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Floor Debate  
February 01, 2012

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[LB66A LB66 LB216A LB216 LB344 LB391 LB415 LB427 LB498 LB503 LB576 LB677  
LB686 LB714 LB723 LB794 LB811 LB831 LB836 LB852 LB853 LB871 LB887 LB903  
LB943 LB946 LB1031 LB1073 LR40CA LR387]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the nineteenth day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Senator Brasch. Please rise.

SENATOR BRASCH: (Prayer offered.)

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

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

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

CLERK: I have no corrections.

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

CLERK: Enrollment and Review reports LB946 to Select File with Enrollment and Review amendments. Your Committee on Enrollment and Review reports LB66, LB66A, LB415, LB503, and LR40CA as correctly engrossed. And I have notice of hearing from the Health and Human Services Committee signed by Senator Campbell as Chair. And hearing notices from...a series of hearing notices from the Government Committee. That's all that I have, Mr. President. (Legislative Journal pages 387-389.) [LB946 LB66 LB66A LB415 LB503 LR40CA]

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, we now proceed to the first item on the agenda beginning with LB427. Mr. Clerk. [LB427]

CLERK: LB427, it's a bill originally introduced by Senator Cornett. (Read title.) [LB427]

SPEAKER FLOOD: (Gavel) [LB427]

CLERK: The bill was introduced on January 14, referred to the Agriculture Committee for public hearing. The bill was advanced to General File. There are committee amendments, Mr. President. (AM1576, Legislative Journal page 1787, First Session, 2011.) [LB427]

Floor Debate  
February 01, 2012

---

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Cornett, as the introducer of LB427, you are recognized. [LB427]

SENATOR CORNETT: Thank you very much, Mr. Speaker and members of the body. Today, I present LB427 which enhances requirements for commercial dog breeders in Nebraska. My staff and I began meetings on LB427 during the summer of 2010. After numerous drafts and meetings with interested parties, including rescue groups and small- to large-scale dog breeders, LB427 was heard in the Agriculture Committee. Since then the Agriculture Committee has made significant amendments. You'll hear those in the committee amendment and the amendment following. LB427 sets out to help improve the lives of dogs in commercial breeding facilities so they may lead healthier lives, produce healthier puppies for customers. And I want to be clear. This bill, with the committee amendments, is not made to punish the breeders. Many breeders in our state do a wonderful job and already do many of the requirements that are set forth in LB427, such as exercise plan, space requirements, and required checks by veterinarians. Before I have Senator Carlson introduce the committee amendments, I want to thank Senator Carlson and the Agriculture Committee. We've spent a greater part of the last year and a half working on this bill together and the committee amendments are a wonderful agreement between both sides. Again, I want to thank him and his committee. Thank you. [LB427]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the introduction to LB427. Mr. Clerk. [LB427]

CLERK: First of all, Senator Carlson, as Chair of Agriculture, would report on committee amendments, Mr. President. [LB427]

SPEAKER FLOOD: Senator Carlson, you're recognized to open on AM1576. [LB427]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature, and thank you, Senator Cornett, for bringing forth LB427. Nebraska is an agriculture state. We all know it's our number one industry. And I think we're fine with that and we'd like to see it stay that way. Now, agriculture involves crop agriculture and animal agriculture. Animals are our asset, our most valuable asset. The vast majority of livestock producers value their animals because they are their assets. They take good care of their animals. The Department of Agriculture in Nebraska, under direction of the Legislature, forms rules and regulations for the proper care of animals. They carry out an inspection program to monitor the animal agriculture operations of the state. When there's a problem, we take care of it. Nebraskans solving problems the Nebraska way. When a change in procedure is appropriate, we study it, we discuss it with interested parties, and we come to a consensus on a solution. That is LB427 and AM1576 and AM1670. Senator Cornett was asked by the Nebraska Humane Society to sponsor LB427. We

Floor Debate  
February 01, 2012

---

respect the Nebraska Humane Society and other local humane societies in Nebraska. We appreciate the work that they do. The hearing on LB427 was held on February 8, 2011, was a lively hearing. There were 11 proponents to the bill and 13 opponents to the bill. Judy Varner, Mark Langan, and Senator Mines representing the Nebraska Humane Society; Clem Disterhaupt, Casey Schaaf, Judy Williamson, and Cindy Johnson representing the dog breeders in Nebraska, began meeting to try and negotiate an agreement following the hearing. After many discussion sessions, both parties came to an agreement resulting in AM1576 and AM1670 to LB427. I believe we have a good bill, cooperatively done the Nebraska way. Our last meeting was November 4th in O'Neill with the Nebraska Humane Society, the dog breeders, and the Department of Agriculture present. Four areas were dealt with in LB427 and AM1576. First of all, veterinary care. The bill specifies that breeders will maintain individual animal health records; that the facility veterinary plan will be updated annually; that a hands-on, physical, and dental exam would be completed by a veterinarian at least once every three years. Second area, exercise: Breeders are required to provide animals daily opportunity for exercise and socialization. New construction of a facility must provide an exercise area at least three times greater than the primary enclosure. Existing facilities are grandfathered, but the exercise requirement must be met. Third area, identification: Current law does not specify I.D. requirements. Department regulations currently require that breeding animals be IDed and incorporate various identification methods. The committee amendment would mandate microchipping, but grandfathers animals' forms of I.D. by other means, which allows existing licensees utilizing other methods to continue to do so. Fourth area, housing: The solid floor surface requirement in the original bill was vigorously opposed by breeders as current flooring standards more readily facilitate cleaning and sanitation. Current flooring standards are maintained in the bill. Temperature specifications already apply and will continue to apply through regulations of the department. And the fifth area is the bad actor. The committee amendment incorporates the concept of a bad actor provision that is modeled after the existing bad actor provisions of the Livestock Waste Management Act. This was actually brought at the request of breeders who want to assure that the department could deny licensure for breeders attempting to relocate in Nebraska that may have had license discipline issues in other states, or have been convicted of animal cruelty. The committee amendment provides statutory authority supporting similar bad actor provisions that exist in department regulations. LB427 is a good Nebraska bill. It's a Nebraska solution to a Nebraska concern. I ask for your support of LB427 and the underlying amendments. I'll be happy to answer any questions that you may have. Thank you. [LB427]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Carlson. Mr. Clerk for a motion. [LB427]

CLERK: Mr. President, Senator Carlson would move to amend the committee

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

Floor Debate  
February 01, 2012

---

amendments with AM1670. (AM1670, Legislative Journal page 183.) [LB427]

SENATOR LANGEMEIER: Thank you. Senator Carlson, you're recognized to open on AM1670. [LB427]

SENATOR CARLSON: Mr. President and members of the Legislature, AM1670 is an amendment that makes a series of technical clean-up revisions to the underlying committee amendment as a result of our November 4th meeting, and I ask for your support of AM1670. Thank you. [LB427]

SENATOR LANGEMEIER: Thank you, Senator Carlson. You have heard the opening on AM1670 offered to the committee amendments to LB427. The floor is now open for discussion. Those wishing to speak we have Senator Lathrop, Louden, and Cornett. Senator Lathrop, you're recognized. [LB427]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. LB427 came to the...as you know, I serve on the Ag Committee, maybe you don't know that. I do serve on the Ag Committee. Maybe the most unlikely pairing of senator with committee that we have, but I've enjoyed my service there and I've learned a great deal. When LB427 was offered, we had people lined up and that hearing went until 7:00 at night, I think. It was...this was a very, very continuous issue, and we now have amendments that make this a consensus item for us and for our consideration. That did not happen by chance. It did not happen without the leadership of Senator Carlson. I stand in support of the amendments and the underlying bill. And I want to take a moment just to recognize the work of my Chair and committee counsel in bringing the parties together in what took a great deal of work, countless meetings, and Senator Carlson now has for our consideration, and I think our favorable consideration, LB427. Thank you. [LB427]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Louden, you're recognized. [LB427]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I guess I just have a few concerns and maybe something that I would like to get on the record. Would Senator Carlson yield for questions? [LB427]

SENATOR LANGEMEIER: Senator Carlson, will you yield? [LB427]

SENATOR CARLSON: Yes, I will. [LB427]

SENATOR LOUDEN: Senator, as I look through the amendment, I think on page 2 or so, I guess my concerns is, is we have people out in some of these rural areas that, oh, they'll raise a good cow dog and they'll raise some pups out of it, or their coyote hounds,

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

Floor Debate  
February 01, 2012

---

perhaps they'll have a good dog and they'll raise some pups out of it. And my understanding is that if you're...if it's under...if four litters or less a year before you're classified as a breeder or four litters or more a year before you're classified as a breeder, that any of this legislation would involve? [LB427]

SENATOR CARLSON: Senator Louden, if an individual has four or more dogs intended for breeding, that makes them a breeder. If they sell more than 30 dogs a year and they've bred those dogs, that makes them a breeder. If there are four or more litters per year that they raise with the intent to sell, that makes them a breeder. And those are the categories that define a breeder that would need licensing. [LB427]

SENATOR LOUDEN: Now if someone has four females then, would they be classified as a breeder whether or not they raise any pups right away or not? [LB427]

SENATOR CARLSON: No, they need to be intended for breeding. [LB427]

SENATOR LOUDEN: Okay. Then that's a matter of judgment then, I guess. [LB427]

SENATOR CARLSON: It would be. [LB427]

SENATOR LOUDEN: And then most of this wouldn't apply because I was noticing where they have to have a dental exam and also the euthanasia part and that sort of thing, that still only applies to if they're a regular canine breeder? [LB427]

SENATOR CARLSON: Only if they are defined as a breeder and they're licensed as a breeder and only then do these requirements apply. [LB427]

SENATOR LOUDEN: Okay, because we do have a lot of people out there in the ranch country that are raising stock dogs and there's a lot of good dogs out there and people do use...raise litter from them and sell those dogs because some of them are quite valuable, and that was the ones that I was hoping we wouldn't impose any extra work or issues or regulations on some of those people that just had one or two good dogs and would probably sell some from time to time. But you can assure me, we're not talking about this at all. [LB427]

SENATOR CARLSON: I understand the concern for that and I don't believe that LB427 in any way infringes on their rights to continue doing what they're doing. [LB427]

SENATOR LOUDEN: Okay. Thank you, Senator Carlson. Thank you, Mr. President. [LB427]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Cornett, you're recognized. [LB427]

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

Floor Debate  
February 01, 2012

---

SENATOR CORNETT: Thank you, Mr. President and members of the body. Again, I just wanted to rise and thank Senator Carlson for all of his work. He and my staff and the Humane Society spent a lot of hours on this bill and I really appreciate the effort that was put in so we could come to this compromise. Thank you very much. And I urge the body to support the...both amendments and the underlying bill. Thank you. [LB427]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Senator Gloor, you're recognized. Senator Gloor waives his opportunity. Seeing no other lights on, Senator Carlson, you're recognized to close on AM1670. [LB427]

SENATOR CARLSON: Thank you, Mr. President and thank you for questions and the brief discussion that we have had, and I would simply indicate that I believe this is a good bill and ask for your support on AM1670. Thank you. [LB427]

SENATOR LANGEMEIER: Thank you, Senator Carlson. You have heard the closing on AM1670 offered to the committee amendments. The motion is to adopt. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB427]

CLERK: 37 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments. [LB427]

SENATOR LANGEMEIER: AM1670 is adopted. We return now to discussion on the committee amendment offered to LB427. Seeing no lights on, Senator Carlson, you're recognized to close on the committee amendment. [LB427]

SENATOR CARLSON: Thank you, Mr. President. Again, I believe that AM1576 is good public policy and ask for your support. Thank you. [LB427]

SENATOR LANGEMEIER: Thank you, Senator Carlson. You have heard the closing on the committee amendment offered by the Ag Committee to LB427. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB427]

CLERK: 38 ayes, 0 nays on adoption of committee amendments. [LB427]

SENATOR LANGEMEIER: The committee amendments are adopted. The floor is now open for discussion on LB427, the bill itself. Seeing no lights on, Senator Cornett, you're recognized to close. Senator Cornett waives closing. The question for the body is, shall LB427 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB427]

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

Floor Debate  
February 01, 2012

---

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB427. [LB427]

SENATOR LANGEMEIER: LB427 does advance. Mr. Clerk, next bill, LB344. [LB427 LB344]

CLERK: LB344 is a bill by Senator Ashford. (Read title.) Introduced on January 12 of last year. At that time referred to the Government Committee. The bill was advanced to General File. There are Government, Military and Veterans Affairs Committee amendments, Mr. President. (AM1577, Legislative Journal page 1800, First Session, 2011.) [LB344]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Ashford, you're recognized to open on LB344. [LB344]

