

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

Floor Debate
January 19, 2010

[LB147 LB183 LB197 LB254 LB304 LB325 LB373 LB512 LB550 LB552 LB682 LB683
LB684 LB799 LB949 LB963 LB964 LB965 LB966 LB967 LB968 LB969 LB970 LB971
LB972 LB973 LB974 LB975 LB976 LB977 LB978 LB979 LB980 LB981 LB982 LB983
LB984 LB985 LB986 LB987 LR294 LR295CA LR296CA]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Pastor Rich Carlson of Union College, Senator Fulton's district. Would you all please rise.

PASTOR CARLSON: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Pastor Carlson. I call to order the 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, Mr. President.

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

CLERK: A Reference report referring LB919-935; that signed by Senator Wightman, as Chair of the Reference Committee. Enrollment and Review reports they've examined and reviewed LB254, LB512, LB325, LB183, LB197, and LB550, all of those reported to Select File, some of which have Enrollment and Review amendments attached. (Legislative Journal pages 235-241.) [LB254 LB512 LB325 LB183 LB197 LB550]

PRESIDENT SHEEHY: Mr. Clerk, do you have new bills for introduction?

CLERK: I do, Mr. President. (Read LB963-966 by title for the first time.) And that's all that I have, Mr. President. (Legislative Journal pages 241-242.) [LB963 LB964 LB965 LB966]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Located in the Senators' Lounge this morning you will find some rolls which are in celebration of Senator Schilz's birthday which was Sunday. Happy birthday, Senator Schilz. Mr. Clerk, we'll move to first item under Select File, LB682. [LB682]

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

Floor Debate
January 19, 2010

CLERK: LB682. Senator Nordquist, I have no amendments to the bill. [LB682]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB682]

SENATOR NORDQUIST: Mr. President, I move LB682 to E&R for engrossing. [LB682]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed, nay. LB682 advances. We'll proceed to LB683. [LB682 LB683]

CLERK: LB683. Senator, again I have no amendments to the bill. [LB683]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB683]

SENATOR NORDQUIST: Mr. President, I move LB683 to E&R for engrossing. [LB683]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed, nay. LB683 advances. We'll now proceed to LB684. [LB683 LB684]

CLERK: LB684, Senator, no amendments to the bill. [LB684]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB684]

SENATOR NORDQUIST: Mr. President, I move LB684 to E&R for engrossing. [LB684]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed, nay. LB684 advances. Mr. Clerk, we'll move to the first item under General File, LB304. [LB684 LB304]

CLERK: LB304, a bill by Senator Council. (Read title.) Bill was introduced on January 15 of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. I have no amendments at this time, Mr. President. [LB304]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Council, you're recognized to open on LB304. [LB304]

SENATOR COUNCIL: Yes, thank you, Mr. President. I do rise to open on LB304. And LB304 is a very simple piece of legislation with a simple objective and that objective is fairness and equity. What LB304 does is harmonize the Political Subdivisions Tort Claims Act with the State Tort Claims Act. Currently, under the State Tort Claims Act, an individual who has a claim against the state of Nebraska has a period of two years within which to file that claim. Now the bill makes reference to changing the statute of limitations. Well, the statute of limitations, which is the period of time within which a person must bring a lawsuit, under the State Tort Claims Act is two years. That same

Floor Debate
January 19, 2010

statute of limitations applies under the Political Subdivisions Tort Claims Act. But the difference is if an individual has a claim against a political subdivision in the state of Nebraska, he or she is only limited, is limited to a 12-month period of time within which to file his or her claim. If the individual files his or her claim within that 12-month period of time, there is a process that is outlined in the Political Subdivisions Tort Claims Act which provides the political subdivision an opportunity to reply to the claim, and if the claim is not satisfied to the satisfaction of the claimant, he or she has that same two-year period of time that one would have with a claim against the state to bring a lawsuit. So all LB304 does is harmonize the State Tort Claims Act and the Political Subdivisions Act. There is really no logical reason why persons in the state of Nebraska should be treated differently or have a different set of rights if they are, for example, injured by a state employee versus being injured by a city employee. If a person is injured by a state employee, under the current law he or she has two years within which to file that claim. But if they have the "unfortune" or misfortune of being injured by a city employee, he or she only has 12 months within which to bring that claim. Now I know opponents of this measure will say that a year period of time is more than adequate for individuals to bring a claim for injury or payment. Well, if that were the case, from the inception of the State Tort Claims Act we should have limited their right to one year. But we did not. We provided for a two-year claim period as well as a two-year statute of limitations. It is only fair and equitable for individuals in this state who have suffered some claimed wrong to be able to pursue that wrong on the same basis against a municipality or other political subdivision as they do against the state. Again, by not enacting LB304 we are essentially creating two classes of injured residents of the state of Nebraska: those who are fortunate enough to have a claim against the state and those who have the misfortune of having a claim against a political subdivision. And if it's an issue about responsibility, there are enough lawyers in this body who know that at a lot of occasions clients run into their office at the eleventh hour, not really knowing what rights they do have. And in the case of a tort claim against a municipality, if they come in on the 366th day after their claim accrued, they are forever barred, where that's not the case with the state of Nebraska. Again, LB304 simply harmonizes the provisions of the Political Subdivisions Tort Claims Act with the State Tort Claims Act, and it treats all of the persons in the state of Nebraska, who have claims against their government, the same. And I would urge you to view this piece of legislation in that context. It's about fairness and equity, that individuals who have a claim against their government have the same rights, duties, and responsibilities whether their claim is against a political subdivision or the state of Nebraska. I urge your passage of LB304. Thank you. [LB304]

PRESIDENT SHEEHY: Thank you, Senator Council. (Visitors introduced.) You have heard the opening to LB304. Members requesting to speak: Senator Ashford, Senator Lautenbaugh, and Senator Wightman. Senator Ashford, you're recognized. [LB304]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. And good morning, everyone. This is an important bill for a couple of reasons. Senator Council outlined the

Floor Debate
January 19, 2010

dichotomous results when you have a statute of limitations for one political subdivision and then another statute of limitations or, in effect, a bar from bringing a lawsuit that applies to it, another set of governmental entities. It's obviously, on its face, the policy is incredibly confusing. But I wanted to...just a minute, I'm sorry. It's hard enough for me talking generally without, you know when I'm listening and talking. But anyway, the...but the point is this, that when you have an obviously inconsistent policy with another policy in the law, it creates mass confusion. And though it is not often that you get claims filed against a city or other political subdivision after one year, it does happen. It happens because oftentimes there are investigations of claims or investigations of cases involving personal injury, and it is not until some time after the investigation starts when you determine that there might have been a design flaw in a bridge or some other condition which results in injury. But here's the point. The point is that for cities and other counties and other political subdivisions, a potential claimant, someone who is injured, not by any fault of theirs but by a fault of some other party, when that individual determines that there is a claim, a cognizable claim against a political subdivision, there are two statute of limitations. There are, in effect, two bars for that person to recover. There's a one-year bar which is sort of...which Senator Council is addressing in this bill, and then there's a bar after two years. So if you are involved with a political subdivision and you've been injured as a result of the activities or negligence of a political subdivision, there are, in effect, they get two bites at the apple. There's a one-year bar and a two-year bar. If you are injured through the negligence of the state of Nebraska, there is only one bar and it's a two-year statute of limitations and there's a two-year claims statute. So that two years is the bar. But if it's a political subdivision, it's one year and a two-year statute of limitations. There's a one-year claim bar and a two-year statute of limitations. That's ridiculous. That's ridiculous. When you have those kinds of inconsistencies in the law, it's the job of our committee, the Judiciary Committee, to point out to the body that, for whatever historic reason, maybe there were better efforts at lobbying the body if they were political subdivisions as opposed to the state, but that's not a rational reason for having two standards of liability. The committee looked at this and concluded by a 7-1 vote that these kinds of inconsistencies should not exist in the law. And we're going to have other bills that are going to come before this body in the next several weeks that deal with similar kinds of inconsistencies. When we are faced with the same kind of policy inconsistencies in other genres, whether it's banking or transportation or other things like that, these inconsistencies are summarily usually adopted and eradicated. But in the law, when we're dealing with individuals... [LB304]

PRESIDENT SHEEHY: One minute. [LB304]

SENATOR ASHFORD: ...and we're dealing with potential parties that are going to pay for the negligence that has been committed, these inconsistencies generate much more activity than other kinds of inconsistencies in the law. Members, it makes absolutely no sense for a political subdivision or anyone else to have two bars to recovery, two absolute bars, one at one year and one at two years; whereas, the state of Nebraska

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

Floor Debate
January 19, 2010

has a two-year bar. That makes no sense. It is confusing to the public. It does not capture what is really happening out there when claims, though rare, take longer than one year to complete. But in the end, it is unfair to our constituents that political subdivisions should have this sort of double bite at the apple... [LB304]

PRESIDENT SHEEHY: Time, Senator. [LB304]

