipt of private matching funds for the program with no less than \$1 of private funds received for every \$2 transferred from the Nebraska Health Care Cash Fund. The amendment prohibits the deposits of donations from a Medicaid provider into the fund. It delays the date for submission of the Medicaid waiver for the provision of autism treatment under the act

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

Floor Debate
April 16, 2009

from July 1, 2008 to September 1, 2009 because it changes the LB27 required the submission of a new waiver application under this act. It also changes provisions relating to transfer from Nebraska Health Care Cash Fund to the Autism Treatment Program Cash Fund. The amendment provides that the transfer of \$1 million annually from the Nebraska Health Care Cash Fund to the Autism Treatment Program Cash Fund will begin on a date to be determined by the department, but no later than 90 days after the Medicaid waiver has been approved. And it also contains the emergency clause. Thank you, Mr. President. [LB27]

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on the committee amendments offered to LB27. The floor is now open for discussion. Seeing no lights on, Senator Gay, you're recognized to close on the committee amendments. Senator Gay waives closing. The question before the body is, shall AM321 be adopted to LB27? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB27]

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of committee amendments. [LB27]

SENATOR LANGEMEIER: The committee amendments are adopted. We return now to floor discussion on LB27, the bill itself. Seeing no lights on, Senator Pahls, you're recognized to close. [LB27]

SENATOR PAHLS: Thank you. My statement will be short and to the point. It is time to get this program started. Thank you. [LB27]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Thank you, Senator Pahls. Members, you've heard the closing. The question before the body is, shall LB27 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB27]

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB27]

SPEAKER FLOOD: LB27 advances to E&R Initial. Mr. Clerk, we now proceed to LB175. [LB27 LB175]

CLERK: LB175 introduced by Senator Lathrop. (Read title.) The bill was read for the first time on January 12, referred to the Transportation and Telecommunications Committee. The bill was placed on General File with no committee amendments. [LB175]

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

Floor Debate
April 16, 2009

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Lathrop, you're recognized to open on LB175. [LB175]

SENATOR LATHROP: Thank you, Mr. President. I'd begin my opening on LB175 by thanking the Transportation Committee for their courtesies with respect to this very simple measure. LB175 removes the requirement that a registration refund be reduced for a lost license plate charge when a vehicle has been reported stolen. It is a very simple thought. Right now if you have your car stolen and you go in to reregister a new car, they nick you for not bringing in your old license plates. This is just a fairness issue brought to my attention by a constituent in the 12th District. It has been the subject of a unanimous vote in the Transportation Committee, and I'd encourage you to vote green on LB175. Thank you. [LB175]

SPEAKER FLOOD: Thank you, Senator Lathrop. Senator Hansen, you're recognized. [LB175]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. If Senator Lathrop would yield for a moment? [LB175]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Lathrop (sic)? [LB175]

SENATOR LATHROP: From Hansen. Yes. [LB175]

SPEAKER FLOOD: Senator Hansen. (Laughter) [LB175]

SENATOR HANSEN: Thank you, Mr. President for being sharp. Senator Lathrop, the one-liner says, for a lost license plate, and that was my concern. And I was interested in that because when I was younger and working on the ranch and being out in the range and being strange, we would occasionally lose license plates and we'd go into the county courthouse and say: I lost a license plate, what do I do? They'd issue two new license plates at the full charge. I understand what the bill says. If you have a car that's stolen, you get credit for the license plate. I don't think that's the case if you lose a front license plate. My point being, and you can react to this question or statement, is that in agriculture we're required to have two plates on our vehicles. The front plate catches heck. Corn stalks, yucca plants, trail roads, all kinds of things knock those license plates off. Would that be considered a lost plate? [LB175]

SENATOR LATHROP: There is a fee for a lost plate and you're going to pay it if you lose it out on the range being strange. The problem is if you get your car stolen and you lose your plate along with your car at the hands of a thief, all this bill does is say, if your car has been stolen you don't have to pay that fee. After you hit your yucca plant out on the range and lose your license plate, you're still going to have to pay that. And that, of

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

Floor Debate
April 16, 2009

course, would have to be taken up with Senator Fischer next year if you want to amend that. [LB175]

SENATOR HANSEN: All right. That's what I wanted to hear. Thank you. [LB175]

SPEAKER FLOOD: Thank you, Senator Hansen. Senator Pirsch, you're recognized. [LB175]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. If Senator Lathrop would yield to a question. [LB175]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Pirsch? [LB175]

SENATOR LATHROP: Yes. [LB175]

SENATOR PIRSCH: What is the triggering event that indicates to the Department of Motor Vehicles when a license plate is lost as its meant in the bill? I'm sorry, not lost, I mean stolen. What has to be demonstrated to the Department of Motor Vehicles so that they adequately can go about waiving the fee? [LB175]

SENATOR LATHROP: I think it's when the vehicle or the trailer has been reported as stolen. [LB175]

SENATOR PIRSCH: So it has to be a...they have to demonstrate a report to a law enforcement agency, is that correct, have a report number, so to speak? [LB175]

SENATOR LATHROP: I assume that report of this stolen involves some communication with law enforcement that you park your car someplace and it isn't there when you went back but it was stolen. [LB175]

SENATOR PIRSCH: Okay. Right. Well, is it more than just the car stolen? It also applies to incidents where license...a common practice I can tell you is as a prosecutor when I don't want to go pay for license plates replace is just taking license plates off different vehicles. So would that also...if my car had its license plates taken from the vehicle, is that another incidence? [LB175]

SENATOR LATHROP: No. I appreciate the question and there's a distinction. If your license plates are stolen off your car, this bill does not address that. If your whole car or your whole trailer is stolen along with your license plates, this measure would apply. [LB175]

SENATOR PIRSCH: Okay. Well, that answers my question. Thank you, Mr. President.

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

Floor Debate
April 16, 2009

[LB175]

SPEAKER FLOOD: Thank you, Senator Pirsch. There are no other lights on. Senator Lathrop, you're recognized to close. Senator Lathrop waives his opportunity to close. The question before the body is, shall LB175 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB175]

ASSISTANT CLERK: 36 ayes, 0 nays to advance the bill, Mr. President. [LB175]

SPEAKER FLOOD: LB175 advances to E&R Initial. (Visitors introduced.) Mr. Clerk, we now proceed to LB129. [LB175 LB129]

ASSISTANT CLERK: Mr. President, LB129 introduced by Senator Dubas. (Read title.) The bill was read for the first time on January 9 of this year, referred to the Transportation and Telecommunications Committee, placed on General File with committee amendments attached. (AM485, Legislative Journal page 566.) [LB129]

SPEAKER FLOOD: Senator Dubas, you're recognized to open on LB129. [LB129]

SENATOR DUBAS: Thank you very much, Mr. Speaker, members of the body. The content of LB129 was brought to my attention by county treasurers in my district. This legislation gives the county treasurer the ability to cancel or refuse to issue a motor vehicle registration if that registration is not paid for with sufficient funding. The legislation allows the county treasurer to charge a \$25 fee for pursuing this matter as well. It allows for a process in which after seven days the county treasurer may pursue the insufficient funding matter by sending notice to the purchaser of the registration. The purchaser is then given ten days to return to the county treasurer to either pay the registration with appropriate financing, and if that does not occur, then the purchaser is then required to return the plates and the registration to the treasurer. If they do not, the county sheriff is then given the authority to recover both the registration and the plates. I worked very closely with the Department of Motor Vehicles, county treasurers, and the Nebraska Association of County Officials, as well as the Transportation Committee members on this bill. I truly do appreciate their time and effort in making this a tight bill. We will address some minor matters through a committee amendment. But an informal poll that was kind of taken by some of the county supervisors as to how many dollars had been lost over the course of time, and we're talking upwards of \$500,000 that have been lost to counties. And I don't think this takes into account some of the larger counties like Lancaster and Douglas. This is just out in the more rural areas of the state. It is a problem and it's one that I hope we will be able to remedy with this legislation. Thank you. [LB129]

SPEAKER FLOOD: Mr. Clerk. [LB129]

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

Floor Debate
April 16, 2009

ASSISTANT CLERK: Mr. President, there are committee amendments from the Transportation Committee. [LB129]

SPEAKER FLOOD: Senator Fischer, you're recognized to open on AM485. [LB129]

SENATOR FISCHER: Thank you, Mr. President and members of the body. The committee amendment, AM485, makes two changes to the bill. One change is to have the option for a county treasurer to mail notice of the cancelled registration by first-class mail. The counties asked for this change because sending mail by first-class is much cheaper than registered or certified postage. The other change made by the committee amendment is to make it discretionary for the county sheriff to recover the registration and license plates from the person whose registration has been cancelled. The committee believed the sheriffs have too many duties as it is and adding another was not really feasible. The amendment replaces the word "shall" with "may" on page 3 line 14 of the green copy to accomplish this change. Thank you, Mr. President. [LB129]

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the opening on AM485. There are no members wishing to speak. Senator Fischer, you're recognized to close. Senator Fischer waives her opportunity. The question before the body is, shall AM485 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB129]

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of the amendment. [LB129]

SPEAKER FLOOD: AM485 is adopted. We now proceed to discussion on LB129. There are no lights on. Senator Dubas, you're recognized to close. Senator Dubas waives her opportunity. The question before the body is, shall LB129 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB129]

ASSISTANT CLERK: 32 ayes, 0 nays on the advancement of the bill. [LB129]

SPEAKER FLOOD: LB129 advances to E&R Initial. Mr. Clerk, LB208. [LB129 LB208]

ASSISTANT CLERK: Mr. President, LB208 introduced by Senator Lautenbaugh. (Read title.) The bill was read for the first time on January 13, referred to the Judiciary Committee, placed on General File with no committee amendments. [LB208]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on LB208. [LB208]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. LB208 is an unusual bill in that I believe it was brought to me by the chamber, but I believe it's proceeding with the support of all sides, if you will, in that area. What LB208

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

Floor Debate
April 16, 2009

does is it makes it a criminal offense to knowingly and with intent to deceive misclassify your employees for the purpose of lowering your workers' compensation premiums. What this is meant to address, and I don't want to pick on the roofing industry, but say if you had a roofing company and you tried to classify all your workers as clerical, you get a much lower workers' compensation rate. That means you can underbid your competition. This is meant to create a level playing field by saying if you do this with the intent to deceive, with the intent to deceive and lower your premiums, that is a crime. I would ask your support. I think it's an important piece of legislation, and I'd be happy to take any questions. [LB208]

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. You've heard the opening. Senator Lathrop, you're recognized. [LB208]

SENATOR LATHROP: Thank you, Mr. President. I just wanted to add my 2 cents worth. I think this bill is important for the workers' compensation insurance industry. It's imperative that employers be honest when they classify their employees so that they can be charged a fair and proper premium based upon the risk they're assuming. That's what Senator Lautenbaugh's bill does, and I would encourage your support. Thank you. [LB208]

SPEAKER FLOOD: Thank you, Senator Lathrop. Senator Pankonin, you're recognized. [LB208]

SENATOR PANKONIN: Thank you, Mr. President. I just want to add to the discussion a little bit about when this bill was first talked about, I had just had my insurance audited as a farm equipment dealer small business person, and this classification of employees...let me give you an example that I think is pertinent to the bill. I have folks that are technicians, and naturally the rate is higher on folks that work on equipment than it is on clerical people. Sales people are at a lower rate, but sometimes that sales person delivers a piece of equipment, may have to put a wrench on that piece of equipment to adjust it, get it operating in the field. So I made that very clear with my insurance auditor how things really work and to make sure that I was properly classifying folks for the rates received. And at the time he told me, he talked about primary duty, what the intent of the job is. Most of the time sales people are in an office working on a computer or maybe driving in the countryside, but occasionally they do work on equipment. So I was satisfied that I had...the intent was correct. And from checking with the insurance industry and Senator Lautenbaugh, I think that is what his bill is about. If employers make a good-faith effort to properly classify their employees, they should feel protected. But if there is fraud in that there is blatant misclassification, this allows that to be corrected as well. So with that, I think this is a fair proposal. Thank you. [LB208]

SPEAKER FLOOD: Thank you, Senator Pankonin. There are no other lights on.

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

Floor Debate
April 16, 2009

Senator Lautenbaugh, you're recognized to close. [LB208]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I would just urge you to vote for this. I believe it's an important piece of legislation. It does level the playing field. I'm all for businesses lowering their costs, but they should not do it in a dishonest way to the disadvantage of their competitors. And I'd urge you to vote green. [LB208]

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. Members, you've heard the closing. All those in favor of advancing LB208 to E&R Initial vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB208]

ASSISTANT CLERK: 30 ayes, 0 nays on the advancement of the bill. [LB208]

SPEAKER FLOOD: LB208 advances to E&R Initial. (Visitors introduced.) Mr. Clerk, we now proceed to LB94. [LB208 LB94]

ASSISTANT CLERK: Mr. President, LB94 was introduced by Senator Howard. (Read title.) The bill was read for the first time on January 8 of this year, referred to the Revenue Committee. That committee reports the bill General File with committee amendments. (AM555, Legislative Journal page 628.) [LB94]

SPEAKER FLOOD: Senator Howard, you're recognized to open on LB94. [LB94]

SENATOR HOWARD: Thank you, Mr. President and members of the body. The purpose of LB94 is to provide some flexibility in dealing with applications for homestead exemption. Current statute provides that it shall be the duty...that's in quotes, it shall be the duty of each homeowner seeking the homestead exemption to file his or her application on or before June 30. If a county board of equalization wishes, they currently have the authority to extend that deadline to July 20. But beyond that date, there is no mechanism for illegally accepting homestead applications no matter how deserving the applicant. LB94 would enable a homestead application to be filed after the statutory deadline when the applicant has a medical condition that impaired the applicant's ability to file the application in a timely manner. In other words, if the applicant has a medical condition that might have impaired his or her ability to file within the time deadlines provided under the current law, he or she would still file the application and have it accepted. This bill is the result of discussions with the Douglas County Assessor's Office. Their office processes in the neighborhood of 14,000 homestead applications every year. They also deal with late filed applications and receive phone calls from potential applicants or their families who have not filed the application on time. Although they haven't kept statistics regarding the number of calls they receive regarding the late applicants, many of those who have not met the filing deadline have had, during the time frame in which the applications may be filed, a medical condition that has hampered the ability to file the application on time. It may be the applicant was

Floor Debate
April 16, 2009

hospitalized for a time or possibly it is a condition that has disrupted the applicant's ability to manage their own affairs as well as they have in the past. What happens in these situations is that the homestead application gets put aside while everyone focuses on the person's medical condition, and by the time the applicant or a relative comes across the application, it's too late to file on time. Sometimes it takes the tax statement in December to alert them that a disruption surrounding the applicants medical condition and no one filed the homestead application. This bill is an effort to ensure that such medical disruptions don't keep deserving homestead applicants from receiving the exemption. There is documentation required with a late application under this bill to verify the medical condition of the applicant. This bill will be helpful in addressing the healthcare realities that some homestead applicants face. And I ask your support for LB94. [LB94]

SPEAKER FLOOD: Thank you, Senator Howard. Members, you've heard the opening on LB94. There are Revenue Committee amendments. Senator Cornett, you're recognized to open on AM555. [LB94]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. AM555 expands upon the intent of LB94 to more clearly define the process envisioned for the taxpayer to late file a homestead exemption application due to a medical condition. As Senator Howard already explained, this bill goes a long way towards keeping someone in their home by affording them this opportunity. AM555 was crafted in conjunction with the county assessors in order to give them the tools necessary to make the extension available to qualified individuals. The amendment includes definition of a medical condition and includes language aimed at dealing with the kind of medical condition that would disrupt the life of a potential applicant in such a way as to impair their ability to file an application during the statutory mandated time frame of February 1 to June 30. It outlines the necessary documentation requiring that the application shall include a certificate of the taxpayer's condition from a physician, physician assistant or advanced practice registered nurse on the form described by the Department of Revenue. It specifies the application shall only be for the current year. Finally, the amendment provides that the county assessor shall deny the application only if he or she finds that it is not in conformity with the law, and that the county assessor must approve or reject the late filing within 30 days of it. A rejection is appealable to the county Board of Equalization. I ask you to vote to adopt AM555 and the underlying bill. Thank you. [LB94]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening to the committee amendment. Senator Pirsch, you're recognized. [LB94]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I would just urge support of this LB94. I would thank Senator Howard for bringing this forward. I can tell you in going door to door throughout my district, there were a number of individuals

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

Floor Debate
April 16, 2009

who were caught in this kind of predicament who wanted to do the right thing, but because of their medical condition could not. And so I think that this is a good loophole to close. And I thank Senator Howard for bringing this forward so that those who are medically unable to come forward and to meet this deadline for the homestead exemption can still have that addressed. Thank you. [LB94]

SPEAKER FLOOD: Thank you, Senator Pirsch. Senator Stuthman, you are recognized. [LB94]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I do support this, but I would like to ask Senator Howard a question. [LB94]

SPEAKER FLOOD: Senator Howard, will you yield to a question from Senator Stuthman? [LB94]

SENATOR HOWARD: Yes, I will. [LB94]

SENATOR STUTHMAN: Senator Howard, how many instances do you think this occurs as far as people that do not get a homestead exemption because of medical conditions? [LB94]

SENATOR HOWARD: Senator Stuthman, I can only give you the number of applications that are received annually which is in the neighborhood of 14,000. Unfortunately, the county assessors office doesn't keep the information on those people that are not able to access that. I've heard anecdotal stories from the assessor of families that come in when they receive that December notice and they're in tears because their senior relative is unable to complete that application at that time. But I can't give you any numbers on that. [LB94]

SENATOR STUTHMAN: Thank you, Senator Howard. But, Senator Howard, and I've just gone over this bill right now, but what is the time frame that you're giving them in this bill? [LB94]

SENATOR HOWARD: It's to the end of the year, it's to December. [LB94]

SENATOR STUTHMAN: Just until they December that they can. It's not 30 days after that filing day. So I do support this. I just am a little bit concerned about the fact that, you know, if we open this up for this group, which is the next group that's going to want that type of an exemption? So with that, but I do support this amendment and the bill. Thank you, Mr. President. [LB94]

SPEAKER FLOOD: Thank you, Senator Stuthman. There are no other lights on. Senator Cornett, you're recognized to close on the committee amendment AM555.

