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Floor Debate  
May 27, 2009

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[LB9 LB63 LB63A LB112 LB134 LB159 LB219A LB219 LB237 LB237A LB246 LB246A LB420 LB461 LB464A LB464 LB489 LB555 LB561 LB626 LB633 LB656 LB658 LB671 LB671A LB675 LB679 LR11 LR171 LR245 LR251 LR252 LR253 LR254 LR255 LR256 LR257 LR258]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris for the eighty-fifth day of the One Hundred First Legislature, First Session. Our chaplain for today is Senator Heidemann. Would you all please rise. []

SENATOR HEIDEMANN: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Senator Heidemann. I call to order the eighty-fifth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

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

PRESIDENT SHEEHY: Are there corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

PRESIDENT SHEEHY: Are there messages, reports, or announcements? []

CLERK: Mr. President, the bill read last evening on Final Reading was presented to the Governor at 6:57 p.m. (re LB679). Senator Stuthman offers LR251 and LR252; both of those will be laid over. That's all that I had, Mr. President. (Legislative Journal pages 1733-1734.) [LB679 LR251 LR252]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will move to the first item, motion to suspend Rule 7, Sections 7(d) and (e). [LB420]

CLERK: Mr. President, Senator Hadley would move to suspend Rule 7, Sections 7(d) and (e), to request the return of LB420 from the Governor for further legislative action. [LB420]

PRESIDENT SHEEHY: Senator Hadley, you're recognized to open on your motion for rule suspension. [LB420]

SENATOR HADLEY: Mr. President, members of the body, if I were to tell you that this hasn't been a difficult last four or five days, I'd be lying to you. But I'm here to ask you to suspend the rules and to basically suspend the rules to request a return of a bill from

Floor Debate  
May 27, 2009

---

the Governor for further action, and I'd like to go through and just spend a few minutes telling you why I'm asked to do this. Last Friday it came to my attention that we have a bill, LB561, that's going through the deals with wind energy and we've talked a lot about it over the course of this session. We've talked about the problems that NPPD and the other nonprofit electrical companies have of getting government credits and subsidies because they're not a private organization, and we've talked in the past about partnerships between public and private organizations to help. Well, there is a possibility, a good possibility of this partnership, and Senator Langemeier and Senator Lathrop are going to talk later on in their bill of LB561 about these partnerships. The problem is, we have a system and whether you like the system, do not like the system, we have a system on budgeting that we have to have a 3 percent reserve. And Senator Heidemann has helped me a lot in understanding how this works. If you look at the green sheet today, it puts a number down, and that, down at the bottom, is the impact of bills pending and Select and...for both Final Reading and Select and E&R Initial. And the problem right now with my bill and this bill, LB561, we will be out of balance by about \$2,192,340 if both pass. I believe that's correct. Senator Heidemann can correct me later if I misspoke on that. The bottom line is we can't pass both LB561 and my bill, LB420, so I was faced with the situation of looking at my...returning my bill from the Governor's desk or asking that LB561 not be passed because we don't want to come back in and open up the...open up our budget bill and look for \$1 million in cuts at this point in time. So I looked at...was asked about the possibility of returning my bill to the body and basically bringing it back, putting it on Select File with the idea that it would be put on Final Reading then the first thing next year. First, I want to say we've done this already. I want to commend four senators who have done this already. Senator Mello did this on LB633, his neighborhood bill; Senator Gay did it on LB159, his bill on the healthcare in long-term care insurance; Senator Sullivan did it on her AHEC bill, LB489; and Senator Heidemann did it on his bill, LB112. The difference between those, what they did, and what I'm doing is mine is sitting on the Governor's desk and my problem basically turned out to be a problem with my word and what I supported. I know we spend a lot of time in orientation and such as that of talking about how important a senator's word is, and I had given the word, my word, to people that I would fight for this LB420 all the way through, which I did all the way through to the Governor's desk. So it was very difficult for me to sit back and have to make a decision to ask for it back. I did not take that decision lightly. I looked at the idea of my word, being able to explain if I did change my word. I did look at the impact on healthcare clinics. I am a firm believer, my bill is a little different from a lot of the bills we heard that Senator Pahls has talked about on sales tax exemptions because I believe mine was a policy issue. It's not a business reason. It's not because Iowa or Kansas or somebody else does it. It's a policy issue of whether we want to tax nonprofit health clinics, and I think that's an important policy issue. That's why I fought for the bill and carried it all the way through. I talked to a lot of people and I want to emphasize, to a person. They told me, Galen, this is your bill; we will accept what you want to do; we will support you if you decide to ask for this bill back; we will support you if you say, no, I'm going to leave it on the Governor's desk

Floor Debate  
May 27, 2009

---

and, if he vetoes it, I will fight to the last breath to override a veto if he does veto it. Everybody, that starts with Speaker Flood, who has helped greatly in doing this, I very much appreciate his help, but I'll guarantee you Speaker Flood in no way, shape or form put any pressure on me to make a decision one way or the other. I talked to the representatives of Alegent, the Nebraska Hospital Association, the friends of rural health and hospitals, representatives of Madonna and other rehabilitation centers. And to a person, they said, this is your bill, Galen; we will support you either way. And I thought that was gratifying. They told me that if I decided to pull the bill back, they would certainly understand it and they felt that I would not be going back on my word to carry it through. They certainly understood the reasons that we're having to do this. I've had a lot of people talk about concerns about the fiscal note. I'm not here to argue about whether it's the appropriate way for handling fiscal notes or not handling fiscal notes, whether the LB561 really does have an impact, does not have an impact. That is something you don't argue two days before the session is over with. Now it may be a good thing to study and look at this summer, but it's not something we're going to argue about today or at least I'm not going to argue about today. So I had to make a hard decision and it wasn't easy because my word is very important to me that I would follow this through. But I'm sure in the same situation, Senators Mello, Gay, Sullivan, and Heidemann had to face the same thing. They had to go back and tell some of their supporters that I've got to hold my bill that you're supporting till the next year's Final Reading. So in the end, I decided that I would pull...ask the body to please support me in pulling my bill back and then bringing it back to Select File to change the operative date and then treat it as Mello's, Gay's, Sullivan's, and Heidemann's bills, which means that it would come out again the first thing next year and, hopefully, I ask for your support in doing this. I ask for your support then next January so we can pass this bill next January, send it on to the Governor for his signature, and do a correct right thing in tax policy, which is to not tax nonprofit healthcare clinics and hospitals. If we do that, we're just taxing ourselves because of what we pay for Medicare and Medicaid. So with that, I would certainly hope that you will support this motion for rule suspension and then, secondly, to bring back the bill and then to change the operative date and put it on Select File for next year to be read on... [LB420 LB561 LB633 LB159 LB489 LB112]

PRESIDENT SHEEHY: One minute. [LB420]

SENATOR HADLEY: ...Final Reading. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Hadley. You have heard the motion on rule suspension. Members requesting to speak are Senator Langemeier, followed by Senator Lathrop, Senator Flood, Senator Cornett, Senator Pahls, Senator Heidemann, and others. Senator Langemeier, you're recognized. [LB420]

SENATOR LANGEMEIER: Mr. President and colleagues, I first rise to thank Senator Hadley for what he's asking you to do today. Over the last five days, he has given this a

Floor Debate  
May 27, 2009

---

great deal of thought about this action that we're going to take today. He has demonstrated real leadership as he has expressed to us his views and the views of those he represents through LB420. This decision was not done on a whim. After a great deal of communication and consideration by Senator Hadley, he has graciously agreed to hold his bill on Final Reading. Today he stands as a leader in economic development and a true state senator. Now to the Department of Revenue, you told us it was unclear if nonprofit clinics were to be tax-exempt with hospitals. I want to send this message and I want to send it clear that this body wants Nebraska's nonprofit clinics to remain, I repeat, remain tax-exempt. LB420 passes with 42 votes to Final Reading to sit on the Governor's desk prior to today. This action today should not be any reflection that this body has changed that will to make them tax-exempt. The department in no way, again, should take this action to...as a sign that we have changed our thoughts. Colleagues, as a member of this body, I've had a number of opportunities to vote for economic incentive measures over my time here. Many of them were to create a good business climate in Nebraska. Then we hoped someone out there sees it and is willing to locate in Nebraska. Today with these actions we take and the passage of LB561, coupled with the amendment that has drawn all the attention, we will see economic development in Nebraska. This development will have Nebraska ownership, it will have hundreds of millions of dollars of investment, and it'd be located across Nebraska. Now that's economic development. This may be a once in a lifetime opportunity. Just ask the Bloomfield superintendent of schools or the Bloomfield city manager what an 80-megawatt facility has done for their community. I knew going with LB561 and the amendment would have some real opportunities, I just didn't realize this big. I ask you to follow Senator Hadley's lead and myself and vote to suspend the rules and return LB420 from the Governor and then advance LB561. Thank you, colleagues, for your time and support. [LB420 LB561]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Lathrop, you're recognized. [LB420]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. Good morning. I stand in support of the rules suspension. I also want to take an opportunity to thank Senator Hadley. If you can imagine in your freshman year in the Legislature having your priority bill sitting on the Governor's desk and then getting a call by your colleagues to talk about having it pulled back, it must be a very difficult thing for Senator Hadley. And the fact that he is willing to do this speaks volumes for our colleague from Kearney. Senator Hadley, you have my respect and my appreciation. And your bill will have my support at the very first opportunity we have to move it in the next session. Thank you. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Flood, you're recognized. [LB420]

Floor Debate  
May 27, 2009

---

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. I also support Senator Hadley's rules suspension this morning. And during the last couple of day, I know that several folks have been talking to Senator Hadley about options. One of the options that's been used in the past is to have the Governor veto a bill to allow another one to go through. And we had four senators in here who, I appreciate the fact that Senator Hadley mentioned before, that did make the decision to hold their bills on Final Reading until next year. And at the very least in this situation I felt like if there was a way to restore Senator Hadley's bill to that same position that it was appropriate to do so. What I like about this Legislature is we're not playing games and finding money in little places and throwing it at the problem and making it all work. We're making a tough decision here. We've been told, and I believe as I understand it that we've got the opportunity to grow our wind power industry in Nebraska and to jump-start it. Quite frankly, we're the sixth most windiest state in the nation and we don't have much in the way of wind power generation. This is an opportunity to jump-start that process, to inject this industry into Nebraska communities. And like Senator Langemeier said, living close to Bloomfield, I've read the paper, I see what that's done. I know that in Columbus, in Senator Stuthman's district, there are hundreds of jobs now building wind turbines. I know that in Norfolk people are working at steel fabricators businesses and they're making component parts for these wind turbines. This is an opportunity for Nebraska and I'm glad Senator Hadley sees it that way. Senator Hadley has made, in my opinion, a statesman decision, a tough one, but he did it on his own with all the facts. And I think that he will be well-served by that decision as next year I, too, like Senator Lathrop, will come back and again support his bill as we have this session. I do appreciate everything that we've had in the way of discussion on this. I want to especially thank the folks that are both sides of the issue, from Senator Hadley, to Senator Langemeier, Senator Lathrop, Senator Fischer, Senator Heidemann. There have been so many people, Senator Cornett labored on both of these bills throughout the session and I'm so pleased she's going to be standing up in a little bit here too. So I support the rule suspension and thank Senator Hadley. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Cornett, you're recognized. [LB420]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. I wanted to give the body a little bit of background on this bill. Senator Hadley brought this bill to the committee and it was a difficult bill for a freshman senator. And he and Senator Friend both worked very hard on this issue with myself over the course of the year. And we were finally able to get a bill into the shape that we needed to help the nonprofit hospitals in the state. In our economic times though we had...when...I had a call...I received a call on Saturday or, excuse me, Sunday explaining the dilemma that we were in. We have a project that is going to generate revenue for the state. We're in business and we have a bill that we are going to need to hold for six months. It was a difficult decision for Senator Hadley I'm sure. And I know how disappointed I was when I

Floor Debate  
May 27, 2009

---

first heard it; I was like sitting there, because I know how much time we all invested in LB420. But then I thought about the overall economic good of the state and the fact that we do have commitments from the Speaker and Senator Langemeier to help with LB420. So I commend Senator Hadley for delaying his bill until the beginning of next session. And like Speaker Flood, I also want to commend the Governor. I believe that he made a very statesmen-like decision. It was his option to veto LB420. He did not choose to execute that option and instead gave us the opportunity to hold the bill until next year. And with our economic situation we will have to evaluate where we are at the beginning of next session. But I know that the Speaker and Senator Hadley and Senator Langemeier and I have committed to work on the bill next year. But again, I want to thank all the parties involved with this bill and particular thank Senator Hadley for doing the right thing this morning. Thank you. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Cornett. Senator Pahls, you're recognized. [LB420]

SENATOR PAHLS: Good morning. I want to congratulate Senator Hadley because I think the vote was like 44, he did quite well in moving that over to the Governor's desk. I just want to use this opportunity to...because no way do I want to stand in the way of economic development. But I want to use this opportunity to show you or in my eyes see how fragile our system is. If we have to pull bills back to allow another bill to succeed, shows you how tight the money is. And I do have a concern, because we have several senators that said they were going to postpone theirs till next year. Next year, is that going to be any better? And we all know that this bill, Senator Hadley's bill, will make it through the process next year, we do not need to kid ourselves, and it should. But sometime we are going to have to take a look at that shrinking General Fund and our ideas that we think the state of Nebraska needs for its citizens. We're running up against a wall. Again, when we need to pull something back to allow something else shows you how tough the times are today and if we don't take a more global look at this in the future, it's not going to get any better. So I support the good senator on his idea. Thank you. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Heidemann, you're recognized. [LB420]

SENATOR HEIDEMANN: Thank you, Lieutenant Governor, fellow members of the body. I just want to rise briefly and say that I do support the rule suspension. Early last Friday morning when you thought you was probably going to get a little time off, I got a phone call and I was informed that we had a bill on Final Reading, which is LB561, which is a very important bill in a lot of people's minds and mine included, was going to cost a little bit more money than we had probably anticipated and at that time, with all the bills that we had passed, it was going to throw us out of balance. And I had probably mentioned once or twice on the floor before but...floor before that I said that this body

Floor Debate  
May 27, 2009

---

needed to be the responsible body in making sure that we passed a balanced budget and that we didn't rely on anybody else to do that, and because of that we had a problem. And it wasn't...we didn't have enough money to allow LB561 to move forward and still have a balanced budget. And a lot of times, you have problems, you have people that are willing to step up and be part of a solution, and this wasn't an easy choice for Senator Hadley but I commend him to no end because he has stood up and decided to be part of a solution to fix a problem that we had and, in the long run, I believe made a decision that will help move Nebraska forward. And it's my hope that the revenues to the state come in hopefully at least where they're forecasted and hopefully a little bit better and we will have some room to do a few things next year, and I will say that I will not forget what Senator Hadley has stood up and stepped up and done and agreed to be part of the solution when we come across this bill. If we have the revenues to do it, I make the commitment right now that I'll be there for Senator Hadley because he stood up and he's here for us right now. So thank you. [LB420 LB561]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. (Doctor of the day introduced.) Continuing floor discussion on Senator Hadley's motion for rule suspension, members requesting to speak are Senator Gloor, followed by Senator Louden, Senator Karpisek, Senator Hansen, and Senator Fischer. Senator Gloor, you're recognized. [LB420]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I come to bury Hadley, not to praise him. (Laughter) I actually have been thinking about this an awful lot and that won't be true ultimately, although I had some real misgivings when I heard what was happening with this. And Senator Pahls did a nice job pointing out the fact that next time we meet we have some difficult decisions to make about tax exemptions. And in light of that and in light of the possibility that we may see an even more severe economic turndown, who knows, we may find ourselves unable to even come close to thinking about LB420 and the scramble to try and come up with the dollars necessary to do other important things for the citizens of this state. And so I thought long and hard about knowing how important this tax-exempt status is for important healthcare providers and finally went with my trust in Senator Hadley--I've known him for a long time--his judgment on this, the hard work that members of this body have put into it, the reasonableness shown by a number of people in the healthcare industry who also recognize the difficult economic times and seem to have thrown their weight and support behind withdrawing this particular bill. And therefore, I will be supportive of the suspension...well, withdrawing LB420. But I do have a question or two for Senator Hadley, if he would yield to a question. [LB420]

PRESIDENT SHEEHY: Senator Hadley, would you yield to Senator Gloor? [LB420]

SENATOR HADLEY: Yes. [LB420]

