

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

Floor Debate
March 09, 2010

[LB258 LB563 LB594 LB689 LB701 LB727 LB735 LB764 LB768 LB780 LB799 LB800
LB805 LB821 LB849 LB862 LB864 LB867 LB877 LB880 LB882 LB888A LB888 LB926
LB943 LB952 LB956 LB977 LB1002 LB1010 LB1014 LB1018 LB1051 LB1063
LB1106A LB1110 LR284CA LR295CA LR297CA LR332 LR333 LR336 LR337 LR338
LR339 LR340 LR341 LR342 LR343 LR344 LR345 LR353 LR354 LR355 LR356 LR357
LR358 LR359 LR360 LR361 LR362 LR363 LR364 LR365 LR366 LR367]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-eighth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Father Paul Rutten, who is a retired priest here in Lincoln, Nebraska, Senator Coash's district. Would you all please rise.

FATHER RUTTEN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Father Rutten. I now call to order the thirty-eighth day of the One Hundred First Legislature, Second 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.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Your Committee on Enrollment and Review reports LB258, LB689, LB735, LB764, LB768, LB799, LB805, LB821, LB888, LB926, LB1063, and LR295CA as correctly engrossed. Enrollment and Review also reports LB1018, LB943, LR297CA, LB1051, LB727, LB888A, LB952, LB882, LB956, and LB877, all reported to Select File, some of which have Enrollment and Review amendments attached. Natural Resources Committee, chaired by Senator Langemeier, reports LB862 and LB1010 to General File with committee amendments attached. And new resolution: Senator Flood offers LR353. That's all that I have, Mr. President. (Legislative Journal pages 765-774.) [LB258 LB689 LB735 LB764 LB768 LB799 LB805 LB821 LB888 LB926 LB1063 LR295CA LB1018 LB943 LR297CA LB1051 LB727 LB888A LB952 LB882 LB956 LB877 LB862 LB1010 LR353]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will move to the first item under General File, 2010 senator priority bills, Haar division, LR284CA. [LR284CA]

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

Floor Debate
March 09, 2010

CLERK: LR284CA is a resolution proposed by Senator Utter. It proposes an amendment to Article IV, Sections 1 and 3 of the Nebraska Constitution. The resolution was first introduced on January 11 of this year, Mr. President; at that time referred to the Government, Military and Veterans Affairs Committee for public hearing; advanced to General File. There are committee amendments pending. (AM1906, Legislative Journal page 624.) [LR284CA]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Utter, you're recognized to open on LR284CA. [LR284CA]

SENATOR UTTER: Thank you very much, Mr. President. Good morning, colleagues. [LR284CA]

PRESIDENT SHEEHY: (Gavel) [LR284CA]

SENATOR UTTER: I am pleased to have the opportunity to introduce LR284CA to this body. My sincere thanks to the members of the Government, Military and Veterans Affairs Committee for their courtesies when I presented this bill. And for reporting it out so that I could present it to the entire body. I also want to express my sincere appreciation to my colleagues who have cosponsored this resolution. It is simply a proposed constitutional amendment that would abolish the Office of State Treasurer. One of the main reasons that I sought to become a state senator was to look for ways to streamline and modernize state government, to make state government smaller, more efficient, more transparent and more effective. I sincerely believe that LR284CA can be the beginning of the process to achieve these goals for state government. While this constitutional amendment will not create savings of monumental proportions, it will create savings, and it will eliminate duplications, and it will be a step in making state government more efficient. The Treasurer's Office currently has approximately 50 employees. The budget of the Treasurer's Office is \$26.5 million. As a part of that budget, the administrative costs total approximately \$5.5 million. The office receives \$2.1 million from the federal government to help administer the child support disbursement function. The balance of \$3.4 million comes from General Funds and cash funds. Elimination of the duplicate handling of state receipts and disbursements should result in cost savings. Folding the services of the other functions of the Treasurer's Office into existing state agencies should also result in cost savings. However, the only absolute cost savings I can guarantee is the elimination of the Treasurer's salary and benefits, which total approximately \$117,000 per year. Distributed to each of you this morning is an organizational chart of the State Treasurer's Office as of July 1, 2009. In my opinion, the top six executive positions, including the Treasurer, could be eliminated resulting in saving in these base salaries of over \$400,000. With benefits, the total savings would exceed \$500,000. It has been reported that some of these positions at the present time are now vacant. Most of the

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

Floor Debate
March 09, 2010

Treasurer's duties are administrative in nature. They are not policymaking...it is not a policymaking office and certainly does not require an elected official. This is not a new, unique or unprecedented idea. Similar propositions have been presented to this body in the 1980s and again in the 1990s. The latest version was proposed by Senator LaVon Crosby in the early 1990s. In addition, seven states do not have elected treasurers, including Alaska, Florida, Georgia, Hawaii, Minnesota, Montana, New Jersey, and Virginia. In four states, which include Tennessee, Maine, Maryland, and New Hampshire, the state treasurer...the state legislature elects the state treasurer or appoints the state treasurer. One of the criticisms that has been mentioned concerning this proposition would be the loss of checks and balances provided by an elected official. It is my opinion that adequate checks and balances are provided by the State Auditor who is an elected official and is responsible for providing the audit functions for state agencies. In the final analysis, the merits of this proposal will be decided by the citizens and voters of the state of Nebraska at the polls. This is not in any way a referendum on or an indictment of the current State Treasurer. This is not a Republican issue, this is not a Democratic issue, this should not be a political issue. This is a fiscal issue relating to the cost of operating state government. This simply gives the citizens of Nebraska an opportunity to weigh in on whether or not they believe downsizing state government is important or not. There will be a committee amendment to follow which I certainly support and endorse. Finally, as I said in the beginning, I believe the Legislature has an obligation to the citizens of Nebraska to streamline and modernize state government, to reduce its size, to make it more efficient, to make it more transparent, and in the end to get the maximum mileage out of the taxpayer's dollar. I have heard many of my colleagues make similar statements. Now it's time to give more than lip service toward accomplishing that goal. So, my friends, I am asking you to step outside the box of tradition, I am asking that you approve this resolution so that it may be placed on the ballot in November for consideration by the citizens and voters of Nebraska. Thank you very much. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Utter. You've heard the opening to LR284CA. As was noted, there is a Government, Military and Veterans Affairs Committee amendment, AM1906. Senator Avery, you're recognized to open. [LR284CA]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. The committee amendment, AM1906, provides that the term of the State Treasurer elected at the general election this year, 2010, will end on January 8, 2015. The intent of this change is to allow the State Treasurer to complete his or her full term before the office is abolished. Committee members thought it was appropriate to allow the person who will be elected in 2010 to complete his or her full term. Also, this will allow additional time for the Legislature and the State Treasurer to complete the process of transferring the duties of the Treasurer to other offices. The committee felt that it was essential that additional time be allowed for this transition. I think we took a look at the number of

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

Floor Debate
March 09, 2010

times that the State Treasurer is mentioned in current statute, I think it's around 800, which will mean that the Government Committee will be, if this is passed, the Government Committee will be involved with a lot of legislation over the next four years. So this additional time is necessary. I think that whoever gets elected ought to be expected that they can at least serve their full term. The committee advanced the bill on a 6 to 1 vote with 1 member being absent. I would urge you to vote yes on this amendment. And then later, I'm going to urge you to vote yes on LR284CA. Thank you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Avery. You've heard the opening of the Government, Military and Veterans Affairs amendment, AM1906, to LR284CA. Members requesting to speak are Senator Mello, followed by Senator Hadley, Senator Campbell, and Senator Wightman. Senator Mello, you're recognized. [LR284CA]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in support of LR284CA and AM1906. First off, I'd like to thank Senator Utter for bringing this issue forward. It's an issue that was discussed, I know, by Senator Utter as well as by members of the Appropriations Committee during the special session last fall. And I am glad to see that there was some leadership taken to try to make our government smaller and smarter in the process. I will be brief in the sense that Senator Utter commented on a lot of the points that I would make. So to tie it all in kind of a short order, LR284CA makes government smaller by essentially giving the duties of the Treasurer's Office to the existing bureaucratic agencies that fall within the executive branch as well as to the Investment Council. I think it's a wise decision for us to look at the size of our government not only with term limits upon us but knowing what actually are the duties that this office serves. Most of the duties that fall within the Treasurer's Office are already being done through the Investment Council, Department of Administrative Services, and the Department of Revenue. As Senator Utter reiterated, this is not a partisan issue by any means. I applaud the fact that people who want to see government be smarter in the process but also reduce the size of the government by getting rid of unnecessary levels of management, unnecessary positions within an office like the State Treasurer is what we're going to need to do as we move forward trying to tackle a \$700 million deficit next year. This is exactly the kind of proposal that Nebraska taxpayers need to be able to vote on come this upcoming election to determine whether or not they want to have government more efficient. Because, frankly, we're not doing a good enough job to make it efficient, both in the executive branch as well, possibly, I'd say within the legislative branch. This is the exact kind of proposal that will allow the taxpayers in this state to be able to see for themselves how much money can we save by getting rid of this office, by transferring these duties to already existing agencies that already do the work. It's very simple, we don't need existing agencies, whether it's the State Treasurer's Office or other agencies for that matter, when the work is already being done by another entity in our state government. It's duplicative, it wastes taxpayer dollars. And it's a very common sense proposal that I thank Senator Utter for. Thank

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

Floor Debate
March 09, 2010

you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Hadley, you're recognized. [LR284CA]

SENATOR HADLEY: Mr. President, members of the body, good morning. I stand in support of AM1906 and LR284CA. I appreciate Senator Utter bringing this before the body, and hopefully, we'll bring it before the voters of Nebraska. To take them separately, I agree with the AM1906 because it gives us four years to get the job done. A lot we heard when talking about this bill was that it was so complicated that it couldn't be done in a short period of time. I agree, but I think four years is more than enough to get the job done and to be sure we get the appropriate duties in the appropriate part of the rest of government. Secondly, as I campaigned a couple of years ago the consistent question I got was, when are we going to do more about streamlining government? When are we going to make government responsible to us? I hate to say it, but when are we going to make government look like a good, well-run business? Because it is a business with a \$3.5 billion budget. I think this is a step in the right direction. How can we expect all the agencies underneath our executive branch, legislative branch, and judicial branch to look at their operations and to make cuts and to streamline when we're not willing to do the same thing at a higher level? I also appreciate the fact that this is a constitutional amendment. It gives the people the right to tell us what they want. They can see both sides of this issue. They will look and decide whether it's appropriate that there might be somehow less of a position responsible to the people versus the cost savings. I hope they make that decision. I hope they really look into it. I hope there are good opponents and proponents when this is on the ballot so people have the right information to make the right decision. Again, I stand in favor of AM1906 and LR284CA. I would yield any time I have left to Senator Utter, if he wishes it. [LR284CA]

PRESIDENT SHEEHY: Senator Utter, you're yielded 2 minutes 40 seconds. [LR284CA]

SENATOR UTTER: That may be more...thank you, Mr. President and colleagues. And thank you, Senator Hadley, for the time. Actually, that may be more than I need. I would just in this time frame tell you that there is a lot of work to be done in the process of closing down this office. As Senator Avery referred to, the State Treasurer is mentioned in state statute in a lot of places, and all of those things have to be cleaned up a little. And so over the next four-year period of time, it will give the newly elected State Treasurer an opportunity to close down that office in an orderly fashion and move those duties to the appropriate existing state agencies. So thank you, Senator Hadley, for that time. And thank you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Utter. Thank you, Senator Hadley. Senator Campbell, you're recognized. [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. I think this issue brought forward by Senator Utter in LR284CA and then the amendment offers a unique opportunity to the citizens of the state of Nebraska. And I want to illustrate that in the sense that the citizens would have an opportunity to not only discuss the Treasurer's Office, but I believe that they would discuss and look at how we deliver services from state government. And an example would be several years ago Lancaster County citizens had the opportunity for a ballot issue on the consolidation of the assessor and the register of deeds. And what was amazing to me was the very thoughtful, perceptive discussion on the part of citizens as to the role of county government and the role of government, period, in providing services. I think this is a creative solution. As we look into the future, we're going to have to find far more of these for citizens to look at. I think Nebraskans would welcome this opportunity to discuss not only this particular office but services of government in particular. And with that, certainly support LR284CA and its amendment and thank Senator Utter for bringing the issue forward. Thank you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Members wishing to speak on AM1906 to LR284CA, we have Senator Wightman, followed by Senator Avery, Senator Gloor, Senator Fischer, and Senator Sullivan. Senator Wightman, you're recognized. [LR284CA]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I'm not sure where I am on this legislative resolution at this point yet. I do have some questions I think need to be answered. I understand...and if Senator Utter would yield I would ask a question of him. [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Wightman? Senator Utter, would you yield to Senator Wightman? [LR284CA]

SENATOR UTTER: I certainly will. [LR284CA]

SENATOR WIGHTMAN: Thank you, Mr. President. Thank you, Senator Utter. I think you gave a figure of, what, \$26 million is the total budget of the office, and I think that's about right. Is that correct? [LR284CA]

SENATOR UTTER: That's the figure I have, Senator. [LR284CA]

SENATOR WIGHTMAN: And of that, \$5.5 million is spent on administration. [LR284CA]

SENATOR UTTER: That's the figures that I gave this morning, yes, sir. [LR284CA]

SENATOR WIGHTMAN: Do you know how many employees there are in the administration? [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR UTTER: Well, I know that the office has a total of 50-plus employees. How many of those would be considered administrative employees and how many of them would be considered other types of employees, I can't give you an answer on that. But I'm pretty sure that you would consider the top six on that organizational chart that you received at your desk this morning, those six, obviously, are administrative employees for sure. How many of the rest of them you classify as administration or not, that would...that would...I wouldn't know. [LR284CA]

SENATOR WIGHTMAN: Thank you. In looking at the committee statement, it appears that, outside of yourself, no one testified in favor or in opposition. Is that correct? [LR284CA]

SENATOR UTTER: That...I was the only testifier at the committee, yes, sir. [LR284CA]

SENATOR WIGHTMAN: Okay. Did...how...has there been any interim study, Senator Utter, with regard to exactly how these duties might be assumed by other legislative agencies? [LR284CA]

SENATOR UTTER: Not recently at least. I don't know whether they did any kind of an interim study back in the eighties and nineties when this bill was originally introduced or not. In terms of this introduction, no, there hasn't been an interim study performed. [LR284CA]

SENATOR WIGHTMAN: Do you know how many states have abolished the office, Senator Utter? [LR284CA]

SENATOR UTTER: Yes, sir, I do. As I mentioned in my opening, there are seven states that do not have an elected state treasurer. [LR284CA]

SENATOR WIGHTMAN: Now how... [LR284CA]

SENATOR UTTER: Most of recent of those is the state of Minnesota. They...it hasn't been too many years that they abolished the elected office of state treasurer in Minnesota and transferred their duties internally to some of those same departments, honestly, that we are talking about here. In addition, there are four states that the legislature either elects or appoints the state treasurer or a person with the state treasurer's designation. I will tell you, as you look through what's happening in the rest of the country, that some states have somebody with a designated title of treasurer, some of these seven states, but they are still appointed positions. Other states have folded them in and the commissioner of revenue does it or the comptroller does it or some other office within state government is doing it. For example, in the state of Texas, they had an elected treasurer and an elected comptroller, and they did away with the...

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

Floor Debate
March 09, 2010

[LR284CA]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR UTTER: ...with the treasurer's office and transferred that to the comptroller, those duties to the comptroller's office. [LR284CA]

SENATOR WIGHTMAN: And you said that there were seven states without an elected state treasurer but some of those have appointed by the Governor and some by the legislature. Is that... [LR284CA]

SENATOR UTTER: No, actually, there's a total of 11 that are either appointed by the Governor or appointed by the legislature, 7 plus the 4 that the legislature does. [LR284CA]

SENATOR WIGHTMAN: Okay. I'll have some more questions later. Thank you, Senator Utter. Thank you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Avery, you're recognized. [LR284CA]

SENATOR AVERY: Thank you, Mr. President. Some of the points that I want to make have been made, and I'm sure that many of you have already thought of these, but I'm going to review some of it. I think the appropriate question to ask is, what do we gain if we support this? One thing is that we can end some unnecessary duplication; duties that are currently performed by the existing state agencies can be done without an elected Treasurer. Now it is true that when you go about the business of reorganizing government to the extent that would be necessary, it will be a large job and a lot of that work will fall on my committee, the Government Committee, but it is doable. To transfer these duties from the Treasurer's Office to state agencies would end that duplication. Also, most of the duties are administrative with virtually no policymaking responsibilities. I think that's an important point that we need to keep in mind. This is not a policymaking office; it is purely administrative. I believe, too, that we can achieve some accountability and efficiency. These would be strengthened by dispersing the responsibilities and duties to agencies that report directly to the Governor. As has been already mentioned, savings will be possible from streamlining and reassigning the Treasurer's duties. Senator Utter just addressed the issue of how many states today do not elect, and he mentioned seven of those, but there are others as well. Four legislatures appoint their treasurers, they're not elected. One state appoints their treasurer by a board. And the state of Texas transferred all the duties of the state treasurer to the state comptroller's office just recently. So that leaves 37 states that still elect. But more and more states are taking a look at this. Let me just say this. We can shake our fist at big government and inefficiency all we want to and get a feel-good feeling, perhaps, but eventually we

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

Floor Debate
March 09, 2010

need to take action to reduce and streamline government. So if we are serious about streamlining government, if we really want to capture some revenue savings, this is a reasonable starting point. And I think the time is right when people have already on their minds the costs of government, the high costs of doing business in government, when we are in a budgetary crisis. Now is the time to bring forward proposals of this sort. So I am fully behind Senator Utter's attempt to do this. I intend to vote yes on the amendment and yes on LR284CA. Thank you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Gloor, you're recognized. [LR284CA]

SENATOR GLOOR: Thank you, Mr. President. Good morning, fellow members. The basic concept that I think we're talking about that Senator Avery has just finished commenting about and others have mentioned is that we reduce the bureaucracy. And the bureaucracy, once reduced, lends itself to efficiency, and efficiency lends itself to cost savings. And I have some experience being part of a bureaucracy, running a bureaucracy, and I would say that we have to be careful that we don't attach bureaucracy as an onerous explicative to this discussion. I don't think Webster's, if you were to look up "bureaucracy," would define it that way. There are inevitabilities in large organizations that can become big enough that they get a title of and deserve a title of bureaucracies. But we feel that bureaucracies, in and of themselves, have within them inefficiencies. Basic assumption here is that if we move responsibilities of the Treasurer's Office into the Department of Revenue, which is a larger state bureaucracy, we assume that there will be some swallowing up and efficiencies in savings as a result of that. I wonder if Senator Utter would yield to a question. [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Gloor? [LR284CA]

SENATOR UTTER: I certainly will. [LR284CA]

SENATOR GLOOR: Senator Utter, you and I have had a chance to visit about this bill and I know it's important to you, but I apologize for never getting around to asking you this question. Did you ever think, as you were putting this together, on the possibility of taking some of the responsibilities of the Department of Revenue away from them and giving them to the State Treasurer's Office as a way of realizing efficiencies? [LR284CA]

SENATOR UTTER: Well, I certainly think, Senator Gloor, that that may be a possibility. But if you remove the duties of the Department of Revenue and take those duties over to the State Treasurer's Office, seems to me like all you're doing is...you're not doing anything to eliminate the duplication that exists with regard to the handling of the receipts of the state. [LR284CA]

SENATOR GLOOR: Thank you, Senator Utter. And I know in my conversation with

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

Floor Debate
March 09, 2010

Senator Utter, he was appropriate in his, I think, introductory comments to point that he is very pure. I think we all would agree, in working with Senator Utter, he is always at his purest when it comes to trying to find ways to save money and to be careful with taxpayers' dollars. We all strive to do that. He certainly makes that a special area of emphasis. He is looking to get rid of duplication. I bring up the issue only in that I have concerns about savings that we're going to realize by folding the State Treasurer's Office...being folded into what obviously is a much larger department, the Department of Revenue. Will those efficiencies actually surface or will they get swallowed up in a larger bureaucracy, as opposed to taking some of the duplication that Senator Avery mentioned, taking some of those inefficiencies that a number of us have talked about and pulling those out of the Department of Revenue and giving them to the State Treasurer's Office--much smaller, a more concise operation, and one that might be better able to realize those actual savings and efficiencies just because of its smaller size and ability to make quicker, faster decisions? Something to think about, trying to turn this issue around and looking at it the other way... [LR284CA]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR GLOOR: ...before...thank you, Mr. President, before we all jump on the bandwagon of turning these efficiencies into a larger bureaucracy will give us automatically some sort of efficiencies and savings. Thank you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Members requesting to speak on AM1906 to LR284CA: Senator Sullivan, followed by Senator Janssen, Senator Carlson, Senator Krist, Senator Price and others. Senator Sullivan, you're recognized. [LR284CA]

SENATOR SULLIVAN: Thank you, Lieutenant Governor and members of the body. First of all, I think it's really good that we're having this conversation. And I expect that this is one of many as we are on this quest, with limited resources that I think we're going to continue to have going forward, that we're going to have to look for every way to have more efficiencies in government and, quite frankly, smaller government. But in this whole process, I do have a few questions and wondered if Senator Utter would yield for those. [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Sullivan? [LR284CA]