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

Floor Debate
April 16, 2009

Senator Cornett waives her opportunity. The question before the body is, shall AM555 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB94]

ASSISTANT CLERK: 33 ayes, 0 nays on adoption of committee amendments. [LB94]

SPEAKER FLOOD: AM555 is adopted. Returning to discussion on LB94. Seeing no lights on, Senator Howard, you're recognized to close. Senator Howard waives her opportunity. The question before the body is, shall LB94 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB94]

ASSISTANT CLERK: 35 ayes, 0 nays on the advancement of the bill, Mr. President. [LB94]

SPEAKER FLOOD: LB94 advances to E&R Initial. Mr. Clerk, we now proceed to LB389. [LB94 LB389]

ASSISTANT CLERK: LB389 was introduced by Senator Carlson. (Read title.) The bill was read for the first time on January 16 of this year, referred to the Committee on Agriculture. That committee reported the bill to General File with committee amendments attached. (AM355, Legislative Journal page 632.) [LB389]

SPEAKER FLOOD: Senator Carlson, you're recognized to open on LB389. [LB389]

SENATOR CARLSON: Mr. President, members of the Legislature, I've stood up and testified several times on the importance of legislative appointments and the important responsibility that committees have in carrying out this process. As introduced, LB389 would have removed the requirement of legislative confirmation of appointments to the Climate Assessment Response Committee. Secondly, it revises language that the Governor may appoint the chairs of the Ag Committee and the Natural Resources Committee making these ex officio nonvoting members. The committee amendments will modify the bill to retain legislative confirmation in most cases, and I'll talk about that further in my open on the committee amendment. Nebraska's Climate Assessment and Response Committee was established in 1991. The duties are set forth as follows: Provide timely and systematic data collection, analysis, and dissemination regarding drought and other severe weather occurrences; advise the Governor relevant to requests for federal disaster declarations and use of disaster assistance available to the state; establish criteria for startup and termination of assessment and response activities; provide a form for coordinating disaster response; maintain inventory of state and federal disaster resources and responsibilities; recommend methods of improving data collection and drought monitoring; coordinate assessment of vulnerabilities to extreme climate events. The Climate Assessment Response Committee is not a regulatory entity, does not deliver governmental services nor collect or expend any fees

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

Floor Debate
April 16, 2009

or charges. Its role is primarily one of climate weather monitoring and data collection and dissemination to inform response by other entities to adverse weather events. It also functions as a planning forum to coordinate response protocols to climatic events. With that, I'll conclude the opening on the bill and talk further on the opening of the committee amendment. Thank you. [LB389]

SPEAKER FLOOD: Thank you, Senator Carlson. Members, you've heard the opening to LB389. Senator Carlson, you're recognized on AM355, committee amendments to LB389. [LB389]

SENATOR CARLSON: Thank you, Mr. President and members. The committee amendment would only remove the requirement of legislative confirmation for the directors or their designees of the Departments of Agriculture, Health and Human Services, and Natural Resources. These are declared ex officio appointments and, thus, they assume duties associated with the Climate Assessment Response Committee as a function of their office. Additionally, the amendment would no longer require legislative confirmation of a member of the Governor's policy research staff that the Governor may ask to serve on the committee. This is the Governor's personal representative. The adoption of the committee amendment would retain legislative confirmation for all other appointments to the committee, including the representative of the Nebraska Emergency Management Agency, the Conservation and Survey Division, and the Cooperative Extension Service, and agricultural producers. The committee wished to retain our oversight of these appointments. The committee amendment retains provision of the original bill that the Chair of the Ag Committee and Natural Resources Committee shall be ex officio nonvoting appointments. I would ask for the adoption of the committee amendment and advancement of LB389. Thank you, Mr. President. [LB389]

SPEAKER FLOOD: Thank you, Senator Carlson. Members, you've heard the opening on AM355. Senator Friend, you're recognized. [LB389]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I've been told or I've always taken the adage that I try not fall in love with something that can't love you back. Well, I stand corrected. I love this amendment and I love this bill. Thank you, Senator Carlson. Thank you, Mr. President. [LB389]

SPEAKER FLOOD: Thank you, Senator Friend. There are no other members wishing to speak. Senator Carlson, you are recognized to close on AM355. Senator Carlson waives his opportunity. The question before the body is, shall AM355 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB389]

ASSISTANT CLERK: 35 ayes, 0 nays to adopt the committee amendments. [LB389]

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

Floor Debate
April 16, 2009

SPEAKER FLOOD: AM355 is adopted. Proceeding now to LB389. There are no members wishing to speak. Senator Carlson, you're recognized to close. Senator Carlson waives his opportunity. The question before the body is, shall LB389 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB389]

ASSISTANT CLERK: 37 ayes, 0 nays to advance the bill, Mr. President. [LB389]

SPEAKER FLOOD: LB389 advance to E&R Initial. Mr. Clerk, we now move to LB209. [LB389 LB209]

ASSISTANT CLERK: LB209 was introduced by Senator Langemeier. (Read title.) The bill was read for the first time on January 13, referred to the Committee on Natural Resources. That committee placed the bill on General File with no committee amendments. [LB209]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Langemeier, you're recognized to open on LB209. [LB209]

SENATOR LANGEMEIER: Mr. President, members of the body, thank you. I introduced LB209 on behalf of the Nebraska Association of Resource Districts. LB209 extends the time frame from 6 months to 12 months in which a dam construction project has to commence after receiving Department of Natural Resources approval. That's all it does is extends it from 6 to 12 months. We had a situation where projects are getting approved in late fall of the year. Six months goes by through the winter months. We can't get the project started due to frost and other issues, so we're asking that we have 12 months to get those projects started so we can get back to a climate and a temperature that would allow for the progress to begin. With that, I'd ask for your adoption of LB209. [LB209]

SPEAKER FLOOD: Thank you, Senator Langemeier. Members, you've heard the opening to LB209. Senator Janssen, you're recognized. [LB209]

SENATOR JANSSEN: Thank you, Mr. President, members of the Legislature. Would Senator Langemeier yield to a question? [LB209]

SPEAKER FLOOD: Senator Langemeier, will you yield to a question from Senator Janssen? [LB209]

SENATOR LANGEMEIER: Yes. [LB209]

SENATOR JANSSEN: I kind of missed that in your opening, Senator Langemeier. How long did you say we had...does it change the dam projects from? Is it 6 to 12 months?

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

Floor Debate
April 16, 2009

[LB209]

SENATOR LANGEMEIER: It changes the start time from 6 months to 12 months.
[LB209]

SENATOR JANSSEN: Thank you. [LB209]

SPEAKER FLOOD: You may be seated Senator Janssen. There are no other lights on. Senator Langemeier, you're recognized to close. Senator Langemeier waives his opportunity. The question before the body is, shall LB209 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB209]

ASSISTANT CLERK: 36 ayes, 0 nays to advance the bill, Mr. President. [LB209]

SPEAKER FLOOD: LB209 advances to E&R Initial. Mr. Clerk, we now proceed to LB422. [LB209 LB422]

ASSISTANT CLERK: LB422, Mr. President, was introduced by Senator Cornett. (Read title.) The bill was read for the first time on January 20, referred to the Committee on Government, Military and Veterans Affairs. That committee placed the bill on General File with committee amendments. (AM327, Legislative Journal page 652.) [LB422]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB422. [LB422]

SENATOR CORNETT: Thank you, Mr. Speaker, members of the body. LB422 is simply a modification of Section 80-401.01 of Nebraska state law which defines a veteran for the purpose of certain benefits. It is important first to note that it's indicated on the fiscal note and from information from both the Department of Revenue and the Department of Veterans Affairs that the service men and women fighting in our Global War on Terror, which I am addressing in this bill, already fall under the current definition of veteran in 80-401.01 as a veteran of the Persian Gulf War. However, I feel it is appropriate for the Legislature to keep current terminology in this section. This is the entire purpose of the bill to keep the definitions found in this section as up-to-date as possible with appropriate terms. The green copy of the bill narrowly defines a veteran of the Global War on Terror as a person who has served in the armed forces since September 14, 2001 within the borders of present-day Iraq and Afghanistan as this is the most visible front on the war on terror. However, it is clearly that every service person in today's military may contribute in some way to the broad mission on the Global War on Terror regardless of their physical deployment. This is why I requested that the Government Committee amend the bill to expand the definition. I am thankful to Chairman Avery and the committee for offering an amendment and I support it in full. Thank you very much.
[LB422]

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

Floor Debate
April 16, 2009

SPEAKER FLOOD: Thank you, Senator Cornett. There is a committee amendment found at AM327. Senator Avery, you're recognized to open on. [LB422]

SENATOR AVERY: Thank you, Mr. President. The committee amendment removes language that specifies the Republic of Iraq and the Islamic Republic of Afghanistan when defining a veteran of the Global War on Terror. With the committee amendment, the remaining provisions of this bill are similar to current sections of the statute which focus on the dates on which a person served on active duty, not the country where the person served. This is consistent with current statutes. For example, a veteran of the Persian Gulf War is defined as a person who served on active duty beginning on April 2, 1990 and ending on a date specified by presidential proclamation. The statute doesn't specify the country in which the person served. That's fairly common throughout law, both federally and in state law. The committee advanced the bill on an 8 to 0 vote. I urge your adoption of the committee amendment and the underlying legislation. Thank you. [LB422]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening to AM327, the Government Committee amendment. There are no members wishing to speak. Senator Avery, you're recognized to close. Senator Avery waives that opportunity. The question before the body is, shall AM327 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB422]

ASSISTANT CLERK: 44 ayes, 0 nays to adopt the committee amendments. [LB422]

SPEAKER FLOOD: AM327 is adopted. Returning to discussion on LB422. There are no lights on. Senator Cornett, you're recognized to close. Senator Cornett waives her opportunity. The question before the body is, shall LB422 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB422]

ASSISTANT CLERK: 44 ayes, 0 nays to advance the bill, Mr. President. [LB422]

SPEAKER FLOOD: LB422 advanced to E&R Initial. We now proceed, Mr. Clerk, to LB488. [LB422 LB488]

ASSISTANT CLERK: Mr. President, LB488 was introduced by Senator Gloor. (Read title.) The bill was read for the first time on January 20, referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with committee amendments attached. (AM504, Legislative Journal page 652.) [LB488]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Gloor, you're recognized to open on LB488. [LB488]

Floor Debate
April 16, 2009

SENATOR GLOOR: Thank you, Mr. President, members of the body. The intent of LB488 is to open the eligibility for residents in Nebraska's four veterans homes to all veterans who served in the U.S. military in full-time active duty. Although I'm proud to be a veteran, but in all candor my serving was not a matter of choice. I was drafted during the Vietnam War. Imagine my surprise to find out years later that there is a difference between veterans, that there are peacetime veterans and wartime veterans. And although my tour of duty was overseas, it was in Europe not in southeast Asia. Because of that chronological issue, about a year after I went in we were determined to be in peacetime even though there were still veterans of my era who were being put in harms way in various places around the world and have been since. Nonetheless, there are peacetime and wartime definitions. Because there are situations, as I've described, where the distinction between a veteran service in wartime or peacetime varies very little, I was pleased when the Department of Veterans Affairs presented this opportunity to open eligibility for veterans homes to all veterans. We, as a state, currently limit eligibility to veterans homes for wartime veterans only, and we've done this because we believed, the Department of Health and Human Services believed, that the United States Department of Veterans Affairs would pay that per diem to our Department of Veterans Affairs only for wartime veterans. Recently, the department became aware that, in fact, per diems are paid for all veterans whether wartime or peacetime. With the federal per diem reimbursement caring for additional peacetime veterans will have no additional budgetary impact on the state beyond the current cost for caring for wartime veterans. The Committee on Government Affairs unanimously advanced this bill. Again, there is no fiscal impact. Nebraska Veterans Council that includes all the veteran support groups in this state supports the bill. Bill (sic--Mike) Coatney, supervisor of the state veterans service office, testified in committee that admitting peacetime veterans in our veteran's homes may likely have a positive impact in revenue, but at worst be budget-neutral over time and they support the bill. I ask for your support to our peacetime veterans. Thank you. [LB488]

SPEAKER FLOOD: Thank you, Senator Gloor. Senator Avery, you're recognized to open on the Government Committee amendment. [LB488]

SENATOR AVERY: Thank you, Mr. President. The committee amendment adds clarifying and harmonizing language. The clarifying language specifies that veterans who served on active duty in the armed services of the United States other than active duty for training are eligible for admission to a Nebraska veterans home. The harmonizing language of LB488 harmonizes with other provisions in law relating to veterans. Essentially, the amendment clarifies anyone who has served on active duty is eligible for admission to a veterans home. But National Guard members who have never been called to active duty are not eligible. Again, this is similar language that is used for eligibility for other veterans benefits that harmonizes with existing law. The committee advanced the bill, as Senator Gloor indicated, on a unanimous vote. I urge your support for the committee amendment and the underlying bill. Thank you. [LB488]

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

Floor Debate
April 16, 2009

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening to AM504, the committee amendment to LB488. There are no members wishing to speak. Senator Avery, you're recognized to close. Senator Avery waives that opportunity. The question before the body is, shall AM504 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB488]

ASSISTANT CLERK: 43 ayes, 0 nays to adopt the committee amendments. [LB488]

SPEAKER FLOOD: AM504 is adopted. Returning to discussion on LB488. There are no lights on. Senator Gloor, you're recognized to close. Senator Gloor waives that opportunity. The question before the body is, shall LB488 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB488]

ASSISTANT CLERK: 41 ayes, 0 nays on the advancement of the bill. [LB488]

SPEAKER FLOOD: LB488 advances to E&R Initial. Mr. Clerk, we now proceed to LB501. [LB488 LB501]

ASSISTANT CLERK: LB501, Mr. President, was introduced by Senator Sullivan. (Read title.) The bill was read for the first time on January 21 of this year, referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with committee amendments. (AM551, Legislative Journal page 652.) [LB501]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Sullivan, you're recognized to open on LB501. [LB501]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. I introduced LB501 at the request of the Secretary of State. It changes election deadlines for certain types of elections and increases the county population threshold for by mail only voting. A governmental unit can exceed of the allowable growth percentage if the voters approve at a special election. Currently, the special election must be held 15 days after the election official receives a governing body resolution or legal vote of petition. With LB501, this special election would be held 30 days after the receipt of a governing body resolution or the legal vote of petition. LB501 also expands the definition of by mail voting precincts to include counties with up to 10,000 residents. Currently, counties with 7,000 residents or less can request by mail only voting in certain precincts. There are 50 counties with a population of 7,000 people or less. Increasing the threshold to 10,000 would add 18 more additional counties to the by mail only election option and this provision, I might add, is optional. Counties apply to the Secretary of State for permission to conduct elections by mail only applications or approved or rejected by the Secretary of State's Office based on factors such as size of

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

Floor Debate
April 16, 2009

the precinct, distance, and quality of roads to the polling site. The by mail only system was used successfully in 2008. Twenty-two precincts were approved for by mail only elections. The final change relates to the Local Option Revenue Act and notice deadlines for local option sales tax elections. LB501 requires that notice of local options sales tax elections is provided to election officials by March 1 before the primary election, and September 1 before the general election. It requires subdivisions that place a local option sales tax question on the ballot to provide a resolution to the election official at least 50 days before a special election. The current time frame is 41 days which does not allow enough time to make military and overseas ballots available. Military and overseas ballots must be made available 45 days prior to the election. In short, LB501 requires petitions to go to a governing body requesting an election on a local option sales tax question to be submitted at least 75 days before the primary or general election. LB501 generally contains technical changes and one policy change with respect to the population increase for mail only balloting. I respectfully ask that we advance LB501 to Select File. Thank you. [LB501]

SPEAKER FLOOD: Thank you, Senator Sullivan. There are committee amendments. Senator Avery, you're recognized to open on AM551, Government, Military and Veterans Affairs Committee amendment. [LB501]

SENATOR AVERY: Thank you, Mr. President. The committee amendment incorporates the provisions of LB362 into LB501. LB362 requires the candidate filing forms to contain: the candidate's name, resident address, mailing address if from the residence address, telephone number, office sought, and party affiliation if seeking a partisan office. The current filing forms contain only those items that are necessary to determine eligibility for the office sought. Adding additional contact information such as mailing address and phone number assist election officials should questions arise as they often do or contact with a candidate becomes necessary as it often is. In addition, the mailing address will allow candidates to provide an address other than their home. This can be useful because we are often contacted by vendors and others and we may not wish to have those vendors contacting us at our homes because it can be bothersome. If the candidate filing form has a mailing address, vendors can contact the candidates there. The committee advanced the bill on a unanimous 8 to 0 vote. I urge your support for this amendment and the underlying bill. Thank you. [LB501 LB362]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening to AM551. There are no members wishing to speak. Senator Avery, you're recognized to close. Senator Avery waives his opportunity. The question before the body is, shall AM551 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB501]

ASSISTANT CLERK: 36 ayes, 0 nays to adopt the committee amendments. [LB501]

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

Floor Debate
April 16, 2009

SPEAKER FLOOD: The committee amendments are adopted. Returning to discussion on LB501. Senator Fischer, you are recognized. [LB501]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I'd like to thank Senator Sullivan for bringing this bill. Four years ago, I introduced a bill, LB401, that established the mail in voting and the counties was a population of 7,000 or less. And we have not had problems with that. It's been a cost-saving measure for these counties and it's been somewhat convenient for the voter there. But I know Senator Sullivan would be the first to clarify that this all mail balloting is not m-a-l-e, it's m-a-i-l. Thank you, Mr. President. [LB501]

SPEAKER FLOOD: Thank you, Senator Fischer. There are no other lights on. Senator Sullivan, you're recognized to close. [LB501]

SENATOR SULLIVAN: Just to clarify and agree. Yes, it's all mail, m-a-i-l, voting. (Laugh) Thank you. [LB501]

SPEAKER FLOOD: Thank you, Senator Sullivan. Members, you've heard the closing of LB501. The question before the body is, shall LB501 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB501]

ASSISTANT CLERK: 36 ayes, 0 nays to advance the bill, Mr. President. [LB501]

SPEAKER FLOOD: LB501 advances to E&R Initial. Mr. Clerk, LB60. [LB501 LB60]

ASSISTANT CLERK: LB60 was introduced by Senator Adams. (Read title.) The bill was read for the first time on January 8, referred to the Committee on Transportation and Telecommunications, which placed the bill on General File with no committee amendments. [LB60]

SPEAKER FLOOD: Mr. Clerk, thank you very much. Senator Adams, you're recognized to open on LB60. [LB60]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, basically what this bill does is add to the list currently in statute of what constitutes an abandoned vehicle. You know, we have a long list in statute of what is an abandoned vehicle. And what this would do would be to add yet another category. And what that category would be, would be vehicles that have been removed from private property by a municipality under authority of its ordinances, and typically the ordinances have to do with public nuisance, health, and safety. So let me give you an example: Setting on someone's private property a car that's setting up on cement blocks, the windows are broken out. And what the city would then do if they had determined under their ordinances that already exist, by the way, that the car presents a health hazard, a safety hazard, a public nuisance,

Floor Debate
April 16, 2009

they would notify the property owner to do something about it. They would allow the property owner all the due process that's currently in law. And if none of that prevails, then the city could then take the vehicle, which they currently can do already under statute. The difference would be this: If we change the statute today, then that vehicle that has been taken from that property becomes an abandoned vehicle, which means that the city then can access more quickly the title to it and dispose of the vehicle. What we're finding in particularly many of the small communities and villages is that these vehicles will set on personal property, the city will notify them, they'll tow them away. There's no response from the owner. They will tow them away, put them in the salvage yard, and because they're not designate abandoned, they will set and set and set in the salvage yard. And then the village gets the bill from the salvage yard and has to pay that and, in effect, maybe did the property owners a big favor by coming and getting it and moving it away. So what this bill would very simply do is to say that those cars that have been taken by a municipality under their existing ordinances after all the due process could be designated abandoned, which would allow the city then to deal with the vehicle more quickly. Thank you, Mr. President. [LB60]

SPEAKER FLOOD: Thank you, Senator Adams. Members, you've heard the opening to LB60. There are no lights on. Senator Adams, you're recognized to close. Senator Adams waives his opportunity to close. The question before the body is, shall LB60 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Members, we're going to take up one more bill and then we're going to recess for the day. Mr. Clerk, please record. [LB60]

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of LB60, Mr. President. [LB60]

SPEAKER FLOOD: LB60 advanced to E&R Initial. Mr. Clerk, LB278. [LB60 LB278]

ASSISTANT CLERK: Mr. President, LB278 was introduced by Senator Mello. (Read title.) Bill was read for the first time on January 14, referred to the Transportation and Telecommunications Committee. That committee placed the bill on General File with no committee amendments. [LB278]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Mello, you're recognized to open on LB278. [LB278]

SENATOR MELLO: Thank you, Mr. President and colleagues. LB278 is a bill that would allow municipalities to adopt an ordinance to allow pedestrians over the age of 18 to solicit contributions for charitable or community betterment purposes. Current state law prohibits this practice. With the passage of this legislation and the adoption of an ordinance by a municipality, organizations would be able to solicit contributions from vehicles stopped at traffic lights or other traffic signals on roads that are not part of the

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

Floor Debate
April 16, 2009

state highway system. The organization would have to inform the municipality of the exact times and locations of this solicitation. Prior to state law prohibiting this practice, organizations, such as the Omaha Firefighters, were able to raise considerable sums of money for charities and other community betterment purposes. With the passage of this legislation, they will once again be able to do so. In uncertain economic times, charities often look to new and untraditional means of raising money. Passing this legislation will allow one such untraditional method to be utilized. I'd like to thank Speaker Flood for adding LB278 to the consent calendar and would like to especially thank Senator Fischer and the Transportation and Telecommunications Committee for their support. I encourage my colleagues to advance this legislation to Select File. [LB278]

SPEAKER FLOOD: Thank you, Senator Mello. I do have three lights on, given that situation we'll go ahead and stop the time for consent calendar purposes. Mr. Clerk, items for the record. In the queue, we have Senators Rogert, Carlson, and Lautenbaugh. We'll make a note of that as we proceed to 1:30. [LB278]