SENATOR GLOOR: Senator Hadley, were some of the worst case scenarios to come

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

Floor Debate  
May 27, 2009

---

down the pike that I've talked about, us needing to tighten things up when it comes to our pocketbooks next time we sit down and talk about this issue, are you going to address LB420 with the same degree of fervor that you have up to this point in time? [LB420]

SENATOR HADLEY: Yes, because I truly believe that this is a healthcare policy issue that can have ramifications for all of healthcare. So, yes, I absolutely will. [LB420]

SENATOR GLOOR: Do you think during the interim that you can do some work that might help lower the impact of the fiscal note? [LB420]

SENATOR HADLEY: Well, I would sure like to because, as you know, when I was putting the bill through the body I seriously had some questions because, remember, this is revenue that had never been collected in the past, so I think there is some questions. But I do, Senator Gloor, I do realize that we have a system and I do pledge this summer to look at our fiscal note systems and work with the Revenue Department and our Fiscal Office to be sure that, you know, we're doing the fiscal notes the right way to help us make the best decisions. [LB420]

SENATOR GLOOR: Well, if my background can be any help to you in that capacity, trust me, I would be glad to assist in that endeavor. And I certainly hope between now and next session that we're not faced with, and I'd like your reassurance, anything coming close to a burial. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Louden, you're recognized. [LB420]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I don't intend to sooth Senator Hadley anymore because he's been soothed enough I thought for one morning anyway. And I respect what he's doing. The problem I have is...and I have no problem with wind energy. I think we need to do what we can to promote it. The problem I have is, why are we advocating wind energy at the expense of healthcare? And that's what we're doing. The healthcare was through...LB420 was to lower some of the costs of healthcare. First of all, on either side here, there's no money being involved. To me, it looks like it's more of a ledger balancing problem than it is of any money, it's...where there will be no money exchanged. Would Senator Heidemann yield for questions, if he would, please? [LB420]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Louden? [LB420]

SENATOR HEIDEMANN: Yes. [LB420]

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

Floor Debate  
May 27, 2009

---

SENATOR LOUDEN: Yeah. What is the difference between LB420 and LB561? They're both needing about what, \$1.2 million and \$1.8 million or something like that in the first year out? Is that correct? [LB420 LB561]

SENATOR HEIDEMANN: Yes, but the overall cost of LB420 was too much to move. [LB420]

SENATOR LOUDEN: Is how much? [LB420]

SENATOR HEIDEMANN: Was too much together. It was \$1.8 million...LB420 passed... [LB420]

SENATOR LOUDEN: Okay, and then the cost of...so you offset it with about the same amount as what LB561 was, which is a million and something. [LB420 LB561]

SENATOR HEIDEMANN: Well, actually LB420, I think they're both about \$3.7 million, because LB420 was \$1.8 million in the first year and \$2 million in the second year, and LB561 is \$1.2 million in the first year and \$2.4 million in the second year. They're both approximately \$3.7 million over two. [LB420 LB561]

SENATOR LOUDEN: Or closer to \$4 million. Now getting back there, and you agreed that there's no money changed hands or moved around here, this is just mostly a ledger deal. Is that correct? There isn't any place where anybody is going to pay any money out. It's the fact that we won't be receiving some money if it went through. [LB420]

SENATOR HEIDEMANN: This is revenue. [LB420]

SENATOR LOUDEN: Right. But you haven't gotten that revenue because these windfarms haven't been built, and you haven't gotten the revenue on Senator Hadley's bill because they fail to charge (inaudible). [LB420]

SENATOR HEIDEMANN: I think they was...I think some of them were actually starting to be collected. [LB420]

SENATOR LOUDEN: Yeah. Anyway, we're talking about \$4 million. How much is in the Cash Reserve Fund leftover then? Is that like now \$566 million and it goes on down to about, in 2012-13, \$324 million? Is that... [LB420]

SENATOR HEIDEMANN: Three twenty...after the transfers are made that we have enacted in our transfer bill that we passed this year, we'll be down to, in fiscal year 2011-2012, \$324 million. [LB420]

SENATOR LOUDEN: Okay. Good. And then what my question is then, if this windfarm

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

Floor Debate  
May 27, 2009

---

development is such a good idea and it's mostly a matter of balancing the ledger, why isn't \$3.9 million or \$4 million taken out of the Cash Reserve Fund, you have them both and you go with that? Because you're not going to spend the money anyway. It's just a matter of balancing the ledger. [LB420]

SENATOR HEIDEMANN: I'm not saying that that idea never was talked about over the weekend, but it was decided not to pull money out of the Cash Reserve to make this work. We thought it was prudent that we do it within existing resources. [LB420]

SENATOR LOUDEN: Okay. But by doing that, the money would still be there at the end of these other years. Is that correct? If you pull that money out of the Cash Reserve to fund this, you'd still have the money when you got done because you didn't spend it anywhere. Is that correct? [LB420]

SENATOR HEIDEMANN: You have to show loss of revenue when you enact a bill. [LB420]

SENATOR LOUDEN: Right. Right, and that's all that would do, is cover the revenue loss that we have here. [LB420]

SENATOR HEIDEMANN: But you wouldn't have the money in the Cash Reserve anymore. [LB420]

SENATOR LOUDEN: Well, no, but you would have... [LB420]

PRESIDENT SHEEHY: One minute. [LB420]

SENATOR LOUDEN: ...both your operations going. Thank you, Senator Heidemann. I think there's better ways of doing this than to do it at the expense of healthcare, and that's exactly what we're doing. We have some of our healthcare facilities, especially out in western Nebraska, that have been audited and had to pay some sales tax. Up until then, they didn't think they were liable for the sales tax, but after the Department of Revenue looked it over, why, there was...a sales tax had to be paid and, consequently, that's what brought LB420 forwards and that's the reason it was such a popular bill. With that, I won't support the rule suspension. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Karpisek, you're recognized. [LB420]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Senator Hadley made a few comments maybe about keeping his word. I think he absolutely is keeping his word on this to try to keep his bill alive, if it doesn't happen today, that he's being smart to try to bring it back and at least get it in for next year. So, Senator Hadley,

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

Floor Debate  
May 27, 2009

---

if you...I know you're having a tough time with this, but I think you absolutely have done what you've said. It is an important issue. I wish we could get it through this year, but I think this may be the best way to go about it. We all know it's tough when we have a bill that we want to get through and you have to make some tough decisions. But I just wanted to stand and support Senator Hadley, to say I think he's doing the right thing. He is following through with his word and we will get it done next year or as soon as we can. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Hansen, you're recognized. [LB420]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Would Senator Heidemann respond...would he yield, please? [LB420]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Hansen? [LB420]

SENATOR HEIDEMANN: Yes. [LB420]

SENATOR HANSEN: Senator Heidemann, Chairman Heidemann, Appropriations Committee, you said you would probably vote for Senator Hadley's bill next year to exempt the nonprofit clinics. Is that correct? [LB420]

SENATOR HEIDEMANN: We have to see how the revenues come in. As long as things don't really, what I would call, tank and we have serious problems as a state, it's my intent to support Senator Hadley in this endeavor. [LB420]

SENATOR HANSEN: I supported Senator Hadley on the vote to send that to the Governor's desk, but I do not support it now and for the reasons that we have, in the next two years, we have \$3.9 million less revenue to support the nonprofits, and under LB561 we have \$3.76 million, or a total of \$7.66 million in loss of revenue. Are those numbers about right? [LB420 LB561]

SENATOR HEIDEMANN: Fairly correct the way they sound. Yes, I'd have to do the math but it sounds it good. [LB420]

SENATOR HANSEN: Thank you, Senator Heidemann. Senator Pahls said...and he's been saying it all year, that we've got to watch these revenues, the exemptions on the revenue stream; \$7.66 million in the next two years. If we vote to pull this back and keep the nonprofits and Senator Hadley's bill until next year and pass LB561, I can't vote for Senator Hadley's bill next year; \$7.66 million lack of revenue. It's getting serious, it's getting serious dollars. I feel kind of like a salmon swimming upstream because I don't go along with this...with the renewable energies that we're talking about now. I think it's

Floor Debate  
May 27, 2009

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a fad. I think it's a flash in the pan. I think it's a desperate plan for landowners. We have a model out here now that we're feeling the solution of what we did the last big economic development we had for landowners. We had...it was renewable energy. It was economic development. It was production in the Midwest, and then transported to both coasts where they need it. We used the railroad for the transmission of that renewable energy and it was subsidized by state and federal dollars. It's the ethanol model. How are the ethanol plants doing right now? Not real well. A lot of them shutdown. Many of them have sold for less than 30 cents on \$1. It's not a good model, if that's the one we're following. It's been a disaster for the animal feeding industry in the state of Nebraska, poultry and poultry processing. Ask the people in Gibbon what...they don't have a Norbest turkey processing plant there anymore. Pork producers are bleeding every day from not only the N1H1 flu but from high input costs for more than two years. Beef producers who actually use the coproducts of the ethanol industry are still hurting from that. They use the wet distillers, but still they showed a severe downturn, \$300 losses in cattle, for high prices of corn. We don't raise enough corn in this state, we thought we did, to produce both ethanol and cattle. It's a tough deal. It's been extremely tough on the beef producers too. Corn producers were riding a wave. They were selling corn for \$7 a bushel. Federal government said that's great, you don't need that safety net. And they were fine with it because it was a market, it was free market. And I agreed with the free market. If we'd a let that settle out, I think it would have reached about \$4 a bushel for corn and... [LB420 LB561]

PRESIDENT SHEEHY: One minute. [LB420]

SENATOR HANSEN: ...everybody could have gotten along. Thank you, Mr. President. The ethanol business went broke because of the price of oil. Plain and simply, they were hooked too closely to the price of oil. I think if you believe in wind energy, if you believe in the renewable power production, I think you've got to believe in global warming. I've read and read and read both sides of global warming, climate change. It may be climate change. The earth may be cooling rather than warming. We need to study this longer than what we have. President Obama says 83 percent reduction in greenhouses gases by the year 2050. If we do that, members of the Legislature, we're going to have cap and trade, cap and trade. We'll have nothing to say about it in this Legislature. It will be passed down from the federal government. [LB420]

PRESIDENT SHEEHY: Time, Senator. [LB420]

SENATOR HANSEN: Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Members requesting to speak on Senator Hadley's motion on rule suspension are Senator Fischer, followed by Senator Council, Senator Gloor, and Senator Hansen. Senator Fischer, you're recognized. [LB420]

Floor Debate  
May 27, 2009

---

SENATOR FISCHER: Thank you, Mr. President and members. A few weeks ago, we as a body made decisions on our budget and we agreed mostly in passing that budget. When we made those decisions, we didn't go into the Cash Reserve. We didn't take a lot of revenue out of the Cash Reserve because I think we, I believe, we were very responsible in looking ahead to what our economic challenges may be next year, the next year, the next year. I know we've had a number of members who had bills with A bills on Final Reading this year and they held them. I believe that was the responsible thing to do. We all want our bills to pass. We feel very passionate about the issues that we introduce legislation on. But we've already seen a number of members step up, be state senators, hold their bills for a year with the hope that those bills will be able to pass next year because our economic situation will improve. And I want to thank all of you who did that. I rise in support of the rule suspension, and I will praise my good friend and colleague Senator Hadley, like many of you have done. I had the opportunity to visit with Senator Hadley over the weekend and I know that he visited with a number of the groups and parties that were interested in LB420 to make sure that those people understood the decision that he may have to make and ultimately the decision that he made. I take it as a compliment that he visited with me about that because I do consider him a good friend and I did support LB420 throughout the process. But Senator Hadley has acted as a statesman, I believe, in this matter and he's hopeful that our economic situation will be such that we will be able to move this bill forward next year, and I pledge to him that I will work with him in order to see that happen. LB420 is an important piece of legislation, in my opinion, which is why I supported it throughout the process and why I will continue to support it in the future. But we're also dealing with an opportunity here with LB561 and it's an opportunity that doesn't come around very often, although it is one that we hope for, and that's economic development. I've been here five years and I've talked about economic development every single year. I've supported different measures that are there to promote economic development. In many cases, I've promoted those with the hope, with the hope that we will see economic development come to this state and a better life come to the citizens of this state. With LB561, as it was amended, I believe we have more than hope out there. I believe within the next year or two we are going to see true investment in the state of Nebraska. We are going to see an industry, that's just blossoming in this state, take some strides forward and all the people in the state of Nebraska will benefit... [LB420 LB561]

PRESIDENT SHEEHY: One minute. [LB420]

SENATOR FISCHER: ...from it. Senator Hansen mentioned some of his concerns with this new industry we're seeing in the state with wind industry, and I do share some of those concerns. I don't see it as a quick fix for rural Nebraska. I don't see it as a quick fix for farmers and ranchers thinking this is going to save their place. But I think it's an opportunity. It's an opportunity for those individuals, for those communities, and for the state as a whole, and we need to move forward and take advantage of that opportunity.

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

Floor Debate  
May 27, 2009

---

I do support the rule suspension and, once again, I honor and support Senator Hadley. Thank you. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Senator Council, you're recognized. [LB420]

SENATOR COUNCIL: Thank you, Mr. President. I rise very conflicted about the rule suspension motion here. And I have a great deal of respect for my freshman colleague Senator Hadley, but, quite frankly, I agree with Senator Louden and his statements because that's the question that is most troubling to me, is that this body is being placed in a position of elevating an economic development matter that is clearly an important matter to the state, there's no question about the economic potential for wind development, but this body is being asked to elevate that over healthcare and a healthcare policy that, quite frankly, I have watched evolve during the course of the session this year and that healthcare policy that has evolved is a desire to shore up healthcare access and affordability throughout the state of Nebraska and particularly in rural areas. The body has addressed the need to increase the number of healthcare practitioners in rural areas of the community and if that's not an economic development issue as much as it is a healthcare issue, I don't know what is. If we're bringing people into the community, practitioners who are going to generate income and then expend their resources in these respective communities, that's an economic development activity. And in this instance, you know, we have to sit back and think if we aren't in a position to maintain the healthcare facilities that are currently present in the state, what good is it to provide the means for additional practitioners if there's no place for them to practice because we've changed our healthcare policy? I think the body's vote to advance LB420 was a strong statement by this body that LB420 and its components help to advance the healthcare policy of the state of Nebraska and just as the last vote that was taken on LB561. And when we're looking at these revenue loss projections, you know, I'm troubled by the fiscal note and the amount in the fiscal note when you look at how the language of the statute presently reads in terms of exemptions. I don't know that that money hasn't always been lost and now, because we identify it as being lost, then that is what places us in this situation. And I think it's very interesting that, you know, Senator Heidemann, and rightfully so, qualified his statement regarding what could happen next session and that statement was qualified by the fact that if, in his opinion, the revenues aren't there, LB420 is not going to go anywhere based upon his position. And I respect him for being forthright about that. If we firmly believe that this state should have a policy of ensuring access and affordability of healthcare to all of the residents throughout the state of Nebraska, I think that we should carefully, carefully consider... [LB420 LB561]

PRESIDENT SHEEHY: One minute. [LB420]

SENATOR COUNCIL: ...whether or not LB420 should be brought back from the

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

Floor Debate  
May 27, 2009

---

Governor. I think that the Governor, you know, needs to also bear some responsibility in terms of ensuring that the residents in the state of Nebraska have appropriate, affordable, accessible healthcare. That's as much his responsibility and duty as it is this body's responsibility and duty. And I don't believe we need to sacrifice the wind energy, the economic development on the wind energy either, but if it comes down to healthcare policy or wind energy, I think our responsibility first and foremost is to the health of the residents of the state of Nebraska. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Gloor, you're recognized. [LB420]

SENATOR GLOOR: Thank you, Mr. President. I apologize to the body but I forgot a point that I wanted to make the first time I was speaking. And I know some of my fellow senators will think I'm speaking as an apologist, supporter of the healthcare industry. This is less about LB420. I think the healthcare industry will do fine in the next year. I believe there will be every intent to reconcile this next year, although it is beyond me how a tax that we are not collecting can be costing over \$1 million on the fiscal note. Maybe over the interim somebody can explain to me how that comes to pass, how that comes to pass. My aggravation is a bit with wind industry, wind energy. The...there's a lovefest right now going on about wind energy and there should be. It's an exciting economic development. But before we give ourselves too much credit for blazing new trails, understand that we obviously don't feel strongly enough about that that we take the bull by the horns and say it's important enough for us to dip into our reserve to find monies other than climbing there on the back of an otherwise worthy legislative item. And I say that by way of a caution that if times get difficult next year, if things get worse, where is wind energy going to be? Do we feel that strongly about it realistically? Apparently not right now. It's important for us. I think it's important for us. I don't think anybody here is going to argue against it. But we're going to deal with an important wind energy problem now by pulling back a bill and taking the money, that I don't think is there, out of it to support wind energy. Think between now and next year how much statesmanship we may have to bring to bear on wind energy if we're really going to fund it appropriately in this state, because right now it's a little wishy-washy to me. Thank you, Mr. President. [LB420]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Thank you, Senator Gloor. Senator Hansen, you're recognized. [LB420]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Like to continue on a little bit about our national level and where we're at. When the President took office in November last year, some of his biggest policy changes would be coming in the form of energy dependency and reversing the damage that humans have done to