SENATOR ASHFORD: Thank you, Mr. President and members. To start with, I just want to clarify that the amendments to this bill, to LB344, the committee amendments will become the bill. When the bill was originally introduced, it talked about changes in the voting rules regarding merger of cities and counties in the metropolitan class, which, of course, would be Omaha. And it also created a commission to put together a plan for merger and consolidation. The amendments...and I appreciate the work of the staff of the Government Committee, and Senator Avery and the entire committee, in working through these issues. The Government Committee has put out what I consider to be a very responsible measure that talks about a commission in Douglas County to think about ways of making government more efficient and reporting back to the Legislature on July 12 of this year. I believe Senator Avery has an amendment that will change that to next year, so the city and county have an opportunity to get together and think about efficiencies. Let me just try to frame this just a bit. Years ago in the late '80s, early '90s, the Legislature, at my request actually, came up with a...asked...came up with the legislation that created the Nebraska flex initiative. And the purpose of that initiative was to study whether or not the state of Nebraska had an interest in developing convention center arenas in the state of Nebraska, whether that would be a net benefit to the state. And the Nebraska flex initiative was done. There was a study done and that resulted in funding for, eventually for the Qwest Center in Omaha, and the...after some years of work, and the arena in Lincoln and in Ralston. What I'm...and prior to that Nebraska flex initiative, there had been years and years of studies in committees and studying the idea of having the state involved in developing convention centers. And at that time in the country, major metropolitan areas were developing convention centers. It became a very important part of the economy of many cities the size of Omaha. This is sort of the same thing on another issue. And it's the issue of how do we encourage our largest urban area, obviously, Omaha and Douglas County, to find ways to become more efficient by working together. And let me start out by saying, they already are trying to do that and have done for many years. There have been efforts to find areas of consolidation. But I think it's appropriate and that the state has a very, very important

Floor Debate  
February 01, 2012

---

interest in asking the city and the county to really dig into this issue and to come back to us in a year with a set of, first of all, principles. Where does Omaha and Douglas County want to be 25 years from now? When we started thinking about convention centers and arenas it was the 1980's, so we're 25 years from then. So 25 years from now, where do we want, as a state, Omaha and Douglas County to be in this sort of...this 100 top urban metropolitan areas in the country? If we're going to continue to develop, to continue to be strong and to continue to move forward, I think we have to seriously think about governmental structure. Now, you know, I've said on this floor and I've said over time that I think the best way to go is one unified government, one unified group, like the Unicameral for state government. I'm used to that, so I suppose it's logical for me to suggest that we ought to have one unified government for Omaha. Other areas in the country, Louisville, most recently, Jacksonville, Nashville, Indianapolis, Denver, Kansas City, Kansas, Phoenix, urban areas across the country have moved towards this kind of governance. But it's not up to me to decide what kind of governance Omaha and Douglas County should have. It's up to the people of Omaha and Douglas County. And I...even...some may say, well, you know, just another study, what's that going to do for us? I think it's going to do a lot because when the Legislature decides it's important to the state, to all of us sitting here, to have an organized response to inquiries and to discussions about how can Omaha be more efficient as the largest city, I think the more efficient Omaha is, and not only efficient in how it governs itself, but also what is its vision? What is its vision? How does Omaha fit into a vibrant economy of Nebraska? Is it a...is it a banking center? Is it an entertainment center? Obviously, Douglas County is landlocked. It doesn't have the ability to particularly grow outside of its borders, obviously, so it has to think about that. How can a twenty-first century county and city like Omaha-Douglas County grow within the confines of Douglas County? And what impact does that growth and that vision have on the entire state? How does it fit in to the entire state and the economy of the entire state? Nebraska needs a vibrant urban area, it needs Omaha to be successful. The Qwest Center, I think, through the efforts of so many people, has shown what kind of...with that kind of change can mean to the entire state. But we need to do more than that. We need to think about where Omaha is going to be and how we can help make Nebraska a stronger place. What I'm asking this Legislature to do here, simply, is to put a stamp of approval on the idea, on the idea of leaders in Douglas County and leaders in the city of Omaha to sit down and really dig into what is possible and what is probable. But not just in the context of 2011 and 2012, but what is going to...what is the vision for 2040, 2050, 2030, when our...my children are grown. So I think it's an important...and I know it's just a committee, I know it may seem like a small matter, but I think it's a major matter because I know that the leaders in my community have given the charge by the Legislature will come through as they did on the Qwest Center initiative. They will come through and they will make investment and they will make Omaha a stronger place. So I'm asking this Legislature to ask the city and ask the county to form a commission or a committee, however you want to call it, that will come back to us in a year with a report on where it sees Omaha going. And in that context, what structural changes are needed so that we can maximize our growth

Floor Debate  
February 01, 2012

---

and we can pigeonhole our growth. We can laser-like say, this is where we want to grow. We want to work with Sarpy County, for example, on a transportation plan. We want a regional...Senator Smith has talked about that. We need to have a regional transportation plan. We don't have that in the metropolitan area, one that we can really fall back on and rely upon. Can we work with Sarpy County or does the Douglas County law enforcement people and the city...law enforcement people, are there things we can do, more things we can do together to be more efficient to make Omaha a safer place to live? Can we develop a...another great example that I think about a lot is the advancements that Sarpy County has made in juvenile justice. They've made really significant change in developing a youth staff secure facility in Sarpy County. Why don't we have one staff secure facility for the two counties? [LB344]

SENATOR LANGEMEIER: One minute. [LB344]

SENATOR ASHFORD: I think these are the kinds of questions that we as a Legislature need to have answered. And what's the practical effect? Well, the practical effect is, hopefully, a year or two from now the city and the county representatives will come to us together, not apart, not two groups arguing against each other, but coming to the Legislature representing 40 percent of the population of the state saying, this is the direction we want to go in the metro area. And I think this is a start. My experience has been that these kinds of initiatives that the Legislature initiates do make a difference. Thank you, Mr. President. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Ashford. As the Clerk has stated, there are committee amendments offered by the Government, Military and Veterans Affairs Committee. Senator Avery, as Chair, you're recognized to open on the committee amendments. [LB344]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. The committee amendment, AM1577, strikes all of the original sections of the bill and replaces them with language that does the following things. The amendment creates a new section of law that provides for the formation of an interjurisdictional planning commission to study and plan for the merger of governmental services within a county that contains a city of the metropolitan class. The intergovernmental...or the interjurisdictional planning commission or IPC will study issues relating to the merger of governmental services of the county and municipalities, and will develop a plan for merger or some...of some or all of the services in that area. The amendment also specifies how the membership of the commission will be determined. Two members will be selected by the mayor of the city of the metropolitan class. Two additional members will be selected by the city council of the city of the metropolitan class and four members will be selected by the county board. In addition, one member from each of the other municipalities within the county containing the city of the metropolitan class, I'm not sure exactly how many there would be, but I'm pretty sure Valley would be one

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

Floor Debate  
February 01, 2012

---

of those, Waterloo, Millard, Bennington, at minimum. I believe Elkhorn was annexed recently, so probably they would not have a member. The bill, as amended, advanced from the committee 5-0 with three members present and not voting. I am confident you will hear from those three members before this debate is over. With that, Mr. President, I would ask the adoption of AM1577. Thank you. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Avery. Mr. Clerk, for a motion. [LB344]

CLERK: Mr. President, Senator Avery would move to amend the committee amendments with AM1672. (AM1672, Legislative Journal page 183.) [LB344]

SENATOR LANGEMEIER: Thank you. Senator Avery, you're recognized to open on AM1672. [LB344]

SENATOR AVERY: Thank you, Mr. President. This is a necessary technical amendment that merely requires the interjurisdictional planning commission to develop and approve the merger plan by July 1, 2013. In the green copy of LB344, the date for completion of their work would be July 1, 2012. That's unrealistic so we pushed that out to July 1, 2013, with this amendment, AM1672. Thank you, Mr. President. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the opening on AM1672 offered to the committee amendment to LB344. The floor is now open for discussion. Senator Pahls, you're recognized. [LB344]

SENATOR PAHLS: Thank you, Mr. President and members of the body. I sat and listened to the good senator talk about this basically being a necessity for the future of the Omaha area. We're going to create a commission, committee, whatever word we're going to call this group of individuals, to make some plan...to have some planning. Most of us are familiar with when we plan. A lot of times that sits on a shelf. So I would like to entertain a question with Senator Ashford. [LB344]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB344]

SENATOR ASHFORD: Yes. [LB344]

SENATOR PAHLS: Senator Ashford, is eventually for this plan, is it to come before the residents of Douglas County? [LB344]

SENATOR ASHFORD: If the...absolutely. I mean, no significant changes in governance can occur without the vote of the people of Douglas County. Correct. I mean, even if it were a partial consolidation, I would suspect that the voters would have to chime in on it. [LB344]

Floor Debate  
February 01, 2012

---

SENATOR PAHLS: Okay. So in your mind's eye, you believe that this group of individuals, their enthusiasm can be transmitted to the voters to see a need for a change, is that...? [LB344]

SENATOR ASHFORD: Yes. [LB344]

SENATOR PAHLS: Because we're not forcing them to do anything other than to plan. [LB344]

SENATOR ASHFORD: Right. That's what I think. And I think it has to bubble up from the people of the county and their elected representatives. It can't...no, it cannot...it is not mandated in this amendment, and there's so many issues that we have to take care of locally that are just applied to Douglas County. And those things have to be ironed out by the leaders and then by the people, I believe. I think that's the right approach. [LB344]

SENATOR PAHLS: Okay. So this group of individuals, as I see it, then they're going to become so charged... [LB344]

SENATOR ASHFORD: That's what I hope. [LB344]

SENATOR PAHLS: Okay. (Laugh) And I understand because if you have the right kind of people they do facilitate change... [LB344]

SENATOR ASHFORD: Right. [LB344]

SENATOR PAHLS: ...and I believe that. My only concern is then eventually if we move off that. By moving to that, I'd like to ask you this question because I've done a little bit of investigating in how the voting would come about if it did happen. And to me, it looks like in Douglas County a small group of people could nix anything. Where is that in your plans? [LB344]

SENATOR ASHFORD: That's correct. What could happen is that the citizens of Douglas County who live outside the...of an SID or the incorporated areas of the city could vote against...if this were going to be a total merger with one governing board for the entire county, if that were the proposal, the way the law stands now, that that small group of citizens could veto the merger. And that is problematic if the people of the area...of the county want to move towards that solution. I think there probably are intermediate steps to get there but that is an impediment and that, you're right. [LB344]

SENATOR PAHLS: Okay, so you're telling me you look at this as not as a big jump but lots of little jumps and maybe eventually would be the big jump, but you're anticipating examination of lots of areas of government not automatically a one county government.

Floor Debate  
February 01, 2012

---

[LB344]

SENATOR ASHFORD: Right. I think there are so many models out there and it seems to me that...I will say this, Senator Pahls, it's a great question and it is that. I think on the county board and city council today, we actually have excellent people with lots of experience. And it seems...and in Sarpy County as well if they talk about doing joint projects. I think we're at a point in our history where we need to encourage this discussion. I'm not sure where they're going to go with it,... [LB344]

SENATOR PAHLS: Okay. [LB344]

SENATOR LANGEMEIER: One minute. [LB344]

SENATOR ASHFORD: ...would be my point. [LB344]

SENATOR PAHLS: Well, one of the things when I talked with this idea with the constituents in my area, a lot of them are then saying, we're already doing this. And you're just saying you want to enlarge that. I mean, because there are people saying the city and the county are talking together on certain issues. You just want to make this more of a... [LB344]

SENATOR ASHFORD: Quicker. (Laugh) [LB344]

SENATOR PAHLS: Okay. More quicker, huh? Good word. Okay, thank you, Senator. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Those wishing to speak, we have Senator Mello, Howard, and Smith. Senator Mello, you're recognized. [LB344]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise in support of the committee amendment that ultimately changes the bill and I thank Senator Ashford and Senator Avery for working together to get this in front of us. I do have a couple of questions, though, for Senator Ashford if he'd yield. [LB344]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB344]

SENATOR ASHFORD: Yes. [LB344]

SENATOR MELLO: Senator Ashford, the issue was brought up or has been discussed in regards to wanting to ensure that this study that's done, this commission, provides an independent perspective of how we could see potentially a new innovative form of government in Douglas County. What do you envision the Legislature's role, if any, over the next year or two as part of that process to ensure that we would get back a report

Floor Debate  
February 01, 2012

---

that truly is independent and not shaded one way or another? [LB344]

SENATOR ASHFORD: Senator Mello, I believe that the Legislature asking the city and the county to work on these matters is important. And I think it's powerful and I think it's compelling. And I think...I believe that the city and the county ask...come to this Legislature every year and ask for numbers of things and that's because we make the laws and I understand that. And I think if the message gets through to the elected representatives, and I know it is, in Omaha and in Douglas County that we want them to not only think about their own individual initiatives that they want to bring here, but how much more effective it would be if they were together, working together collaboratively on initiatives. And I think that's enough of a...that's enough of an impetus to get them to work together. I trust they'll do this, Senator Mello, in my view. [LB344]

SENATOR MELLO: Uh-huh. Is it, Senator Ashford, it doesn't...maybe it doesn't need to be part of the bill but it is helpful in regards to the intent of the bill for legislative history purposes, would it be safe to say that this planning commission that's developed in Douglas County that it would be wise for them to find a...maybe a formal or informal way to keep Douglas County area senators and updated, so to speak, over the next couple of years as this process goes through so we just don't get a report after, you know, a year and a half and then no one really knows what's going on. Would it be safe to say that that would be wise for them as they consider moving forward if we adopt LB344? [LB344]

SENATOR ASHFORD: Yes, and I think they will. But I think if we create this framework, Senator Mello, context by which the city and the county officials can come to...we have meetings with our county officials and our city officials but those meetings are separate. I mean, that seems to be terribly wasteful to me and that...not that they're great meetings and they're great people and we all like, they're our neighbors, and we love to be around them and have fun and talk about stuff. But I think that there needs to be a coalescence of effort and coming together to the Legislature to us as the Omaha delegation so that we can work together better on...but I'd like to do it in the framework...I don't want them to ignore the idea of bringing services together and to make government...to improve governance, because that's something we, in government, do. And I think if we put a focus on that, that will help bring them together on other issues. [LB344]