ASSISTANT CLERK: Mr. President, items for the record: Amendments to be printed to LB551 from Senator White. Judiciary reports LB306 to General File, and LB675 to General File with amendments. Name adds: Senator Pirsch to LB113. (Legislative Journal pages 1063-1072.) [LB551 LB306 LB675 LB113]

Priority motion: Senator Nordquist would move to recess until 1:30 p.m. []

SPEAKER FLOOD: Members, you've heard the motion to recess until 1:30 this afternoon. All those in favor say aye. All those opposed say nay. We are in recess. (Gavel) []

RECESS []

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the afternoon session is about to reconvene. Senators, please return to the Chamber and record your presence. Record, Mr. Clerk. []

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any items for the record? []

ASSISTANT CLERK: Not at this time. []

SENATOR LANGEMEIER: Thank you. We'll return to where we left off before the lunch recess. We were...had just heard the opening on LB278. We return now to discussion

Floor Debate
April 16, 2009

on LB278. Senator Rogert, you're next. [LB278]

SENATOR ROBERT: Question. [LB278]

SENATOR LANGEMEIER: (Laughter) At this time, Senator Rogert, with all due respect, I would rule that your calling the question is out of order. Senator Carlson, you're recognized. [LB278]

SENATOR CARLSON: Mr. President, thank you. Members of the Legislature, in looking at this bill, it reminds me that when I go and visit my daughter in Chicago and face this kind of thing, I don't like it. I don't like to pull up to a stoplight and have somebody at the window of my car with their hand out. And then I think of my 93-year-old father who still drives and he's as kind as anyone can be and that would make people like him very, very uncomfortable. They really don't want to give anything but they don't want conflict and they don't want argument, so he'll just reach in his pocket and pull out a \$5 or a \$10 in order to get away. Now Senator Mello has brought the bill and he's had constituents that have asked him to bring the bill and I think he's done the right thing and I would...I'd do the same thing, but this is an opportunity to register opposition to something we see and I just don't like this as a way of raising funds. If this were done in Holdrege, I would probably know most of the people involved in that group. And if there was somebody that didn't belong there, I'd probably be able to identify them. But when I come to Lincoln or Omaha, Grand Island, even Kearney, I don't have any idea whether they really belong there or not. And I know the rules are spelled out. The city has to give permission, choose for charitable purposes, and I'm all for charitable groups and groups like the firefighters being able to raise money for charitable purposes. This is a bill that if it's not passed it doesn't prevent them from raising money, so they're not stopped from their activities. They just have to find another avenue to do it. And I...was interesting, I'm sure Senator Mello would rather have had this come up at 11:55 instead of 11:59 and there would have been a vote on it and sailed right through. As it was, many of us went over to the NACO lunch and I was at a table with nine other people. I said, we've got a bill we're going to talk about at 1:30. I said what it was about. I said, how many at this table would vote for that bill? Nobody. How many would vote against it? They all would vote against it. So I'm not going to vote for the bill even though I sympathize with what Senator Mello is trying to do. And here again even on consent calendar, unless we register what our thoughts are, it's forever lost. So thank you, Mr. President. [LB278]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Lautenbaugh, you're recognized. [LB278]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I do rise in support of LB278. I thank Senator Mello for bringing it. I probably would have brought it had he not. I don't know if I signed on to it or not but I should have. I'm running out of ways to say I support this. I would point, as my friend Senator Carlson pointed out, this

Floor Debate
April 16, 2009

is a local option thing. You can either choose to do this or not. In my community, this was done for several years without incident. It became actually expected around certain times of the year. And all we are doing is trying to allow, under state law, local communities to authorize this if they so choose. Everything we do here is about drawing a line, as what is completely reasonable to one of us is a unwarranted intrusion to others. And we all have to decide where we stand or fall on any given bill. And on this bill I would just like to urge you to support it. It's for charitable purposes. It served the community well. It served charity well for several years before we had to stop doing it. And I would urge you to allow us to do it again in the future and please support this. [LB278]

SENATOR LAUTENBAUGH: Senator Stuthman, you're recognized. [LB278]

SENATOR STUTHMAN: Thank you, Mr. President. At the meeting this noon with the county officials, we asked at our table too. It was drawn to my attention by Senator Carlson. And the fact is, you know, we discussed it at our table but at our table we stated that, you know, it can't be on a highway, and in my community there's two highways that go through the town and, you know, I don't want it to happen on those highways. But in on the streets in town, you know, if the city wants to allow that to happen, they can. So I think...I think there are measures in place already that, you know, don't allow on the real busy highways for the boots to be handed to the individuals driving in traffic by the stoplight, so I do support this bill. Thank you, Mr. President. [LB278]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Harms, you're recognized. [LB278]

SENATOR HARMS: Well, thank you, Mr. President, colleagues. Senator Mello, would you...would you yield, please? [LB278]

SENATOR LANGEMEIER: Senator Mello, would you yield? [LB278]

SENATOR MELLO: I would. [LB278]

SENATOR HARMS: Senator Mello, Senator Mello, Senator Mello. [LB278]

SENATOR MELLO: (Laugh) [LB278]

SENATOR HARMS: You know, I'm just sitting here, standing here thinking about all the hours that you have put me through in the Appropriations Committee, all the questions, all the energy you have brought forward, and I'm thinking to myself, this is a chance for me to get even. (Laughter) But I want you to know, I am not vindictive. I rise in support of your bill even though I think you're a pain sometimes. Thank you. (Laughter) [LB278]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Thank you, Senator Harms. Seeing no other lights on, Senator Mello, you're recognized to close on LB278. Senator Mello waives closing. The question before the body is, shall LB278 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB278]

ASSISTANT CLERK: 34 ayes, 2 nays on the advancement of the bill, Mr. President. [LB278]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. (Visitors introduced.) Returning to the agenda, Mr. Clerk, LB447. [LB278 LB447]

ASSISTANT CLERK: LB447 was introduced by Senator Schilz. (Read title.) The bill was read for the first time on January 20, referred to the Committee on Revenue. That committee placed the bill on General File with no committee amendments. [LB447]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Schilz, you're recognized to open on LB447. [LB447]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good afternoon. I stand here before to introduce LB447 and this bill was introduced to put in place the necessary tools to encourage young people and young families to come back to rural Nebraska and farm. The bill was unanimously moved from the Revenue Committee with no opposing testimony. LB447 would annually index the net worth threshold of qualified beginning farmers or livestock producers under the Beginning Farmer Tax Credit Act. The index would be calculated using the annual change to the Producer Price Index. The new threshold, if not divisible by \$25,000, would be rounded to the next lowest amount divisible by \$25,000. Net worth threshold of qualified beginning farmer or livestock producers under the Beginning Farmer Tax Credit Act is currently set at \$200,000. And basically what this does is this ties the equity amount that you have to have to be qualified basically to the rate of inflation. And with that, I would encourage everyone to support it. And thank you very much. [LB447]

SENATOR LANGEMEIER: Thank you, Senator Schilz. You've heard the opening on LB447. Those wishing to speak, Senator Lathrop, you're recognized. [LB447]

SENATOR LATHROP: Thank you, Mr. President. I wonder if Senator Schilz will yield to a few questions. [LB447]

SENATOR LANGEMEIER: Senator Schilz, will you yield? [LB447]

SENATOR SCHILZ: I sure would. Thank you. [LB447]

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

Floor Debate
April 16, 2009

SENATOR LATHROP: Good afternoon, Senator Schilz. I don't really have a problem with your bill, but I do want to make sure I'm clear on what it does... [LB447]

SENATOR SCHILZ: Sure. [LB447]

SENATOR LATHROP: ...and the people who benefit and how people benefit under your bill. As I understand it, in the past, I think when Senator Erdman was here, we passed a tax credit for beginning farmers. Is that right? [LB447]

SENATOR SCHILZ: That is correct, yes. [LB447]

SENATOR LATHROP: And one of the problems with having a benefit like that to small farmers and beginning farmers is we have to come back...it has a threshold, right, and the threshold is if you start to make or accumulate in assets a certain dollar amount then you don't qualify for the tax credit. [LB447]

SENATOR SCHILZ: Correct. Yes. [LB447]

SENATOR LATHROP: And that benefit that goes to the small farmer, in order to make sure that it continues to be there and it gets to be a better deal with the rate of inflation, you're now asking us to index the threshold for these people so that each year it's a little bit better deal for the beginning farmer. [LB447]

SENATOR SCHILZ: Well, yeah, to an extent. I think that what we need to...what we need to keep in mind here is if you start at \$200,000 for a beginning farmer, I mean, I don't know if anybody understands here, but a new tractor can cost you \$200,000. And so, yes, and what we're trying to do here is just to make this law actually keep up with what the realities of the day are financially and economically. [LB447]

SENATOR LATHROP: So in order to keep up with the realities of the small farmers' situation, now we're going to put into this law an index that helps them keep up with inflation. [LB447]

SENATOR SCHILZ: Yes, if we all vote for that, that's what will happen. [LB447]

SENATOR LATHROP: Okay. Believe me, I don't have a problem with this, okay? And I'm kind of asking my questions on the wrong bill but I think I want to make a point here, and that is you're asking us to help small farmers by putting in a cost-of-living increase so that this tax credit grows or the threshold increases each year with the cost of inflation. [LB447]

SENATOR SCHILZ: Right. And I would look at it this way. It's not exactly a cost-of-living

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

Floor Debate
April 16, 2009

increase. What it does is it indexes the amount of equity that somebody has... [LB447]

SENATOR LATHROP: Okay. [LB447]

SENATOR SCHILZ: ...to make sure that they can qualify over time. [LB447]

SENATOR LATHROP: Every year, when we have a little bit of inflation and this threshold goes up, we bring more people into the eligibility or we allow those eligible for this program to make more money. [LB447]

SENATOR SCHILZ: Right, and... [LB447]

SENATOR LATHROP: And it all happens automatically. [LB447]

SENATOR SCHILZ: Yes. [LB447]

SENATOR LATHROP: And after these people qualify under this automatic cost-of-living increase, then they can go to their tax return, take a tax credit and put some money in their pocket, all of which is to encourage small farmers. [LB447]

SENATOR SCHILZ: It is correct and, you know, once again I would just like to say that this is not about how much they make. This is about how much equity they have and how that pertains to the tax credit, yes. [LB447]

SENATOR LATHROP: Right. But ultimately it's about the tax credit they get. [LB447]

SENATOR SCHILZ: Yeah, and it is...it would be figured just the same as you're saying for a cost-of-living adjustment. [LB447]

SENATOR LATHROP: Okay. So you're all about putting a cost-of-living increase, automatic adjustment into the small farm tax credit bill. Is that what you're telling me? [LB447]

SENATOR SCHILZ: Yeah, what I'm telling you, in places...in places where we have an opportunity to raise and to have people that are productive to our society to come in and start doing business in Nebraska, absolutely I'm all for that. [LB447]

SENATOR LATHROP: Well, we'll...okay. Very good. I enjoyed the conversation. Thank you. [LB447]

SENATOR SCHILZ: Thank you. [LB447]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Ashford, you're

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

Floor Debate
April 16, 2009

recognized. [LB447]

SENATOR ASHFORD: Yeah, if I could just ask Senator Schilz... [LB447]

SENATOR LANGEMEIER: Senator Schilz, would you yield? [LB447]

SENATOR SCHILZ: Sure. [LB447]

SENATOR ASHFORD: Senator Schilz, I haven't had a chance to thoroughly review this bill, but does this have anything to do with exempting cattle from tax sale? [LB447]

SENATOR SCHILZ: (Laugh) Well, not to this point, no. [LB447]

SENATOR ASHFORD: Because I guess now we don't tax cattle. Is that correct? [LB447]

SENATOR SCHILZ: That is absolutely correct. Yes. [LB447]

SENATOR ASHFORD: Okay. I just wanted to understand that as we go forward. Thanks. (Laugh) [LB447]

SENATOR SCHILZ: We can talk off the mike again if you want, yes. [LB447]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Wightman, you're recognized, followed by Senator Stuthman. [LB447]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I do have a couple of questions for Senator Schilz, if he would yield? [LB447]

SENATOR LANGEMEIER: Senator Schilz, would you yield? [LB447]

SENATOR SCHILZ: Yes. [LB447]

SENATOR WIGHTMAN: Senator Schilz, this is based entirely upon the commodity prices. Is that correct? [LB447]

SENATOR SCHILZ: That is correct, yes. [LB447]

SENATOR WIGHTMAN: And what all is included in commodity prices? [LB447]

SENATOR SCHILZ: Can you say that again? I'm sorry. [LB447]

SENATOR WIGHTMAN: What all would be included? We're talking about commodities

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

Floor Debate
April 16, 2009

raised on the farm. Is that right? [LB447]

SENATOR SCHILZ: Sure. We'd be talking about corn price, cattle, any of those that are indexed in such a way. [LB447]

SENATOR WIGHTMAN: And livestock. [LB447]

SENATOR SCHILZ: Absolutely. [LB447]

SENATOR WIGHTMAN: Okay. I guess the only question, I do intend to support this bill but when we do that on commodities and we have a year like last year that was somewhat of an aberration with several months in there of \$7 corn and high wheat and soybean prices, we could actually have somebody dropping back in a subsequent year, could we not? [LB447]

SENATOR SCHILZ: Oh, absolutely. I mean...and that's one thing about commodities, is you will see some of those swings and so, yeah, you could actually have a year where you do go backwards. [LB447]

SENATOR WIGHTMAN: Thank you. Thank you, Mr. President. [LB447]

SENATOR SCHILZ: Thank you. [LB447]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Stuthman, you're recognized. [LB447]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. The way I understand this is the fact that, you know, we're not allowing more people to utilize this Beginning Farmer Program. It's the fact that we are allowing people to become interested in it because of the fact if prices escalate and it stays at the same level, a lot of them will not be able to participate in this program. And I think this is a very good program. I know of individuals that are utilizing the program and it is working very well. And the main object of it is we're keeping young people on the farm, you know, in livestock and with farm ownership and getting people back into the farming operation. So I think this is a real advantage to the individuals that want to stay on a farm and continue in that business. Thank you, Mr. President. I do support the bill. [LB447]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Janssen, you're recognized. [LB447]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. Would Senator Schilz yield to a question or two? [LB447]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Senator Schilz, would you yield? [LB447]

SENATOR SCHILZ: Okay. One more. [LB447]

SENATOR JANSSEN: Perfect. (Laugh) Senator Schilz, when these people start this, are they, the farmers you're talking about, and I apologize, haven't gone through the bill totally, but when they start would they currently be working in the ranch or... [LB447]

SENATOR SCHILZ: Yeah, they could be. What it says in the bill is that anybody that is eligible to qualify this has to have a knowledge of the business of farming or the business of livestock husbandry and has to be able to show a propensity for that. [LB447]

SENATOR JANSSEN: And are they guaranteed a paycheck each week if they do participate in this program? [LB447]

SENATOR SCHILZ: It's farming. No. [LB447]

SENATOR JANSSEN: They're not. [LB447]

SENATOR SCHILZ: No, absolutely not. [LB447]

SENATOR JANSSEN: Do they actually have to work in order to get paid? [LB447]

SENATOR SCHILZ: Yeah, actually they have to have a business plan. They have to...they have to go out and...yes, they do have to work for it. [LB447]

SENATOR JANSSEN: If they quit working, do they continue to get paid? [LB447]

SENATOR SCHILZ: No. Actually, they would lose all their benefits. [LB447]

SENATOR JANSSEN: Okay. Thank you. I support your bill. [LB447]

SENATOR LANGEMEIER: Thank you, Senator Janssen. Senator White, you're recognized. [LB447]

SENATOR WHITE: Thank you, Mr. President. I was on the committee and I did support this bill and I voted it out, and I still support it, I believe. Senator Schilz, would you be kind enough to yield to a question? [LB447]

SENATOR LANGEMEIER: Senator Schilz,... [LB447]

SENATOR SCHILZ: Sure. [LB447]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: ...would you yield? [LB447]

SENATOR SCHILZ: Sure. [LB447]

SENATOR WHITE: Senator Schilz, in response to Senator Lathrop's inquiries, you discussed the inflationary aspect in this and we put that in so that a young person would have sufficient assets to have a meaningful shot at making it as a farmer, correct? [LB447]

SENATOR SCHILZ: Yes. [LB447]

SENATOR WHITE: Okay. And because it takes...farming is a capital-intensive business and it takes a lot of capital to even have a shot of making a living for yourself and hopefully a family. Is that fair enough? [LB447]

SENATOR SCHILZ: Yes. [LB447]

SENATOR WHITE: All right. [LB447]

SENATOR SCHILZ: I would say yes. [LB447]

SENATOR WHITE: And then finally, Senator Schilz, to you agree that sauce for the goose is sauce for the gander; that if similar principles are necessary for other entrepreneurs, other people, that the idea of increasing the costs so they can make it should apply not only in this situation but others? [LB447]

SENATOR SCHILZ: I would say that if it's set up to bring economic development to the state of Nebraska and, yeah, I would generally be in support of that. [LB447]

SENATOR WHITE: Okay. So as long...you're okay with cost-of-living adjustments as long as they are for economic development. But how about for just supporting families? [LB447]

SENATOR SCHILZ: Okay. I would back up again and say that, in my opinion, and maybe I'm wrong, in my opinion this is an index that indexes the equity that somebody has to have to maintain eligibility for the program, not any sort of pay that comes out for adjustments for cost of living. [LB447]

SENATOR WHITE: Well, but it allows a farmer to make a living, because if he doesn't have that level of capital he can't make a living in the industry. Isn't that true? [LB447]

SENATOR SCHILZ: If he does not...if he has more capital than this then he just doesn't

Floor Debate
April 16, 2009

qualify for a beginning farmer. [LB447]

SENATOR WHITE: And less capital or this is kind of a minimum amount of capital that you probably would need to have a shot at making it as a farmer. Isn't that fair? [LB447]

SENATOR SCHILZ: It could be. It's one of those things where certain people that see the need can apply for and qualify and get that. Other folks won't see the need because of maybe some of what they perceive as strings that are attached and may go it alone. Now we don't want to, as myself, I don't want to preclude any of those folks from being able to have an opportunity, so... [LB447]

SENATOR WHITE: Well, I actually do support this and one of the things that is a really important development is the...couple developments. One is the age of farmers. Right now it's rapidly increasing. I think we're moving into the late 50s on average now. And the rapid...most rapid growing area of the ag economy are small speciality farms of under 20 acres. In the past, we have not been particularly good to that segment. In fact, last year, over my objection, we excluded such small farms from being...the protection is actual agricultural farms, under the assumption that they're just rich people's playpens and the reality is otherwise. The farm-to-table movement, the localvores, local eating, the movement away from carbon-intensive shipping of foods long distances is opening up a market and a avenue for a livelihood for a lot of young people. And if this bill can be useful in pushing that forward, it would be wonderful. If you look at Iowa, they have some staggering statistics on the number of...increased number of farmers and that the fact is that small farms of 20 acres or less dominate that growth. With that, Senator, I will support your bill. However, I would urge you to reconsider any objection to the appropriateness of cost of livings in other circumstances. [LB447]

SENATOR LANGEMEIER: Thank you, Senator White. Seeing no other lights on, Senator Schilz, you're recognized to close on LB447. [LB447]

SENATOR SCHILZ: Thank you, Mr. President. As we've heard through the discussion here, through all the questions, I think this is a good bill that makes sense for rural economic development and I would just encourage everyone to vote yes on LB447. Thank you. [LB447]

SENATOR LANGEMEIER: Thank you, Senator Schilz. You have heard the closing on LB447. The question before the body is, shall LB447 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB447]

ASSISTANT CLERK: 38 ayes, 0 nays on the advancement of the bill, Mr. President. [LB447]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: LB447 does advance. (Visitors introduced.) Returning now to the agenda, Mr. Clerk, LB531. [LB447 LB531]