SENATOR ASHFORD: ...to preclude your ability to... [LB304]

PRESIDENT SHEEHY: Time. Thank you, Senator Ashford. Senator Lautenbaugh, you're recognized. [LB304]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. You'll note the committee vote in here, there was one no vote. That was me. Let me explain. And I'll warn to you at the outset that this is not a ditch I'm going to die in today, but Select File is another matter, but I will point this out. Yes, we are standardizing. There are two different limitation periods, whether or not it's a state claim or another political subdivision. But there's two ways to standardize. We've chosen the way that expands claims. This bill has chosen a way that expands claims. We could have standardized it and removed the confusion by going the other way and adopting the shorter limit that the cities have. We didn't do that. This bill proposes to go the other way. And I'm not going to belabor the point today on this bill at this level. I'll point out that, you know, there was...I don't know how much opposition there was to this in the committee. I note the state bar came in and testified in favor of it. The state bar that I'm compelled to be a member of and compelled to pay dues to came in and supported this bill. Nothing is forever. I don't know if subtlety pays or not and I don't know if that was subtlety. But that said, I am going to vote no on this at this level, but it's not something I'm going to belabor today. [LB304]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Wightman, you're recognized. [LB304]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. If Senator Council would yield to some questions, I would engage... [LB304]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Wightman? [LB304]

SENATOR COUNCIL: Yes, Mr. President. [LB304]

SENATOR WIGHTMAN: Senator Council, as you said, first of all you've got two claim bar dates, is that correct? [LB304]

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

Floor Debate
January 19, 2010

SENATOR COUNCIL: Yeah. Well, you have two different claim bar dates between the state and political subdivisions, but you have the same statute of limitation in both instances. [LB304]

SENATOR WIGHTMAN: Okay. Does this affect the time when you have to make the claim to the political subdivision? [LB304]

SENATOR COUNCIL: Yes, it affects the time that you have to file the claim. Yes. [LB304]

SENATOR WIGHTMAN: And that claim has been how long, that date? [LB304]

SENATOR COUNCIL: One year. [LB304]

SENATOR WIGHTMAN: And you would lengthen that to two years. [LB304]

SENATOR COUNCIL: Yes, which is... [LB304]

SENATOR WIGHTMAN: Now that's a claim to the political subdivision then to file a suit on that claim after it's been rejected by the political subdivision. What's that date? [LB304]

SENATOR COUNCIL: Well, the statute of limitations, Senator Wightman, would be the same as it is under the State Tort Claims Act. You have a two-year statute of limitations. You have to bring a lawsuit within two years. The statute very clearly sets out what events will extend that statute of limitation, and those events are all dictated by the political subdivision or the state. So if the political subdivision does not respond in time, in the time period set forth in the statute, then it's up to the claimant to withdraw and then file. Well, that period of time that the political subdivision is granted to respond to the claim may or may not extend the statute of limitations. It depends on the facts. [LB304]

SENATOR WIGHTMAN: Okay. I understand that. Now the opponents appeared to be in mostly municipalities and they're concerned that their expenses may go up, I assume, in these claims. Typically, I assume that these municipalities would carry insurance, but it might affect their insurance, is that right? [LB304]

SENATOR COUNCIL: Well, I can't comment on that. I think most municipalities are probably self-insured when it comes to these kinds of claims. I cannot respond definitively, Senator Wightman, on that question. [LB304]

SENATOR WIGHTMAN: Did you say typically they don't carry insurance? [LB304]

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

Floor Debate
January 19, 2010

SENATOR COUNCIL: Well, at least it's been my experience in these kinds of claims, there's self-insurance. I don't know how many municipalities carry some... [LB304]

SENATOR WIGHTMAN: Or self-insurance. Okay. [LB304]

SENATOR COUNCIL: Right. [LB304]

SENATOR WIGHTMAN: Yeah, and that may be true in the larger municipalities. [LB304]

SENATOR COUNCIL: Right. [LB304]

SENATOR WIGHTMAN: I doubt that that's true in most of the cities of the first class, but I could be mistaken on that. I would think they would cover it with risk insurance of some kind. Your idea is harmonizing the state and the political subdivisions, is that correct, primarily? [LB304]

SENATOR COUNCIL: Yes. Yes, Senator Wightman. And, in fact, getting to the point of why not go the other way, it is clear from a review of the legislative history of the State Tort Claims Act that a two-year claim period was viewed, from a policy standpoint, as being a fair and appropriate amount of time for an individual to determine whether he or she has a claim to be brought against government. Now I can't explain. I tried to go back into the legislative history to see why it was not two years when the Political Subdivisions Tort Claims Act was introduced, but there's no question that that two-year claim period was viewed by previous bodies that that was the length of time...that's the appropriate length of time for an individual to determine whether he or she has a claim that could be filed against a government entity. [LB304]

PRESIDENT SHEEHY: One minute. [LB304]

SENATOR WIGHTMAN: To put this in a little more perspective, if you were going to file against an individual rather than under a Political Tort Claims Act, you would normally have four years under this type of an action, would you not, for a statute of limitations? [LB304]

SENATOR COUNCIL: And see, and that's the difference. That's the only bar, would be that you filed your lawsuit within the stated time period: four years. Under the Tort Claims Act you have two hurdles to overcome. You have to file your claim within a stated period and then file your lawsuit within a stated period, and those periods of time are different depending upon which level of government is involved in the claim. [LB304]

SENATOR WIGHTMAN: I understand that, but we already have a much shorter period...or would normally have a much shorter period under the Political Tort Claims

Floor Debate
January 19, 2010

Act than we would against an individual. [LB304]

SENATOR COUNCIL: Absolutely. [LB304]

SENATOR WIGHTMAN: Thank you, Senator Council. Thank you, Mr. President. [LB304]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Members requesting to speak on LB304: Senator Council, followed by Senator Lathrop and Senator Ashford. Senator Council, you're recognized. [LB304]

SENATOR COUNCIL: Yes, thank you, Mr. President, and I will be brief. Senator Lautenbaugh certainly did raise an issue that was worthy of consideration and I want the body to know and understand that that was taken into consideration. And when I looked back at the legislative history of the State Tort Claims Act, that two-year claim period was identified as the appropriate amount of time to grant an individual who felt that he or she had been harmed by state government. I found no compelling reason or compelling argument, when the Political Subdivisions Tort Claims Act was introduced, that it was a one-year claim period and a two-year statute of limitations period. And with that kind of evidentiary background, via the conclusion to be drawn that fairness and equity would dictate that in order to harmonize these two pieces of legislation the better course would be to make the Political Subdivisions Tort Claims Act consistent with the State Tort Claims Act as opposed to reducing and limiting the opportunities for individuals who believe that they have been negligently or otherwise harmed by state government. And when you look at the confusion that my learned colleague Senator Ashford referred to, a lot of individuals don't understand the difference between a Department of Roads truck and a city public works truck, and there's confusion in terms of who the claim should be filed by. And if they find themselves in the unfortunate position of trying to pursue this on their own, what would happen is if an individual mistakenly filed their claim against the state of Nebraska when the claim should have been filed against a political subdivision, if they filed on the 366th day and the state advised them that they had filed in the wrong place, they would be forever barred. And if you look at the work of the Judiciary Committee, we have, in the short period of time that I have been on the committee, have taken steps to improve access to the justice system for individuals. When we were talking about increasing court fees, we didn't want to increase court fees because it would have a detrimental effect on individuals having access to the justice system. LB304 is designed to provide fairness and equity in terms of access to the justice system. In terms of a lawsuit filed against either the state or a political subdivision, the individual has to bring that suit within a two-year period of time. The difference is if they didn't file their claim within a year against the political subdivision, they're forever barred, while if they had a claim against the state they could file that claim up to the twenty-third month and the twenty-ninth day. That is unfair. It's confusing. It's inequitable. And certainly by harmonizing these provisions you reduce the

Floor Debate
January 19, 2010

possibility of people being barred from pursuing legitimate claims against political subdivisions merely because they misunderstood which one of these claim bar periods applied to them. By being consistent, we should avoid those kinds of problems. And again, if someone waits until the twenty-third month and the twenty-ninth day to file a claim under the Political Subdivisions Act, if this is passed,... [LB304]

PRESIDENT SHEEHY: One minute. [LB304]