SENATOR UTTER: I would be happy to. [LR284CA]

SENATOR SULLIVAN: Thank you, Senator. First of all, do you have any idea how much money would be...it costs...or how much it costs to put this on the ballot? [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR UTTER: Thank you, Senator Sullivan, for that question. I really don't have an exact figure as to what it would cost to put that on the ballot. The only thing that I would point out to you is that this would join other issues, other constitutional amendments that are going to be put on the ballot. And putting those issues together on the ballot I'm not certain what the cost would be, but I should think it would be efficient. [LR284CA]

SENATOR SULLIVAN: Do you think that in this whole process, and looking at the flow chart that you passed out, I expect that there will be some downsizing of staff in this whole reorganization? [LR284CA]

SENATOR UTTER: I would certainly think so. I would...certainly that ultimate decision is going to be made by the departments that these duties are assigned to. But it would seem to me that if you're folding, for example, check processing employees in the Department of Revenue, for example, and in the Department of Treasury and both of those are doing that function, that by putting them all in one spot they can be managed much more efficiently, I would think. [LR284CA]

SENATOR SULLIVAN: Is it fair to say that not only the Department of Revenue would be involved but potentially maybe some other state agencies as well? I look to right now the State Treasurer has a role in child support payments. But certainly this would involve some conversation with the Department of Health and Human Services. Is that correct? [LR284CA]

SENATOR UTTER: Absolutely. I anticipate that the Treasurer's Office duties would probably be moved to several different areas of state government. For example, the receipting function, the accounting for the monies that flow into our state appropriately seem to me to be the Department of Revenue. Right now the Department of Administrative Services handles the bulk of the disbursement function of the office. And I would...so I would think that it would be appropriate that the disbursement function would go to the...would go to the Department of Administrative Services. There are the other...the College Savings Plan, the child support disbursement unit and those would probably flow to other areas of state government. You would think that maybe the child support disbursement thing, just off the cuff, might go to the Department of Health and Human Services area that deals with child support issues. It could be that the College Savings Plan could be administered out of the Department of Education. I just throw these out to show you that there are many areas where these functions can flow to. And hopefully, in some of those areas they can be folded into existing operations and would not take... [LR284CA]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR UTTER: ...a lot more...would not take more employees. [LR284CA]

Floor Debate
March 09, 2010

SENATOR SULLIVAN: So certainly it's going to involve a conversation not only with perhaps the State Treasurer taking the lead but involving lots of other state agencies. And, I guess, the last thing I might add is that the Legislative Planning Committee that we created by statute last session I hope would take an active role in this as well. Because what we're talking about not only is restructuring a portion of state government but we are trying to ultimately look for efficiencies which, as Senator Gloor said, is not necessarily a given and it's not necessarily something that's easy to do. I think we're on the right road here. But it's certainly going to be a process that won't happen overnight but I hope, ultimately, will result in some efficiencies and cost savings for the citizens of Nebraska. Thank you. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Janssen, you're recognized. [LR284CA]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. First off, I did oppose...I was the one that did not support this bill coming out of Government Committee. I believe I did and do support the amendment, played a part in getting that amendment put on. It seemed to me that this was getting rushed through, rushed through. I thought we needed to slow down if we were going to undertake something like this that's been on our state's books for well over 100 years. It needed the time to go through and look at that. And certainly we have people running for this office right now and I believe that they needed the time to do that, taking over a new position. It's been brought up this is an opportunity for the citizens to speak. So if we vote for this, it just gives the citizens of Nebraska a chance to speak on this important issue via their ballot. I certainly don't disagree with that. But I would point out that people felt so impassioned by this debate that there were zero proponents, zero opponents, and zero people that spoke neutral on this bill. The committee hearing lasted five minutes. So we have an office that's been on the books well over 100 years serving the citizens of Nebraska. Nobody decides to show up at a committee hearing, favor, against or neutral on this. We should ask for less government. I certainly ask for less government. It's one of the things I ran on when I came here. We also ask for more transparency in government. I think one can argue that this does or does not add to less government. These programs are going to be absorbed, they say absorbed. I think they're going to expand other areas of government. They certainly will expand other areas of government. You know, we'll see the fiscal notes for years to come if this happens. Thus, you'll see it, Appropriations will see it, they'll come back and they'll say, well, now we're doing college savings, we need more money for this. Well, we had to hire an additional person to handle this. And what do we lose in all of this? Well, we lose that all important government transparency because now we don't have a Treasurer that's sitting here saying, no, we don't need to do this or, yes, we should do this, this is why we need to do this. And the people that we gave this decision to, the voters, now lose that right to vote every four years on whether or not the Treasurer is doing a good job or

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

Floor Debate
March 09, 2010

bad job, whether or not they are happy with the College Savings Plan, I don't know, but they have that choice every four years. They will never give themselves a choice again realistically if LR284CA passes and goes onto the ballot. I think it will pass if it gets to the ballot. I think any 1 of the 49 elected officials on this floor right now, if we put our office up on the ballot this session and said get rid of it or keep it, we'd be gone. That's just the nature of the cycle right now. It will happen. So your vote today isn't really just saying, well, we're going to let the people decide. It's really kind of saying, you're never going to get to decide again on how state funds are spent in many different areas. Now some senator can come back, and I certainly could come back and run a bill, run a constitutional amendment to try to overturn it. Good luck with that. I might as well link our pay raise to that one. That's about as much chance as we have with that. But right now I certainly don't think it is leading to more or less...more transparency in government. At present we have...well, I know of three candidates running for this office. There's Tom Nesbitt, former Attorney General Don Stenberg, somebody else I can't remember who else is running for it, oh, it's Senator Fulton is also running for this office right now. All three of those individuals,... [LR284CA]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR JANSSEN: ...and there may be others, but those three individuals have all stopped by my hometown, Fremont, and stopped in and they informed the citizens of what the State Treasurer does. And let's face it, not a lot of people care what the State Treasurer does. The fact that I went to one rally for one of the...well, I didn't go to the rally. I walked through the restaurant and there was nobody there, so I stopped and talked to the former AG for a little bit. But somebody did show up later and they started talking about what the State Treasurer does. And they probably said that they're an independently elected, financial officer of the state, solely accountable to the citizens of Nebraska. They maybe had told them that the Nebraska Constitution has provided for a separation of financial responsibilities between the executive branch of offices for good reason. Requiring more than one official officer of the state to complete a transaction is not only good accounting practice but necessary to prevent fraud and abuse. The State Treasurer also serves... [LR284CA]

PRESIDENT SHEEHY: Time, Senator. [LR284CA]

SENATOR JANSSEN: Thank you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Senator Carlson, you're recognized. [LR284CA]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. If Senator Utter would yield, I'd like to ask him a few questions. [LR284CA]

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

Floor Debate
March 09, 2010

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Carlson? [LR284CA]

SENATOR UTTER: Sure will. [LR284CA]

SENATOR CARLSON: Senator Utter, you're going to have to put up with me this morning because I may be asking you something you've already been asked. But you know how the process works and that's a possibility. This is an important issue, deserves our discussion and debate. Now in your opening you talked about...you mentioned the six officers, and I see that in your diagram here. And I thought I heard you feel like if this went through these six positions would be abolished. Is that correct? [LR284CA]

SENATOR UTTER: That would certainly be my feeling, Senator Carlson. [LR284CA]

SENATOR CARLSON: Now you also mention that this would possibly involve a savings of about \$400,000. And is that including possibly these duties taken over by somebody else, so the cost of that is included in the \$400,000 of savings? [LR284CA]

SENATOR UTTER: The base salaries of the six people listed on the top of this chart total about \$411,000. [LR284CA]

SENATOR CARLSON: Okay. [LR284CA]

SENATOR UTTER: The salaries range from \$48,000 to \$90,000 without the benefits, without the additional cost of employment. If you add in the additional cost of employment, we're talking in excess of \$500,000. [LR284CA]

SENATOR CARLSON: Okay, thank you. Now if these positions can be abolished and I would hope that the circumstances aren't such, and maybe you've studied it, that it sounds like these six don't do anything worth enough of needing those tasks continued, they can be abolished. Is that your position? [LR284CA]

SENATOR UTTER: I think, Senator, that the information that comes to me is that there may be three of these positions vacant at the present time; that they may have already been at least not eliminated but not refilled by the current State Treasurer. [LR284CA]

SENATOR CARLSON: Okay, that's an interesting point. Because if that's the case, and I remember you talking about vacancies, but if three of the six are vacant, it could be argued that in a sense the department already is fine-tuning itself to get along with fewer people. And maybe those positions should just be vacated permanently. [LR284CA]

SENATOR UTTER: I wouldn't argue with that. [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR CARLSON: Now the current Treasurer's salary and benefit package in total is about \$100-and-some thousand, correct? [LR284CA]

SENATOR UTTER: \$117,000. [LR284CA]

SENATOR CARLSON: What would you think the new Treasurer's package would be? [LR284CA]

SENATOR UTTER: Well, I would assume it would be very similar to that. [LR284CA]

SENATOR CARLSON: So in that regard, the position of Treasurer going to an appointment, that alone really probably doesn't save any dollars. [LR284CA]

SENATOR UTTER: I am sure that the elimination of that job...I guess, I misunderstood your question, Senator. I thought you were talking about the newly elected State Treasurer that's going to... [LR284CA]

SENATOR CARLSON: No, no. [LR284CA]

SENATOR UTTER: You're talking about after the office is abolished. I actually wouldn't...I don't think that we need a designated person with that salary. It seems to me like the duties of the title of State Treasurer could easily fall to an existing department, like our commissioner in the Revenue...in the Department of Revenue, the Tax Commissioner. [LR284CA]

SENATOR CARLSON: Okay. And if that's the thought then I think the conclusion is that the current State Treasurer... [LR284CA]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR CARLSON: ...isn't doing anything. [LR284CA]

SENATOR UTTER: Well, I'm not going to go there with you, Senator. [LR284CA]

SENATOR CARLSON: Well, if that position is eliminated and it can totally be taken up and absorbed by somebody else, I would have to conclude then that the existing Treasurer isn't doing anything. [LR284CA]

SENATOR UTTER: (Laugh) [LR284CA]

SENATOR CARLSON: You don't want to go there. [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR UTTER: I'm not going there with you, but I won't argue with that. [LR284CA]

SENATOR CARLSON: Well, I've got just a few seconds left. One of the things that is of a concern to me, and this is not your fault, is that when a hearing is scheduled, which was a part of our procedure, and other than yourself, nobody shows up to be a proponent, nobody shows up to be an opponent, nobody shows up to speak in a neutral position, and Senator Janssen referred to that, that's bothersome. And then we get it on the ballot. And I have nothing against the voters voting for it. How would this be communicated to the voters so that they can make an intelligent vote? [LR284CA]

SENATOR UTTER: Well, I'm certain that... [LR284CA]

PRESIDENT SHEEHY: Time, Senator. [LR284CA]

SENATOR CARLSON: Thank you. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Carlson. (Visitors introduced.) Mr. Clerk, do you have items for the record? [LR284CA]

CLERK: I do, Mr. President, thank you. Urban Affairs Committee, chaired by Senator McGill, reports LB977 to General File with committee amendments. Senator Nordquist offers LB1106A. (Read by title for the first time.) And two new resolutions, LR354 and LR355, both by Senator Price, both will be laid over. That's all that I have, Mr. President. Thank you. (Legislative Journal pages 774-776.) [LB977 LB1106A LR354 LR355]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Continuing floor discussion on AM1906 to LR284CA, members requesting to speak: Senator Krist, followed by Senator Price, Senator Wightman, Senator Fulton, Senator Louden and others. Senator Krist, you're recognized. [LR284CA]

SENATOR KRIST: Thank you, Lieutenant Governor. Good morning, welcome back after a nice long weekend. I...since I've been here, the short time that I've been here, I have been in support of every possibility of returning an issue back to the voters for the voters to decide. That's inherently, I think, a good thing that we can do as 49 to allow the other house to vote on any issue. I rise in support of AM1906 having been a...being a Government Committee member. I did not see that the LR, as it was presented, gave us the answers to all of the questions, and there's been great questions and great debate. And I'm sure we will continue to have great questions and great debate. But those issues, details were not worked out to a point that I could support the LR as it was presented to us, and again it's been noted by Senator Janssen that we had no pro or opponents and no neutral testimony, with the exception of the introducer. AM1906, however, does give an elected official that comes into office at the November election four years to dissolve the office and, in so doing, an opportunity to make sure that the

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

Floor Debate
March 09, 2010

process is done correctly and efficiencies are there. I think the motivation for this being brought to us is to make a leaner, more efficient government, and I applaud those efforts. Would Senator Utter yield to a couple of questions? [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Krist? [LR284CA]

SENATOR UTTER: Sure will. [LR284CA]

SENATOR KRIST: Again, thank you for bringing it forward. My questions are kind of specific in the fact that Article II, Section...Article III, Section 2 of our constitution says that if it's a citizen-initiated constitutional change, we can't...they can't revisit it...we can't reenter it into the system for three years. The Article XVI, Section 1 of our constitution says, should it be necessary to revisit, it would appear--and I think we'd need an Attorney General's Opinion to give us better information--but it would appear that we could reenter this. Would it be your opinion that if this did not work in the most efficient manner and that a newly elected, sitting Treasurer found that not to be the case or better efficiencies be found in another area, that we could reintroduce this in 2012 for a vote to change direction? [LR284CA]

SENATOR UTTER: Well, in...I would assume whatever the constitution allows that we could do. But if we reintroduce it in 2012, we haven't even given it a chance to work. And so it seems to me like, in all fairness to this proposal, that this is something that we need to see whether it will work before we consider bringing it back and revoting on it. [LR284CA]

SENATOR KRIST: Okay, that's fair. And I thank you for answering the question. I'm wondering if the other 48 of you, realizing that the motivation is to make government leaner and more efficient, have read the constitution. I'm sure you all have, and you know it better than I because I've been here for the shortest period of time. This body shall consist of not more than 50 members or not less than 30, that's 3-0 members. Given the fact that we are currently looking at a census and a reduction in the number of citizens in the state, I would offer that potentially a reduction of one or two in this body would also streamline and make this more efficient. And an amendment to this constitution... [LR284CA]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR KRIST: ...might very well be in order at this time. So as we look at more efficient ways of doing business and we look at a reduction in jobs and people, we need to look at the entire issue across the board. I'm not sure how I will vote on LR284CA. Again, I applaud Senator Utter for bringing it forward. And I echo his motivations in terms of leaner, more efficient government. But I would say that AM1906 is an essential, essential part of this process because it gives four years of an orderly process to

Floor Debate
March 09, 2010

dissolve or redistribute those responsibilities. Thanks for your time. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Price, you're recognized. [LR284CA]

SENATOR PRICE: Thank you, Lieutenant Governor. Good morning, members. As a member of the Government Committee, we heard this and I was somewhat reluctant to let it out. But I wanted to do that because I believed it's a great subject for debate and talking. I think we need to talk about this, we need to investigate. We've heard many members get up and say several of the things I wanted to so I won't belabor it. I do want to say I appreciate what Senator Janssen had to say as far as, you know, how many people in here have ever seen the state government shrink itself without a budget pressure? I mean, they don't shrink themselves, it never gets smaller or most likely not; never is an absolute. And I'm reminded of an axiom that was told to me one time that politicians rule and bureaucrats reign, you know? And we're talking about moving this position from the current Treasurer's Office over to state government. And as Senator Janssen brought up, how is that responsive to the people, is a good question, but more importantly--and I'll have a discussion here in a moment with Senator Utter about this projected cost savings--but I also wanted to say we have to be careful. People would take umbrage in the offices around us if we were to say here as we sit here that they're not fully engaged in the activities and the duties assigned to them; that we're perhaps disparaging them by saying that they're sitting there playing tiddlywinks or not doing any type of work. Because let me give you another analogy that could possibly help shed some light on this. I'll use an IT analogy and I'm going to use servers. So you have a server in your business and your server is running at 95 percent capacity and you're going to take on some new work, so now you're getting closer to 100 percent capacity. And you have the idea, what I need to do is I need to have another server for a backup. So I get this other server and that server now starts running at about 60 percent because, you know, you add more things. You know how you get more e-mail, more pictures, more applications. Now do you really have failover? If I lose my number one server that's running at 95 percent and I have another server running at 65 percent, I'm sorry, you can't go over 100 percent. I know our coaches always told us to give 110 percent, but you can't do that. Now let's go look at the people. The people are engaged, they're doing work. So if we're going to move those positions over from the Treasurer's Office into other offices, we're shuffling the cards. We still have duties and work being done, we're not...perhaps we may save a body or two, but those are bodies that currently aren't filled. And I would say and submit that those bodies are not filled, those duties are being picked up by the people in the office right now. It isn't as if there were no duties assigned to those individuals. And I hope you're following me on that. When we sit here and say, oh, we'll just shuffle it over, when you look at the workload, that workload is currently, of the three people that are not there, being done by the remaining staff. Now you're going to take that and throw it onto someone else's plate that already has a duty, or are we just going to create new positions? And as we said,

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

Floor Debate
March 09, 2010

when we create new positions in government, they never go away without a lot of pressure. So I'm very concerned about those aspects. And I would like to ask Senator Utter a couple questions, if he would yield. [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Price? [LR284CA]

SENATOR UTTER: Certainly. [LR284CA]

SENATOR PRICE: Thank you, Senator Utter. I do appreciate you bringing this forward because it is great debate. Senator Utter, do you have any recollection that the state government has ever reduced positions just because? [LR284CA]

SENATOR UTTER: Well, Senator Price, to answer your question directly, I can't point to you examples exactly right now. [LR284CA]

SENATOR PRICE: Okay, thank you. I appreciate your candid reply because I just want to make sure that as we move this from an elected office, someone who's directly... [LR284CA]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR PRICE: ...thank you, directly answerable to the people, that we're really looking at that savings. And you had mentioned earlier about moving it over maybe to a department head, the jobs. Do you see that perhaps in saving the bodies, though, there will probably be two or three new positions in other offices? Or do you see a perfect, 100 percent, basically, wash of all duties moved to new departments and no increase in personnel? [LR284CA]

SENATOR UTTER: Senator Price, as I look at this proposal and I look at this organization chart that we're all looking at and if in fact the voters approve this constitutional amendment, I'm going to suggest to you that we have existing people in executive positions in the other bodies of state government to which these duties would be transferred that would easily pick up the slack... [LR284CA]

PRESIDENT SHEEHY: Time, Senator. [LR284CA]

SENATOR UTTER: ...in doing these duties. [LR284CA]

SENATOR PRICE: Thank you. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Price. (Visitors introduced.) Senator Wightman, you're recognized. [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I would, first of all, have some questions of Senator Utter. But I would hope that Senator Fulton might stay around because I understand he may have some expertise in the area that we're discussing this morning and would have a few questions of him. So if Senator Utter would yield, I have a couple of questions of him. [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Wightman? [LR284CA]

SENATOR UTTER: Yes, I will. [LR284CA]

SENATOR WIGHTMAN: Senator Utter, I know you indicated that this idea of abolishing the State Treasurer's Office was the subject of hearings before committees in the 1980s and 1990s. Is that correct? [LR284CA]

SENATOR UTTER: As a matter of fact, the original bill that I'm aware of at least, Senator Wightman, was brought by Senator Wesely way back in the eighties sometime. And I would point out that when Senator Crosby introduced this bill, I think in 1993, there was, I think, back in the eighties, I think there was an interim study done. And I'm just reporting to you out of the transcript of that, that it said the report of the Nebraska Legislative Council Committee on Constitutional Revision, led by LR...or revision, LR150, led by Senator Wesely, concluded that the State Treasurer's Office be eliminated. So they did have an interim study, to answer one of your earlier questions, back in the eighties. All of the introductions, I think, have differed slightly. Senator Crosby's bill, as I remember in reading that transcript, was proposing the elimination of both the State Treasurer's Office and the State Auditor's Office, which is slightly different than the approach that we're taking here today. [LR284CA]

SENATOR WIGHTMAN: Thank you, Senator Utter. Do you know whether the State Treasurer's Office has taken on any additional responsibilities since the last interim study was done? [LR284CA]

SENATOR UTTER: Oh, I'm sure they have. Yes, I'm sure they have. As a matter of fact, the College Savings Plan, the health savings plan, the disbursement unit for...the child support disbursement unit, I think those are all duties that probably have been assumed by the Treasurer's Office since that time. [LR284CA]

SENATOR WIGHTMAN: And, I guess, one of the questions I would have, and I think Senator Janssen and Senator Krist and Senator Price have all made some good points maybe about whether this should be studied further, and particularly with the delay that would be proposed now by the committee amendment to 2015 to the implementation, if we might be better off if we had an interim study. Because obviously, you could put this on a year from now and you could still have the position abolished by 2015, could you

Floor Debate
March 09, 2010

not? [LR284CA]

SENATOR UTTER: I suppose that could be true, Senator. I'm not sure what the value of an additional interim study is going to be on this matter. I think it...maybe it takes a leap of faith for some of us to step outside this box of tradition that we are all in that has existed since the state began and before. Even when the state was a territory, we had a State Treasurer. But there comes a time when you, I think, have to step forward and be willing to modernize, be willing to streamline and be willing to do something...we can't continue to study and study and study an issue and ever hope to accomplish anything in state government, in my opinion. Thank you. [LR284CA]

SENATOR WIGHTMAN: Thank you, Senator Utter. If Senator Fulton would yield to some questions, I would ask him some questions. [LR284CA]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Senator Fulton, will you yield to a question? [LR284CA]

SENATOR FULTON: I will. [LR284CA]

SENATOR ROBERT: One minute, Senator Wightman. [LR284CA]

SENATOR WIGHTMAN: Senator Fulton, I won't be able to ask you all the questions I want in one minute. But I assume you've developed some expertise since you're running for this position and kind of understand the hierarchy of the State Treasurer's Office. Would that be a correct statement? [LR284CA]

SENATOR FULTON: A little bit, depends how you define expertise. But I have studied it quite a bit, yes, Senator. [LR284CA]

SENATOR WIGHTMAN: Okay. And I will come back. I guess, I would ask your opinion as to whether an interim study might be helpful prior to putting this on the ballot? [LR284CA]

SENATOR FULTON: I think that would be a good idea. I am up next here and so I can spend some time to talk about that after your turn, Senator. [LR284CA]

SENATOR WIGHTMAN: With that, I'll turn on my light again. And I don't think I have enough time to pursue further questions with Senator Fulton. Thank you, Mr. President. [LR284CA]

SENATOR ROBERT: Thank you, Senator Wightman. Senator Fulton, you are next and recognized. [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR FULTON: Thank you, Mr. President, members of the body. I decided to put my light on to speak. I will speak once on this. If there are questions, I'd endeavor to answer the questions. I've studied this office. As you well know, I'm running for this office. To that end, I think it's important for the record to reflect that I did file a conflict of interest for obvious reasons. But I still think that I have something to add to this debate and so I'm going to bring up some points that I have come up with on my own, but also some points that I have heard while I'm out campaigning in Nebraska. First, I am pleased and thankful to Senator Utter for bringing forward this idea. I've come to know Senator Utter here in recent years and he and I have the same goal, streamlining government, making it more efficient such that the taxpayers aren't burdened with inefficiency. And to that end, this is a worthwhile effort and I've said that publicly and I've said it to Senator Utter. I'll submit to you to recall the process by which we set our budget here in the Legislature. What is being contemplated here is a constitutional amendment to eliminate an office of state government, the end of that intention being to reduce state spending. I remind senators that we have the authority and the power to change state spending by changing statute rather than passing a constitutional amendment. One doesn't have to change the constitution, spending money across the state to have an election, in order to streamline state government. We do that through the appropriations process. And, yes, the Appropriations Committee has the most proximate authority there, but the authority resides equally in each of us as senators. Number two, I have watched the State Treasurer's Office since I've been on the Appropriations Committee. I've watched all of state government. But in recent months, again because I'm campaigning for the seat, I've paid close attention to what's gone on in that office. And I can tell you that when Shane Osborn took over as State Treasurer there were 63 employees working under his watch. Today, my understanding is there are 49 employees. Senator Price asked this question earlier: When has state government shrunk of its own accord? The State Treasurer's Office has. In that accompanying period of time, the Department of Revenue has grown. And I pick out the Department of Revenue because it seems to me that a lot of the functions of the State Treasurer's Office would be transferred to the Department of Revenue. So we have in recent years seen what occurs when a unit of government is run by someone who's directly accountable to the people, compared to that unit of government which is not directly accountable to the people. I would say the Department of Revenue is indirectly accountable to the people whereas the Treasurer has to go up for a vote. Consider that. If the Treasurer isn't doing a good job, we the people can throw him out and should. In the time that Shane Osborn has been in office, we've gone from 63 employees to 49 employees while putting out more unclaimed property, while moving more child reimbursements, child support payments, while managing more money in the treasury, literally doing more with less, which is what we all, as politicians campaigning for office, seek to do. So I submit to you that which is trying to be accomplished here is being accomplished because of the accountability of the Treasurer's Office. The last thing I'd like to touch on is something that I've said publicly. I have been waiting to see

Floor Debate
March 09, 2010

numerically how we would save this money. I suspect that by moving the responsibilities falling under... [LR284CA]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR FULTON: ...an elected representative to that which is not elected will not indeed save money. I believe, as Senator Janssen has said earlier, it could very well increase because the track record is there, the bureaucracy tends to grow, whereas that's not been the case under the Treasurer's Office. So I say this with the voice of the people ringing in my ears, almost literally. I've been on the campaign trail. I've heard from people. Now they're probably not going to tell me what they really think because they know I'm running for the office. But generally, the idea that we're taking some authority away from the people and putting it into the bureaucracy doesn't resonate with people. And beyond that, don't we have some responsibility to communicate to the people precisely how we would save money before asking them to vote on it? So you can tell what my position is here. I have filed a conflict of interest. I'm not going to vote, therefore, I want the record to reflect that and to communicate that to my colleagues. Thank you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Members requesting to speak on AM1906 to LR284CA, we have Senator Louden, followed by Senator Utter, Senator Nelson, Senator Pirsch, Senator Carlson, Senator Janssen and others. Senator Louden, you're recognized. [LR284CA]

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. As I rise on this legislative resolution for a constitutional amendment, I don't intend to support it. I'll tell you why. When I first came down here, in 2003, was when we first took the child support collection, disbursement and got it over into the State Treasurer's Office. Up until then and a few years until they got up and going good, in 2003 and '04, we had calls probably every two weeks of people having a problem with their child support. It was my understanding then that Health and Human Services had part to do with it, part of it was in district court, and it was a shambles. Since then, after it got in the State Treasurer's Office, they've been able to put this together, they've been able to get child support payments from other states. It probably lacks a lot to be desired yet because I know there are some people that don't receive child support that should be. But this is something that the State Treasurer's Office was able to do, was cleaned up. And the reason I'm quite familiar with it is because a lady from western Nebraska came down here and worked in that section of the child support collection and disbursements. Also, unclaimed properties, we never used to see much of that until that came out. I think Lorelee or one of the Treasurer's at that time started the unclaimed properties and promoted it quite well and sent that out. They sent it around to our offices. We were able

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

Floor Debate
March 09, 2010

to take those figures, send them out to some of our constituents, and we have had several constituents every year be able to claim monies on the unclaimed properties. Right now, we had a bill here in Retirement Committee, I think, last spring or sometime on whether or not they should be a voting member, State Treasurer should be a voting member of the Investment Council. Right now they're a nonvoting member. We decided that that was probably a good reason for it, they needed to be in there to oversee some of the stuff on the Investment Council. If you do away with the State Treasurer, who are you going to have in there on that Investment Council to oversee what some of the issues are and to work with the Investment Council? Your College Savings Plan, that was put in, in about 2003 or '04, and that's been quite popular along the line. I'm wondering when you do away with the State Treasurer, you know, where are you going to go and get that job done? The staff will still have to follow. There's still going to be a certain amount of staff. So I question whether there's going to be that much of a savings. And I'd like to ask Senator Utter a question, if he would yield, please. [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Louden? [LR284CA]

SENATOR UTTER: I sure will. [LR284CA]

SENATOR LOUDEN: Yes, Senator Utter. On this constitutional amendment, since we don't get a fiscal note with it, have you figured out or any way come across any kind of numbers? What will it cost to do all of this? First of all, what will it cost to put this on the ballot? And the second thing, what will it cost for the transition to literally just change the name, because some of those staff members will have to go into the same departments? Do you have any kind of numbers on that? [LR284CA]

SENATOR UTTER: I do not have any numbers on the cost of putting the constitutional amendment on the ballot, Senator. I'm sorry, but I can't give you that figure. [LR284CA]

SENATOR LOUDEN: Okay. Well, thank you, Senator Utter. Part of the reason when we do this, you're going to inflate another agency. I have firsthand experience with that with this, as they call, the Whiteclay bill the other day, LB1002. When we wanted to try to get some agencies to do some of the work for that, why, they all had to have full-time employees, and some of them had to have two. [LR284CA LB1002]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR LOUDEN: They all had to have some administrative assistance on there. So I know if you change this over into one of the other agencies, there's going to be some people asking for some more money. So I would question it. I think this is a very good idea. Probably needs to be looked at. I don't know as it has to be a legislative resolution, but I think it probably needs more research to find out exactly what the costs will be and

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

Floor Debate
March 09, 2010

what the benefits are. We have to have a cost-benefit ratio. Thank you, Mr. President.
[LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Utter, you're recognized.
[LR284CA]

SENATOR UTTER: Thank you, Mr. President and colleagues. I just thought I would take a minute to reply to some of the issues that have been brought forward this morning. And I did, I think, earlier answer Senator Wightman's question that there had been a legislative study done on this very issue, albeit it's been many years ago. I would also tell you that I don't think we need to reinvent the wheel; that other states have successfully made the transition from an elected treasurer to a...moving those duties to other areas of state government, the latest being Minnesota. And certainly our conversations with the people in Minnesota, they felt very comfortable with what they'd done and felt that they were achieving the savings that they desired doing that. I would also point out to you that the executive staff in the Treasurer's Office, even though it's been trimmed down, there still has to be some executive staff there. I think that when the responsibilities of the Treasurer's Office are divided among other departments of state government, which they very easily can be, that that can be done without adding executive staff in those other departments. One additional point that I would like to make is that the concept of eliminating the Treasurer's Office and eliminating an elective office that is not directly responsible to the people, I guess, my suggestion to you is to consider that all of the departments that we've been talking about moving these duties to are under the auspices of the Governor of the state. And certainly he is responsible to the people of Nebraska. So if in fact the operations of this office and all of the rest of the functions of state government aren't operating properly, the Governor is the man or lady that has the ultimate responsibility for these operations. So I am of the opinion that we're transferring responsibility for this office from one elected official to another one and in an orderly fashion. Thank you. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Nelson, you're recognized.
[LR284CA]

SENATOR NELSON: Thank you, Mr. President, members of the body. I rise in support of AM1906 because I think it's very important if we do decide to this to spend plenty of time on making the transition. However, I'm not rising in support of the bill itself. And I'd like to address a question or two to Senator Utter. And I do... [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Nelson? [LR284CA]

SENATOR UTTER: I will. [LR284CA]

SENATOR NELSON: Thank you, Senator Utter. You know, I, too, am all for, as a

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

Floor Debate
March 09, 2010

member of the Appropriations Committee, cutting down on expenses and reducing waste wherever we possibly can. But I have some questions here on this. I think you made the statement that you can only assure us that at the very least we would be saving \$107,000, that would be the Treasurer's salary, benefits in addition to that. [LR284CA]

SENATOR UTTER: The figure is actually \$117,000, Senator. [LR284CA]

SENATOR NELSON: All right. That you could guarantee if we did away with the office. Now I happen to know that the two people under him, the chief of staff and the chief deputy, that was recently consolidated, so there's one person taking care of that. We've already heard that there was a substantial reduction in the numbers of employees there. You mentioned transferring...other states have transferred to a comptroller. Do we have a comptroller in Nebraska? [LR284CA]

SENATOR UTTER: We do not. [LR284CA]

SENATOR NELSON: What would be equivalent to a comptroller? [LR284CA]

SENATOR UTTER: Well, I don't know that we have the equivalent to the comptroller. If one would come close, I would say it would be the director of the Department of Revenue and that in combination with the duties that the State Auditor's Office undertakes. [LR284CA]

SENATOR NELSON: Okay. But the comptroller, if I understand it, would be a constitutional officer in an elected position, would it not? [LR284CA]

SENATOR UTTER: That...it is in the state of Texas. [LR284CA]

SENATOR NELSON: All right. When we talk about...or when...I have a question about you made the statement that you felt that all of these administrative positions could be absorbed by other managers in the Department of Revenue, and Health and Human Services. If we have four of those supervisors, administrative, working full-time here, how is it that it would not be necessary to add other personnel in those departments, such as Revenue, and Health and Human Services? [LR284CA]

SENATOR UTTER: Well, I'm not sure that we can get into this morning, Senator, the actual workings of the management of this. But I would point out to you that if the State Treasurer has now eliminated...has not filled, at least, the positions, three of the positions that show on the top of this chart since last July, he has obviously now seen that those positions weren't needed in his office either. The question that you could legitimately ask is, why did it take three years to figure that out? [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR NELSON: Well, in response to that, I think we have a disagreement on the number of administrative positions. It's my understanding that these particular positions are still filled and still operating. They did consolidate the chief of staff and the chief deputy. But between now and Select, if we get that far, I will check that out. Thank you, Senator. I want to make a comment. And I'm speaking as an attorney in private practice. I've had occasion to deal with the Unclaimed Property Division here in our current State Treasurer's Office. They've been very efficient and very helpful. Last Friday during recess, from my law office I tried to reach the Unclaimed Property Division of the state of Hawaii... [LR284CA]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR NELSON: ...unsuccessfully. I tried again Monday and finally, after hearing two different times that I would have to call back, I finally reached someone and found out that they have furloughed employees on Friday, every Friday. And I will say that they were helpful. But I think that we have here an issue of accountability and responsibility. And I'm not sure I want to transfer these things to a large, large department like the Department of Revenue or Health and Human Services or whoever would be doing unclaimed property. We have a little smaller department here. I think it's well managed. If we're only going to save at most \$400,000, giving Senator Utter his understanding of the facts, I'm not sure it's worthwhile for us to do that and to put it on the ballot and spend all the money... [LR284CA]

PRESIDENT SHEEHY: Time, Senator. [LR284CA]

SENATOR NELSON: ...to show whether it's needed. Thank you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Pirsch, you're recognized. [LR284CA]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I appreciate the conversation that's gone forward today. I haven't decided yet which path I'll determine as the best route to the least costly, most efficient administration of these governmental programs. For me, it's just kind of a simple mathematical weighing of the cost savings. And so normally, you know, as I approach this issue, I'd assume elected administrators, with their feet held to the fire of public opinion, more often than not would tend toward more efficient decisions and that there be more streamlining, therefore, as compared to unelected administrators. Also, you know, as I go about this analysis, you know, it weighs in my mind that there are up-front administrative...I'm sorry, up-front costs associated with putting this measure on the ballot, this constitutional amendment. And I've talked with some of the other senators here who are more familiar with that and, depending on how you look at it, it could be from 300,000

Floor Debate
March 09, 2010

bucks up to a million bucks just as an up-front cost. And I suppose Senator Utter's bill is based on the premise that there can't or won't be any dead weight in administration of these programs if they are moved within the purview of unelected officials. And I guess that assumption makes me a little bit nervous, especially since we've come to find out that of the six positions that were put forward as capable of being eliminated, that three of those positions are not currently filled or at least potentially. So I guess what I'd be looking for, is there any way that you can reassure me, Senator Utter? And I'm not sure if there's language that can be, you know, appropriately put within a constitutional amendment which would be enshrined within our constitution that would regulate these administrative expenses of these programs if they were, in fact, to be moved to these nonelected administrators. Might it be a better path that we, the keepers of the legislative purse, could do the job more straightaway, more effectively just by setting forth and we could do this in statute? It really doesn't matter to me who's administering the programs as long as they're competent, as long as they are responsive to the public, and as long as they're doing the most streamline, most cost-effective...doing it in the most cost-effective manner. And so to that end, ought we not focus more just on putting into law limits as far as administrative expenses with respect to these programs and focus less on who is actually making...you know, which individuals are actually...which administrators are actually making the call? And so I'd posit that as a question to Senator Utter. Senator Utter, would you entertain... [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Pirsch? [LR284CA]

SENATOR UTTER: I sure will. [LR284CA]

SENATOR PIRSCH: Isn't the key here, Senator Utter, no matter who makes the decision, that administrative costs be held to a minimum? I guess that's the underlying, I guess, idea behind your bill, is it not, that we don't want to be top-heavy, have a lot of administrators in programs associated with this? [LR284CA]

SENATOR UTTER: Senator Pirsch, I think the key is, is to save money in the operations of state government and make it more efficient regardless of whether it's administrative or not. [LR284CA]

SENATOR PIRSCH: Yeah, well, I guess I'm trying to look for reassurance. How do we know that we will effectuate cost savings if we put the programs in the hands of unelected administrators as opposed to where it is now? I'm not saying that we shouldn't...we should always be looking for cost savings and I'm with you on that regard. How do we know that this is the best way to streamline by putting the programs in the hands of unelected administrators as opposed to elected, which normally I would associate with being more responsive to the public, the public's need for streamlining? Is there anything we can do to reassure me on that level that they... [LR284CA]

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

Floor Debate
March 09, 2010

PRESIDENT SHEEHY: Time, Senator. [LR284CA]

SENATOR PIRSCH: Thank you. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Members requesting to speak on AM1906 to LR284CA, we have Senator Carlson, followed by Senator Stuthman, Senator Christensen, Senator Price, Senator Schilz, Senator Louden, and Senator Hadley. Senator Carlson, you're recognized. [LR284CA]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. Again, I'd like to resume a conversation with Senator Utter, if he would yield. [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Carlson? [LR284CA]

SENATOR UTTER: Yes. [LR284CA]

SENATOR CARLSON: Senator Utter, you've brought out that there are other states, and it was 11 altogether, that have gone from being...the treasurer being elected by the people to either appointed or elected by the Legislature. And I don't...wouldn't necessarily expect you to know the answer to this, but it's one thing to take this step, it's another thing to know whether or not it saved any money. Now, you did mention specifically, I think, Minnesota, but do you have information about specific ongoing savings in these other states that have changed the way they bring the treasurer into being? [LR284CA]

SENATOR UTTER: Senator, I doubt...and let me point out that all of these states that have...I'm not sure that all of the states have actually switched. Those are just the states that don't have an elected treasurer. And it's possible that some of these states have never had an elected treasurer. [LR284CA]

SENATOR CARLSON: Okay. Thank you. And, of course, in those circumstances it would be rather difficult to determine any savings or less money spent because of their arrangement that way. Now, you have brought out in your testimony that you believe that other agencies could absorb, and I think I'm going to be correct on this, at no additional cost, the things that are being done by many of the employees in the Treasurer's Office. Is that a correct interpretation of what you've said? [LR284CA]

SENATOR UTTER: I'm not sure that I would go so far, Senator, as to say no additional cost. But I would say that in visiting with a department head, the indication to me was with very little added cost to his existing employees. [LR284CA]

SENATOR CARLSON: Well, it brings up a concern that I have that...and I think this would be true. Regardless of the agency that we go to, to say, could you absorb these

Floor Debate
March 09, 2010

responsibilities, if they say yes, they're agreeing that they don't have a full-time job right now. If they say no, it's going to be additional expense in order to have them absorb those duties. What...and I don't know how many agencies you have talked to about being able to do this, but it seems to me like nobody wants to admit that they're not working full-time and their people aren't working full-time. So if they absorb additional duties, it's going to cost money, and Senator Price brought this up, and that's the way we see government expand rather than contract. And I'm not comfortable that going this path is going to be any different in Nebraska. Would you respond to that? [LR284CA]

SENATOR UTTER: Well, Senator, I guess the way I would look at it is that in a great many instances, particularly when you're getting into and coming from a banking environment, and particularly when you're getting into a situation where you're processing checks and doing those type of things, there is a possibility that additional work can be done by the individuals that are doing that function without the addition of the same total staff that was doing it in the Treasurer's Office. And just eliminating the duplication that may exist should result in savings. [LR284CA]

SENATOR CARLSON: Thank you. And I don't disagree with that statement. Now, how much time is left, Mr. President? [LR284CA]

PRESIDENT SHEEHY: Just over 1 minute. [LR284CA]

SENATOR CARLSON: Okay. We started on this and we're going to run out of time again. But it is a challenge when we... [LR284CA]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR CARLSON: ...have a constitutional amendment that the voters have the privilege of receiving good information. And we don't have the money to do it, so how do we give this information to the voters, especially when nobody showed up at the hearing? [LR284CA]

SENATOR UTTER: Well, I'm not sure. I've heard that mentioned several times this morning, the fact that nobody showed up at the hearing, and I'm not sure whether people...you know, I guess I could have gathered people up to come and testify in support of it and I'm sure somebody else could have gathered people to come up and opposed it. I'm not sure what that adds to the hearing. And I'm not sure that what that does in terms of disseminating the information that is ultimately going to be done across the state, if this resolution passes, in order to properly educate the voters. The only thing I can pledge to you and to the... [LR284CA]