ASSISTANT CLERK: Mr. President, LB531 was introduced by Senator Sullivan. (Read title.) Bill was read for the first time on January 21, referred to the Committee on Revenue. That committee placed the bill on General File with no committee amendments. [LB531]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Sullivan, you are recognized to open on LB531. [LB531]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. LB531 increases the allowable net worth threshold of a farm or livestock operation from \$200,000 to \$500,000 to be considered a microbusiness in Section 77-5903(4)(a) of the Nebraska Advantage Microenterprise Tax Credit Act. As currently written, a farm or livestock operator's net worth includes the fair market value of their own assets. This is land, buildings, inventory, cash, etcetera, plus the fair market value of the assets of their spouse and dependents. Everything counts toward the \$200,000 limit. LB531 increases that allowable net worth for a farm or livestock operation to \$500,000 and leaves the remaining restrictions in place. In today's world, as Senator White just alluded to, many farm and livestock operations are looking to diversify by going into new ventures, such as organic vegetables, fruit trees, wine grapes, moving toward value-added products, and making the transition to sustainable ag production, and even going into ag tourism. The \$200,000 net worth restriction on farm and livestock operations may actually prevent them from diversifying and becoming eligible for tax credits under the microenterprise program. Other businesses under this act do not have the net worth restrictions. Why are farm and ranch operations the only business with a net worth restriction when it comes to the microenterprise status? It does not seem fair or equitable. In today's world, we are looking for farm and ranch operations to diversify and create more employment options in rural Nebraska. Elimination of the artificial \$200,000 net worth restriction will increase their opportunity to participate in the state tax incentive programs. LB531 does not increase any funding in the microenterprise tax credit program. It simply allows it to be open to more operations. I encourage you to support rural Nebraska and advance LB531 to Select File. [LB531]

SENATOR LANGEMEIER: Thank you, Senator Sullivan. You have heard the opening on LB531. The floor is now open for discussion. Seeing no lights on, Senator Sullivan, you are recognized to close. Senator Sullivan waives closing. The question before the body is, shall LB531 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB531]

ASSISTANT CLERK: 27 ayes, 0 nays on the motion to advance the bill. [LB531]

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: LB531 does advance. Mr. Clerk, LB445. [LB531 LB445]

ASSISTANT CLERK: LB445 was introduced by Senator Fulton. (Read title.) Bill was read for the first time on January 20, 2009, referred to the Committee on Banking, Commerce and Insurance. That committee placed the bill on General File. There are no committee amendments. [LB445]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Fulton, you're recognized to open on LB445. [LB445]

SENATOR FULTON: Thank you, Mr. President, members of the body. LB445 is a bill that I'm thankful that was moved forward, didn't have any opposition, recommended for consent calendar. I thank the Speaker and Senator Pahls for that. Lack of health insurance among Nebraskans is a growing problem. The number of insured Nebraskans increased from 2004 to 2007 by 3 percent. As of 2008, approximately 15 percent of Nebraskans under the age of 65 are lacking health insurance. Nebraska's 233,000 nonelderly uninsured encompass all manner of age, socioeconomic background, employment status, and ethnicity. Nearly eight out of ten are of working age, and 75 percent of this number have at least one full-time worker. And while lack of insurance afflicts the working poor, 40 percent of the uninsured actually have incomes beyond 200 percent of poverty. LB445 proposes a market-based approach as a small step toward decreasing the number of Nebraskans without health insurance. The bill allows health insurance providers to offer policies or contracts that are exempt from any and all state-mandated benefits which require coverage of any type of services or conditions. The ability for health insurance providers to offer mandate-exempt policies has existed since this body enacted the Health Insurance Access Act in 1991. This existing statute allows for certain bare-bones policies for in-hospital and surgical benefits for those uninsured whose income is less than 185 percent of poverty. LB445 augments the existing statute by allowing providers greater flexibility to offer uninsured access coverage policies that may also include prescription drug coverage and preventative care to someone who lacks another form of health insurance, regardless of his or her income level. These changes are needed because over 40 percent of Nebraska's uninsured have incomes over 200 percent of poverty, and few would want to buy a policy that doesn't allow them to visit their family doctor. LB445 is a step toward covering more Nebraskans by providing greater choice in the marketplace and making health insurance more affordable by eliminating the artificial inflation caused by state insurance mandates, which account for a significant portion of premium costs. Several other states have found it appropriate to enact similar legislation over the past several years. Now while these respected measures may not be in and of themselves responsible, it is important to note that each state has experienced a significant decrease in the percentage of uninsured from 2006 to 2007, while Nebraska simultaneously has experienced a corresponding 1 percent increase over the same period. The bill does not eliminate the necessity of proof of insurability, nor does it allow

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

Floor Debate
April 16, 2009

one to transfer coverage when one is already covered by another form of insurance. I think this is an innovative idea, a small step toward helping those who are uninsured in Nebraska, and I ask you to move LB445 forward to Select File. Thank you, Mr. President. [LB445]

SENATOR LANGEMEIER: Thank you, Senator Fulton. You have heard the opening on LB445. The floor is now open for discussion. Seeing no lights on, Senator Fulton, you are recognized to close. Senator Fulton waives closing. The question before the body is, shall LB445 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB445]

ASSISTANT CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of the bill, Mr. President. [LB445]

SENATOR LANGEMEIER: LB445 does advance. Mr. Clerk, next bill, LB498. [LB445 LB498]

ASSISTANT CLERK: LB498, Mr. President, was introduced to Senator Fulton. (Read title.) The bill was read for the first time on January 20, 2009, referred to the Committee on General Affairs, placed on General File with no committee amendments. [LB498]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Fulton, you are recognized to open on LB498. [LB498]

SENATOR FULTON: Thank you, Mr. President, members of the body. I appreciate your courtesy in moving the last bill forward. I'm going to ask the same on LB498. In October of 1869, Wyuka Cemetery became the state's cemetery as a burial place of state inmates. In 1927, the Legislature codified the statutes relating to the cemetery and provided that there be three trustees of the cemetery. These members were elected during the Lincoln city elections until 1959, when Lincoln Senator Stanley Portsche addressed the unjust expense to the people of Lincoln caused by these elections, at which time the Legislature saw fit to make these appointed positions. To this day, three trustees remain as the number of members overseeing Wyuka Cemetery on behalf of the public. LB498 adds two appointed trustees to the board. Having five trustees in lieu of three will ensure that three trustees are necessary to constitute a quorum and that all such meetings will be in compliance with the Open Meetings Act. Enactment of LB498 would allow the Wyuka board a more pragmatic existence while keeping the public interest with respect to the state's Open Meetings Act and allow the board broader judgment and public oversight for this important tradition of the city of Lincoln and the state of Nebraska. As a side note, I was convinced to bring this bill forward when it was explained to me very simply when, with three members of the board, if two people get together to go out for lunch to discuss a matter before the board, it comprises a quorum and they have to post an open meetings notice. So moving from three members to five

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

Floor Debate
April 16, 2009

members I think is an appropriate step and will allow this board to conduct itself more pragmatically, and I ask for the advancement of LB498. Thank you, Mr. President. [LB498]

SENATOR LANGEMEIER: Thank you, Senator Fulton. You have heard the opening on LB498. The floor is now open for discussion. Senator Carlson, you're recognized. [LB498]

SENATOR CARLSON: Mr. President and members of the Legislature, I would like to address Senator Fulton, if he would yield. [LB498]

SENATOR LANGEMEIER: Senator Fulton, would you yield? [LB498]

SENATOR FULTON: Yes. [LB498]

SENATOR CARLSON: Senator Fulton, are these positions paid positions? [LB498]

SENATOR FULTON: They are not paid positions. [LB498]

SENATOR CARLSON: Okay. Thank you. [LB498]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Nelson, you're recognized. [LB498]

SENATOR NELSON: Thank you, Mr. President, members of the body. Would Senator Fulton entertain another question? [LB498]

SENATOR LANGEMEIER: Senator Fulton, would you yield? [LB498]

SENATOR FULTON: Yes. [LB498]

SENATOR NELSON: There are presently three trustees, that's correct. How are the trustees...are they appointed, elected? [LB498]

SENATOR FULTON: Yes, they are appointed. It actually was 1959 was the year at which the Legislature changed it from elected positions to appointed positions, and the Governor makes the appointment. [LB498]

SENATOR NELSON: So it's solely within the Governor's discretion as to who he appoints to the board. Are there any guidelines set forth at all in that? [LB498]

SENATOR FULTON: Those guidelines that are set, I can't give all of the guidelines, but those that are set forth are actually found in the green copy of the bill because that is

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

Floor Debate
April 16, 2009

the... [LB498]

SENATOR NELSON: All right. [LB498]

SENATOR FULTON: ...section of statute. [LB498]

SENATOR NELSON: Okay. Fine. Thank you very much, Senator. Thank you, Mr. President. [LB498]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Seeing no other lights on, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question is, shall LB498 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB498]

ASSISTANT CLERK: 35 ayes, 0 nays on the advancement of the bill. [LB498]

SENATOR LANGEMEIER: LB498 does advance. Mr. Clerk, LB604. [LB498 LB604]

ASSISTANT CLERK: LB604 was introduced by Senator Howard. (Read title.) Bill was read for the first time on January 21, referred to Health and Human Services, placed on General File with no committee amendments. [LB604]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Howard, you are recognized to open on LB604. [LB604]

SENATOR HOWARD: Thank you, Mr. President and members of the body. LB604 would exempt certain medical oxygen suppliers that supply medical oxygen to patients pursuant to a medical order from the pharmacy licensure and delegate dispensing requirements. Only those medical oxygen suppliers accredited by a recognized accrediting body would be exempted. In the simplest terms, LB604 deletes the requirement in the pharmacy statute that a pharmacist supervise and be involved in the provision of medical oxygen to home health patients. By providing this exemption, Nebraska law will promote public safety, simplify regulatory requirements for medical oxygen delivery business, protect pharmacists from undue assumption of risk, and promote access to medical services. The requirement that a pharmacist be involved in the dispensing of oxygen to patients not in a hospital or a nursing home was added to the statutes in 2001 and works a profound change in the way in which medical oxygen is and has been provided to home health patients over many years. Historically, pharmacists have not been involved in the provision of oxygen to home health patients. Physicians, patients, respiratory care professionals and home health companies are the parties involved in the furnishing of oxygen. The requirement that a pharmacist be involved in the process adds an unnecessary regulatory hurdle with no offsetting benefit to patient safety. In addition, the requirement adds burdens that unnecessarily increase

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

Floor Debate
April 16, 2009

the cost of healthcare and could limit access to medical oxygen for patients in rural areas of Nebraska. Under LB604, pharmacists will retain the credential to dispense oxygen to home health users, but home health companies will not be required to contract with a pharmacist in order to furnish oxygen to patients for use at home. LB604 is supported by the Board of Pharmacy; the Nebraska Department of Health and Human Services; the Midwest Association for Medical Equipment Services, that's MAMES; and the Nebraska Pharmacists Association. This proposed change has the approval of the providers, the pharmacists, the Nebraska Department of Health and Human Services Department of Regulation and Licensure. This bill makes the regulation and practice consistent. Thank you. [LB604]

SENATOR LANGEMEIER: Thank you, Senator Howard. You have heard the opening on LB604. The floor is now open for discussion. Senator Gloor, you're recognized. [LB604]

SENATOR GLOOR: Thank you, Mr. President. I stand in support of LB604 and by way of providing assurance to the membership that I believe this is a sound, sound bill that will, in many ways, affect the overall quality of healthcare for oxygen dispensing across the state of Nebraska and removes some impediments to make this happen. Our organization that I previously was responsible for was also partly owner...partly in ownership on a durable medical equipment company. This was one of those frustrating regulations that really added additional cost without any value. This is a good bill. It's one that will, I think, and deserves to be passed. Thank you. [LB604]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Seeing no other lights on, Senator Howard, you're recognized to close on LB604. Senator Howard waives closing. The question before the body is, shall LB604 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB604]

ASSISTANT CLERK: 34 ayes, 0 nays on the advancement of the bill. [LB604]

SENATOR LANGEMEIER: LB604 does advance. Mr. Clerk, LB446. [LB604 LB446]

ASSISTANT CLERK: LB446 was introduced by Senator Fulton. (Read title.) The bill was read for the first time on January 20, referred to Health and Human Services Committee, placed on General File with a committee amendment. (AM528, Legislative Journal page 692.) [LB446]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Fulton, you are recognized to open on LB446. [LB446]

SENATOR FULTON: Thank you, Mr. President, members of the body. LB446 is an

Floor Debate
April 16, 2009

effort to prevent brain drain from Nebraska. It ensures that the Board of Engineers and Architects may continue to provide incentive for young architects and engineers to remain in Nebraska. It has been the policy of the board to reimburse University of Nebraska Engineers and Architects for certain education expenses upon graduation. LB446 amends the Engineers and Architects Regulation Act to ensure that the board may continue this policy and repay certain qualified educational debt obtained by a Nebraska architecture or engineering student out of the Engineers and Architects Regulation Fund, which is funded by various licensing fees for engineers and architects. It's actually a cash fund. Section 3 of the bill defines qualified educational debt to include educational loans and associated educational expenses. It is the prerogative of the board to determine the type of expense and the amount of reimbursement that shall be made to graduates. The amendment, AM528, clarifies Section 3 and ensures that the board may promulgate rules and regulations to exercise discretion over what type of education expenses it will reimburse from the regulation fund. I respectfully ask your advancement of LB446. Thank you, Mr. President. [LB446]

SENATOR LANGEMEIER: Thank you, Senator Fulton. As the Clerk has stated, there are committee amendments offered by the Health and Human Services Committee. Senator Gay, as Chairman of that committee, you're recognized to open on the committee amendments. [LB446]

SENATOR GAY: Thank you, Mr. President. Senator Fulton just said what the amendments do, so leave it at that. [LB446]

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on the committee amendments and LB446, the bill. The floor is now open for discussion. Seeing no lights on, Senator Gay, you're recognized to close on the committee amendments. Senator Gay waives closing on the committee amendments. The question before the body is, shall AM528 be adopted to LB446? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB446]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments. [LB446]

SENATOR LANGEMEIER: AM528, committee amendment, is adopted. We return now to discussion on LB446, the bill itself. Seeing no lights on, Senator Fulton is recognized to close. Senator Fulton waives closing. The question before the body is, shall LB446 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB446]

ASSISTANT CLERK: 32 ayes, 0 nays on the advancement of the bill. [LB446]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: LB446 does advance. Mr. Clerk, next item, LB372. [LB446 LB372]

ASSISTANT CLERK: LB372 was introduced by Senator Campbell. (Read title.) The bill was read for the first time on January 16 of this year, referred to the Transportation and Telecommunications Committee. That committee placed the bill on General File with committee amendments attached. (AM648, Legislative Journal page 693.) [LB372]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Campbell, you are recognized to open on LB372. [LB372]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. This bill, LB372, was brought to me by the Department of Motor Vehicles and does two things. First, current law prohibits the DMV or law enforcement officer from releasing the information except to a federal, state, or local law enforcement agency or other state driving licensing agency. The bill adds to the exception a certified law enforcement officer employed in an investigative position by a state agency. The key word here is that the original law was built on the word "agency" and we do have state departments in which there are officers within those departments. An example would be the Fire Marshal or the Department of Insurance have investigative officers who do need this information and, at present, the DMV cannot release it. This bill would now allow that information to be given to those officers. The bill also changes the penalty for knowingly giving out this information and brings the penalty in line more with all the other penalties of a similar sort. With that, Mr. President, I will conclude my opening comments. [LB372]

SENATOR LANGEMEIER: Thank you, Senator Campbell. As the Clerk has stated, there are committee amendments offered by the Transportation and Telecommunications Committee. Senator Fischer, as Chairman of the committee, you are recognized to open on the committee amendments. [LB372]

SENATOR FISCHER: Thank you, Mr. President and members. The committee amendment incorporates another bill into LB372. In addition to a state investigating officer having access to digital images and signatures, the amendment authorizes a certified federal law enforcement officer in an investigative position to obtain a digital image or signature. LB384, introduced by Senator Pahls, was an attempt for federal agencies with investigative officers to also be granted access to the DMVs digital image and signature records. The committee felt that this could be accomplished through an amendment onto LB372, and Senator Campbell did agree to that. Thank you, Mr. President. [LB372 LB384]

SENATOR LANGEMEIER: Thank you, Senator Fischer. You have heard the opening on LB372 and the committee amendments. The floor is open for discussion. Seeing no lights on, Senator Fischer, you're recognized to close on committee amendments.

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

Floor Debate
April 16, 2009

Senator Fischer waives closing. The question before the body is, shall AM648 be adopted to LB372? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB372]

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of committee amendments. [LB372]

SENATOR LANGEMEIER: AM648 is adopted. We return now to discussion on LB372, the bill itself. Seeing no lights on, Senator Campbell, you're recognized to close. Senator Campbell waives closing. The question before the body is, shall LB372 be advanced to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB372]

ASSISTANT CLERK: 31 ayes, 0 nays on the advancement of the bill, Mr. President. [LB372]

SENATOR LANGEMEIER: LB372 does advance. Mr. Clerk, next bill, LB500. [LB372 LB500]

ASSISTANT CLERK: LB500 was introduced by Senator Karpisek. (Read title.) Bill was read for the first time on January 20, referred to the Committee on General Affairs. That committee placed the bill on General File with no committee amendments. [LB500]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Karpisek, you're recognized to open on LB500. [LB500]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. LB500 makes changes regarding perpetual care funds in municipal cemeteries. The bill makes it clear that the mayor and council or the board of trustees may set aside the proceeds of the sale of lots, donations, and bequests as a perpetual fund. It provides that the income from the fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery or as the donor designates. The major change in LB500 is that it provides that the principal of the perpetual fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as long as no more than 20 percent of the principal is used in any fiscal year and no more than 40 percent of the principal is so used in any period of ten consecutive fiscal years. Current law provides that the principal of the perpetual fund may be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than 25 percent of such principal is so used in any fiscal year and no more than 35 percent of such principal is so used in any period of ten consecutive fiscal years. LB500 will give cities and villages flexibility to fund the maintenance and care of municipal cemeteries. Most are tax supported and LB500 will allow cities to use a portion of the...excuse me, portion of the principal of perpetual

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

Floor Debate
April 16, 2009

funds to supplement this tax support. Thank you, Mr. President. [LB500]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. You've heard the opening on LB500. The floor is now open for discussion. Seeing no lights on, Senator Karpisek, you are recognized to close. Senator Karpisek waives closing. The question before the body is, shall LB500 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB500]

ASSISTANT CLERK: 32 ayes, 0 nays on the advancement of the bill, Mr. President. [LB500]

SENATOR LANGEMEIER: LB500 does advance. (Visitors introduced.) Returning to floor discussion, the agenda, Mr. Clerk, LB627. [LB500 LB627]

ASSISTANT CLERK: LB627 was introduced by the Business and Labor Committee and signed by the members. (Read title.) The bill was read for the first time on January 21, referred to the Business and Labor Committee, placed on General File with committee amendments attached. (AM230, Legislative Journal page 732.) [LB627]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Lathrop, you are recognized, as Chair of the committee, you're recognized to open on LB627. [LB627]

SENATOR LATHROP: Thank you, Mr. President. And this is a little known fact but Business and Labor takes care of not just business and labor but we deal with elevators and boilers as well, and today we're going to amend the Boiler Act. LB627 was introduced on behalf of the Department of Labor. The bill simply brings the law in line with the National Board of Boiler and Pressure Valve Inspector requirements. Currently, domestic potable water heaters are required to be inspected annually but the board recommends that the heaters be inspected every other year. The green bill would allow the Labor Commissioner to adopt, by rule and regulation, an inspection schedule for domestic potable water heaters, hot water heaters. The term "domestic" appeared confusing to the committee members, who worried that the language could be interpreted to apply to residential hot water heaters. This was not the intent of the bill, as Section 48-726(5) and (6) of the Boiler Inspection Act exempts residential heaters. To address this, the committee worked with the Department of Labor to draft AM230. And with that, I'll end my opening on LB627 and encourage you... [LB627]

SENATOR LANGEMEIER: Thank... [LB627]

SENATOR LATHROP: Yeah. [LB627]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. As the Clerk has stated, there are committee amendments offered by the Business and Labor Committee. Senator

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

Floor Debate
April 16, 2009

Lathrop, as Chair of the committee, you're recognized to open on the committee amendments. [LB627]

SENATOR LATHROP: Thank you, Mr. President. AM230 replaces the new language of the green bill with language referencing Section 48-726. Again, that section exempts residential homes from inspection requirements and AM230 makes clear that only potable hot water heaters not exempted under the Boiler Inspection Act shall be subject to this every other year inspection. This amendment in the bill is simple and noncontroversial. All the committee members voted in favor of both the amendment and the bill and we'd ask for your support. Thank you. [LB627]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. You have heard the opening on LB627 and the committee amendment thereto. The floor is now open for discussion. Senator Carlson, you're recognized. [LB627]