Floor Debate  
May 27, 2009

---

our planet by pushing a greener agenda. In the Lexington Clipper-Herald, Bob Heinz with the Dawson Public Power District, and that's my power district, that's where we get our power from, he said, while both are noble causes and should be pursued, some of the legislation being debated in Washington, D.C., could end up costing consumers billions of dollars in taxes. The legislation notably being debated on the House floor is what insiders are calling climate legislation. I think that Senator Hadley's bill, LB420, should be...should sit on the Governor's desk till he signs it. And I think it's a worthy bill. I think for the things that Senator Gloor said about healthcare, the things that Senator Council said about increasing the number of health providers are both very well-based. I think I had a hard time with having another exemption from our Revenue Department but I voted for it. I think it should continue. I do think that LB561 should have an A bill to it. I think that this body needs to stand up and vote whether they're willing to pay \$3.76 billion...million in wind energy development. It needs an A bill, needs a standalone A bill. When the government talks about transmission lines to take all the wind energy from the center of the United States...where we have the wind, we have the renewable resource, we certainly do. Our ranch uses wind every day to pump water. I think that the small generators that we talked about on net metering I think are great. If a household wants to use those, I think it's great. The huge masses of wind development, I'm not sure I believe in that. They say it's going to cost \$80 billion. Everybody you talk to, it's \$80 billion for transmission lines. The only way that's going to come is an increase in electrical costs. Thank you, Mr. President. [LB420 LB561]

SENATOR ROBERT: Thank you, Senator Hansen. (Visitors introduced.) Returning to discussion, those wishing to speak: Senators Dubas, Carlson, Langemeier, Loudon, Pirsch, Campbell, and Hansen. Senator Dubas, you're recognized. [LB420]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I, too, would like to thank Senator Hadley for the decision that he's made, but there is no question that LB420 is important to Nebraska. I know it's important to my district. I've heard from the medical profession in my district about the importance of this bill. But there's also no question about my position on renewable energy. It was an issue I campaigned on and it's an issue that I have worked aggressively on since coming to the Legislature. During one of our interims, I had an interim hearing about renewable energy. Undersecretary Thomas Door attended that hearing and talked about the incredible opportunities that renewable energy is going to provide for all of our country and especially Nebraska and rural Nebraska. The opportunities are there, waiting for us to capitalize on them. Renewable energy is our new frontier and I think just as the rural electric system brought incredible economic opportunities for Nebraska and rural Nebraska and our small communities, I think renewable energy has that opportunity to take us into the twenty-first century. We're spending a lot of time talking about wind energy, that's the issue of the day, but renewable energy encompasses so many more things than just wind. We're talking solar. We're talking geothermal. We're talking methane capture. There are just incredible opportunities all across the spectrum for renewable energy and

Floor Debate  
May 27, 2009

---

what those can provide for our economic activity in the state. So we can't just have tunnel vision and be focused on, you know, one particular thing and put all of our eggs in that one basket. We also can't rush headlong. We have a public power system that deserves our protection. It's served us very well. It...we have some unique challenges in bringing renewable energy into that public power system, but we can do it. But we cannot hold back from the opportunity for economic development in this arena. Our states all around us are moving aggressively forward in developing renewable energy. Iowa is just taking the lead, Minnesota. They are capitalizing on this economic development and they are reaping the economic benefits of that investment. So our response must be measured, it must be responsible, it must be protective of public power, but we cannot lose sight of the economic activity and what it can return to our state. Yes, there's a potential for loss in revenue through the sales tax, but that potential is very much made up for in the economic activity that it will generate through jobs and income taxes and other benefits that are going to come into our communities. So while we're looking at the one side in the loss in revenue, we can't forget to look at the other side and see what this is going to generate for our state that will hopefully more than offset that loss in revenue. So...but we also must recognize that what Senator Hadley is doing with this bill is setting a new precedent. We should be cautious about this move. We should be very measured in looking at what we're maybe setting ourselves up for in the next session or sessions down the road. I again appreciate his willingness to do this and will support this motion to suspend the rules. Thank you. [LB420]

SENATOR ROBERT: Thank you, Senator Dubas. Senator Carlson, you're recognize. [LB420]

SENATOR CARLSON: Mr. President, members of the Legislature, I do rise in support of suspending the rules. I appreciate what Senator Hadley has been willing to do and I really wasn't going to speak this morning until Senator Hansen did, and then I felt like I had to speak. I'm not sold on global warming just as he has indicated he's not. If you notice, we're beginning to hear terminology now from global warming to global climate change because we need to cover it in either direction because we're not sure which direction. But, colleagues, remember, in Nebraska we are agriculture. Our grain farmers, our livestock producers are very, very important to our economy, and our future is based on an environment where agriculture and associated ag businesses can be consistently profitable. Wind energy, I've said this before and I'll say it again, I support it if and only if it proves to be economical. I hope wind energy is a profitable success for every Nebraskan. I hope it's not proven to be false hope. I hope landowners are able to greatly enhance their income picture through wind energy. But even if they do, remember our number one asset is agriculture. Agriculture must be king, we must keep it king for Nebraskans to prosper for all of our citizens. Thank you, Mr. President. [LB420]

SENATOR ROBERT: Thank you, Senator Carlson. Senator Loudon, you are

Floor Debate  
May 27, 2009

---

recognized. [LB420]

SENATOR LOUDEN: Thank you, Mr. President, members of the body. I still rise in opposition to bringing back LB420. I still, as Senator Council pointed out, that we're having to make a decision between healthcare and wind energy. First of all, wind energy is an unknown out there. The reason we have investors now wanting to do wind energy is because there is quite an income tax break if they do develop wind energy. They get...they get paid so much a kilowatt. At the present time, wind energy is still higher priced per kilowatt than coal-fired energy or even nuclear-based energy. This isn't something that is going to save everyone and have cheaper electricity in the future. It's going to be something that has to come in there if there's laws passed on global warming or greenhouse gas emission. This is something that I think if it's such a good idea, as I stated before, then let's have, as Senator Hansen said, an A bill to go with it. If it's a good idea then it will work. First of all, the money is more or less a bookkeeping problem. It isn't something that we've...money that we've received and we won't get anymore. This will be money that we would probably get if the wind energy farms were built. They're not built yet. They probably won't be built for a year or two. Transmission lines and everything have to go in. No one is giving us any idea on the time frame of when this is going to be completed. So I think there are better ways of doing this. I don't think this is well-thought-out. I think this is something that it looked like a good way to take Senator Hadley's LB420, which is about the same amount of money as what this LB561 would be, they would move them off and move one out and put the other one in and go from there. But I don't think this is a good idea because we are doing it on healthcare and healthcare is important for Nebraskans, especially rural Nebraskans, because this is where these clinics are operated, in more in your rural area. So with that, I still oppose bringing back LB420. Thank you, Mr. President. [LB420 LB561]

SENATOR ROBERT: Thank you, Senator Louden. Senator Pirsch, you're recognized. [LB420]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I'd call the question. [LB420]

SENATOR ROBERT: The question has been called. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, vote nay. Mr. Clerk, please record. [LB420]

CLERK: 26 ayes, 4 nays to cease debate, Mr. President. [LB420]

SENATOR ROBERT: Debate does cease. Senator Hadley, you're recognized to close on your motion to return the bill. [LB420]

SENATOR HADLEY: Mr. President, members of the body, healthcare versus wind

Floor Debate  
May 27, 2009

---

energy, a lot of people have brought that up. That is a tough decision. And I want to guarantee to the body that myself, a number of senators, a number of representatives of the healthcare industry, some members from the administrative branch spent three and a half to four days trying to figure out a way to get both, but sometimes in life you can't have both, and so a decision had to be made. And if you don't like the decision about healthcare versus wind energy, you look to me because I'm the one that made that decision. Somebody said that's a tough decision. Well, let me tell you a quick story. I used to...besides accounting, they used to let me teach some management courses every now and then and there's two theories of management. There's the bombardier theory of management and there's the infantry theory of management. The bombardier theory of management is the person who is flying at 30,000 feet and pushes a button and the bombs go out, and they go back and they never see the enemy. The infantry theory of management is you're out there and the enemy is ten foot from you and you have a rifle in your hand and you might have to look at them in the eye right on the ground. Well, when we had budget cuts in 2002, I was involved in the rifleman theory because I had to tell a vice chancellor that reported to me that their job was being eliminated because of a budget cut, and I had to look them right in the eye and I had to spend the next 11 months working with them. Those are tough decisions. I'm not saying we don't make tough decisions in the Unicameral. We make them all the time. But at times we make them from the 35,000-foot level. We just passed a budget, basically a 1.5 percent increase for a lot of state agencies that are going to cost people their jobs, but you and I aren't going to have to look at somebody and call them in the office and tell them that they no longer have a job. This bill is as close as I can come to personally having to make that infantry decision, because it's not at 35,000 feet. It's right down on the ground, having to make the decision. And you can fault me that it may not be the right decision to make, that I might have made the wrong decision choosing wind energy to defer a healthcare issue for a year. I gave it a lot of thought, agonized over it a lot and made what I felt was probably...what I felt truly was the best decision for the state. And you can criticize that. I fully accept responsibility for that decision. With that, I would hope that you would vote green on suspending the rules. Thank you. [LB420]

SENATOR ROBERT: Thank you, Senator Hadley. Members, you have heard the closing on the motion to suspend the rules. Question before the body is, shall we suspend the rules? All those in favor vote yea; opposed vote nay. This does require 30 votes. Mr. Clerk, please record. [LB420]

CLERK: 38 ayes, 3 nays, Mr. President, to suspend the rules and request the return of the bill. [LB420]

SENATOR ROBERT: The motion is successful. Items for the record, Mr. Clerk. [LB420]

CLERK: Mr. President, a communication from the Clerk to the Governor requesting the return of LB420. Subsequent to that, a communication from the Governor to the Clerk

Floor Debate  
May 27, 2009

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directing that LB420 be redelivered to the Legislature. Mr. President, I now have LB420. Senator Hadley would move to reconsider the Final Reading vote taken on LB420. (Legislative Journal page 1735.) [LB420]

SENATOR ROBERT Senator Hadley, you're recognized to open on your motion. [LB420]

SENATOR HADLEY: I would just say that given the past...everything I said in the past dealing with the suspension of the rules applies here to reconsider LB420. With that, I would urge a green vote on the bill to reconsider this bill. Thank you. [LB420]

SENATOR ROBERT: Thank you, Senator Hadley. Members, you've heard the opening on the motion to reconsider. Those wishing to speak, Senators Hansen and Dierks. Senator Hansen, you're recognized. Senator Hansen waives. Senator Dierks, you're recognized. [LB420]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. I had promised myself that I would not say a word today. But I had my trigger tripped a little bit ago and I just have to respond. I, too, believe that global warming is a myth, I have ever since I heard about it. I think that we have some industry in our nation that is in what I call self-boiled hot water. They've done it to themselves and I'm talking about the pork industry. When I started my veterinary practice I could go out and vaccinate 300 head of pigs about every other morning all summer. There isn't one of those pork producers in business anymore. They quit farming because they couldn't compete with the little Taj Mahal buildings we put up out there for all the corporate hog people. And the packing industry had control of that from the very beginning. So then we talk about free trade. Free trade has been an absolute disaster. Look at CAFTA, look at NAFTA, it has not worked. If you want to talk about trade, talk about fair trade. We got into trouble in this country by shipping stuff in here from China and letting them get by on lesser tariffs. We take our stuff over there, they charge us a whole tariff, nothing fair about that. I, too, thank Senator Hadley. I think he's been very open to this whole process. And I'm sure...and the other thing I want to talk to you about though, before I get off on that, is that there is some clinical discussion here about the method of energy production. The ethanol bill was mine, the C-BED bill was mine, those were my legislation, they're both my legislation. And I'll tell you the history, a little bit of the history on the first ethanol plant that went up in our country, up in my neck of the woods is at Plainview. They came from...economists, I think, from NPPD did a study on that. And it turns out that within three years the people that invested in that ethanol plant were paid in full. It was successful. The community in Plainview received \$65 million in that community the first year, it was successful. But then we get the Center for...the Chicago Board of Trade and some of those people who are controlling the corn prices, and all of a sudden we lose control of that stuff. These energy methods are all right. We have to keep control of them in our state, the same thing with the wind energy. If we can keep the profits in

Floor Debate  
May 27, 2009

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Nebraska we're okay. Again, I want to thank Senator Hadley for his efforts and ask your forbearance as far as what we can do with wind energy and ethanol for energy in our nation, in our state especially. All of this comes from the local part of our state, farm ground and wind energy wherever it is in our state. So, yes, I have reservations about what we've done. I guess, I like to put it this way, it depends on whose ox is being gored. And we need to consider everything we've heard. I think Senator Louden had some points to make and I think that so did Senator Hansen. Thank you, Mr. President. [LB420]

SENATOR ROBERT: Thank you, Senator Dierks. Senator Harms, you're recognized. [LB420]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of this reconsideration and thank Senator Hadley for what he's doing. I want to talk a little bit, if I can, so that I think hopefully that people will have maybe a little bit better understanding about healthcare issues. I don't think what Senator Hadley's bill, by removing LB420 and bringing it back, is going to have an impact on healthcare at all. Let's talk about what the issues are in healthcare. First of all, we have a federal government that started talking about healthcare 13 years ago and we still do not have a national policy, still do not have rules and regulations for healthcare at all. Secondly, I introduced legislation this year to the Health and Human Services Committee to start the study of what's causing healthcare issues in Nebraska, and the committee chose not to bring that bill out for good reasons. It was a massive bill and it was a bill that was asked and had support from the Nebraska Medical Association. The doctors came to me and said, John, we need to address this issue. The issue in healthcare is cost containment. The issue in healthcare is affordability, accessibility in rural America, and quality. That's what the issues are in healthcare. Not only that, but we have shortages in doctors and nurses and practical nurses and RN nurses, technicians, respiratory therapists. The list goes on, folks. This is not going to have a negative impact on healthcare. If we're going to change healthcare, and those are the issues, then, folks, we need to put together a plan. And what the Health and Human Services Committee did is absolutely correct. They chose not to bring that bill out because they wanted to break it down into smaller legislative resolution studies, which is probably the right thing to do and I supported that. But let's don't...let's don't misunderstand what the real issues are about healthcare because that is the issue. I've talked with a number of people and I have looked at other places across the country. Everybody is having the same struggle. And until we get some direction and some guidance from our federal government, who has the courage to fight lobbyists, in dealing with healthcare, we'll have the same discussion four or five years from now. We're still going to have the same problem. We have to have the courage to address the issue. Moving to wind energy, I will tell you that wind energy is one of the...I think one of the bright spots for Nebraska. We're number one in the nation in wind. We may be number one in the nation in wind in here, too, also by the way. But...there's no pun intended there, folks, my colleagues. My point here is

Floor Debate  
May 27, 2009

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that I think that there are issues with wind energy and I think that Senator Lathrop's bill started to address eminent domain. That is a big issue. Once we resolve the issue of eminent domain, we will have private and public partnerships come in here and begin to address this issue. Federal government and the state government cannot do it on its own. Wind energy for Nebraska is a bright future for us. It's an opportunity for us to begin to start to become independent. Not only that, the other side of this issue is that transport energy, electricity power out of Nebraska is a \$500 million project. In order to get us to that point with the wind energy, you know, we're going to have to transport it out, we're going to have to sell it, and what Senator Lathrop has done is a baby step towards moving in that direction, creating an atmosphere where we can bring public-private partnerships in and we can start to address the issue of eminent domain. I hope that the Nebraska Public Power District and the other power districts step to the plate, negotiate appropriately, and let these public and private partnerships come together. If they don't, we're going to have to revisit that issue because that's a factor for us. So as we look at this in the future, understand what healthcare really is...how it's being driven, what's really causing the issue, and also look at the fact that I really believe strongly that wind energy is a great opportunity for us. [LB420]