SENATOR COUNCIL: ...they would be barred, for all practical purposes, from filing a lawsuit because they couldn't file that lawsuit within the next day. So with that, I'd again urge your favorable consideration of LB304. [LB304]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Lathrop, you're recognized. [LB304]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I stand in full support of LB304 and I'd like to visit with you a little bit about what we are changing and the process that we're talking about. When a city or a political subdivision...and a political subdivision would include things like the county, the city, a school district, and it includes a lot of things you might not think about that aren't as obvious to find and as easy to identify, like ENCOR, for example. When they are negligent and they hurt somebody, currently the rule says you have to give notice to the governing body within a year. And the change proposed in Senator Council's bill simply says you have to give notice within two years that you've been hurt and you intend to make a claim. That's the same as the State Tort Claims Act. Why make the change and why does the Judiciary Committee and the State Bar Association feel this is appropriate? I'll tell you why because I've seen it firsthand. When you have somebody who has suffered a significant injury, contrary to popular belief and a lot of myths, they don't run to a lawyer. They're at the hospital. They're at the hospital tending to a loved one and they're caring for a loved one. And what invariably happens is by the time that person gets well, a year has passed. We've already made the policy decision in this state that you can bring a claim against political subdivisions. We're not expanding claims. We're not allowing for more claims. We're simply allowing people who have been hurt a little bit longer to make their claim. Is that good policy? I think it is. I think it is because people who are in the hospital shouldn't need to rush to a lawyer. They should be attending to someone in their family that has been hurt and not worried about filing claims within a year. And a year sounds like a long time, but it isn't, because when someone has been hurt in some kind of a mishap with a political subdivision it's not always easy to identify the political subdivision. And we've heard this in a separate bill before the Judiciary Committee and I'd like to visit with you about that a little bit. There are various political subdivisions across the spectrum in this state, some of which sound private, so it takes awhile to identify who the political subdivision is. For example, some community hospitals are run by a government entity. They have names like, you know,

Floor Debate
January 19, 2010

"Somebody's Community Hospital." And for those folks who have been harmed...and we're not talking about increasing frivolous claims. This isn't about frivolous claims at all. In fact, it's about meritorious claims. We're only talking about meritorious claims that are being excluded because someone can't get to a lawyer in a year, doesn't think about making a claim within a year. Or even if they do, they can't identify the proper political subdivision within a year. So what we are doing with this bill is simply having it mirror the process that the state requires that someone go through. We're not expanding lawsuits. We're not expanding claims. We're simply allowing those people that have been hurt a little more time to give notice to the political subdivision. Why do we give notice to the political subdivisions in the first place? That's a good question and part of the discussion. The reason we give notice to political subdivisions is so they can investigate claims, so that they get information in a timely manner. The reality is... [LB304]

PRESIDENT SHEEHY: One minute. [LB304]

SENATOR LATHROP: ...the reality is very little investigation goes on after they've been put on notice. So we are not, as a practical matter, hampering political subdivisions or putting them at a disadvantage in the claims process. I think the bill makes a good deal of sense. It was supported by the Bar Association, which is a group of lawyers who do all kinds of the practice of law. It's not a group of plaintiffs' lawyers like the trial lawyers are. It's a group of lawyers that consist of people that do defense work as well as represent people that have been hurt, and it's their judgment that this provision makes sense and that harmonizing the State Tort Claims Act with the...that the Political Subdivisions Tort Claims Act with a State Tort Claims Act makes sense. And I would encourage you to support LB304. Thank you. [LB304]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Ashford, you're recognized. [LB304]

SENATOR ASHFORD: Thanks, Mr. Lieutenant Governor. And I'm going to be very brief and then give the rest of my time to Senator Council. Are there any other lights on? [LB304]

PRESIDENT SHEEHY: Not at this time, Senator. [LB304]

SENATOR ASHFORD: Well, just very briefly, I appreciate the work of the committee. Senator Wightman made great points about the standards already in place for suits against defendants who are not political subdivisions or the state of Nebraska. It's a four-year statute. It still is a two-year statute for municipalities. This one-year claim bar makes absolutely no sense. The committee worked quite diligently on coming up with the standard that we have in this bill. And with that, Senator Council, I'm going to...I would give her the rest of my time and move for the... [LB304]

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

Floor Debate
January 19, 2010

PRESIDENT SHEEHY: Senator Council, 4 minutes 15 seconds, and there's no additional lights on. [LB304]

SENATOR COUNCIL: Yes, and thank you, Senator Ashford, and I would like to exercise this time as my closing since there are no other lights, Mr. President. I think the rationale for this legislation has been thoroughly and comprehensively debated this morning and described. It's all about fairness and equity in the treatment of individuals in this state who have claims against the government. It's just to harmonize the Political Tort Claims Act with the State Tort Claims Act. And with that, I would urge a yes vote for LB304. [LB304]

PRESIDENT SHEEHY: Thank you, Senator Council. You have heard the closing. The question before the body is on the advancement of LB304. All those in favor vote yea; opposed, nay. Senator Council. [LB304]

SENATOR COUNCIL: I would request a call of the house. [LB304]

PRESIDENT SHEEHY: There has been a request for the call of the house. The question is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB304]

CLERK: 37 ayes, 0 nays to place the house under call, Mr. President. [LB304]

PRESIDENT SHEEHY: The house is under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Cornett, the house is under call. Senator Council, while we're waiting on Senator Cornett, once everyone is present or accounted for how would you like to proceed? [LB304]

SENATOR COUNCIL: Mr. President, a roll call vote in regular order, please. [LB304]

PRESIDENT SHEEHY: Thank you. Senator Council, all members are present or accounted for. Members, the question is on the advancement of LB304. There's been a request for a roll call in regular order. Mr. Clerk. [LB304]

CLERK: (Roll call vote taken, Legislative Journal pages 242-243.) 20 ayes, 20 nays, Mr. President, on the advancement. [LB304]

PRESIDENT SHEEHY: LB304 does not advance. The call is raised. Mr. Clerk, we will proceed to LB373. [LB304 LB373]

CLERK: Mr. President, LB373 is a bill by Senator Lautenbaugh. (Read title.) Introduced

Floor Debate
January 19, 2010

on January 16 of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM1022, Legislative Journal page 1037, First Session, 2009.) [LB373]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on LB373. [LB373]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Some of you may remember this bill, as I brought it as an amendment to Senator Nantkes' bill last session, and it was still in committee at that point or may have been passed out of committee. It has since been passed out of committee. The amendment to Senator Nantkes' bill that I brought last time was the amended version of this bill, so most of my comments are going to relate to the committee amendments, and Senator Ashford can clean up anything I say that needs correcting. This is an unusual bill in that, once again, it's a do-over. We had this debate last year and I actually retained the video and audio from last year of this because I wasn't happy with how it went, not the least of which was because I lost, but I wasn't happy with the explanations either, and looked back over all of our comments and questions to try to do a better job of explaining at this time. I appreciated Senator Conrad's kind comments last year. She called me a statesman for bringing this. Who am I to disagree with Senator Conrad? There were various supporters. Senator Gay and I had an extended conversation about this and it was probably the least enlightening give-and-take that you have ever heard on this floor and that was not Senator Gay's fault; that was my fault. What's the line from the movie, we're all dumber for having heard it? It was a horrible discussion and I answered his questions very poorly, so we'll do better today on the rerun, I hope. What this bill does is two things. In the law already there is a presumption that certain maladies that are generally...likely, I should say, to be inflicted upon firefighters and first responders, there is a presumption of work relatedness created in existing law basically dealing with heart disease and certain forms of cancer. As these were dealt with in the original law, it's my understanding, because we recognized that firefighters were exposed to these particularized kinds of risks more than the populace at large. Experience has demonstrated that there are other particular maladies and diseases that they are exposed to similarly, more often than in the populace at large. Those as set forth in the bill would be blood-borne infectious disease, tuberculosis, I always get this one wrong--meningococcal meningitis, or methicillin-resistant Staphylococcus aureus. We're adding those in, and once again we're creating a presumption, not a conclusion, a presumption. What that means is if a firefighter is afflicted with this, there is a presumption that it is work related, within other provisions of the statute, as well, applying regarding terms of service of ten years and whatnot, merely a presumption. It is possible for the city to rebut that if the case is rebuttable with other evidence. The other thing this bill does is it...under current law the presumption of relatedness ends with the termination of employment. The proposed bill created up to a five-year look back, depending on terms of service. And the cities came in and objected to that, saying