SENATOR CARLSON: Mr. President and members of the Legislature, this is one of those bills that we're putting into action, something that actually reduces expenses for people and still keeps the measures intact that provide for safety. And being on the Business and Labor Committee, this is a bill certainly that I support. Thank you. [LB627]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Seeing no other lights on, Senator Lathrop, you're recognized to close on the committee amendments. Senator Lathrop waives closing. The question is, shall AM230 be adopted to LB627? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB627]

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of committee amendments. [LB627]

SENATOR LANGEMEIER: AM230 is adopted. Returning now to discussion on the bill itself, seeing no lights on, Senator Lathrop, you are recognized to close. Senator Lathrop waives closing. The question is, shall LB627 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB627]

ASSISTANT CLERK: 35 ayes, 0 nays on the advancement of the bill, Mr. President. [LB627]

SENATOR LANGEMEIER: LB627 does advance. Mr. Clerk, next item on the agenda, LB587. [LB627 LB587]

ASSISTANT CLERK: LB587, introduced by Senator Dierks. (Read title.) Bill was read for the first time on January 21, referred to the Revenue Committee, placed on General

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

Floor Debate
April 16, 2009

File with a committee amendment. (AM721, Legislative Journal page 745.) [LB587]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Dierks, you are recognized to open on LB587. [LB587]

SENATOR DIERKS: Thank you, Mr. President. Members of the Legislature, LB587 is often referred to as the toenail bill. It was brought to me by the Nebraska Veterinary Medical Association. The one-liner states that the purpose of the bill is to exempt animal grooming from sales tax. That is not why I introduced the bill. The purpose behind LB587 is to provide a clarification for both the Department of Revenue and Nebraska veterinarians. Recently, the Department of Revenue has audited several veterinarians. Department has levied fines for not paying sales tax on what the department called grooming services. State law is confusing on this matter. If a veterinarian or veterinary technician performed grooming services while caring for an animal, is that considered grooming and taxable or a veterinary service and nontaxable? Generally, groomers pay sales tax. Veterinarians are also willing to pay a sales tax. They just need the clarification from the Legislature as to when their services are veterinary services and when they are providing a service classified as grooming. I think there's an amendment to the bill and I'll close for now. Thank you, Mr. President. [LB587]

SENATOR LANGEMEIER: Thank you, Senator Dierks. As the Clerk has stated, there are committee amendments offered by the Revenue Committee. Senator Cornett, as Chair of the Revenue Committee, you're recognized to open on the committee amendment. [LB587]

SENATOR CORNETT: Thank you, Mr. President and members of the body. AM721 merely specifies the public policy that was intended originally when this law passed that services provided by a veterinarian or veterinary technician would be exempt. Services provided by a groomer would not be exempt from sales tax. The question arises when a vet or a vet tech performs a service that may be categorized as grooming, such as hair removal for surgical preparation. In order to draw a clear line for the Department of Revenue, the committee agreed that it was necessary to add language requiring the service would have to be done in conjunction with a medical treatment. Therefore, the example that was discussed between members was that if a vet or vet tech who performs grooming services for purposes of grooming only and, thus, without medical necessity, would be performing a service that is not tax-exempt. Finally, with this amendment we have assured the Department of Revenue that there will not be any fiscal impact. I ask you to support this amendment and the underlying bill for the clarification in existing statute. [LB587]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the opening on LB587 and the committee amendment thereto. The floor is now open for discussion. Senator Hadley, you're recognized. [LB587]

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

Floor Debate
April 16, 2009

SENATOR HADLEY: Mr. Chairman, members of the committee or body, I hope the Judiciary Committee is paying attention here as this is how you do things on a consent agenda. If this would have been on their committee, this would have been on the bill the other day as a part of that bill the other day. Thank you. (Laughter) [LB587]

SENATOR LANGEMEIER: Thank you, Senator Hadley. Senator Hansen, you're recognized. [LB587]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Senator Dierks, would you yield? [LB587]

SENATOR LANGEMEIER: Senator Dierks, would you yield to a question? [LB587]

SENATOR DIERKS: Yes. [LB587]

SENATOR HANSEN: Senator Dierks, we have all types of animal groomers. I know the people who sell cattle have professional groomers come in and just trim them up a little bit. I don't know if they're taxed or not. We have people who groom horses. Are those folks, are they going to, since they're not veterinarians, will they be...continue to be taxed if they're taxed now? Are they suppose to pay taxes? I guess that would be the question. Are they taxable? [LB587]

SENATOR DIERKS: As near as I know, I don't know that they are taxed. Now I don't know what the department would determine, but I know people who are in the bull foot business and I don't believe that they are taxed. But if veterinarians do that, it becomes a medical procedure. Especially when you're talking about grooming, we're talking about toenails, for instance, on dogs or cats. If you have a dog with a white toenail, you can determine whether the blood vessel is in there and most anybody can trim that toenail. But in a black-toed animal, you can't see where the blood vessel is and you can get into a serious hemorrhage problem if you're not familiar with the anatomy of the toenail. So that becomes, what I think, a veterinary service and is a...not taxable. But I can't tell you about the bull trimming or the horse grooming. I can't tell you about that. [LB587]

SENATOR HANSEN: Thank you, Senator Dierks. Your Chairman was shaking her head. If Senator Cornett would yield. [LB587]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB587]

SENATOR CORNETT: Yes. With the amendment, no...and in existing law currently, no grooming specifically for the purpose of grooming done by a groomer is exempt. We are clarifying the language in regards to grooming as a part of medical necessity. I believe

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

Floor Debate
April 16, 2009

what Senator Dierks was referring to is if you shave an area so they can perform surgery, that shaving, which could be considered grooming in other circumstances, would be tax-exempt because it was for medical necessity. Any grooming done that is not done for a medical necessity is not tax-exempt. [LB587]

SENATOR HANSEN: Thank you, Senator Cornett. Then a follow-up question: Then would be a...just a regular grooming, a haircut at a clinic, at a veterinary clinic, would that be taxable? [LB587]

SENATOR CORNETT: That would be taxable. [LB587]

SENATOR HANSEN: Okay. Thank you. And thank you, Mr. President. [LB587]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Seeing no other lights on, Senator Cornett, you're recognized to close on the committee amendment. Senator Cornett waives closing. The question before the body is, shall AM721 be adopted to LB587? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB587]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of committee amendments. [LB587]

SENATOR LANGEMEIER: AM721 is adopted. We return now to discussion on LB587, the bill itself. Seeing no lights on, Senator Dierks, you're recognized to close. Senator Dierks waives closing. The question before the body is, shall LB587 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB587]

ASSISTANT CLERK: 35 ayes, 0 nays on the advancement of the bill. [LB587]

SENATOR LANGEMEIER: LB587 does advance. (Visitors introduced.) Returning now to the agenda and next bill on the agenda is LB122. Mr. Clerk. [LB587 LB122]

ASSISTANT CLERK: LB122 was introduced by Senator Coash. (Read title.) Bill was read for the first time on January 9, 2009, referred to the Committee on Judiciary. That committee placed the bill on General File with no committee amendments. [LB122]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Coash, you are recognized to open on LB122. [LB122]

SENATOR COASH: Thank you, Mr. President, members of the body. LB122 does a very small thing. It changes one word in statute related to the Nebraska child abuse and neglect register. Currently, there are three findings for child abuse and neglect. There's

Floor Debate
April 16, 2009

court-substantiated, which means the court has found you, the registrant, guilty of child abuse and/or neglect; there's court-pending, meaning that there's court action pending; and the third, which is inconclusive, that means the Department of Children and Family Services has found a preponderance of evidence of abuse and/or neglect. That is the department has concluded that more likely than not the registrant has committed child abuse and/or neglect. It is this third term, "inconclusive," that is changing with this bill. "Inconclusive" will change to "agency-substantiated." The reason for this change is fairly simple. The term "inconclusive" is an inaccurate term that does a disservice to those consulting the register for investigating purposes and also to those who are registered. It may lead a person, including the offender, to believe that no conclusion was reached with regard to the abuse and/or neglect. On the contrary, "inconclusive" means that the agency has found a preponderance of evidence that abuse and/or neglect has occurred. Thus, I submit this bill to change this word. This bill came out of committee and was supported by Health and Human Services, the Foster Care Review Board, and Voices for Children. I urge your advancement of this bill. Thank you, Mr. President. [LB122]

SENATOR LANGEMEIER: Thank you, Senator Coash. You've heard the opening on LB122. The floor is now open for discussion. Senator Howard, you're recognized. [LB122]

SENATOR HOWARD: Thank you, Mr. President, members of the body. If Senator Coash would yield for a question or two. [LB122]

SENATOR LANGEMEIER: Senator Coash, would you yield? [LB122]

SENATOR COASH: I will. [LB122]

SENATOR HOWARD: Thank you. I have signed on as a cosigner on this bill with all good intention, but some concerns have been brought to my attention that I think need to be discussed. The section of the bill that you are most concerned about is the inconclusive finding. Am I correct in that? [LB122]

SENATOR COASH: That's correct. [LB122]

SENATOR HOWARD: Now inconclusive..and I'm going to review this. You already did but I will go through this again so everyone knows what we're discussing here. Inclusive means that the evidence indicates that more than likely not, more likely than not, preponderance, that child abuse or neglect occurred and that court adjudication did not occur. Now if I understand you correctly and the concern correctly, you have an intention to go back to look at previous cases where there was an inconclusive finding. [LB122]

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

Floor Debate
April 16, 2009

SENATOR COASH: Well, keep in mind, this bill does not change the standard of evidence. It just changes the term. So the determination has already been made and it is...HHS will go back and change those findings of inconclusive to agency-substantiated, but they're not going to reopen the case, if that's what you... [LB122]

SENATOR HOWARD: No, I understand they're not going to reopen the case, but at the same time there is certainly the possibility, the likelihood, if you will, that they will look at cases that were deemed inconclusive years ago, years ago, and will go back now and label them agency-substantiated, and I think there is a legitimate concern about reviewing this previous information now when quite possibly the parties involved are not there to be aware of that, if at minimum. [LB122]

SENATOR COASH: Yes, I understand. I understand that concern. One thing that...this came up in committee and some additional information that we did get through the committee process that might help with this, if a person...if you come to...if I check your record, Senator Howard, I'm only going to...as an employer, for example, I'm only going to be able to see if you have a record or not. It will either say you have a record. It won't tell me if the record was court-substantiated, inconclusive, or court-pending. I will just know that you have a record. So if...one of the concerns brought to the committee was with employment and this doesn't affect that because all we can do is check if there was a record or not. [LB122]

SENATOR HOWARD: Let me give you another scenario. What if you were applying to be a foster parent and you were not even aware that this had been changed from "inconclusive" to "agency-substantiated"? And the agency itself looks at the record to see if there were any prior child abuse indications or anything that would be of concern. I would, frankly, be concerned that this would preclude someone from being a foster parent that otherwise would not have a strike against them. [LB122]

SENATOR COASH: I disagree, Senator Howard, because they would have...a foster parent, you know, somebody look at the license that would see "inconclusive" and still make the same decision that they would make if it said "agency-substantiated." Because the definition behind "inconclusive" is still that there's a likelihood that abuse occurred. [LB122]

SENATOR HOWARD: I understand your line of reasoning but, again, I would disagree with you. I would say the "agency-substantiated" terminology would carry more weight in decision making within the department than "inconclusive." [LB122]

SENATOR COASH: It may. I just believe that "agency-substantiated" is a term that more closely reflects the process... [LB122]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: One minute. [LB122]

SENATOR COASH: ...which is they did substantiate abuse. They just didn't take it to the courts. [LB122]

SENATOR HOWARD: Well, I would have no difficulty, and this is the reason I signed on to the bill, I have no difficulty in supporting you in going forward with this. But looking at it in terms of previous cases, retroactively, I find problematic. Thank you, Mr. President. [LB122]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Stuthman, you're recognized. [LB122]

SENATOR STUTHMAN: Thank you. Mr. President. I would like to...would Senator Coash be available for a question? [LB122]

SENATOR LANGEMEIER: Senator Coash, would you yield? [LB122]

SENATOR COASH: I guess I will. [LB122]

SENATOR STUTHMAN: Senator Coash, these terminologies "inconclusive" and "agency-substantiated," how long has it been in effect the way it is right now as to what you're trying to change? [LB122]

SENATOR COASH: I can't tell you, Senator Stuthman, how long. It's since this statute was enacted giving us ability to put people on the register. These have been the terms that have been used. [LB122]

SENATOR STUTHMAN: Since it was enacted. [LB122]

SENATOR COASH: Yes. [LB122]

SENATOR STUTHMAN: Well, and the reason I asked that question is the fact that when I came in here seven years ago, either six or seven years ago, I had a bill that dealt with the same thing, but I don't remember which way we had put it or if the bill was passed or anything like that. Because I do remember the fact of the "agency-substantiated" and the "inconclusive." I do remember that and I had thought maybe we had changed something then in, like, five years ago or something like that. [LB122]

SENATOR COASH: I don't believe so, Senator Stuthman. HHS brought this bill to my attention saying that they had attempted to get this type of legislation passed and were unsuccessful, and so my background made them bring that to me. [LB122]

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

Floor Debate
April 16, 2009

SENATOR STUTHMAN: And that may be possible, but I was just...it just struck me when we started discussing it because that came back to me those, on that terminology. So thank you, Mr. President. [LB122]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Council, you're recognized. [LB122]

SENATOR COUNCIL: Yes, thank you, Mr. President. Would Senator Coash yield to a couple of questions? [LB122]

SENATOR LANGEMEIER: Senator Coash, would you yield? [LB122]

SENATOR COASH: Yes. [LB122]

SENATOR COUNCIL: Senator Coash, am I correct in my understanding that currently there is no category "agency-substantiated"? [LB122]

SENATOR COASH: That's correct. [LB122]

SENATOR COUNCIL: And that the "inconclusive" is a finding by the agency essentially substantiating the claim that the agency has determined that it's more than likely than not that abuse has occurred? [LB122]

SENATOR COASH: Correct. [LB122]

SENATOR COUNCIL: And if an individual receives an inconclusive determination by the agency, do they have any right of appeal? [LB122]

SENATOR COASH: They do. There is an expungement process and an appeals process regardless of whether you were found "court-substantiated" or "inconclusive." [LB122]

SENATOR COUNCIL: Okay. And one of the concerns that was raised during the committee with regard to this, because I had some concerns about jumping to "substantiated" without having a clear understanding of how the process works now, and the reason I'm supportive of this legislation is...and I'm going to ask you again, Senator Coash, if a person receives an inconclusive determination, are they more likely than not to accept that as a finding that there's no problem? [LB122]

SENATOR COASH: I believe so, Senator Council. I'm on your time but, if I could, I'll share with you a story. I work in human resources and very frequently when we would send in these reports to find out if someone was on there and it came back as

Floor Debate
April 16, 2009

inconclusive, the applicant would frequently say, well, that means that they didn't find anything. And what it really means is, is that they did find more evidence than that not that something happened. But the term "inconclusive" doesn't really lend itself to that whereas "agency-substantiated" is more closely aligned with what the department does. [LB122]

SENATOR COUNCIL: Okay. And the reason I asked those, the questions, because that's the reason that I'm supportive of this legislation, because we give people the wrong impression when we issue a determination that something is inconclusive. It doesn't cause them to rise to a level of concern to take an appeal action, because in the ordinary course of discussion "inconclusive" means there was no finding one way or the other, when the agency...we were told during the committee hearing by department leadership that that determination means it's more likely than not that abuse has occurred and that the agency considers that as substantiated and operates on that basis. I think we need to send clear messages to individuals who are involved in this process and the use of that term "inconclusive" does not send what is considered in the normal course of conversation to be a clear message and that a lot of people are relying, to their detriment, on this "inconclusive" determination because it's their belief that it means that they didn't make a finding one way or the other when that agency is actually making decisions based upon their belief that the abuse did occur. And for those reasons, I would urge my colleagues to vote in support of LB122. [LB122]

SENATOR LANGEMEIER: Thank you, Senator Council. Senator Howard, you're recognized. [LB122]

SENATOR HOWARD: Thank you, Mr. President and members of the body. This discussion has led me to another very pertinent question on this issue, if Senator Coash would be willing to answer a question. [LB122]

SENATOR LANGEMEIER: Senator Coash, would you yield? [LB122]

SENATOR COASH: Yes. [LB122]

SENATOR HOWARD: Senator Coash, in looking at these previous cases, and I'm very familiar with the system, the process and how this would work, foster parents possibly would not appeal an inconclusive finding as long as they retain their foster care license. I am concerned now with this retroactive change that there may be foster parents or individuals, for that matter, who are not aware that this has been done. Is there a provision in this bill to notify people who are on the central registry that this has been changed so that if they care to follow up with this that they have the opportunity to do that? [LB122]

SENATOR COASH: No, that is not...that notification process is not part of this bill.

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

Floor Debate
April 16, 2009

[LB122]

SENATOR HOWARD: So there isn't any piece that's going to let people know that now they've been found to have this listed on the central registry... [LB122]

SENATOR COASH: No. [LB122]

SENATOR HOWARD: ...as agency substantiated. You know, we have a lot of concerns about things being put on people's records and findings that they're not aware of and I would certainly be very concerned about this. Thank you, Mr. President. [LB122]

SENATOR LANGEMEIER: Thank you, Senator Howard. Seeing no other lights on, Senator Coash, you are recognized to close on LB122. [LB122]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues, for the dialogue. I'll close by saying that I am...I started to look into this issue for the reasons that I believe that the mechanism the department uses to find people on whatever level, agency-substantiated, court-pending, the appeals process, on all of that I was not happy with and I told the committee and I want to share with the body that this is only the beginning of my examination of the whole abuse/neglect registry process. The first thing I thought we could do was clarify the language. I'll be working in the interim to clarify the process. Thank you, Mr. President and members. [LB122]

SENATOR LANGEMEIER: Thank you, Senator Coash. You have heard the closing on LB122. The question is, shall LB122 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB122]

ASSISTANT CLERK: 32 ayes, 1 nay on the advancement of the bill, Mr. President. [LB122]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Mr. Clerk, items for the record. [LB122]

ASSISTANT CLERK: Thank you, Mr. President. A series of items: amendment to be printed to LB63 from Senator Christensen; new A bill. (Read LB497A by title for the first time.) Committee on Enrollment and Review reports LB432, LB137, LB152, LB302, LB299, LB343, LB84, and LB394, all to Select File, some with E&R amendments. That's all I have, Mr. President. (Legislative Journal pages 1074-1078.) [LB63 LB497A LB432 LB137 LB152 LB302 LB299 LB343 LB84 LB394]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Returning to the agenda, the next item, LB533. [LB533]

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

Floor Debate
April 16, 2009

ASSISTANT CLERK: LB533 was introduced by Senator Price. (Read title.) Bill was read for the first time on January 21, referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with committee amendments attached. (AM873, Legislative Journal page 862.) [LB533]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Price, you're recognized to open on LB533. [LB533]

SENATOR PRICE: Thank you, Mr. President, members of the body. LB533 would give the Department of Administrative Services the flexibility to implement common reimbursement practices, such as requiring receipts for meals, when it is appropriate to do so. It will also make Nebraska statute consistent with the IRS language related to expense reimbursements and, finally, clarify current statutory language, such as license number means automobile license plate number and not the driver's license number, and clarify that requests for reimbursement to be submitted within 60 days of when the expenses were incurred--common sense changes. Receipts will be less burdensome than travel logs. The state is already processing travel logs so this will not be a new administrative burden. The DAS policies will allow for a lost receipt or meals from vending machines. Now we'll have accountability without compromising efficiency. In 2008, the state spent \$2.5 million to reimburse employees for expenses. Of the 13,000-plus expense reimbursements processed last year by the state, more than 6,300 were for \$50 or less. There is an emergency clause on here that is to make it consistent with upcoming contracts and to keep things moving in an orderly manner. And I thank you and ask for your support. Thank you. [LB533]

SENATOR LANGEMEIER: Thank you, Senator Price. As the Clerk has stated, there are committee amendments offered by Government, Military and Veterans Affairs Committee. Senator Avery, as Chairman of that committee, you're recognized to open on the committee amendments. [LB533]