SENATOR ROBERT: One minute. [LB420]

SENATOR HARMS: Thank you, Mr. President. [LB420]

SENATOR ROBERT: Thank you, Senator Harms. Senator Council, you're recognized. [LB420]

SENATOR COUNCIL: Yes, thank you, Mr. President. I appreciate Senator Harms's comments on his opinion about healthcare and I know that he did introduce legislation this year that has not advanced, LB656, which would deal with a comprehensive review of healthcare in the state of Nebraska. And in the preamble to that, one of the items that I believe that Senator Harms believes in, because it's stated in the bill that was introduced, is that Nebraska residents face a crisis in the availability and affordability of quality healthcare. And the comments that I made on the motion to suspend related to that issue, and I think if we go back through the transcripts of debate on other healthcare-related bills that this body has addressed this session, we will hear that theme over and over again, particularly when it relates to the rural areas of this state. And I think you need to, I guess, need to make it clear, I believe there's a tremendous opportunity for this state with regard to wind energy. All you have to do is drive around surrounding states. If you leave Omaha, Nebraska, and drive east on I-29 until it splits with I-80 and head east on I-80, for the first 100 miles inside the state of Iowa, that's all you see are these wind turbines. There's no question that that's an economic development opportunity. What I question about the motion to reconsider and return LB420 again is the fiscal note associated with this measure that somehow the state is losing revenue that I, quite frankly, don't believe that we've ever collected before. And to

Floor Debate  
May 27, 2009

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base a decision that could have an impact on the ability of rural healthcare providers to service the residents of this state on the basis of a belief that the state is going to lose revenue that we've never, at least no one has demonstrated to me, accounted for in previous state budgets and if we haven't collected before, what are we losing now when it comes to the issue of either the reserve or the funding of any other items that this body has to make a decision regarding? I think healthcare, I agree with Senator Harms that our federal government has failed to address the issue of healthcare in its entirety, but allow me to remind you that our federal government has equally failed to address the issue of immigration in this nation, yet this body had no problem stepping in and filling what it believed to be the gap created by the federal government's failure. I think that if there's any place where this body ought to stand in the gap on behalf of the citizens of the state of Nebraska is when it comes to healthcare. And when we look at the healthcare issues in this state, when we look at the number of women in this state who are dying from breast cancer...I have to go back to my district, a district where we have the highest mortality rate for African-American women from breast cancer in the nation,... [LB420 LB656]

SENATOR ROBERT: One minute. [LB420]

SENATOR COUNCIL: ...the highest mortality rate in the nation, and this body would not advance the amount of money necessary to address that issue fully. I have to go back to my district where there's an STD epidemic but...and the one entity that's primarily addressing that issue is a not-for-profit health clinic, and I'm supposed to ignore that in this debate. Well, I'll tell you, I will not ignore that in this debate. And I may stand alone in terms of voting not to return this, but I think that this state, our Governor, should be ashamed that we have those kinds of data and those kinds of statistics about the healthcare of the residents. And we're being asked to make a balancing decision on something that we, quite frankly, don't even realize or... [LB420]

SENATOR ROBERT: Time. [LB420]

SENATOR COUNCIL: ...can show costs us anything. [LB420]

SENATOR ROBERT: Thank you, Senator Council. Senator Heidemann, you're recognized. [LB420]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I felt compelled to stand up and speak a little bit. There's been a lot of talk about LB420 and the fiscal note there involved, and also during the session there's been a lot of talk about fiscal notes and how they bring them up. I will say that it might not be a perfect process but I believe it's a good process. We have people that work on these fiscal notes that are doing the best they can. It is an estimate. Sometimes you can get fairly certain, fairly exact; other times you are making an estimate which will...what it will cost

Floor Debate  
May 27, 2009

---

you or the revenue loss there involved. I will say on the issue of LB420 that these taxes actually have been being collected by some and Senator Louden actually I think talked about that. I have been told that one entity was...actually has been paying since the year 2000. There are continued audits that are going on that more are coming on board as far as paying sales tax. Some actually have stepped up voluntarily because they know these sales taxes are there, they're due, and they're standing up voluntarily and paying for them. The Department of Revenue has to recognize that, that if there...a lot of this is already being collected. There are others that are out there, after audits are made, will be collected, and actually this is actually a growth industry where you have to recognize that there will be more revenue to be collected because it's a growth industry. This has to be recognized. There will be a loss when LB420 passes. And even though I support LB420 and I think it's a worthwhile cause, I support Senator Hadley, I do stand behind the fiscal note. There will be a loss of revenue to the state. We have to stand up, I think as a body, and recognize that and realize what we're voting for. Once again, the fiscal process might not be perfect, but I do believe in it. It's a good process. I think it's a process that needs to continue on. You have a group of people that do this that are very nonpolitical. They don't get into the issues but they just try to provide us with information to help us make good decisions. And sometimes it probably does bother me a little bit that we beat the fiscal notes up a little bit, because I think it is a good process. Thank you. [LB420]

SENATOR ROBERT: Thank you, Senator Heidemann. Senator Utter, you're recognized. [LB420]

SENATOR UTTER: Thank you, Mr. President. Good morning, colleagues. I just wanted to pass on just a few random comments. First of all, I'm not sure exactly how to address my good friend, Senator Hadley, anymore. I had actually ordered a pickup truck to come to the back of the lobby here to load up all of the chips he kind of seemed to have gathered in this morning. And I'm not talking about cow chips. And then my friends, Senator Hansen and Senator Louden, and Senator Council seemed to kind of want to unload some of those chips, so I think maybe myself and Senator Hadley and a couple more of his friends will be able to carry him out now without the pick 'em up truck. I appreciate what Senator Hadley is doing here. No question but what his feet have been to the fire, and I think he's come through it very well. And I'm not sure how I'll continue to address him. Seems to me like he's maybe even risen above the title of Senator just a little bit. But I hope that we're not going too fast, folks, in this whole process. I hope that we remain cognizant of the fact that one of the greatest economic development tools that we have in this state is cheap power, is our low-cost electrical energy. And I hope that the headlong dive into wind power does not do anything to damage the state's structure to the point that we are no longer the state known for low energy costs. That's an important economic development tool, as is, of course, building wind farms an important economic development for our state. But just the fact that we have low energy prices I think is very important to the state of Nebraska. One final thought is that I think

Floor Debate  
May 27, 2009

---

there's ghosts flying about this Chamber this morning. I saw one just a minute ago over Senator Langemeier's son's head. I don't think he saw it, but it was over there. There was a ghost flying there. They're here, there, and everywhere. And with apologies to Senator Heidemann, they're the fiscal note ghosts. And these ghosts in both instances, with regard to Senator Hadley's bill and with regard to the wind power bill, seem to me we're talking about fiscal notes that really don't exist. In the case of Senator Hadley's bill, there was sales taxes were not being collected. And now in the Revenue Department's infinite wisdom, they decided, well, maybe we better start collecting these. In the case of the wind power bill, it also has a fiscal note. But it's a fiscal note only if wind power is built. If there's no wind power built, there's no fiscal note. So the state actually isn't losing any revenue, but as a matter of fact is actually forgoing revenue maybe that it could get if the wind power was built. So I have a...in spite of Senator Heidemann's explanation, and I appreciate what he says and I know we have to have them, it seems like that during the entire session we have in the Revenue Committee battled with this whole concept of fiscal notes... [LB420]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: One minute. [LB420]

SENATOR HADLEY: ...and how they apply to energy or to taxes that you haven't been receiving but all of a sudden now we're going to collect or forgo in taxes as is the case in the...in LB420. I'm going to support Senator Hadley's courageous decision to withdraw his bill from the Governor's desk and to put it on hold as will I support the wind energy bill. But I'm not sure that the ghosts aren't still flying about here and they actually will have no real dollar impact in the long run. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Price, you're recognized. [LB420]

SENATOR PRICE: Thank you, Mr. President, members of the body. In the conversation we did bring up weather so I thought I'd get up and talk. First and foremost, I do support the effort afoot. I do support Senator Hadley and applaud him for his actions and will support the bill as it comes back up for review next year. But when we were talking about the weather aspect and we were talking about the global warming, and I think there was some tongue in cheek being offered there. But I would warn all of you if you look today at the U.S. Air Force NOAA Web site for solar activity, you all can go there, you can Google it, you'll see that once again we have another day with no solar activity, no sun spots. We have had a dearth of solar activity in the past 18 months. I believe last year was the first year we actually had a full year with no sun spots. And you wonder what does that mean? What do I care about solar weather? We can't get the weather here pretty well figured out let alone what's going on, on the surface of the sun. But I would tell you read up on it; learn about it; become familiar with it. The sun is an

Floor Debate  
May 27, 2009

---

awesome, awesome solar body and very close and we are inextricably linked to it. With no solar activity, no solar flares, no coronal mass ejections, and our weather is getting cooler, we may be entering in what they call a Monson solar cycle, or min. If this is the case, last time we had this, we had the mini Ice Age and the Thames River froze over. That's fact. That's not fiction. That's not made up. You want to talk about problems? If that comes up to Nebraska, what you're going to see is you'll see western Nebraska dry up even worse because cold air can't hold moisture. That drought is going to get worse if this is the case. Solar activity influences a lot of what we have here. As a matter of fact, we have a little statement we call insulation, incoming solar radiation, that's what drives the weather machine. Now I bring that up because we were talking about it. I think there was some tongue in cheek. Well, we're having a solar min, what's going to happen if people want more oil to heat their homes? Fuel costs are going to go skyrocket. You'll be glad then somebody at least had the forethought to at least try to harness an energy source that, you know, that will help heat those homes and run those businesses because we use their fuel oil for everything else. So I wanted to make sure that was on the record when they look back on this. And I'd also like to thank Senator Hadley for once again bringing a military connotation to the floor. I really like his infantry view of management. But I'd also have to say we have to admit that it coincides with the bombardier as we all work together to get this done. We do need people who do have the 30,000 foot view, let alone those on the ground. And with that, Mr. President, I yield. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Price. Members requesting to speak on the Hadley motion for reconsideration: Senator Pirsch, followed by Senator Campbell, and Senator Stuthman. Senator Pirsch, you're recognized. [LB420]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I'll call the question at this time. [LB420]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB420]

CLERK: 34 ayes, 2 nays, Mr. President, to cease debate. [LB420]

PRESIDENT SHEEHY: Debate does cease. Senator Hadley, you're recognized to close on your motion for reconsideration. [LB420]

SENATOR HADLEY: Mr. President, members of the body, I just urge your vote to reconsider LB420. Thank you. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Hadley. You've heard the closing. The question before the body is on the motion to reconsider the vote on final passage. All

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

Floor Debate  
May 27, 2009

---

those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB420]

CLERK: 41 ayes, 3 nays, Mr. President, to reconsider the Final Reading vote. [LB420]

PRESIDENT SHEEHY: The motion is adopted. [LB420]

CLERK: Mr. President, Senator Hadley would now move to return LB420 to Select File for a specific amendment, AM1504. (Legislative Journal page 1721.) [LB420]

PRESIDENT SHEEHY: Senator Hadley, you're recognized to open on your motion to return LB420 to Select File. [LB420]

SENATOR HADLEY: Mr. President, members of the body, I do have an hour talk on this one, but since Senator Flood told me that I would be killed if I went over one minute all this does is strike the...change the effective date from 2009 and insert 2010, which makes it consistent next year when we bring it back to start on Final Reading. Thank you. I appreciate your support for this motion. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Hadley. You have heard the opening to return LB420 to Select File. Are there members requesting to speak? Seeing none, Senator Hadley, you're recognized to close. Senator Hadley waives closing. The question before the body is on the adoption of the motion to return to Select File. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB420]

CLERK: 40 ayes, 2 nays, Mr. President, to return the bill for a specific amendment. [LB420]

PRESIDENT SHEEHY: The motion to return is adopted. [LB420]

CLERK: Mr. President, Select File AM1504. (Legislative Journal page 1721.) [LB420]

PRESIDENT SHEEHY: Senator Hadley, you're recognized to open on AM1504 to LB420. [LB420]

SENATOR HADLEY: Mr. President and members of the body, again I just want to thank you for all of your support in this almost two hours of discussion. I think there's been some great discussion about many aspects of this issue so I do very much appreciate it. And again, what this amendment does it changes the date from 2009 to 2010, and I would appreciate your support on AM1504. Thank you. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Hadley. You have heard the opening to AM1504 to LB420. Are there members requesting to speak? Seeing none, Senator Hadley, you're recognized to close. Senator Hadley waives closing. The question before

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

Floor Debate  
May 27, 2009

---

the body is on the adoption of AM1504 to LB420. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB420]

CLERK: 43 ayes, 1 nay, Mr. President, on the adoption of the Select File amendment. [LB420]

PRESIDENT SHEEHY: AM1504 is adopted. [LB420]

CLERK: I have nothing further, Mr. President. [LB420]

PRESIDENT SHEEHY: Senator Nordquist, you are recognized for a motion. [LB420]

SENATOR NORDQUIST: Mr. President, I move LB420 to E&R for engrossing. [LB420]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB420 advances. Mr. Clerk, we will...Mr. Clerk, you have items for the record. [LB420]

CLERK: I do, Mr. President. Education Committee chaired by Senator Adams reports LB461 as indefinitely postponed. I have a confirmation report from the Education Committee. Senator Pirsch would offer LR253. That will be laid over. And a communication from the Governor (read re LB9, LB63, LB63A, LB237, LB237A, LB246, LB246A, LB464, LB464A, LB555, LB671, and LB671A). That's all that I had, Mr. President. (Legislative Journal pages 1736-1737.) [LB461 LR253 LB9 LB63 LB63A LB237 LB237A LB246 LB246A LB464 LB464A LB555 LB671 LB671A]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to the next item under Final Reading, LB561. [LB561]

CLERK: (Read LB561 on Final Reading.) [LB561]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB561 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB561]

CLERK: (Record vote read, Legislative Journal page 1738.) 44 ayes, 1 nay, 2 present and not voting, 2 excused and not voting, Mr. President. [LB561]

PRESIDENT SHEEHY: LB561 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB561. Mr. Clerk, we'll now proceed to LB675. [LB561 LB675]

CLERK: Mr. President, Senator Fulton would move to return LB675 to Select File for a

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

Floor Debate  
May 27, 2009

---

specific amendment, AM1503. [LB675]

PRESIDENT SHEEHY: Senator Fulton, you are recognized to open on your motion to return to Select File. [LB675]

SENATOR FULTON: Thank you, Mr. President, members of the body. AM1503 is a technical amendment, and I'll just try to explain here to you as I've done to some of you already, but I'll explain to you what happened. You might recall that at the time we were debating LB675 I think it was on first round debate, Senator Nantkes brought up a point of concern with regard to those who would be performing the ultrasounds that would be included on this list provided by Department of Health and Human Services. And her concern led to an amendment which Senator Nordquist brought which required that they be performed by registered nurses. And I agreed and the body generally agreed and so we adopted that amendment. During the course of that adoption, there are actually two places within the bill where this list was talked about. And in the heat of things, we only adopted our amendment into one of those places. It needs to be done in both of those places. This is something that we probably could have done through Enrollment and Review, the E&R process. But given the nature of this bill and just the fact that I'd like to be open about this, Speaker Flood approached me and he suggested that this would be the more appropriate way to go forward. So indeed we went ahead and drafted AM1503 and I'd like to bring this back to Select File in order to adopt what we had...what we should have done on Select File in the proper fashion and then move it forward for Final Reading. So with that, I ask for your affirmative vote to return this to Select File and then ensuing with the adoption of AM1503. Thank you, Mr. President. [LB675]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the opening on the motion to return LB675 to Select File. Members requesting to speak, Senator Nantkes, you're recognized. [LB675]

SENATOR NANTKES: Thank you, Mr. President. I just want to make sure the record clearly indicates that the wording, the language, the intent, the technicalities and otherwise referred to in Senator Nordquist's amendment that was adopted really do nothing to reflect the concerns that I brought forward in regards to these issues on General File. Thank you. [LB675]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Senator Council, you're recognized. [LB675]

SENATOR COUNCIL: Yes. Thank you, Mr. President. I want to echo Senator Nantkes' remarks and I want to be more specific about the objection to the original amendment and what's now deemed as a technical amendment. If this body looks at the language with regard to the qualifications of the individuals performing ultrasounds at a clinic on a list prepared by Department of Health and Human Services, it says "a person who is as