Floor Debate
January 19, 2010

that would expose them to additional and unforeseeable costs. This bill creates a 90-day look back after termination of service simply for the purpose of...there is a certain scenario where I believe...I can think of the hypothetical...or not hypothetical. I can think of the scenario but I can't remember the individual's name where he had terminated employment and then came down with one of the covered, presumed-related illnesses, and because he had terminated his employment, a month later he was not covered. This creates a modest 90-day look back as a cushion for those who so terminate their employment and then find out that they have contracted one of these very serious, life-threatening illnesses likely in the course of duty. And I think this is an important bill. And last week, in debating another bill, I pointed out that we're all in favor of local control until we're not, and it varies depending on where we are. And I'm sure I'll get questions about that: Is this inconsistent with your position of last week? And the answer is going to be no. But I won't anticipate the question and give you the response now in case no one asks, although Senator Gloor is smiling, so he might. At this point, I will cease the opening. I think Senator Ashford will open on the committee amendments. I think all of my discussions were directed toward the committee amendment. And I look forward to answer any questions you may have on this. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the opening to LB373. As was noted, there is a Judiciary Committee amendment, AM1022. Senator Ashford, you're recognized to open. [LB373]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor, just a couple of comments. And Senator Lautenbaugh did, I think, adequately explain the committee's action. There is a list of maladies in the amendments that a firefighter who...by the way, a paid firefighter, not a member of a volunteer fire group, but a paid firefighter would be able to recover for if the malady became...if the firefighter became aware of the illness within 90 days after employment is terminated. Senator Lautenbaugh is also right that the initial bill and other efforts to expand the recovery beyond the termination date went far beyond the three months. I believe Senator Lautenbaugh talked about five years and there were some other suggestions as well. The committee felt that the...and Senator Lautenbaugh rightly says, I mean is this a mandate? It depends on who's being mandated I guess. But it is clear that when we're dealing with firefighters in this state who are firefighters in the paid positions that work full time putting out fires and dealing with those tragedies and it is clear that it is a very unique kind of profession. Anyone that knows a firefighter, as I do, know how difficult it is to go into a burning building with the kinds of materials that are found there; that the kinds of illnesses that Senator Lautenbaugh is dealing with in this bill are illnesses which are not readily observable or not readily felt, but take, in some cases, years to develop. If someone leaves employment as a firefighter and receives a checkup or goes to his or her physician and there is some evidence of cancer that it seems--and it could be shown that it is very likely that that cancer resulted from on-the-job activity--that certainly 90 days to find that

Floor Debate
January 19, 2010

out is not an overly elongated period of time. It is a relatively short period of time. But it does recognize what I believe to be absolutely the case, and that is that the function of a firefighter in this day and age is a unique function. The state has a role to make sure that the safety of those individuals is first and foremost no matter where they work within our state. And I would guess that most everyone in this...well, everyone in this room would agree with that, that this is a very unique function. And, yes, there are things that are local control focused. There are issues that should be determined by local municipalities and most of them are. And most of the issues involving firefighters are determined locally in their collective bargaining agreements or in just their day-to-day operations. This is a pretty unique sort of circumstance. Senator Lautenbaugh has done a good job with this. It is complicated, but I think it is well worth our while to establish this standard. And you may hear in the future other types of employee groups coming in saying, well, we want this protection too. Well, that may happen. That may happen, but it is up to us to evaluate the dangerousness of the work being done. In the case of firefighters, I think it is unequivocal that this kind of work is exceedingly...can be exceedingly dangerous, not only for events that occur at the time of the fire but at some later date. So I appreciate Senator Lautenbaugh bringing this bill. I would certainly urge that this body advance LB373 with the committee amendments, which again have a look back time frame of 90 days to determine or to discover this kind of malady. I wish Senator Lautenbaugh...I could have suggested some of Senator Lautenbaugh's arguments in the last bill but I wouldn't have the temerity to do that to my good friend and committee colleague. But with that, I would certainly urge the advancement of the bill with the committee amendments. Thank you. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You've heard the opening of the Judiciary Committee amendment, AM1022, to LB373. Mr. Clerk, you have an amendment to committee amendment. [LB373]

CLERK: Senator Price would move to amend the committee amendments with AM1577. (Legislative Journal page 243.) [LB373]

PRESIDENT SHEEHY: Senator Price, you're recognized to open on your AM1577. [LB373]

SENATOR PRICE: Thank you, Mr. President, members of the body. I rise in support of the underlying bill with the striking of the MRSA being involved in the list of conditions being presented before us. The MRSA, this methicillin-resistant Staphylococcus aureus, MRSA as we've all heard, this is a highly contagious strain of Staph infection, and the issue I have with it is, in looking it up, it normally has anywhere between a 1- to 10-day period of presentation once you have onset of it. That's when you'll notice it happening. So obviously 1 to 10 days should fall well within the parameters that we have already. And for those who are carriers, it could be for years that you are a carrier. You could have a colony of it on you. Now you get it through many different manners and

Floor Debate
January 19, 2010

methodologies, primarily through contact with a colony. Now this colony, this contact can be in numerous places, any surface that anybody would come in contact with. So my point is because it has such a short period for presenting itself, the fact that there's too many areas where a person could be to have contact with MRSA. I mean, you could go to your child's wrestling tournament; you could be a coach; there's just ad nauseam ways. And I don't believe that falls within the parameters of the other items that we're trying to include in this bill. So I rise and ask that you all will consider in this amendment that we make sure we're covering those things, like I said, the cancers and the other issues here, but not this MRSA one because it's just too broad. I mean anybody and everybody anywhere...you could walk up against one of the columns here and brush up against a column or a table here, and if someone here was a carrier and had it and you could get it, that's really not in the line of duty. So I would ask the members of the body to consider that in this amendment. Thank you, Mr. President. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Price. You've heard the opening of AM1577, amendment to committee amendment, AM1022. Member requesting to speak: Senator Lathrop, you're recognized. [LB373]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I stand in support of Senator Lautenbaugh's bill and as well as the committee amendments. I think it's important that we recognize that the bill here today addresses people who are first responders in this state. These men and women are the ones who go to and are placed in the most hazardous situations. They do our cleanup work. They go to the scenes of automobile accidents. They walk into houses that are on fire. And they are exposed to special stresses that are not common to all of us and I think we need to recognize that. Senator Lautenbaugh's bill addresses a difficult issue when it comes to proof in claims made by these first responders. I support it. I think it's good policy. And it's important that this body stand behind first responders, be there for the firefighters, be there for law enforcement, and this is an important step in that process. I would encourage your support of both the bill and the committee amendment. Thank you. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Seeing no additional lights on, Senator Price, you're recognized to close on AM1577. Senator Price waives closing. The question before the body is on the adoption of AM1577 to the AM1022 Judiciary Committee amendment. All those in favor vote yea; opposed, nay. Senator Price, you're recognized. [LB373]

SENATOR PRICE: Mr. President, I'd like to call for a call of the house, please. [LB373]

PRESIDENT SHEEHY: There has been a request for the call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB373]

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

Floor Debate
January 19, 2010

CLERK: 38 ayes, 0 nays, Mr. President, to place the house under call. [LB373]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Hadley, Senator White, would you please check in. Senator Dierks, all...correction: Senator Price, all members are present or accounted for. How would you like to proceed? [LB373]

SENATOR PRICE: A roll call vote in regular order, please. [LB373]

PRESIDENT SHEEHY: There has been a request for a roll call in regular order. Members, this is on the adoption of AM1577 to AM1022. Mr. Clerk. [LB373]

CLERK: (Roll call vote taken, Legislative Journal page 244.) 4 ayes, 27 nays, Mr. President, on the amendment. [LB373]

PRESIDENT SHEEHY: AM1577 is not adopted. We will now return to the...the call is raised. We will now return to floor discussion on the Judiciary Committee amendment, AM1022. Senator Nelson, you're recognized. [LB373]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to address a question or two to Senator Lautenbaugh, if he will yield. [LB373]

PRESIDENT SHEEHY: Senator Lautenbaugh, will you yield to Senator Nelson? [LB373]

SENATOR LAUTENBAUGH: Yes, I will. [LB373]

SENATOR NELSON: Thank you, Senator. I have no particular opposition to the bill but I do need some clarification on this three-month period. Could you tell me, does the determination have to be made during that three-month period, that...or does the incidence of the disease, for instance, have to occur during that three-month period? Or I guess how do we find...how is the determination made that this was not detected or could have been detected earlier before the retirement? Could you elaborate on that just a little bit? [LB373]

SENATOR LAUTENBAUGH: Well, it would refer back to the language within the existing law that basically says if you suffer a death or disability as a result there shall be a rebuttable presumption. This would extend the rebuttable presumption if the death or disability arises within three months after terminating employment. So as with other disability-type statutes, it would be keyed to when the disability is determined to have arisen, or death, in the case of disability, via medical evidence. I hope that answers your

Floor Debate
January 19, 2010

question. [LB373]

SENATOR NELSON: So it's just simply an extension, and there's a possibility that someone who could think that they were cancer-free and then find out within a week or two after retirement that in fact they did have cancer, is that about what it amounts to, just this short period of time? [LB373]

SENATOR LAUTENBAUGH: I believe that was the exact scenario that arose. Yes. [LB373]

SENATOR NELSON: All right. Suppose this disease or infectious disease is discovered before retirement, what happens then? Are we expanding the diseases during employment then? [LB373]

SENATOR LAUTENBAUGH: Not in the case of cancers, but in the other list of diseases that I struggled to pronounce earlier, those would be granted the same presumption of cancer as cancers in the existing law, the certain enumerated cancers and hypertension-type illnesses. [LB373]

SENATOR NELSON: In the case of cancers, how...there is a presumption, as you say, but how do we relate it to a firefighter or a policeman, the various types of cancer, and manage to say, well, this was caused because of this activity during that period of service? How is this determination made or the presumption brought forth? [LB373]