SENATOR AVERY: Thank you, Mr. President. This amendment is quite simple. It adds an emergency clause to the bill. This is being recommended at the request of the Department of Administrative Services in order to provide clarity on reimbursement processes...on a contract which is currently being finalized by the department. The committee advanced the bill on an 8 to 0 vote. I urge your adoption of this amendment and the underlying bill. Thank you. [LB533]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the opening on LB533 and the committee amendment thereto. The floor is now open for discussion. Seeing no lights on, Senator Avery, you are recognized to close on the committee amendment. Senator Avery waives his closing. Question is, shall AM873 be adopted to LB533? All those in favor vote yea; all those opposed vote nay. Have all those voted

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

Floor Debate
April 16, 2009

that wish to? Record, Mr. Clerk. [LB533]

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB533]

SENATOR LANGEMEIER: AM873 is adopted. We return now to discussion on LB533, the bill itself. Seeing no lights on, Senator Price, you're recognized to close. Senator Price waives closing. The question before the body is, shall LB533 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB533]

ASSISTANT CLERK: 41 ayes, 0 nays on the advancement of the bill. [LB533]

SENATOR LANGEMEIER: LB533 does advance. Mr. Clerk, LB524. [LB533 LB524]

ASSISTANT CLERK: LB524 was introduced by Senator Friend. (Read title.) Bill was read for the first time on January 21, referred to the Urban Affairs Committee, placed on General File with no committee amendments. [LB524]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Friend, you're recognized to open on LB524. [LB524]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. LB524 deals with handicapped parking and the legislation proposes to actually increase the penalties for handicapped parking infractions. It would be applicable to cities of all classes and villages, any place subject to a state statute, a municipal ordinance, or a federal regulation governing handicapped parking and any parking place designated by the state as a handicapped parking place at a state facility. The bill would amend Section 18-1741.02 dealing with the penalties for handicapped parking violations. It would increase the various penalties for such infractions, moving the penalty for an initial infraction, the first infraction, from \$100 to \$150; for a second infraction within a year's period from \$200 to \$300; and for a third or subsequent infraction during that same one-year period from \$300 to \$500. Members, the current penalties have not been revised since 1993. Handicapped parking infractions extend beyond simply parking without a permit in a designated parking place to a range of other offenses relating to the use or misuse of such permits. We heard testimony in Urban Affairs, in the Urban Affairs Committee, that indicated this was a problem, still is. I obviously think that it raises questions, but I also felt comfortable after...during the hearing and after the hearing that there was a very decent case made that enhancing those particular penalties could create an enhanced deterrent, and that was our goal. That was our focus. There are no committee amendments. Members of the Legislature, I'd be happy to answer any questions but, if not, ask for the advancement of LB524. Thank you, Mr. President. [LB524]

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Thank you, Senator Friend. You've heard the opening on LB524. The floor is now open for discussion. Senator Stuthman, you're recognized. [LB524]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I do support this bill but I have another issue that I want to address and an issue that really irritates me and that is an issue of handicapped parking. You will see an individual driving around and, all of a sudden, this individual parks in the handicapped parking, sits there, reaches into the seat beside of him, picks up the handicapped sticker, hangs it up and walks into the retail store better than anyone else here on the floor--just irritates me to death. And I don't know what we can do about that but it's something that really bothers me because these parking spots are meant for the people that are handicapped. In my opinion, there's too many handicapped cards given out. I think there's way too many of them given out. And there's some people that should maybe have a handicapped parking certificate that do not have them. But that is the situation I've seen time and time and time again, where you see somebody park in there, they don't have anything from the rear view mirror until they decide to get out and they reach down and grab the thing, hang it in there on their window, and out they go. But another issue that I have is the fact that we're raising this from \$100 to \$150, but we have the situation that was drawn to my attention, the fact that if an individual doesn't have their child, you know, restrained in a car seat, that's only a \$50 fine. I mean I don't think there's...it's quite equal there because I think the life of a child, you know, in...should be restrained and if they're not restrained I think that's a very serious issue also. So I think, in proportion, that \$50 fine for the child not in a car seat and restrained is probably not enough. But we're making this \$150 for someone that parks in a handicapped parking. But are we going to...is there going to be any type of law enforcement when an individual sees this individual walking into a retail outlet just as normal and as speedy as Senator Price would do, I mean just right into the store, into the convenience store? But those are...that's the issue that I think we need to address but I don't know how to address that. I think there's a fact that we're (laugh) we're not looking at the total picture. But I really respect the fact that we do have these handicapped parking stalls for the handicapped. I don't know if a person could call law enforcement as they walk out of the store and say are you really handicapped or not. Maybe the certificate is from their grandmother, when they transport their grandmother into town and park there, and they just happen to have that. There was no other parking place, they didn't want to walk any further. As far as I'm concerned, they could park the furthest away and get the exercise and walk into the store. So those are the issues that I have. I do support this, this bill, but it's a fact that I don't think we're going far enough to address the real problem, the misuse of the handicapped parking certificates. Thank you, Mr. President. [LB524]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Carlson, followed by Senator Gloor. [LB524]

Floor Debate
April 16, 2009

SENATOR CARLSON: Mr. President and members of the Legislature. I also am in support of this bill, but like Senator Stuthman, I have something that irritates me and it's an opportunity to get this on the record. Now one of the things that Senator Stuthman that you brought out, you see somebody take that and put it up there and walk in faster than Senator Price. Of course, there's a possibility they're picking somebody up and...child or spouse and so that's why they use that spot. But now we're going to, on first offense, \$150. And it really, really irritates me when I see somebody parked in a handicapped parking place that shouldn't be there. The only problem is, I've done it, and I didn't mean to. And I told Senator Friend I was going to talk about this because I've seen times when it's supposed to be painted clearly on the pavement and it's not. There's supposed to be a sign that clearly marks it and it's bent backward and you can't see it, and you didn't mean to park there at all. And I can say my mind was on something else and that's not a good excuse, but it happens. And then I get tagged with a \$150 fine. I bet it'd only happen once. But I think that with this increase there needs to be a greater awareness of these places being clearly marked on the parking lot as well as a sign that's clear to see. Thank you. [LB524]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Gloor, you're recognized. Senator Gloor waives his opportunity. Senator Pirsch, you're recognized. [LB524]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. And I do appreciate the dialog thus far, and I'd probably vote for the bill here. It is one of those types of infractions that it's hard to enforce. I can say that as a prosecutor. Most of the violations that we sought in Douglas County for handicapped parking violations were actually done by those individuals who were, in fact, handicapped. They just didn't bring with them their little placard and have it up in the window that day, so they come into the office. Now there's ways to kind of get around that and there's a diversion program run through the safety council for individuals for their first time where you can pay just a registration fee to that and bypass that. There's always prosecutorial discretion involved here. But most of the time that you see people coming in, they are individuals who do have disabilities and in fact, did not...forgot their placard that day. And it makes it really hard to enforce then not knowing, you know, if the individual does have a disability or not. And as Senator Stuthman noted, it is...or I guess as someone else noted, sometimes it can be deceptive. You see an individual who appears to be walking just fine and may, in fact, have some sort of a disability that isn't patently evident. And so perhaps the answer in the long run in future sessions is to maybe bifurcate punishment for those individuals who do in fact have a disability but did not, and have been issued a card, but who didn't have the card up that day. Maybe somewhat of a certain penalty, whereas if you have not been at any point in time issued a card, you're not disabled, perhaps then a steeper penalty. But that's a discussion for a future day. I do appreciate the discussion that's gone on thus far on it. Thank you. [LB524]

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Price, you're recognized. [LB524]

SENATOR PRICE: Thank you, Mr. President and members of the body. I just rose on this occasion to answer Senator Stuthman. My mother-in-law is legally blind and they come here and they visit and they see the grandchildren and they're driven by my father-in-law. And the thing is, is they come from out of state. They reach in, they grab that little card and pick it up. And my mother-in-law she'll say, I dare say, she can walk with the best of them, much better than I can walk. But you just know the ailment as Senator Pirsch said, so we have to be careful. But I did have a question for Senator Friend if he would yield. [LB524]

SENATOR LANGEMEIER: Senator Friend, would you yield to a question? [LB524]

SENATOR FRIEND: Yes, I will. [LB524]

SENATOR PRICE: Thank you, Senator Friend. A question I have to you, are handicapped parking spots in private drives enforceable under this law, such as if you drive up to a strip mall, that's private property and not public property, are those enforceable? [LB524]

SENATOR FRIEND: Yes, they are. [LB524]

SENATOR PRICE: Thank you. Thank you, Mr. President. [LB524]

SENATOR LANGEMEIER: Thank you, Senator Price. Seeing no other lights on, Senator Friend, you're recognized to close on the committee amendments. [LB524]

SENATOR FRIEND: Yes, thank you, Mr. President and members of the Legislature. Some good questions, they're far ranging. One of the things that happened in the Exec...not only in the Executive Session, but during the hearing in relationship to this bill, kind of sparked the discussion that we should have an interim study to deal with some of the things that were just brought up. So in other words, deal with some of the issues raised in regard to distribution of the certificates. I mean, how do you get a handicapped, you know, parking sticker. The people that sat at the table to testify talked about some of the same things Senator Stuthman talked about. I didn't think I wanted to tackle that in this particular bill. As a matter of fact, my thought process was so narrow that we did...the committee actually brought it up, did talk about the idea of expanding that discussion in an interim study. So what I'm offering up to anybody in the body who does see problems and items and issues that are raised, is that we as Urban Affairs Committee are, I guess, committed to the degree that we can be to try to deal with some of those, what I would call at this point in relationship to this bill, extraneous

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

Floor Debate
April 16, 2009

issues that are raising themselves. One of the things Senator Carlson pointed out, and I don't know if it was off the record, but this is kind of important. A sign is knocked over. There's no paint on the ground. I pull up, I'm new in town or whatever, I pull up, the next thing you know, I'm hit with a \$150 fine. Well, we're not changing that. Should we? I think that's discussion for an interim study. What needs to be posted? How does it need to be posted? What needs to be on the ground to inform people of what the situation is? How are we, in regard to our state law, following federal law? Because we are. We're mirroring it. Those are legitimate questions. I just wasn't answering them with this particular bill. Maybe we should have in hindsight, but I guess if we would have been, I don't think it would be on consent calendar. So we have what we have right now. If you like it, advance it. If you don't, you don't. Thank you, Mr. President. [LB524]

SENATOR LANGEMEIER: Thank you, Senator Friend. You have heard the closing on LB524. The question is, shall LB524 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB524]

ASSISTANT CLERK: 39 nays, 0 nays on the advancement of the bill, Mr. President. [LB524]

SENATOR LANGEMEIER: LB524 does advance. Mr. Clerk, LB562. [LB524 LB562]

ASSISTANT CLERK: LB562 was introduced by Senator Lathrop. (Read title.) The bill was read for the first time on January 21, referred to the Urban Affairs Committee, placed on General File with no committee amendments. [LB562]

SENATOR LANGEMEIER: At this time we would recognize Speaker Flood for an announcement. [LB562]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. Just a quick announcement. It's my intention to try and move Select...or it's my intention to move consent calendar today and finish up with the consent calendar today prior to adjournment. Hopefully, that's as close as we can, between 4:00 and 4:30. But I do plan to stay in session today until General File consent calendar is moved. Thank you, Mr. President. []

SENATOR LANGEMEIER: Thank you, Speaker Flood. Senator Lathrop, you're recognized to open on LB562. [LB562]

SENATOR LATHROP: Thank you, Mr. President. LB562 makes the change to state statute 14-2102 relative to the Board of Directors of MUD service area. Under current statute there are seven elected members on the board, with one being what they call an outside member. The outside member resides within the metropolitan utilities district but

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

Floor Debate
April 16, 2009

is outside the corporate city limits of Omaha. LB562 would amend this statute so that if the area within which the outside member resides is annexed, the outside member may continue to serve in that capacity until they have completed their term in office. As the city of Omaha extends their reach through annexation, the likelihood of this taking place has increased making this an important matter for the Legislature to take up. And with that, I'd ask you to move LB562. Thank you. [LB562]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. You have heard the opening on LB562. The floor is now open for discussion. Seeing no lights on, Senator Lathrop you're recognized to close. Senator Lathrop waives closing. The question before the body is, shall LB562 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB562]

ASSISTANT CLERK: 35 ayes, 0 nays on the advancement of the bill. [LB562]

SENATOR LANGEMEIER: LB562 does advance. (Visitors introduced.) Mr. Clerk, items for the record. [LB562]

ASSISTANT CLERK: Mr. President, I do have a communication from the University of Nebraska regarding a bond issuance; a communication to the chair of the board, and a Reference report pertaining to the reference of that issue to the Appropriations Committee. In addition your Committee on Judiciary reports LB36 to General File with committee amendments attached. (Legislative Journal pages 1079-1081.) [LB36]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Returning now to the agenda, LB360. [LB360]

ASSISTANT CLERK: LB360 was introduced by Senator Cook. (Read title.) Bill was read for the first time on January 16 of this year, referred to the Urban Affairs Committee, placed on General File with the committee amendment attached. (AM913, Legislative Journal page 893.) [LB360]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Cook, you're recognized to open on LB360. [LB360]

SENATOR COOK: Thank you, Mr. President and my honorable colleagues. I stand before the body as the introducer of LB360 and move to advance this legislation along with the committee amendment. LB360 brought on behalf of the city of Omaha aims to take tax delinquent properties and get them back on the tax roles as efficiently as possible. The bill authorizes cities of the metropolitan class to establish a land reutilization authority. Currently, this authority, the authority to sell tax delinquent properties, is currently delegated to the counties. This bill, as it is ideally amended, makes this transfer of authority from the county to a city of the metropolitan class

Floor Debate
April 16, 2009

completely voluntary. The county and city of the metropolitan class must agree to the terms and conditions of the relationship. There is no fiscal impact to the state's General Fund if LB360 is passed into law. Passage of this bill and the amendment will promote housing, urban redevelopment, and increase tax revenue through private development. Thank you, colleagues, for your attention to this matter. I ask for your votes both for the committee amendment, which will be introduced by Senator Friend, and for advancement of this legislation. Thank you, Mr. President. [LB360]

SENATOR LANGEMEIER: Thank you, Senator Cook. As the Clerk has stated, there are committee amendments offered by the Urban Affairs Committee. Senator Friend, you're recognized to open on your committee amendment. [LB360]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Committee amendment to LB360 addresses two concerns that the committee had regarding the bill. First, we believed that it could be inappropriate, or believe it to be inappropriate for newly created municipal land reutilization authority to automatically assume the functions of the county authority upon its creation. Second, we thought it was inappropriate for the newly created municipal authority to automatically assume control over property outside of its cities corporate boundaries. To address the concerns, the committee amendment changes all the direct references in the bill to the powers of the new authority to limit its jurisdiction to property located within the boundaries of the city, thus the county attorney would continue to...thus, excuse me, thus the county authority would continue to exist after the creation of the city authority, with the county bodies jurisdiction limited to property in the county outside of the city limits. However, it was not the intent of the committee to forestall the ability of the municipal authority to assume control over a broader area with the agreement of the county. Consequently, a new subsection is added by the committee amendment in Section 1 which specifically authorizes a metropolitan class city which creates a land reutilization authority to enter into any agreement with any county including its own under the Interlocal Cooperation Act to exercise on behalf of the county the authority granted to the county under the Act. We're trying to prevent the...what seems to be the inherent battle between a county and a city. We think we may have accomplished that with this language. If there are any questions about that committee amendment, I would be happy to answer them. If not, I'd ask for the adoption of the amendment and an advancement of the bill. Thank you, Mr. President. [LB360]

SENATOR LANGEMEIER: Thank you, Senator Friend. We have heard the opening on LB360 and the committee amendment thereto. The floor is now open for discussion. Senator Stuthman, you're recognized. [LB360]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Friend a question. [LB360]

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

Floor Debate
April 16, 2009

SENATOR LANGEMEIER: Senator Friend, would you yield? [LB360]

SENATOR FRIEND: Yes, I will. [LB360]

SENATOR STUTHMAN: Senator Friend, does this apply to all counties now with your amendment? [LB360]

SENATOR FRIEND: Any counties that have...any counties that utilizes that municipal authority, yeah. [LB360]

SENATOR STUTHMAN: So it could be addressed by any one of the 90-some counties in the state of Nebraska. [LB360]

SENATOR FRIEND: Yes. [LB360]

SENATOR STUTHMAN: Okay. That was a question I had. I think the original intent was for a county of, that had a metropolitan area in, that class. Was that the original intent originally, Senator Friend? [LB360]

SENATOR FRIEND: You know what, to be honest, Senator Stuthman, I don't recall but that's not the intent now. [LB360]

SENATOR STUTHMAN: That isn't the intent now. Now it applies to all counties when there's an interlocal agreement... [LB360]

SENATOR FRIEND: In regard to a metropolitan class city...well, wait a minute. In regard to a metropolitan class city, the subsection we added authorizes that metropolitan class city which creates a land reutilization authority to enter into an agreement with any county. Is what you're asking is, if there's a land...if a county has a land reutilization authority, can they use this legislation? Is that what you're asking? Or are you asking whether this whole bill is specifically for a metropolitan class city? [LB360]

SENATOR STUTHMAN: The answer to that I want to receive is the fact that does this just apply to metropolitan city and that county or does it apply to all the counties in the state of Nebraska as far as a property that the taxes weren't paid on and if they're in a community can the, like the city, put that property up for sale or can the county do it. Right now, at presently is, I think the county must put that up because it's in the county. Is that correct, or will you clarify that for me, Senator Friend? [LB360]

SENATOR FRIEND: Okay. Any...the only, the only one, the only county that could technically use it now would be one with a metropolitan class city, which would be Omaha but they can do it with any county. So I was confused by your question. Here's

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

Floor Debate
April 16, 2009

the point. There is metropolitan class city language, with the land reutilization language. So to answer your question, I think...I was off to the side with committee counsel, in short, Omaha can use it but they can do it with any county in the state. Is that what you're wondering? [LB360]

SENATOR STUTHMAN: No, the issue that I'm trying to get an answer for and get some clarification is, is, can any city or village in a county in the state of Nebraska, is this bill addressed to them or is it just that deals with counties that involve the city of a metropolitan class. [LB360]

SENATOR FRIEND: It's the latter. It would be only counties that would be involved with the city of the metropolitan class. [LB360]

SENATOR STUTHMAN: Okay. Thank you. That is what I was trying to get to so that it really deals with the counties... [LB360]

SENATOR FRIEND: I thought...Senator, if you don't mind me interrupting you...I thought what you were getting at is, no other counties could benefit from any...I mean, you see what I was...I don't think that's the case. [LB360]

SENATOR STUTHMAN: Okay. [LB360]

SENATOR FRIEND: Especially with the interlocal agreement language in there. [LB360]

SENATOR STUTHMAN: Yes, so...yes... [LB360]

SENATOR LANGEMEIER: One minute. [LB360]

SENATOR STUTHMAN: ...I understand it now and that's what I thought it was but when you put the new section in and you stated that, you know, any county in the state, you know, could utilize this, so I just...now you've clarified it that it is counties that have a city of the metropolitan class that this bill is designated for. [LB360]

SENATOR FRIEND: Correct. [LB360]

SENATOR STUTHMAN: Thank you, Mr. President. And thank you, Senator Friend. [LB360]

SENATOR LANGEMEIER: Thank you, Senator Stuthman and Senator Friend. Seeing no other lights on, Senator Friend, you're recognized to close on committee amendments. [LB360]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Sorry

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

Floor Debate
April 16, 2009

for the confusion. I should have known what Senator Stuthman was asking. I get that question asked all the time. I think what set me off is, there is the capability to work with other counties in regard to legislation like this. It's called an Interlocal Cooperation Act. Yeah, I guess that's all I'd have to say. The language is specific to a metropolitan class city though, just so we straighten that out, and I should have been clear and understood Senator Stuthman's question because it was clear enough. That's all I'd have. I'd ask for the adoption of the amendment and advancement of the bill. Thank you, Mr. President. [LB360]

SENATOR LANGEMEIER: Thank you, Senator Friend. You have heard the closing on AM913 offered to LB360. The question is, shall AM913 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB360]

ASSISTANT CLERK: 32 ayes, 0 nays, on the adoption of committee amendments. [LB360]