Floor Debate  
May 27, 2009

---

qualified as a registered nurse." I don't know what that means. And I don't know that anybody in this body knows what "as qualified as a registered nurse" means. And I don't think this body knows who makes the determination as to who is "as qualified as a registered nurse." If the intent was to address the issue raised by Senator Nantkes, quite easily and simply could have been addressed by saying by a person who is a registered nurse or other licensed healthcare provider as you find in other sections of this bill. But that does not occur. And we just had this discussion about fiscal notes. Now somebody has to make a determination as to whether somebody is as qualified as a registered nurse. DHHS has to now prepare a list that Senator Fulton admitted during the debate on Final Reading on this bill that DHHS does not currently prepare a list of clinics or providers who perform ultrasounds for free. Yet there is absolutely no fiscal implication associated with this measure. I find that difficult, if not impossible, to believe because we're talking about mass production of a document that has not been previously published. Someone at DHHS apparently will have to determine who performs ultrasounds for free and confirm that. Someone will have to make a determination as to whether the people performing these are at least as qualified as a registered nurse. I think the amendment is, you know, quite frankly meaningless with regard to the issue that was addressed about the qualifications of the individuals performing ultrasounds wherever they perform them. Clearly we would require someone to be licensed in the other contexts referenced in this bill, but for some reason not in this context. And I think, you know, this body has expressed its concerns about fiscal implications of measures. And again, I mean you look at the fiscal note here. It is absolutely no fiscal impact, but the Department of Health and Human Services is doing something they've never done before. They're going to have to, if you intend to enforce it, determine whether the people performing are at least as qualified as a registered nurse. And I would vehemently... [LB675]

PRESIDENT SHEEHY: One minute. [LB675]

SENATOR COUNCIL: ...contest any assertion that DHHS can absorb any cost associated with this in its budget because it's having budget constraints as it is now. It can't address the issues that we want them to address fully under the budget that they're operating now. So for those reasons I oppose the motion to return this to Select File for this amendment. Thank you, Mr. President. [LB675]

PRESIDENT SHEEHY: Thank you, Senator Council. Are there other members requesting to speak? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the motion to return LB675 to Select File. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB675]

CLERK: 39 ayes, 2 nays, Mr. President, on the motion to return the bill. [LB675]

PRESIDENT SHEEHY: The motion to return is adopted. [LB675]

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

Floor Debate  
May 27, 2009

---

CLERK: Mr. President, Senator Fulton would move to amend with AM1503. (Legislative Journal page 1720.) [LB675]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on AM1503. [LB675]

SENATOR FULTON: I just respectfully ask per my opening on the motion that we move...that we adopt AM1503. Thank you, Mr. President. [LB675]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You've heard the opening of AM1503 to LB675. Member requesting to speak, Senator Council, you're recognized. [LB675]

SENATOR COUNCIL: Thank you, Mr. President. Just for purposes of the record, would Senator Fulton yield to a couple of questions? [LB675]

PRESIDENT SHEEHY: Senator Fulton, would you yield to Senator Council? [LB675]

SENATOR FULTON: Yes. [LB675]

SENATOR COUNCIL: Thank you. Senator Fulton, can you describe for us what makes a person as qualified as a registered nurse? [LB675]

SENATOR FULTON: Well, I think probably firstly one who is a registered nurse. But outside of that it would be, oh, let's see. I think it is in the Final Reading copy, page 6, line 15 under the Uniform Credentialing Act. So that body which has purview over the Uniform Credentialing Act would be able to make that determination, which would be DHHS I believe. [LB675]

SENATOR COUNCIL: So if the standard to be used is that which is under the Uniform Credentialing Act, why don't you simply require that the person be a registered nurse, licensed under the Uniform Credentialing Act? [LB675]

SENATOR FULTON: I...we could have but the amendment was brought forward by Senator Nordquist. There was the potentiality that some of these clinics don't actually have registered nurses. That's not the case in Nebraska. I understand that these clinics that do perform ultrasounds free of charge--and probably what we're referring to here are the crisis pregnancy centers--they already use registered nurses. But that was...this was what was brought for an amendment and it seems reasonable to me. [LB675]

SENATOR COUNCIL: So if the person isn't licensed under the Uniform Credentialing Act, does the department then have to determine whether that person is as qualified as a registered nurse? [LB675]

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

Floor Debate  
May 27, 2009

---

SENATOR FULTON: I believe that...yes. That is what I would suspect. [LB675]

SENATOR COUNCIL: So would that be a precondition to such an entity...such a clinic being placed on the list? [LB675]

SENATOR FULTON: Would that...can you clarify? That would what be a precondition? [LB675]

SENATOR COUNCIL: Would a DHHS determination that the person or persons who would be performing ultrasounds at these clinics that are referred to on page 2 of the amendment, would that be a precondition to their placement on the list? [LB675]

SENATOR FULTON: I believe so, yes. It would have to be. This condition of the identity of a registered nurse is specific to subsection (c) on AM1503 that you're looking at. And so, yes, in order to be included on that list then, yeah, I think it would be fair to say that determination would have to be made by the department. [LB675]

SENATOR COUNCIL: Do you believe that DHHS can make those determinations and prepare this new comprehensive list without any additional cost? [LB675]

SENATOR FULTON: I believe they should be able to, yes. [LB675]

SENATOR COUNCIL: Do you have any idea what the cost would be? [LB675]

SENATOR FULTON: To be consistent with my last answer, I think that the cost would be zero. My understanding is that this could be done within their existing means. I'm not positive on that, but the fiscal impact, whether it's \$5 or 30 cents or what have you, I'm not aware of any fiscal impact, and so I'm willing to take the department at their word on that. [LB675]

SENATOR COUNCIL: Now correct me if I'm wrong, when we were debating this matter on Final Reading, am I correct in my recollection that your response to my question to you as to whether DHHS currently prepares a comprehensive list of healthcare providers, facilities, and clinics that offered to have ultrasounds performed for free, and your answer to that question was no. [LB675]

PRESIDENT SHEEHY: One minute. [LB675]

SENATOR FULTON: Say it again then what... [LB675]

SENATOR COUNCIL: When I asked you whether or not DHHS currently prepares a comprehensive list of healthcare providers, facilities, and clinics that offer ultrasounds

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

Floor Debate  
May 27, 2009

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for free, your answer to that question was no. They do not currently prepare such a list. [LB675]

SENATOR FULTON: I don't recall that I said that. This list exists in statute now and so a list is compiled now. So I don't recall that I answered no. Maybe I'm mistaken, but this list exists in statute now. There is a list prepared. We are identifying which should be included on the list in addition with respect to LB675. [LB675]

SENATOR COUNCIL: That was my understanding that there is a document that is prepared that currently contains providers but does not currently specify which providers... [LB675]

PRESIDENT SHEEHY: Time, Senators. [LB675]

SENATOR COUNCIL: ...perform ultrasounds for free. [LB675]

PRESIDENT SHEEHY: Thank you, Senator Council. Are there additional members requesting to speak? Seeing none, Senator Fulton, you're recognized to close on AM1503. Senator Fulton waives closing. The question before the body is on the adoption of AM1503 to LB675. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB675]

CLERK: 38 ayes, 4 nays, Mr. President, on the adoption of the Select File amendment. [LB675]

PRESIDENT SHEEHY: AM1503 is adopted. [LB675]

CLERK: I have nothing further, Mr. President. [LB675]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB675]

SENATOR NORDQUIST: Mr. President, I move LB675 to E&R for engrossing. [LB675]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB675 advances. Mr. Clerk, we will now move to the item under General File, LB134. [LB675 LB134]

CLERK: Mr. President, LB134 was a bill originally introduced by Senator Pankonin. (Read title.) The bill was introduced on January 9, at that time referred to the Natural Resources Committee, the bill was advanced to General File. There are committee amendments, Mr. President. (AM636, Legislative Journal page 774.) [LB134]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Pankonin, you're recognized to

Floor Debate  
May 27, 2009

---

open on LB134. [LB134]

SENATOR PANKONIN: Good morning, Mr. President and members of the body. Over the past two months I appreciated the opportunity to talk with most of the members of the Legislature about LB134 and AM636, the Natural Resource Committee's amendment to the bill. During these conversations, I emphasized four key points that led to the introduction of LB134 and caused me to designate it as my priority bill for the 2009 Session. The four points are still relevant today as I open on LB134 and then ask the body to indefinitely postpone the bill. Let me elaborate briefly on the four points. Point number 1: recreational trails serve a good public purpose and are enjoyed by many Nebraska citizens. There will certainly be more trail development in the future and I endorse this policy. In the past, recreational trails were constructed almost entirely within city limits as part of a Natural Resource District's flood control project, as popular features in city or state parks, or on abandoned railroad lines. Trails provide health, socioeconomic and environmental benefits to Nebraska residents and visitors. Each of you can cite examples of trails to which these descriptions apply. But have you thought about what can happen if trails are developed that do not follow these traditional models. Point number 2: there appears to be general consensus that the unrestrained use of eminent domain to take private property for trail development is not viewed as good public policy. The MoPac Trail extension project in Cass County did not fit the previously used models. It was not within a city, not part of an NRD flood control project, not part of an established park, and not on an abandoned railroad line. So the answer to the question about how the ten-mile trail project would be completed was, the Lower Platte South NRD could use eminent domain to take the needed land from more than 20 private owners. This decision was made after a citizen advisory group formed by the NRD recommended against using private land for the trail project. The affected landowners in Cass County were united in their opposition to the taking of land on which they live and in many cases, from prime farmland with which they earn their living. It quickly became clear that the landowners had no way to influence the NRD decision. Point number three: affected local governing bodies should have a defined role to play if eminent domain is to be used to take private property for trail development. Early this year, the Cass County Board of Commissioners twice voted unanimously against the Lower Platte South NRD's proposed trail route. In addition to concerns about the use of eminent domain for the taking of private property, the board had equal concerns about county road safety issues that would be created by the proposed route. So we had two of our political subdivisions, the Lower Platte South NRD and Cass County, at a standoff over the use of eminent domain. Once again it became clear that there was no policy in place to reconcile the differences between these two political entities. Point number four: a process is needed to ensure that a fair and even playing field exists if eminent domain is to be used to take private property for trail development. Nebraska does have a state trails plan. The Game and Parks Commission oversees it. However, unlike the plans in many other states, the Nebraska plan is silent on the use of eminent domain for recreational projects. Apparently, previous Legislatures have been

Floor Debate  
May 27, 2009

---

concerned about the use of eminent domain for recreational purposes. Bills have been introduced in the past to eliminate or restrict the unfettered eminent domain authority of the NRDs, but the bills have not passed. In the late 1960's, the Legislature did pass a law to require the Game and Parks Commission to obtain the consent of the Legislature in order to use its power of eminent domain. During my discussions of LB134 with members of this body, several ideas were offered to create a reasonable way to solve a problem, such as the one that exists in Cass County. Each had interesting proponents but none presented the ideal solution. I continued to hope that a workable plan might unfold as we waited for General File debate on my priority bill to begin. In the meantime, changes were happening in Cass County. Our conversations here in Lincoln facilitated renewed discussions between the Cass County Board and the Lower Platte South NRD. Last week a meeting of the full NRD board approved a voluntary moratorium of all work on the original proposed trail extension project through the 2010 legislative session. The NRD board also agreed to discuss alternate trail routes with the Cass County Board, and to dismiss temporary injunctions against two of the landowners affected by the original trail route. The NRD board's decision were based on an understanding that if they agreed to halt the immediate use of eminent domain for the trail project in question, and resume discussions about alternate routes, that I would offer a friendly kill motion to LB134, and the Legislature's Natural Resources Committee would study the use of eminent domain for recreational projects with the hope that a statewide policy would be developed. The motion on LB134 has been filed and an interim study resolution has been introduced. Here are my final comments. First, we need a statewide policy on trail development. If such a policy is put in place, I think most trail projects can be worked out at the local level. In light of what happened in Cass County, as well as similar events that could occur in other parts of the state, the policy needs to eliminate the use of eminent domain for recreational projects, or to include a process for resolving conflicts that is fair to all parties when this issue comes up. Second, I look forward to working with the Natural Resources Committee on this issue during the interim. I believe the committee is committed to developing a policy that supports trail development and protects the rights of individual landowners at the same time. Thirdly, I want to thank all of the individuals, especially the members and staff of the Natural Resources Committee, and Chairman Langemeier, who brought ideas to the table in an attempt to create a positive solution to a difficult problem. Thank you. [LB134]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. You have heard the opening to LB134. As stated, there is a Natural Resources Committee AM636. Senator Langemeier, you're recognized to open. [LB134]

SENATOR LANGEMEIER: Members of the body, Mr. President and members of the body. This is a unique position to be in as a Chairman. We put some effort into creating the committee amendment, AM636, and I stand before you not really caring how you vote on it because we're going to kill this bill shortly afterwards. We put this bill out of

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

Floor Debate  
May 27, 2009

---

committee to send a message and it has worked. We've got all the parties attention and they have shown willingness to work on this issue. And as Senator Pankonin has said, we have introduced, or he has introduced an interim study to talk about how we site trails across Nebraska, as trails become more popular every day and we want to support the wise placement of trails across Nebraska. And so at this time, I would ask for something. We have to take some action on the committee amendment so we can move on to the friendly IPP motion, and so we need to have at least a vote on AM636. So whether anybody votes at all, it doesn't really matter but we will take that vote. So that's my opening. Thank you, Mr. President. [LB134]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening of AM636 to LB134. Are there members requesting to speak? Seeing none, Senator Langemeier...oh, Senator Gay, you're recognized. [LB134]

SENATOR GAY: Thank you, Mr. President. I just wanted to rise and speak. I've been working, not with Senator Pankonin, but I know how hard he's worked on this issue. It's very contentious. And when I was on the county board, these trail issues get to be very contentious, but they're very popular. And I think with the approach he's taking to have a study to see, you know, a system that both sides know what the rules of the game is, is good, is great thinking. But I know he put a lot of time and effort into this. I just want to acknowledge that because the parties were just diametrically opposed. I saw and was familiar with some of the situation where the trail was going to run. I just wanted to commend Senator Pankonin. I think he's making a right move here and I know long-term we'll get a better solution. But I like the idea that we're going to have an interim study and both sides, those trail proponents, and those...and there are opponents to the trail systems, but they come together, and we get a better look at where we want to go in the future. So I wanted to rise in support of Senator Pankonin and pulling his bill. Thank you. [LB134]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Gloor, you're recognized. [LB134]

SENATOR GLOOR: Thank you, Mr. President. I would add my voice to those offering appreciation to Senator Pankonin. I know he's worked long and hard on this because it's an area of interest of mine. I use trails regularly in this state and took a great interest in this bill. And Senator Pankonin did a wonderful job of walking that fine line necessary to take a contentious issue and keep things on the...if I could use path terminology, straight and narrow. If we're going to be successful as we expand paths for recreational, health purposes, and tourism purposes across the state, we're going to need to have a collaborative approach towards it. And what Senator Pankonin is driving at here, hopefully, will set the stage for other expansions that will be collaborative and not contentious. So again, my appreciation for Senator Pankonin and his efforts. Thank you. [LB134]

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

Floor Debate  
May 27, 2009

---

PRESIDENT SHEEHY: Thank you, Senator Gloor. Are there additional members requesting to speak? Seeing none, Senator Langemeier, you're recognized to close on your amendment. Senator Langemeier waives. The question before the body is on the adoption of AM636 to LB134. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB134]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB134]

PRESIDENT SHEEHY: AM636 is adopted. [LB134]

CLERK: Mr. President, Senator Pankonin would now move to indefinitely postpone the bill. Senator, as primary introducer, you have the option to lay it over or take it up at this time. [LB134]

SENATOR PANKONIN: I would like to lay it over. [LB134]

PRESIDENT SHEEHY: LB134 is laid over. Mr. Clerk, we will now proceed under Select File, 2009 committee priority bills, LB658. [LB134 LB658]

CLERK: Mr. President, LB658. First of all, Senator Nordquist, I have Enrollment and Review amendments. (ER8135, Legislative Journal page 1708.) [LB658]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB658]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB658. [LB658]

PRESIDENT SHEEHY: You have heard the motion on the adoption of E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB658]

CLERK: Mr. President, first motion. Senator Friend, I have a motion to bracket but I understand you want to withdraw that, Senator. [LB658]

SENATOR FRIEND: That's correct, Mr. Clerk. [LB658]

PRESIDENT SHEEHY: The motion is withdrawn. [LB658]