SENATOR LAUTENBAUGH: Well, this would be limited to firefighters and firefighter paramedics. And basically the way the existing law was arrived at regarding hypertension and cancers was that there are certain things you're exposed to as a firefighter or firefighter paramedic, be it infectious diseases as we're now trying to add, or certain forms of cancers that are caused by certain carcinogens and other cancer-causing agents that you are just more likely to be exposed to in this line of work than others. [LB373]

SENATOR NELSON: Let me give you an example. I have a friend who taught school for 30 years but also painted houses during the summer, and he was diagnosed with a node or something on his lung, which could be cancerous. As it turned out, it was not. But do we say that that was caused by fumes from the paint, or how do we know it wasn't caused by some other cause? [LB373]

SENATOR LAUTENBAUGH: Well, there is never, I would argue, a way of absolutely knowing with a metaphysical certainty. In this case, again that's why it's just a presumption and not a conclusion. In the case of the school teacher who's also a house painter,... [LB373]

Floor Debate
January 19, 2010

PRESIDENT SHEEHY: One minute. [LB373]

SENATOR LAUTENBAUGH: ...if the presumption existed--and this isn't the current law obviously--but if there was a presumption in place that somehow school teaching could lead to this particular risk of cancer, then the city or the school board would come in with the argument that, well, no, his activity as to the house painting, relating to the fumes, is the more likely cause. And then it would be adjudicated as to the evidence at that point. But we're not making a conclusion here because you can never be absolutely conclusive. It's just a rebuttable presumption. [LB373]

SENATOR NELSON: All right. Thank you very much, Senator. Thank you, Mr. President. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Members requesting to speak on AM1022: Senator Pankonin, followed by Senator Gay. Senator Pankonin, you're recognized. [LB373]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I think it's important to note on this bill, as well-meaning as it may be, that it will have significant financial impact on the city of Omaha and Lincoln. And if you go to your fiscal note, whether on your laptop--I'm looking at the physical pink copy--but it just says right there, both the cities of Lincoln and Omaha indicate a significant cost as a result of the changes. Lincoln indicates that increasing the time lines will have an impact of increasing the number of related deaths and disabilities and the costs, and the same way for Omaha. And I've just talked...as you saw in the committee statement, the city of Omaha spoke against this bill at the hearing, as well as the League. And I talked to the lobby today. The city of Lincoln is opposed to this as well. Now this is one of those situations where we know that these pension plans are under stress, particularly in our cities, and this only makes it worse. As well-meaning as it is, and I don't dispute that, but we've got to know what the consequences are. And the consequences are it's going to increase the costs. And in the city of Omaha, in particular, the plan has some issues already, significant issues. This is going to make it worse. So just make sure you know here, from a policy standpoint, of what you're doing. And it's unfortunate that these situations come up, but the cost as the fiscal note talks about could be significant. The city of Omaha and Lincoln are both opposed. Thank you, Mr. President. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Senator Gay, you're recognized. [LB373]

SENATOR GAY: Thank you, Mr. President. I was listening to the debate and I did oppose this last year, and the amendment clarifies this a little more, narrows down the...instead of leaving it so broad. However, yet when you read, it's by the years of service, and many of these firefighters had been, you know, 20 years or longer they've

Floor Debate
January 19, 2010

been in service. So you multiply that, you're talking quite a bit. Now I know this has a cap on it but it still leaves us as open. It's better, but it still...there's some issues out there. Senator Nelson discussed the presumption that you have this from on duty. You could have been doing something else. You don't know. And I...this is a tough issue, as Senator Pankonin and then all of us have to deal with because we all respect firefighters and the police, especially those volunteers that are out doing things all the time for their community. But there's still...I think we're opening up a...this really opens things up, I think. And I'm no lawyer, but when I read presumption--I just went on the thing--it is assuming a fact is true until you can say that it's not, until you can disprove it. So you've got to...we're assuming that they did get it on the job. That's the whole idea of this bill. But I have a few questions, if Senator Lautenbaugh would yield to a few questions. [LB373]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Gay? [LB373]

SENATOR LAUTENBAUGH: Yes, I would. [LB373]

SENATOR GAY: Senator Lautenbaugh, I do appreciate you working on this, too, and narrowing it down. But I still think there's some open. Is there a cap then? If you've had 20 years of service as a paid firefighter, you're talking...what's the cap on this? [LB373]

SENATOR LAUTENBAUGH: Senator, if I understand your question, I think you may be confusing the bill with the committee amendment, and the committee amendment is what I'm desirous of going forward on, and that just provides the three-month look back. The bill, as written, is where you get into the calculation of years of service, and it can be up to five years, that is stricken by the committee amendment. [LB373]

SENATOR GAY: Okay. Then I misread the committee amendment and I'll ask Senator Ashford on that a little bit to clarify that. Then a question then, Senator Lautenbaugh, and maybe you can answer...this does assume...it says suburban, and let me--my eyes aren't near as good as they used to be--but a rural fire department can...so you could be a volunteer in a rural fire department and then let's say--and many in our community have been on there for 20 years--could they come back then and claim that they had any one of these diseases, you know, any of these diseases that was on the job when they were a volunteer firefighter? [LB373]

SENATOR LAUTENBAUGH: As I read this, it says you have to be a member of a paid fire department of a municipality or a rural or suburban fire protection district but a paid fire department. [LB373]

SENATOR GAY: Okay. Then I'm reading off the fiscal note so that's probably where I'm misreading it. But actually I'll ask Senator Ashford the...would Senator Ashford yield to a question? Thank you, Senator Lautenbaugh. [LB373]

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

Floor Debate
January 19, 2010

PRESIDENT SHEEHY: Senator Ashford, would you yield to Senator Gay? [LB373]

SENATOR ASHFORD: Yep. Yes. [LB373]

SENATOR GAY: Senator Ashford, I've got to admit I'm kind of lazy on some of these bills. I read the statements and the fiscal notes and those things, but when I read this statement then, the three-month time period to calculate a presumption shall be multiplied by each year of the individual's service as a police officer or firefighter, not to exceed 60 months. So it's five years. Is that correct? [LB373]

SENATOR ASHFORD: Yeah, that is correct. That's correct. The committee amendments become the bill and the committee amendments limit the exposure to 90 days--three months. [LB373]

SENATOR GAY: Just 90 days. [LB373]

SENATOR ASHFORD: Three months. [LB373]

SENATOR GAY: Three months. So the whole...that's out. Okay. [LB373]

SENATOR ASHFORD: That other calculator, the other factors you talk about are no longer in the... [LB373]

SENATOR GAY: Okay. [LB373]

PRESIDENT SHEEHY: One minute. [LB373]

SENATOR ASHFORD: ...if the committee amendments are adopted. [LB373]

SENATOR GAY: And it's early in the year. I may be looking at... [LB373]

SENATOR ASHFORD: No, that's (laugh)... [LB373]

SENATOR GAY: ...an older file, whatever, so that's why I'm asking you. [LB373]

SENATOR ASHFORD: No, it...yeah. [LB373]

SENATOR GAY: And then on the other thing then, does this then include...is it only paid then, now, or is it volunteer? [LB373]

SENATOR ASHFORD: Yes. [LB373]

Floor Debate
January 19, 2010

SENATOR GAY: Is not a volunteer firefighter or a paramedic? [LB373]

SENATOR ASHFORD: It's not volunteer firefighter. No. And it's a member of a paid...the committee amendments provide that the firefighter must be a member of a paid fire department of a municipality or a rural or suburban fire protection district in this state... [LB373]

SENATOR GAY: Okay. And then do you know... [LB373]

SENATOR ASHFORD: ...and then it goes on from there. [LB373]

SENATOR GAY: Okay. What is the process now then if we didn't have this in place? What does a firefighter have now then if...I assume they have a... [LB373]

SENATOR ASHFORD: Well, they could apply for disability under current law, but not after their employment ceased. So this allows them to look back 90 days...well, or to be, in effect, no longer employed for 90 days and still make a claim. [LB373]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Gay. Senator Lautenbaugh, you're recognized. [LB373]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do wish to underline a few points, at the risk of repetition. I apologize. But understand, the presumption already exists regarding the cancers enumerated and hypertension or heart or respiratory defects or disease. We already have that in existing law. I recall the committee testimony on this, and the city of Omaha came in and I think the League, maybe the city of Lincoln, I don't recall for sure. However, they objected, to my recollection, to the five-year look back that Senator Gay was referring to, meaning if you had a sufficient number of years of service then you could look back five years after termination with the presumption of relatedness. That's not in the amendment and I'd urge you to support the amendment. The amendment guts the bill. So we're left pretty much being asked to take their word that this is going to cost money even though we really don't know how many additional claims we would get with the 90-day look back. The cities have come forth with no estimate as to how many additional claims they would get within that 90-day postseparation period. And while it's probably unknowable, I would submit to you it's also insignificant. This would be designed to take care of that one random case, the only one I can think of where the gentleman terminated his employment and then was diagnosed with something that was likely caused by his employment as a firefighter. This is not something...we can't come up with tons of examples of people terminating and then finding, oh my gosh, I have this horrible illness, because it doesn't really happen that way. But we should step up when one individual is affected that way after giving years of service protecting all of us. Additionally, regarding the presumed diseases that we're asking you just to presume are