SENATOR LANGEMEIER: AM913 is adopted. We return now to floor discussion on LB360, the bill itself. Seeing no lights on, Senator Cook, you're recognized to close. Senator Cook waives closing. The question before the body is, shall LB360 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB360]

ASSISTANT CLERK: 34 ayes, 0 nays, on the advancement of the bill. [LB360]

SENATOR LANGEMEIER: LB360 does advance. Mr. Clerk, LB441. [LB360 LB441]

ASSISTANT CLERK: LB441 was introduced by Senator Council. (Read title.) The bill was read for the first time on January 20 of this year, referred to the Committee on Urban Affairs, that committee reports the bill to General File with committee amendments. (AM392, Legislative Journal page 894.) [LB441]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Council, you are recognized to open on LB441. [LB441]

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise as the sponsor of LB441. LB441 is probably the most noncontroversial bill we've heard today. The intent and effect of LB441 is merely to allow cities of the metropolitan first and second class and villages to charge the same amount for preparation of a transcript needed to progress a citizen's appeal from a decision or an assessment by the city as we would pay if we were to progress an appeal from a judicial decision. The current...the fee currently in effect for those classes of cities and villages has not been increased in more than 50 years and does not allow those municipalities to recover their costs of preparing and

Floor Debate
April 16, 2009

making these transcripts available to the citizens. LB441 has no application to cities of the primary class because the statutes that are applicable to cities of the primary class already provide that those cities can recover their actual costs. That is all that LB441 is designed to do is to allow cities of the other classes and villages to recover their actual costs for preparing transcripts for citizens who are seeking to appeal decisions and assessments. When introducing LB441 I had a concern and sought specifically to provide for those who would be unable to pay for the transcript regardless of the costs involved, and I attempted to do that by making reference to the indigency provisions in the criminal statutes. I'm thankful that the committee identified some concerns with regard to making a reference to the criminal statutes which they will address through the amendment that is being offered. So in sum, all LB441 is to allow for cities of specific classes to charge, basically, their cost for reproducing a transcript requested by a citizen and makes provisions for those citizens who are unable to pay those costs. And with that, I would urge the body to approve LB441 with the committee amendments. [LB441]

SENATOR LANGEMEIER: Thank you, Senator Council. As the Clerk has stated, there are committee amendments offered by the Urban Affairs Committee. Senator Friend, as Chair, you are recognized to open on the committee amendments. [LB441]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. The committee concerns centered on making transcripts free for individuals that qualified under the Criminal Code rules as indigent. While the legislation implies that the decision on indigency would be made by the court, it does not explicitly so state or establish a procedure for that determination. It's not clear that an individual who qualified as indigent might not be required to pay for the transcript subject to future refund in the event that the individual when he or she finally reached a court, and established his or her indigent status. Also the cited statutes also deal with the appointment of a counsel, the assessment of other fees and costs, and other matters not germane to the types of procedures at issue here. The committee determined that it would avoid potential problems if the legislation specified more clearly, without reference to criminal statutes in here, how indigency is defined, how a determination be made if such a statute was claimed and when it would be made. It also needs to be noted that no statute governing the primary class cities, which...there's only one, Lincoln, I should say, is being amended by this original bill. The relevant statutes governing these cities already provides for the payment of actual costs. However, these statutes do not have an analogous provision regarding indigency while making payment of the fees a jurisdictional prerequisite. The committee amendment addresses those matters. Indigency is defined just as it is in Criminal Code now. We define it in this language as opposed to referencing it. Also it specified that a court having jurisdiction of the appeal, of the appeal is to determine whether the appellant is indigent upon the motion of the appellant following the Nebraska line of cases involving the determination of indigency. In criminal matters, the amendment lists a series of factors which the court is to

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

Floor Debate
April 16, 2009

consider in making a determination on that indigency. Sections 1 through 5 of the committee amendment incorporate the provisions of the original bill. Two, three and four add the sections governing appeals in primary class cities, and the indigent language. I believe that's all. Members of the Legislature, I would be happy to answer any questions. If not, I would ask for the adoption of those committee amendments and advancement of LB441. Thank you. [LB441]

SENATOR LANGEMEIER: Thank you, Senator Friend. You've heard the opening on LB441 and the committee amendment thereto. The floor is now open for discussion. Senator Wallman, you're recognized. [LB441]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. This indigent...Senator Council or Senator Friend, whoever wants to answer this. Does that mean if I have a court appointed attorney I'm indigent and I get this free transcript thing, or what determines that, the judge, the panel...or whoever wants to answer this? [LB441]

SENATOR LANGEMEIER: Senator Friend, would you yield? [LB441]

SENATOR FRIEND: Yes, I will. We changed it so we wouldn't have to deal with that. We provided a definition of indigent so we wouldn't have to deal with that potential concern or that issue. That was talked about during the Executive Session, so. [LB441]

SENATOR WALLMAN: Thank you. [LB441]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Seeing no other lights on, Senator Friend, you're recognized to close on the committee amendments. Senator Friend waives closing. The question before the body is, shall AM392 be adopted to LB441? All those in favor vote yea; all the opposed vote nay. Have all those voted who wish to? Mr. Clerk, please record. [LB441]

ASSISTANT CLERK: 36 ayes, 0 nays, on the adoption of committee amendments. [LB441]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: AM392 is adopted. Returning to discussion on LB441, there are no lights on. Senator Council you're recognized to close. Senator Council waives closing. The question before the body is, shall LB441 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB441]

ASSISTANT CLERK: 41 ayes, 0 nays, on the advancement of the bill, Mr. President. [LB441]

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

Floor Debate
April 16, 2009

SPEAKER FLOOD: LB441 advances. Mr. Clerk, LB537. [LB441 LB537]

ASSISTANT CLERK: LB537 was introduced by Senator Giese. (Read title.) The bill was read for the first time on January 21 of this year, referred to the Business and Labor Committee. That committee reports the bill to General File with committee amendments. (AM882, Legislative Journal page 902.) [LB537]

SPEAKER FLOOD: Senator Giese, you're recognized to open on LB537. [LB537]

SENATOR GIESE: Thank you, Mr. President and members of the body. LB537 is designed to provide flexibility to cities that rely entirely on a volunteer fire department but would like to employ a small number of paid firefighters to assist the department. In these tough economic times many cities have found it difficult to maintain an entirely volunteer fire department, particularly when it comes to fighting fires during the business day. For example, South Sioux City has had more than 50 volunteer firefighters 30 years ago but in the last few years the number of volunteers has dwindled into their 20's. Faced with a shortage of firefighters, South Sioux City and other first-class cities are looking to hire one or two previously volunteer firefighters to work the 8 to 5 shift. Currently, the language of Section 35-302 will not allow paid firefighters to work more than 40 hours per week unless they are scheduled for a 24-hour shift during the same week. My office has worked extensively with all of the interested parties as well as members of the Business and Labor Committee to find language which would allow cities some flexibility while protecting firefighters who rely on hourly wages to provide for their families. This language is found in AM882 which is a committee amendment. The amendment which replaces the original bill would allow cities to reach voluntary agreements with the collective bargaining agent or the firefighter directly if there is no collective bargaining unit. Undoubtedly, this shortage is not limited to South Sioux City and many cities statewide that rely on volunteer fire departments may also be suffering. LB537 simply provides these cities with another option when facing a critical shortage of volunteers and I would urge the body to advance the bill to Select File. [LB537]

SPEAKER FLOOD: Thank you, Senator Giese. Senator Lathrop, you're recognized to open on the committee amendment. [LB537]

SENATOR LATHROP: Thank you, Mr. President. Senator Giese has already kind of stole my thunder and introduced AM882. Let me just say this about the bill. First of all, the bill is appropriate and necessary. It's good government, will allow these smaller communities that are sort of somewhere between a professional staff and a all-volunteer staff to make some necessary changes. All AM882 does is allow that negotiation to happen either between the firefighter if he has no union or if he's nonunion or there is no collective bargaining unit to negotiate directly with the firefighter. It is a good measure, good government, and I would encourage you to support AM882

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

Floor Debate
April 16, 2009

and LB537. Thank you. [LB537]

SPEAKER FLOOD: Thank you, Senator Lathrop. You've heard the opening on the committee amendment, AM882. There are no lights on. Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is, shall AM882 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB537]

ASSISTANT CLERK: 38 ayes, 0 nays, on the adoption of committee amendments. [LB537]

SPEAKER FLOOD: AM882 is adopted. Returning to discussion on LB537, there are no lights on. Senator Giese, you're recognized to close. Senator Giese waives his opportunity. The question before the body is, shall LB537 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB537]

ASSISTANT CLERK: 37 ayes, 0 nays, on the advancement of the bill. [LB537]

SPEAKER FLOOD: LB537 advances to E&R Initial. Mr. Clerk, LB631. [LB537 LB631]

ASSISTANT CLERK: LB631 was introduced by the Business and Labor Committee. (Read title.) The bill was read for the first time on January 21, referred to the Business and Labor Committee. That committee reports the bill to General File with committee amendments. (AM415, Legislative Journal page 904.) [LB631]

SPEAKER FLOOD: Senator Lathrop, you're recognized to open on LB631. [LB631]

SENATOR LATHROP: Thank you, Mr. President and colleagues. LB631 was introduced at the request of the Department of Labor. This is what we generally refer to as a cleanup bill. It has a number of noncontroversial cleanup items found in the bill and I'll go through them and try not to belabor the point too much. Section 1 of the bill is merely technical and makes some grammatical changes to 48-612.01. Section 2 expands and authorizes the use of worker training programs, program funds to include recruitment of workers to Nebraska. While Section 3 abolishes the Nebraska Worker Training Board, the amendment that I'll introduce shortly puts that back in. Sections 4, 5 and 6 reduce the threshold for mandatory electronic filing of combined tax and wage returns and electronic payment of combined taxes from an annual payroll of \$500,000 to an annual payroll of \$100,000. Section 7 codifies current practice for charging employers for benefits drawn by part-time employees and benefits based upon combined wage claims. Section 8 changes the tax rate recalculation process following the acquisition of an existing business to comport with existing law. Sections 9 and 10 allow the commissioner to intercept federal income tax returns for unpaid unemployment taxes not paid as a result of fraud and unemployment benefits obtained

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

Floor Debate
April 16, 2009

through fraud. Section 11 makes some technical changes and would allow the commissioner to enter into agreements with other state agencies when computing unemployment benefits. And finally, Section 14 outright repeals Section 48-610 which is the State Advisory Council, as the Council's rate setting function is no longer necessary. And with that, I'll close on the introduction of LB631. [LB631]

SPEAKER FLOOD: Thank you, Senator Lathrop. Senator Lathrop, you're recognized to open on AM415, Business and Labor Committee amendment. [LB631]

SENATOR LATHROP: Thank you, Mr. President. AM415 is very simple. In the original bill, LB631, Section 3, there was a...we abolished the Nebraska Worker Training Board. There are some changes being made in that area of the Department of Labor and we thought it...or the Department at least thought at one point in time that abolishing that board would be timely. On further consideration we believe that that should remain in force for at least a couple more years, so AM415 simply strikes Section 3 and we will continue to have the Nebraska Worker Training Board. And with that, I would encourage the adoption of AM415 and LB631. Thank you, Mr. President. [LB631]

SPEAKER FLOOD: Thank you, Senator Lathrop. There are no lights on of members requesting to speak. Senator Lathrop, you're recognized to close on AM415. Senator Lathrop waives his opportunity. The question before the body is, should AM415 be adopted? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB631]

ASSISTANT CLERK: 38 ayes, 0 nays, on the adoption of committee amendments. [LB631]

SPEAKER FLOOD: The committee amendments are adopted. Returning to discussing on LB631, there are no members wishing to speak. Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is, shall LB631 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB631]

ASSISTANT CLERK: 41 ayes, 0 nays, on the advancement of the bill. [LB631]

SPEAKER FLOOD: LB631 advances to E&R Initial. Mr. Clerk, we now proceed to LB598. [LB631 LB598]

ASSISTANT CLERK: LB598 introduced by Senator Ashford. (Read title.) The bill was read for the first time on January 21 of this year, referred to the Judiciary Committee. That committee placed the bill on General File. There are no committee amendments. [LB598]

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

Floor Debate
April 16, 2009

SPEAKER FLOOD: Senator Ashford, you're recognized to open on LB598. [LB598]

SENATOR ASHFORD: Thank you, Mr. President and members. The Victim's Reparations Board is...was originally established through the efforts of Carol Pirsch when I was in the Legislature, and it is a committee that is probably underutilized because the funding is not significant enough for this committee to be aggressively involved in victims reparations as we originally intended when this committee or commission was set up years ago. However, we, in the committee found, I think, a purpose, an additional purpose for the commission which involves funding for victims of significant tragedies, such as the Von Maur shooting. The United Way took it upon itself to handle gifts to...from third parties for victims of the Von Maur shooting incident. And because of IRS rules and regulations concerning the taking in of the money and distribution of the money and how that was accounted for, it became an extremely difficult task and actually in some, in some...though although the money that did come in, I think, was over \$2 million that came in from third parties for victims of Von Maur, and the money was finally distributed, it took a year or so for the United Way to perform this task. And it caused some hard feelings that certainly was not the intention of the donors or certainly of the United Way. The United Way came to us, to the committee, with an idea to create a fund within state government to make sure that the allocation of funds from third parties that were given...donated by third parties could be distributed in an equitable manner. Obviously, Von Maur is not the only tragedy where this kind of situation could occur, but it may and very likely will occur again. And so with the passage of this bill, the Crime Victim's Reparations Committee would have the authority to receive funds and distribute funds in a manner that is...certainly that would be within the intent of the donors and to address the tragedy that it is dealing with, and avoid the problems that nonprofits have in...or at least help the nonprofits who would be thought of as, like the United Way, as a potential donor in making sure these funds get distributed quickly to victims. With that, I would urge the adoption of...or not the adoption, the advancement of LB598. Thank you, Mr. President. [LB598]

SPEAKER FLOOD: Thank you, Senator Ashford. There are no members wishing to speak. Senator Ashford, you're recognized to close on LB598. Senator Ashford waives his opportunity. The question before the body is, shall LB598 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB598]

ASSISTANT CLERK: 40 ayes, 0 nays, on the advancement of the bill, Mr. President. [LB598]

SPEAKER FLOOD: LB598 advances to E&R Initial. Mr. Clerk, we will now proceed to LB238. [LB598 LB238]

ASSISTANT CLERK: LB238 introduced by Senator Lathrop. (Read title.) The bill was read for the first time on January 13 of this year, referred to the Judiciary Committee.

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

Floor Debate
April 16, 2009

That committee places the bill on General File with committee amendments attached. (AM903, Legislative Journal page 943.) [LB238]

SPEAKER FLOOD: Senator Lathrop, you're recognized to open on LB238. [LB238]

SENATOR LATHROP: Thank you, Mr. President. LB238 creates the Public Power Infrastructure Protection Act. Basically, it updates some of our laws with respect to trespass and interference with equipment that generates electricity. It also directly and specifically provides for penalties if you enter upon, in one manner or another, a nuclear power facility. Let me offer more specifically, LB238 would amend Section 28-520 to provide for the offense of criminal trespass when a person enters or secretly remains upon a public power facility property without the consent from a person authorized to provide consent to be on the facility property. A violation of this section will be a Class I misdemeanor, punishable by one year, up to one year, or a \$1,000 or both. It also creates a criminal offense when a person damages or destroys or attempts to damage or destroy any machine, facility or apparatus owned by a public power supplier and such machine, facility or apparatus is used to generate electricity. It would also prohibit the damage, injury, or destruction of any facility electric wire, pole bracket, or insulator, or other appliance owned by the power district used in conducting, transforming, transmitting or distributing electricity. And finally, a person would be guilty of a Class II felony if the person willfully and maliciously caused damage or attempted to cause damage to a nuclear power facility. This provision would also cover acts and omissions of persons employed by the nuclear facility that are outside the official rules or directives related to that facility. And with that, we would encourage you to support LB238. Thank you. [LB238]

SPEAKER FLOOD: Thank you, Senator Lathrop. Senator Ashford, you're recognized on AM903, Judiciary Committee amendment. [LB238]

SENATOR ASHFORD: Thank you, Mr. President. AM903 is an amendment the committee believe would clarify that the damage done to a nuclear generating facility as specified in the Act be done in a willful and malicious manner, and not as the result of an unintended accident. The amendment would simply strike the language and insert the word...strike some language on page 4, line 25, sub (a) and insert the words "maliciously" on line 25. And this language obviously is intended to deal with a situation where there is an inadvertent damage done to facilities. And the committee felt that this malicious language would handle that and I think it does. And with that, I would urge the adoption of AM903. [LB238]

SPEAKER FLOOD: Thank you, Senator Ashford. Turning to discussion on AM903, Senator Pirsch, you're recognized. [LB238]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I wonder if

Floor Debate
April 16, 2009

Senator Lathrop would yield to a question or two. [LB238]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Pirsch? [LB238]

SENATOR LATHROP: Certainly. [LB238]

SENATOR PIRSCH: Great. And this bill, LB238 creates a new criminal offense when you damage certain types of property, is that right? [LB238]

SENATOR LATHROP: Yes, it's intended to...yeah, create penalties that involve entering upon or destroying equipment used in generating electricity. [LB238]

SENATOR PIRSCH: And, and, and currently there's criminal statute for trespassing and criminal mischief which is destruction of property essentially. How do these penalties differ from the existing statutes? [LB238]

SENATOR LATHROP: Well, we do have some statutes on the books already as you indicated. We have statutes that deal with a criminal mischief. We have statutes dealing with destruction of property and we have statutes dealing with trespass. The bill addresses specifically those circumstances where people are interfering with the generation of electricity because we have folks out there that are cutting big cables for the copper and interrupting the generation of electricity or the transmission of the electricity. They're...somebody is going to get hurt doing this and then, of course, we address entering upon or staying at a nuclear facility, which is a particularly hazardous thing for people to be doing. So it increases the penalties as compared to simply doing criminal mischief or trespass into a...any other property, like a mall or the Crossroads or anything else. [LB238]

SENATOR PIRSCH: Well, I would agree that with respect to perhaps damaging energy transmitting or producing type of equipment you have a special interest there insofar as it can affect a lot of peoples lives. And you know, hospital, medical equipment, and all that kind of thing as well put the perpetrator who is stealing perhaps, as you mentioned, copper or metals, specific metals, at risk in terms of his life himself. But I guess what I'm saying is, what is the new penalty for...I mean, how many new criminal violations are created, just the one for entering upon the property of such a facility and damaging the property? [LB238]

SENATOR LATHROP: Well, I mean I can go through it with you if you like. We have...the bill sets them out and you have in Section 6, for example, it makes it a Class IV felony, at a willfully and maliciously damage, injure any machine, appliance or facility or apparatus owned. Section 7 addresses, attempts to cause damage to or enter upon nuclear generating facilities. [LB238]

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

Floor Debate
April 16, 2009

SENATOR PIRSCH: And what's that penalty? [LB238]

SENATOR LATHROP: That penalty is a Class II felony if one willfully and maliciously destroys or causes or attempts to destroy or damage or loss to a nuclear electrical generating facility or its components. I'm not sure that's exactly what you're asking. [LB238]

SENATOR PIRSCH: So is it just...this statement is the existing criminal penalties for that are enhanced then you're saying, in all ways by this new statute and required because of the special, I guess, risk both to the public and the perpetrator, is that what you're saying? [LB238]

SENATOR LATHROP: Yes, Senator Pirsch, I guess the way I'd answer that question is this way. I believe that this creates greater penalties than if you simply did this kind of an activity in a different type of a private property. Obviously, there's only one place you can do this with nuclear fuel, perhaps two in the state. But as for a comparison, a side by side comparison, if you tear... [LB238]

SPEAKER FLOOD: One minute. [LB238]

SENATOR LATHROP: ...some electric wire out and there's a penalty provided in this bill, is it higher and how much higher, I wouldn't be familiar enough with the Criminal Code to tell you how much higher this gets because of the act. [LB238]

SENATOR PIRSCH: And that's my question. I guess I can look at this at the next reading but...and I was, just off the top of my mind, thinking that with respect to certain criminal mischief that the penalty was actually a IIIA felony, which would mean to give, I guess, if that's correct, if my recollection...I'll look into it between now and Select, a greater penalty for a prosecutor to utilize. But I thank you for answering, at least... [LB238]