SENATOR MELLO: Okay. Senator Ashford, thank you. And I do appreciate your work on this and Senator Avery and the Government, Military and Veterans Affairs Committee for their effort to find a solution behind this issue. I think...the point, I guess, of asking that question was for legislative intent purposes with no one knowing who would be appointed, so to speak, for this planning commission. It would only serve them, I think, if we adopt LB344, would serve them to keep the Legislature involved or updated, so to speak, as they continue to move forward prior to the release of their

Floor Debate  
February 01, 2012

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report. Senator Ashford was absolutely correct, we do numerous meetings with local elected officials in the spirit of intergovernmental cooperation and discussing this complex of an issue of trying to develop possibly new, innovative ways of delivering government services, it only serves them as a planning commission that researches and discusses this. It only serves their interest and the state's interest to keep Senator Ashford, Senator Avery, and other interested senators from the Douglas County area involved with what's going on. With that, I urge you to adopt the committee amendment, the underlying amendments, and LB344. Thank you, Mr. President. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Mello. Senator Howard, you're recognized. [LB344]

SENATOR HOWARD: Thank you, Mr. President. I really appreciate Senator Ashford bringing us this bill. I think this is high-time that we look at this issue and move in this direction, if for no other reason than we have the computer age and so many things can be consolidated. I have heard recently many claims that, for example, the treasurer's office is closing offices and installing drop boxes, which I assume are merely boxes outside of a location where you could drop your payment. And it occurs to me that if it's that simple to close offices and put out boxes for people that choose not to use a computer system or don't have the necessity to talk to an individual in person, that more of these offices could be consolidated with a great savings to the county and to the state as well. And, Senator Ashford, if you would yield to a question or two. [LB344]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB344]

SENATOR ASHFORD: Yes, Senator Howard. [LB344]

SENATOR HOWARD: Thank you, Senator Ashford. And possibly this is not as much a question as it is a comment in that I really appreciate that you're looking at this issue and you're trying to put forth ideas that are going to save us a lot of money and I want to give you a chance to respond to that. [LB344]

SENATOR ASHFORD: Thank you, Senator Howard. I absolutely believe, with no equivocation, that the elected officials in Douglas County and the city of Omaha will grasp this opportunity to come forward with a set of proposals that will frame, on the governance side, the vision that Omaha has for the next 25 years. That's really what I'm talking about. How can we best be a partner with the other 92 counties in the state to play our strengths? I believe that the citizens stood up and did the right thing on the Qwest Center and they voted for that. Over 60 percent of the citizens in Omaha voted for the Qwest Center and the redevelopment of the riverfront and that's made a big difference to the state. But I think we could do a whole lot more than that. And...but part of the problem, I think we've had over time, is that we do, because our governmental structures are 150 years old, and none of us in here are that old, that we...it's time to

Floor Debate  
February 01, 2012

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change them and to...at least address changing them so that we...when a decision, for example, in economic...can I go on or do...? [LB344]

SENATOR HOWARD: Well, actually I was going to offer you the remainder of my time, so this works out really well. Let me just say thank you again for doing this and I will give you my time. [LB344]

SENATOR ASHFORD: Thank you, Senator Howard. I mean, I was very impressed by Louisville, Kentucky, in their efforts to consolidate services in Louisville. That's the most recent example of this happening. And what we...in talking to the officials in Louisville and also in Jacksonville, is what we found was on the economic development side, that having a consolidated place--and it can be whatever this Douglas County-city people want it to be--to go for economic development tourism, that it expands economic opportunities exponentially. And in Jacksonville we saw the arrival of their professional football team and all those sorts of economic development opportunities. There are...every case is different and I've been told over the years and, obviously, I've been for this kind of thing for years and I know I probably sound like a broken record, that they're...well, it's not always as rosy as you say, Senator Ashford. Well, no. I mean, there are costs. [LB344]

SENATOR LANGEMEIER: One minute. [LB344]

SENATOR ASHFORD: There are costs involved in doing these things and not everything is perfect, but at some point Nebraskans make decisions with common sense. I really believe that. When we come down to making the tough decisions, we use our commonsense approach and it's usually right. That's the Nebraska way. I think if we just adopt that commonsense approach to governance in the biggest city and county in the state, we can move forward quicker and prove economic development and be a better partner with the rest of the state. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Ashford and Senator Howard. Senator Smith, you're recognized. [LB344]

SENATOR SMITH: Thank you, Mr. President. If I could ask Senator Ashford to yield for an exchange with me, please. [LB344]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB344]

SENATOR ASHFORD: Yes. [LB344]

SENATOR SMITH: First of all, I'd like to applaud Senator Ashford for his forward-thinking. This truly, colleagues, is the legislative process at its best and I know Senator Ashford has been a forward thinker for a long time and has had this vision for a

Floor Debate  
February 01, 2012

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long time and I certainly applaud him for this. I just want to clarify just...I know, sometimes the public doesn't fully understand what a particular bill is intended to do and I just wanted to clarify a couple of things with Senator Ashford. First of all, Senator Ashford, I understand this has nothing to do with school districts, right? [LB344]

SENATOR ASHFORD: No. [LB344]

SENATOR SMITH: Okay. And this has nothing to do with intercounty mergers or anything of that nature? [LB344]

SENATOR ASHFORD: No. [LB344]

SENATOR SMITH: It strictly is dealing with the cities of the... [LB344]

SENATOR ASHFORD: Metropolitan. [LB344]

SENATOR SMITH: ...metropolitan size with Omaha and Douglas County. All right. Well, you know, this makes government work smarter, colleagues. It has potential of making government more efficient and certainly less costly. The other municipalities, do you know which other municipalities would be affected by this, Senator Ashford? [LB344]

SENATOR ASHFORD: In Douglas County, Ralston, Waterloo, Bennington, Valley. Waterloo, did I say that? Maybe Senator McCoy can help me. I think that's it. They would be part of it. They are included in the planning area. It's interesting you mentioned that because in a number of these cities that have consolidated their governance in some way, many of the smaller...and every one of these counties that has done this sort of thing have smaller communities in them. And in some...many of the cases, the smaller communities remained autonomous and didn't become part of the governance that was created for the county and the city. I think Louisville...I believe I'm right, I have to ask Jono here, but I believe Louisville retained the smaller communities within the county, retained their governance structure. So there is no cookie cutter answer but the small communities are critical to any kind of a plan, obviously. [LB344]

SENATOR SMITH: All right. And so there's probably five or six of the individual municipalities that would be allowed one vote on this committee? [LB344]

SENATOR ASHFORD: I think there...yes. [LB344]

SENATOR SMITH: And any one of those in the vote tabulation, any one of those communities that if a majority of vote did not want to move forward with it, it could result in a veto of the plan? Is that what I understand? [LB344]

SENATOR ASHFORD: Yeah, I...yes, I mean, it could come back to the Legislature with

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Floor Debate  
February 01, 2012

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nothing and say, there is no way...I mean, there's no reason for us to go forward, we can't get a consensus. So we are...Senator Pahls raised this issue and he's right. To some extent, we're really asking these representatives on this commission to come up with something if they can and use their best efforts, but it's possible they may not. But I can't imagine it, but it's possible. [LB344]

SENATOR SMITH: So the amendment and the underlying bill as it stands, that's the way it's structured that... [LB344]

SENATOR ASHFORD: I think it's a majority vote. But again, this is just a, I believe, it's just a majority vote. But the...it's simply a report to the Legislature. There is no initiative to go to voters. It would be just to...there could be a dissenting report or a minority report that could go to the Legislature. I think it's really up to them to decide how they'd structure their report and their recommendations, Senator Smith, I believe. I'm going to double-check the amendment, but... [LB344]

SENATOR LANGEMEIER: One minute. [LB344]

SENATOR ASHFORD: ...either way, in order for anything like this to work there has to be a pretty good consensus. [LB344]

SENATOR SMITH: Right. And then within the plan that is the resulting plan, would address any type of department consolidation, right? [LB344]

SENATOR ASHFORD: Yes. It would address...I think what I...I'm trying to say and I'm trying to...sorry to be so vague is how do we look at governmental structure in Douglas County as it relates to the vision of our county over the next 25 years, and what role should it play in the entire state? And that's why I think the Legislature has a stake in it. Where is Omaha going? And how is it going to be more efficient? And part of it may be as it relates to Sarpy County roads transportation plan. Maybe Sarpy County says... [LB344]

SENATOR LANGEMEIER: Time. [LB344]

SENATOR ASHFORD: ...you know, let's do that. [LB344]

SENATOR SMITH: Thank you, Mr. President. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Smith. Those still wishing to speak we have: Senator Avery, Nelson, and Price. Senator Avery, you're recognized. [LB344]

SENATOR AVERY: Thank you, Mr. President. I look at Omaha as our premier city. Every time I visit Omaha and I see that impressive skyline, especially at night coming in

Floor Debate  
February 01, 2012

---

from the airport on my way back to Lincoln, it's impressive. The new development on the riverfront, the Qwest Center, the new baseball stadium, it's impressive. But I believe that what we're talking about here is an opportunity for Omaha and Douglas County to create a mechanism to become a more impressive community. This is an opportunity to construct a bold new structure of government in order to capture efficiencies, cost savings, better delivery of services. This Legislature actually created the county merger act in 2001 and that was after the voters had approved a constitutional amendment that permitted county-city mergers. And that has been around for a while, but no one has actually decided to use it. But this is the time. When we went through that painful process last year under LR542, I saw that as an opportunity for this Legislature to do a lot of bold things to reform government, to change the way we do things in this state, to become more efficient, to capture savings, and to deliver better services. I believe that we missed some opportunities. I think we missed a lot of opportunities because usually innovation is spawned in crisis. And we were in a crisis last year and I'm not sure we're completely out of it, but the crisis now is not as acute, so we're not quite so...feel the sense of urgency to tackle these tough issues that we're talking about here with this issue. The evidence is pretty clear in those cities and counties around the country that have actually managed to bring about county-city mergers. And just to pick one at random because it happens to be on the first sheet here, in Louisville, Kentucky, Louisville and Jefferson County approved a referendum to merge and consolidate city-county government. And they began to see impressive savings. They restructured executive branch from two governments to one to eliminate overlapping functions, saved \$700,000 a year right off the bat. Moving metro departments from leased space into buildings that the government already owned, savings of \$2 million a year. They out-sourced functions. They also managed to do some consolidating and reform of their transportation system saving, again, hundreds of thousands of dollars. Previous contracts for courier services was considered costly so they came up with a new contract focusing on consolidate deliveries to departments, reduced costs, \$100,000 a year savings. These are the kind of things that we're talking about when you can capture efficiencies, as we believe would be possible with a county-city merger... [LB344]

SENATOR LANGEMEIER: One minute. [LB344]

SENATOR AVERY: ...in the metropolitan area, that matters. And it means something significant to the voters and to the citizens of the area. But let me say very clearly, what we're proposing in this amendment is not that we will actually move forward with the merger. We're talking about setting up a mechanism for studying it and coming up with recommendations. It will still be something that we'll have to consider extensively in this body as to whether that would take place. Thank you, Mr. President. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Nelson, you're recognized. [LB344]

Floor Debate  
February 01, 2012

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SENATOR NELSON: Thank you, Mr. President and members of the body. I'm looking at the amendment here, AM1577, and some of my questions probably have been answered, but...and I rise not being ambivalent, but not necessarily in support or against the amendment, but I do have some questions for Senator Avery with regard to this, if he will yield. [LB344]

SENATOR LANGEMEIER: Senator Avery, would you yield? [LB344]

SENATOR AVERY: I will. [LB344]

SENATOR NELSON: Thank you, Senator Avery. I'm...this is just a one-page amendment and I'm looking at line 9 where it says, "an interjurisdictional planning commission shall be created for each such county to study issues" and etcetera. Who takes the lead on creating this? Are we telling the county that they have to form this commission? Is it the city council in Omaha? I don't think that's very clear as to who is going to create this commission. We're mandating it, but who gets it off the ground? [LB344]

SENATOR AVERY: It would be the mayor, city council, and the county governments working together to get it started. This is a...mandating that it be done and that the work begin right away and complete the work by July 1, 2013, if we approve this amendment. But I would think that the leadership of the council, the board, and the mayor's office would initiate the process. [LB344]

SENATOR NELSON: Thank you. And then the next is, "The plan shall be developed and approved by the commission by July 1," and with your ensuing amendment then, 2013. I guess I'm bothered a little bit about the fact that it provides for eight members from the...on the commission from...or the study from the county and city council, but then one member from each of the other municipalities. How many municipalities are there? Do you know what the count is? [LB344]

SENATOR AVERY: Well, I do know that Valley would be one, Waterloo, Millard, and Bennington. You know the area probably better than I do. You might be able to add a couple more, but each of those would have one member. [LB344]

SENATOR NELSON: But...well, then, so, suppose there are eight or nine, their votes could almost outweigh, probably, the members of the city...appointed by the city council and the county. And is there a possibility that the municipalities could control this and foist a plan or develop a plan that, by majority vote, they could present to us that really was not in the best interest of either the county or the city? [LB344]

SENATOR AVERY: Well, I'm not sure if the number of municipalities go beyond the four

Floor Debate  
February 01, 2012

---

that I've been able to identify. If it does, that would be a possibility. But then anything that would be recommended would come to this body and we'd have to decide. And if we decided that it was skewed in one direction, and actually harmed the interest of the other interested parties, we could vote to not approve it. [LB344]

SENATOR NELSON: All right. Thank you, Senator Avery. I have a question or two then for Senator Ashford, who already talked...I think answered a question about, how is this going to work? I mean, if there's disagreement on the part of this planning commission, how are they going to vote on this, and I...if Senator Ashford would yield, I'd like to elaborate on that just a little bit. [LB344]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB344]

SENATOR ASHFORD: Yes. Thank you, Senator Nelson, and the amendment is intentionally drawn... [LB344]

SENATOR LANGEMEIER: One minute. [LB344]

SENATOR ASHFORD: Thank you...is intentionally drawn not to tell the city and the county or the smaller municipalities how to structure their commission. It's...they will structure it as they see fit. And if there is a minority view, then I...and they can decide their own rules. I think that's the best way to address this so that when the Legislature doesn't...we don't want to, I don't think, mandate to them, other than forming this commission, how they want to structure the commission. There could very well be a minority view and that minority view would be represented to us in the report and we could take it into consideration. I think, realistically, we're going to...if there's not a consensus, it's going to be very difficult to move forward with any kind of planning on the legislative side. So it's an act of faith, I think, in that regard, Senator Nelson. [LB344]

SENATOR NELSON: Well, that's precisely my point. It says the plan shall be developed and if we don't have any consensus on a plan, where are we? [LB344]

SENATOR ASHFORD: And I think we may not go anywhere. I think... [LB344]

SENATOR LANGEMEIER: Time. [LB344]

SENATOR NELSON: Thank you. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Price, you're recognized. [LB344]

SENATOR PRICE: Thank you, Mr. President. Good morning, colleagues. I thought I'd explain the abstaining of a vote in committee. First, and foremost, it looks like a turf

Floor Debate  
February 01, 2012

---

battle could ensue from this. Second of all, I have an inherent and natural reaction to when I see things where a city of a metropolitan class is looking to expand its powers. Without going too far off the road and into the ditch, the Learning Community was that. And we all know where that is right now and how I feel about that. But some questions I have, when we look at the amendment on line 7, it says "review and plan for merger." The amendment doesn't say to collect information on the pros and cons. It says, "plan for merger." In my old days of military work, that's making an operations plan. You don't make that without the intention of carrying it out. I'd like to know what both sides of the story are and that doesn't tell us. It just says, tell us what we need to do to make this happen. So that gives me concern. I would also ask the question, we have had bills before us before, we saw with the annexation of Elkhorn and things of that nature, where there would...disagreements on how services were going to be provided. And when I brought up the concept of turf battles, the idea of, is it going to be the sheriff's department that does this, or OPPD that does that? I'm concerned. And when you do a merger, and I would hope that...and matter of fact what I will do is, I would ask, would Senator Ashford would yield to a question? [LB344]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB344]

SENATOR ASHFORD: Yes. [LB344]

SENATOR PRICE: All right. Thank you very much, Senator Ashford. If...let's just try to play this out a little bit, okay. They do the report, it comes back, and we seem we want to go forward with it. What happens with the debt that Omaha has right now with its pension plan? Would that be a burden shared by the rest of the county? [LB344]

SENATOR ASHFORD: I...without a resolution of the debt issue involving pensions, with the pension debt, it's going to be very difficult to do a total full merger of the county and the city. So if that's the direction they want to go, they're going to have to resolve that issue. [LB344]

SENATOR PRICE: Yeah, but that would almost be like a deal breaker with all the parties. [LB344]

SENATOR ASHFORD: I don't know. I mean, it's a big debt. It's five hundred million, so it's going to have to...we're going to have to look at it realistically. If the entities wish to move in that direction, they're going to have to address debt, just like you would in any kind of annexation. [LB344]

SENATOR PRICE: Right. Thank you very much, Senator Ashford. And that is, that's exactly a point that as we develop it, we can talk about it more and maybe see...tug at the threads here. But you do have a merger and acquisition going on here. And in that merger, you know, all the liabilities and debts of one entity and the other entity come

Floor Debate  
February 01, 2012

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together and they decide who is going to pay what and how that's going to be structured. So that would be a very important thing for members to consider and those who participate and that would play into my next point which was, the taxing issues within the county. You know, we hear the issue with cities needing taxing authority. That takes a lot of our time, actually, out here. But I've also been approached by the counties, counties are getting squeezed out by cities. Those counties have to provide certain services. That's what they're obligated to and yet they have a decreasing tax base. And when you look at Sarpy County and Douglas County as the only two counties, in my understanding, in the United States that have... [LB344]

SENATOR LANGEMEIER: One minute. [LB344]

SENATOR PRICE: Thank you, Mr. President...that have SIDs, we already have a challenge there. I've already got a quasi political subdivision out there. I don't know if they're going to get representation on this board. Matter of fact, I may ask that that would be included if we go forward because there are 50,000 people living in the SIDs in the two counties. That's larger than some municipalities, for sure. And finally, we saw in the fiscal note who is going to pay for it. There may be cost incurred in data collection. And that would be something that needs to be addressed. And with that, I'd...thank you, Mr. President. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Price. (Visitors introduced.) Returning to discussion on AM1672 offered to the committee amendments to LB344, those wishing to speak we have Senator Schumacher, Krist, and Ashford. Senator Schumacher, you're recognized. [LB344]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. There's a merging thought in circles of government academia that perhaps one of the ways that we can deal with the problems of government being too big, too bulky, too remote, too inappropriate, is a city-state model of regional governance as a way to viably govern a region and tailor its activities to optimizing opportunities and responding to economic evolution. I applaud Senator Ashford in this effort in this very small, early stage way to at least begin the process of thinking of that. Whether we call it consolidation, merger, or interlocalization, the building of communities of interest, and ways for them to develop a common vision, and a way to implement that common vision by mobilizing private and public abilities and resources, is a key to the future. In Nebraska we certainly have got to step back and look at what is going on in the very vibrant, developing economies of the Omaha, Lincoln, Sarpy County areas. To think that 40 years from now we are going to have the institutionalizations for municipal government be the same as they were 40 years ago, is probably not an appropriate thought. Likewise, as we see the tremendous increases in agricultural efficiencies, which are irreversibly transforming the face of rural Nebraska, these principles that may be developed here with this very small prototype in the Douglas and Omaha area, may

Floor Debate  
February 01, 2012

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be applied to some of the changing governmental needs, the ability of government to address in large scale, yet individually tailored, to our regional centers in rural Nebraska as we evolve there. So I strongly support the idea that we look into the future, attempt to take steps in that direction, and very gradually wean ourselves from the past. Thank you, Mr. President. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Schumacher. Senator Krist, you're recognized. [LB344]

SENATOR KRIST: Thank you, Mr. President. Good morning, Nebraska and colleagues. I'm going to pick up an old familiar tone for me here. There is a part of our constitution that very clearly keeps us from singling out a particular entity, and so we have gotten around that. We've gotten around special legislation. We've gotten around the constitution by categorically calling things "city of the metropolitan class" those in primary, etcetera. Guess what? Name me one other place in this state that's going to become a city of the metropolitan class or a community of the metropolitan class within any of our lifetimes or our kids lifetimes. So let's not fool ourselves. When we say a city of the metropolitan class, or we use that to categorically to tell people what to do, we are singling out one city, one county, Douglas and Omaha. I'd feel much better if this study would include all of Nebraska. There's another part of our constitution which has to do with, I think, a very important part and that is, we, as a Legislature, have the interest in making sure that those communities are reorganized if it's in the best interest in terms of consolidation, efficiency, and the styles of government. Senator Schumacher just complimented Senator Ashford for bringing it forward. I will do the same. I would say it's wonderful for us to do that, it's in our constitution. It says that we should look at consolidations of government in all functions. This is not just an Omaha problem. And let me go back to a conversation that we had yesterday in Urban Affairs. If you think the SID, the Sanitary Improvement District problem only exists in Omaha and Douglas County, there are 1,040, 1,040 SIDs across this state that don't have the right to vote in the local area that they are for leadership. I think that needs to be looked at. I think consolidation of efforts and savings in the county, the city, the township that you're in, bears looking at. I know of examples in Lancaster County where they have done a wonderful job of consolidating their county and city functions. The word "metropolitan class" should be taken out of this legislation and the study should be across the board in terms of looking at potentially the largest five, or six, or ten to consolidate functions. If that is our intent, if that is the will of this body, to look into the state and say, look at ways to consolidate and make efficiencies within governing bodies, then let's not single out, once again, the Omaha and Douglas County area as the city of the metropolitan class. Senator Ashford is right on target. His original bill said, you all need to look at things that are going to make you smarter, faster, more efficient, save money, less redundancy, less duplicity, let's find a way to incorporate those SIDs. At the point when an SID is founded and is funded, we should have an annex plan that brings them into the tax roll both in terms of commercial and residential tax base... [LB344]

Floor Debate  
February 01, 2012

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SENATOR LANGEMEIER: One minute. [LB344]

SENATOR KRIST: ...because that city, township, has to provide the infrastructure, the utility, and the roads to go with it. This is a very complexed issue. It's not going to happen overnight. Charging all the communities across the state to take a good look at their consolidation of redundancies and duplicity is right where we should be. I think Senator Ashford is right on target. I'm not sure that we should target in, once again, that city of the metropolitan class. Thank you, colleagues. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Ashford, you're recognized. [LB344]

SENATOR ASHFORD: Thank you. And I'm going to give most of my time to Senator Campbell, but let me just respond. I think that--very briefly, and then we can move on because I don't think there are too many other speakers, but--certainly any county and city wishes to, should look at these issues and I...Senator Harms has the planning commission committee on the Legislature and I think that's a topic that should be discussed. Omaha is the only city of the metropolitan class. It's not a special class under special legislation, but certainly every county, if it so desires, should look at these things. The other point I'll make is, we cannot be fearful of moving forward with change. We cannot be fearful. And yes, there are turf battles. Senator Price is right. There are turf battles in Douglas County, but it's not because these people are not incented properly to make change. It's just that they...people have been doing things the same way for many, many generations in our county. We are the largest county. We make up 40 percent or so of the population, and we have a significant obligation to be really good at what we do. And we have an obligation to the state to have a vision for the future and we have an obligation to have the business structures in place that are going to get us there. And if it's merging one office, that's better than not. So I think we cannot be fearful. We cannot be afraid of change. We cannot be afraid of institutional bias. We must move forward, courageously, to define our vision and connect our vision with our governmental structures and that's the point of this bill. And with that, if Senator Campbell so desires, I would give her the rest of my time. [LB344]

SENATOR LANGEMEIER: Senator Campbell, 3 minutes 14 seconds. [LB344]

SENATOR CAMPBELL: Thank you, Mr. President and good morning colleagues. I just want to stand in support of the two amendments and the underlying bill, and respond a little bit with regard to Lincoln and Lancaster County. And yes, Senator Price, we do have SIDs in Lancaster County. When I served on the county board I took calls from all over the country. And one of the reason was because Lincoln and Lancaster County, at that point, had 46 joint departments, commissions, or task forces. Dating back to 1947 through interlocal agreements, the city of Lincoln and the county of Lancaster have built,

Floor Debate  
February 01, 2012

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for all intents and purposes, what we called functional cooperation and somewhat of a consolidation. We had joint departments in planning and personnel. That saved the taxpayer in our city and county a great amount of money. And so, I support whatever efforts can be brought to bear encouraging our local entities to look at the tools. And I would mention two tools that Lincoln and Lancaster County have used that also may help in this effort, and that is, a joint public building commission, which Omaha and Douglas County does have, but perhaps is one avenue that also needs to be extended; and the joint public agency which is coming together of two political entities, and we're using that in the sports arena for Lincoln. I wholeheartedly encourage the effort that Senator Ashford has put forward because it only saves money and taxpayer efficiency in the future as you look at these joint efforts. Thank you, Mr. President. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Campbell and Senator Ashford. Senator Campbell, you're...you're light is now off. Seeing no other lights on, Senator Avery, you are recognized to close on AM1672. [LB344]

SENATOR AVERY: Thank you, Mr. President. AM1672 is simply a technical amendment that will push the date for the completion of this work out to July 1, 2013. There's not enough time to get it done by July 1, 2012. Thank you. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Avery. You've heard the closing on AM1672 offered to the committee amendments to LB344. The question before the body is, shall they be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB344]

CLERK: 27 ayes, 0 nays on adoption of the amendment to the committee amendments. [LB344]

SENATOR LANGEMEIER: AM1672 is adopted. We return now to discussion on the committee amendments to LB344. Seeing no lights on, Senator Avery, you are recognized to close on the committee amendments. [LB344]

SENATOR AVERY: Thank you, Mr. President. I think we had sufficient debate and debate that brought out the important points that needed to be made. This simply sets up an interjurisdictional planning commission. It specifies the members of that commission. And the amendment we just adopted would specify the date the report would be due. This does not commit us to do anything. It does not commit us to approve a merger. It simply says, the commission will study the issue and will make a recommendation, and then it is up to us to decide what to do with that. I urge passage of AM1577. Thank you. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the closing on the committee amendment, AM1577, to LB344. The question before the body is, shall

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

Floor Debate  
February 01, 2012

---

AM1577 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB344]

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB344]

SENATOR LANGEMEIER: AM1577 is adopted. We return now to discussion on LB344. Seeing no lights on, Senator Ashford, you are recognized to close on LB344. [LB344]

SENATOR ASHFORD: Thank you. Very briefly...and thank you, members, for discussing this issue. Again, I just want to thank the Government Committee and Christy for helping us develop this legislation. Let me just conclude by saying this. In 1989, when I was in the Legislature before, there was a dream that someday we could build a convention center arena in Omaha that would put Omaha on the map. And the Legislature saw fit--though it was maybe, it could be argued, it was not a state issue--agreed to promote a study of how the state of Nebraska would be benefited by such a move. And, as a result of that study, we eventually helped develop the Qwest Center and now the Lincoln arena and the Ralston arena and, hopefully, more across the state. And, of course, the fund that has created funding for small projects in...37 or 38 projects across the state. And that came from this body, because this body said, we're not sure where this is going to go but it's worth trying. This is, I think, where we are here. Omaha is...we're all Nebraskans, but Omaha has a unique responsibility to be great, because the greater we are at whatever it is, it enhances the entire state. I believe that to the depth of my being. And that's really why I'm here. And that's why my colleagues from Omaha are here, is because we believe to make Omaha great is making Nebraska greater. I think we are in somewhat the same place we were in when we started thinking about convention center arenas and putting Nebraska on the map in that area. I'm not mandating or suggesting that Douglas County and the city of Omaha do anything specific other than meet and confer with the, I think, the awesome...with an awareness of what I believe to be an awesome responsibility not only to represent the citizens of Douglas County but, in a way, representing all Nebraskans, so that what...as we move forward over the next 25 years and we develop a vision for where we want to be, whether it's on the riverfront, whether it's in western Douglas County, or wherever it is, we have to have in place the most up-to-date governmental efficiencies and structures that will allow us to promote economic development, promote collaboration, get rid of turf battles as much as possible, realizing that they're never totally going to go away. So I urge this body to give this a shot, give us in Omaha an opportunity to do something, as we did years ago with the idea of a convention center arena. We have a little bit of a legislative spotlight on this. I think that encourages my friends in Omaha and Douglas County to work harder and to work diligently on coming up with a plan and a vision. With that, I urge the advancement of LB344. Thank you. [LB344]

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the closing on

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

Floor Debate  
February 01, 2012

---

LB344. The question before the body is, shall LB344 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB344]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB344. [LB344]

SENATOR LANGEMEIER: LB344 does advance. Mr. Clerk, items... [LB344]

CLERK: Thank you, Mr. President. Banking Committee, chaired by Senator Pahls, reports LB811 and LB1031 to General File, LB887 and LB943 to General File with amendments. Hearing notice from Business and Labor signed by Senator Lathrop. Amendment to be printed to LB1073 by Senator Lathrop. And Senator Lautenbaugh offers a new resolution, LR387; that will be laid over, Mr. President. I'm sorry, that calls for an interim study; that will be referred to the Executive Board. That's all that I have, Mr. President. (Legislative Journal pages 390-393.) [LB811 LB1031 LB887 LB943 LB1073 LR387]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll continue on General File to LB576. [LB576]

CLERK: LB576, a bill by Senator Wightman. (Read title.) Introduced on January 19 of last year, referred to the Executive Board for purposes of conducting a public hearing. The bill was advanced to General File. There are committee amendments, Mr. President. (AM1555, Legislative Journal pages 1801, First Session, 2011.) [LB576]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Wightman, you are recognized to open on LB576. [LB576]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. LB576 would create the Nebraska Statutes Cash Fund. For a little background, the process for distributing supplements and the other, your burgundy-colored statutes--for any of you who may not know, and I'm sure all of you do--the process for distributing supplements and reissued or replacement volumes is set out in state law. The Revisor of Statutes Office first prepares the volumes for publication. Then, with approval from the Chair of the Executive Board, the Revisor enters into a contract for the printing of these books. The books are then sold and distributed by the Supreme Court at a price recommended by the Revisor and approved by the Chair of the Executive Board. Pursuant to Section 49-707, the price is to be, quote, sufficient to recover all costs of publication, end quote. Currently, the money received from the sale of the statutes and supplements goes to the General Fund. The purpose of LB576 is to instead direct the funds paid back to the Legislative Council's budget to help offset the publishing costs. In other words, all money received from the sale of the supplements and reissued or replaced volumes of the statutes would be credited to the fund created by LB576. I would mention that

Floor Debate  
February 01, 2012

---

another section of law, which we're not seeking to amend, Section 49-617, provides for the free distribution of statutes to about 1,000 individuals and entities. This means that we do not actually fully recoup the cost of all the books that are printed, because of these 1,000. Now, originally I looked at the statute and thought that maybe it looked a little light on 1,000, that maybe we were rounding up when it got to 501. But apparently that's not the case. And now I am informed that that actually may be about 1,100 free volumes that are distributed. The committee amendment, which I will introduce next, offers clarifying language along with some new language, which I will discuss when we discuss the amendment. So I can go directly into the amendment if you wish. You've got lights. [LB576]

SENATOR LANGEMEIER: Thank you, Senator Wightman. As the Clerk has stated, there are committee amendments offered by the Executive Board. As Chairman of the Exec Board, you're recognized to open on the committee amendments. [LB576]

SENATOR WIGHTMAN: Thank you again, Mr. President. Turning to the committee amendment, the committee amendment strikes the original sections and creates two funds, the Nebraska Statutes Cash Fund as in the original bill and the Nebraska Statutes Distribution Cash Fund. The Nebraska Statutes Cash Fund would be used by the Legislative Council, as discussed earlier, to offset the charges for the publication of the supplements and reissued or replacement volumes. The Nebraska Statutes Distribution Cash Fund would be created at the Supreme Court's request to be used by the court to offset distribution costs. Publication and distribution costs would be set by the Executive Board. Currently the court includes a handling fee when distributing the books, but they do not have clear authority to do so. This amendment would clarify that they can charge a handling or distribution fee and then creates the Nebraska Statutes Distribution Cash Fund to receive that share of the funds. I would ask for your support of the committee amendment and if you have any questions would be happy to answer them. Thank you. [LB576]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Wightman. Members, you've heard the opening on AM1555 to LB576. The floor is now open for debate. Senator Flood, you're recognized. [LB576]

SPEAKER FLOOD: Thank you, Mr. President and members. Last year when we were facing an almost \$1 billion budget shortfall, the Executive Board on your behalf went through the process of looking at all of the divisions and trying to make cuts where we could. And as we examined each division, I noted that as we looked at the Revisor's Office, in some years up to \$500,000 from our legislative budget was printing all of these statute books, you know. And we want judges to have copies of them; we want other agencies to have copies of them. And a number of them are sold, then, to

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

Floor Debate  
February 01, 2012

---

practicing lawyers or, you know, citizens of this state and law libraries across the nation. And what we determined was when the statute books are sold, the Supreme Court does the selling of the books, and then any money they get over an administrative fee goes into the General Fund. And so this bill clarifies for the purposes of the Legislature that when those books are sold it comes back into a cash fund, so that it isn't our branch of government paying for everybody else's books. It balances the books for us. It allows the Revisor's Office to show, you know, money out, money in. And it allows the Legislature to not experience these ups and downs. When we did the Learning Community in 2007, that session we also did water, we reissued a number of volumes. The Revisor's Office had to reissue a number of volumes of the statute books, and that resulted in a huge expenditure for the Legislature. It's all the state's money. But as we were attempting to do our budgeting, we felt, on the Executive Board, if we're going to show money out and it's for the sale of statute books, we should show money in so that our books in the Legislature are consistent with our expenses. Obviously if it's personnel for a member of the Legislature, that's an expense of the Legislature. But if it's a set of statute books for somebody that buys a set, that isn't a legislative purpose, so that we should show that money coming back in to us instead of the General Fund. And that's why the Executive Board did this. That's why Senator Wightman introduced the bill. And I will tell you, last year when we went through those budget cuts, your Executive Board, in my opinion, did a good job of going line by line, division by division in the Legislature. And when I asked Joanne Pepperl about this, our Revisor of Statutes, she explained the disconnect on money out and then money back in to the General Fund. And we wanted to correct that with this bill. Thank you, Mr. President. [LB576]

SENATOR CARLSON: Thank you, Senator Flood. Are there other senators wishing to speak? Seeing none, Senator Wightman, you're recognized to close on your amendment. Senator Wightman waives closing. Question is, shall AM1555 be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB576]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB576]

SENATOR CARLSON: Committee amendment is adopted. We return to discussion of the underlying bill, LB576. Are there senators wishing to speak? Seeing none, Senator Wightman, you're recognized to close. Senator Wightman waives closing. Question is, shall LB576 be advanced? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB576]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB576. [LB576]

SENATOR CARLSON: The bill does advance. Senators, I see that Senator Conrad is with us this morning. And it's very good to see you back. Welcome. Mr. Clerk, next item. [LB576]

Floor Debate  
February 01, 2012

---

CLERK: Mr. President, LB498 is a bill by Senator Louden. (Read title.) Introduced on January 18 last year, referred to the Natural Resources Committee for purposes of a public hearing, advanced to General File. There are committee amendments, Mr. President. (AM1581, Legislative Journal page 1812, First Session, 2011.) [LB498]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Louden, you're recognized to open on LB498. [LB498]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I bring before you today LB498, which removes in situ mining from certain regulations related to the withdrawal and transfer of water from underground aquifers. The reason for this bill is to recognize that existing regulations are not effective when dealing with in situ mining, in which the majority of water is continually reinjected back into the aquifer after being withdrawn. This bill leaves in place the authority of the Nebraska Department of Environmental Quality to regulate the usage and flow of underground water by in situ mining through the state's aquifer exemption process and underground injection control permits. Crow Butte uranium is located in northwest Nebraska and is a huge economic driver for the area in Nebraska. Crow Butte is a subsidiary of Cameco, which pays a severance tax to Nebraska for the amount of uranium that's being mined up there. Crow Butte has been mining in the Crawford area for probably 15 years or so, and it has been quite a economic driver for that part of the area. And with this...LB498 has been introduced to mostly clarify statutes that deal with this type of mining. An amendment has been made to this bill by the Natural Resources Committee, and I support that amendment. Thank you, Mr. President. [LB498]

SENATOR CARLSON: Thank you, Senator Louden. As the Clerk mentioned, there are committee amendments. Senator Langemeier, as Chair of the Natural Resources Committee, you're recognized to open on the amendment. [LB498]

SENATOR LANGEMEIER: Mr. President, members of the body, AM1581 does replace the bill, which calls for the exclusion of in situ mining from the industrial groundwater regulatory permitting process. Right now as you want to do in situ mining, you are required to get two permits: one through DNR and one through DEQ. They both have an amount of water that you can pump to inject in and a flow rate. And one is at 3,640, and the other one is at 11,000. This allows us to remove them from the ability under DNR and puts it all under DEQ, so they have one flow rate to deal with. And with that, we'd ask for your adoption of the committee amendment, AM1581. And then, to follow, Senator Louden will have a technical amendment; we have to add one more statute number into this bill. So he will have that technical amendment to follow. Thank you. [LB498]

SENATOR CARLSON: Thank you, Senator Langemeier. Mr. Clerk, for an amendment.

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

Floor Debate  
February 01, 2012

---

[LB498]

CLERK: Senator Louden would move to amend the committee amendments with AM1658. (Legislative Journal page 384.) [LB498]

SENATOR CARLSON: Senator Louden, you're recognized to open on your amendment. [LB498]

SENATOR LOUDEN: Thank you, Mr. President. And thank you, Senator Langemeier. All this AM1658 to the committee amendment does is put a different number on the sections to be referred to in this type of mining. It was decided after we'd worked on this some that we should have it in statutes 81-1504 and 81-1505. Previously, I think, they were in statutes 81-1531. And that's all that the amendment does is some technical work that came about through the revision of this bill. Thank you, Mr. President. [LB498]

SENATOR CARLSON: Thank you, Senator Louden. Members, you've heard the opening on LB498 and the amendments. The floor is now open for debate. Are there senators wishing to speak? Seeing none, Senator Louden, you're recognized to close on AM1658. Senator Louden waives closing. The question is, shall AM1658 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB498]

CLERK: 32 ayes, 0 nays on adoption of the amendment to the committee amendments, Mr. President. [LB498]

SENATOR CARLSON: The amendment is adopted. Are there senators wishing to speak on the underlying bill or AM1581? Seeing none, Senator Langemeier, you're recognized to close on AM1581. He waives closing. The question is, shall AM1581 be adopted? All those in favor vote yea; opposed vote nay. Record, Mr. Clerk. [LB498]

CLERK: 32 ayes, 0 nays on adoption of committee amendments. [LB498]

SENATOR CARLSON: Committee amendments are adopted. Are there senators wishing to speak on LB498? Seeing none, Senator Louden, you're recognized to close. Senator Louden waives closing. Excuse me. Senator Bloomfield, you're recognized. [LB498]

SENATOR BLOOMFIELD: Thank you, Mr. President. All I really want to say is I had an opportunity to visit that mining operation last summer. They are more than willing to give anybody here a tour of it, and I would highly recommend that. And I support this legislation. Thank you. [LB498]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Louden, you have

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

Floor Debate  
February 01, 2012

---

waived closing. The question is, shall LB498 be advanced? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB498]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB498. [LB498]

SENATOR CARLSON: The bill does advance. Next item, Mr. Clerk. [LB498]

CLERK: LB836 is a bill by Senator Pahls. (Read title.) The bill was introduced on January 5, at that time referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. There are Banking Committee amendments, Mr. President. (AM1700, Legislative Journal page 269.) [LB836]

SENATOR CARLSON: Thank you, Mr. Clerk. Before we have that opening, I recognize the Speaker for an announcement. [LB836]

SPEAKER FLOOD: Thank you, Mr. President. Members, a scheduling note. Given the number of bills that we have available to be scheduled and some of the topics that we have that are moving somewhat quickly, for obvious reasons, we're going to start tomorrow at 10:00 a.m. We're going to start tomorrow at 10:00 a.m. And that is a departure from our normal 9:00 a.m. start. So there will be a start time of 10:00 a.m. tomorrow morning. Thank you.

SENATOR CARLSON: Thank you, Mr. Speaker. Senator Pahls, you're recognized to open on LB836. [LB836]

SENATOR PAHLS: Thank you, Mr. President and members of the body. LB836 would provide some clarifications in a complex but also important part of our laws. Banks or savings and loans that accept deposit of state and political subdivision funds must have means in place to secure the amount of deposits in excess of FDIC insurance. And there are various ways to do that. Since 2004, our statutes have authorized the investment of public funds in certificates of deposit or time deposits pursuant to private programs like the Certificate of Deposit Account Registry Service, and I will call that CDARS. LB836 would expand these provisions to authorize investment of public funds in interest-bearing money market deposit accounts through the same procedures and conditions. Currently, some financial institutions participate in CDARS or in similar programs which allow them to exchange certificates of deposit and time deposits with other financial institutions also participating in a program, in order to provide full FDIC coverage to customers wishing to deposit amounts in excess of \$250,000, which is the FDIC insurance limit. Under one of these programs, a financial institution who wants to provide full FDIC insurance coverage for a political subdivision's \$1 million certificate of deposit or time deposit could retain for itself \$250,000, which would be fully insured by the FDIC, and then they would transfer the remaining \$750,000 of the certificate of deposit or time deposit in \$250,000 increments to three other financial institutions,

Floor Debate  
February 01, 2012

---

which would receive separate \$250,000 certificates of deposit or time deposits from three other financial institutions participating in CDARS, to replace the funds from the customer political subdivision. Also, the funds exchanged remain fully insured by the FDIC. Under LB836, the state or political subdivisions would be authorized to invest in interest-bearing money market accounts--that would be a third way--as well as certificates of deposit and time deposits in these deposit placement services. The mechanism stays the same; we are only being asked to authorize an additional investment vehicle for public funds to be fully FDIC insured. Thank you. [LB836]

SENATOR CARLSON: Thank you, Senator Pahls. As the Clerk mentioned, there are committee amendments. And, Senator Pahls, you're recognized to open on those. [LB836]

SENATOR PAHLS: Thank you. The committee amendments amount to a clarification of a clarification. To be honest with you, a major downside of introducing banking legislation is that the bills are read by banking attorneys. These people, in my estimation, always are in search of corners to nail down. The committee amendments are intended to make certain that when a bill authorizes public funds to be invested in interest-bearing deposits through a deposit placement service, such authorization is only an alternative to the funding of securities or the providing of a guaranty bond, as otherwise provided by these statutes. Basically, this is a belt-and-suspenders amendment. Thank you. [LB836]

SENATOR CARLSON: Thank you, Senator Pahls. Members, you've heard the opening on LB836, the underlying amendment, AM1700. And the floor is now open for debate. Are there senators wishing to speak? Seeing none, Senator Pahls, you're recognized to close on the amendment. He waives closing. The question is, shall AM1700 be adopted? All those in favor vote yea; opposed vote nay. Record, Mr. Clerk. [LB836]

CLERK: 30 ayes, 0 nays on adoption of committee amendments, Mr. President. [LB836]

SENATOR CARLSON: The amendments are adopted. Are there senators wishing to speak on the underlying bill, LB836? Seeing none, Senator Pahls, you're recognized to close. He waives closing. The question is, shall LB836 be advanced? All those in favor vote yea; opposed vote nay. Record, Mr. Clerk. [LB836]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB836. [LB836]

SENATOR CARLSON: LB836 does advance. Next item, Mr. Clerk. [LB836]

CLERK: Mr. President, the next bill is LB714, offered by Senator McCoy. (Read title.) The bill was introduced on January 4 of this year, referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. At this time I have no

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

Floor Debate  
February 01, 2012

---

amendments to the bill, Mr. President. [LB714]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator McCoy, you're recognized to open on your bill. [LB714]

SENATOR McCOY: Thank you, Mr. President and members. I'm pleased to introduce LB714 to you this morning, which is a cleanup bill which adopts the January 1, 2012, Uniform Standards of Professional Appraisers Practice, or more commonly referred to as USPAP. New standards must now be adopted every other year instead of every year, as when Senator Langemeier has introduced this legislation in the past. One new change is, the Dodd-Frank Wall Street Reform and Consumer Protection Act is referenced as it existed on January 1, 2012, along with the normal references to USPAP. The bill also carries the emergency clause. Passage of LB714 will allow the Nebraska real property appraisers to be in compliance with Dodd-Frank and with FIRREA, Financial Institutions Reform, Recovery, and Enforcement Act of 1989. I ask for your support for LB714 this morning. Thank you, Mr. President. [LB714]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Mello (sic). You have heard the opening on...I knew I was going to do that. Senator McCoy, thank you. You have heard the opening on LB714. The floor is now open for discussion. Seeing none, Senator McCoy, you're recognized to close. Senator McCoy waives closing. Question before the body is, shall LB714 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB714]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB714. [LB714]

SENATOR LANGEMEIER: LB714 does advance. Mr. Clerk, LB852. [LB714 LB852]

CLERK: LB852 is a bill by Senator McCoy. (Read title.) Introduced on January 6 of this year, referred to the Banking, Commerce and Insurance Committee, advanced to General File. I have no amendments, Mr. President. [LB852]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator McCoy, you are recognized to open on LB852. [LB852]

SENATOR McCOY: Thank you, Mr. President and members. I'm pleased to introduce to you this morning LB852, which harmonizes a reference related to corporate purposes under the Business Corporation Act and eliminates language in the definition of "professional services" in the Professional Corporation Act. LB852 was brought to me by the Secretary of State's Office, as they have identified a problem with current law. This bill strikes the language that creates the gray area, on page 3 of the green copy.

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

Floor Debate  
February 01, 2012

---

Last session you may recall we addressed the topic of professional corporations in regard to real estate professionals. Although that issue was settled, there is still some confusion if someone should form under a P.C. or a business corporation, and LB852 seeks to clarify that. Thank you. [LB852]

SENATOR LANGEMEIER: Thank you, Senator McCoy. You have heard the opening on LB852. The floor is now open for discussion. Seeing no lights on, Senator McCoy, you are recognized to close. Senator McCoy waives closing. The question before the body is, shall LB852 be advanced to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB852]

CLERK: 31 ayes, 0 nays on the advancement of LB852. [LB852]

SENATOR LANGEMEIER: LB852 does advance. Mr. Clerk, next item, LB853. [LB852 LB853]

CLERK: LB853, by Senator McCoy. (Read title.) Introduced on January 6 of this year; referred to the Banking, Commerce and Insurance Committee; advanced to General File. I have no amendments to the bill, Mr. President. [LB853]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator McCoy, you are recognized to open on LB853. [LB853]

SENATOR McCOY: Thank you again, Mr. President and members. I bring to you this morning LB853. Currently, Social Security numbers and federal tax identification numbers are not required on Uniform Commercial Code financing statements filed with the Secretary of State, but when given voluntarily are required to be entered into the Uniform Commercial Code database. The purpose of LB853 is to remove the requirement that the Secretary of State's Office enter Social Security numbers and federal tax ID numbers into the UCC records maintained by the Secretary of State. Eliminating this requirement will reduce the amount of sensitive personal and business information in the UCC database. LB853 also removes the requirement that the Secretary of State provide information from the Uniform Commercial Code records over the telephone. There's greater chance of miscommunication when information is given verbally. Searches of the UCC records are available electronically, by mail, or in person. There's a charge associated with a search, and currently the Secretary of State's office is not allowed to take a credit card number over the telephone. The Secretary of State's Office, as a matter of additional information on this, is not aware of any of this information being given over the phone in the last ten years anyway. If a company can't find their filing on-line, they can still call the Secretary of State's Office for assistance. And with that, I would ask for your support on LB853. Thank you, Mr. President. [LB853]

SENATOR LANGEMEIER: Thank you, Senator McCoy. You have heard the opening on

Floor Debate  
February 01, 2012

---

LB853. The floor is now open for discussion. Seeing no lights on, Senator McCoy, you are recognized to close on LB853. Senator McCoy waives closing. The question before the body is, shall LB853 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB853]

CLERK: 27 ayes, 0 nays on the advancement of LB853, Mr. President. [LB853]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. LB853 does advance. Mr. Clerk, LB677. [LB853 LB677]

CLERK: LB677, offered by Senator Lathrop. (Read title.) The bill was introduced on January 19 of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments pending, Mr. President. (AM1704, Legislative Journal page 306.) [LB677]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Lathrop, you are recognized to open on LB677. [LB677]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning once again. We have, in Judiciary Committee, had a number of bills that have come before us regarding elevating assaults. Sometimes those bills relate to the identity of the person assaulted; sometimes it relates to the circumstances where the assault takes place. This is one of those bills. And the bill relates to mandatory...or deals with mandatory sentences for people that commit assaults upon healthcare providers. Let me tell you the logic and why I believe it's necessary and why the Judiciary Committee advanced this bill from committee to the floor for your consideration. Healthcare providers are particularly vulnerable to assaults. They take place because families are faced with imminent death situations and disagreement among family members. Patients and family members are frustrated, sometimes, with the wait times in hospitals and medical clinics. They're upset about the diagnosis. They're faced with high deductibles and bills that will sink them financially. And they're upset with physicians and healthcare providers that will not prescribe certain medications. And as a consequence, the occurrences of assaults upon healthcare workers is on the rise. They are particularly vulnerable to these assaults because they are, in many cases, close proximity, very close personal space, with the assailant. For example, it may be a nurse walking into a patient's room thinking they're going in there to provide help; they are not armed; they are not equipped to provide a defense of themselves; and they're assaulted by a patient. It may be a physician leaning over or a care provider leaning over someone in the emergency room, only to have the person they're trying to treat and care for assault them. LB677 is necessary for the protection of healthcare workers. It enjoys the support of the healthcare industry, the hospitals, the medical folks as well, and Alegent Health from Omaha, Creighton from Omaha, and the hospital association. And I'd appreciate your support. By the way, what it does do is, it does not change a

Floor Debate  
February 01, 2012

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single element of an assault. And I want to be clear about that. It does not change a single element in assault. What it does say is that if you commit one of these assaults upon a medical provider, who typically is not armed and not in a position to defend themselves against an assault, you will do mandatory time. And it also has a requirement that a facility where healthcare providers work have a sign warning that an assault on a healthcare worker will result in mandatory jail sentences. And with that, I'd be happy to answer any questions. [LB677]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. As the Clerk has stated, there are committee amendments offered by the Judiciary Committee. Senator Ashford, as Chair of the committee, you are recognized to open on the committee amendments. [LB677]

SENATOR ASHFORD: Thank you, Mr. President. And this bill has been in front of us for a couple of sessions now. It's important legislation. The risk is significant; it's significant in hospitals throughout the state. I'm personally knowledgeable of the risk as it applies to some of the emergency rooms in our hospitals in Omaha. And so I applaud Senator Lathrop for this bill. The committee amendments really are somewhat technical, though they do provide that a warning be posted at the hospital. And the warning would say that assaulting or threatening in a menacing manner a healthcare professional who is engaged in the performance of his or her official duties will result in mandatory imprisonment. The committee amendments also clarify language, changing "healthcare provider," for example, to "healthcare professional," to coalesce that section with other sections. And then it defines a healthcare professional, a health clinic, and a hospital, to make certain that this legislation is consistent with other statutes. There was some discussion about juveniles in high school settings. The committee felt that the possibility of such an occurrence coming under this legislation was so remote as not to create a special exception for it. With that, I would move AM1704. [LB677]

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the opening on the committee amendment offered to LB677. Now the floor is open for discussion. Those wishing to speak, we have Senator Hadley, Flood, Coash, Council, Gloor, and others. Senator Hadley, you're recognized. [LB677]

SENATOR HADLEY: Mr. President, members of the body, I do certainly support this bill and the amendment. If you're at the Lincoln correctional facility and you assault a healthcare provider there, it's a felony, if it's a third-degree assault. If you're at the Nebraska Correctional Youth Facility, you assault a healthcare provider there, employee, it's a felony. And would Senator Lathrop yield to a question? [LB677]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB677]

SENATOR LATHROP: Yes, I'd be happy to. [LB677]

Floor Debate  
February 01, 2012

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SENATOR HADLEY: Senator Lathrop, if a person who is at the YRTC in Kearney is required to be taken to a healthcare facility in Kearney--let's say, Kearney Clinic--and they assault a nurse or a doctor there, would they come under this bill? [LB677]

SENATOR LATHROP: They would if a court determined that they should be treated as an adult. Anybody who's a minor that commits what would otherwise be a crime has to go through a judicial sorting out process about whether they're going to be treated as an adult, in which case they are...they come under...they're treated just as an adult. If they're treated as a juvenile, then they become an adjudicated delinquent or something like that because of their...of the offense. So that's a long answer to the question, and it depends. But if it's a minor and the court treats them like a minor, then they won't have mandatory jail time. [LB677]

SENATOR HADLEY: Okay. The reason I ask that is that we had a hearing on YRTC in Geneva and Kearney, and we had a nurse from Geneva who had been assaulted terribly, a healthcare provider, terribly assaulted. So I have a concern, and I've voiced this concern many times. Thirty percent of the people sent to YRTC are sent for either assault or sexual assault. If you're an employee at YRTC, the chances are there is one assault for every two and a half employees. I just have a concern that we're going to really look at it if they go off campus, but if that same assault happens on campus and it's a third-degree assault, it's a misdemeanor, given. If they go off and they decide to treat them as an adult and they do this, the third-degree assault gets them six months. So I guess I just have a concern, and I've voiced it many times: Why just because of where it happens in this case determines the potential penalty? Thank you, Mr. President. [LB677]

SENATOR LANGEMEIER: Thank you, Senator Hadley. Senator Coash, you're recognized. [LB677]

SENATOR COASH: Thank you, Mr. President. Colleagues, if you look at the committee statement on LB677, you'll see I'm one of the senators who voted against advancing this bill. And I wanted to take this opportunity to share with you my thoughts behind LB677 and my opposition to it. Senator Lathrop is trying to bring forth a proposal that will protect healthcare workers. And they need that. They do amazing work. They put themselves in harm's way frequently. And, as Senator Lathrop and Senator Hadley just mentioned, they've come to our committee on different bills and said, this is what's happening to me. And in some cases those injuries are pretty grievous. LB677 increases the penalty and asks that you put up a sign that says, if you assault a healthcare worker here, you're going to do some mandatory jail. And I had to think...I just wanted to think through this. And I would ask my colleagues to do the same thing and ask yourself, the kind of people who will go into an emergency room, for an example, and assault a healthcare worker, do you think they're going to see that sign

Floor Debate  
February 01, 2012

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and change their behavior? I don't believe they will. And I believe that we would be sending a message to those healthcare workers that you are now secure, because we can put up a sign and we can prosecute them as felons. But it does nothing to protect their safety. We're telling them put up a sign, turn an assaulter into a felon, and they will change their behavior. Colleagues, I don't believe that they will. I do not believe that we are going to see a change in behavior. This proposal is one of similar proposals that I've seen in the Judiciary Committee where we're being asked to carve out a segment of the citizens and say, you are now a different kind of citizen because of the nature of your work, usually, and we are going to make an assault on you look different than an assault on anybody else. So it's a special class of victims in this case. And every time they come into the Judiciary Committee, they have story after story about how their profession necessitates a special class. And they're very compelling. But I had to ask myself, where do we stop? Where do we make policy and say, you know what, an assault on you is different than the same type of assault on somebody who's not in your profession? And now we have that policy discussion. And I'm glad that it's here, because I want us to discuss, are we going to continue down this road? Are we going to continue to have special classes of victims with different laws that apply to them by nature of their work? I found that that is not the right approach, and that's why I voted against LB677. And I would encourage my colleagues to consider the policy decision about carving out classes of victims. Consider, if you look at the bill as amended, and ask yourself, do you think this bill will get to the outcome that we want? And the outcome that Senator Lathrop is trying to get to... [LB677]

SENATOR LANGEMEIER: One minute. [LB677]

SENATOR COASH: ...is we'd like to see less assaults on our healthcare workers. I don't think anybody can argue that that's a laudable goal. But read the bill, read the amendment, and ask yourself: If we enact LB677 as amended, do you think we'll see less assaults on healthcare workers? I don't think we will. And I'd rather explore other solutions to this problem. And I thank you for your time, Mr. President. [LB677]

SENATOR LANGEMEIER: Thank you, Senator Coash. Those wishing to speak, we have Senators Council, Gloor, Avery, Nelson, Howard, and others. Senator Council, you're recognized. [LB677]

SENATOR COUNCIL: Thank you, Mr. President. First I want to state that I respect and appreciate the concern that my colleague Senator Lathrop is seeking to address by LB677. And if you look at the committee statement, I was absent when the committee voted on this. But I was extended an opportunity to cast a vote, and I chose not to vote, so that my vote would not be considered to be supporting one way or the other, because I am quite conflicted over this issue, and I have shared my concerns with Senator Lathrop. I probably will not vote in support of LB677 or AM1704, for two reasons. One is, I quite frankly don't see the need for the bill. If an assault is committed

Floor Debate  
February 01, 2012

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and that assault rises to the level of a first-degree assault, that person who committed that assault would and should be charged with first-degree assault, which is a felony, regardless of whether or not the victim falls within the definition of a healthcare provider. Number two, by virtue of the bill, the only difference between how the law exists now and how the law would exist under LB677 is it provides for mandatory minimum sentences, which I have previously stood on this floor and advised of my concern about mandatory minimum sentences. And in this regard, as Senator Coash stated, that we are carving out a special group of victims and saying in the event of a first-degree assault or a second-degree assault or a third-degree assault, the person who committed that against you will receive a mandatory jail sentence. But if they committed it against me, they don't receive a mandatory jail sentence. And I'm acutely aware of what goes on particularly in emergency rooms, and Senator Lathrop set it out clearly in his opening, and that's the final reason for my concern. When you have a family member who has been rushed to emergency, it's a very emotional, it's a very traumatic time. And there are occasions where people, not thinking and unwillingly engage in conduct that none of us here would consider appropriate and, regrettably and unfortunately, that rises to the level of a crime. But we're talking about an emotional setting, which may be at the root of it, and we're going to subject these individuals to further trauma by charging them with a felony that...where they would be facing a mandatory minimum sentence. That's my problem with LB677. I also have a concern that within the community that we're trying to protect we are designating certain people who are worthy of this protection and those who are not. So if you just happen to be a minimum-wage aide in an emergency room or a clinic, an aide who doesn't have to go through any credentialing, and you should be the unfortunate victim of such an assault, this provision doesn't apply to you. If you happen to be someone in housekeeping who happens to be in the room at the time and is a victim of the assault, this bill doesn't apply to you. So you wouldn't receive the same level of protection,... [LB677]

SENATOR LANGEMEIER: One minute. [LB677]

SENATOR COUNCIL: ...merely by virtue of the fact that you aren't subject to the Uniform Credentialing Act. That, colleagues, is problematic to me. I don't have any problem with hospitals...and they should prominently post that people are subject to criminal prosecution if they assault any employee of those facilities. But you don't need this bill for hospitals to do that. And so with that, I'm just explaining my vote in opposition to AM1704 and LB677. [LB677]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: Thank you, Senator Council. The Chair now recognizes Senator Gloor. [LB677]

SENATOR GLOOR: Thank you, Madam President. Members, good morning. I

Floor Debate  
February 01, 2012

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appreciate Senator Lathrop's introduction of this bill. It's a bill that I would have been glad to carry myself, although I appreciate a member of the bar being the one who brings this forward. I think that adds some added scrutiny and credence to the bill. Clearly I have strong feelings about this based upon my work history and even going back to days before I was in healthcare administration, when I was in the military providing direct patient care, remembering when somebody walked into the emergency room that I worked at carrying a shotgun with intent to intimidate. These things happen all the time. Assaults happen all the time. I don't know whether it happens every day. It would be easy for me to believe it happens every day in a healthcare facility someplace in the state of Nebraska, because so many individuals work in healthcare in this state. My discussions with my own staff as we've seen an increase in violence that occurred within my institution that I used to operate involved putting in bulletproof glass, bulletproof walls, arming security guards that we had. I resisted that for reasons that are the basis for another discussion. But suffice it to say, we had to have those discussions because of the threat that existed and the actual assaults that occurred. I know of a physician in our community who was decked in his office by an angry patient, not somebody chemically or mentally unbalanced, by the way, because it becomes easy to say, well, these are people who are out of control. That doesn't happen as often as you might think. In the conversations that I had with my staff about bulletproofing emergency rooms, it had to do with concerns about gangs. And I would say the largest level of threat comes in issues, not surprising when you reflect on it, of domestic violence and the intimidation that goes on with domestic violence, with court orders to keep people away from visitation. This is the sort of thing that, I think, this legislation will make a difference on, not somebody who's crazed because of meth; they won't be thinking clearly. Trust me, there are enough people that this will affect who do think clearly, who know exactly what they're doing. It's a pattern of behavior; it's the way they act towards everybody. And when they come up against healthcare workers who are trying to help a family member, perhaps a friend, or themselves, they bring that same personality to bear on that healthcare worker. I understand Senator Coash's concern, where do we stop? But let me address it in two ways, because I've had my own reflection on this, again based upon my history of will stronger penalties make a difference? Last year I had a bill, some of you may recall, that was assault with bodily fluids. It fit in the same general category. We had intimidation going on in our correctional facilities of residents, clients, those people incarcerated, who were assaulting public safety officers with body fluids. That sailed through here fairly easily, all things considered. And what I've heard back from law enforcement is it's made a difference. We've seen a decrease in those assaults; the word has got out; people know. I think this legislation will make a difference. How big a difference I don't know. But I would imagine over time, as this law is enforced, the word will get around, and it will become more common knowledge, and it will make a difference. The other issue I would bring to your attention is the percentage of the work force we're talking about when we talk about healthcare workers. In my community, with about 1,300 employees directly or indirectly engaged...no, directly engaged... [LB677]

Floor Debate  
February 01, 2012

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SENATOR SULLIVAN: One minute. [LB677]

SENATOR GLOOR: Thank you, Mr. President...with my healthcare institution, not the doctors' clinics but the healthcare institution, that was about 6 percent or 7 percent of the total work force. If we had a problem with assaults against that large a percentage of any work force in this state, wouldn't we think it merits taking a look at? If we had assaults against a specific segment of our population that was 6 percent or 7 percent, would we think it merited taking a look at and trying to increase penalties? We have bills that have to do with hate crimes because of assaults against segmented segments of the population, and I think this fits into that category. And I would ask for your support of the amendment and the underlying bill, LB677, again, based upon my experience and my conviction that this is necessary and will make a difference. Thank you. [LB677]

SENATOR SULLIVAN: Thank you, Senator Gloor. Those senators wishing to speak are Senators Avery, Nelson, Howard, Lathrop, and Ashford. Senator Avery, you're recognized. [LB677]

SENATOR AVERY: Thank you, Madam President. I wonder if Senator Lathrop would yield to some questions. [LB677]

SENATOR SULLIVAN: Senator Lathrop, would you yield for a question? [LB677]

SENATOR LATHROP: Yes. [LB677]

SENATOR AVERY: Thank you, Senator Lathrop. I'm having a little bit of difficulty with the mandatory sentencing, and I wondered if you could explain to me what we gain by having mandatory sentences and why are they necessary. [LB677]

SENATOR LATHROP: Well, it's, I think, the same principle that we have for...and I don't want to trivialize the subject matter on my bill, but it's the same thing we do when we say we're going to double fines when you speed in a work zone. Or when we say that you can't...we're going to make penalties worse if you're peddling drugs near a playground or near a school. The idea is that there's something different about this area or these victims. And we do it with police officers. I think what makes the healthcare provider unique is that they are running towards the assailant, intending to help them and unarmed and unprepared to be in an assault. [LB677]

SENATOR AVERY: Did the medical professionals bring this bill to you? Or what's the origin of it? [LB677]

SENATOR LATHROP: Yes. They...the hospitals are...I had somebody that I've represented, honestly. Lady walked in to provide care...a nurse, a registered nurse

Floor Debate  
February 01, 2012

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walked in to provide care to a young man, and he beat her...beat her until it caused her double vision for the rest of her life. And she was going in to provide care. And you talk to the hospital people--they're out in the Rotunda, Alegent, Creighton, and others, and the association--and they'll tell you this stuff is happening. People are running in to provide care and getting beat up by the very person they were going to help. That's not the only circumstance, but it's a common one, and that's why I think they need a special protection. And I think Senator Gloor is exactly right, that after word gets out, this stuff will stop. [LB677]

SENATOR AVERY: Well, now, was that incident you just talked about a first-degree assault? [LB677]

SENATOR LATHROP: I'm not sure how that would be regarded, whether it would be...whether the injury was bad enough to result in a first-degree. I'm sure that someone who prosecuted felonies in the past could tell us if affecting someone's vision is bad enough. It may fit that definition, Senator Avery. [LB677]

SENATOR AVERY: Or it could be assault with mayhem. I'm not a lawyer, so I don't know these distinctions too well, but... [LB677]

SENATOR LATHROP: Okay. Yeah. [LB677]

SENATOR AVERY: ...I know... [LB677]

SENATOR LATHROP: The assault with mayhem just sounds like you're not a lawyer. (Laughter) [LB677]

SENATOR AVERY: Well, now, that is...that is...that is a...that is a...a charge. I do know that. Well, I'm really confused here. I thought that the legal system was set up in such a way as to put a discretion in the hands of judges, let the judges make the decision as to what's the most appropriate punishment. And arbitrarily setting mandatory sentences seems to me to take away...obviously, it takes away from the judge's discretion to decide what they think ought to be the appropriate punishment. So I'm going to listen very carefully to the debate. I'm undecided as to how I'm going to vote. And if you could come up with some examples sometime, when you get back on the mike, Senator Lathrop, as to what constitutes first-degree, second-degree, and... [LB677]

SENATOR SULLIVAN: One minute. [LB677]

SENATOR AVERY: ...third-degree assault, I'd like to hear about that. Thank you. [LB677]

SENATOR SULLIVAN: Thank you, Senators Lathrop and Avery. The Chair now

Floor Debate  
February 01, 2012

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recognizes Senator Nelson. [LB677]

SENATOR NELSON: Thank you, Madam President, members of the body. I have some of the concerns on this bill that have been presented just previously here, but I...one thing that I would like to inquire of Senator Lathrop is the wording of the sign. It's described in Section 5 of the amendments. And would Senator Lathrop yield to a question, please? [LB677]

SENATOR SULLIVAN: Senator Lathrop, would you yield for a question? [LB677]

SENATOR LATHROP: Yes. [LB677]

SENATOR NELSON: Thank you, Senator Lathrop. I think the committee amendments prescribe--Section 5 here--with a sign that shall be posted. My question is, it says, "Warning: Assaulting or threatening in a menacing manner." Well, we've been talking about assaulting. How does threatening in a menacing manner factor in here, as far as imposing these minimum sentences? Is that something already in statute, or are we adding something there? If you go into a hospital room or an emergency room and just threaten in a menacing manner, are those people subject to these minimum sentences? [LB677]

SENATOR LATHROP: Yes; 28-310 of the Nebraska Revised Statutes defines an assault in the third degree to include threats done "in a menacing manner." So the language in the sign is merely intended to inform would-be assailants of the activities that will result in a mandatory sentence. [LB677]

SENATOR NELSON: All right. We're all familiar with emergency room procedures, and there are a lot of distraught people when they come in there, family members and that sort of thing. And I can envision them coming in and addressing a doctor and saying, "What are you talking about? You've got to do something to save this guy. If you don't, watch out. I don't know what I'm going to do." Do we have a situation there where they can be charged with assault, then, and sentenced to a minimum of two years? [LB677]

SENATOR LATHROP: Senator, we are not changing the elements of assault. If that person could be guilty of an assault...and I wouldn't think so, okay? I don't think that's threatening "in a menacing manner." But if they could, whatever you can...whatever hypothetical you can come up with which would be assault in the third degree will still be assault in the third degree now. We're not changing any elements. We're simply saying that if you do it to what is essentially an unarmed person trying to help you, and typically going to you, and you commit any one of these assaults, you're going to have a mandatory sentence. [LB677]

SENATOR NELSON: Perhaps one safety that we have here, then, would be that the

Floor Debate  
February 01, 2012

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person would be arrested by either a policeman or a security officer, and then somebody has to file a charge--the county attorney, prosecutor--and make a determination at that time as to whether this rose to the level of assault and whether they should be faced with a penalty like that, since we're taking discretion away from the judges in this case. [LB677]

SENATOR LATHROP: That's true. [LB677]

SENATOR NELSON: All right, thank you, Senator Lathrop. Thank you, Madam President. [LB677]

SENATOR SULLIVAN: Thank you, Senators Nelson and Lathrop. The Chair now recognizes Senator Howard. [LB677]

SENATOR HOWARD: Thank you, Madam President. And I support this bill, and I support the concept, having been in the position as a social worker that I dealt with youth that in some cases made threats. And there had been a case where I felt the youth would actually follow through on the threat, and I filed charges with the county attorney, and we held him accountable, and that youth--I was telling Senator Wightman here off the mike--but that youth not even a year later stabbed another youth to death over a jacket. So the issue of violence is very, very serious and certainly in some cases life endangering. And I remember a situation--I believe it was last summer down at Creighton Hospital, which is in my district, there was a gang fight not on the hospital grounds but when the victim, the person that needed medical attention, was taken to the hospital and other members of the opposing gang came to the hospital, and the violence spilled over and occurred in the emergency room. And, of course, the police were called. But medical staff really isn't equipped or trained to deal with this type of violent action and can easily get caught in, for want of a better word, the crossfire. And I've talked to Senator Ashford off the mike about this, but if he would be amenable to a few questions on the mike... [LB677]

SENATOR SULLIVAN: Yes. I'm sorry, Senator. Who are you wanting to talk to? [LB677]

SENATOR HOWARD: Senator Ashford. [LB677]

SENATOR SULLIVAN: Senator Ashford, would you yield for a question? [LB677]

SENATOR ASHFORD: Yes. [LB677]

SENATOR HOWARD: Thank you, Senator Ashford. And we talked about this off the mike, but maybe we can get it in the record. Does this include social workers when you refer to healthcare workers? They are in the hospital setting. And while they're not directly administering, they're certainly a part of the team. [LB677]

Floor Debate  
February 01, 2012

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SENATOR ASHFORD: It does not. [LB677]

SENATOR HOWARD: But we do have a bill in, my bill, in Judiciary that addresses this very problem with the social workers. And we're going to continue to work together on that and, hopefully, advance that as well. [LB677]

SENATOR ASHFORD: Yes, that's in the...yes. [LB677]

SENATOR HOWARD: I appreciate that. Thank you. But you're not done yet. (Laugh)  
The amendment, does this include the grounds of the facility as well as the interior?  
Just for clarification. [LB677]

SENATOR ASHFORD: I think it does. Yes, it does, because if they are removed, if they are outside, Senator Council is right, if they're in the performance of their duties as a hospital healthcare professional, then they would be covered. [LB677]

SENATOR HOWARD: That's...I think that's important. [LB677]

SENATOR ASHFORD: Even it's outside of the door or... [LB677]

SENATOR HOWARD: I appreciate that, and I think that's an important...I think that's an important piece in this. Because the incident that I mentioned earlier actually began outside, when the individual was brought into the emergency room area, being transported in, is where it started, and then it continued into the emergency room. So I think it's important to have the understanding that this is pretty encompassing in terms of the penalty. Senator Coash is right when he says a sign isn't going to...in itself isn't going to deter people. But certainly...and I don't recall which senator it was, possibly Senator Gloor, who mentioned that word gets out. And word definitely gets out. And when people are aware of this, they know that there's going to be a severe consequence for this action inside or on the hospital grounds, I think that will be a real deterrent. I think of the signs that were put up--and the sign itself means nothing to us--and yet we certainly don't smoke inside buildings anymore. [LB677]

SENATOR SULLIVAN: One minute. [LB677]

SENATOR HOWARD: Thank you, Madam President. I think this is an important bill. I think it's important to protect not only our healthcare workers but also others who are really on the job trying to help people in a tough situation, and I certainly include the social workers, and I will continue to work with Senator Ashford and Judiciary Committee on that particular bill as well. Thank you. [LB677]

SENATOR SULLIVAN: Thank you, Senator Howard and Senator Ashford. Those

Floor Debate  
February 01, 2012

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senators wishing to speak are Lathrop, Ashford, Pahls, Dubas, and others. Senator Lathrop, you're recognized. [LB677]

SENATOR LATHROP: Thank you, Madam President and colleagues. I just thought I'd stand up and try to answer some of the concerns that we've heard and make an offer to you. First, the rationale for this group of people, because that's what's important. I agree that we can't...we do see a lot of these things come through Judiciary Committee. And the rationale for this group of victims is that these assaults happen as they are running, typically, not always, but typically they're providing care. They're care providers directly providing care to the assailant. And they can be doctors and nurses leaning over somebody in the emergency room that's coming in for care, and pretty soon they're getting beat up by the very person they're trying to care for. And what makes this different is that they are particularly vulnerable as they are providing care to this group of people. Whether it's a nurse running into a patient's room and is beat up by the patient, or a doctor or a nurse or care provider providing care to someone on a gurney, these people are particularly vulnerable to assault. And that's why we are carving them out, so to speak, for this special punishment, or special treatment. The question Senator Coash offered during his remarks was whether or not we'd see a decrease in assaults. And I think the answer to that is yes, right? The question...you know, we put these signs up that say, no selling drugs near a school, or, no speeding through a work zone. Those are very effective, right? First thing you do, you slow down. I suppose if you sold drugs, you'd say: Let's get outside of the halo of the school because I do not want to do it here. And that's the whole point in having (a) a sign and (b) a special punishment; the word will get out. That will be noticed by people who come to the front door, and they'll know, hey, look, this is not the place to be hitting, punching, stabbing, those kinds of things, to one of the employees. Senator Council had a concern that it doesn't address housekeeping. That's because there's the distinction...doesn't grab somebody who's in housekeeping; they're not running towards someone who they're going to provide care to and then be assaulted by them. We intentionally didn't cover them because we have an assault bill, right? We have assault statutes right now, and the question is whether care providers should be carved out. And the reason for it doesn't support the rationale for including just the cafeteria worker or the housekeeper, as important as they are in the continuum of care provided at the hospital. So that's the rationale for this. I do believe this bill will make a difference. Care providers are particularly vulnerable as a class of workers and deserve our special consideration with LB677. Thank you. [LB677]

SENATOR SULLIVAN: Thank you, Senator Lathrop. The Chair recognizes Senator Ashford. [LB677]

SENATOR ASHFORD: Thank you, Madam President. I would just add a few comments to what's already been said. I think this, actually, is an extremely important bill. The...Senator Council and I have been, kind of on our own time, working on an emergency room intervention project with Ben Gray and others in Omaha at Creighton

Floor Debate  
February 01, 2012

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and at UNMC, or at the hospital, Nebraska Medical Center, and it's been an effective program. And what it does is it brings people into the emergency room to talk down people, as Senator Council absolutely correctly states, are in a very emotional state because of some event that's occurred that's bringing them into the emergency room. And I applaud Senator Council for that effort. I think it makes a...is making a big difference, and Ben Gray as well. The...my...we...a year and a half ago or so, Senator Council and I went and--and she can add her comments, too, but, and I may give her the rest of my time here--went to visit with Glenn Fosdick, who is the CEO of Nebraska Health System. And he really pled with us that...and suggested that we focus our efforts in this little foundation that we started to emergency room intervention. I mean, it is a very real issue. And I do appreciate what Senator Council is saying about other individuals that could be impacted; I get that. But it is clear that healthcare professionals, as defined in this act, are those, as Senator Lathrop suggests...indicates, and he's right, are providing direct care either to the victim or other individuals who are in the emergency room at that time. What Glenn Fosdick said was that it's a huge problem for them at Nebraska Health System, and it makes it difficult for them to hire nurse practitioners and others to work in the emergency room because of the chance of getting assaulted. And I think that, and Senator Council can correct me, because she...I'm not trying to put words in her mouth. But if this group of interveners that go into the emergency room can tell others that are emotionally charged and involved in this particular victim that you've got to calm down, because if a healthcare professional is injured or hurt by some act of yours, you could be...very likely would be prosecuted and would serve time. That's kind of the "stick" part of what Ben Gray's group is doing, Impact One. And I am convinced that it is a necessary part of that. But I'm going to give the rest of my time to Senator Council, if she so desires, because I think I'm on the right track, but she can (laugh) tell me if I'm not. [LB677]

SENATOR SULLIVAN: Thank you, Senator Ashford. Senator Council, you have 1 minute and 40 seconds. [LB677]

SENATOR COUNCIL: Thank you, Madam President. And thank you, Senator Ashford. And, Senator Ashford, you're correct, I mean, and that gets to the point I was trying to make earlier. We're dealing with situations where people, for whatever reason, are distraught. And no one is diminishing, by any stretch of the imagination, the risk to healthcare providers when you're dealing with these situations where people are distraught and they're highly emotional. And certainly the intervention teams do, when they're talking to particularly the families of the people being treated, impressing upon them... [LB677]

SENATOR SULLIVAN: One minute. [LB677]

SENATOR COUNCIL: ...the need to calm down and they face prosecution. But let's talk about that. Assault in the first degree currently carries a sentence of a maximum of 50

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Floor Debate  
February 01, 2012

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years, a maximum of 50. You don't need a mandatory minimum; it carries a maximum of 50. Assault in the second degree carries a maximum of 20. That's my concern. And when Senator Lathrop talks about the people in housekeeping who may not be providing direct care, well, I've been in emergency rooms where the housekeeping person has been asked to intervene, has been there to assist. And here we've set up a situation, if a housekeeping professional walked by and saw an assault occurring, went in to provide aid and assistance to their coworker, their coworker, if they could get...if they're... [LB677]

SENATOR SULLIVAN: Time, Senator. [LB677]

SENATOR COUNCIL: Thank you. [LB677]

SENATOR SULLIVAN: Mr. Clerk, items for the record. [LB677]

CLERK: Thank you, Madam President. Your Committee on Health and Human Services, chaired by Senator Campbell, reports LB723, LB794, LB831, LB871 to General File and LB686 to General File with amendments; those signed by Senator Campbell. Enrollment and Review reports LB216 to Select File, LB216A, LB391 all to Select File. Name adds: Senator Ken Haar to LB427; Senator Coash to LB903. (Legislative Journal pages 394-403.) [LB723 LB794 LB831 LB871 LB686 LB216 LB216A LB391 LB427 LB903]

And, Mr. President, Senator Flood would move to adjourn the body until Thursday morning, February 2, at 10:00 a.m.

SENATOR SULLIVAN: You've heard the motion to adjourn the body until Thursday, February 2, at 10:00 a.m. All in favor signify by saying aye. Opposed. We are adjourned.