Floor Debate
January 19, 2010

related, these were not chosen at random. I believe 19 or 22 other states have a similar presumption in law because these are the risks we ask these people to run. Exposure to these diseases, again they aren't randomly chosen maladies. They're maladies that firefighters and firefighter paramedics run the risk of being exposed to because of their jobs protecting all of us. This has been presented as...well, I won't say that. My colleagues have been very measured in their response in their opposition to this, to the extent there's been any, but I do want to be clear. As amended, maybe we'll get a new fiscal note on Select File, maybe we'll get more feedback from the cities once we've amended it. But the fiscal complaints, as I recall, were regarding the bill, not the amendment. We're proceeding on the amendment which eliminates the lengthy look-back period. If I'm wrong on that, I'm sure I'll hear about it, but that's my recollection of what the objection was and what the cost concern was in committee. I would again urge your support for this amendment as it becomes the bill, and I would urge your support for the bill. Thank you. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Pankonin, you're recognized. [LB373]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. Trying to keep this discussion measured, as Senator Lautenbaugh has talked about, I was going to ask him a question but now I won't. But the idea that there's maybe one random case out here that might take advantage of this bill I think is a presumption that is just maybe not accurate, and if we could guarantee this just one random case then maybe it would be applicable to do. This larger issue though that I don't feel as comfortable about but I feel compelled to talk about is that even though these cities have, particularly Omaha and Lincoln, have the chance to negotiate some of these things, but unfortunately what's happened is that the plans have gotten in trouble because they've expanded the capabilities of folks to draw upon them and without have the fiscal means to sustain them in the way they were designed, and so they have problems, particularly Omaha. And if we take even the committee amendment makes it better, there's no doubt about it. But if we go down that road I think we're going to expand the costs. And I think we've seen the consequences of what's happened and what happens to taxpayers and city finances when these measures are adopted, and I credit Senator Lautenbaugh for the amendment and the idea that it's a smaller universe and it most certainly is. But I also dispute that it's potentially one random case or none. If there was no...you know, if you go by that theory then why have it, because no one is going to use it. I think it will be used and I'm afraid that it will be used more than we'd like to see, driving up costs. And in particular, the state then is going to be driving up the costs for the taxpayers of Omaha and Lincoln. Thank you, Mr. President. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Senator Lautenbaugh, you're recognized. [LB373]

Floor Debate
January 19, 2010

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And I again appreciate Senator Pankonin's comments. He is a very serious individual in this area and I give weight to what he says. I would again urge, though, that we have not had anyone look at--anyone from the opposition, I guess--look at the amendment, the amended copy, to see what this would actually do. And if that is the concern, well, there's certainly been time to do it since last year, but if that is the concern we could have the discussion again on Select File if they can come up with a colorable argument that this will actually increase claims in any appreciable way. And I hope this is never used. That would be my obvious preference, that no one ever make a claim under this, because we have a litany of things in here that no one wants to have: cancer, heart disease, hypertension, Staphylococcus, the other things I can't pronounce. No one wants to have those and I hope no firefighter ever gets these. But they will. And all this does, we've already stepped into this field as a state. We've said if it's hypertension or certain cancers, we're going to give you the presumption that it's caused by the job because A often leads to B in this line of work. We now know that there are other things that are likely caused by the job and we're adding these things to the list. This is not stepping into a field into which we've never stepped before. This is adding reasonable, related things to the presumption, which can be rebutted. And I would urge your support for this. It is important. It is important that we step up for the very few individuals that will be affected by this. And again I'll warrant to you, it is very few but they need us. They need us when this arises and I would urge you to be there for them. And I'd ask your support for the amendment and the bill. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, Senator Ashford, you're recognized to close on your Judiciary Committee AM1022. [LB373]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. The state law in place today already covers many of the issues that this bill, with the committee amendments, addresses. This is not a matter that is new to state regulation and authority, but it is a matter that is, in fact, regulated by state law as it is. This is a very minor change. It is certainly not uncommon that we as a body take a look at these sorts of statutory regulatory matters and tweak them from time to time to reflect what's out there. The committee did, I think, accurately reflect what the testimony was. That's why we reduced the time frame down to 90 days from what it had been, and Senator Gay is absolutely right, at five years. We reduced it down to 90 days to address I think some very valid concerns that Senator Pankonin is raising in his capacity as Chair of his committee, that we have to make sure that the claims that are approved for disability relate back to the work that's being performed by that particular individual and are not just outside of the scope. And I understand that. We understood that in the committee when we put this bill out to the floor for debate. The...and again, it's not opposition, but those who would not like to see this bill pass have had ample opportunity to come to the committee, come to us, come to Senator Lautenbaugh with any evidence at all, other than just saying, well,

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

Floor Debate
January 19, 2010

this will be a tax increase. You know, I hear this on every single bill we do: Well, this will be a tax increase on the citizens of this city or that city. Well, not really. I mean, if that were the standard, we wouldn't have any regulation in statute at all. We'd have no regulations covering the schools. Maybe that's what we should be doing here and just simply let the school districts do what they do or let the cities do what they do and not put any funding into them at all. But to simply say that this is going to be a tax increase without any evidence whatsoever of the basis for that statement, we have to be skeptical of that. And we need to be skeptical of that as we proceed down this session, and ask for support and proof of that, because this body is not about raising taxes and we certainly haven't done it on the state level since we've been here. So I take that...or not Senator Pankonin's argument, which is a valid argument that needs to be raised, but these sort of general statements about, oh, you can't vote for this because it will be viewed as a tax increase, we have to be very, very skeptical of that because the cities, the counties, and all the subdivisions of this state have an obligation to manage their affairs themselves with responsible and reasonable regulation that we place on them in return for the money that we spend and give to these political subdivisions. So with that general theoretical construct, I would urge the adoption of AM1022. Thank you. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing. The question before the body is on the adoption of the Judiciary Committee AM1022 to LB373. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB373]

SPEAKER FLOOD: Sounds like, Mr. President, everybody was able to record their vote. [LB373]

PRESIDENT SHEEHY: Thank you, Mr. Speaker. [LB373]

CLERK: 28 ayes, 3 nays to adopt the committee amendments. [LB373]

PRESIDENT SHEEHY: AM1022 is adopted. We will now resume floor discussion on LB373. Senator Gay, you're recognized. [LB373]

SENATOR GAY: Thank you, Mr. President. I just voted for the amendment because I did get clarified, thank you very much. I think the amendment makes the bill better. I still have questions though, a little bit, what Senator Pankonin was saying. And I'll ask this question. Will Senator Lautenbaugh yield to a few questions? [LB373]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield? [LB373]

SENATOR LAUTENBAUGH: Yes, I will. [LB373]

SENATOR GAY: Senator Lautenbaugh, I'm still concerned...I think the amendment was very good. Like I say, I just was for that. It makes it a better bill. However, if you're...the

Floor Debate
January 19, 2010

ten year...you'd work for a fire department for ten years, let's say, and you come down with something. You're always going to go back and look for the presumed eligibility, correct? Every firefighter...if I were to retire...if I'm retired and I go to my annual checkup and they say, oh, by the way, you might have this, do I then...can I go back then and... [LB373]

SENATOR LAUTENBAUGH: If it's within 90...three months. [LB373]

SENATOR GAY: Only 90 days. So you can't go back then and say, oh, I've been retired for eight years. It's that 90-day window. Would everybody...but what you're saying then is in that 90-day window you better come in and get it checked out. Would people be...I mean, it would be standard procedure then to go in and check this out. Everybody would go in and check it out. But hypertension and some of these things, what is the definition of, yeah, by the way, you have some of these things. Wouldn't it then be covered for...? [LB373]

SENATOR LAUTENBAUGH: Well, again we're talking about death or disability and whether or not this would be disabling. We're getting into the area of that would all be a medical determination, just like it is under existing law. The...as far as whether or not they would go check it out, right now the burden would be on them to have it checked out before they left, obviously. This would expand that to within 90 days. I don't know if a departing physical is actually standard practice or not. It would probably be a good practice. It wouldn't be foolproof. But again, I can't answer that as far as whether or not that's the standard procedure when you retire or whether or not just having some of these things would actually be disabling. [LB373]

SENATOR GAY: Well, I guess I am still torn, because many departments are now becoming paid firefighters. My own Papillion is. La Vista has some. It's becoming more popular and I'm kind of concerned what I'm doing to my community. You know, you want to protect these people, but then on the other hand though, as Senator Nelson said, is it one of these cases where we're singling out this industry when there's other industries out there that are around fumes or they're manufacturing or whatever. Are we then saying, well, here you go, you can have this. But you, that may be a painter...I have a friend who was in the automotive business for many years. In fact, I have several that are, and they're around paints, chemicals, solvents, things like that. And I'm sure they don't have anything like this in their plan but it's what they chose to do. How do I then say to that guy, oh, we gave this to... [LB373]