SPEAKER FLOOD: Time. [LB238]

SENATOR PIRSCH: ...it was...Thank you. [LB238]

SPEAKER FLOOD: Senator Wallman, you're recognized. [LB238]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Senator Lathrop, would you answer a question, you open to a question, please? [LB238]

SPEAKER FLOOD: Senator Lathrop, will you answer a question for Senator Wallman? [LB238]

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

Floor Debate
April 16, 2009

SENATOR LATHROP: Certainly. [LB238]

SENATOR WALLMAN: Thank you. Senator Lathrop, if I have a transmission line going across my property and I'm a farmer, is this going to increase my fine for damages, or...? [LB238]

SENATOR LATHROP: For you? [LB238]

SENATOR WALLMAN: Yes. [LB238]

SENATOR LATHROP: We could amend it... [LB238]

SENATOR WALLMAN: Thank you. (Laughter) [LB238]

SENATOR LATHROP: ...Senator Wallman, to make sure it does. (Laughter) Yeah, no, it doesn't. These things are Criminal Code so they require willful, deliberate type of conduct. If you bang into a transmission line and knock a wire down and live through it, you're not likely to be prosecuted under this act. [LB238]

SENATOR WALLMAN: Thank you. [LB238]

SPEAKER FLOOD: Thank you, Senator Wallman. There are no other lights on. Senator Ashford, you're recognized to close on AM903. Senator Ashford waives his opportunity. The question before the body is, shall AM903 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB238]

ASSISTANT CLERK: 38 ayes, 0 nays, on the adoption of committee amendments. [LB238]

SPEAKER FLOOD: AM903 is adopted. Returning to discussion of LB238, there are no lights on. Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is, shall LB238 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB238]

ASSISTANT CLERK: 34 ayes, 0 nays, on the advancement of the bill, Mr. President. [LB238]

SPEAKER FLOOD: LB238 advances to E&R Initial. Items for the record, Mr. Clerk, before we proceed to the remaining bills on the consent calendar agenda. [LB238]

ASSISTANT CLERK: Thank you, Mr. President. Amendments to be printed to LB285 from Senator Flood. New resolution, LR88, by Senator Giese would propose an interim

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

Floor Debate
April 16, 2009

study; and an Attorney General's Opinion addressed to Senators Gloor and Avery (re LB355). That will be inserted in the Journal. (Legislative Journal pages 1082-1092.) [LB285 LR88 LB355]

SPEAKER FLOOD: Thank you, Mr. Clerk. We will now proceed to LB294. [LB294]

ASSISTANT CLERK: LB294 was introduced by Senator Campbell. (Read title.) The bill was read for the first time on January 15 of this year, referred to the Revenue Committee. That committee placed the bill on General File with no committee amendment. [LB294]

SPEAKER FLOOD: Senator Campbell, you're recognized to open on LB294. [LB294]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, LB294 comes from a long association on my part with the Nebraska Association of County Officials. And the intent of this bill is to lengthen the time that a county board may levy a tax for bonds for capital projects. To accomplish this, LB294 amends the statute by changing the current and this is the one word change in the bill, the current 10 year limit to 20 years. The bill makes no other changes to the statute provisions on levy limits, bond amounts, voter petition, and voter approval. I think this comes to you for two reasons. It has surfaced certainly in long discussions among county boards, but it does reduce the pressure over a longer period of time on the taxpayers within a county and certainly comes to...of importance to counties when the bond market is very favorable. I much appreciated a unanimous vote out of the Revenue Committee. Thank you, Mr. President. That concludes my opening comment. [LB294]

SPEAKER FLOOD: Thank you, Senator Campbell. There are no members wishing to speak. Senator Campbell, you're recognized to close. Senator Campbell waives closing. The question before the body is, shall LB294 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB294]

ASSISTANT CLERK: 39 ayes, 0 nays, on the advancement of the bill, Mr. President. [LB294]

SPEAKER FLOOD: LB294 advances to E&R Initial. Mr. Clerk, LB347. [LB294 LB347]

ASSISTANT CLERK: LB347 was introduced by Senator Cornett. (Read title.) The bill was read for the first time on January 15, referred to the Judiciary Committee. The committee reports the bill to General File with committee amendments attached. (AM985, Legislative Journal page 965.) [LB347]

SPEAKER FLOOD: LB347, Senator Cornett, you're recognized to open. [LB347]

Floor Debate
April 16, 2009

SENATOR CORNETT: Thank you, Mr. Speaker. Under Nebraska law an owner of a dog is strictly liable for damage caused by the dog. LB347 would make exceptions to strict liability for police and military dogs under certain circumstances. The first circumstance is if the dog is defending itself from a harassing or provoking act. The other circumstances are if the dog is assisting an employee of the governmental agency in the apprehension or holding of criminal suspect, in the investigation of a crime or possible crime, in the execution of a warrant, or in the defense of a peace officer or another person other than the suspect. The Judiciary Committee has made a few changes to the bill and I would ask you to support the committee amendment. The changes in the bill are needed because police and military animals are highly trained to perform functions in tandem with their human handlers. Governmental agencies have written policies which outline when a dog can be utilized and how. These dogs are utilized in a very different way from your average household pet. With that, I would ask you to support LB347 and the Judiciary Committee amendment. Thank you. [LB347]

SPEAKER FLOOD: Thank you, Senator Cornett. Senator Ashford, you're recognized to open on the Judiciary Committee amendment, AM985. [LB347]

SENATOR ASHFORD: Thank you, Mr. Speaker. The committee felt that the following three changes were needed before the exemption would apply. Senator Cornet has eluded to one of them. First, that the military or law enforcement agencies utilizing dogs under this bill adopt written policies which apparently they already, most of them already have, specifying under which circumstances the dogs are to be utilized. Two, that if the person injured was a suspected party to or participant in the act which required the use of the military or police dog, then the exemption would apply. So there would have to be a nexus between the use of the dog and the suspected...the activities of the suspected party. And three, that if the injury occurred while the dog was responding to a harassing or provoking act, the exemption would also apply. The amendment also defined a harassing or provoking act as knowingly and intentionally attempting to interfere with, interfering with, teasing or harassing such dog in order to distract or agitating or harming such dog. Thank you, Mr. Speaker. [LB347]

SPEAKER FLOOD: Thank you, Senator Ashford. There are no lights on. Senator Ashford, you're recognized to close on AM985. Senator Ashford waives his opportunity. The question before the body is, shall AM985 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB347]

ASSISTANT CLERK: 37 ayes, 0 nays, on the adoption of committee amendments. [LB347]

SPEAKER FLOOD: Committee amendments are adopted. Returning to discussion on LB347, there are no lights on. Senator Cornett, you're recognized to close. Senator Cornett waives her opportunity. The question before the body is, shall LB347 advance

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

Floor Debate
April 16, 2009

to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB347]

ASSISTANT CLERK: 39 ayes, 0 nays, on the advancement of the bill. [LB347]

SPEAKER FLOOD: LB347 advances to E&R Initial. Mr. Clerk, LB571. [LB347 LB571]

ASSISTANT CLERK: LB571, Mr. President, was introduced by Senator Pahls. (Read title.) The bill was read for the first time on January 21 of this year, referred to the Banking, Commerce and Insurance Committee. That committee reports the bill to General File with committee amendments. (AM983, Legislative Journal page 994.) [LB571]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Pahls, you're recognized to open on LB571. [LB571]

SENATOR PAHLS: Thank you, Mr. Speaker and members of the body. LB571 would create a legal and regulatory framework for the offering and selling of guaranteed asset protection waivers or GAP Waivers for short. Now what is a GAP Waiver? As defined in the bill, a GAP Waiver is a contractual agreement in which a creditor agrees for a separate charge to cancel or waive all or part of amounts due on a borrowers financial agreement in the event of a total physical damage loss or unrecovered theft of a motor vehicle subject to the finance agreement. The GAP Waiver must be part of or a separate addendum to the finance agreement. The GAP Waiver remains a part of the financial agreement upon the assignment, sale, or transfer of the financial agreement. You may ask, why do you people buy GAP Waivers? As we all have been told, when you buy a vehicle it loses a significant amount of value the moment you drive it off the dealer's lot. For some buyers there's a time period when the unpaid balance of the financial agreement actually exceeds the amount of insurance proceeds payable if the vehicle becomes a total loss or is stolen. Under the GAP Waiver, that amount would be cancelled or waived. Most typically, a car buyer elects to purchase a GAP Waiver from an auto dealership as part of the finance agreement or lease for the motor vehicle. Lessees can buy GAP Waivers as well as buyers. Does the customer have to buy a GAP Waiver? No. In fact the bill specifically provides that the extension of credit, the terms of credit, and terms of motor vehicle sales or leased, may not be conditioned upon the purchase of a GAP Waiver. Typically, the initial credit to the car dealer. Car dealers sell motor vehicles subject to finance agreements. If the buyer purchases a GAP Waiver, that GAP Waiver becomes a part of the financial agreement and remains so when the dealer assigns or sells it. As an example, suppose you buy a Chevy SUV, which they're willing to sell now, for \$50,000 and you finance the cost. You may also buy a GAP Waiver from the dealer and its costs is also part of the financial agreement. Of the money you pay for the GAP Waiver, the dealer takes a cut, then the GAP Waiver program administrator takes his cut, and then the bulk of the money would go to GMAC,

Floor Debate
April 16, 2009

which bears the risk. Now you drive away with your brand new Chevy, and automatically it loses 20 percent of its value if it's totaled or if it's stolen. The insurance company would cut a check for \$40,000 to GMAC and GMAC basically would eat the \$10,000 because that was the amount that was "waivered." The bill contains several consumer protection provisions. There is a list of disclosures which a GAP Waiver must make. There are requirements for a minimum 30-day free look period. There are requirements for partial and full refunds. Such requirements fall upon the GAP Waiver program administrators. That is an overview of the GAP Waivers and the bill as the bill was introduced. The committee amendments would become the bill and I will provide additional comments. Thank you. [LB571]

SPEAKER FLOOD: Thank you, Senator Pahls. You've heard the opening of LB571. There are Banking, Commerce and Insurance amendments. Senator Pahls, you're recognized to open. [LB571]

SENATOR PAHLS: Thank you. As I said, the committee amendments become the bill. The bill as introduced is essentially model act language. It became apparent that the original language does not fit seamlessly into the existing Nebraska law. Time constraints did not permit an opportunity to fine tune the model language prior to the bill's introduction. After the hearing, we received very crucial assistance from our state insurance and banking regulators. Their suggestions make up the bulk of the committee amendments. The Department of Insurance helped us craft language in the committee amendments to make it clear that the offering and selling of GAP Waivers would not be declared engaging in an unauthorized insurance business. The people who brought us the bill are the businesses that perform operational functions pursuant to the GAP Waiver program. They were concerned that their business could be imperiled if it would be declared an unauthorized insurance business. Also with the input of the department, the committee amendments would omit language which requires creditors to insure GAP Waiver obligations under contractual liability policies. Those provisions appeared unnecessary to fulfill the primary purpose of the consumer protection in the bill. After the Department of Insurance provided their changes, the Department of Banking and Finance went through the bill and provided their changes. The Department of Banking makes suggestions to strengthen the consumer protection provisions, the Department suggested insertion of more specific language regarding the determination of a total physical loss or unrecovered theft of the motor vehicle. The Department of Banking recommended that committee amendments amend sections of the Nebraska Installment Sales Act and the Nebraska Installment Loan Act. Those amendments not only specify the charge so a GAP Waiver can be financed, they also allow for some regulatory oversight. The committee amendment also amends the Motor Vehicle Industry Licensing Statute to provide that the Motor Vehicle Industry Licensing Board may sanction the dealer for violation of the bill. The committee amendments also clarifies that the bill does not apply to get waivers offered, sold, or provided by financial institutions. Those institutions are subject to existing administrative regulations. Those

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

Floor Debate
April 16, 2009

are the amendments and I urge you to adopt the committee amendments so we can advance LB571. Thank you. [LB571]

SPEAKER FLOOD: Thank you, Senator Carls...Pahls. (Laughter) [LB571]

SENATOR PAHLS: It's late in the day. [LB571]

SPEAKER FLOOD: You've heard the opening on AM983. Continuing with discussion on the committee amendments, Senators Carlson, White, Lathrop, and Wallman currently in the queue. Senator Carlson, you are recognized. [LB571]

SENATOR CARLSON: Mr. President and members of the Legislature. I would like to address a question or two to Senator Pahls if he would yield. [LB571]

SPEAKER FLOOD: Senator Pahls, will you answer a question from Senator Carlson? [LB571]

SENATOR PAHLS: Yes. [LB571]

SENATOR CARLSON: Senator Pahls, in the hearing the proponents were the GAP people and the Nebraska New Car and Truck Dealers, I understand why they would be proponents. Director of Insurance was an opponent and do you feel like in the amendment that her concerns have been addressed? [LB571]

SENATOR PAHLS: That is a reason why we went to the insurance department to make sure that they had input into the amendments. As you can tell, the insurance department and the banking department, they went through and scrutinized this bill. So basically, the bulk of the amendments are attributed to their concerns. [LB571]

SENATOR CARLSON: Okay, thank you. Now, I looked and I was looking for NAIFA to be there to testify or the Big "I" or the PIA and none of them were and maybe it's because this isn't insurance? [LB571]

SENATOR PAHLS: Yes. This is not insurance. And let me explain and I'll use again the concept of if you go, you buy a car for \$50,000, you take it out, you have a wreck, total the car and it is worth \$40,000. The insurance would pay the \$40,000 because you would buy insurance. The GAP between \$40,000 and \$50,000 would be that waiver that you paid for. So the insurance is the part that you buy to insure the car. The GAP is that protection that you buy to preserve you're not having to pay whatever you owe on that. [LB571]

SENATOR CARLSON: Okay, thank you, Senator Pahls. And the GAP portion is not insurance technically. However, the purchaser of that car looks at it as though it were

Floor Debate
April 16, 2009

insurance. And having been in the insurance business for 30 years, one of the areas of insurance that I had argument with, if I go to get a loan either to buy a vehicle or go to the bank to get a loan to buy something else, I have an opportunity to buy credit life. Credit life is life insurance. It's expensive life insurance. And oftentimes people don't pay any attention to what that costs because they're anxious to get the loan. Now, on buying vehicles, I can be free of my payments if I die, that's one of the aspects in a contract. I can be free of my payments if I become disabled. That's another aspect. Now, if you listen to what's being told to you on TV, if you buy a car and lose your job you can be free of payments. And now that's what brought up my questions concerning this Guaranteed Asset Protection Waiver because a lot of the things that end up in a contract when a person buys a vehicle in one form or another, as far as the buyer is concerned, its insurance. And every one of those items has a cost. And many times the individual, if they understood that, they'd be better buying that from somebody else. And so it's important, and this is for the record, that all these costs be acknowledged. And I know Senator Pahls has indicated that's part of this. They have to acknowledge what those costs are but oftentimes people are most concerned what's my payment than really what am I paying for. And so these are important items that become a part of the contract and need to be thought through very carefully. I'm not opposed to advancing this bill but I wanted to make these comments for the record. Thank you, Mr. President. [LB571]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator White, you're recognized. [LB571]

SENATOR WHITE: Thank you, Mr. President. I know it's been a long day, but this is a complicated issue and it's not as simple as it's being, perhaps being pointed out. Senator Pahls has been wonderful. I don't intend today to participate in trying to yank it off the consent calendar but I do want you to know, it's a very substantial issue and I want to raise a couple of basic points. Senator Lathrop and I talked to the Director of Insurance because I think this is still insurance under the ancient legal maxim that if it walks like a duck, quacks like a duck, has feathers and flies, it's a duck. Now, here's what's happening. You walk in to buy a car from a dealership. The dealer says, look, the minute you drive this car off the lot, instead of the 40 grand you paid me, it's worth 30. I get in a wreck, he said if you pay me this fee I'll walk away from the 10 grand difference. Now that looks like insurance to me. In the insurance industry laws it's not because there's not a third party involved. When you go for the underlying \$30,000 of the repair costs, there's a company out there that takes payments, premium payments, invests them, should have enough money to pay for the repairs of my car. If it goes bankrupt, then there's no money to fix it. In this situation, it's buried into the contract. My debt is adjusted downward automatically so there's no third party. That is a big part in normal concern of insurance regulation. Are the companies selling premium, selling something real? Do they have assets to take on the risk? Are they selling blue sky and hot air? In other words, they sell them, they fly and then there's no insurance company to fix the

Floor Debate
April 16, 2009

car. That aspect of insurance isn't a problem in this situation generally. Not necessarily, I mean we can get more technically, but generally. However, there's another whole aspect to insurance regulation that's really important and that this bill pretends doesn't exist. And that is, when you buy insurance, there's first of all extensive licensing and training of the people who sell it. And they're licensed and they're trained to make sure they know what they're doing, that they're honest, that they don't misrepresent what the contracts do and do not do, and if they do, they're subject to discipline. That whole agency enforcement on that \$10,000 risk shifting does not exist here. The other thing that's very substantial and very important to recognize is that in addition there is a whole host of law and enforcement over what insurance policies say and how they say it. They have to be clear. They have to state what they're doing, they have to state what the cost is. None of that is here. All that regulation won't be here. Another thing that's very important and is really subject to abuse is, insurance is regulated in a way that they cannot overcharge you for the risk that they're taking on. In other words, you can't charge \$1,000 that actuarial experience shows is only worth \$20. There has to be a rationale relationship between what you charge and what your actual loss experience is. That's not here anymore. And this is directly set up in competition with insurance. In fact under this bill, I believe you could totally destroy the repair, the collision part of your auto policy. When you get home, take a look at your auto policy. If you have comprehensive coverage... [LB571]

SPEAKER FLOOD: One minute. [LB571]

SENATOR WHITE: ...one provision will be collision. And that has a cost associated with it and what that means is the cost of repairing your own vehicle. It's usually the most expensive part, even more than liability, is the repair of your own car. Now, I can write a...with this bill, I can write a contract that totally eliminates collision insurance and it's not insurance. And it's not regulated and there's no control on my pricing and I'm in open competition with insurance companies. I've run out of time. If I get some more time I'll explain how that could happen. [LB571]

SPEAKER FLOOD: Thank you, Senator White. Senator Lathrop, you have 27 seconds with the 15 minute rule. [LB571]

SENATOR LATHROP: He wasn't yielding time to me. I think it was my turn. [LB571]

SPEAKER FLOOD: It is your turn but we have a 15 minute limit on each bill under consent calendar pursuant to... [LB571]

SENATOR LATHROP: And I have how much time? [LB571]

SPEAKER FLOOD: Ten seconds. (Laughter) [LB571]

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

Floor Debate
April 16, 2009

SENATOR LATHROP: I think we move this on General File and take another look at it. I agree with Senator White's remarks. Thank you. [LB571]

SPEAKER FLOOD: Thank you, Senator Lathrop. For the body's benefit, pursuant to Rule 5, Section 6, to each bill on Select File can take up to 15 minutes. We will now proceed without a closing on either measure in front of us to a vote. We will proceed to a vote on AM983. All those in favor of adopting AM983 vote aye; those opposed vote nay. Mr. Clerk, please record. [LB571]

ASSISTANT CLERK: 34 ayes, 0 nays, on the adoption of AM983, Mr. President. [LB571]

SPEAKER FLOOD: AM983 is adopted. Mr. Clerk, LB571. Members, the question before the body is, shall LB571 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB571]

ASSISTANT CLERK: 35 ayes, 0 nays, on the advancement of the bill, Mr. President. [LB571]

SPEAKER FLOOD: LB571 advances to E&R Initial. Mr. Clerk, items for the record. [LB571]

ASSISTANT CLERK: Thank you, Mr. President. New A bill, LB237A, by Senator Lathrop. (Read by title for the first time.) I have an amendment to LB598 from Senator Ashford to be printed in the Journal. (Legislative Journal page 1093.) [LB237A LB598]

And finally, a priority motion: Senator Lathrop would move to adjourn until Friday, April 17, 2009, at 9:00 a.m. []

SPEAKER FLOOD: Mr. Clerk, thank you. Members, you've heard the motion. All those in favor of adjourning until 9:00 a.m. tomorrow morning, say aye. Those opposed to adjourning say nay. The ayes have it. We are adjourned. (Gavel) []