CLERK: Mr. President, then Senator Friend, a motion with...I had my first amendment, excuse me, Senator is your amendment, AM1505. (AM1505, Legislative Journal page 1728.) [LB658]

Floor Debate  
May 27, 2009

---

PRESIDENT SHEEHY: Senator Friend, you're recognized to open on AM1505. [LB658]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Just a quick, just a quick briefing. Some of...it was on Thursday afternoon, it was a sparsely attended effort but we moved this bill from General File to Select File, and it essentially encompasses changes to the State Natural Gas Regulation Act. The last few days, have seen some dramatic naval activity as they say in the Hunt for Red October. I don't know why I'm on the Hunt for Red October kick, but it's probably appropriate right now because the torpedoes are flying. Let me explain really, really quickly again what the bill does and then I'll go into the amendment and I'll clarify some problems. I'll give you a little bit of history. It's important that I give you history and you have to bear with me because I'm going to be gone and guess what, I'm not being arrogant here, the State Natural Gas Regulation Act and the natural gas issues in this state are crazy. They will never go away and somebody's going to have to pick up the ball and run with it. This bill creates a process to finance replacement of necessary natural gas infrastructure. Necessary natural gas infrastructure that we can do without requiring a full-blown general rate review. Why? Why do you want interim rate reviews? Why can't you just use the normal rate review? Let me give you a couple analogies. One of them, I think, is better than the other one but you decide which one is better. I own a house. The property tax guy, the assessor comes out and values that house. What if that assessor only values it once every ten years? Is that good for me? Is it good for the taxpayer? Is it good for the county? The answer to that question, and I'm going to be bold, is no. I need that house valued. I need it valued more often than every ten years or every five years. And the last five months or ten months ought to tell us that would be the case. I think that's a perfect analogy. Here's another one. Let's say I make \$60,000 a year. Let's say my employer says, yeah, you make \$60,000 a year but I'm only going to pay on December 31. Forget about the fact that I'm used to getting paid every two weeks. Forget about that for a second. Let's just talk from a strict budgeting mentality. They hand me \$60,000, that's before taxes, at the end of a year, December 31. Do you think that the mortgage company and some of these other folks are not going to call my bluff way before that? I've got huge budgetary problems I got to take care of every two weeks and every month. You think that's going to fly? That's what our investor-owned utilities are up against right now. I feel this strongly about this. I usually feel this strongly about everything that's going on out here. I feel this strongly about this. This is a problem. And I've been witnessing it for a long time. Projects that qualify under this particular initiative. Somebody wants an interim rate review. Here are the projects that qualify. A state and federal safety requirement. The state or the federal government says you have to do this. The investor-owned comes out and says, we don't have the money. What happens? It dilapidates, you've got some safety concerns. Relocations or facility relocations or forced relocations--that's what can be handled with these interim rate reviews. Integrity requirements. You find pipe...and these are safety concerns too. You find natural gas pipes that are compromised, you can deal with it with these interim rate reviews. But let me clarify a few things from General to Select, because I think that the

Floor Debate  
May 27, 2009

---

PSC has raised some concerns with me about some of the things that I might have said or some of the intent that was out there. These are not expansion initiatives. Okay. So in other words, it's not a tremendous amount of increased capacity or any increased capacity you're going to get out of it. What it is, is you're going to replace or maintain capacity. And I think maintaining capacity does promote future increased capacity and it does promote economic development. I will not retread or retire or fall back from that General File premise that I had. This has economic development implications. No doubt in my mind about that. Show me a super user who is going to hook up a bunch of propane tanks and effectively run that business. It's not going to happen. We need the natural gas expansion in this state and we need to maintain and we need interim rate reviews, in my view, in order to do that. Now, here's what the amendment...when I talked about the dramatic activity, here's what the amendment has caused over the last few days. There are municipally-owned natural gas...now, again, I know you can get bored by this but this is extremely important for future reference. There are natural gas utilities owned publicly and there are natural gas utilities owned that are investor-owned, they're jurisdictional in this state. They both have statutory authority to operate, and we exist, and they all exist in a monopolistic environment. They're not supposed to compete with each other. They do, but they're not supposed to. In 2003 we passed a state...I believe it was 2003, it might have been...we passed the State Natural Gas Regulation Act. Municipals such as MUD, Hastings and others on one side and jurisdictional utilities, Black Hills, which at the time was Aquila, SourceGas, at the time Kinder Morgan, and etcetera, are on the other side. Members, I've said this on the record before and I'll say it again, these are the Israelis and the Palestinians. They do not get along. They never will get along and there's nothing in here that we can do to help them or make them get along. So the drama in the last few days boils down to this. If you look at your committee statement, I said on General File that we did our best and I think that we accomplished taking opposition away from this type of environment. We satisfied...well, to the degree that I think we can. By the way, I'm going to get to an amendment after this that probably doesn't satisfy the public advocate but I'll talk about that in a second. We satisfied in regard to this bill what we thought were the public advocate's concerns based on the hearing. The Nebraska Municipal Power Pool came in and raised concerns also because they see this as a, and I don't want to put words in their mouth, but they see this as an end run around rate reviews and investor-owned utilities being greedy. I shouldn't say being greedy, but they're an end run around full-blown rate reviews. Let me just leave it at that. Now, I believe we have made changes for the stakeholders with this amendment that will satisfy even more of those concerns. I am not making any changes in here for the Nebraska Municipal Power Pool. That did not happen, and neither in the committee didn't ask me to, research analyst didn't ask me to, the stakeholders that I worked with didn't ask me to, and I choose not to. I believe making changes for the Nebraska Municipal Power Pool are akin to making an amendment for an organization like MUD, because the Nebraska Public Power District is vehemently opposed to a bill that MUD is pushing. Are they theoretically a stakeholder? Maybe. [LB658]

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

Floor Debate  
May 27, 2009

---

PRESIDENT SHEEHY: One minute. [LB658]

SENATOR FRIEND: Are they practically a stakeholder? Absolutely not. I listen to their arguments. I don't agree with them. The bill with this amendment would allow for projects that are intended to benefit customers by insuring proper natural gas delivery in a timely manner, and infrastructure changes in a timely manner, and also to provide for approval of infrastructure projects that were not included in the most recent rate case, full rate case. Stakeholders were involved in this discussion, and I believe that we have done our due diligence. That's why I believe we ought to vote yes on this amendment, get it adopted to LB658, because I believe it's actually good. It could be actually good for the ratepayers in central and western Nebraska and I do not believe contrary opinion... [LB658]

PRESIDENT SHEEHY: Time, Senator. [LB658]

SENATOR FRIEND: ...in that area. Thank you, Mr. President. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Friend. You have heard the opening of AM1505 to LB658. Members requesting to speak: Senator Price, followed by Senator Rogert and Senator Friend. Senator Price, you're recognized. [LB658]

SENATOR PRICE: Thank you, Mr. President and members of the body. Would Senator Friend yield to a question. [LB658]

PRESIDENT SHEEHY: Senator Friend, would you yield to Senator Price? [LB658]

SENATOR FRIEND: Yes, I will. [LB658]

SENATOR PRICE: Thank you very much, Senator Friend. A question for you. Who receives the money in this rate hike? Who...what entity will receive the money? [LB658]

SENATOR FRIEND: The utility. [LB658]

SENATOR PRICE: The utility company, correct? [LB658]

SENATOR FRIEND: The utility. [LB658]

SENATOR PRICE: Oh, the utility. Okay. Is this for the plants the utility owns? [LB658]

SENATOR FRIEND: It's for, it is for, in an interim rate case, you're asking? [LB658]

SENATOR PRICE: For what this bill is asking for, yes. [LB658]

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

Floor Debate  
May 27, 2009

---

SENATOR FRIEND: It is for the specific infrastructure changes the PSC would approve for that particular utility. [LB658]

SENATOR PRICE: Okay. So the...just making sure I draw the dots together, okay. We're going to...if this goes forward we're going to afford the utility more revenue. [LB658]

SENATOR FRIEND: No, that is not correct. [LB658]

SENATOR PRICE: Okay. [LB658]

SENATOR FRIEND: We are allowing them the...and I'm not trying to mean, Senator. [LB658]

SENATOR PRICE: No, no, it's great. Please do correct. [LB658]

SENATOR FRIEND: We're going to allow the utility to have an interim rate case. They will go before the Public Service Commission along with the public advocate to seek increased revenue from their ratepayers, to seek potential increased revenue from the ratepayers to take care of specific infrastructure items. [LB658]

SENATOR PRICE: Okay. Great. And I understand that. Now just to take it to the next level, their domain of responsibility for infrastructure, what is the line of demarcation between the utility infrastructure and the transmission of that energy, so we have the pipelines and we have the carriers and we have the plants, where is the point of demarcation between the two entities so that we're sure that everybody understands when we talk about improving infrastructure, the infrastructure were talking about goes up to a certain terminal point. [LB658]

SENATOR FRIEND: I don't know how to answer that question. [LB658]

SENATOR PRICE: Okay. Maybe I can help you. If you were drawing...we should be able to draw a circle of some sorts or a shape, a polygon around the utility plant. [LB658]

SENATOR FRIEND: The State Natural...sorry, to interrupt you. The State Natural Gas Regulation Act outlines what those demarcations are. [LB658]

SENATOR PRICE: Okay. So that way we're being clear for everybody because, you know, I've heard from...I've been lobbied just probably like anybody else. You know, that it seems that people may have the inference that a utility line that has been damaged, a gas line has been damaged would not receive benefit of this increase, only the lines that

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

Floor Debate  
May 27, 2009

---

are within the area of that utility. [LB658]

SENATOR FRIEND: If I understand your question correctly, my answer to that would be yes. And let me explain why. [LB658]

SENATOR PRICE: Okay. [LB658]

SENATOR FRIEND: On...in the original committee amendment, on page 3, line 25, it says, a jurisdictional utility plant project...and maybe I'm not answering your question appropriately here, tell me if I'm not. Jurisdictional utility plant project means only the following: subsection (a) mains, valves, service lines, regulator stations... [LB658]

PRESIDENT SHEEHY: One minute. [LB658]

SENATOR FRIEND: ...vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities. [LB658]

SENATOR PRICE: Right, exactly. And I wrote down that chapter and verse myself and that's where it lies for me that we clarify that everybody understands that that does not include a line going from point A to point B outside of that demarcation point of the plan, it's only within that area. [LB658]

SENATOR FRIEND: I see what you're asking. [LB658]

SENATOR PRICE: Great. And that other people won't think, oh, if my backhoe or somebody digs through something, that that's going to be repaired or if it's failing, I doubt that we have failing gas lines out there and I would never want to lay forward that idea. However, we're only talking about the monies are going to things within this zone of responsibility of the utility. Thank you, Mr. President. [LB658]

SENATOR FRIEND: That's correct. [LB658]

SENATOR PRICE: Thank you, Senator Friend. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Price. Thank you, Senator Friend. Senator Rogert, you're recognized. [LB658]

SENATOR ROBERT: Thank you, Mr. President. Members, I rise in support of AM1505 and the underlying bill. And I agree with Senator Friend on several points which is a little unnerving, but it is an economic development issue, and it is an issue of whether or not we maintain our pipe system, we expand our pipe system, and when we decide to do a rate change to pay for those expansions and maintenance projects. It will, if we don't do

Floor Debate  
May 27, 2009

---

this, create a lack of development and maintenance. And it also will create a sticker shock factor in ten years instead of it going up a couple, 3 percent over a certain amount of time, you'll get a 10 or 20 percent whack right off the bat. For some of the new folks, the first year folks, I think maybe if Senator Friend would yield to a few questions. [LB658]

PRESIDENT SHEEHY: Senator Friend, would you yield to Senator Rogert? [LB658]

SENATOR FRIEND: Yes, I will. [LB658]

SENATOR ROBERT: Senator Friend, can we just have a couple minutes of dialogue discussing the process by which the Public Service Commission works with the utilities in terms of these types of projects for folks that aren't quite aware. Can you kind of go through that process a little bit? Say a utility wants to put a new line into the city of Columbus and it's a jurisdictional utility that's privately owned. What would that process entail? [LB658]

SENATOR FRIEND: Well, it's probably not a great analogy, but I understand what you're getting at. I could go a long time or I could go a short time, but let me tell you this. In its simplest form, jurisdictional utilities are wrapped up in certain types of territories. There was a day when Kinder Morgan and Aquila were fighting each other for turf. But it wasn't just that, it could have been Aquila and MUD fighting for turf before the State Natural Gas Regulation Act. Now, to answer your question more specifically, the PSC will look at the State Natural Gas Regulation Act and say, this how, more or less, I'm kind of...I'm oversimplifying it a little bit, but they'll say, you're out of your territory. And the PSC will, you know, swat the hand and say, you can't go out of this territory because this particular territory does not belong to you. [LB658]

SENATOR ROBERT: And the reason we have the PSC involved and the State Natural Gas Regulatory Act is because of the monopolistic nature of the beast. [LB658]

SENATOR FRIEND: It's a monopolistic business. That's my contention. [LB658]

SENATOR ROBERT: And that is where the rub comes, is where we always have issues that come before us to deal with these types of problems, and we get frustrated because it's one guy fighting another and nobody necessarily knows exactly the truth all the time, correct? [LB658]

SENATOR FRIEND: Correct. But I don't think necessarily that's what the problem is here. The big... [LB658]

SENATOR ROBERT: No, no, I agree. I'm just trying to outline some background for the 15 or 16 folks that probably haven't had to deal with this ever before. What about a rate

Floor Debate  
May 27, 2009

---

hike or a rate change situation? Can you describe in a short version how a rate change, a short version is funny, but in a minute how rate change is done for one of these utilities? [LB658]

SENATOR FRIEND: Yeah, oversimplifying it again, if an investor-owned...and let me put it in the simplest terms. For people who live in Omaha, for example, we all vote for MUD board members. Those MUD board members are elected by us and then they make decisions on what our rates look like. And then if we don't like our rates going, you know, out the roof, we vote those people out and say our rates are too dang high. Same applies with the Public Service Commission except for the fact that the Public Service Commission has a wider... [LB658]

PRESIDENT SHEEHY: One minute. [LB658]

SENATOR FRIEND: ...berth...there's a wider range of regulatory responsibility throughout the state that they have to deal with and it's called the jurisdictional utility. If a jurisdictional utility wants to raise its rates, it goes through a rate review and sometimes those rate reviews are costly and sometimes they take a long time to actually come to fruition. And the rate review involves the public advocate and it involves the Public Service Commission and the Public Service Commission has to approve those rate hikes. [LB658]

SENATOR ROBERT: Right. Well, and that's my point, members, is that there is a lot more involved to this than ever meets the eye when it comes to here and you read a bill and you really don't understand half the words in it. There is a lot...and that's where the frustration comes is that there are many back story issues to this problem. And as the bills come before us to try and change the process, it becomes, for lack of a better term, dilatory and frustrating often. Thank you, Mr. President. Thank you, Senator Friend. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Thank you, Senator Friend. (Visitors introduced.) Continuing floor discussion on the Friend amendment, AM1505, members requesting to speak are Senator Friend and Senator Avery. Senator Friend, you're recognized. [LB658]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I didn't quite get finished and I'm not going to bore you much more with this, but I do think it's integral that you have an understanding of why this has been so volatile and why you might have been receiving some phone calls. Here are the technical changes with this amendment. Well, let me rephrase. There are technical changes with this amendment. There are bill drafting type of amendments. There are amendments that were brought forth from research analyst, Bill Stadtwald, some better ideas. There were also key amendments, key fixes that we got with the stakeholders and talked about. Let me

Floor Debate  
May 27, 2009

---

address those. The time lines with this amendment are actually expanded. Both the Public Service Commission and the cities that negotiate for rates are given more time to study and review requests for special cost recovery charge. The PSC gets an additional 30 days to review...for the review of cost recovery requests and an option to extend it for 30 more days, if necessary. This is a slow moving process. We felt these days were important to have in here, these added days. This amendment makes for provisions for guarding the public advocate consistent with current state law during those interim rate changes. We went even further and said, that needs to be the case. It also makes changes to ensure that loan funds are available to cities regulating these cost recovery charges through negotiations with their jurisdictional utility. If a negotiation were to fail, this change would make sure that the loan funds were available for proceedings before the PSC. It also corrects and clarifies the municipal negotiation provisions found in Section 6. After the adoption of the committee amendment, several changes were necessary to deal with some of the issues surrounding the municipal negotiation provisions, such as, it changes the confidentiality provision to protect corporate data while ensuring that the information was available to the PSC if the negotiations were to fail. That helps the ratepayer. Provided that the annual...it also provides that the annual reconciliations of revenue received from the recovery charges and any future requests would be governed by an order of the PSC in the first application process. Also it ensures that nonconfidential data is made available to the public in instances, and also general clarification overall of this process. We correct terminology throughout it, the initiative, and that is about it for this particular amendment. Now, I'll close here...well, I won't close. I know there are other questions, but what I'm going...or other people wishing to speak, but what I will say is, that one thought process, and I respect this thought process, always have and always will, is that you got a bunch of greedy companies out there looking to gouge the ratepayer. Okay. I don't say I agree with it, I said I respect that thought process. We don't want that to happen and that's where you get a little kickback from a particular, you know, member or two members of the lobby. This is like a tax hike. This is a way around. This is an end around... [LB658]

PRESIDENT SHEEHY: One minute. [LB658]

SENATOR FRIEND: ...to try to avoid the appropriate process. Members of the Legislature, my answer to that is unequivocally no. That is not what this is. We have put together the appropriate, I would say, process and procedure to make sure that the Public Service Commission which represents us all as ratepayers in the natural gas arena, that that Public Service Commission and the people are involved in these rate reviews, and they're able to make judgments on their own because it's transparent as possible. Interim rate reviews are difficult because there's a lot of data involved. But we're doing our best to try to provide a process that will not only help the corporations, the companies that are trying to do the best for their ratepayers, and I firmly believe that, and in the long run will help that ratepayer. [LB658]

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

Floor Debate  
May 27, 2009

---

PRESIDENT SHEEHY: Time, Senator. [LB658]

SENATOR FRIEND: Thank you, Mr. President. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Avery, you're recognized. [LB658]

SENATOR AVERY: Thank you, Mr. President, colleagues. I wonder if Senator Friend would yield to a couple of questions. [LB658]

PRESIDENT SHEEHY: Senator Friend, would you yield to Senator Avery? [LB658]

SENATOR FRIEND: Yes, I will. [LB658]

SENATOR AVERY: Thank you, Senator Friend. In looking at AM1487, which I believe you're amending with AM1505... [LB658]

SENATOR FRIEND: Correct. [LB658]

SENATOR AVERY: ...Section 4, (3), in this section, I believe it says that if a recovery rate is approved the utility may not collect it for more than five years unless the utility files for or is subject of a new general rate proceeding within that five-year period, is that correct? [LB658]

SENATOR FRIEND: Correct. [LB658]

SENATOR AVERY: So does AM1505 affect that at all? [LB658]

SENATOR FRIEND: No. [LB658]

SENATOR AVERY: It does not. Then does this not imply that a utility can continue to charge the recovery rate indefinitely, as long as they file a general rate case at least every five years? [LB658]

SENATOR FRIEND: I'm not sure how...I'm not sure how you come to that deduction. [LB658]

SENATOR AVERY: Well, if you combine that with other... [LB658]

SENATOR FRIEND: PSC has to approve it. [LB658]

SENATOR AVERY: The PSC would have to approve it. What I'm concerned about here is that we might be actually putting in place procedures that would allow for indefinite

Floor Debate  
May 27, 2009

---

rate recovery fees. [LB658]

SENATOR FRIEND: I'm still not sure how. By based on the reading, I'm right at the language here and I'm not sure how you would read that into it. [LB658]

SENATOR AVERY: Well, there is a section in the amendment that you are addressing in AM1505 that allows the utility to petition for a change in its rate as often as once a year? [LB658]

SENATOR FRIEND: That's correct. [LB658]

SENATOR AVERY: Then, what protection does the ratepayer have here that there won't be an indefinite increase? [LB658]

SENATOR FRIEND: Well, I think the protection...okay, I think that the protection that the public has are two-fold. One, the Public Service Commission...every time you have a rate review, and you could have a rate review every two years if you wanted it, if the company actually wanted to pay for that under the State Natural Gas Regulation Act right now. But the protection for the public is the Public Service Commission. The second thing is, that it is expensive to have rate reviews, even interim rate reviews. Why would a corporate...why would a corporation sock all kinds of...unless they actually need infrastructure enhancements or they need a full-blown rate review, why would you have a rate review. These things are expensive, long, drawn-out processes, and the fact of the matter is, that's protection right there for the public. And the PSC is an elected body that helps those ratepayers and guides those investor-owned utilities in that decision-making. And a lot...and rejects those proposals if they see fit. [LB658]

SENATOR AVERY: Thank you, Senator Friend. My only reason for raising this issue is the concern that I have that we might be locking in indefinite rate review and indefinite rate increases. Senator Friend just pointed out to me, I believe what you gave me is Section 5, (7)(a). All right. All right, that's all the questions I have. Thank you, Mr. President. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Avery. Seeing no additional requests to speak, Senator Friend, you're recognized to close on AM1505. [LB658]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Senator Avery raises an interesting question and I wasn't trying to be aloof or standoffish. Let me point out something on page 13 of the original committee amendments. In Section 7, excuse me, (7)(a), a jurisdictional utility shall cease to collect such charges when new rate base rates and charges become effective for the jurisdiction utility following a commission order establishing customer rates in a general rate proceeding. The PSC is an elected body that allows or disallows rate increases. It's as simple as that. And this

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

Floor Debate  
May 27, 2009

---

amendment and this thought process in this initiative doesn't change any of that. It expedites it. That's it. Now, obviously it's a lot more complicated than that and I've gone into a long history. But the thing is, it is important that we keep our fingers on this and keep our hands on it. Matter of fact, we keep it in sort of stranglehold because if we don't, these things can get out of control really quick in the natural gas industry even with a very decent law like the State Natural Gas Regulation Act in place. Members of the Legislature, I would ask for the adoption of AM1505 and the advancement of LB658. Thank you, Mr. President. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Friend. You have heard the closing. The question before the body is on the adoption of AM1505 to LB658. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB658]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Friend's amendment. [LB658]

PRESIDENT SHEEHY: AM1505 is adopted. [LB658]

CLERK: Mr. President, Senator Friend would move to amend with AM1506. (Legislative Journal page 1730.) [LB658]

PRESIDENT SHEEHY: Senator Friend, you're recognized to open on AM1506. [LB658]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. This is something that came up during discussions during Urban Affairs Executive Sessions. I'm going to pull this amendment at the end of my opening. I just wanted to let the body know and understand that this actually came up also in the Legislative Performance Audit discussions that we would have on occasion. Here's what this amendment would do and at the very least it's problematic. Even if you like it, it's problematic. Subsection 2 of this amendment it talks about the public advocate. In subsection 2 of this amendment it said, notwithstanding the provisions of Section 75-105, the executive director of the commission, which is the PSC, upon consultation with the members of the commission, shall appoint the public advocate. That's existing language. Here's what we added and here's the problematic part. The public advocate position shall be a full-time position and the public advocate position...or excuse me, the public advocate shall devote all of his or her time and efforts to fulfilling the requirements of the position and performing his or her duties under the State Natural Gas Regulation Act. Members of the Legislature, this is an amendment that is akin to like a written temper tantrum, but I'm not real fond of moving forward on it and I don't think anybody else is either. I can assure you of this that there is a problem. Okay. And the Legislative Performance Audit Committee, and I'm not going to put words in anybody on that committees mouth, we did address this in passing. And I think it will be addressed in the future because it is a problem. Is the answer here? No, but I just wanted to give everybody a heads-up and almost called this

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

Floor Debate  
May 27, 2009

---

a shot across the bow. What happens in the future could be up to you guys, not me. But members of the Legislature, that's all I had on this amendment. Mr. President, I'd like to withdraw it. Thank you. [LB658]

PRESIDENT SHEEHY: AM1506 is withdrawn. [LB658]

CLERK: I have nothing further on the bill, Mr. President. [LB658]

PRESIDENT SHEEHY: We will now return to discussion on LB658. Members requesting to speak: Senator Lathrop and Senator Friend. Senator Lathrop, you're recognized. [LB658]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I had my light on to talk about the last amendment and it got withdrawn before...and I appreciate the fact that it was both introduced, the subject matter approached at this time, and then withdrawn, because apparently this is going to become the subject matter of a Performance Audit Review. And I think that's in order. The question when it comes to attorney fees and the costs of attorneys, you can get to a place...and first of all, it's my understanding that this position was envisioned to be in-house. And I think Senator Friend read some of the language and it talks about the person devoting their efforts only to this undertaking, words to that effect. It was intended to be in-house and the cost of the public advocate is getting to the place where it is appropriate to examine whether or not that should be done by an outside lawyer, billing it at an outside lawyer's rate, which I don't have that information. I did see a note that said we spent \$627,000 on the lawyer and a consultant in the last year. And that's enough to make me say, boy, that's a lot of money. I mean, can we bring that person, hire a full-time lawyer, give him an office space and a secretary and do it for less. I got to think we're getting close to that point. Now I don't know all the ins and outs and I'm confident Senator Harms will get to the bottom of it. But it is appropriate that we take a look at this, it is very appropriate because ultimately when we talk about looking for waste and we talk about looking for being fiscal conservatives, as most of us profess to be, this is one of those places where we need to look. And it's not that I don't appreciate the work of the lawyer who has served as our public advocate, because I believe he's done a fine job. Fine lawyer. It's a lawyer with a good reputation in the state and in Lancaster County and in Lincoln. But at some point we have to say, you know, I think I can bring this in-house. And corporations do it all the time. They have in-house lawyers at every insurance company and in most significant businesses. And the PSC could hire a lawyer, I believe, and do it for, more economically and have that person in-house. So we will trust the Performance Audit Committee to get to the bottom of it and we'll look forward to their report. Thank you. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Seeing no additional requests to speak, Senator Friend, you're recognized to close. [LB658]

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

Floor Debate  
May 27, 2009

---

SENATOR FRIEND: Members of the Legislature, just to say, and I don't say this much, thank you for bearing me on this because I saw your eyes and they were glassing over. I would ask for the advancement of LB658. Thanks. [LB658]

PRESIDENT SHEEHY: Thank you, Senator Friend. Mr. Clerk, anything further on the bill? [LB658]

CLERK: Nothing further, Mr. President. [LB658]

PRESIDENT SHEEHY: Senator McGill, you're recognized for a motion. [LB658]

SENATOR MCGILL: Mr. President, I move LB658 to E&R for engrossing. [LB658]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB658 advances. Mr. Clerk, you have items for the record. [LB658]

CLERK: I do, Mr. President. The bill read on Final Reading this morning was presented to the Governor at 10:55. (re LB561). Senator Giese offers LR254, and Senator Cook, LR255. Those will both be laid over. And I have a motion from Senator Karpisek with respect to LB626. (Legislative Journal pages 1739-1740.) [LB561 LR254 LR255 LB626]

A priority motion, Senator Campbell would move to recess the body until 1:30 p.m. []

PRESIDENT SHEEHY: You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We are in recess until 1:30 p.m. []

RECESS []

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is ready to reconvene. Senators, please record your presence. Please record, Mr. Clerk. []

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

PRESIDENT SHEEHY: Are there messages, reports, or announcements? []

CLERK: I do, thank you. I have Enrollment and Review reports LB420 and LB675 as correctly engrossed, Mr. President. And an announcement: The General Affairs Committee will have an Executive Session upon adjournment today in Room 2022; General Affairs upon adjournment. That's all that I had, Mr. President. (Legislative

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

Floor Debate  
May 27, 2009

---

Journal page 1741.) [LB420 LB675]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Visitors introduced.) We will now proceed to the first item under Select File, LB219. [LB219]

CLERK: Mr. President, the first motion I have are E&R amendments. (ER8024, Legislative Journal page 580.) [LB219]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB219]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB219. [LB219]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB219]

CLERK: At this time, I have nothing further to the bill, Mr. President. [LB219]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB219]

SENATOR NORDQUIST: Mr. President, I move LB219 to E&R for engrossing. [LB219]

PRESIDENT SHEEHY: Currently at this time, Senator Pankonin, you're recognized. [LB219]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. Rarely will I oppose Senator Flood's legislative efforts but this is one exception. I have a very active group of Project Extra Mile folks in my legislative district in the Nebraska City area. They are very much opposed to LB219 because they strongly believe the current highway safety program with two agencies involved is the most effective. I will be referring to and reading from a 2007 Policy Research Office report that was requested by the Governor. You may have read a copy of this report that was e-mailed to you by several sources, including a copy from Mike Marvin representing state employees. I want to refer to the executive summary of this report. I think we all know that the trend line for accidents and highway deaths has been moving downward in Nebraska and that's a good thing and I think we need to talk about why that might be happening. Specifically, from page 9 of the...or page...second page of the executive summary, point number nine, I want to read from the report: After reviewing the existing Nebraska highway safety elements in-depth, it became clear that there is very little, if any, duplication in effort. Each of the agencies is involved in highway safety activities unique to its operation and commonly works with a distinct federal partner. Point number 11: Interagency cooperation for highway safety is stronger today than it has ever been. The federal government has been encouraging states to use multidisciplinary cooperation in its highway safety

Floor Debate  
May 27, 2009

---

efforts. Nebraska safety agencies have responded by forming multiagency groups to accomplish highway safety goals. Point number 12: As a result of this study, it is concluded that further consideration of highway safety efforts is not needed at this time. While there are many ways of organizing government, we should be careful not to damage existing relationships and successful programs just for the sake of change. I want you all to carefully think about your decision on LB219. We have talked about life and death issues this week in this body. Accidents on our roads and highways take lives and cause injury and property damage. Let us not hurt our state's safety efforts by passing LB219. Thank you. [LB219]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Additional members requesting to speak on LB219: Senator Flood, followed by Senator Stuthman, Senator Howard, and Senator Wallman. Senator Flood, you're recognized. [LB219]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. I've spent some time on this bill this session and I continue to believe it's a good bill and it serves a good purpose. There was a discussion from Senator Pankonin about this October 2007 study. I don't know where this came from. They say PRO. It doesn't say on there PRO. It doesn't say DMV. It doesn't say DOR. I asked about this with the executive branch and they said there were a number of reports generated. But I do note with interest that on page 3 of the no-name report it says the Nebraska Office of Highway Safety could probably function well in any agency. That was the conclusion from the authors unknown. When we last discussed this on General File, I said I would go back and I would talk to people that had concerns. On February 25, I met with Mike Marvin and NAPE. I talked about the public employees union concerns. We had a general discussion. On February 27, I took the bill out of rotation to tour relevant facilities. On March 4, I met with Diane Riibe with Project Extra Mile, listened to her concerns. On March 11, I toured the Office of Highway Safety at the DMV in the State Office Building, where I learned of some of the concerns...well, not really concerns, some of the ideas they had. On March 25, I toured the space of the proposed Office of Highway Safety at NDOR, where the DMV Office of Highway Safety would go. It's nice space. It's...there's a nice office for the director. I asked them all the tough questions. I talked to Dan Waddle, traffic engineer, and he's in charge of the division that would include the Office of Highway Safety. I talked to Tom Sands, the facilities operations person, and I talked to Larry Shafer, and I asked them all the questions that had been poised to me as they relate to this change, and I was assured that this was going to work, that they were going to be respected, that this program would flourish and do well under the Department of Roads. And so I remain very convinced this is a good move. Also, this October 2007 study from the no-name, unknown author was done before we started using all the federal dollars through the Department of Roads to provide for highway safety grants. So some things have changed and I do think this is a worthwhile bill and that the change will work and no one is going to lose their jobs. We're going to move it over. We have one Highway Safety Office for both the Roads and then what is now the

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

Floor Debate  
May 27, 2009

---

DMV, and I think in the end it will work. Thank you, Mr. President. [LB219]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Stuthman, you're recognized. [LB219]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I remember distinctly when we had the hearing on this bill and I had a little bit of a concern as far as the fact that, you know, by moving the two groups together, you know, is there going to be a winner and a loser. And I was assured that all of the programs under the Office of the Highway Safety, that group, all those programs would continue, just as they had continued, you know, in the past as far Project Extra Mile, the grant funding, and that was the group that was really concerned about, you know, by combining these two are we going to be, you know, slowly pushed out; are they going to utilize some of that money for some other programs. But I was assured that this was not a move to try to eliminate programs, projects and grants. It was a responsible move to put them all in one unit. And I feel serious about that. I think this is a good direction that we're headed in and, you know, and I feel that I have been assured, you know, that all the programs that were administrated by the Office of Highway Safety will continue, even under this move. I don't see where there's going to be a big layoff of areas, of projects, of groups, but I think this is a good move and we can utilize the one area that will take care of both. So unless something has changed, and I'm not aware of it, but the fact is that, you know, and especially Project Extra Mile, I feel assured that those programs will continue in the past. And if they don't, I'm sure they will be back here and we will deal with that issue next year or the next year. But I do support the bill. I think it's a good move and I just think that there are some that have a little bit of a doubt that they may be affected by this move. But I don't feel that way. Thank you, Mr. President. [LB219]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Howard, you're recognized. [LB219]

SENATOR HOWARD: Thank you, Mr. President and members of the body. My district has had a very pervasive problem with the issue of liquor outlets. They are very concerned about not only the excessive liquor that's available in the neighborhood and, as a matter of fact, I can think of one neighborhood, the Gifford Park area, where we have five stores or sites that sell liquor within a single block. They're also equally concerned about the sale of liquor to underage youth. My constituents have asked me to voice their concerns regarding the elimination/merger of an agency that has worked to address this serious problem. I have concerns that this will be a step backwards in dealing with the problem of underage drinking that affects not only the youth that chooses to drink, their family, but all of us that deal with the fallout from their behaviors. Thank you. [LB219]

PRESIDENT SHEEHY: Thank you, Senator Howard. Other members requesting to

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

Floor Debate  
May 27, 2009

---

speaking are Senator Wallman and Senator Fischer. Senator Wallman, you're recognized. [LB219]

SENATOR WALLMAN: Thank you, Mr. President. Thank you, members of the body. If something ain't broke sometimes you shouldn't try to fix it, and we have a pretty good safety track record. And I noticed on the bill the motorcycle safety thing is left with DMV. And I appreciate Senator Pankonin's concern and I'm not saying it's necessarily a bad bill, but is it needed? Sometimes we change things for the better, sometimes for the worse, and so that's where I'm coming from. And thank you, Mr. President, and vote as you wish. [LB219]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Fischer, you're recognized. [LB219]

SENATOR FISCHER: Thank you, Mr. President and members of the body. If you pull up our committee statement on LB219, you will see that the bill did advance from committee unanimously. The proponents on the bill were Beverly Neth, the director of Department of Motor Vehicles; John Craig, the director of Nebraska Department of Roads; Colonel Tuma with the Nebraska State Patrol; and Shawn Eatherton with the Nebraska County Attorneys Association. We did have two opponents: Diane Riibe with Project Extra Mile, and Doug Evans, who spoke representing himself. I'd like to read to you some excerpts from Director Craig's testimony at the hearing, and he did, remember, testify in support of LB219, but I think he makes some very good, clear points on why this needs to be merged with the Department of Roads: The mission of the Department of Roads begins with the statement, we provide and maintain, in coordination with public and private organizations, a safe transportation system. The Department of Roads is the steward for all highway crash data in the state regardless if those accidents occur on state, county, or city road systems, and that database originated and has been maintained by the department since 1936. Remember, we are talking about the department of safety here. The department provides...the Department of Roads provides this information to the National Highway Traffic Safety Administration and the department also provides statewide crash data information to that system for their national database of statistics, as well as reporting all bus and truck crashes to the State Patrol for reporting to the National Motor Carrier Safety Administration. The Department of Roads is also the executive agent for the state strategic highway safety plan and they have led six state highway safety summits in the past ten years. As a result, significant progress has been made. They do work with many partners, including the Department of Motor Vehicles, the State Patrol, Health and Human Services, cities, counties, the private sector, and the general public. The Department of Roads is directly responsible for the state highway system and they have growing indirect responsibility for city and county roads. We all know there are many elements to safety and the Department of Roads has developed safety performance measures to track that progress. In fact, on our yearly meeting between the Appropriations Committee and the

Floor Debate  
May 27, 2009

---

Transportation and Telecommunications Committee, where we have the Department of Roads come, as required by statute, to give us their needs assessment, we have always received, since I've been there, we have always received a report on safety conditions here in the state of Nebraska. That is the first, the first report that comes from the director of the Department of Roads. Safety is the number one concern. I think we all know from what I've just told you that the Department of Roads has a vested and also a vital interest in highway safety, but I think we also need to be aware that there is another step in the evolution of improving highway safety and that's to consolidate the Department of Roads Highway Safety Section and the Office of Highway Safety, which is currently in the DMV, and that's what this bill does. [LB219]

PRESIDENT SHEEHY: One minute. [LB219]

SENATOR FISCHER: I think this would help in creating some efficiencies. We would have accountability with funding, with analysis, and with information as it relates to highway safety. And another point: I think this also would improve customer service because it's important that we communicate what we know as a Legislature and what we find out as committee members to the public, to the safety stakeholders, and that is whether they're a political subdivision, whether they're a nonprofit, or whether they're a member of the traveling public. For that reason, I do stand in support of LB219 and I thank the Speaker for introducing this legislation. Thank you, Mr. President. [LB219]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Are there additional members requesting to speak to LB...Senator Nelson, you're recognized. [LB219]

SENATOR NELSON: Thank you, Mr. President, members of the body. Just a question perhaps which I would ask of Senator Fischer. [LB219]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Nelson? [LB219]

SENATOR FISCHER: Yes, I will. [LB219]

SENATOR NELSON: Senator, thank you. I'm looking at the fiscal note here and didn't have an opportunity to talk off mike with you, but the Motorcycle Safety Act and that fund are not being transferred. They're remaining with the Department of Motor Vehicles. Is that correct? [LB219]

SENATOR FISCHER: That is correct. [LB219]

SENATOR NELSON: Could you explain what that is about and why that stays where it is, what the rationale is? [LB219]

SENATOR FISCHER: From my recollection, Senator Nelson, first of all, the DMV does

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

Floor Debate  
May 27, 2009

---

the licensing for motorcycles but also they have a safety education program that they use for those that are applying for those licenses. [LB219]

SENATOR NELSON: My question is, if it's safety, why doesn't that transfer and go over to the Department of Roads as well? That puzzles me a little bit. [LB219]

SENATOR FISCHER: I suppose you could move the instructors of that program over to the Department of Roads. You could take that one step further, I would imagine, and move the license examiners over to the Department of Roads. I would support at this point neither of those proposals though. The motorcycle safety is a class. I don't...I personally don't believe that the Nebraska Department of Roads, their charge is to provide safety classes as such. And with this Office of Highway Safety, they would be administering grant programs, and I don't have my fiscal note handy, I can grab it out of the file, but I think if you look on there, if memory serves me correctly, it's over 2...is it over \$2 million in federal grants that Nebraska receives from the federal government for highway safety programs, and those include many more things than just classes. [LB219]

SENATOR NELSON: All right. Thank you very much, Senator. [LB219]

SENATOR FISCHER: Thank you. [LB219]

SENATOR NELSON: Thank you, Mr. President. [LB219]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Additional members requesting to speak to LB219? Seeing none, Senator Nordquist, you're recognized for a motion. [LB219]

SENATOR NORDQUIST: Mr. President, I move LB219 to E&R for engrossing. [LB219]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. The Chair believes the ayes have it. LB219 advances. Mr. Clerk, we will return to...we will now proceed to LB219A. [LB219 LB219A]

CLERK: LB219A, Senator Nordquist, I have no amendments to the bill. [LB219A]

PRESIDENT SHEEHY: Senator Nordquist, you are recognized for a motion. [LB219A]

SENATOR NORDQUIST: Mr. President, I move LB219A to E&R for engrossing. [LB219A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB219A advances. Speaker Flood, you're recognized for an

Floor Debate  
May 27, 2009

---

announcement. [LB219A]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. I am making a modification to the agenda. We're going to go back to LB134. We participated in what we call a friendly kill motion today. Senator Pankonin would like more of a slaughter on his own bill, and has requested that we formally go a step beyond a friendly kill and formally IPP his bill, for reasons that I'm sure he will explain. So it is on the agenda today for that reason. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Speaker Flood. We will now proceed to LB134. [LB134]

CLERK: Mr. President, Senator Pankonin had moved to indefinitely postpone his bill. That is the motion pending. [LB134]

PRESIDENT SHEEHY: Senator Pankonin, you are recognized to open on your motion to indefinitely postpone. [LB134]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I want to apologize for the confusion a little bit this morning. The friendly kill procedure we went through today wasn't definitive enough, and part of it goes back to what I talked about today, that the Lower Platte South NRD and myself had entered into agreement and when they had their meeting this past week their motion specifically talked about their understanding that the Legislature will kill LB134, that an interim study would be conducted on the issue and so forth. So we want to make this very clear that myself and the Legislature did their part of this understanding and that the interim study will go on for a more complete solution, we hope. So we're going to take a vote on this and I want you to vote to kill this bill. Thank you. [LB134]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. You've heard the opening on the motion to indefinitely postpone. Members requesting to speak are Senator Langemeier and Senator Fischer. Senator Langemeier, you're recognized. [LB134]

SENATOR LANGEMEIER: Mr. President, members of the body, thank you. I ask every one of us unanimously to vote red or, excuse me, green to IPP this bill. Senator Pankonin and I have gotten a number of phone calls from members of the Lower Platte South NRD board saying, hey, you didn't really kill that; you're going to slip that out on Final somewhere else and it's going to come under the cover of darkness and you're going to pass that bill. We all know what a friendly kill is and if it's your bill, you're all well-aware that you'll never see the light of day with your bill. And so we thought we would take a simple way to handle this, but obviously it didn't get as simply through their thought processes. So I would ask that you vote green to IPP. We will take up this matter in interim study this summer and will account for this. And I appreciate your

Floor Debate  
May 27, 2009

---

support. Thanks. [LB134]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Fischer, you're recognized. [LB134]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I would like to thank Senator Pankonin for introducing this bill because I think he, through this introduction and the concerns of many of his constituents, pointed out a concern that I hear from across the state, and that concern deals with private property rights, deals with the public good, and it's a good discussion to have. I have mixed feelings, but when I have the Chairman of the committee and the bill's sponsor urging me just to smash this bill, you know, what can I say? I guess I will. But I think this discussion needs to be had in light of the way we see our society changing, and I look forward to the interim study this summer. I certainly expect that if things can't be worked out, we will see legislation dealing with this issue in the future. I know Senator Pankonin has been a strong, strong voice for the concerns of his constituents in his district on this issue and their concerns in dealing with their rights, even though they may be in the minority. And I think as a body, we always need to be cognizant of the rights of the minority and try to address those and always have respect for them. So I look forward to having discussions this summer on this interim study and, if need be, supporting a bill next session. Thank you, Mr. President. [LB134]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Other members requesting to speak on the motion to indefinitely postpone: Senator Christensen, Senator Pankonin, and Senator Lautenbaugh. Senator Christensen, you're recognized. [LB134]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Langemeier yield to a question, please? [LB134]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to Senator Christensen? [LB134]

SENATOR LANGEMEIER: Yes. [LB134]

SENATOR CHRISTENSEN: Senator Langemeier, if they don't trust us with our kill, how do we know they can trust them that they aren't going to go heading for us through this path? [LB134]

SENATOR LANGEMEIER: Well, I guess maybe I'm a little more trusting of an individual, but they did adopt a resolution on their board. I guess it is as good as the paper and their vote, but I guess I have faith that they'll live up to their end of the bargain. [LB134]

Floor Debate  
May 27, 2009

---

SENATOR CHRISTENSEN: What's that resolution say? [LB134]

SENATOR LANGEMEIER: I'll get you a complete copy of it here, but they approved a voluntary moratorium or suspension of all work specifically on the 334th Street corridor trail, and signed by their board. I can get you a copy of the whole thing. [LB134]

SENATOR CHRISTENSEN: Thank you. [LB134]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Pankonin, you're recognized. [LB134]

SENATOR PANKONIN: Thank you, Mr. President. Appreciate the discussion and all the good comments, and the Natural Resources Committee, I know, Senator Fischer and Senator Langemeier and those on the committee, will do a good job studying this issue. Just to make it clear, we need a (laugh) a green vote to officially IPP this bill. And I apologize again for the confusion but this is what needs to get done to seal our part of the deal. And, Senator Christensen, I think we've already seen a moratorium in the area on lawsuits and survey work and some of the things that were going on, so I think the NRD, Lower Platte South, will work in good faith and I think the Natural Resources Committee will as well, and hopefully we'll have a better solution next year. Thank you. [LB134]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Senator Lautenbaugh, you're recognized. Senator Lautenbaugh waives. Additional members requesting to speak on the motion to indefinitely postpone? Seeing none, Senator Pankonin, you're recognized to close. Senator Pankonin waives closing. The question before the body is on the motion to indefinitely postpone LB134. All those in favor vote yeah; opposed, nay. Please record, Mr. Clerk. [LB134]

CLERK: 40 ayes, 0 nays, Mr. President, to indefinitely postpone LB134. [LB134]

PRESIDENT SHEEHY: The amendment is adopted. (Visitors introduced.) Speaker Flood, you're recognized for an announcement. [LB134]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. As is our custom on the third to last day of the session, we will be taking up Senator Lathrop's resolution, which probably shouldn't take that long, but after that is done, we will remain standing at ease until Bill Drafters has had a chance to process the bills so that it can be placed back on the worksheet so that those bills that are in a Final Reading posture can be read on Friday. The constitutional one-day layover is tomorrow. So after we finish with Senator Lathrop's resolution, I would ask that you remain in the Chamber and available as we will remain in session, standing at ease until Bill Drafters has moved matters from E&R Final to Final Reading. Thank you, Mr. President. []

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

Floor Debate  
May 27, 2009

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PRESIDENT SHEEHY: Thank you, Speaker Flood. We'll now move to item under legislative resolution, LR245. Mr. Clerk. [LR245]

CLERK: Mr. President, LR245 was a resolution introduced by Senator Lathrop and Wightman. It deals with the matter of filling a vacancy on the Developmental Disabilities Special Investigative Committee, as created by the Legislature, and the resolution sets forth a procedure for doing that. [LR245]

PRESIDENT SHEEHY: Senator Lathrop, you're recognized to open on LR245. [LR245]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. You will recall at the beginning of the session we passed LR11, which reconstituted the LR283 committee. That committee is generally regarded as the BSDC committee or the special investigative committee. That resolution did not provide for the circumstance in which a member might resign and how a substitute would be replaced. LR245 deals with that issue and it would, in the event of a vacancy on the LR11 committee, it will be up to the Executive Board to choose a replacement to serve the vacancy in the...at the time of a resignation or otherwise someone leaving that committee. It's very simple. It's a procedural matter and I would appreciate your support of LR245. Thank you. [LR245 LR11]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the opening of LR245. Member requesting to speak, Senator Wightman, you're recognized. [LR245]

SENATOR WIGHTMAN: Thank you, Mr. Chairman, members of the body. I rise in support of LR245. I think it's almost a necessity so that if there needs to be a replacement during the summer, if it requires legislative action we will not be able to do that, this will allow the Executive Board to replace any members. And we have a couple of resignations that probably will need to be replaced during the summer. Thank you, Mr. President. [LR245]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Are there additional members requesting to speak to LR245? Seeing none, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is on the adoption of LR245. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LR245]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of the resolution. [LR245]

PRESIDENT SHEEHY: LR245 is adopted. Mr. Clerk, do you have items for the record? [LR245]

CLERK: I do, Mr. President. First of all, I'll announce the Executive Board will have a

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Transcriber's Office

Floor Debate  
May 27, 2009

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meeting underneath the north balcony immediately; the Executive Board, north balcony right now. Enrollment and Review reports LB658 as correctly engrossed. New resolution, LR256 is a resolution by Senator Mello; that will be laid over. The Executive Board, to whom was referred LR171, reports the same back to the Legislature for further consideration. I have a confirmation report from Transportation Committee. I have two explanation of votes: Senator White and Senator Haar (re LB561). And, Mr. President, the General Affairs Committee will meet now in Room 2022; General Affairs Committee, 2022, now. That's all that I have at this time, Mr. President. (Legislative Journal pages 1742-1744.) [LB658 LR256 LR171 LB561]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. The body will stand at ease. []

EASE []

PRESIDENT SHEEHY: Will the body return to order? Mr. Clerk, do you have items for the record? []

CLERK: I do, Mr. President. Enrollment and Review reports they've examined and engrossed LB219 and LB219A and find them correctly engrossed. New resolution: Senator Price offers LR257; Senator Ashford, LR258; both will be laid over. (Legislative Journal pages 1744-1746.) [LB219 LB219A LR257 LR258]

And a priority motion, Mr. President: Senator Flood would move to adjourn the body until Thursday morning, May 28, at 9:00 a.m. []

PRESIDENT SHEEHY: You have heard the motion to adjourn until May 28, 2009, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned. []