SENATOR LAUTENBAUGH: Well, I guess the difference would be and I would draw the distinction, and I'm assuming that's why the original law was written that we're just expanding in a modest way, is that we aren't asking painters really to go out and paint for the public good and we aren't asking smelters to go out and smelt for the public good; but we are asking firefighters and firefighter paramedics to protect us. And I

Floor Debate
January 19, 2010

assume that's the reason that we stepped into this field originally with the presumptions that currently exist regarding hypertension and certain cancers, for that very reason. I believe these jobs are different than other jobs where you may be exposed to all sorts of unpleasant things chemicalwise, carcinogenwise, but in my mind I think the state has already made the determination that this is just a different field. [LB373]

SENATOR GAY: All right. Thank you, Senator Lautenbaugh. Thank you, Mr. President. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Gay. Members requesting to speak on LB373: Senator Pankonin, followed by Senator Council. Senator Pankonin, you're recognized. [LB373]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I'm going to speak briefly again and I'm going to go back to my original statement: This bill is well-meaning. And I also have respect for our fire and public servants that protect us and have great admiration for what they do. We just need to know, though, this is a benefit enhancement, and if it wasn't we wouldn't need to bring it. And I cannot prove to Senator Lautenbaugh and Senator Ashford that the costs will go way up under this proposal for the city of Omaha or city of Lincoln. It doesn't really affect the state in those plans, but they cannot prove to you, as well, that there won't be significant additional costs. And this is on termination, not necessarily retirement, so someone could work for five years, have a claim, and be disabled for many, many years--30, 40 years potentially--and those costs go on and on. So that's what you have to decide as a policy issue--well-meaning but a cost to our cities that are already struggling with pension costs that are oftentimes in an unfunded situation that is troubling and may result in tax changes for the citizens. I think that's clear. So I just want everyone to understand what you're voting on here, that this is what's...the other day Senator Nordquist passed out a piece that was a couple years old, but it talked about the huge, trillion-dollar deficit in public pensions throughout our country. And these are the kind of well-meaning things that make a difference over time and add to costs. So just be clear about what we're doing here. This is a benefit enhancement, no doubt about it. It may be relatively small but they can't prove that it won't be very costly either. Thank you. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. We have Senator Council, followed by Senator Heidemann. Senator Council, you're recognized. [LB373]

SENATOR COUNCIL: Yes, thank you, Mr. President. In reviewing the committee amendments, and I know this issue was discussed at great length at the committee because I shared concerns with regard to the length of time within which a firefighter could establish that he or she suffered from one of the enumerated conditions, but if you look at the amendment, and it's also noted in the original bill, that for the cancers and the blood-borne infections, the rebuttable presumption is based upon certain

Floor Debate
January 19, 2010

prerequisite conditions, one being that the firefighter passed a physical exam that did not reveal any of those conditions, either prior to being employed or shortly after being employed. And I admit in advance that this may be an unfair question to Senator Lautenbaugh, but as someone who suffers from hypertension, I'm wondering why that same prerequisite isn't a part of the provision for the presumption for hypertension or heart disease? I would think that those conditions could be established by a physical examination before someone was employed. And I don't know, again, Senator Lautenbaugh, I don't know whether you can answer that question or not, but why wouldn't we have that same condition precedent for hypertension and heart disease as is being proposed for cancer and blood-borne infections? [LB373]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Council? [LB373]

SENATOR LAUTENBAUGH: Yes, I will, Mr. President. Senator, I don't know the answer to that. I think what you're asking me is why isn't existing law as tight as the expansion that we're adding to it. Maybe that's something we can address on Select. I don't know the reason for the distinction as I stand here. [LB373]

SENATOR COUNCIL: Okay. Well, it clearly isn't an unfair question because we ask that question all the time. We just asked that question on LB304--why is existing law the way it is? But I think that that's something we need to look at. I don't know. Apparently, prior legislative bodies believed that hypertension inherently was associated with being a firefighter, but there's also some presumptions within these rebuttable presumptions that exposure to blood-borne infections is a necessary condition of employment, yet you do not rise to the level of rebuttable presumption unless the firefighter had a physical examination that did not reveal any of those conditions before he or she was hired. So I do think, Senator Lautenbaugh, that that may be something that needs to be looked at. I don't know how many communities have had to deal with that situation but...and I don't know whether hypertension or heart disease is an automatic disqualifier for someone who seeks employment with the fire department. But I would think that that same standard should be applied whether we're talking about a blood-borne infection, a cancer, or heart disease. [LB304 LB373]

PRESIDENT SHEEHY: Thank you, Senator Council. Members requesting to speak to LB373: Senator Heidemann, followed by Senator Gay, and Senator Conrad. Senator Heidemann, you're recognized. [LB373]

SENATOR HEIDEMANN: Thank you, Lieutenant Governor, fellow members of the body. I thought I would just briefly stand up and speak on this. This is a little bit of a tough issue for me because I am a volunteer firefighter and I know the dangers and the hazards that we encounter. But one of the joys of being on the Appropriations Committee is actually being automatically put on the Retirement Committee also. And it

Floor Debate
January 19, 2010

has been a challenge and it will be a challenge for our committee to try to figure out how we're going to handle the funds that are out there, retirement funds that definitely have a shortfall. They're not sustainable, as probably at least that I would look at it, and the liability of that for the state of Nebraska can be measured not in millions or tens of millions but possibly hundreds of millions of dollars. And when I try to find...try to figure out how we are going to be able to handle that, I then think about the cities that have those same liabilities that are out there and how they're going to try to handle that. And even though that I think that the idea that Senator Lautenbaugh is bringing forth is a very good idea and something to take a look at, when you're thinking about adding to the liability of something that already is having more challenges that they can already handle, adding more to it, I really have trouble trying to support that idea. So I think we need to be very cautious about what we're going to do here and just weigh the advantages, I guess, and the disadvantages, but always remember that this is adding to a liability. I don't know if this is a fair characterization but to me it's almost like throwing a bucket of water on a sinking ship. It's probably not that bad but that's kind of the way I look at things. So thank you. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Senator Gay, you're recognized. [LB373]

SENATOR GAY: Thank you, Mr. President. Would Senator Lautenbaugh yield to a question? [LB373]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Gay? [LB373]

SENATOR GAY: While I'm waiting for Senator Lautenbaugh to get here, I'm going to follow up a little bit on what Senator Heidemann just discussed, and I was back and forth with Senator Pankonin. When you're a county commissioner and council member or whatever, you've got to negotiate with some unions and many times you're negotiating the benefits of their package. And the question I'm going to ask Senator Lautenbaugh is, at what point could the cities, when they're negotiating their contracts, put this right in there? But when the state, when we say to our partners in local government, you have to do this, well, it handcuffs our local government. So I'm getting a little concerned here as we, as a state Legislature, we're saying we look at cities and counties a little bit differently and we're saying, you do this, you do that. Yeah, we have the right to do that, but should we be doing that? Would you...when we look at businesses here in the state, I've always heard of pro business sentiment, well, we don't want to do that, we don't want to force them to do things. Sometimes you have to, but most of the time we'd like to stay out of their way and let them run the show. I think on cities and counties, we should let them do the same thing. Now counties probably don't have fire departments but maybe there's some rural situations I don't know of that are paid firefighters. Senator Lautenbaugh, would you yield to a question? [LB373]

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

Floor Debate
January 19, 2010

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Gay? [LB373]

SENATOR LAUTENBAUGH: Yes, I will. [LB373]

SENATOR GAY: Senator Lautenbaugh, I'll just rephrase this because I know you were walking in. So can a...could a city of Lincoln or Omaha...and I don't want to pick on them. We all know of some problems there. Papillion has a...I think Columbus and maybe Norfolk even have paid fire departments. When the city council is negotiating, couldn't they just negotiate this in if they wanted to do this? [LB373]

SENATOR LAUTENBAUGH: If the city wanted to, it surely could, yes. [LB373]

SENATOR GAY: But now, if we pass this as a state, they have to do it. Is that...? [LB373]

SENATOR LAUTENBAUGH: Yes. [LB373]

SENATOR GAY: Okay. So thank you, Senator Lautenbaugh. So I guess that answered that question for me and I'm coming more to a clarification of a position on this, but we don't usually do that. And I think in these times, as Senator Heidemann talked about, where it's getting tougher and who knows what we may have to do in the coming years, but we all know budget situation, we're then telling our partners...and I do look at the cities and counties as partners and I know many of you do because that's where we came from, even school boards, but we shouldn't look at them differently, as a different entity, a different animal. Yes, they are but if we want to take those principles and say, local control that we all like to talk about, local property taxes that we all like to protect, which we can't as a state Legislature, well, maybe we can here if we don't mandate certain things. We can't handcuff these cities and counties and I think, unfortunately, that's what this bill is doing. I'd echo the remarks that Senator Pankonin said and many of us. We all very much respect firefighters, police, whatever. We've got friends and family even that do these things, so we respect that. And these sound good but I guess ultimately the argument is going to be what are we doing long term to cities that could actually just go do this tomorrow, or the next time they open up their contracts they can go do this. I doubt they would and they've shown they don't want to at this time. Now, maybe in the future they will, but at this time I think they're still opposed to this amendment. So with that, I'm going to vote against this and just...I threw that out there, food for thought. Thank you, Mr. President. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Conrad, followed by Senator Lautenbaugh. Senator Conrad, you're recognized. [LB373]