PRESIDENT SHEEHY: Time, Senator. [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR CARLSON: Thank you. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Stuthman, you're recognized. [LR284CA]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to echo some of the comments that Senator Louden said, you know, about the child support issue. I was in county government at that present time when county attorneys had the responsibility of working with the Treasurer to get some of the child support money to the people that deserved the money, also bringing in money to the state of Nebraska. And that program was very, very successful. But the thing...the issue that I have is the fact that, you know, if an agency, if an elected official is a responsible individual, I think he should run a good office. And if there's some duplication, he should be the one that addresses it. And I think if there's too many employees in that office, I think that's the responsibility of the elected official to take care of that because he is elected by the people of the state of Nebraska. I just feel that being in this...being with county government for eight years and state government for eight years, I feel that one of the things that we as legislators do is not being responsible for shrinking government. Why do I say that? We pass mandates, we pass regulations continuously that affect elected officials, elect county government, and we don't put money behind it. We are demanding more. So I think it's the responsibility of the legislative body to look in the mirror and say, you know, why are we sending more work to these people? Is there a need for it? I think in looking at the situation that was debated awhile ago just in committee, it was a fact of trying to eliminate the 93 counties and get that down to about 30 counties, and in the discussion there counties have been responsible in combining offices, one elected official taking care of four elected positions. And I think that's the responsibility of the county board. I don't think it should be the responsibility of this legislative body to say, well, we're going to close your office and we're going to, you know, put it in different offices. And if there is the opportunity to put that into different offices and the responsibility, then that tells me, as Senator Carlson said, these other offices do not have enough work, maybe have too many employees. They should be left go or relieved. That would shrink the government. So I just feel that there is a need for the county, for the State Treasurer and I do not support the amendment. I don't support the bill. I'll just tell you where I'm at, at the present time on that. The fact is that if we want to shrink government, we have to watch and pay attention to how many bills we send out of here demanding and mandating services for the people. Individuals have to say, county individuals, county people, state people, the third body, they need to step up to the plate and say, we don't want that service. That, in my opinion, is the only way that we're going to shrink government. Thank you, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Christensen, you're recognized. [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR CHRISTENSEN: Thank you, Mr. President. I want to...I appreciate Senator Utter's attempt here and I will admit I'm undecided and very cautious here. And I'll give you a little background on why I'm very cautious. I can't even tell you exactly how many years ago it was we put two water departments together. We saved a little staff but we have no water planning in this state no more. What is the issue of the decade? What has been defined, what is going on when you look at water? We have no foresight. We got no direction. Our planning commission sets up the IMPs, which is regulatory. And that makes me very nervous. I'm here trying, there's a number of lobbyists working with me and on their own trying to resplit this apart. And so I'm nervous. I stand up and I say this because I've given you an example of something we put together, in my opinion, has been a total failure. And I think there's getting to be more and more people understand that. And so at the same time I want to save everything I can. I want to get rid of the duplication. I also try to observe what has happened with the number of people working in the Treasurer's Office being reduced. We're on the right path anyway in the reductions. Whether we can maintain that or not and continue decreasing I don't know, but at the same time I caution you because we have made one mistake already. And I think you will see in the next four years, you will see this water split back apart. My concern is I keep hearing that we're going to have reduction in duplication, but yet I'm wondering how well we have studied this and determined how many jobs are we going to save? What cost is it going to save? What all are we going to accomplish here? I question how well we have studied this out. I'm going to sit back and listen. I'm concerned but at the same time I want to cut jobs and listen, and at this time I'm going to yield my time to Senator Utter and he may choose to address some of my concerns with that. Thank you. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Utter, you're yielded 1 minute 50 seconds. [LR284CA]

SENATOR UTTER: Thank you very much, Mr. President, and thank you, Senator, for the generous time that you are giving me. I would use that time to say to you that I fully appreciate the concerns that some of you have, and frankly, some of those concerns, in my opinion, that even if the issue is studied, cannot be fully answered. I did, by the way, find out some of you were questioning the cost of putting the constitutional amendment on the ballot. And information from the Secretary of State's Office indicates that it costs about \$175,000 a page to put these items on the...on a ballot. And so depending upon whether we had a...enough constitutional amendments to take up a second page, why, conceivably that could be an additional cost. Beyond that, I would...those of you that are concerned, I think, about the accountability, I think are failing to recognize that there is and should be, and rightfully so, accountability in state government for all of these positions through the office of the chief executive officer of our administrative area of state government, and that's the Governor. He's the person that has the ultimate accountability to where these jobs would be delivered to. [LR284CA]

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

Floor Debate
March 09, 2010

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Christensen. Thank you, Senator Utter. Senator Price, you're recognized. [LR284CA]

SENATOR PRICE: Thank you, Lieutenant Governor and members of the body. The question I have would be addressed to Senator Utter, if he would yield. [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Price? [LR284CA]

SENATOR UTTER: Yes. [LR284CA]

SENATOR PRICE: Senator Utter, thank you very much for your clear and thoughtful answers to this morning's questions. You are allaying some of the questions I haven't answered and I appreciate that. I do have one question, though. In all that we've said and done today, I'm curious to know about the amount of discourse we've had with the Treasurer's Office. I believe we know...as we know, there's approximately 800-plus statutes that have the Treasurer referenced to. I know he will have...that individual will have four years in which to address it. But the question I have in mind, and on your background I talk to it, is the contracts that maybe had between the state and the Treasurer's Office and other states, those banking arrangements, is there a cost or is there a added level of detail that we might be glossing over in understanding the entirety of the task before us with particular attention to those contracts, banking contracts we have with other states? [LR284CA]

SENATOR UTTER: I guess, Senator Price, I'm a little bit confused as to what kind of contracts with other states you might be talking about. [LR284CA]

SENATOR PRICE: And I appreciate that, see so I'm a little confused too. I talked with members of the office there, in the Treasurer's Office, and some of the comments were, you know, the number of statutes and the relationships and that was a comment that was made. And I don't understand it. I'm not sure that I'm actually completely articulating it accurately, but it goes to the point of the enormity of the task that we have. Could you...let me ask you this maybe. Could you see that there are contracts or arrangements with other states and the federal government and that those...changing those, just the mere process of changing those documents over, I mean, there's a lot of opportunity for something to come unlinked without knowing the expanse of all that. And that doing it in four years is going to be a yeoman's task on top of the current task they already have in going forward. And so in other words, we're asking run the office for the four years, and then tell us how we divvy it up and move it away and parse it. So I'd just...I'll yield the balance of my time to Senator Utter to speak about that subject. [LR284CA]

PRESIDENT SHEEHY: Senator Utter, you're yielded 2 minutes. [LR284CA]

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

Floor Debate
March 09, 2010

SENATOR UTTER: Thank you, Mr. President. Thank you, Senator Price, for that time. I'm sure that there are lots of arrangements that have to be made in terms of the state's banking needs, not only within this state but probably with other states and certainly with the federal government. That comes as no surprise to me. But it seems to me like those arrangements also are transferable and that would seem to me to be the job of the newly elected Treasurer over the next four years, to make sure that those links are properly made and properly transferred. I think that the efficient closing down of the Office of State Treasurer, if this proposition is approved by the people, becomes the responsibility of the newly elected Treasurer and would expect that that individual will give full attention to the duties of... [LR284CA]

PRESIDENT SHEEHY: One minute. [LR284CA]

SENATOR UTTER: ...getting that...those jobs transferred, those contracts changed if they need to be changed, and to disseminate the duties of those office to the areas in which the people would...the people that are working on it would properly send those duties. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Price. Thank you, Senator Utter. Senator Schilz, you're recognized. [LR284CA]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning. I've been sitting here, listening to the debate and really, really trying to figure out where I'm going to come down on this. I guess, I guess my whole concern is...I think it's important every once in a while to have an idea of where you're going to go once you step off and take that first step. And so would Senator Utter yield to a question? [LR284CA]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Schilz? [LR284CA]

SENATOR UTTER: Yes, I will. [LR284CA]

SENATOR SCHILZ: Senator, good morning and thank you for all of your work on this and the intent here. I think it's noble. I think you're looking at things in the proper way with a critical eye. Do you have...and maybe you have answered this before. If we get...as this moves forward, do you have kind of a road map in your head or somewhere else that tells how this will be absorbed, as you would say, into other offices or other branches? [LR284CA]

SENATOR UTTER: Senator Schilz, my idea of how this would be done is that the newly elected state...that if the proposition passes and the people adopt this amendment to the constitution, the next thing that would happen would be that the new Treasurer would begin coordinating not only with the...with other departments and discovering

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

Floor Debate
March 09, 2010

what departments has the best fit for these duties, but also begin working with the Government Committee of this body and with the long-range planning committee that has been established in this body. And I'm sure that he will want to put together a group of people who have an interest in the workings of the Treasurer's Office and where the duties are going to go and over the next four years we will bring bills to this body that will redesignate certain duties that will take care of the areas in state statute where the Treasurer's Office is mentioned. And so I think it becomes a process over the next four years to work this out. And I don't think it's an impossible task. Others have done it. I think the state of Nebraska can do it. [LR284CA]

SENATOR SCHILZ: Thank you, Senator Utter. And then I guess the only other question I would have, and this isn't necessarily for you but it's just a question that I think of to myself, is as you know a lot of times...and, you know, as you're blazing new territory, it does become somewhat of a task to figure out how this all works. And I'm sure there's some fears out there as to whether or not, you know, as you make a transition like this, are you actually opening up for, you know, as we talked about transparency and things like that or are we taking it the other direction and moving it towards maybe more bureaucracy and how that happens. So I think that that process that you talk about, Senator Utter, is very important. And I hope that we can maintain a path, if we put this forward and the people of Nebraska would vote for this, that we would maintain that path to get that done. I am still trying to figure out where I am at on this bill and I suppose that before the end of the day we're going to find out. So thank you very much, Mr. President. [LR284CA]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Mr. Clerk, you have items for the record? [LR284CA]

CLERK: I do, Mr. President. I have a motion from Senator Heidemann, as Chair of Appropriations, to be printed in the Journal. Resolutions: Senator Gloor, LR356; Senator Adams, LR357; Senator Howard, LR358; Senator McGill...I'm sorry, Senator Nelson, LR359; Senator Pirsch, LR360, LR361, LR362, LR363. Senator McGill has an amendment to be printed at LR295CA. Judiciary Committee will meet in Exec Session upon recess in Room 1126; Judiciary in Room 1126. Name adds: Senators Nordquist and Mello to LB563; Senator Pirsch, LB594; Senator Wallman, LB780; Senator Howard, LB1110; Senator Krist, LB1110; Senator Sullivan, LR353. (Legislative Journal pages 776-781.) [LR356 LR357 LR358 LR359 LR360 LR361 LR362 LR363 LR295CA LB563 LB594 LB780 LB1110 LR353]

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

PRESIDENT SHEEHY: You've heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We stand in recess.

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

Floor Debate
March 09, 2010

RECESS

SENATOR STUTHMAN PRESIDING

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

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

SENATOR STUTHMAN: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I do, Mr. President. Notice of hearing on a confirmation hearing by Natural Resources and two new resolutions: LR364, Senator Avery, and LR365 by Senator Avery. That's all that I have, Mr. President. (Legislative Journal pages 782-783.) [LR364 LR365]

SENATOR STUTHMAN: Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda. Mr. Clerk.

CLERK: Mr. President, Senator Karpisek would move that LB867 become law notwithstanding the objections of the Governor. [LB867]

SENATOR STUTHMAN: Thank you. Senator Karpisek, you are recognized. [LB867]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. [LB867]

SENATOR STUTHMAN: (Gavel) [LB867]

SENATOR KARPISEK: I stand here today not really looking forward to this motion to override the Governor's veto, but I feel that it needs to have its fair shot. When you have a bill that passes 46-1 on Final Reading, I think that you have to try to keep your motion going. I've given it a lot of thought, and only after hearing from a number of senators that encouraged me to go for the motion of the override, I decided that it was the right thing to do. I do believe that we have a duty to pass fiscally responsible legislation. LB867 is fiscally responsible legislation. This bill simply raises the shipping license fee for out-of-state shippers, I want to make that clear, out-of-state shippers, out-of-the-country shippers from \$200 to \$1,000, which would bring in roughly half a million dollars in additional revenue to the General Fund. I will say in all fairness that there are four agents in Nebraska who represent out-of-state manufacturers so there are people here in Nebraska who ship liquor in for out-of-state shippers. So this would affect the businesses that they represent, not them. This is a substantial increase, I will agree, and I know that many of you this morning have had people talking to you that it's

Floor Debate
March 09, 2010

just too much of an increase. We had committee hearing on this. There were three rounds of debate. I didn't hear that before but now we do. The reason why this is such a large increase is because the Legislature hasn't increased the fee for nearly 30 years. In 1955, the shipping license fee was established at \$25. In 1969 it was raised to \$100 and in 1981 it was increased to \$200, which is the current fee. We may hear that \$1,000 is unreasonable. I don't believe it is. As a former small business owner, I understand and appreciate the Governor's concern for small business. I also appreciate the Governor's stand of not raising taxes or fees. And you can talk about fees as taxes if you want. I don't believe that this hurts any people in Nebraska. Keep in mind that many small businesses such as wineries have an S1 direct shipper's license fee which allows them to ship directly to consumers. The S1 direct shipper's license fee, which is not affected by this bill, costs these small wineries \$500. We've all received e-mail concerning the small wineries, which most are direct shippers. The \$500 fee goes mostly to the wine and grape growers to promote Nebraska farm wineries. Again, this bill does not affect those wineries. Why should a small winery pay \$500 to ship into Nebraska when the likes of MillerCoors and Budweiser have to pay only \$200? That doesn't make sense to me. Also what many small manufacturers do not realize is that they can form an association and the association can get the shipping license under which all the members can ship. Therefore, if the shipping license fee is \$1,000 and the association has ten members, each member only has to pay \$100, which is half of the current fee right now. In speaking with Hobert Rupe, executive director of the Liquor Control Commission, about the ramifications of this bill, he did anticipate that we may lose some of the smaller shippers, but most would likely continue shipping into Nebraska with either a shipping license of their own or as a member of an association. We've talked about other states, \$1,000 maybe being too high. Compared to other states, I say the answer is no. For example, to ship beer, Michigan is \$1,000; New Hampshire is \$1,920 if 200 or more barrels per year or \$720 if less than 200 barrels per year; Vermont is \$2,000; Connecticut, \$1,000; Minnesota, \$1,600; and Texas, in their great way to do it, came up with \$903. In all fairness, there are some states that don't charge a shipping license fee or charge a very small one. Many of those haven't looked at their law for quite some time, as we haven't, but they also will charge other fees that we do not, such as Texas which, in addition to its shipping license fee of \$903, also charges a fee of \$25 per label. Someone such as Anheuser-Busch, who has many different kinds of beers, would be charged \$25 per label. That would add up in a hurry. This brings in considerable revenue from some of the larger manufacturers that ship a number of different labels. For these reasons, I do not believe that \$1,000 is out of line or unreasonable. I think it is important to remember that no one opposed this bill at the hearing, no one. It was advanced out of committee with unanimous support and received 46 votes on Final Reading. We've heard Senator Heidemann talk often about the budget that we're facing, and I'm very concerned; we all are. I think if we can find ways to raise some revenue we need to give them a good, hard look. We're going to have to cut, Senators. We know that. But trying to bring in some extra money from places where they don't even show up to say anything about the bill, but now maybe we

Floor Debate
March 09, 2010

get six e-mails over the weekend when someone found out about it I don't think is a reason not to move forward. Could this have been a lower fee? It could have been. I put in \$1,000 at the request of the Liquor Commission, thinking that there may be some negotiation to bring it down in committee, during the floor debate; there was not. I feel that we need to look at things like this. We need to think about where we're going with our budget. I don't feel that this is that much of a burden on any of these companies. I also...I want to remind you this is companies that are out of the country--the Coronas, some of those that are shipping in. These are not the mom-and-pop wineries that maybe are in Missouri and are shipping here. They are shipping under a different license, an S1, and they are already paying \$500. I'll be glad to take any questions. I know that this isn't an easy motion for anyone in the body, but I think we need to look at it. We need to talk about it. And I feel confident with 46 votes that we should be able to override the Governor's veto. Thank you, Mr. President. [LB867]

SENATOR STUTHMAN: Thank you, Senator Karpisek, on the motion to override. First of all, I would like to mention that the cookies that are being passed out by the pages are from Senator Pankonin's wife Lori for all of the hard work that the senators do. Thank you, Lori. Senator Howard, you are recognized. [LB867]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I stand in support of Senator Karpisek's override and in his bill, LB867. I want to share some facts with you in doing research on this. As Senator Karpisek spoke, this fee has not been increase in, I believe he said, some 30 years. Consider \$25 in the 1950s, certainly was a different amount than charging \$200 today. And it's high time that we look at charging a fair amount for those that come into our state and distribute liquor. This currently impacts 629 license. As Senator Karpisek pointed out, these are Class S and Class T license. Only 5 are located in Nebraska; 623 are located outside the state of Nebraska. This includes Anheuser-Busch and MillerCoors. Anheuser-Busch, which is now based in Belgium, no longer based in St. Louis here in the United States but now in Belgium, sells 49.2 percent of all beer in the United States. When you look back to 2009 when we ran into some serious, serious economic crisis in this country, the third quarter of 2009 Anheuser-Busch had \$9.5 billion in revenue and, of that, \$1.55 billion was pure profit. The fourth quarter of 2009, \$9.3 billion in revenue for Anheuser-Busch; \$1.3 billion in profit. For all of 2009, \$36.8 billion in revenue; pure profit, \$4.6 billion. Now can anyone on this floor say to me this company can't afford this kind of increase in their liquor distribution fee, this is just unfair to them? I would have a hard time believing that. MillerCoors Brewing, which is based in Britain, Canada, and the U.S., fourth quarter of 2009, \$1.74 billion in revenue; \$135 million in profit. I think you're getting the idea. These shippers are not based in Nebraska. These are people coming into Nebraska looking at paying a fee. And I've heard stories about how they've called over to the Liquor Commission and asked, what is the fee for bringing liquor into Nebraska? Two hundred dollars, you mean \$2,000 don't you? No, \$200. This increase is the right way to go. This increases our revenue on a fair basis. In 2003, prior to my being down on the

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

Floor Debate
March 09, 2010

legislative floor, when the Legislature faced severe shortage and several things were considered to make up this shortage, including a tax on auto repairs, tax on beauty salon services, and even a tax on pet grooming, ultimately a tax on home repair was passed. This issue should have been considered. This is a fair and a just revenue source, and this is the time to change what we charge for people who bring liquor into our state. This is a time for an increase in the liquor distribution fee in Nebraska. Thank you, Mr. President. [LB867]

SENATOR STUTHMAN: Thank you, Senator Howard. Senator Haar, you are recognized. [LB867]

SENATOR HAAR: Mr. President, members of the body, I wonder if I could ask Senator Karpisek a question. [LB867]

SENATOR STUTHMAN: Senator Karpisek, would you answer a question from Senator Haar? [LB867]

SENATOR KARPISEK: Yes, I will. [LB867]

SENATOR HAAR: Okay, thanks. And this is for clarification. I got an e-mail from somebody who likes to buy from small...the small beer makers and things like that. And he says if a brewery has to pay \$1,000 just to sell beer in Nebraska for a year, a lot of smaller brewers may choose not to enter Nebraska's market. And I'm still kind of confused about is it the shipper, is it the brewer. How does that all work? [LB867]

SENATOR KARPISEK: They could get a shipper to ship in or they could ship in on their own, get a shipping license, which now is \$200. My bill proposes to go to \$1,000. There is nothing, however, to be said that they couldn't unite, if there's an Iowa brewers association, and get as many as they wanted to, to ship in for the \$1,000 that's proposed. In fact, Senator Gay had a bill that would like to help that system come into Nebraska to have a beer tasting, but with our three-tier system, they can't just come in. They have to go through a shipper. And so we have proposed to Senator Gay that that's one way that they could do that. They could band together and bring it in under the one shipper's fee or they could get a hold of one of these people in Omaha and come in under them. [LB867]

SENATOR HAAR: Okay. So what you're telling me then is there are ways for these microbreweries still to sell their beer in Nebraska without paying 1,000 bucks per microbrewery. [LB867]

SENATOR KARPISEK: That is correct, but they would have to band together. But you still have to have some sort of distributor when you come in because of the three-tier system that we have. You have to have a manufacturer, a distributor, and a wholesaler

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

Floor Debate
March 09, 2010

or wholesaler and distributor. So there has to be the three. Farm wineries are the only thing that we don't use the three-tier system on. Otherwise, the Liquor Commission is very set on having the three-tier system so someone like Anheuser-Busch cannot open a bar in Nebraska and sell and jump over the middleman. [LB867]

SENATOR HAAR: Okay. I guess what I would appreciate for this particular constituent is that you write me up a little description of what you've just said because they're worried that they won't be able to buy all these microbrews in Nebraska. [LB867]

SENATOR KARPISEK: And I think we've all gotten the same e-mails. I was just too busy this morning to do anything but find facts about them. I haven't got them e-mailed back. But there is a lot of misinformation out there, either...I don't think anyone is meaning to put it out. They're concerned, and I would be concerned too. But this does not affect the way that they can come in. They can still pay. A lot of other states have the same thing. A lot of other states do it differently. But they all charge somehow to bring a product into their state. [LB867]

SENATOR HAAR: Okay. I would yield the rest of my time to Senator Karpisek, if he wishes. [LB867]

SENATOR STUTHMAN: Senator Karpisek, you have 1 minute and 38 seconds. [LB867]

SENATOR KARPISEK: Thank you, Mr. President. Thank you, Senator Haar. I appreciate. I didn't bring up much in my opening or at all the three-tier system that we have in Nebraska. Again, Anheuser-Busch, anyone, Boulevard, I should quit picking on Anheuser-Busch. They're just...it's easier to relate with them. Boulevard cannot ship in and start their own bar. They have to go through a distributor and a wholesaler and then a retailer. That's the way that the Liquor Commission keeps... [LB867]

SENATOR STUTHMAN: One minute. [LB867]

SENATOR KARPISEK: Thank you, Mr. President...keeps track of all of these things and how we go about doing our system so we can tell who's doing what, how we can enforce our laws if they're not being adhered to now. When I first came here, I didn't think too much of the three-tier system. What I've learned so far is that the three-tier system does protect the state, does help the Liquor Commission enforce our laws, and we need to do everything we can to keep it in place. Thank you, Mr. President. [LB867]

SENATOR STUTHMAN: Thank you, Senator Haar and Senator Karpisek. (Visitors introduced.) Senator Pirsch, you are recognized. [LB867]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I appreciate the comments that have been put forward here today and I, like Senator Haar, have also

Floor Debate
March 09, 2010

received these inputs from constituents. And I guess their concern, if I understand it correctly, centers on...kind of falls along the lines of the big guys versus the small guys and the ability to pay such a 500 percent increase would harm disproportionately the small guys at the expense of the big guys was kind of the concern that was put forward to me. And so towards inquiring in that area, I wonder if Senator Karpisek may yield for a question or two. [LB867]

SENATOR KARPISEK: Yes, I will. [LB867]

SENATOR STUTHMAN: Senator Karpisek, would you yield to questions from Senator Pirsch? [LB867]

SENATOR KARPISEK: Sure. [LB867]

SENATOR PIRSCH: And with respect to this increase under your bill, that would affect, and tell me if I'm correct, over...what's the number of importers that that would affect? [LB867]

SENATOR KARPISEK: I believe it's 160 roughly. [LB867]

SENATOR PIRSCH: A hundred and sixty. Is there...is it possible to have a listing of these? I would assume that, you know, the Belgium company now, Anheuser-Busch, would constitute 1 of those 160 and they, as I think was mentioned earlier, would compose about 50 percent of the market for beer here. And then obviously, and I don't know if they're formally joined but at least joint ventured, MillerCoors would probably take whatever is left, a lion's share of that. So of the 158 companies then, importers that would comprise...do we have a breakdown so that we can tell who is affected, who else would be caught besides the... [LB867]

SENATOR KARPISEK: I do have a list, Senator, and we'll try to get that around. [LB867]

SENATOR PIRSCH: Could you just comment in general about who? I mean you indicated these would not be smaller in terms of microbreweries who are smaller players, small businesses. [LB867]

SENATOR KARPISEK: I don't think small business as I think of small business, Senator. Just let me say Shelton Brothers, Inc., from Belchertown, Massachusetts; Win-It-Too, doing business as Global Beer Network of Middleton, Massachusetts; see Avery Brewing Company, Boulder, Colorado--I'll talk to Senator Avery later about that--New Belgium Brewing Company, Fort Collins; Pioneer Distributing, Sterling, Colorado; Jinro America, Inc., Los Angeles, California; Santa Fe Brewing, Santa Fe; Shaw Family, Rio Rancho, New Mexico. Of course, I can't tell you what some of these

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

Floor Debate
March 09, 2010

exactly distribute, but I'm sure that it's enough to do the \$200. And it may be more than one brand that they also import. [LB867]

SENATOR PIRSCH: I see. And just kind of a follow-up, you mentioned \$200. [LB867]

SENATOR KARPISEK: Currently. Currently it is \$200 and LB867 would bring it up to \$1,000. [LB867]

SENATOR PIRSCH: Okay. Well, that's the line of inquiry that I had just received from constituents concerned that, with respect to an increase, it would be easier to weather that increase if you had deep pockets, the larger players at the expense of the smaller players and that, therefore... [LB867]

SENATOR STUTHMAN: One minute. [LB867]

SENATOR PIRSCH: ...there would be less competition. And so I do appreciate the conversation. I'll listen intently as the dialogue continues. [LB867]

SENATOR STUTHMAN: Thank you, Senator Pirsch and Senator Karpisek. Senator Coash, you are recognized. [LB867]

SENATOR COASH: Thank you, Mr. President and colleagues. I wanted to share with the body some of the things I've learned since we originally passed LB867 and some of my colleagues have already addressed this, but I want to echo some of it. I want to talk a little bit about new industry or a growing industry not only in our nation but within the state of Nebraska, and that's the craft beer industry. It is an industry I believe that has great potential in our state, and we need to pay attention to that. I got some feedback from a constituent, as I'm sure many of you have, I'm going to share some of that feedback with you. While it may be tempting to raise revenue from out-of-state suppliers, the people who will bear the burden will be the craft beer drinkers in our state. Having been deeply involved in the craft beer business, I can tell you \$1,000 will stop many small breweries and wineries from importing to Nebraska. The mega breweries will not be phased, however, and the craft beer drinker will suffer from the lack of choice. The availability of craft beer in Nebraska has improved to a great deal in the last few years (sic) and this bill could roll back some of those gains. A few years ago my friends and I would regularly travel to Kansas City or Ames, Iowa, and buy import beers unavailable here, spending \$200 to \$400 on each trip, sometimes more. We've even taken bus trips to breweries in other states and with stopovers loading up on craft beer. These trips are much rarer now that the choice of beer has been improved within our state. So, colleagues, I think what this...what my constituent here is trying to share with us is that this industry depends on the availability of product to promote and market...to be able to be promoted and marketed in our state. And we have to keep that in mind. Now I will say to those brewers: Where were you during the hearing? It was public,

Floor Debate
March 09, 2010

could have been there. Here's the lesson that I'm taking back from it. This bill could impede the growth of an industry I think has great potential in our state. Because when we talk about growing an industry, what are the first steps? We have to start with availability and marketing of the product. LB867 could have something to do with that, and I think it's important that the body does take that into consideration. Thank you, Mr. President. [LB867]

SENATOR STUTHMAN: Thank you, Senator Coash. Senator Nelson, you are recognized. [LB867]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to ask a question or two of Senator Karpisek. [LB867]

SENATOR STUTHMAN: Senator Karpisek, would you be willing to answer a question from Senator Nelson? [LB867]

SENATOR KARPISEK: Yes, I will. [LB867]

SENATOR NELSON: Thank you, Senator Karpisek. I'm trying to get my hands around the mathematics here. I think that the fiscal note says it would be an increase of about \$490,000 in revenue. Is that your reading of that? [LB867]

SENATOR KARPISEK: That is correct. [LB867]

SENATOR NELSON: If we go from \$200 to \$1,000, that's an \$800 increase. And when I divide through by that, I come up with over 600 entities. Now you keep talking about 160 different outfits being affected here. And I'm just a little bit concerned, and I haven't made up my mind on this, but we talk about the biggies--the Anheuser-Busch and the Millers, but those are the biggest ones. Are we going to be affecting a lot of smaller outfits? The second question I have, if they can form associations, suppose over in Iowa you have 10 or 12 brewers that form an association and then they have a single distributor, as I understand it, that would pay the \$1,000, we're actually cutting our revenue by a great deal if that sort of thing happens and we pass this. So could you address those two questions that I have? [LB867]

SENATOR KARPISEK: I will. And you may be right that we will...we may have less people that ship in. And I think Senator Wightman asked that during General File, if we'll have less. And I said we probably would, however, they can band together and come all at once. You did catch me misspeaking and there are 600-and-some. I don't know where I got the 160, probably another bill and I apologize for that. There are over 600, 862 maybe. My thought is none of these are Nebraska businesses. I won't go farther on your time, Senator. [LB867]

Floor Debate
March 09, 2010

SENATOR NELSON: (Laugh) So we're going to stick it to Iowa and Missouri and all the Kansas City people and make them help us out with our revenue. Would that be what you would have continued with, Senator Karpisek? [LB867]

SENATOR KARPISEK: It seems that that's what they're doing to us because I talked about the other ones that we have. And, Senator Nelson, you did vote for this bill both times so I guess you must have wanted to do that too. [LB867]

SENATOR NELSON: Well, Senator Karpisek, I'm afraid I must have been led by the wrong figures and math when I did that. No, I appreciate your answers. Yes, perhaps...and I'm as much to blame on this as any other member of the body. Perhaps we should have asked some of these more pointed questions at that time. It seemed like a good idea; maybe it's still a good idea. But whenever our Governor vetoes and gives some cogent reasons, then I think we have to take a close look at it, whether we missed a few things along the road. Thank you, Senator Karpisek. Thank you, Mr. President. [LB867]

SENATOR STUTHMAN: Thank you, Senator Nelson and Senator Karpisek. Senator Janssen, you are recognized. [LB867]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I certainly take the Governor's veto very serious. There's only been two of them in my short time here in the Legislature and ironically both of them have been Senator Karpisek's both times, so I don't know if there's something to that or not. But would Senator Karpisek yield to a question? [LB867]

SENATOR STUTHMAN: Senator Karpisek, would you yield to a question from Senator Janssen? [LB867]

SENATOR KARPISEK: Yes, I will. [LB867]

SENATOR JANSSEN: Senator Karpisek, can you...do you remember the question I asked you about this on General File? [LB867]

SENATOR KARPISEK: No, I don't, Senator Janssen, sorry. [LB867]

SENATOR JANSSEN: Do you remember the question I asked you on Select File about this bill? [LB867]

SENATOR KARPISEK: There probably wasn't one because there was nothing on Select. [LB867]

SENATOR JANSSEN: Which tells me I actually didn't ask you any questions on this,

Floor Debate
March 09, 2010

and I voted for it every time it came up. And I intend to stick with that today. I voted with it at the time because it made sense at the time. And I don't think anything has changed over a couple of weeks. I do believe the Governor has shed a different light on this and for that I appreciate. I don't think it is enough of a light to change where I stand on this particular issue. A couple of things came up that big business makes a lot of money so they should be able to afford this. I disagree with that. Just because a company can afford to pay something doesn't mean us as a legislative body get to decide that we get to add a fee up or increase the fee just because. I don't feel that this was brought or raised just because. I think there was sound reasoning for this increasing. I know the reason, another reason that they brought forward as it hadn't been done in a long time. I disagree with that, but I don't think that was the sole reason. That's just something you say to probably get people to vote for it and get people to vote for it I think overwhelmingly, which did happen. And the final thing that I don't agree with is that we can't sit here and use as an excuse, well, it doesn't affect us; it's other states. I own a company that works in all of the states so I always pay attention to that when we start doing stuff like that. All that said, I voted for this bill and I'm going to stand with this, and I'm going to support Senator Karpisek in his override effort. With that, I'll yield the balance of my time, if he'll take it, to Senator Karpisek. [LB867]

SENATOR STUTHMAN: Thank you, Senator Janssen. Senator Karpisek, you've been yielded 2 minutes and 36 seconds. [LB867]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I appreciate Senator Janssen's words, and thank you for the time. I didn't think that's the way he was going in the beginning, so he has me a little flatfooted. I agree with Senator Coash that this is a...the craft breweries are a lucrative business, somewhere that it would be a good place to go. Remember, this doesn't affect in-state breweries. I think we're missing that. Senator Janssen doesn't think we should go there on charging other states more. I understand what he's saying. I also want to say it doesn't affect Nebraska taxpayers. It may affect that your bottle of beer goes up a trillionth of a cent here or there, so I would be the first one to not like that, Senator Janssen. I do think that we discussed this. I do apologize that I gave you the 160 number. I don't know where I came up with that one. But there are other states charging this much and more or they're doing it in different ways. I know that we've all been asked about why do we have so much higher income tax than other states? Why do we have so much higher property tax than other states? I would venture to guess that you say, well, they bring it in, in different ways. Either Wyoming has coal or Kansas has a lot of oil wells on the south side. [LB867]

SENATOR STUTHMAN: One minute. [LB867]

SENATOR KARPISEK: Thank you, Mr. President. I would venture to say that every state around us has gambling, but I don't want to take the discussion there. But we always have a reasoning for these things. This is another thing that if states are lower

Floor Debate
March 09, 2010

they bring it in, in another way. They charge per label. Some of the states do not have a three-tier system. Those states may be in the business of being the wholesaler. They bring it in and the retailer has to come in and buy the beer or the alcohol from the state, so the state gets their cut of it. So that is a difference in some of these states than what we do. I'll stop on that and pick it up later. Thank you, Mr. President. [LB867]

SENATOR STUTHMAN: Thank you, Senator Karpisek. Seeing no other senators wishing to speak, Senator Karpisek, you are welcome to close on your motion to override. Senator Karpisek. [LB867]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I agree with Senator Nelson. Anytime that a Governor vetoes a bill, we do have to take more of a look at it. I will not agree if anyone feels that they have to vote with the Governor just because he overrides a bill. Senator Janssen is correct. In the last two years I have been so far the only one that has been vetoed. I don't know if that's because I have bad bills or I can get bad bills passed or what it really amounts to. I assure you that it is nothing personal, I hope, and nothing on my side of doing an override. I do think that this bill will bring in...I know it will bring in more money. It isn't a tremendous, huge amount. And if no one really wanted to go up that much, where were anyone...where was anyone prior? I've talked about would be willing to negotiate. I brought it up in committee. I brought it up many times. Everyone said, no, I think that's fair; other states are going to \$750 to \$1,000, I think you're all right; we probably won't visit this again for a long time. That's where we were. That's where I'm going to stay. I don't think this is going to hurt any businesses to the point of them not shipping in. There may be a few for a while, but I'll guarantee that they will probably come back around. Again, I'm the last person that doesn't want to have business come in, different kinds of beers, different kinds of wines. I started to talk a little bit about the other states that don't have the three-tier system. That might be a pretty sweet deal if we could wholesale out alcohol. Iowa did it for quite a while. You couldn't even buy distilled liquor by a bottle. You had to go to a state shop to buy it. Obviously, they're not there anymore. They don't do that anymore, but for a while they did. They're making money on that business. We do not. We collect our fees, we collect our taxes on it, and otherwise we stay out of it. Again, I don't really cherish trying to override the Governor. It isn't a fun job. But he has his say and I have my say and we as a body have our say. I know that it puts a tremendous strain on senators on which way to go. The Governor has considerable power. I understand that. We only have 22 days left in session also. We have to think about what we're doing. We have to think about how we can bring some money into this state, how we can do something not to cut programs. I don't feel that it's a tax increase. It's a fee. And I hope that everyone will stick to their vote on Final Reading. If it's good enough for Final, it's good enough for an override. I stand by that. I hope everyone else does. Mr. President, I would like to ask for a call of the house. [LB867]

SENATOR STUTHMAN: A call of the house has been requested. Members, all those in

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

Floor Debate
March 09, 2010

favor of the house going under call vote yea; all those opposed vote nay. [LB867]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Record please, Mr. Clerk. [LB867]

CLERK: 40 ayes, 0 nays, Mr. President, to place the house under call. [LB867]

SPEAKER FLOOD: The house is under call. Senators, please record your presence. Those senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Fulton, Senator Ashford, please return to the Chamber. Senator Karpisek, all senators are present or otherwise accounted for. A roll call vote has been requested. Mr. Clerk, please read the roll. The question before the body is, shall LB867 become law notwithstanding the objection of the Governor? Mr. Clerk. [LB867]

CLERK: (Roll call vote taken, Legislative Journal pages 783-784.) 38 ayes, 9 nays, Mr. President, on the motion that LB867 become law notwithstanding the objections of the Governor. [LB867]

SPEAKER FLOOD: The motion is successful. I do raise the call. Mr. Clerk, while the Legislature is in session and capable of transacting business, I propose to sign and I do sign the certificate that reads LB867, having been returned by the Governor with his objections thereto, and after reconsideration, having passed the Legislature by the constitutional majority, has become law this ninth day of March 2010. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR332, LR333, LR336, LR337, LR338, LR339, LR340, LR341, LR342, LR343, LR344, LR345. Members, before we return to the agenda, Mr. Clerk, are there any items? [LB867 LR332 LR333 LR336 LR337 LR338 LR339 LR340 LR341 LR342 LR343 LR344 LR345]

CLERK: I do, Mr. President. A confirmation report from Health and Human Services Committee; LB849 and LB1110 are reported to General File with committee amendments attached, those reports signed by Senator Gay, as Chair of the Health and Human Services Committee. In addition, Mr. President, a certificate and communication to the Secretary of State regarding the override of LB867. (Legislative Journal pages 784-785.) [LB849 LB1110 LB867]

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, we now return to the agenda as we left it upon recess this morning. We return to Senator Utter's LR284CA. Before we take the lights that are currently on, we will proceed now to Senators Loudon, Hadley, and Janssen, in that order, as those were the lights left on at the recess this morning. We continue discussion on General File debate of LR284CA. Senator Loudon, you are

Floor Debate
March 09, 2010

recognized. [LR284CA]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the body. As we had our discussion before lunch on Senator Utter's bill, LR284CA, to put this on the ballot, I want to point out that it hasn't been that many years back since we really overhauled the system and got the child support collection and disbursements in the State Treasurer's Office. It hasn't been that many years since we've had it working, so really this has been streamlined not that many years back. If you would look on...Senator Utter has mentioned what Minnesota has done, and if you look on your machine, Minnesota has what they call Minnesota Management Agency. And all that is, is an agency similar to what we have and the State Treasurer is doing now, and they handle various claims such as child support and the College Savings Plan and that sort of thing. So I don't know as by getting rid of the State Treasurer you'll gain anything as far as saving any money. I think you'll just either probably start up another agency someplace or else another agency inside of one. And let me point out that when we first...several years ago when I first came down here that when this child support was in, whether it was in Health and Human Services or where it was at that time, but it was a nightmare. It was hard for people to get their money. The district courts either handled it and the county attorneys, and there was people that couldn't get their child support checks collected. And finally when we got this a going down here, and I think it was Ron Ross was the State Treasurer at the time that finally got it all put together and got it organized and got it working. And since then I don't know how many of you have had calls from constituents looking to find their child support payments, but I'd guess that there's very few from what there was several years ago. Because that used to be a major obstacle, is we'd have to try and have them work their way through for these things. So I think that it's probably good to have the discussion on this. And I admire Senator Utter for being tenacious on hauling...on this all day long or the bigger part of the day. But I do think that this is probably an exercise in futility. I don't think you're going to gain anything by changing it or by putting a ballot in front of the people. As I've asked before, what will it cost? There has been...no one has said anything, what it's going to cost to put this before the people and to go and figure out a transformation. So really we don't have any cost-benefit ratio or nothing. We don't know if we're going to save any money or not. I've been down this road before when we were supposed to pass legislation that was going to save money and that was LB126. And since then, since that went through, we're \$280 million more in state aid than we were before LB126. So you got to be very careful about what you're going to streamline and how it works. Usually you could probably go ahead and look this State Treasurer's Office over, and they're probably streamlining about as best they can. There's about so much work that has to be done, and I don't care what agency you put it in, the work is still going to have to be done. There will have to be a number of people to take care of it. So other than the fact to say that we don't have a State Treasurer and we turn around and have some kind of a state management director or someone that's appointed by the Governor or, as some states, they elect them by the Legislature, I don't know as we would gain anything by that. With that, I

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

Floor Debate
March 09, 2010

cannot support the bill before us. And with that, I return my time. Thank you, Mr. Speaker. [LR284CA]

SPEAKER FLOOD: Thank you, Senator Louden. Senator Hadley, you are recognized. [LR284CA]

SENATOR HADLEY: Mr. President, members of the body, I kind of find it a little unique that we're looking at a particular unit, the Treasurer's Office, and I liken it to what I call the bombardier theory of management versus the infantrymen theory of management. The bombardier theory of management says if you're far enough away of the problem you can make all kinds of solutions. An infantryman is the one that's down on the ground that has to work face to face with the problem. We were here last November. We cut \$335 million out of the budget. We cut state agencies 2.5 percent this year and 5 percent next year, right? Did we get all up in the air and say we want a plan from every state agency as how they're going to cut it? Do we assume that they're not going to have less services? Do we assume that they aren't going to have less people? Do they assume that they can't get the job done? No. We just said what? We're cutting you 2.5 percent, we're cutting you 5 percent. Yet now, when we have an organization and we have names and people and dollars in the jobs, we say, oh, wait a minute, we have to have a plan; we have to figure out how we're going to do this before we even think about it. If we're talking about how large things are and why it's important that people report to the...or that agencies report to the people, Health and Human Services has a billion dollar budget. Why don't we have an elected head of Health and Human Services so they can be directly responsible to the people? Department of Education is about a billion dollars. Last time I checked, the people do not directly elect the commissioner. We're worried about the Department of Revenue maybe doing some of these duties. What do they handle now? They handle income tax and sales tax. What, probably 90 percent of our revenues come through that department? I think they probably do a pretty good job. I guess I have a real problem of looking my constituents in the face and saying to them, I don't think you have the ability to decide yes or no on this issue. We need to look at it as a Legislature and decide yes or no and decide no. Our job is to let the people tell us yes or no, then it's our job to implement the plan if they say yes. That's why we're here. It isn't to develop the plan first and then take it to the people. Let the people decide is this good or bad. And I'll tell you what: From what I've heard, people are fed up with us not doing things to try and streamline government. And if we sit here and again say, oh, I think we could stall for four or five more years if we plan, right, and by that time maybe revenues will turn up so nobody will be quite as interested. Someone said, oh, it's only going to save \$150,000 or \$200,000 or \$400,000. We killed some bills in Revenue for \$3,000. Is that important? I urge you to support AM1906 and LR284CA to give it to the people to tell us yes or no. And if they say no, they've spoken that they want that elected official, they want that office. If they say yes, then it's our job, not the new Treasurer's job, it's our job in the next four years to dismantle that, put the duties out in other state agencies,... [LR284CA]

Floor Debate
March 09, 2010

SPEAKER FLOOD: One minute. [LR284CA]

SENATOR HADLEY: ...make sure we get the job done and done right. If things aren't done right in departments right now, we hold their feet to the fire. Why wouldn't we do the same when we put these duties out? Again, I urge your support of both the underlying amendment and of the bill. Thank you, Mr. President. [LR284CA]

SPEAKER FLOOD: Thank you, Senator Hadley. (Visitors introduced.) Senator Janssen, you are recognized. [LR284CA]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. It's kind of interesting listening to Senator Hadley there. I believe it is our job to plan before we implement stuff like this. I will most likely be supporting Senator Hadley on some ideas to plan the way hospitals are formed before throwing it out there just for people to absorb out in the public because I think that's our job, is to make sure there's a plan if we're going to do something along these lines. Sometimes we ask for interim studies and we say, well, that's going to basically kill the bill. In this case, I would say we need an interim study and if there's been one in years past, I think we need to redo it and take a look at it in real time and take a look at some of these states that have implemented it. I'm not saying that LR284CA is a horrible idea. On its premise, it says it's going to reduce government. I need to see that, because at present I don't believe that. I think what you're doing is, in the name of reducing government, which is a very, very big buzzword down here, you are going to expand government. You talk to anybody from any of these states, I don't hear them jumping up and down talking about the cost savings. The people that won't say much about cost savings, guess what? Those are people that were hired because there is no state treasurer. So you're asking them to speak out against their own job in that case and say there is no cost savings. I just keep going back to the points I made this morning, and I don't want this to get lost. I think by doing this we're going to force something on the ballot. It will abolish the Treasurer's Office. I think that...I guess if I'm handicapping the race, I'm saying it's going to...it would pass. We would no longer have a State Treasurer in office if this makes it to the ballot, just like we wouldn't have a District 15 if it made it to the ballot, we wouldn't have a District 7, and I could go on down the line. I hate to pick on Senator Nordquist and myself only. But I'm just saying right now is not the time. It will get on the ballot and it will pass. I would surmise that almost any political office on the ballot, should we keep the office or not, would not last, especially through this election at present. When we get calls right now to our office, and I got them over the lunch hour, we get calls about child support to our office, call the State Treasurer's Office, it gets handled. We handle that. College Savings Plan, I have...they just enrolled hundreds of thousands of students in that or soon to be students, future students in Nebraska, two of which are my children. We get calls on that. We know where to send them. Most likely that's...we're going to have a director of child support, we're going to have a director of college savings, we'll

Floor Debate
March 09, 2010

have director of any other program. This is an expansion of government. It would take an interim study to figure this out, to find out if maybe it is or it is not. I think that interim study would come back and say you would be expanding government. You would be adding more positions. They will not get absorbed. I think that's ludicrous. Senator Hadley mentioned we asked across-the-board cuts, 5 percent, 2 percent, we asked for those cuts. They're letting people go; they're not retaining positions. What do you think these, whoever has to "absorb these positions," what do you think is going to happen? They're going to need to hire more people. You can't ask them to cut and then ask them to add and take over programs. That just doesn't make sense. It just doesn't. We've already talked about transparency. You're going to have less of that. So in my opinion, and there's no facts that say otherwise, that this does not reduce government so what LR284CA most likely does is expands government and certainly reduces transparency. Now we don't have this election every four years. We can't tell the State Treasurer that he's doing a good job or a bad job anymore if we vote this out today and most likely it will pass... [LR284CA]

SPEAKER FLOOD: One minute. [LR284CA]

SENATOR JANSSEN: ...the voters. Thank you, Mr. President. This is an issue I followed through committee. I opposed it for these same reasons. Sometimes we get so caught up into a buzzword: less government. Everybody loves less government. In this case, it's an expansion of government. If you wanted less government, I had a great bill for you earlier this year. It got filibustered. That would have been less government. That's actually less government. This is an expansion of government. You vote for this bill, you're voting to expand government, increase costs, and you're voting for less government transparency. Thank you, Mr. President. [LR284CA]

SPEAKER FLOOD: Thank you, Senator Janssen. Senator Fischer, you're recognized. [LR284CA]

SENATOR FISCHER: Thank you, Mr. President and members. I'm a cosponsor of this legislative resolution. I think it's great, and I would certainly like to thank Senator Hadley for his comments because I think he just hit it on the nose. Senator Hadley told us what this does so I hope you listened because I don't want to have to repeat everything he said. And I really thank Senator Utter for introducing it. You know, when we campaign and we're out there and we're running for election, we all say we're going to streamline government. We all say we're going to look for efficiencies and we do. When we get in here, we do, all of us. We try in our own way to find ways to make cuts and to make it work. Well, I believe this is something that we need to vote for because we need to put it out there and we need to have the people vote on it. And with all due respect to my colleague, Senator Janssen, who said it's going to expand government, I couldn't disagree with him more. You know, I just had lunch with an official with the Department of Revenue. And he told me over lunch that his department could assume all the

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

Floor Debate
March 09, 2010

collection duties that are currently done by the State Treasurer without adding one new person. That does not expand government. There are things we can look at. There are things that we can do. I've heard talk about, well, the Legislature, we're micromanaging and we're trying to get in there and tell the State Treasurer or whoever would assume that if that position would go away, what are we going to do? What are we going to do? Well, we've got four years to figure it out. This body has four years to figure it out if the people want this done. And as for micromanaging, we shouldn't be doing that. We don't do it with Health and Human Services. We don't do it with the Department of Roads. We don't do it...now, Senator Lathrop...we don't do it with the Department of Roads, we don't do it with the AG's Office, we don't do it with any other office. So why are we so worried about what we're going to do with the State Treasurer's Office? If the people vote for this, and I happen to have faith in the people, if the people vote for this and the office is abolished, a plan will be formed. Savings will be found. And I couldn't agree more with Senator Hadley when he brought up sitting on Revenue Committee. And he talked about them killing bills right and left, and we all love them for doing that. We know deep in our hearts we truly love them for doing that. But they kill those bills if they have a small fiscal note. I don't happen to pooh-pooh that \$100,000 or \$200,000 that may be saved. I think it will be more. But I don't discount that \$100,000. I've looked at the state aid figures, Senator Adams, and I've looked at my districts, what they're losing in state aid money. Boy, that extra \$100,000, having that in the General Fund, that would help some school districts. That would help build some roads. That would help do a lot of things that I believe are truly the functions of government and that need to be done. We have responsibilities within this Chamber. We have responsibilities in this branch of government to look for savings like we promised our constituents. You know, there may be that feeling out there that's antigovernment. [LR284CA]

SPEAKER FLOOD: One minute. [LR284CA]

SENATOR FISCHER: I happen to think it's justified. But I also give the people, I give my constituents, and I give the citizens of this state a lot of credit. I believe in their intelligence. I believe they're informed voters. And I believe that after studying an issue they will make a decision that they believe is right with regards to this bill. And I believe we need to pass it and get it on the ballot so that they can do so. Thank you, Mr. President. [LR284CA]

SPEAKER FLOOD: Thank you, Senator Fischer. Senator Dierks, you're recognized. [LR284CA]

SENATOR DIERKS: Thank you, Mr. Speaker. Members of the Legislature, I, too, stand in support of Senator Utter's constitutional amendment change. Maybe we're being a little innovative here, but, on the other hand, I think it's an opportunity for us to allow the second house of this state to make a decision. And this is one of the ways we can do that. So I fully support what Senator Utter is doing and I hope you will too. Thank you,

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

Floor Debate
March 09, 2010

Mr. Speaker. [LR284CA]

SPEAKER FLOOD: Thank you, Senator Dierks. Senator Carlson, you are recognized. [LR284CA]

SENATOR CARLSON: Mr. President and members of the Legislature, I'm going to refer to something Senator Hadley talked about. He mentioned that in this year after our special session that the various departments were instructed to cut their budgets by 2.5 percent and then in the next fiscal year to cut it by another 5 percent. And he indicated we didn't worry about them having a plan. We just told them, do it, which they will do. Senator Fischer, who I agree with most of the time, had a discussion with somebody in Department of Revenue and they could take over everything that the Treasurer's Office now does and add no staff. I wonder about that. In the last few years, they've gone from 489 employees to 511. The Treasurer's Office has gone from 64 down to 49. So somebody is not moving in the right direction. I registered a concern this morning, and I still have a concern, even though I've got a bill, LB609, that was passed into law and the hearing on that bill nobody showed up. The hearing on this bill, nobody showed up. May still be the right thing to do. Maybe it is; maybe it isn't. But I think this is a pretty significant decision so I'm torn between allowing the people to vote because, generally speaking, I would like the people to vote. I go back to Smoke-Free Nebraska. I wanted to have 93 countywide elections and decide whether to be in or out. The people could have made a good decision. They may be able to make a good decision on this. But part of the uniqueness of the Unicameral is the hearing process, and that's the opportunity to be the second house. Nobody showed up. So now are we going to vote to allow the people to make that decision because they have the ability and they know the issues? I don't know the issues on this. I'm trying to learn. And as I stand here, I haven't really made up my mind as to which way I'm going to vote on this. It's a big decision. It's an important decision, and we simply want to make the right one. Thank you, Mr. President. [LR284CA]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Karpisek, you are recognized. [LR284CA]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. When Senator Utter brought this bill to the Government Committee, I kind of thought maybe he was just rattling swords a little bit and have a little fun with it. And then I heard that he wanted to prioritize it so I went and asked him, you know, are you really going to prioritize that? He said, yeah, I'm serious; I think we can save some money. And so my whole train of thought on it changed, and I think that he's on to something. And if nothing else, he's bringing some things to light on how can we save money. Can we or can we not? I think that he's...I know he's put a lot of work and time into this to try to research it. I guess I still don't know how I feel about it. I don't know if it's a good idea or not, but I figure, since I'm the one that usually brings some CAs to this floor but can

Floor Debate
March 09, 2010

never get them passed because nobody will let people vote on any of my constitutional amendments, I'm going to support him to put it out to the people. But I would like to remind people that do that today we think that the voters are intelligent, they're smart, we trust them. But, gosh, on a gambling issue, we might not trust them because they might vote against the way that we want to go. And we can't even get one of those out of here for the people to vote on or some other things. I just had to get that in there because I think when we talk about wanting to go to a vote of the people, stick to your guns. And I have to live by my words so I will support Senator Utter. Let this go to the people. But we have to do a good job of educating them on what this is. We have to do a good job of educating ourselves on what this means. I think...I know that this amendment from the Government Committee really helps out--moves it from two years to four years. Whoever would get elected will be the one to close it down should this pass. Again, I think we need to stand by our words, do what we're going to do, say what we're going to do, and then do it. I will support Senator Utter on this. I think it is a good debate. It's a thoughtful debate. He has his facts and figures down. With that, Mr. President, I would be willing to yield the balance of my time to Senator Utter, if he chooses. [LR284CA]

SPEAKER FLOOD: Senator Utter, 2 minutes 15 seconds. [LR284CA]

SENATOR UTTER: Thank you, Mr. President, and thank you, Senator Karpisek. I appreciate the time. I...this has been a very thoughtful discussion this morning, and I appreciate the words of my colleagues who question this measure, my colleagues who don't support this measure, and I value and respect your opinions along with those who do support this measure. We cannot and should not place ourselves in front of the people of the state of Nebraska on this measure. If we as a body are truly interested in downsizing state government and making state government more efficient and modernizing the way that we do things, then I think that this is a proposition that the people of Nebraska need to weigh in on. And so I ask you to consider that when you vote for the amendment, and I'll have more to say... [LR284CA]

SPEAKER FLOOD: One minute. [LR284CA]

SENATOR UTTER: ...when we close on the bill. Thank you, Mr. President. [LR284CA]

SPEAKER FLOOD: Thank you, Senator Utter. There are no other lights on. Senator Avery, you're recognized to close on AM1906. [LR284CA]

SENATOR AVERY: Thank you, Mr. President. I want to say this has been an interesting and lively debate, and I've enjoyed it as a former government teacher. It's been fun because I think that we have all thought deeply about this issue and we've expressed ourselves very clearly. I am going to ask you to vote for this amendment. I'm going to ask you also to vote for the resolution, LR284CA. The amendment, just to remind you

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

Floor Debate
March 09, 2010

what it does, it's very simple. All it does is allow the State Treasurer, whoever that might be after the election this year, to serve out the full term. And the bulk of the term we would anticipate would be used to provide for an orderly transition of the duties of the Treasurer to other offices. I can tell you that the Government Committee expects to be actively involved in this process should this get on the ballot and succeed. I can assure you that we will help make that an orderly process, as I'm sure will...as will Senator Utter and his office. So I urge you to vote for AM1906 and then I urge you also to vote in favor of LR284CA. Thank you, Mr. President. [LR284CA]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the closing on AM1906. The question before the body is, shall AM1906 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Have all those voted who care to? Mr. Clerk, please record. [LR284CA]

CLERK: 36 ayes, 1 nay to adopt committee amendments, Mr. President. [LR284CA]

SPEAKER FLOOD: The committee amendments are adopted. Returning to discussion on LR284CA, there are no lights on. Senator Utter, you are recognized to close. [LR284CA]

SENATOR UTTER: Thank you very much, Mr. President. And at this stage of the game, I'd like to call the house. And while they're assembling, I will make my closing. [LR284CA]

SPEAKER FLOOD: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LR284CA]

CLERK: 37 ayes, 0 nays, Mr. President, to place the house under call. [LR284CA]

SPEAKER FLOOD: Members, the house is under call. Senators, please record your presence. Those senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. You may continue with your closing. The clock continues to run. [LR284CA]

SENATOR UTTER: Thank you, Mr. President. Ladies and gentlemen, I will make this short and sweet. I think this truly is a bill that gives more than...a resolution that gives more than just lip service to the idea of downsizing state government, to the idea of making it more modern, and the idea of making government more efficient. And what I'm asking you to do this afternoon is to step outside... [LR284CA]

SPEAKER FLOOD: Members, the house is under call. Please remain seated. [LR284CA]

Floor Debate
March 09, 2010

SENATOR UTTER: ...I'm asking you to step outside of the comfort zone of the status quo. And admittedly there is risk in asking you to do that, but I think it's a risk that you have to evaluate as minimal. And I have every confidence that the newly elected State Treasurer, if this constitutional amendment is approved by the voters, that the newly elected State Treasurer will work very hard with this body and with the Government Committee and with anyone else who is involved in the transition of this office in making the transition from the elected office to distributing the things that this elected office does to the various departments of the state. I appreciate, as I said earlier, and value all of your opinions, and I respect all of your opinions. And I think we've had a very thoughtful and thorough debate of this, and I'm happy for the opportunity to have it on this floor. And with that, I just want to tell you I hope that you'll hit the green light when we vote on this measure. Thank you very much. [LR284CA]

SPEAKER FLOOD: Thank you, Senator Utter. Members, you've heard the closing to LR284CA. The question before the body is, shall LR284CA advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Senator Utter, for what purpose do you stand? [LR284CA]

SENATOR UTTER: I'd like to have a roll call vote, please, Mr. President. [LR284CA]

SPEAKER FLOOD: Mr. Clerk, please read the roll in regular order. [LR284CA]

CLERK: (Roll call vote taken, Legislative Journal page 786.) 37 ayes, 6 nays, Mr. President, on the advancement of LR284CA. [LR284CA]

SPEAKER FLOOD: LR284CA advances to E&R Initial. I do raise the call. We now proceed to the next item on the agenda, Mr. Clerk, LB1014. [LR284CA LB1014]

CLERK: Mr. President, LB1014, a bill by Senator Haar. (Read title.) Introduced on January 20 of this year, at that time referred to the Education Committee. The bill was advanced to General File. I do have Education Committee amendments, Mr. President. (AM1979, Legislative Journal page 681.) [LB1014]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Haar, you're recognized to open on LB1014. [LB1014]

SENATOR HAAR: Mr. President, members of the body, I'll probably hear some feedback from my firefighter friends, but I think that probably of all the public employees, teachers make the most difference in our lives and the lives of our children certainly. LB1014 is simply a bill that will take any money from the school lands that's due to wind and solar leases and from any portion of a lease attributable to carbon sequestration, if that works out, and put it into a trust fund for teachers. This is new money, new money

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

Floor Debate
March 09, 2010

coming from wind and solar on public school lands, and it will go toward teacher performance pay, not just into regular salaries but into teacher performance pay. It came out of the committee with an 8-0 yes vote. There's no A bill. There was no opposition. And it was supported by the teachers, by the administrators, and by the school boards. With that kind of support, I recommend you move LB1014 forward, and I would welcome cosigners. Thank you very much. [LB1014]

SPEAKER FLOOD: Thank you, Senator Haar. Members, you've heard the opening to LB1014. There are Education Committee amendments, AM1979. Senator Adams, you're recognized to open on AM1979. [LB1014]

SENATOR ADAMS: Thank you, Mr. President and members of the body. What the committee amendment does is this: It recognizes in the aid formula that if there is money coming into a district as a resource, we're going to show it on both sides of the aid formula. So if this bill were to pass and there is money sometime in that fund and it were to be distributed to a school district, it's going to show up on the needs side and on the resource side so that it doesn't inflate the obligation to the state. And that's the essence of what the amendment does. The amendment also grants that if a school district gets the money, they have a budget exception, a spending exception. And the other thing it does is to harmonize the language so that currently, when the State Treasurer exhibits the amount of money that's in the temporary school fund, it would be on the same date that this would be exhibited. So we're really balancing things out here so that there's no impact to state aid. Thank you, Mr. President. [LB1014]

SPEAKER FLOOD: Thank you, Senator Adams. Mr. Clerk. [LB1014]

CLERK: Mr. President, Senator Adams would move to amend the committee amendments with AM2058. (Legislative Journal page 730.) [LB1014]

SPEAKER FLOOD: Senator Adams, you're recognized to open with AM2058. [LB1014]

SENATOR ADAMS: Thank you, Mr. Speaker, members of the body. Besides explaining my amendment here, I'm going to take a little extra time and to talk about this bill for just a moment. A year ago we had a bill in committee that ultimately was a carryover bill, and we've already passed and the Governor has already signed it this year. And what that bill did was to make it possible, if you remember, for wind leases on educational lands. And a year ago the committee discussed this very thing--capturing the money off of those wind leases in a special fund for teacher compensation. I'm going to be very honest with you. I opposed that at the time. I opposed that. And I'm going to tell you why I opposed it and it's something you need to think about here. Every dime we generate off of educational lands goes into the temporary school fund and that money annually is distributed to all 253 school districts, all of them, equalized, nonequalized, it doesn't matter. It goes out to all of them. And it's a resource. It's on the resource side of the aid

Floor Debate
March 09, 2010

formula, which that means that there's presumably less appropriation for the state then because they have this new source, they have this source of revenue. Just pulling this money for leases, putting it into a fund and then sending it back out for teacher pay bothered me a great deal. Now that may seem a bit ironic, given my prior profession, but I was very concerned about how it would impact the aid formula. I was also very concerned about the way that the money was going to be distributed, assuming that it was into this fund. Now here we are, and you notice on the computer it did get my vote to come out of committee. I still have some of the same concerns. I'm going to be perfectly honest with you, I have some of the same concerns. So why did I vote it out this time? Here's why. What this bill does, in comparison to what we were dealing with last year, it pushes teacher pay in an uncomfortable and different position--performance pay, not in lieu of the schedule the school districts all have but in addition to. And that is something of a leap of faith in the education world. And it's one that I truly believe they need to look at. So when Senator Haar brought this forward, I was prepared to say, all right, now we've got something to consider. Did it put away all my concerns about apportionment money going out? No, it did not. I'm going to be straight up with you. But this does push the teacher pay, looking at it from a different perspective--performance. What the bill in essence says is that school boards and their collective bargaining units will get together and determine the performance criteria. Now that's over and above their ordinary pay schedule, and that could be a host of different things. It could be maybe one of the worst--test results for kids. But it could also be test results and multiple other performance things. A lot of school districts have teachers that go above and beyond for a host of different reasons. And the school board might want to say, you know, we'd like to reward that. And that's what this is about. Now what does my amendment do? One of my concerns is that in the original...in the bill, it says that one of the performance mechanisms could be additional graduate hours. My amendment takes that out for this simple reason. Salary schedules right now recognize additional graduate hours so that shouldn't be a performance criteria. It shouldn't be because graduate hours and years of experience are already recognized in teacher pay schedules. So my amendment takes that criterion out and in effect says to school districts, you can't use that as a performance measure for supplemental pay. You're going to have to come up with something different. Thank you, Mr. President. That's the amendment. [LB1014]

SPEAKER FLOOD: Thank you, Senator Adams. Before we return to discussion on General File for LB1014, I do have one announcement. Any senator interested in presiding in the Chair will have an opportunity to learn the system this Thursday morning at 8:15. The class will be offered by Mr. Clerk and we'll start at 8:15 this Thursday. There will be a short tutorial. Please come to the Clerk's desk at that time. I will be made aware of your progress and will hopefully have an opportunity to place some of you in this Chair in the short term. AM2058 is the amendment before the body. Senator Stuthman, you are recognized. [LB1014]

Floor Debate
March 09, 2010

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I would like to ask Senator Haar a question. [LB1014]

SPEAKER FLOOD: Senator Haar, would you respond to a question from Senator Stuthman? [LB1014]

SENATOR HAAR: Yes. [LB1014]

SENATOR STUTHMAN: Senator Haar, in your opening statement you had stated that, you know, this is new money coming from this school land. The way I look at it, is there any money that's not going to be coming to the school land fund? Because the way I look at this is, is you're leasing out the place where this wind tower is going to be and the original lease to this ground generated X amount of dollars. That lease will be taking...will not generate quite as many dollars because of the placement of the wind machines, the right of way to get to the wind machines, and I would just say that, you know, there's going to be less dollars coming from the original tenant of that ground because of the fact that there's going to be a wind tower placed on that. Has there been any consideration of taking a portion of that wind tower lease to compensate for the dollars lost in the lease that the original lessor had paid for the rent? [LB1014]

SENATOR HAAR: Good question. And right now, no, there's no talk of doing that. It would simply be the additional money coming to the school land because of a wind turbine or a solar installation. [LB1014]

SENATOR STUTHMAN: But, yes, I realize that and I support that part of it, but the fact is that there may be an acre or two that isn't being leased to the original person for X amount of dollars and his lease payment to the school land is going to be less than it was last year. [LB1014]

SENATOR HAAR: Gotcha. Well, totally, there's about, I believe, 1.3 million acres of school lands and so there will be some wind turbines and some land taken out but I think it's going to be very small in comparison to the 1.3 million acres. And I'm just thinking on my feet here, but I think trying to adjust for that probably isn't worth the while because, again, such a small amount of that 1.3 million acres would come out for this. [LB1014]

SENATOR STUTHMAN: Senator Haar, I will disagree with you there for the fact that I think that when these...the operation of the owners of these wind towers lease this ground, there should be a lease payment to the school land fund, a said amount that goes to that fund that was originally generating X amount of dollars. Because this...otherwise this fund is going to be short some money. So we're going to be shorting the original intent of where the money went to into the education portion of it and then we're going to be adding the new money to this teacher performance category. I would

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

Floor Debate
March 09, 2010

like to see some of that money, you know, to compensate for what the original lease was on this school land so it doesn't make it a deficit...not a deficit, that it won't generate the amount of dollars that it had the prior year and years to come. That's what I would like to see done. So with that, I think this should be taken under consideration because I don't want to see the school land fund, you know, be short dollars at the mercy of generating money for the Teacher Performance Fund. Thank you, Mr. President. [LB1014]

SPEAKER FLOOD: Thank you, Senator Stuthman. Senator Carlson, you're recognized. [LB1014]

SENATOR CARLSON: Mr. President and members of the Legislature, since I came into the Legislature in 2007 and looked a little bit about school lands and the bureau and what they do, I've thought for most of that time that there's a lot of overhead in that bureau and not enough income that comes and is made available to schools. There's been land that's been sold so the bureau has less land to manage. But I think under their new director that they're evaluating all this and I believe working to increase the amount of money that ends up coming back into the educational system and is available for schools. I am in support of LB1014, talked to Senator Haar about it. In fact, I told him if he didn't bring this bill this session I was going to bring a similar bill next session. I think it's the right thing to do. And I think it offers an opportunity, as wind energy becomes more and more prevalent, that the income from school lands can be increased. It was my thinking from the start that the income that comes in from this source ought to be--I don't like this term but I'm going to say--gravy. It ought to be additional funding for salaries for teachers and not part of the formula. And so I think that the idea of tying it to teacher performance is a good idea and it's a matter of how well this can be carried out on a basis that is fair to everyone. So I thank Senator Haar for bringing this bill. I would like to ask a question of Senator Adams, if he would yield. [LB1014]

SENATOR STUTHMAN PRESIDING

SENATOR STUTHMAN: Senator Adams, would you respond to a question from Senator Carlson? [LB1014]

SENATOR ADAMS: I will. [LB1014]

SENATOR CARLSON: Senator Adams, in the amendment now, how much of this money that comes in, what percentage is then made available for the teacher performance? Was it all of it? [LB1014]

SENATOR ADAMS: Based on the language in the bill, all of the money that is generated off of the wind lease goes into this fund, yes. [LB1014]

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

Floor Debate
March 09, 2010

SENATOR CARLSON: And so this fund is extra dollars. That's part of what makes you uncomfortable. [LB1014]

SENATOR ADAMS: That's correct. It's extra dollars that wouldn't ordinarily go into the apportionment formula. [LB1014]

SENATOR CARLSON: And that's part of what makes you uncomfortable. It's part of what makes me more comfortable... [LB1014]

SENATOR ADAMS: I understand. [LB1014]

SENATOR CARLSON: ...because we can gear it to performance, and so I think it's a good idea. It's going to take some fine-tuning and it's the right thing to do. Thank you, Mr. President. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Carlson and Senator Adams. Senator Haar, you're recognized. [LB1014]

SENATOR HAAR: Yes, Mr. President, members of the body, first of all, the question that the President asked about, the amount of land taken out by these towers and so on, it's kind of the debate my wife and I have that I say that, whether or not you buy a ticket to the lottery, you have about the same chance of winning because your chances are so very small. And I think in this case the amount of land taken out by turbines is going to be so tiny compared to the overall land that it really doesn't make much difference. Then several things I forgot to mention. First of all, just as kind of a refresher, any lands that come out of school...the rental from the school lands are divided equally on a per capita basis. Now this money, even though it's for performance pay, will also be divided on a per capita basis to the schools. There's another part of the bill that says that the money will not be distributed until 2016. So this gives a little time to get some money into that fund because you can't build a turbine overnight. It's going to be a while. And then finally, we left the definition of performance pay fairly general and that also gives us time before 2016 to either decide, as we could with additional legislation, that we want to define the performance pay, exactly what that means, or we can just decide to leave that up to each school...each school board. Thank you very much. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Haar. Senator Giese, you are recognized. [LB1014]

SENATOR GIESE: Thank you, Mr. President, members of the body. Would Senator Haar entertain a question? [LB1014]

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

Floor Debate
March 09, 2010

SENATOR HAAR: Yes. [LB1014]

SENATOR STUTHMAN: Senator Haar, would you respond to a question from Senator Giese? [LB1014]

SENATOR HAAR: Certainly. [LB1014]

SENATOR GIESE: Thank you, Senator Haar. I rise in support of your LB1014 and just had a few questions, a teacher that was in touch with me. Now based on the test scores and performance of test scores, do you want to comment on how your bill would...or how school boards would address this merit pay based on test scores? [LB1014]

SENATOR HAAR: Right. That's a good question. We've left that general for right now and the whole area of performance pay is one that's evolving. Probably the least satisfactory one is where you simply look at teacher...or, I'm sorry, student test scores and make that decision. So by 2016 those kinds of decisions will have to be made depending on where, you know, where things go, how we define pay for performance and those kinds of things. [LB1014]

SENATOR GIESE: Thank you, Senator Haar. One of their fears was that unfortunately teachers are being headed in the direction of teaching to the test rather than the students, and that was one of their fears, another one having to do with the merit pay in a large town. How are we versus a small town? In a large town they wouldn't know if somebody was qualifying for a merit pay; in a smaller town they may, which may be a point of concern with teachers. Any thoughts on that? [LB1014]

SENATOR HAAR: Well, again, we have until 2016 to define exactly what performance pay will mean or decide simply to leave it up to the local, to each local school to decide. I would, though, thoroughly agree that just looking at teachers' performance in terms of how they perform on...how the students perform on tests is a really poor system and I hear that a lot as well. [LB1014]

SENATOR GIESE: And then, Senator, who and...who would be eligible for these...this teacher pay? Would all teachers be eligible for the pay? [LB1014]

SENATOR HAAR: Again, that's up to the definition of performance pay that's eventually decided upon either at the local level or if the Legislature decides to define that in some way. But, yes... [LB1014]

SENATOR GIESE: Well, thank you, Senator. And again, I support LB1014 and thank you for bringing it forward. [LB1014]

SENATOR HAAR: Okay. Thank you. [LB1014]

Floor Debate
March 09, 2010

SENATOR STUTHMAN: Thank you, Senator Giese and Senator Haar. Senator Fischer, you are recognized. [LB1014]

SENATOR FISCHER: Thank you, Mr. President and members. First of all, I'd like to say I support Senator Adams' amendment to the committee amendment. I think that is a reasonable amendment and it's a good idea. So thank you for bringing that. My first response to the bill is, I have a lot of questions on it. Right now the land lease dollars, as Senator Adams says, it goes into that temporary school fund. It's apportioned out. Every district in the state gets a certain amount of money based on the number of students that they have. That means every district in the state gets it whether you're equalized or you're nonequalized. School land in this state was set up at the beginning to benefit all the children in the state. It didn't matter when we became a state if you were an equalized district or a nonequalized district. What mattered was that every child should receive some benefit from that land. If you look at the school lands in the state, and we have hundreds of thousands of acres of them, if you look at where the majority of those school lands are and you draw a circle around trying to find where the center is, use a compass, the office shouldn't be here in Lincoln. The office should be between Mullen and Hyannis because that's where the majority of school lands are in the state. So I think I can speak with some authority and with some experience as a person who deals directly with school lands, with school land leases, and represents the majority of people in this state who have school land and school land leases. You know, if we're talking about just having wind turbines or solar lease money on those school lands going into this fund, this new fund, that's probably not a bad idea. I'm not saying it's a good idea. I'm saying it's probably not a bad idea. My concern is that that just might be the camel's nose under the tent. I want all of the land lease dollars to go into the trust fund that currently exists so that all the children in the state benefit. I don't want this to be an end run, and I'd appreciate if Senator Haar maybe would address this later or Senator Adams. But I don't want this to be an end run around that trust fund that we currently have from land lease dollars that goes to all the children in the state. Because some districts, the majority of my 21 districts, that's all the money they get from the state. That's all the money those children receive. So I don't want this to be an end run, a first step, the camel's nose under the tent to have a new fund set up, that we can now funnel more money to, for performance pay for teachers. [LB1014]

SENATOR STUTHMAN: One minute. [LB1014]

SENATOR FISCHER: Thank you, Mr. President. I am not against performance pay for teachers. As a former school board member, I strongly support performance pay for teachers and I strongly support every individual school district in this state to have the ability right now to be able to pay teachers based on performance. We don't see that right now. So are we making an exception there? Are we saying, okay, this will be performance-based? You know, a few years ago there was money set aside, and I don't

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

Floor Debate
March 09, 2010

remember the bill number on that, and districts could do like a merit pay. Maybe Senator Adams can help me out there. They could do merit pay. Most districts...the administration that I visited with about that, they didn't want to get into making those judgment calls on staff. I'd rather it happened at the district. I don't want it to happen in this body. [LB1014]

SENATOR STUTHMAN: Time. [LB1014]

SENATOR FISCHER: Thank you, Mr. President. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Gay, you're recognized. [LB1014]

SENATOR GAY: Thank you, Mr. President. Would Senator Haar yield to a question? [LB1014]

SENATOR HAAR: Yes. [LB1014]

SENATOR STUTHMAN: Senator Haar, would you yield to a question from Senator Gay? [LB1014]

SENATOR HAAR: Certainly. [LB1014]

SENATOR GAY: Thank you, Senator Haar. Senator Haar, when I was looking at this, you're talking solar energy, wind energy, and carbon sequestration funds. And then I was reading the fiscal note and it said up to a couple hundred thousand dollars. How much money are we talking here, do envision this to be? [LB1014]

SENATOR HAAR: We really don't have any idea because it will have to depend on, for example, probably the development of solar farms. However...I'm sorry, wind farms. However, there was one in southeast Nebraska that...a wind farm, that will probably extend onto school land. So, don't know. [LB1014]

SENATOR GAY: So right now...but in the fiscal note I was looking at, it said a couple hundred thousand at this point, two to five years off, and who knows, it could be a lot more maybe. [LB1014]

SENATOR HAAR: Correct, yeah. [LB1014]

SENATOR GAY: Could it be in the millions? [LB1014]

SENATOR HAAR: We're hoping it will be. [LB1014]

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

Floor Debate
March 09, 2010

SENATOR GAY: Yeah. [LB1014]

SENATOR HAAR: Yeah, as wind develops, we hope there would be a lot of development of wind turbines all over, including school lands. [LB1014]

SENATOR GAY: But assuming that it does grow, which I think there's great potential there, we could be talking a tremendous amount of money here possibly and that's a good thing. Earlier, Senator Haar, I was listening to Senator Adams and I was jotting down questions as...that were popping into my head as you were discussing and Senator Adams. But when we talk about this teacher performance being measured, I think I understood, Senator Adams said that the teachers and the school district would get together and decide that performance measurement, but then I hear you saying someone else would decide. How do we decide the performance measurement though? Is that local or is this by the state board or is this yet to be decided? And if you'd want, I could address that to Senator Adams. Mr. President, I'd address that question to Senator Adams. [LB1014]

SENATOR STUTHMAN: Senator Adams, would you respond to a question from Senator Gay? [LB1014]

SENATOR ADAMS: I will, I will. Senator Gay, currently in the language it would be a negotiated agreement between the school board and the collective bargaining agreement within each individual school district what their criterion would be. [LB1014]

SENATOR GAY: Okay. And that's...I would like that more, I think, than...but in the original bill then? Is that in your amendment then, Senator Adams? [LB1014]

SENATOR ADAMS: That's in the original bill. [LB1014]

SENATOR GAY: In the original bill, okay. [LB1014]

SENATOR ADAMS: Yeah, all I have done in my amendment is to take out a small bit of language that I thought was problematic that suggested that graduate hours could be considered as one of those criteria. [LB1014]

SENATOR GAY: All right. [LB1014]

SENATOR ADAMS: I don't think that would be appropriate. [LB1014]

SENATOR GAY: Okay. And then, Senator Adams, as long as we're talking and you'd probably know this, I'm naive when it comes to school funding. I learn about it every time we discuss these things. But how much money are we talking about in this Educational Lands, Funds that go to the school districts? [LB1014]

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

Floor Debate
March 09, 2010

SENATOR ADAMS: The total amount that is distributed right now? [LB1014]

SENATOR GAY: Yeah. [LB1014]

SENATOR ADAMS: It's in the millions of dollars. I don't have that number in front of me. And what this amount would be, I think Senator Haar stated it correctly, I don't think we have any idea in the year 2016 what we're going to have in that fund. [LB1014]

SENATOR GAY: Yeah, which isn't that far away, quite honestly, I guess, when you look at this. But that's kind of, you know, I hope there is more but on that I feel more comfortable with the idea that the local districts would have control over that performance pay because I know that's, like you said Senator Haar, that's an evolving issue. But...and then also on the amounts of land, are we talking...Senator Haar, would you yield to a question again? [LB1014]

SENATOR HAAR: Yes. [LB1014]

SENATOR GAY: How much land are we talking here throughout the state? I mean, hundreds of thousands of acres or...? [LB1014]

SENATOR HAAR: My understanding is that there's 1.3 million acres. That's pretty close to the amount of land right now in the schools. Now, again, we don't have any idea how much of that would eventually be used for turbines or solar. [LB1014]

SENATOR GAY: Yeah, but I guess...yeah, so the potential is probably... [LB1014]

SENATOR STUTHMAN: One minute. [LB1014]

SENATOR GAY: ...enormous though, and that's where I was getting at. So I'm just listening in to the debate and trying to get some question so that I could make an intelligent answer. I see my own school district came down and supported this and I know they've been trying to do some things. And I think it's a creative way to look for funds and I support that. However, I'm still listening in to the bill. Thank you, Mr. President. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Gay, Senator Haar and Senator Adams. Senator Coash, you're recognized. [LB1014]

SENATOR COASH: Thank you, Mr. President and colleagues. Senator Haar, you really brought us a creative solution and I think what you've done is you've brought what I believe to be your two passions, which is wind energy and education, and you found a bill to stick them both into and I congratulate you for that. But I do have a question for

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

Floor Debate
March 09, 2010

you regarding this bill, if you would yield. [LB1014]

SENATOR STUTHMAN: Senator Haar, would you yield to a question from Senator Coash? [LB1014]

SENATOR HAAR: Yes. [LB1014]

SENATOR COASH: Thank you, Senator Haar. And if you need to defer to Senator Adams on this question, that's fine. This is...we know where the revenue is going. My question would be, if this bill were not enacted or if you hadn't brought this bill and schools had decided to lease part of their land otherwise, where in the formula would that money go without this bill? Where would it go without this? Does that make sense? [LB1014]

SENATOR HAAR: Yes. And I will defer that to Senator Adams. [LB1014]

SENATOR COASH: Senator Adams, would you yield to a question? [LB1014]

SENATOR STUTHMAN: Senator Adams, would you yield to a question from Senator Coash? [LB1014]

SENATOR ADAMS: Yes, I will. Yes, I will. [LB1014]

SENATOR COASH: Thank you, Senator Adams. My question for Senator Haar was, if he hadn't brought LB1014 and schools had made the decision to go ahead and lease part of their lands for these particular activities, where in the school aid formula would the rent leasing revenue go without this bill? What's come...what is...does that make sense? [LB1014]

SENATOR ADAMS: I think it does. Let me take a shot at it. And currently right now, all of the rents and leases off educational lands go into the temporary fund and then those monies are apportioned to all of the school districts, all 253. Even a school district that does not get any equalization aid through TEEOSA will get some apportionment dollars. If this didn't exist, whatever amount of money would be in it, \$10,000 or \$10 million, would go into the temporary fund and be apportioned out the same way it is today on a per capita basis. [LB1014]

SENATOR COASH: Thank you, Senator Adams. That did answer my question. Thank you, Mr. President. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Coash, Senator Haar, and Senator Adams. Those wishing to speak are Senator Hadley, Utter, Loudon, Haar, Fischer, Wightman, and Gay. Senator Hadley, you're recognized. [LB1014]

Floor Debate
March 09, 2010

SENATOR HADLEY: Mr. President, members of the body, I'm getting hoarse. I'm speaking way too much today. But I did want to rise in support because I do believe in performance pay and the Performance Pay Fund, and I think this is a way to get at the problem. I think this is something that all teachers, the NSEA, school districts, school administrators have to look at in the future. I was heartened that we are moving this way. I know a number of you probably saw that the Omaha school district actually put in for a very, very large \$115 million, five-year grant to the Gates Foundation that was going to basically revamp entirely their way of performance pay, their way of paying teachers, their way of training teachers. It required such a match by the actual people of Omaha that they couldn't come up with the money. So I think this is a good start in that direction. I have confidence that districts, working with the teachers and administrators and the school board, can come up with fair and equitable ways to handle the payment of this. I think it's a start. It's a source of funds. I would wonder if Senator Adams would yield to a question. [LB1014]

SENATOR STUTHMAN: Senator Adams, would you yield to a question from Senator Hadley? [LB1014]

SENATOR ADAMS: I will. [LB1014]

SENATOR HADLEY: Senator Adams, I'll ask you the question and then I'll yield any of the remaining time I have to you. Do you have any concern regarding this in regards to the school land fund? Do you think this is an appropriate use, an appropriate way to use the funding that we will get from these wind leases? [LB1014]

SENATOR ADAMS: Senator Hadley, you paint me into a difficult corner, because as I said in the introduction to my amendment, one of my great concerns about doing this, not only now but a year ago, was that we are in effect taking money from ordinary apportionment and segregating it into a different fund that would eventually be going out. Now the difference this time is it is for performance pay, versus a year ago when we were talking about this, was just simply to give to school districts to put into their regular pay schedule. And if it wasn't for this performance mechanism that's here now, I probably would not support this bill, because I am concerned about the monies going out. Now, one of the questions you've got to ask yourself, though, how much money is going to be in this fund? And I don't think anybody has got an answer to that. If we're...if by the year 2016 there's...let's say there's a million dollars in the fund--I'm purely speculating--then understand, we'll be taking that million dollars and we'll be apportioning it out to all 253 school districts. So one might ask the question, what good has it done? The other side of the story, what if we got \$30 million in there? Now, that would raise a question in my mind. Should a portion of that \$30 million be into the regular apportionment formula to offset aid? Then it's too much. I'm not sure what the magic number is. I don't know that I've answered your question, Senator Hadley, but I

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

Floor Debate
March 09, 2010

understand your concern and I share it. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Hadley and Senator Adams. Senator Utter, you are recognized. [LB1014]

SENATOR UTTER: Thank you very much, Mr. President and colleagues. I'd like to just pose a couple of questions, if I could, to Senator Adams, please. [LB1014]

SENATOR STUTHMAN: Senator Adams, would you respond to a couple of questions from Senator Utter? [LB1014]

SENATOR ADAMS: I will. [LB1014]

SENATOR UTTER: Senator Adams, as I have visited about education issues, particularly in the recent time, the salary levels for beginning teachers have always been of great concern. And it seems to me in a performance-based salary system there may not be much there for beginning teachers. Your response, please. [LB1014]

SENATOR ADAMS: Well, I think you're right initially when you say that that beginning pay is low, and frankly, and I may be digressing a little too much, but one of the bills that we passed last year that would allow graduate work to be covered within our loan forgiveness program, part of the intention was there to incent new teachers that are looking at that low salary to move over on the pay scale, and the way to do that is to get the graduate hours. This money can be structured any way that a school board and its collective bargaining unit wanted to structure it. Now, I suppose, as I think back on my 31 years, was there a first-year teacher that was so good that they might warrant some performance pay? I can only think of a couple, but it doesn't take long for the cream of the crop to start showing up. And depending on how school districts wanted to structure it, it could be in the first year. Most probably it's going to be some time later down the line. [LB1014]

SENATOR UTTER: Senator Adams, I know that you have been...that you probably covered this, but can you help me with how this is going to be distributed throughout the state? [LB1014]

SENATOR ADAMS: Yes. This money would be distributed through our regular apportionment formula. And very simply what that is, doesn't matter whether the school district is equalized or nonequalized, it's based on census, student count. [LB1014]

SENATOR UTTER: So it's on a per student basis? [LB1014]

SENATOR ADAMS: It's on a per student basis, which I might also add that includes students that are in private school. So you may have a parochial school in town and a

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

Floor Debate
March 09, 2010

public school in town. Both populations of students are counted towards that public school's population to determine on a per capita basis their distribution. [LB1014]

SENATOR UTTER: Not knowing, it seems to me like we're earmarking funds in this bill, and I want you to help me with this, too, that we're earmarking funds with this bill and mandating that they be spent for a particular purpose. What happens if down the line that this grows and grows and grows, and I'm sure that the teachers will look at that with glee if it does, but it actually ends up with way more money than you need? [LB1014]

SENATOR ADAMS: You make a good point and that's exactly what I was talking with Senator Hadley about. This thing could end up having not enough money to really do anybody any good or it could have so much money in it that we're caught, or a future Legislature is caught saying, whoa, what are we doing here; there's too much money going to this particular mechanism. [LB1014]

SENATOR UTTER: Well, I've certainly felt down through the years that performance-based pay for teachers was a good idea and I guess I'm a...if I have any hesitance at all, it's the hesitance of earmarking an unknown amount of money... [LB1014]

SENATOR STUTHMAN: One minute. [LB1014]

SENATOR UTTER: ...as it goes forward. Thank you, Mr. President. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Utter and Senator Adams. Senator Louden, you're recognized. [LB1014]

SENATOR LOUDEN: Thank you, Mr. President and members. As I look at this bill, this LB1014, to me there's two issues here. One of them is teacher incentive pay, which I'm certainly for. I, with family members being teachers and that sort of thing, I'd certainly be the last one to say that teachers get paid plenty. And I've been on school boards and I've always stated that entry level teachers do not receive enough, probably enough compensation compared to where some of the other teachers are. So with that issue I totally agree that we should do something for your teacher incentive fund. And there has been times that we've tried that. Several years ago, when I was on the school board, it was passed and I think that money came out of either the Environmental Trust or gambling, someplace. I don't remember. And we tried that for a while and it didn't work at all because, the way it was set up, usually the teacher that did the work wasn't the one that got the money, and someone that's more involved in the education process can probably remember when that was in. The other issue which I'm not in favor of is this Educational Lands and Funds, is to take the money out of this Educational Lands and Funds. That money has been set up and, as it's been stated already, that it's...that's state apportionment. Right now I think every child is entitled to right at \$104 apiece in

Floor Debate
March 09, 2010

every school district. It's just under that, \$103.9 with a bunch of numbers behind it, but that's the amount of money every child this last year in the state of Nebraska was entitled to from state apportionment. And as Senator Adams has stated, now is this going to be enough money to do any good? Because here in the last year or so as far as the wind agreement rents, there's been \$18,560 has went into that rent fund or come from that rent. You divide that up amongst 253 districts or whatever it is and it doesn't amount to much, probably a candy bar. But anyway, as we go along with that now, is it going to amount to something in the future? And I agree with Senator Adams on that. If it gets to be a significant amount, then that needs to go into the state apportionment because that's part of the revenue sources for schools. That will cut down on your state aid if it got to be a significant number. So what we're talking about here, whatever you take out of this that you earmark and goes into another fund will have to probably be made up some way or another through state aid to education. Now, the amendment is supposed to kind of take care of some of that, but somewhere along the line I don't know as it always will. So I have a problem with raiding the school trust money. It's only been done once before and that was on...a few years ago, on early childhood development. It wasn't exacting raided. They set aside, I think, \$35 million or \$40 million, whatever it was. They set aside that money and used the interest off of that money to fund early childhood development and that's where that went to at that time. So I have a problem with going in and starting to earmark money out of our Educational Lands and Funds. That's never been done before. This is all something new. So when it's done this time, then here in a year or so will we come back and say, well, perhaps, maybe the mineral rentals ought to be set aside? That's \$215,000 that we get from mineral rentals. Or what about the bonus money for minerals? We sell a bonus for the privilege to rent some of those areas for minerals. That was \$328,000. So maybe we should earmark that money for some other issue. And when you get all done with it, why, a lot of the money is gone. So we have to look very careful at where we go with some of these issues like that. And that's when I think that the issue... [LB1014]

SENATOR STUTHMAN: One minute. [LB1014]

SENATOR LOUDEN: ...as far as the teacher incentive, I have no problem with that. I think we need to do something about it, but I think this should actually be two separate bills. I think as we go forwards, we'll find out that we keep raiding these funds like that and we've got to be very careful we don't have any left. Thank you, Mr. President. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Louden. Those wishing to speak: Senators Haar, Fischer, Wightman, and Gay. Senator Haar, you're recognized. [LB1014]

SENATOR HAAR: Mr. President, members of the body, first of all, I'd like to talk to Senator Fischer for just a minute. She raised the question of proportionment and my

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

Floor Debate
March 09, 2010

initial proposal was that it would be proportional to the age of the state senator, and so you'd see a lot of that state aid going to this end of the desk. But according to the constitution, and I believe it's in the Nebraska Constitution, that these school funds have to be proportioned on a per pupil basis. So even if we wanted to get our nose in the tent, we can't in this case. It's going to be distributed on a per pupil basis across the state. Then another point came up about whether you reward new teachers or not and generally I believe in schools today the main problems are retention of good teachers and excellence of teaching. And so those first-year teachers are pretty much going to, I think, have to start out on a base pay and then from thereon, as they...whatever performance criteria are presented, then we can aim at retention and excellence. So on this one I think it is going to be keeping good teachers and keeping them around. Thank you very much. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Haar. Senator Fischer, you are recognized. [LB1014]

SENATOR FISCHER: Thank you, Mr. President and members. And thank you, Senator Haar. When I referred to the nose under the tent, that was with regards to the possibility of other school land lease money going into this new fund, which I would definitely be opposed to. I think we need to keep that trust fund with the land lease dollars as it is. Would Senator Haar yield? [LB1014]

SENATOR HAAR: Yes. [LB1014]

SENATOR STUTHMAN: Senator Haar, would you yield to a question from Senator Fischer? [LB1014]

SENATOR HAAR: Yes. [LB1014]

SENATOR FISCHER: I see you nodding so I thought we'd have a conversation here. Would you agree with me that that land lease money needs to remain in the fund that it's currently in? [LB1014]

SENATOR HAAR: Yes, yes. And the reason that this came up in the first place in the Education Committee, this is new money and that's really all we're looking at is this new money. And I'd...you know, any future Legislature, I guess, could use that fund if they wanted to reapportion it or they could do whatever, but what we're saying now is that this is our intention, yes. [LB1014]

SENATOR FISCHER: Right. And I happen to read transcripts a lot. I enjoy reading a legislative history and seeing what our predecessors said and did in order to accomplish the things that they accomplished. So I think it's always important to have these points and our intentions on the record on what we're trying to do with this money. So thank

Floor Debate
March 09, 2010

you for that. I do agree with you also that it's vital that we retain good teachers. It's absolutely vital, not just for the state but for our country, and we need to keep those excellent teachers and keep them in the classroom. When we talked about in this bill that we're addressing performance pay here for teachers, earlier I had said I would like to see that be distributed if we go ahead with this bill. I would like to see that be distributed according to how each district would decide to do so. And I know, and I didn't get a chance yet to visit with Senator Adams about a previous law that was passed that was merit pay for teachers, and I know many districts, they just divided it up equally among their staff and I certainly can understand the reasons that they did so. The administrations decided to do it that way because they felt it was fair. There wouldn't be disruptions among their staff that one teacher received more than another. But I think that defeats the purpose of what we're trying to do here, too, and in what the discussion has been on this. If this is truly going to be performance pay, I think we need to make it clear that it should be treated as such by the districts. And Senator Louden showed me some numbers off the mike over here. Right now I think there's \$18,000 total that comes from wind leases or...he gave me a nod, so that's correct. That's not a lot of money but in the future we could be looking at a very large amount of money. If we're going to pay...if we're saying it's okay on this policy decision we're making, if it's okay right now to pay teachers based on performance, if we're going to reward the better teachers, the good teachers, I would ask this body the question, then... [LB1014]

SENATOR STUTHMAN: One minute. [LB1014]

SENATOR FISCHER: ...why don't we allow districts to currently do that? Why don't we allow districts, such as those in my area of the state that have a hard time attracting teachers and especially in those subject areas that are difficult to find teachers--special ed, foreign language, the sciences, math--why don't we open it up then and let those districts pay a bonus for those teachers to come, to start them out higher on the salary schedule, to pay them after they've been there, to pay them for their performance? If we establish this fund based on performance pay, is that the camel's nose under the tent that this body will take the next step... [LB1014]

SENATOR STUTHMAN: Time. [LB1014]

SENATOR FISCHER: ...in order to pay all teachers based on performance? Thank you, Mr. President. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Wightman, you are recognized. [LB1014]

SENATOR WIGHTMAN: Thank you, Mr. President and members. First of all, I do rise in support of AM2058. I do think it's important that that go through the formula. I would have one question of Senator Adams in that regard, if he would respond. [LB1014]

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

Floor Debate
March 09, 2010

SENATOR STUTHMAN: Senator Adams, would you respond to a question from Senator Wightman? [LB1014]

SENATOR ADAMS: Yes, I will. [LB1014]

SENATOR WIGHTMAN: Now, Senator Adams, primarily AM2058 is to make sure that we're not paying incentive pay for those items that are already being rewarded under the current formula, and you mentioned one of them, I think, which is increased educational levels. Is that correct? [LB1014]

SENATOR ADAMS: That's correct. [LB1014]

SENATOR WIGHTMAN: And so anything that's presently being rewarded would not be considered additional for...eligible for additional...? [LB1014]

SENATOR ADAMS: I don't think it ought to be. That's why I put this amendment up. [LB1014]

SENATOR WIGHTMAN: And I think that's a good amendment. I am generally supportive of providing incentive pay for teachers for those who do outstanding performance and I think that's a lot of them across the state of Nebraska and we haven't been able to reward that. I think it will allow us to keep some of the better teachers in and I think continually it's the better teachers who probably have better job offers on the outside who tend to leave the profession. I think this is at least a possibility as far as keeping them in the profession, and I think that is very important. One of the things I've heard mentioned...well, first of all, I'd like to discuss something when Senator Stuthman mentioned when he was still amongst us on the floor and hadn't ascended yet to the high level that he is right now, but he mentioned the possibility that the state might...or that the school districts might lose some revenues from the acres that are taken out of production for wind energy. I think that might be legitimate. I don't think it will be a big number. I've considered the possibility of maybe 5 percent being set aside to hold school districts harmless or that a provision be put in to hold them harmless from loss of acres that would be leased, so that at least that much might come back. It wouldn't have to be a percentage. It could be a hold harmless provision in the form of amendment, and I think that might be in order because I do think there will be some acres taken out of production. I think in some instances there may be a reduction of the value of that lease when some land is severed or if that's out in the middle of a field or whatever it might be. So I'm a little concerned about that. I think it could be a legitimate issue that down the road this fund could grow to a pretty substantial amount. And I'm concerned at that point that perhaps boards of education will lower the standards that you need for the merit pay. And I think that could happen to where almost everybody gets paid extra because there's a tremendous amount of dollars in these funds. I don't think that's going

Floor Debate
March 09, 2010

to happen any time soon, but I think it could happen down the road. Initially, as I understand these wind leases, they're probably...the Board of Educational Lands and Funds are going to be paid on a per dollar per acres basis and then eventually they'll generate energy and then we will see much larger amounts, and I think that's probably Senator Haar's hope that that will happen. And down the road it will be tied to production of energy or electricity and that amount could be large and that's when I see the problem perhaps occurring as far as having more funds in here than are really needed for teacher incentive. So I think we're going to have to be watchful of this legislation and see how many dollars it produces and, hopefully, the Education Committee will put that on a front burner. But it probably won't be too much during the terms of any of us now serving. But I do think it needs to be watched. I know one of the ideas...and earmarking always bothers me. [LB1014]

SENATOR STUTHMAN: One minute. [LB1014]

SENATOR WIGHTMAN: I think a year or two years ago we had a bill that would have captured a portion of all of the interest on the Cash Reserve Fund, and I'm certainly glad we didn't go there because right now we need every dollar we can get off of the interest from that Cash Reserve Fund. But it wasn't to be earmarked for special incentives for high-performing teachers. It was going to be for everybody. This is a much better approach if we're going to do earmarking. That would have been basically General Fund dollars. I see this as being different. So I certainly support AM2058 and the underlying bill and the educational amendment. Thank you, Mr. President. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Wightman. (Visitors introduced.) Also it has come to my attention that Senator Hadley has a birthday today, so happy birthday, Senator Hadley. Continuing in the discussion, Senator Gay, you are recognized. [LB1014]

SENATOR GAY: Thank you, Mr. President. I wanted to continue on with Senator Wightman brought up some...his going to where I'm going to continue on. And I brought up this carbon sequestration because now we're talking 1.3 million acres is what I heard, the lands we're talking about. Senator Haar, you would be familiar with this, how that goes. You could be talking a tremendous amount of money, I think, in the future, couldn't you, if cap and trade? Would Senator Haar yield to a question? [LB1014]

SENATOR STUTHMAN: Senator Haar, would you yield to a question from Senator Gay? [LB1014]

SENATOR HAAR: Yes. [LB1014]

SENATOR GAY: Senator Haar, I guess the question is, we don't know...I've heard anywhere from \$100,000 to \$10 million we're talking. But on carbon sequestration, if we

Floor Debate
March 09, 2010

had 1.3 million acres, in the future if there's cap and trade taking place, that's very, very valuable. Are you concerned at all? But, I mean, and I'm supportive of your bill, don't get me wrong. But we could be talking a lot of money, couldn't we? Do you have any ideas on that in the future? [LB1014]

SENATOR HAAR: Well, right now there is sort of a discussion going on whether carbon sequestration is...belongs to the land or it belongs to the management of the land. And so we didn't even address that. We're going to leave that up to board that administers this whole thing. But, yes, there's...there could be quite a bit of money from carbon sequestration and, again, I think it's going to be up to future Legislatures to watch this fund and to act appropriately. [LB1014]

SENATOR GAY: Yeah. Well, before we even get to the future sessions and, you know, future Legislatures to decide that, I guess Senator Stuthman brought up and Senator Wightman about possibly some of this land out of production. Because how you...the way I read on that carbon sequestration, how you manage your land, how you till it, what crops can be planted, a lot of different things can factor into that, and that is down the road. But on the amendment, if Senator Adams would yield to a question. [LB1014]

SENATOR STUTHMAN: Senator Adams, would you yield to a question from Senator Gay? [LB1014]

SENATOR ADAMS: Yes, I will. [LB1014]

SENATOR GAY: Thank you, Senator Adams. On AM1979, on the first page, I was just reading where it says, the Board of Educational Lands and Funds shall also remit the portion of the income from other leases of school lands which relates to this carbon sequestration rights, as such portion is determined by the board. So does the board...they wouldn't use all this money so they would have some say, and we only want to give you 25 percent of the money? [LB1014]

SENATOR ADAMS: Correct. If you remember back, and there's no reason for you to, but in the bill that I had at the beginning of the session that talked about 40-year leases for wind generation on educational lands, I intentionally took carbon sequestration out of that bill so it was wind only. Now you see carbon sequestration in this one and the reality of it is, is this. Carbon sequestration, what we are saying right now, should be up to the producer, the cattle producer, the farmer that's using the land if they want to enter into those kinds of deals. Now, like any other rental agreement, Educational Lands and Funds down the road may say, well, if this person is generating X number more dollars off of the land because they've entered into these, then when we renew the lease we may escalate that lease payment a little bit and that, I suppose, could be captured. [LB1014]

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

Floor Debate
March 09, 2010

SENATOR GAY: Yeah, and I think that's a wise thing to have a conscious discussion of why you did that and that's why I'm asking the question. But I think the fact, as I look into this, and like I say, I think it's a good thing. I'm just looking at some of the details. If we're looking at, you know, some of these incentives, even if it's \$10 million, that's probably, in the whole scope of what we pay in state aid, the salaries and some of those things, it's a nice amount but it's probably not huge. But I'm just kind of wondering, if we're talking numbers here, the numbers could be very large and that's exactly right. If I could make \$2,000 an acre with this versus \$200, you know, well, of course, I'm going to not farm that land. [LB1014]

SENATOR STUTHMAN: One minute. [LB1014]

SENATOR GAY: So anyway, those are just...it's just a concern I have. I'm in favor of the bill. I plan on voting for the amendments, but some of these concerns I think we owe it to bring out and say is there something we could deal. One more question of Senator Adams and the question would be...if he'd yield. [LB1014]

SENATOR ADAMS: Yes. [LB1014]

SENATOR GAY: The question would be, then, was there any ever discussion of a certain cap that, you know, \$20 million or...? [LB1014]

SENATOR ADAMS: You raise a good point. No, we did not have a discussion of a cap on this. And I can only speak for myself, not the rest of the committee. Frankly, I didn't think there would ever be enough money in this fund to worry about capping it. [LB1014]

SENATOR GAY: Oh. Well,... [LB1014]

SENATOR ADAMS: Although, if the good thing happened that all kinds of money did flow into it, I think a cap would be something that would be worthy of consideration because it's money otherwise that we're pulling out of the apportionment funding. [LB1014]

SENATOR GAY: Yeah, but looking that far down the road we don't know, but maybe that's for future Legislatures to decide too. But I do support the amendments and the bill. Thank you, Mr. President. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Gay and Senator Adams. Senator Gloor, you're recognized. [LB1014]

SENATOR GLOOR: Thank you, Mr. President. I'm going to support the amendments and the underlying bill, but I did so after listening for a long time and finally deciding to punch up because of my concern on the discussion on performance pay, and the way

Floor Debate
March 09, 2010

that term has been thrown around to the extent that I think there is a wide divergence perhaps within this body on what performance pay means, what it's going to go to, and at one point in time I was quite concerned that we were talking about a performance pay system that would pit teacher against teacher. And that's not a good performance. In fact, that kind of system is destined to failure. I've talked to Senator Haar, I've talked to Senator Adams, I have listened, asked some questions off mike to get comfortable with the concept. We do not want a performance pay system that pits people against people because it ultimately ends up being unfair, unjust, difficult to measure. In my previous life, it might seem counterintuitive to go to a surgeon who in the operating room has the most number of deaths. Except, in fact, you might find out that the reason that surgeon has the most number of deaths is because their peers trust her judgment and skills so much that they send their most difficult surgical patients to her. And by the same token, a fourth grade teacher whose standardized reading scores suffer for her or his school classroom, may well, in fact, have that problem or that challenge because the principal trusts their skills so much that the most difficult students go to that teacher. And that's the problem when you try and identify individual practices, individual professionals in that kind of a capacity. But I do think, as I've talked to Senator Haar and Senator Adams, that what we're talking about certainly within the individual districts is the opportunity to reward overall performance, people who volunteer to take on added responsibilities, who show prolonged performance in ways that aren't unfair or unjust. Senator Fischer, in particular, had a great idea when she talked about the opportunity to perhaps use these funds to retain or attract people who...teachers who brought very needed skills into rural districts. There's another great idea. I would call that performance. I would call that pay for performance but not perhaps as many people here identify it as pay for performance. I hope with this passed that there is a broad understanding of what pay for performance can be and that a narrow expectation that we will pit people against each other in performance within classrooms, that's...that would be a travesty of what we'd like to accomplish with these funds. Thank you, Mr. President. [LB1014]

SENATOR STUTHMAN: Thank you, Senator Gloor. Mr. Clerk, have you got anything to be recorded in the record? [LB1014]

CLERK: I do, Mr. President. Your Committee on Judiciary, chaired by Senator Ashford, reports LB864 and LB880 to General File with committee amendments attached. Business and Labor Committee, chaired by Senator Lathrop, reports LB563 to General File with committee amendments attached. Senator Hadley would like to print an amendment to LB701. New resolutions: Senator Langemeier offers LR366; Senator Dubas, LR367. Those will both be laid over. Name adds: Senator Cornett to LB780 and Senator Cook to LB800. (Legislative Journal pages 787-796.) [LB864 LB880 LB563 LB701 LR366 LR367 LB780 LB800]

And I have a priority motion, Mr. President. Senator Pankonin would move to adjourn

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

Floor Debate
March 09, 2010

the body until Wednesday morning, March 10, at 9:00 a.m.

SENATOR STUTHMAN: Thank you, Mr. Clerk. You have heard the motion. Shall the body be adjourned until tomorrow morning at 9:00? All those in favor of the motion say aye. All those opposed say nay. We are adjourned. Have a nice evening.