SENATOR CONRAD: Good morning, Mr. President, and thank you, colleagues. A couple of points that I wanted to interject into the dialogue as we continue in the debate

Floor Debate
January 19, 2010

on this important issue, number one, just kind of some context in addition to what's already been discussed in relation to LB373 as amended through the committee amendment and otherwise, is that, as a state, in Nebraska, our public policy for some time already has recognized similar presumptions for certain cancers and related illnesses, as Senator Lautenbaugh, I believe, has already detailed for you. And we recognize this as common sense and according to medical science and otherwise that when first responders come into contact with smoke and other sort of hazardous and dangerous substances and circumstances, that there's going to be a natural impact on their health and well-being, and thus our public policy for some time in Nebraska has recognized similar legal presumptions according to those issues. Well, it's been a while since we've had a chance to look at this set of public policies in the state and in the time since that was passed science and medicine has evolved some to let us know that there are other issues that we need to be aware of, particularly when it deals with how infectious diseases impact our first responders when exposed to these kinds of hazards. So I think this is a natural evolution of Nebraska's existing public policy to protect first responders for the hazards they see on the job. Finally, I want to compliment Senator Pankonin and Senator Heidemann in terms of being proactive and forward thinkers about potential costs and benefits that this or any piece of legislation could bring forward. I think it's always good to try and anticipate those kinds of issues. But, colleagues, to be clear, to date we really have no evidence that there will or could be exorbitant fiscal costs associated with this sort of public policy change and I think that we have to let the record speak for itself before jumping to conclusions. It's good to anticipate potential costs but the record is clear. We don't see these kinds of potential costs in the public policy as it exists or would be amended through Senator Lautenbaugh's legislation. And then finally, I think there is one point that I have heard, at least on the penumbras of this debate, and that is somehow an implication that our first responders, our firefighters are going to be running out and trying to take advantage of benefits that they would not otherwise be entitled to. I can tell you firsthand in my dealings in working with our first responders that this is the last class of people who are out there looking for a free lunch. These are people who sacrifice a great deal for our communities to protect our public safety. And I think that we have to keep in mind Senator Gay's words, we do know friends, family members, colleagues from our local communities who serve in these very difficult capacities, but we have to take it one step further. Instead of just saluting them through words, we need to support them through our public policy. Senator Lautenbaugh and the Judiciary Committee have given us an opportunity to do that and I thank them and ask for your support and consideration. Thank you. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Senator Pankonin, you're recognized. [LB373]

SENATOR PANKONIN: Thank you, Mr. President. This will be my last comments on this bill but our legal counsel from the committee just reminded me, if this would have

Floor Debate
January 19, 2010

been part...if this issue would have been part of a state plan, the state of Nebraska plan, we would have requested an actuarial study to try to determine what the costs could be. And this is one of the differences here in this discussion this morning. Because it applies to municipalities, cities, you know, we don't have that information for sure. But I think there's no doubt that it is a benefit enhancement that could have...well, it will have some costs. How substantial it will be we don't know because we don't have a study. But I think under the situation we're in with these plans and with our cities' plans that we have to be very cautious about making a state policy that makes it worse for our larger cities. Thank you, Mr. President. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Seeing no additional requests to speak, Senator Lautenbaugh, you're recognized to close on LB373. [LB373]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I have appreciated the discussion here this morning and we do have some differences of opinion on this and that's, obviously, fine. That's what we do. But I do want to point out that there, again, is no reason that these costs, if they exist, have to be unknowable. This bill and the amendment came up last year. At least, as amended, it was offered to another bill. And if the city was of a mind, if any city was of a mind to give us any sort of evidence we could rely upon that this would be some sort of a cost increase, the opportunity has been there. And I did hear from Senator Gay that this is something they could negotiate in contract. And we had a debate last week where I said, look, city of Omaha, you can take care of this yourself, please do. That was something the city of Omaha had an incentive to take care of on its own and should have, in my opinion. This is different. This is very different. We've already stepped into this area with the presumption regarding hypertension, heart disease, and cancer. This is not something where we've said, hands off; localities, you handle this. We're already in the field. Our prior legislation is incomplete. Based upon our experience, there are these additional diseases that our firefighters and firefighter paramedics are prone to, more than the rest of us in what we do day in, day out. And we've already made the policy decision that it is the right thing to do to create the presumption, not the conclusion, but the presumption that these things are work related. This is not stepping into the unknown. I'm sure there has to be information out there regarding what the presumption has cost, the existing presumption, regarding heart disease and cancer, and yet we have nothing. We don't know. And you're being asked to deny this additional protection to those who we ask to put their lives on the line, literally, for us based upon the fact that there might be a cost that would be knowable but no one has deigned to tell us. And I would argue to you that that's not the right way to make policy in this very important area. These people deserve our support. They need our support. And those who come down with these maladies need our protection, just as surely as if it was a cancer as enumerated in existing law, just as surely as if it was heart disease or hypertension as set forth in existing law. This is an important protection for people that we ask an awful lot from. We just had an incident this last week, first responders in Omaha charging into a house and rescuing a

Floor Debate
January 19, 2010

small child from the flames, rescuing a woman trapped in her basement from the flames, exposed to whatever they might be exposed to running into that smoke and that fire. That's something we don't do. That's something we don't ask our car painters to do, as Senator Gay pointed out. That's something we don't ask ourselves to do, unless any of you are firefighters, then I apologize, we do ask you to do that. But I'd urge you to support this. I understand the questions, but the questions could have been answered and they've not been. And you're being asked to somehow reject this bill and penalize those who need us to step up for them. By rejecting this additional protection, it's an additional way of saying, yes, we recognize you face these risks and, yes, we're willing to give you the benefit of the doubt unless we can demonstrate otherwise that it was caused in a different way. And this isn't going to come up often. As I said earlier, I hope it would never come up. Because if you have in the line of duty a needle stick, you're going to be checked out right away. [LB373]

PRESIDENT SHEEHY: One minute. [LB373]

SENATOR LAUTENBAUGH: Thank you, Mr. President. You're going to be checked out right away and you're going to know. And you'll have an existing medical history so you'll note you'll be able to demonstrate that it wasn't previously existing. This simply extends it to 90 days past employment termination for those who don't know of the disability until that time and adds these additional covered related risks that our firefighters face day in, day out. And I would urge you to support this. I believe it's the right thing to do. We are not stepping into some area of local control that we've otherwise shied away from. This is an area we've already occupied. We just didn't do it completely, based upon the risks that they face. And I would ask for your support. Thank you. [LB373]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the closing. The question before the body is on the advancement of LB373. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB373]

CLERK: 26 ayes, 9 nays, Mr. President, on the advancement of the bill. [LB373]

PRESIDENT SHEEHY: LB373 advances. Mr. Clerk, do you have new bills for introduction and items for the record? [LB373]

CLERK: Items, Mr. President. Hearing notices from Health and Human Services Committee, Appropriations Committee, Transportation, Education Committee, Agriculture Committee, Urban Affairs Committee, all signed by their respective Chairs. Amendments to be printed: Senator Pirsch to LB147, and Senator White to LB552. (Legislative Journal pages 244-250.) [LB147 LB552]

ASSISTANT CLERK: Mr. President, new bills. (Read LB967-987 by title for the first

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

Floor Debate
January 19, 2010

time.) New resolutions: LR294 by Senator White would reaffirm the support and commitment to the Americans with Disabilities Act of 1990; LR295CA by Senator McGill is a proposed constitutional amendment to authorize the use of revenue bonds to develop and lease property for use by nonprofit enterprises as determined by law; LR296CA by Senator Karpisek is a proposed constitutional amendment to permit the Legislature authorize and regulate charitable poker. Series of name adds: Senator Mello to LB552 and to LB799; Senator Mello would ask to withdraw from LB949; and Senator Krist to add his name to LB977. Reminder that the Reference Committee will meet in Room 2102 upon adjournment. (Legislative Journal pages 250-258.) [LB967 LB968 LB969 LB970 LB971 LB972 LB973 LB974 LB975 LB976 LB977 LB978 LB979 LB980 LB981 LB982 LB983 LB984 LB985 LB986 LB987 LR294 LR295CA LR296CA LB552 LB799 LB949]

And a priority motion: Speaker Flood would move to adjourn until Wednesday, January 20, 2010, at 9:00 a.m.

PRESIDENT SHEEHY: You have all heard the motion to adjourn until Wednesday, January 20, 2010, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned.