

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

Floor Debate  
March 14, 2012

---

[LB131 LB378 LB446 LB473 LB526 LB686 LB723 LB733 LB739 LB759 LB760 LB773  
LB780 LB786 LB790 LB794 LB801 LB807 LB811 LB831 LB841 LB849 LB860 LB870  
LB871 LB878 LB902 LB904 LB943 LB963 LB968 LB969 LB970 LB1019 LB1031  
LB1063 LB1064 LB1072 LB1073 LB1125 LB1145 LB1158 LB1161 LR37 LR282 LR285  
LR470 LR471 LR472 LR473 LR474 LR475 LR476 LR477 LR478]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-third day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Senator Wallman. Would you all please rise.

SENATOR WALLMAN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Wallman. I now call to order the forty-third day of the One Hundred Second Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Enrollment and Review reports LB963 and LB870 to Select File with E&R amendments. Natural Resources Committee, chaired by Senator Langemeier, reports LB1125 to General File and LB1161 to General File with amendments. Two new resolutions: Senator Harms, LR470 and LR471. Both will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 905-915.) [LB963 LB870 LB1125 LB1161 LR470 LR471]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now move to the first item under General File, 2012 Senator Priority Bills, LB902. [LB902]

CLERK: LB902 by Senator Harr. (Read title.) Introduced on January 9 of this year, referred to the Revenue Committee, advanced to General File. There are committee amendments. (AM2281, Legislative Journal page 836.) [LB902]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Harr, you're recognized to open on LB902. [LB902]

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

Floor Debate  
March 14, 2012

---

SENATOR HARR: Thank you, Mr. Lieutenant Governor. Good morning, members of the Legislature. I come today before you to introduce LB902. This bill is my personal priority bill, as you heard, and it's a clarification of the state's longstanding policy regarding lease purchase financing. There are really four parts that I'm going to introduce and talk about is, what is lease purchase financing; who uses the bonds; how is it used; and why the change and what is the effect. So starting with the first section, what is lease purchase financing? Lease purchase financing is also known as a 63-20 transaction or financing. The term 63-20 comes from a ruling by the Department of Treasury, which first authorized this type of tax-exempt financing in 1963, as published in the Revenue Ruling 63-20 of the IRS code. The Department of Treasury updated the ruling in Revenue Procedure 82-26, in 1982. Under these rulings, states and political subdivisions are authorized to issue obligations, the interest on which is exempt from taxation. The purpose of the 63-20 financing is to avoid the payment of taxes by a 63-20 nonprofit corporation. With respect to a project financed through a 63-20 corporation, the corporation, rather than the governmental unit, is the nominal owner of the project and holds bare legal title thereto. However, the governmental unit is the equitable or beneficial owner of the project and has exclusive rights of use and possession of the...respect...let's see. Hold on, lost my spot...of the project, the governmental unit is responsible for all maintenance and operations of the project. The 63-20 corporation typically issues revenue bonds, certificates of participation, or other obligations pursuant to a trust indenture between the corporation and a trustee of the bondholder. The trustee indenture will contain rate covenants for protection of the bondholder. The trust indenture also contains conditions to disbursement of bond proceeds to acquire, construct, or equip the project. Although traditionally a political subdivision must be the issuer of the bond in order for the interest thereon to be exempt from taxation, it is not always necessary. The trustee may or may not have a security interest in real or personal property associated with the project. The basic security will be the right of the nonprofit corporation to collect leases, payments under the lease--and that's really what's important and I'll get to that as I go forward. The bond proceeds are then used to acquire the project or to construct the project either on land purchased by the 63-20 corporation or on land owned by the governmental unit but leased to the corporation pursuant to a ground or site lease. The 63-20 corporation then leases the project to the governmental unit pursuant to a lease or other financing agreement. The lease provides that the governmental unit will have beneficial ownership of the project with exclusive rights--again being held by the governmental unit. Lease payments are paid out to the governmental unit. The bonds themselves again are not guaranteed by the governmental unit; however, they generally are. It's not required, but it generally happens. Nonprofit corporation, the 63-20 nonprofit corporation is regulated by the state Attorney General for compliance with the Nonprofit Corporation Act, and the Nebraska Department of Revenue for compliance with the requirements relating to Nebraska's income tax exemption, and by the IRS for compliance with the use of a nonprofit project sponsor. These 63-20 nonprofit corporations must be sponsored by a local or state

Floor Debate  
March 14, 2012

---

entity as I've said. To qualify, each of the following requirements must be satisfied. The corporation must engage in activity which is essentially public in nature. The corporation must be one which is not organized for profit. The corporate income must not inure to a private person or persons. The state or political subdivision thereof must have a beneficial interest in the corporation while the indebtedness remains outstanding, and it must obtain full legal title to the property of the corporation with respect to which the indebtedness has incurred upon retirement of such indebtedness. The corporation must be approved by the state or political subdivision. If the corporation, nonprofit corporation must have exclusive beneficial use and possession of at least 95 percent of the fair market value of the facilities, the board must consist of 80 percent of the members that are directly responsible to the political subdivision. The state or political subdivision must have exclusive beneficial right to the property upon payment of the debt. The corporation must be a private, nonstock corporation formed under the Nonprofit Corporation Act of Nebraska. The nice thing about this is the formation does not require special legislation, nor does it require a referendum in the local or sponsoring jurisdiction, and that's important also. Now, who uses these bonds now that we've gone through all the legal jibber-jabber? In Nebraska, this type of bond is used by municipalities, cities, towns, villages. It's also used by counties, school districts, community colleges, state colleges, the university system, the state of Nebraska, and other political entities. How is it used? In the past, public benefit and 63-20 nonprofit corporations have been used as vehicles to finance public infrastructure, such as schools, parking garages, dormitories, nursing homes, low-income housing, courthouses, university buildings, our own Game and Parks building here in Nebraska, ballparks, football fields, and other public buildings. The use of nonprofit project sponsors does not preclude the use of public funds to support the project financing. Now here's the "why the change" and "why am I bringing this bill and what is the effect?" Well, the Property Assessment Division of the Nebraska Department of Revenue, who I'll call the department, reinterpreted existing law regarding the exemption from sales and property taxes of the 63-20 nonprofit corporations. The department supposed that a 63-20 corporation is not property of the government nor its governmental subdivision and therefore is not entitled to an exemption from sales and property tax. The department based their reinterpretation made on changes made in Section 77-202 of the Reissue Revised Statutes of Nebraska, as amended, and Section 77-2704.15, Reissue Revised Statutes of Nebraska, as amended and passed in 1999 under LB271. I will not bore you with the legal analysis of the department's ruling. However, having read the transcript to LB271 and the underlying basis for its passage, I believe it was not the intent of LB271 to tax these type of 63-20 corporations. In fact, the state of Nebraska in their most recent Comprehensive Annual Financial Report, which was for 2011, described 63-20 corporations as an entity that is legally separate from the state, but is so intertwined with the state that it is, in substance, the same as the state. And that's very important and that's what we're trying to argue. The state's own financial report makes the argument I've been trying to make. 63-20 corporations are a very popular form of financing. It is my belief there is more likely than not... [LB902]

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

Floor Debate  
March 14, 2012

---

PRESIDENT SHEEHY: One minute. [LB902]

SENATOR HARR: ...at least one or more 63-20 nonprofit corporations that affects each and every one of your districts. As a result of the department's rulings, numerous transactions created to avoid the payment of taxes will now be liable for sales and property taxes, meaning we will owe taxes. It is a tax increase. The department has held off collecting these taxes owed, in part to see what the Legislature decides is the best policy. For that, I sure would like to thank the department. What this bill does is prevent an increase in taxes. If we do not pass LB902, nonprofits formed by political subdivisions for the benefit of the political subdivisions will be liable for taxes used to pay...will be liable for taxes. Thank you and please vote yes on LB902. [LB902]

PRESIDENT SHEEHY: Thank you, Senator Harr. You've heard the opening to LB902. As it was stated, there is a Revenue Committee amendment, AM2281. Senator Cornett, you're recognized to open. [LB902]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. The Revenue Committee AM2281 to LB902 is a white copy amendment of the bill that retains the original provisions of the bill as introduced except that it makes the following substantive changes. First, it makes the bill's sales and use tax exemption prospective only, operative date July 1, 2012. Second, it makes the bill's sales and use tax exemption available for purchases made by a joint entity or agency formed by any combination of two or more counties, townships, cities, villages, or other exempt governmental units pursuant to the Interlocal Cooperation Act, the Integrated Solid Waste Management Act, or the Joint Public Agency Act, except for purchases for use in businesses of furnishing gas, water, electricity, or heat, or by any irrigation or reclamation district, the irrigation division of public power and irrigation district, or public schools or learning communities established under Chapter 79. Also AM2281 strikes language in the sales and use tax exemption statute which currently conditions the exemption for a joint entity or agency on fulfilling the purpose described in the Integrated Solid Waste Management Act. I urge you to adopt AM2281 to LB902, and thank you for your support of the bill. [LB902]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You've heard the opening of AM2281 to LB902. Members requesting to speak: Senator Pahls, followed by Senator Langemeier and Senator Burke Harr. Senator Pahls. [LB902]

SENATOR PAHLS: Thank you, Mr. President and members of the body. Again I think we must commend the Department of Revenue because they're still scratching away trying to get us to clarify what we've done in the past and perhaps what we will do in the future. The...in all...Senator Burke Harr, I'll give you an example. In my particular school district they did build an administrative building using this concept, so it does have

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

Floor Debate  
March 14, 2012

---

value. But I do have one question for Senator Cornett. [LB902]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Pahls? [LB902]

SENATOR CORNETT: Yes, I'd be happy to. [LB902]

SENATOR PAHLS: Thank you. Senator, if I'm reading this correctly, we will not go back...if this bill passes or does not pass, we're not going to go back and collect back taxes? [LB902]

SENATOR CORNETT: I think...no. [LB902]

SENATOR PAHLS: Or am I miss... [LB902]

SENATOR CORNETT: You're misinterpreting it. [LB902]

SENATOR PAHLS: Okay. [LB902]

SENATOR CORNETT: The bill actually forgives tax liability as was currently written for the past three years. [LB902]

SENATOR PAHLS: Okay, okay. [LB902]

SENATOR CORNETT: What the committee amendment does is in conjunction with what we generally do on all tax policy, we only make it prospective. So we're saying as of July 1, 2012, the municipalities that form these or have formed these nonprofit entities or the 63-20 corps, that they will not...they will be exempt from sales tax liability at that time. The bill also allows the property tax exemption. And the original bill was drafted correctly on the property tax part. We cannot go back retroactively and forgive property tax because that becomes a commutation of tax. [LB902]

SENATOR PAHLS: Okay. Okay. Thank you. So right now we will...we haven't gained or nor will we lose any tax base is what you're telling me. [LB902]

SENATOR CORNETT: Well, this is where it got very complicated. If you look at the original draft of the bill, it shows a \$5 million fiscal note. That \$5 million fiscal note would be if the city of Omaha and the cities that have used these had paid in sales tax. That note reflects a refund that the state would owe. But the majority of these municipalities have not paid that sales tax as of this time. They are waiting for clarification by the Legislature. [LB902]

SENATOR PAHLS: Okay. And I do understand what you are attempting to do, and probably will succeed, to be honest with you. I just have a question. Other than this, any

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

Floor Debate  
March 14, 2012

---

time we exempt any group, do we...and I'm not speaking directly to this bill. Any time we exempt any group, do we cut anywhere? Because we're losing taxes. If we cut exempt...I mean if we add exemptions, somebody has to pay eventually. [LB902]

SENATOR CORNETT: Well, it depends on if we're adding exemptions for a group that has already been paying taxes. [LB902]

SENATOR PAHLS: Right. [LB902]

SENATOR CORNETT: If someone has been paying a tax like a lot of our incentive bills that come through, and we cut them, yes, that is reflective of a decrease in future revenues; where this is drafted as an exemption for a group that has never paid sales tax. So there is no future fiscal note on these types of projects because they have never paid in, to begin with, generally. [LB902]

SENATOR PAHLS: Right, okay. Yeah, thank you. I appreciate that. Thank you. [LB902]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Langemeier. [LB902]

SENATOR LANGEMEIER: Mr. President and members of the body, Senator Harr, I thank you for that introduction; but I think about page 2 you lost me--and probably most of the body. The question I do have though is there is a fiscal note on this. Senator Pahls kind of alluded to it. But you in your opening you talked about the Department of Revenue is sitting back and waiting for the outcome in the Legislature. And with that are...I guess I'm trying to figure out where this fits in our financial position. As we look at a fiscal note, is that...do you expect that to get smaller or larger, or are we already planning in our budget...since they've discovered this, are we already planning in our budget to get that money that we're now going to have to get back, or where do you see that playing out with your fiscal note? [LB902]

PRESIDENT SHEEHY: Senator Harr, would you yield? [LB902]

SENATOR HARR: Yes. Thanks. And I will answer Senator Langemeier's question because it's a very good question. And I apologize for losing you. Bonds are not a very exciting topic to begin with. [LB902]

SENATOR LANGEMEIER: No, they're not. [LB902]

SENATOR HARR: So your question is the fiscal note on this, and there's been a little bit of conversation about the fiscal note on this. I think first we have to start with how it went from \$5 million to \$3 million...or \$300,000. There's only a \$300,000 fiscal note on this, and the reason is...and sorry, let me take a step back, and I don't mean to take all your time. But your question...well, the reason it went down was because no taxes have

Floor Debate  
March 14, 2012

---

been assessed. Again, let me repeat that: No taxes have been assessed. So if we pass LB902 and even AM2281, no taxes will be assessed at that time for prior property tax, so no money is lost. Sales tax, there may be an issue and we'll address that and I'm not sure. But fundamentally these are political subdivisions that create these 63-20 corporations. The board of these 63-20 corporations, if it's a city, are generally city councilmen; if it's the university, it's regents. You can go through the facilities corporations on the Secretary of State's Web site, find these, and what they'll show you is that what the board--and when you look at the board, it's always members from the government. We have always treated, in the past, these as government entities. And so they are, so there is no loss. It's bad public policy for the state to tax its cities. We've already cut funding to the cities and counties, and now we want to turn around and tax them. That's bad public policy. What we're doing is raising taxes through the back door which we couldn't to the front door. Now...and I want to address your earlier question about the departments staying back to what we're doing. Maybe that's an overstatement and an overreach on my behalf, and I want to apologize. What I meant is we have, one, the property taxes aren't assessed until the 19th, but I think also to their credit they want to see what we believe is good policy in the Legislature. And I want to commend the department for doing that and I'll leave it at that. [LB902]

SENATOR LANGEMEIER: Very good. I appreciate that explanation. Bonds are kind of a dry subject matter as we were going through LB701 and trying to figure out how to provide bonds for the Republican River Basin. It does become a dry subject so I appreciate your explanation. And thank you, Mr. President. [LB902]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Burke Harr. [LB902]

SENATOR HARR: Well, thank you, Mr. President and members of the Legislature. I got to answer a lot of the questions or issues I had, with Senator Langemeier, but I'll just repeat them. But first I want to correct the record. Earlier I had mentioned the Game and Parks used 63-20 corporation. In fact, it's the state used them on computer buildings. It's been used, I believe, by NETV though. The \$5 million fiscal note down to \$300,000. To be honest with you, I'm not quite sure where \$300,000 comes from. These corporations are formed for the purpose of avoiding taxes, for political subdivisions do not have to pay taxes. So the fact that someone paid \$300,000 seems a bit incredulous, but I'm not going to argue with that. When you get it lowered...when you have a gift horse, don't look it in the mouth. But the fact of the matter is, no taxes have been assessed. We pass these bills, ladies and gentlemen. No money exchanges hands. It's a long conversation I've had. It's a conversation I had with the Fiscal Office. It's a conversation the Fiscal Office had with the Governor's Office, with the Department of Revenue. And the fact of the matter is, at the end of the day no money changes hands. We are not out any money. The only way we're out money is if we don't pass LB902. Then we have the state taxing...creating new taxes that have to be paid by these political subdivisions, whether that's a sale tax or a property tax. Earlier it was

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

Floor Debate  
March 14, 2012

---

mentioned: Omaha. It's not just an Omaha issue, ladies and gentlemen. Call...go talk to the League of Municipalities. Talk to your community colleges. Talk to the university. Talk to your counties. I wouldn't be surprised if NRDs use these type of financing. It's a very popular form of financing. Why? Because it's effective and it works. So with that I would ask you to again please pass LB902. Thank you. [LB902]

PRESIDENT SHEEHY: Thank you, Senator Harr. Senator Lambert. [LB902]

SENATOR LAMBERT: Thank you, Lieutenant Governor, colleagues. Senator Harr, you're right, this is not just an Omaha problem. I have communities in my district that use this to build community centers. I have one example here. If this bill is not passed, it's going to cost a small community \$130,000 a year in taxes on a \$5.5 million building. That may not seem like a lot of money in the whole picture of everything, but for a small community that's a tremendous amount of money. This is something we need to look at really hard. Some of my colleagues brought up a point: We've cut, we've cut, we've cut to these communities; now we're going in the back door and going to tax. We can't do that. That is not good policy. The fiscal note on this, the money was never there. We never collected the money. I mean it's kind of, yes, the note is there but it's money that we've never had in our hand. We're not losing anything. Why would we do this to cities? It...I fully support LB902 and AM2281. It's very important that we do this for our communities. I think if you look in your districts, you're going to see examples of it in most all your districts, and we need this to keep our communities vibrant and provide services for the citizens of our communities. Thank you. [LB902]

PRESIDENT SHEEHY: Thank you, Senator Lambert. Senator Nelson. [LB902]

SENATOR NELSON: Thank you, Mr. President and members of the body. Senator Burke Harr said that he wasn't sure exactly...and I'm looking at the fiscal note here, the latest revision of March 6 where we get the loss of \$300,000, and there seems to be some confusion on that. I would like to ask a question of Senator Cornett if she would yield. [LB902]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Nelson? [LB902]

SENATOR CORNETT: I would. [LB902]

SENATOR NELSON: Thank you, Senator. We talked a little bit off the mike here, and I was perplexed about the fact, well, if this is retroactive and no taxes are owed, then how are we losing \$300,000? Would you be good enough to explain that? [LB902]

SENATOR CORNETT: I would be happy to. And before I do, I'd like to thank the Fiscal Office and the Department of Revenue, because this was a very complicated issue for all of us to sort through because of the original retroactivity of the bill and then the

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

Floor Debate  
March 14, 2012

---

prospective amendment. The 300...the original bill, a note of \$5.2 million is reflective of money that has not been collected but could be assessed that would be owed as a refund. When you make the bill prospective with the amendment, the \$300,000-some fiscal note is reflective of money municipalities have already paid in, in sales tax, that we will owe in a refund. Therefore, that fiscal note carries forward in the out years because that is money the state is forgoing that they have collected currently that we do owe as a refund if this passes. [LB902]

SENATOR NELSON: If we do pass the amendment. Is that correct? Well, thank you, Senator Cornett. So I think that clarifies the fact of actually there...because this amount, \$300,000 has been paid in, that would be owed and paid back, and then the fiscal note continues for the next two years with that liability. So thank you for that explanation, and thank you, Mr. President. [LB902]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Seeing no additional requests to speak, Senator Cornett, you're recognized to close on the Revenue Committee amendment AM2281. Senator Cornett waives closing. The question before the body is on the adoption of AM2281 to LB902. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB902]

CLERK: 39 ayes, 0 nays on adoption of committee amendments. [LB902]

PRESIDENT SHEEHY: AM2281 is adopted. [LB902]

CLERK: I have nothing further on the bill, Mr. President. [LB902]

PRESIDENT SHEEHY: We'll now return to floor discussion on LB902. Seeing no requests to speak, Senator Harr, you're recognized to close. [LB902]

SENATOR HARR: Thank you, Mr. Lieutenant Governor. Members of the body, I'm going to do something special for you today. I'm going to give you a chance to vote for a tax break that costs you absolutely nothing...well, \$300,000, so. What this bill does is it clarifies what I believe is the current law, which is again based on a 1963 Department of Revenue IRS ruling. No other state interprets the 63 the way we do. What we're going to do today is we're going to say: Cities and counties, universities, colleges, school districts, everybody, we understand and we don't want to tax you; we already cut some of you...aid to some of you; we don't want to now tax you. What LB902 does is return Nebraska back to the way we have done things since 1963. It's to clarify what was a change, an unintentional interpretation...well, not unintentional...but it changes an interpretation made by the Department of Revenue on LB271 from 1999. It says this is what we as a body believe. So again this is a good bill and I would ask you to advance LB902. Thank you. [LB902]

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

Floor Debate  
March 14, 2012

---

PRESIDENT SHEEHY: Thank you, Senator Harr. You have heard the closing. The question before the body is on the advancement of LB902. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB902]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB902. [LB902]

PRESIDENT SHEEHY: LB902 advances. [LB902]

CLERK: Mr. President, with respect to LB902, Senator Flood would ask...move...ask unanimous consent to expedite the bill. [LB902]

PRESIDENT SHEEHY: Senator Flood. Without objection? So ordered. Mr. Clerk, items for the record. [LB902]

CLERK: Thank you, Mr. President. I have a new resolution, Senator Lathrop, LR472. That will be laid over. A communication from the Governor to the Clerk. (Read re LB446, LB473, LB526, LB686, LB723, LB733, LB739, LB759, LB760, LB773, LB780, LB786, LB790, LB794, LB801, LB811, LB831, LB841, LB849, LB860, LB871, LB878, LB904, LB943, LB1031, LB1064.) And that's all that I have, Mr. President. (Legislative Journal pages 916-917.) [LR472 LB446 LB473 LB526 LB686 LB723 LB733 LB739 LB759 LB760 LB773 LB780 LB786 LB790 LB794 LB801 LB811 LB831 LB841 LB849 LB860 LB871 LB878 LB904 LB943 LB1031 LB1064]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now move to the next item under General File, Budget Bills, LB968. [LB968]

CLERK: LB968, a bill introduced by the Speaker at the request of the Governor. (Read title.) The bill was discussed yesterday. Committee amendments were adopted. At this time I have no amendments pending to the bill, Mr. President. [LB968]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Flood, would you give us...Senator Heidemann, would you give us a summary of LB968. [LB968]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. LB968 is the Appropriations bill in a deficit year. We had a lot of discussion and debate yesterday on the amendment. The amendment became the bill. Inside of this bill we've talked about everything that we want to do this year when it comes out of the General Fund. There also was discussion yesterday on some capital construction projects that the Appropriations Committee has brought before the Legislature as a whole. It was a good debate and I would continue to answer questions if you have any more, but with that I urge your adoption of LB968. [LB968]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Members requesting to speak

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

Floor Debate  
March 14, 2012

---

on LB968: we have Senator Nordquist, followed by Senator Lathrop. Senator Nordquist. [LB968]

SENATOR NORDQUIST: Thank you, Mr. President and members. I just want to rise and talk one more time about one of the key investments we're making this year and the challenges that still remain. At 10:30 there's going to be a proclamation signing in the Rotunda for developmental disability awareness month, and it's fitting that we continue to discuss our budget today and talk about the importance of addressing the needs of those individuals, those vulnerable individuals in our state that need services. Our waiting list remains over 1,700 individuals. We made a small down payment two years ago in our budget, and then I think it was \$5 million a year. We...this year, we made an additional down payment on that at \$4 million a year, and that will end up serving a little more than 200 individuals. So even after making that investment, there are still going to be well over 1,500 individuals in our state waiting for services. And to cover the full cost of it would be \$19 million; again we're only putting \$4 million in this year. So this is a challenge that we have as a state. When we talk about our budget being a moral document, being a living, breathing, moral document about where our priorities are and about our value on life, on all of life, that we need to continue to make progress on that. And looking ahead at the challenges in our budget it's going to be awfully difficult to do that. So as we make decisions here going forward about our state's fiscal policy, we need to remember about those who are out there, those Nebraskans who are in need of services and who are not getting those services because we have not made the investments we need to make. Thank you, Mr. President. [LB968]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator Lathrop. [LB968]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I want to begin by indicating my support for LB968. I also want to indicate to you that I don't intend to talk more than once this morning. I think I made my point yesterday. I will tell you that in the time that I've been down there--this is now my seventh year...sixth year. Thanks. (Laugh) I'm losing track. They're starting to run together. I've seen crises that have come to the Legislature from outside the Legislature when we had to deal with the Republican River Valley...or the Republican River issue. We've had problems that have been presented to us because of Supreme Court decisions that we've had to address. And then there are problems that we can create for ourselves. When we go forward we must look at the Appropriations bill and the proposed tax cuts together, and we must be careful. We must be careful, colleagues, in the next few weeks not to create a crisis for ourselves. If we take the deficit to over \$600 million for the next biennium, we are creating a crisis. We are creating a crisis for the next Legislature. That is something we have control over. Yesterday I think I repeated that we are a separate branch of government. That's important to me. This is an amazing institution. We have a role different than the Governor. We must work in cooperation with the Governor. But we don't rubber stamp the Governor's ideas; we filter them. And in the days that will follow

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

Floor Debate  
March 14, 2012

---

we will have an opportunity to exercise our judgment as an independent branch and our individual judgment as state senators to filter...to filter...to look for what is good policy as we construct the budget as we develop tax policy in this state, and we must be very, very mindful not to create a crisis for the next Legislature. Thank you. [LB968]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Adams. [LB968]

SENATOR ADAMS: Thank you, Mr. President and members of the body. It wasn't until just the last moment that I decided to speak on this. I was one of the negative votes in the Revenue Committee yesterday on the tax proposal, and I realize we're on LB968, but like many of the rest of you I've decided to take this opportunity to vent for a moment. I voted against the tax proposal yesterday not because I'm opposed to reducing taxes. My guess is that's the sentiment of 48 of my colleagues in here. I voted against it because I was not yet to the point of comfort. I will tell you that the Governor was working with the committee and the committee amendment, as you all know if you have studied it or had an opportunity yet, does take the numbers down considerably from the original green copy of the tax proposal. And I appreciate his willingness to work with us. Is the number right for me yet? Well, it wasn't yesterday. And maybe it's a very selfish attitude that I have, but so many times I thought about what the Education Committee went through last year with the LR542 process and TEEOSA trying to get everything to work. We knew we had that obligation. We took it on. We weren't afraid of it. We did what we had to do. Schools bucked up. They did what they had to do. They understand it. And maybe I'm running scared. I just was not in a position where I wanted to walk back into that scenario next year. And I've tried, as Education Committee Chair and a member of the Revenue Committee, for the last three or four weeks to talk to as many folks as I can, mostly over in that Fiscal Office, to get a handle on, what do we need to have in the Cash Reserve; what kind of a projected shortfall can we realistically handle? And nobody has got a clear answer. I understand that. Because we're dealing with "out here someplace." I get that. I just wasn't prepared yesterday to say I think we can make it work, I think we can make it work. We may be very close. I mean, in the first year, numbers we were looking at: 8.8. We can probably make that work. The second year, down to 44; the third year, I'm concerned. And maybe I shouldn't be concerned about out years, because as I just said, it's...these numbers that we really can't get our hands around. And maybe we have a recession, maybe we have \$5 gasoline, maybe the farm economy softens and maybe we have more TEEOSA obligation just because land values soften. I don't know. I don't know. I don't know. But at that point yesterday when a vote was cast in Revenue, I was not feeling comfortable enough. Before this session is over and before all of this is done, maybe amendments will come to LB970. I don't know. Maybe something can happen in this body. It's ours now. Senator Lathrop said it right: It is ours to deal with. We will filter it, whether it's the budget, whether it's tax policy, and we'll decide how to put this all together. An idea was thrown out. We've responded to it. Some of us didn't like it, others of us liked it more, and we're all 49 going to get an opportunity to say whether it will work or not. But I understand typically

Floor Debate  
March 14, 2012

---

what happens. [LB968 LB970]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute. [LB968]

SENATOR ADAMS: When you're education and you make up 49 percent of the General Fund obligation of the state, if we find ourselves in a bind I know where the body is coming. I get that. And by the way, 20 or 22 percent for next year, it's not going to work. We all know that. We're going to have to bring it down. How far? Where's the sweet spot and what can we afford? Thank you, Mr. President. [LB968]

SENATOR GLOOR: Thank you, Senator Adams. (Doctor of the day introduced.) Senator Pahls, you're recognized. [LB968]

SENATOR PAHLS: Good morning, Mr. President, members of the body. Now I'd be honest with you. I really don't have too much empathy for those of you who say let's cut, for those of you who say we should raise taxes, we should cut services, because I've been here going on eight years. Every year we continue to do what? Pass tax exemptions. That pot has continually gotten smaller. Now I know this morning I understand the vote this morning because there did seem to be some logic. It is amazing we'll stand up and we will talk the talk, but when it comes to voting on things that are really significant, oh, you'll slide over, as I do too at times. If you're concerned about cutting services, if you're concerned about the tax rate, then you ought to be looking what you're exempting, because every time you exempt, the money has to come from somewhere. I was fortunate a number of years ago to sit on this study, as I said earlier, on tax policy. I learned a lot. We did work on several areas, and one thing that was really (inaudible) glaring to me was tax exemptions. And the people who sat on that committee were in disagreement with some of the issues I talked about because they were trying to preserve their little territory. Last year, I looked at it, to be honest with you, and I supported Senator Fischer on her roads bill because I was looking around the body to see who was standing up and saying nay. I didn't see some of those people who I thought should have stood up. So I said, I can go along with that. So I watched to see how the vote is or how people are standing up and giving their opinion. So again, I know exemptions are here. But just to give you an idea, we should keep in mind the big picture, around \$3 billion a year. Look what that would do to our budget. And here are just a couple things. If we would actually do away with exemptions, I know some of you have heard that, we could use the revenue to completely overhaul our tax system. And here are some options. We could eliminate...I'm saying we could eliminate all property tax and lower income tax, or we could eliminate income tax and lower property tax, or we could lower sales tax. The options are there. To me that's the big picture. Every year, coming back, oh, we want to add here or we want to cut here. It could be if we would truly examine those, and if we do take things away we have to

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

Floor Debate  
March 14, 2012

---

make sure in a few years that we don't bring them back. I went out to western Nebraska a couple of years ago and talked to a bunch of cattlemen. They didn't mind the idea of losing tax exemptions if we all lost them, but they were afraid they would get a new bunch of senators in here in a few years and they...and then we would bring those taxes back. It is a powerful tool. And I know this year if they all...if we had passed all the exemptions, as I can recall it would be around \$50 million. I know we will not pass all those exemptions, but year after year we bring them forth. I know this does not answer the question that's in front of us right now, but if you take a look at the big picture we wouldn't necessarily be talking about cutting income taxes, cutting property taxes, because I know that affects a lot of people. It would be there. Now if we would spend that money instead of cut, then I could see where there would be an argument. If people said, oh, let's get rid of all the exemptions so we could spend more money, then I could see, hey, there's some argument with that. [LB968]

SENATOR GLOOR: One minute. [LB968]

SENATOR PAHLS: Thank you. But if you take a look, and I've heard some people tell me...they've told me that, well, this is all you do; you're transferring it from one person to another. I think it would be probably a more fair taxing on the sales tax if we would take a look at these exemptions, and they're very powerful. I'm not talking about...I'm talking about billions of dollars. And am I, quote, against any of them? No, personally. I think we need to work on the overall policy. What I find interesting, once I get off the mike I will have senators come talk to me. They'll say, well, Rich, we ought to go after this one or we ought to go after that one. It's pretty hard for one or two people, because as I've looked over the last several years you have over 20 senators who have put in exemptions. Now, look at the odds of passing anything. Plus then you have the people on the other side of the glass not wanting those exemptions to be lost. [LB968]

SENATOR GLOOR: Time, Senator. [LB968]

SENATOR PAHLS: Thank you. Thank you. [LB968]

SENATOR GLOOR: Thank you, Senator Pahls. (Visitors introduced.) The Chair recognizes Senator Ken Haar. [LB968]

SENATOR HAAR: Mr. President and members of the body, I just wanted to stand up to say that I really agree with what Senator Nordquist said when he said the budget is a moral document. And I'm going to read again a statement that's been said many times by many people. Hubert Humphrey said it this way: It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy, and the handicapped. My first priority in this body is education. We have to educate our children. It's the one thing that's in the constitution,

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

Floor Debate  
March 14, 2012

---

and even if weren't there it would still be my number one priority. We have to educate the children. And I'm really...I'm concerned about the talk of tax cuts right now because you look down the road a little ways--and I know we're going to have to bring that rate of TEEOSA down, I'm aware of that. But if you look at 2014, when the roads percent of the sales tax goes into effect, and then there's a water group, and this was not the Natural Resources study committee, but another group studying water who is suggesting that we take a percent of sales tax and put it into the Water Cash Fund, and then there will be other groups that come and other groups. We're shrinking the amount of money that we can appropriate for this very important job of educating our children and taking care of the elderly and those who are in the shadows of life, the sick, the needy, and the handicapped. And as we go down the road here, I will vote for tax cuts only if we pass that moral test that we're still taking care of the children, we're still taking care of the elderly, and we're still taking care of the sick, the needy, and the handicapped. But we have to look at this really carefully because I think we put this all in jeopardy when we talk about the sales...or the tax cut that might resolve for the middle-class family, like most of us here, of less than a dollar a week. Thank you. [LB968]

SENATOR GLOOR: Thank you, Senator Haar. Seeing no senators remaining in the queue, Senator Heidemann, you are recognized to close on LB968. [LB968]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I do appreciate the discussion and the debate on LB968, our Appropriations bill. This is General File. I am sure as we move down the path of the road here to Select File, and with other things that are before us, there will be more debate on LB968 on Select File. We do have a lot of decisions to make as a Legislature and it's good to talk about it and it's good to discuss it. But with that, at the present time, on General File, I do ask for your support and advancement of LB968 to Select File. Thank you. [LB968]

SENATOR GLOOR: Thank you, Senator Heidemann. Members, the question is the advancement of LB968 to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB968]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB968. [LB968]

SENATOR GLOOR: The bill advances. Continuing with General File, Budget Bills. Mr. Clerk. [LB968]

CLERK: And Mr. President, if I may, right before that, two items. Senator Smith, an amendment to LB1161 to be printed, and a new resolution, Senator Avery, LR473. (Legislative Journal pages 917-918.) [LB1161 LR473]

Mr. President, the next bill, LB131. It's a bill by Senator Heidemann. (Read title.) Introduced on January 6 of last year, referred to the Appropriations Committee,

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

Floor Debate  
March 14, 2012

---

advanced to General File. I do have committee amendments. (AM2098, Legislative Journal page 828.) [LB131]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Heidemann, you're recognized to open on LB131. [LB131]

SENATOR HEIDEMANN: Being as the amendment becomes the bill, can I open up on the amendment? [LB131]

SENATOR GLOOR: Please proceed. [LB131]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. This is the Cash Reserve bill. There is a lot into this, this year, so hopefully there's some discussion on it. This is where we pay for all our capital construction and one other transfer into the Affordable Housing Trust Fund. The amendment does become the bill. It also deletes some obsolete language related to transfers that have been completed in prior years, and I'll talk a little bit later on, it does actually transfer \$1 million from the Cash Reserve Fund to the Affordable Housing Trust Fund, and the emergency clause is added. The Appropriations Committee budget includes \$81 million in transfers from the Cash Reserve Fund. There is a \$1 million transfer to the Affordable Housing Trust Fund, a portion of the national mortgage settlement funds credited to the Cash Reserve Fund. The second transfer is \$80 million to the Nebraska Capital Construction Fund for five different construction projects. This includes \$79.2 million for higher education projects and it also includes \$800,000 for the Centennial Mall project in Lincoln. Even with the use of these funds (inaudible) obligated, the ending balance for the Cash Reserve Fund is projected at \$341.2 million, which is still \$42 million higher than what was projected at the end of the 2011 Legislative Session. There was a lot of talk yesterday on capital construction and what we intend to do or what the Appropriations Committee recommendation was and what the Legislature then would pick up and whether they think this is a good idea or not, but this is how we are going to fund our one-time capital construction projects. The other part of this is we had this discussion yesterday. The diagnostic lab on the East Campus is approximately up to a \$50 million bond project, which will come out of the General Fund because it's ongoing expenses. The \$79 million for higher education and the \$800,000 for Centennial Mall, we consider it one-time investment, one-time expenditure for capital construction projects. It's the Appropriations Committee's intent, because it is one time, to bring it out of the Cash Reserve Fund. A year ago we had discussion in Appropriations when we were building our biennial budget what we was comfortable taking the Cash Reserve down to because of what we was looking in in cuts and to make things work. And there was general consensus around the table that to make things work we was willing to take it down to \$50-70 million. Times got better than what we had anticipated, and you can see how much money we have in the Cash Reserve--you know, \$340 million, even after we do this. We feel that this is a good one-time investment in the state of Nebraska when it

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

Floor Debate  
March 14, 2012

---

comes to the capital construction projects. If these projects were on the private side, they could access Nebraska Advantage LB312 money. They could probably access TIF money to make projects like this work on the private side. Because these are university projects in a city of...Lincoln projects, state college projects, they are not eligible for funds like this, but they are still an investment in the state of Nebraska. And it's the Appropriations Committee's thought that this is a good one-time use of Cash Reserve money for this investment in Nebraska. And with that, I would try to answer any questions that you might have on AM2098 to LB131, but I also encourage your support of the amendment and the bill. Thank you. [LB131]

SENATOR GLOOR: Thank you, Senator Heidemann. Mr. Clerk, there is an amendment to the committee amendments. [LB131]

CLERK: Senator Cornett would move to amend FA45. [LB131]

SENATOR GLOOR: Senator Cornett, you are recognized to open on your floor amendment. [LB131]

SENATOR CORNETT: I withdraw the amendment. [LB131]

SENATOR GLOOR: So ordered. Mr. Clerk. [LB131]

CLERK: I have nothing further on the committee amendments at this time, Mr. President. [LB131]

SENATOR GLOOR: There are senators wishing to speak. Senator Wightman, you are recognized. [LB131]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I wanted to just take this chance to rise and say that I am very much in support of this, and I'd like to discuss this money that will be taken from the Cash Reserve Fund. The first one is the only one that doesn't involve capital expenditures is \$1 million that would be paid into the Affordable Housing Trust Fund. That is to reimburse the part of the amount that we took last year as a reduction when we put some of the economic development money into site development for new industries or for any industry as far as that goes. And so we happened to be getting, and I don't remember the exact amount, about \$8 million under a suit that was joined in by the state of Nebraska and it was against the major banks in the country. This was a big settlement that got divided up among the states as far as their role in creating the terrible economic downturn that most of the nation participated in and certainly Nebraska participated to some extent. And so since that has to do with housing, and housing created most of the crisis that we found ourselves in, we felt that it was only fair to at least return some of that so that it would be used for housing in Nebraska, and that was some of the rationale behind our effort to again

Floor Debate  
March 14, 2012

---

restore some of that funding. I would also like to go on record as supporting what Senator Heidemann has already told you, that this is a one-time opportunity to invest in the future of the state of Nebraska. I think it's pretty clear that if we don't continually take steps to move the state forward and consciously do so, that we're very likely to move backwards. And so I think all of these projects are a great investment in the state of Nebraska, certainly the cancer center. I think that probably over a period of years we will see far more money returned from building the cancer center than the \$50 million that we're investing. I think that we also will see similar investments, and I don't think any of them are as economically helpful as probably the cancer center. But I think all of the ones that we're doing, the nursing center at Kearney I think has long been needed, and that's the only way we're going to probably have to do anything to take care of the nursing shortage that really faces all of Nebraska, but certainly outstate Nebraska probably more so. I think you can take each one of the bills that we're looking at or each one of the transfers that we're making out and you can justify them by investing in the future of the state. I know there will be some discussion or I suspect there will with regard to the Centennial Mall or the Capitol mall. Our feeling generally was that the state really has reached the point where it's almost a state of embarrassment to walk down, and I'm sure many of you have, or walk up, whichever direction you're walking the Capitol mall. Certainly even liability comes to mind as you walk down there... [LB131]

SENATOR GLOOR: One minute. [LB131]

SENATOR WIGHTMAN: ...and you see slabs of concrete broken or surfacing broken, and it really, I think, looks horrible for the state of Nebraska. So we're not making a tremendously big investment. We are putting up about 10 percent of the funding that will be required and that will go through the Lincoln city parks who have responsibility for it. But just looking at the street space that's being occupied by the State Office Building, by all of the state of Nebraska buildings and facilities, I don't think 10 percent is an unfair investment. I think that it really is a very fair investment for the state of Nebraska. So I urge your support for AM2098 and LB131. Thank you, Mr. President. [LB131]

SENATOR GLOOR: Thank you, Senator Wightman. Senator Krist, you're recognized. [LB131]

SENATOR KRIST: Thank you, Mr. President. Good morning, Nebraska and colleagues. I have sounded like a broken record on the mike this year and nothing is going to change. We as a body have some priorities. We could stand up and give the "State of the Legislature" as we've heard the State of the State and the State of the Judiciary. But I think it's important to note that we have priorities of our own. I'd like to address one inconsistency, I think, from yesterday. Senator Council, to your point, I wasn't suggesting, I guess, that it's not our time to discuss the budget; I was suggesting that it is our time to do what our priorities would dictate we do. It may not be time to do what

Floor Debate  
March 14, 2012

---

other priorities would dictate we do. It is our job to pass a budget. It is our job as this branch of government to appropriate and then to apply oversight. I am in complete support of AM2098 and of LB131. I believe that this comes from an extreme amount of hard work on the part of Appropriations. What we know to be coming, though, is a disruption in the force. Something that would suggest that what our Appropriations Committee has deemed to be our resolve, our priority, would have to be adjusted by a wrinkle in the force itself. I will not make a judgment based upon who may or may not believe that it needed to come out of committee nor whether its present form in coming out of committee is how it will go forward. But I will tell you this: resolve, resolve, resolve. We have some priorities. They are probably very, very important to those that Senator Haar spoke about earlier, those people who cannot advocate for themselves, those people who need our help. That is one of our functions of government. We have an incredible amount of money that we are turning around and trying to fix a problem--fix a problem that has manifested itself in the state as a result of the Department of Health and Human Services' decisions that were made and lack of oversight on our part to correct the problem until it manifested itself the way that it did. So I could ramble on but I won't. I will just say again: resolve. We need to make sure that these priorities go forward. To that point specifically I will say we have to have a study or oversight of these capital construction programs because I honestly believe that when we look at the two ways that we can promote business, and Senator Heidemann said if this was private business, they would be able to take advantage of Senator Pahls' favorite things: tax deferred status to bring businesses into the state. Let's find out if investing with funding capital construction in this state is a better investment than TIF or the Nebraska Advantage Act. Let's document how that happens. As I said yesterday, in between now and Select my intention is to try to find a way to fund that study so that we can accurately capture and document what happens in this particular mode. Thank you, colleagues. [LB131]

SENATOR GLOOR: Thank you, Senator Krist. The Chair recognizes Senator Harms. [LB131]

SENATOR HARMS: Thank you, Mr. President and colleagues. You know, I rise in support of LB131 and AM2098. I want to take just a moment if I can to visit with you a little bit about capital construction. I introduced LB1019, and that, LB1019, took care of the Armstrong Building at Chadron State College and took care of the Oak Bowl at Peru State College. And I've had the opportunity to tour both of those facilities so I have a really very good understanding about those issues. I'd like to start, first of all, with the facilities at Chadron State College. Even though Chadron State College is not in my district, it is in western Nebraska and I have a tie to it for a lot of different reasons. But it was built in 1964 for \$600,000. A good bargain. And since then, to be very honest with you, they have put very little money in it. They have not had the money to put into it. And they have programmatic, they have physical deficiencies. The physical deficiencies are they actually have sinking starting to occur. The walls in many places are starting to

Floor Debate  
March 14, 2012

---

crack. They're trying to hold that portion of it together, and it puts us in a situation where there's a great deal of liability there. And to be very honest with you, you could travel in western Nebraska and you could find high school facilities that are better than the college facilities. Chadron State College has got a population base now of almost 3,000 students. They deserve to have the appropriate kind of facilities that are safe. And like I said, it's 50 years old. They have done very little with it. It's time to fix it, or I think in time they're going to have some real issues. Not only do they have the cracking, but they have settlement issues, they have mechanical issues, they have plumbing issues. About everything you could imagine in those facilities have occurred. The college has made commitments to this building or to the remodeling portion of it. The college has put \$44,000 of their own money into the planning. They have set aside \$775,000 for the project, and the foundation has committed \$1.25 million for this project. They're committed to this, but they just can't go that far. It's a small institution. They can't raise the money for it. They need help and they deserve the help. I can't remember the last time in our Appropriations Committee that we dealt with anything from Chadron State College or for Peru. Now let me move just to the Oak Bowl at Peru State College. You know, I hadn't been on that campus for almost 40 years, colleagues, and I had fixed in my mind what I saw 40 years ago. This is a beautiful small campus. It's a great place to go to school. They've done a lot with those facilities. But overall, when you look at the Oak Bowl, it was built in 1900...and I probably shouldn't have to go any further than that. It is really deteriorated. The facilities, again you could find facilities there in high schools that are better than what they have. They also have programmatic. They also have physical deficiencies. They have had very little improvements at all over the years, and they have significant...they have significant safety issues there and liability issues. When I got there and I tried to walk down the...it's set in a beautiful bowl, and you try to maneuver the steps. I could hardly maneuver those with my...to get down them. They have no handrails. These are concrete steps. The seats that they have in there were...they borrowed...they got from some other place that people were getting rid of them. They stuck them in that bowl so they could have a better sitting arrangement. They have no...the parking is limited. They have no handicap parking. The rest rooms do not meet ADC...they're not ADC compliant and they're undersized. And let me just give you an example of their...well, they have about 2,000 people come there and they use these... [LB131 LB1019]

SENATOR GLOOR: One minute. One minute, Senator. [LB131]

SENATOR HARMS: Thank you, Mr. President...when they use these facilities, this is an embarrassing thing for them. They have to have people outside, as soon as people leave, to go and use the plunger to get it so it would drain. Now what do we say about that, colleagues? This is a state facility. I mean I'm embarrassed by that. I'm embarrassed to have athletes go there, either at Chadron State College or...in these facilities and see that and experience that and the public to see it. They also have some real liability issues, and the liability issues--and I think Senator Heidemann mentioned

Floor Debate  
March 14, 2012

---

that earlier--I think it's on the east side, they have a large drain ditch, drainage ditch. It's open. It's open for a great deal of liability issues for athletes, athletes losing sight of when the ball is thrown to them or being tackled and pushed over into that drainage ditch. Colleagues, it's time to really fix this. I don't think we can go much longer with either one of these facilities, and I would really urge you to pursue that. As I've said, I've taken the... [LB131]

SENATOR GLOOR: Time, Senator. [LB131]

SENATOR HARMS: Thank you, Mr. President. [LB131]

SENATOR GLOOR: Thank you, Senator Harms. (Visitors introduced.) Continuing with the discussion on AM2098 to LB131. Senator Schumacher, you are recognized. [LB131]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. As I listened to Senator Wightman speak about an \$80 million investment in the future of Nebraska, I thought how odd that was that that number was close to a \$90 million expenditure we may be looking down the road in two years in making. And it gave me kind of a tummy ache because those are rough choices. And I thought maybe it's appropriate to think a little bit now about the nature of money and the power of organized capital. Money can be used for two things. It provides the means for two things: the means of consumption and the means of production. Money in a disorganized dissipated form can only be used for consumption, and that consumptive dollar often finds its roots and its home in faraway places that is not much good in investment to Nebraska. Money in an organized form, whether it is organized through the sale of equity and corporations or through fund-raising activities such as taxation and other forms of fund-raising by government, can do things, can build a bit of the future if we apply it properly. Organized money is the means of producing the future. Organized money brings a future into being. And when given a choice between dissipating money in tiny increments that really has no measurable or futuristic view, and a choice of organizing a chunk of money to bring projects that will likely produce benefits into being, it seems to be an easy choice and it seems to be a wise choice. And so confronted with an expenditure that will increase in tiny dissipated ways the means of consumption and an expenditure which can bring into being a future, a productive future and a wise future, this particular measure will get my vote. Thank you. [LB131]

SENATOR GLOOR: Thank you, Senator Schumacher. Senators remaining in the queue: Sullivan, Council, Ken Haar, Harms, and others. Senator Sullivan, you're recognized. [LB131]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. I wonder if Senator Heidemann would yield for some questions? [LB131]

Floor Debate  
March 14, 2012

---

SENATOR GLOOR: Senator Heidemann, would you yield? [LB131]

SENATOR HEIDEMANN: Yes. [LB131]

SENATOR SULLIVAN: Thank you, Senator. As I said yesterday on the mike, as we started to have the more detailed conversation about balancing...not only balancing the budget but our priorities, I made the comment that early on when I was looking at the requests under the Building a Healthier Nebraska initiative, I didn't really expect that all of those would be funded and I was certain that my priority among them was the vet diagnostic lab. Have you chosen...has the Appropriations Committee chosen to fund all the requests under the Building a Healthier Nebraska initiative? [LB131]

SENATOR HEIDEMANN: No. [LB131]

SENATOR SULLIVAN: What one got eliminated? [LB131]

SENATOR HEIDEMANN: There was a lot of discussion in the committee about the College of Nursing at Kearney and the College of Nursing at Lincoln. You know, it would have been nice to have been able to do both but there is a...what we are told through studies, a nursing shortage now, and if not now definitely in the future with the Affordable Health Care Act that was passed that evidently calls for a lot of nursing part of it. Because of that we wanted to be able to do something to address that but didn't think we could do both, so it was decided to move forward with the Kearney part of it because that was true expansion versus in Lincoln there would be a little bit of expansion, but mainly just...not renovating a building, but building a new building. They are in a leased building right now in downtown Lincoln, so they're making it work; but Kearney actually is an expansion. [LB131]

SENATOR SULLIVAN: Why did you opt to do the vet diagnostic lab funding through bonding as opposed to just taking it out of the Cash Reserve? [LB131]

SENATOR HEIDEMANN: It was a big enough project and there probably would have been some uneasiness to put that on top of it. So we decided at that time to pull that project out and that part of it out, and just bond it and use General Fund money for that as an ongoing expense. [LB131]

SENATOR SULLIVAN: Help me a little with the decision-making process and arriving at, okay, we're going to do all of them instead of saying, well, you know, like the diagnostic lab, that you are to a certain extent under the gun on that. But why did you decide that all of them at this point in time were necessary? [LB131]

SENATOR HEIDEMANN: I think the committee thought that it was a good time to invest

Floor Debate  
March 14, 2012

---

in Nebraska and not...just like in the diagnostic lab where we were forced to. We thought that because there was more money in the Cash Reserve than what was definitely anticipated at the end of last legislative session, that it would be a good use of one-time funding to do some capital construction projects in Nebraska and invest in Nebraska. We felt...and we looked at each and every one of these projects and we felt they all had their importance, and once you decided then to do the cancer research tower, we looked at every project, you know, from that point on, and they all had equal importance and needs. And it was probably difficult for us to say then, no, we're not going to do this. We looked for priorities. They all seemed to be priorities. We thought that this was a good time to invest in these type of priorities and this is the path that we chose to present to the whole body. [LB131]

SENATOR SULLIVAN: What about the state college requests? Again, help me a little in how you arrived at that decision and were there other state college requests that you did not fund? [LB131]

SENATOR HEIDEMANN: These were the two that were presented to us. I'll give you a little background on the relationship between the university capital construction projects historically and the state colleges. Years, way before I was here, there was a bill called LB1100 that it allowed both the state colleges and the universities to bond money. [LB131]

SENATOR GLOOR: Thirty seconds. [LB131]

SENATOR HEIDEMANN: And usually "apportionately" they came up to this percentagewise by using the value of what the university was and the state colleges was, and they come up with about 10 or 11 percent when we do capital construction projects for the state colleges and the other part goes for the university's projects. So we felt it was important that we engage the state colleges as not to leave them behind because we feel the importance of the State College System to the state of Nebraska. [LB131]

SENATOR GLOOR: Time, Senators. [LB131]

SENATOR SULLIVAN: Thank you. [LB131]

SENATOR GLOOR: Thank you, Senator Sullivan and Senator Heidemann. Senator Council, you're recognized. [LB131]

SENATOR COUNCIL: Yes, thank you, Mr. President, and it's indeed fortuitous that I'm up following Senator Sullivan because her questions were exactly the questions that were in my head. And I pushed my light after my friend and colleague Senator Krist's comments about priorities and what our priorities are. First and foremost, priorities are

Floor Debate  
March 14, 2012

---

relative. And as we go through this process, at this given point in time the Appropriations Committee has identified the items that are in LB131 as priorities. And as Senator Krist acknowledged, there are other priorities; and our job is to weigh these relative priorities. Now in terms of whether or not LB131 represents my priorities, for example, Senator Sullivan got at some of the questions I was asking, and that question was, were there other items of capital construction that were before the Appropriations Committee that are not reflected in LB131? And what were the factors considered in the Appropriations Committee arriving at its determination of priorities? And that is in fact what we are considering. That's our process. The Appropriations Committee reviews these requests and recommends a set of priorities for this body to consider adopting. Whether or not we adopt them or not are based upon our individual and collective determination of what the priorities were. And as Senator Sullivan stated, it was my understanding that there was also as part of this overall statewide capital construction initiative a request for capital funds associated with the nursing college on the campus of the university here in Lincoln. And to hear what was the analysis and thought process undertaken by the Appropriations Committee in determining that notwithstanding the fact that as I understood Senator Heidemann's comments that the state of the Cash Reserve was \$42 million greater than anticipated and estimated, even after LB131, the question that remains is in that event what was the rationale and thinking of the Appropriations Committee to not include the construction associated with a nursing college on the campus here at Lincoln? And, Senator Heidemann, I apologize if you believe that you responded to that question in your exchange with Senator Sullivan. But what I'm specifically asking is, am I correct in my understanding of your statement that even with all of the expenditures under LB131 the Cash Reserve Fund would still be \$42 million higher than what was estimated at the end of the last budget session? [LB131]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Senator Heidemann, would you yield? [LB131]

SENATOR HEIDEMANN: Yes. I was having a conversation with Senator Larson, but I believe you asked the question, we will still be at \$341.2 million after the capital construction projects,... [LB131]

PRESIDENT SHEEHY: One minute. [LB131]

SENATOR HEIDEMANN: ...which is \$42 million higher than was projected at the end of the 2011 legislative session. [LB131]

SENATOR COUNCIL: Okay. So again, I mean, these are facts that we as a body should be aware of and should take into consideration in making a decision with regard to LB131, as well as other pending decisions that would affect potentially the Cash

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

Floor Debate  
March 14, 2012

---

Reserve. And I was listening intently yesterday when Senator Flood made the comment about we have entered budget years that we've entered legislative sessions knowing that in our years that we were going to be looking at... [LB131]

PRESIDENT SHEEHY: Time, Senator. [LB131]

SENATOR COUNCIL: Thank you. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Ken Haar. [LB131]

SENATOR HAAR: Mr. President and members of the body, I have a question for Senator Harms. [LB131]

PRESIDENT SHEEHY: Senator Harms, would you yield to Senator Haar? [LB131]

SENATOR HARMS: Yes, I would. [LB131]

SENATOR HAAR: I listened to what you said, and this is just a question that I'll keep asking of construction projects. Obviously, they're going to build energy efficiency into it as much as possible, do you know? [LB131]

SENATOR HARMS: That's correct. That's what they're looking at, and that's one of the other issues with their HVAC and that whole aspect of it is, and I think they want to go as green as possible at Chadron State College. The one at Peru is more outdoors. [LB131]

SENATOR HAAR: Okay. Well, I think that's an important issue as we go into any capital construction project involving state money, that we make sure it incorporates energy efficiency, which saves money very quickly. Thank you very much. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Haar. Members requesting to speak on the Appropriations Committee amendment, AM2098 to LB131: we have Senator Harms, followed by Senator Nelson, Senator Larson, Senator Gloor, Senator Ashford, and Senator Pahls. Senator Harms. [LB131]

SENATOR HARMS: Thank you, Mr. President, colleagues. I wanted to finish my discussion a little bit that I started earlier about the construction side here in regard to... I wanted to talk a little bit about the expansion of the nursing program in Kearney. One of the things that we found when you look at wherever you provide the training, a majority or well over a majority of the students who go through that training program stay in that area. And where is the biggest problem we have in regard to allied health and nursing, physicians, specialists in the field of medicine? It is in rural Nebraska. And so the further we can get these programs established, the further west, the better we are in being able

Floor Debate  
March 14, 2012

---

to serve the rural environment, because that is an issue; and quite frankly, probably in the next decade if it's not dealt with will become a crisis for Nebraska. And so when you look at that aspect, that's...when I thought about it in my own thinking, that's one of the reasons why I voted to move that or to do the project in Kearney because I think we need that help. We have a University of Nebraska nursing program, a four-year program in western Nebraska in Scottsbluff, it's in the hospital there, and it does a great job. We have an associate arts degree, a two-year nursing, at Western Nebraska Community College. But it supplies that particular region, and what they found is that the majority of those students who go there stay there. They work at the hospital or they'll work up at Alliance or they'll work at Sidney and other smaller communities because that's where their home is. And that's why they've gone back and that's where they want to live. So it's really important to understand that as we look at these sort of things we have to remember that we are state senators and we have to find a solution to balancing it out for the great state. And that's part of my thoughts about that and that's why I was very supportive of that. In regard to the University of Nebraska's cancer research tower, colleagues, I think that's extremely important for us. They are nationally recognized today with some of the cancer research, but this will put them at the top. And I think it will provide some great opportunities for us to do the kind of research that's so badly needed in the area of cancer. I had a mother who I lost because of cancer and I'm a little sensitive of that particular issue. Because of that, I've always had an interest in that. And I think at the end of all the issues we went through in regard to her, there were three things I learned very quickly: that we're a product of what we eat, what we drink, and what we breathe. The research that they do and will be doing in these areas will begin to help us understand better how we can control this, how we can hopefully cure it, and make it more comfortable for people who have cancer. Where I live in western Nebraska, there are an awful lot of people who have had colon cancer or pancreatic cancer. And I just can't help believe that somewhere that's in the environment. I think this center will at least give us a handle on that, it will give us the kind of research we need, and it will bring some of the brightest minds in the country to the University of Nebraska Medical Center. You know, and if you have not had the opportunity to tour that facility, colleagues, I'd urge you to get on the telephone in your off-time and make an appointment and go over and see them and to have a chance to meet and discuss and to visit with some of the finest researchers you'll ever meet and hear their story and hear where they are and see the excitement of what they're projecting in regard to the treatment of this and what this new center will do. It is just staggering, colleagues. I know a lot of people have talked about, well, it's a great economic boom. Well, it is; but beyond that it's more important what it's going to do to the people who are sick. [LB131]

PRESIDENT SHEEHY: One minute. [LB131]

SENATOR HARMS: Thank you, Mr. President. I'd also like to speak, if I can, just for a few minutes on the veterinarian diagnostic center. That's critical to our ag center. Ag is the number one in the state of Nebraska. Our cattle and hog markets and sheep

Floor Debate  
March 14, 2012

---

markets are at the top. And today what we have to do is we have to...in western Nebraska what we end up doing is sending everything over to Colorado, spending our money there rather than here and having the research and having boots on the ground to come out and spend some time with the farmer or the rancher with what's happening in that livestock. It's important that we have this, it's important that we continue to do this, and it's important that we develop this. So I would urge that this is forward thinking and it is for the betterment of the great state and to keep in mind that we're not just western senators or rural senators or urban senators, but we're senators for the state of Nebraska. And sometimes in my mind that gets foggy for me, and I have to... [LB131]

PRESIDENT SHEEHY: Time, Senator. [LB131]

SENATOR HARMS: ...constantly go back and remind... [LB131]

PRESIDENT SHEEHY: Time. [LB131]

SENATOR HARMS: Thank you, Mr. President. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Nelson. [LB131]

SENATOR NELSON: Thank you, Mr. President. Colleagues, I stand in full support of AM2098 and the underlying bill, LB131, that's been introduced by our Appropriations Chair, Senator Heidemann. I want to...I'm from Omaha, of course, and I'm particularly interested in the UNMC Cancer Center project on the campus there in Omaha and in particular the research tower. I want to...you've seen articles in the newspapers and probably read elsewhere, but I just want to refresh your memory of what this research tower by itself is going to involve. It will have 98 laboratories dedicated to cancer research. Now part of those are already in place in other buildings there, but this will place all of them in the tower where the researchers there have close proximity to each other. It will increase the research funding, that's from grants, from \$67 million a year to \$110 million a year. The Medical Center has been particularly successful in getting grants, national grants. And you can see that that will improve by another 40 percent. It will increase the faculty from 110 to...or rather 100 to about 150. And most important, it will add at UNMC alone 460 jobs, and that's broken down 50 new research faculty members; 387 new research support staff; and 36 nonresearch staff. And these are high-tech, well-paying jobs at a minimum of at least on an average \$86,000 a year. This is going to keep the best and the brightest in Nebraska. Senator Harms has spoken about that. And we will be able to recruit highly educated researchers from around the world. This is a \$110 million project, and we are through the capital construction appropriation here going to provide \$50 million of that. It goes farther than that. The entire project comes to about \$370 million; \$120 million of that will be funded by bonding, but \$200 million has to be raised from private donors. That is a huge project, even in Omaha, and it's very important--and this is the reason--\$50 million is a

Floor Debate  
March 14, 2012

---

substantial amount. But we need to provide at least that much to bring forward the private donations and make this a success. In addition to the tower itself, there's a 110-bed hospital adjacent connected and beyond that an outpatient center. My understanding is that during the course of their lifetime 50 percent of our residents here in Nebraska will be touched by cancer one way or another. I mentioned the other day that just in the last week my family has been touched. Let me move to the economic impact as a whole, and I made reference before to a report by the director of the Center for Public Affairs. And I hope maybe you had an opportunity to look at that. With regard to the cancer center alone on the Medical Center campus, the employment... [LB131]

PRESIDENT SHEEHY: One minute. [LB131]

SENATOR NELSON: ...the total effect employment will be 4,872 persons. The labor income from the construction, and this is just for one year, the total effect is \$205 million. I'm going to do these in round numbers. The state sales tax as a result of this labor income will be \$3,300,000; the state income tax, \$4,314,000. Now I could move on to the other projects, the allied health center expansion out in Kearney and the veterinary diagnostic center. Those are smaller projects, but they're...and this is on a one-year basis. This construction is going to go on for two or three years so you can multiply these figures by three. Colleagues, these are jobs. This is income, taxable income, and this is going to move throughout the entire state. And as I think Senator Wightman said, probably in the long run we're going to get... [LB131]

PRESIDENT SHEEHY: Time, Senator. [LB131]

SENATOR NELSON: ...more from this investment. [LB131]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Nelson. Senator Larson. [LB131]

SENATOR LARSON: Thank you, Mr. Speaker (sic). I'll be relatively short with my comments. As I was looking through this, I looked at the nursing center in Nebraska-Kearney and realized that was \$15 million. And I know where we're going to be at next year, and I was looking at...heard...listened to the debate yesterday and looking at the green sheet see that it looks like \$481 million down next year in the hole. And I understand I think we need to keep as much in the Cash Reserve as possible. And when I was looking at the nursing center in Kearney, I saw \$15 million, and I know the Legislature before us put a nursing center in Norfolk. And that's actually done a lot of good. And talking to my hospital administrators up in northeast Nebraska, I called them with one simple question: Is there a nursing shortage in northeast Nebraska and, from what you hear, across the state? And I said, you know, it's easy to spend other people's money. I want to know the absolute truth in your opinion, is there a nursing shortage? And they would hem-haw around a little bit, but the answer was pretty much

Floor Debate  
March 14, 2012

---

a consensus: Let the school at Norfolk build and let the school at Norfolk supply those nurses; \$15 million right now is not necessary. And now I don't know, colleagues, what you're hearing from your districts and I know there's a long wait list to get into these nursing schools, but is there really that demand in rural Nebraska? Now I had a number of them say, you know, we're getting, you know, not as many applications as we would like for a nursing job. We're only getting 5 or 6 nursing applications, not 20. But I think it shows that there might not be that nursing shortage that we hear about, and it's \$15 million right now, especially looking at \$480 (million) next year, the right thing? And I have questions as well on, you know, \$800,000 to Centennial Mall and Chadron State and Peru State as well. I think the cancer diagnostic center or the cancer research center and the vet diagnostic center are both very worthy projects. I think the cancer center will end up paying for itself and will be great economic development. But I think we really do have to ask ourselves what is truly needed and talk to our hospital administrators, find out if there really is, if they're really having that hard of a time getting applications or if they're just only getting three or four, therefore they think they need more, because we don't need to train nurses that have a hard time getting a job because I heard that, too, you know. I've heard that nurses are having a hard time getting jobs. And so do we really need to spend \$15 million? I don't know. I'll continue to listen. Right now I'm skeptical and I think we need to take a hard look at that. Thank you. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Larson. Senator Gloor. [LB131]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members, and it's certainly appropriate that I'm following Senator Larson because he's brought to the forefront some of what I've heard, not a lot of, but a little of and that is that there's not a nursing shortage. So I want to bring my personal perspective to that. I have to tell you that healthcare shortages overall, not just nursing, are very cyclical in nature. I ran into my first one in 1980 when I started in healthcare administration in charge of the personnel department. During the 30 years of my career, I can recall, and there may have been more, four periods of time when there were nursing shortages. There were other healthcare shortages also but specifically nursing shortages, very cyclical in nature, but it's important to understand that when we came out of those cycles we always came out of those cycles with more nurses. In other words, we weren't laying people off because there wasn't enough work. We were scrambling to find more trained professionals, in this case nurses, because of the demand. To underline and emphasize that, let me give you some numbers that are recent in history, prepared as part of a work force development plan that the Nebraska Hospital Association has. These numbers relate to all nurses employed across the state of Nebraska, whether it's in a hospital or physician's office or in a department of health and whatnot. The estimated employment in 2004 was 19,000. By 2008, the estimated employment was 21,220; that's about a 2,100 growth over that period of time. The projection from 2008 to 2018 is a need of the current estimation of 21,002 to 26,003. That's an increase of 5,100 nurses

Floor Debate  
March 14, 2012

---

over that ten-year period of time. I give you the past information and the projections forward to show you that the trend line here continues to be, as I've said in my discussion on the cyclical nature of this, upward and onward always. That doesn't mean that in certain communities there may not be that demand, but overall in the state of Nebraska there certainly is and has been and will continue to be. We have added schools of nursing over the years to address that increased need because we, as baby boomers, at least those of us who fit into that category, are aging and will require care ourselves, not to mention the ever increasing population in the state of Nebraska overall. There is going to be a need for nurses. Not to dispute the fact that in certain areas of the state that may not be the case and certain institutions that may not be the case, but those jobs are out there and there is a demand for those jobs and that demand will continue to grow. And that's why we need to invest the money in those facilities. If you doubt that, take a look at the cranes over hospitals across the state. Those hospitals are building based upon what they see as long-term growth, and that long-term growth will result in services and programs for which we will need to have healthcare workers like nurses to staff. I'd also make a quick comment about the tower at UNMC. My institution had an affiliation for research purposes for those oncology services provided at that institution. And I have had the chance on the mike before to point out this is a world-class research facility and provider of oncology care. We're proud when people come to Nebraska for certain things: College World Series, the NCAA tournament going on right now, college football games here in Lincoln, the cranes, the Berkshire Hathaway annual meeting held in Omaha. We get excited when people come to Nebraska and see what we do and what we're capable of doing and how we treat visitors. [LB131]

PRESIDENT SHEEHY: One minute. [LB131]

SENATOR GLOOR: Thank you, Mr. President. But I have to tell you that every day people get off planes in this state to seek care at UNMC for cancer and cancer-related diseases. Every day people get off the plane and go there. This is a form of economic development. This is, as Senator Nelson pointed out as he went through some of the numbers involved, one of the stars within the state of Nebraska when it comes to people coming here for programs, services, interacting with Nebraskans, and what it does also helps Nebraskans in their treatment protocols. So I point that out for the purposes of keeping in perspective that there is a need, and both of these capital projects are going to address that need long term, both in their own way but both are highly...very, very much a need. Thank you. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Gloor. (Visitors introduced.) Continuing with floor discussion on the Appropriations Committee amendment AM2098 to LB131, members requesting to speak: Senator Ashford, followed by Senator Pahls, Senator Campbell, Senator Hadley, Senator Flood, and Senator Conrad. Senator Ashford. [LB131]

Floor Debate  
March 14, 2012

---

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. And I'd like to just briefly talk about an issue that the Appropriations Committee has handled to a certain degree and in a very helpful manner and that's the YRTC at Kearney issue. We'll be having...the Judiciary Committee will be meeting today at noon to Exec again on the issue of how we deal with what I believe our committee sees as a significant gap in the process of dealing with juvenile justice in our state. Hopefully we will have a bill out today or soon that will address the concerns that Senator Hadley has raised and that many others have raised about, you know, where does YRTC at Kearney and Geneva, but clearly at Kearney, how does it fit into the continuum of treatment for our juveniles? So it's an important issue and we'll have some more discussion. The committee has, I believe, rightly, correctly included in the budget additional staff for 11 or 12 positions I believe for YRTC, including mental health professionals. That addition to the staff at YRTC will go a long way to helping eradicate some of the behaviors that have increased significantly over the last two or three years or even longer than that as the nature of the population has changed. The one other issue though that is not in the budget, but we in the committee are going to attempt to address is the issue of the construction or restoration or remodeling is the better word of the dormitory facilities at YRTC. Those facilities were built I believe in the late '40s, early '50s, and they really desperately need to be retrofitted. Right now we have dorm-like facilities which in and of themselves are not bad, but they are set out in long lines of a single cot bed-like arrangements of 30 each on each floor. This type of arrangement just simply doesn't work at YRTC now. And it may seem like a small matter but it isn't. A lot of the tension, interaction...the tense interaction that goes on between the juveniles that are at YRTC occurs at night. It occurs when these youth are...the lights have been turned off, and even during the daytime when some of the younger juveniles need to seek some sort of refuge, there really is no place for them to go. We're going to get into the YRTC issue. It is something that needs to be corrected. There are 160 or so juveniles at any given time, 500 per year at YRTC. They are juveniles with all sorts of behavioral issues, from the most serious, violent behaviors to shoplifting, status offenders. And there's very young children, 12-, 13-year-old children there, juveniles, and they're mixed together. The staff does a super job in dealing with what they have. And again, the Appropriations Committee, I believe, has correctly added additional staff. But we do need to deal with the issue of these dorms. We're going to attempt to look for other sources of funding in the committee and see if we can find it. If we cannot, we may come back to the body on Select File and ask for the money. It's a little over a million dollars to retrofit those two dorms. [LB131]

PRESIDENT SHEEHY: One minute. [LB131]

SENATOR ASHFORD: But we're asking, continually asking for more and more trouble if we don't retrofit or change the layout into smaller living quarters for these juveniles. It is so critical as these young people move through the continuum from the least serious to

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

Floor Debate  
March 14, 2012

---

the most serious kinds of offenses. We're making progress, great progress, I think, working with the Health Committee and Senator Campbell, and the Supreme Court in Through the Eyes of the Child Initiative. But we have a long ways to go and this is a key part of that. So with that, I would certainly urge the adoption of AM2098; and we will hopefully address the issue of the retrofitting of the dorms still yet this session. Thank you. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Pahls. [LB131]

SENATOR PAHLS: Thank you, Mr. President, members of the body. You know, we're talking about spending money. I'm going to show you how we are putting some of this money in General Fund. As Chairman of Banking, Commerce and Insurance, I almost feel obligated to let you know that what we do, not the committee, but what those organizations, the bankers and the insurance people, how much money they do contribute to our General Fund that allows us to do some of these things that we are thinking about. And I'm just going to go back a year or so and I'll start with 2009. We gave in this fund, the General Fund, \$9 million; in 2010, \$11.5 million; 2011, \$6 million; 2012, \$6 million. So we are throwing money into the pie. The interesting thing about it is, how do we get that money? Well, this money we get from the Department of Insurance cash fund and we get these from company appointments, certificates of authority, agency licenses, agent certificates, on and on. So those people are contributing to us for our, or what I might say for our cash...so we can work with it I should say. Also if you look at...that's on page 21. If you look on page 17 you can see...on page 21 you can see what we do on education. The Insurance Department, that fund gives \$15 million, \$12 million, \$17 million the next three years so we are...we're doing our part. Also if you look at the comprehensive health insurance program, that runs into the millions--\$20 million-plus that we give on a regular basis. Now I would like talk a little bit about the Securities Act Cash Fund. That money comes from the registration fees, license fees, and investment interest. Now that, just to give you an idea, in 2009 that was \$24 million; 2010, \$37 million; 2011, that will be \$19 million; 2012 that would be \$19 million. We do have people out there who are helping us make some of our decisions. I don't know how much input they have in that other than we are the ones who make that decisions for them. But I just wanted to bring forth that information that the Department of Banking and the Department of Insurance, they are cash-funded agencies and they do provide a lot of monies for us to utilize. Thank you. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Campbell. [LB131]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. I certainly stand in support of the amendment and the underlying bill. But I do want to send a word of caution to my colleagues for the future. And I would hope that the Appropriations Committee in the next several years would take a look at the issue I'm

Floor Debate  
March 14, 2012

---

going to raise this morning. And that is having to do with the Lincoln nursing school, and I'm sure a number of us in our home community were disappointed that it was not on the list because it has been a long-term priority for the university. And as a note of full disclosure, I sit on the BryanLGH Board of Trustees for the medical center and we have a nursing school at BryanLGH. And yet I very much want to say that I support the Lincoln nursing school and I'll tell you why. I certainly support the school in Norfolk and I would support the school in Kearney. But at some point, colleagues, the Lincoln school of nursing has to come into play because it provides the teachers for all of our schools of nursing. We find at BryanLGH that that's one of our problems is that we can fill the classes to capacity, but we need to be able to find those master's and doctoral level people who can teach our students. And so we need to look in the future and remind ourselves that, yes, there will be a shortage of nurses, but there's going to become an increasing shortage of those who teach them. And so I would hope that in the next couple of years we take a strong look at the need for how this will fit in to the nurses that we need across the state. There's no doubt that putting the school at Kearney will certainly help the population, because we know that they tend to stay often where they have gone to school. And I fully support that, but please look into the future to know that we will have to look at a broader problem in the ensuing years. Thank you, Mr. President. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Hadley. [LB131]

SENATOR HADLEY: Mr. President and members of the body, in terms of full disclosure, I do live in Kearney that this is going to have an impact on. Let me give you just some numbers because we can sit and talk about whether there is a shortage of this or whether there is a shortage of that. Some numbers: I mentioned yesterday the University of Kansas is starting a medical school in Salina, Kansas. The reason they're doing that is to try to train physicians for outstate Kansas. The University of South Dakota increased their medical school budget with state funds by 10 percent this year so they could increase their incoming class from 52 to 56. They established a rotation in the third year for rural South Dakota. They see a problem. They're trying to attack the problem. Let me give you some numbers. Kansas has five counties without a physician. Do you know what that percentage is in Kansas of their counties? It is 4.7 percent of the counties in Kansas that do not have a physician, and they're concerned enough to start another medical school. South Dakota has 12.1 percent of their counties that do not have a physician and they're concerned enough that they increased their funding in their medical school by 10 percent to get more physicians. Do you know what the percentage is in Nebraska of the counties without a physician? We have 18 counties out of 93 counties that do not have a physician; 19.4 percent; five times the rate of Kansas; 50 percent more than South Dakota. Is there a problem? Yes. We've talked a lot about the nursing program in Kearney, but that's only half of what's happening in Kearney. It's the allied health program. Do you know that 13 counties in Nebraska do not have a medical radiographer? Twenty-four counties, basically one-fourth of the counties do not have a

Floor Debate  
March 14, 2012

---

physician assistant in the county. Twenty-five counties do not have a physical therapist in their county. The program with Kearney is not only nursing, it's to increase the allied health programs. They will increase the areas of clinical laboratory science, diagnostic medical sonography, physician assistants, physical therapy, and radiography, while further investigating more programs to bring to Kearney. There's data that shows the students that spend their first years in Kearney and then go to Omaha to finish their degrees in these areas do not come back to outstate Nebraska. That's just plain and simple. So if you want to try and stem the flow of medical help that is leaving outstate Nebraska, you need to start training not only nurses, but you need to train allied health professionals. And that's exactly what they're going to do here with this program in Kearney. In two years they expect the enrollment increases to be 10 to 20 percent in the total programs of those five programs because of the Kearney campus. What this means is that there will be 50 allied health people trained in the program in Kearney every year. That's 50 students that will be trained there with the chance that they will stay in outstate Nebraska. If you want to look out 20 years, if we don't have medical healthcare... [LB131]

PRESIDENT SHEEHY: One minute. [LB131]

SENATOR HADLEY: ...in outstate Nebraska, what are we going to have? How are you going to convince people to move to Ainsworth, Atkinson, those kinds of places if you say, oh yeah, you want to go...healthcare? You get in your car and you drive to Kearney. How far? Oh, it's only 130 miles. Is that what we want? I don't think so. So just so you know, the program in Kearney is more than just a nursing program. It is an allied health program that will help all of healthcare in outstate Nebraska. Thank you, Mr. President. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Flood. [LB131]

SPEAKER FLOOD: Thank you, Mr. President. We need more nurses. Who is going to take care of Senator Hadley in ten years? (Laughter) His wife. She'll want a nurse. In all seriousness, though, I want to say as somebody from an area of the state that had a nursing shortage and we worked as communities together to try and address that nursing shortage, that school in Norfolk helps the northeast/north-central region. Central Nebraska, if you look at the population trends, is growing along the interstate especially--Buffalo, Dawson County, Hall County. The healthcare that they offer in Kearney is a much higher trauma level than a lot of different parts of the state because that is the go-to place for care in those emergent-type situations, not to mention all the elective opportunities they offer. The Kearney nursing school is a priority for the state. For a long time I've been very supportive of the Lincoln project because, you know, we've got students sitting in hallways on the Lincoln campus. But what I think the Appropriations Committee has done with this bill is they've recognized there's really a partnership between rural and urban Nebraska. And the cancer center is going to pay

Floor Debate  
March 14, 2012

---

great dividends in my opinion to the entire state. It's going to help grow the economy of east-central Nebraska, Douglas, Sarpy, Washington, Dodge, Saunders, all of those counties that comprise what we call the metro area in Omaha. The Kearney effort and initiative I think makes sense on many fronts. And as somebody that was very active in the northeast and north-central part of the state, I applaud the efforts of the Appropriations Committee. And from the perspective of the folks in central Nebraska, I think this is an opportunity for us to be responsive to a problem that's going to be magnified tenfold in ten years. While I said that in jest about Senator Hadley this morning, the reality is the baby boomers are entering that age where nursing care is going to be of primary importance. And as a younger generation, we need to make sure we're taking steps to make sure that care is available and that the care is available close to home because it's as important in Phelps County as it is in Madison County and Dodge County and Douglas County and Lancaster County. What we're doing with these spending priorities, I think, is taking a look at where we want to go as a state and we're putting our money on projects that will have a great impact on the quality of life and the access to care and the research and the opportunity to build jobs. Let me leave you with one story. There was a grandmother in Pierce who came up to me in Norfolk after that school got going and she said that her granddaughter was going to go to the nursing school. And she was very proud of her granddaughter and that she was going to go to the UNMC facility in Norfolk. She had been looking at going into a much larger city. And her grandma looked at me and a couple of other folks that were active with the nursing school and said, we have a chance to watch her grow into an adult and we have a chance to meet her children and to get to know them because she's going to be living in Pierce County. And that's a big deal when you're from an area of the state that doesn't have a large metro area to keep every young person you can in your hometown. And I'm sure there's a grandmother in Holdrege that will find the same scenario happen and be as proud as she can because we're offering... [LB131]

PRESIDENT SHEEHY: One minute. [LB131]

SPEAKER FLOOD: ...increased opportunities for allied healthcare professions and nursing opportunities. So I join the chorus this morning in support of LB131 and appreciate the vision of the Appropriations Committee. Thank you. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Conrad. [LB131]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I am glad that my light came up in the order that it did because I specifically wanted to visit a little bit more about the Nebraska nursing shortage and some issues that Senator Larson raised. And it's always been helpful to me when I was getting started as a new senator to learn more about the resources that are available to us when we're trying to make policy decisions. Senator Larson noted that he made contact with some constituents to identify the issue in his area, but as Nebraska state senators, we need to look beyond

Floor Debate  
March 14, 2012

---

the boundaries of our legislative district and we need to look at unbiased resources that help us make good policy decisions. And I wanted to let people know in case they didn't that, in fact, we have a Nebraska Center for Nursing in Nebraska, and that's a division of the Department of Health and Human Services and it is administered by gubernatorial appointees with legislative confirmation; and it's a very good, unbiased source on this kind of information. They have a fantastic Web site at [www.center4nursing.com](http://www.center4nursing.com) and 4 is like the number 4, that lists fact sheets, vacancy reports about RNs, LPNs, national and state statistics, and it's really a fantastic, unbiased resource on these issues. Additionally, I introduced LR285 in 2011 to address the...to identify whether or not there was a nursing shortage in Nebraska. And I can tell you we had a fantastic public hearing on this and a report was compiled by the Legislative Fiscal Office, and each and every testifier that came forward that day...Senator Larson, this may be of interest to you based on your earlier comment, it really was well established that there was no question that there is indeed a nursing shortage in Nebraska. And I think maybe your experience in your area really makes the case for this. We've made improvements in nursing programs in northeast Nebraska, and that's helped to address the shortage in that area. Well, we need to do the same for the state as a whole so that all Nebraskans have access to quality care, and this is an issue that particularly affects rural Nebraskans as well. But I'm going to quote just really briefly from a report that was compiled by the Legislative Fiscal Office in this regard. And according to the Center for Nursing in Nebraska in their annual report in 2010, the projected nursing supply and demand showed a shortage of about 1,874 LPNs and RNs. The supply and demand models project a nursing shortage in Nebraska of 5,581 LPNs and RNs in the year 2020. And that has yet to take into account some of the additional issues that may exacerbate the problem related to the aging of our demographic and the healthcare reform issues as well. So I think that it is important that we use unbiased facts that do demonstrate that this is a clear issue across the state and that we paint a complete picture when we talk about the need to support these programs that help to address critical public policy needs all across the state. And with that, thank you, Mr. President. [LB131 LR285]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Members requesting to speak on AM2098 to LB131: We have Senator Wallman and Senator Bloomfield. Senator Wallman. [LB131]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator Harms yield to a question? [LB131]

PRESIDENT SHEEHY: Senator Harms, would you yield to Senator Wallman? [LB131]

SENATOR HARMS: Yes, I would, Mr. President. [LB131]

SENATOR WALLMAN: In regard to Chadron, it seems like a lot of money to me to

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

Floor Debate  
March 14, 2012

---

expand the gymnasium and things. You know, in today's budget tight times, it's kind of hard. And I'm an athletic...I love athletics, but do you think that's an exorbitant price to pay? [LB131]

SENATOR HARMS: No, I don't, Senator. I think it's a good price. What you have to look at is that that facility is 50 years old, and they hold their...they try to hold their graduation exercise there and they've got over 3,000 students. It's so packed it's just...plus they have women's athletics, and there's all kinds of issues there that need to be addressed. And if not, eventually what's going to happen there will be some litigation that's going to take place maybe, and we can fix all this we don't have to have. I think the price is right. The commitments that the college has made, the foundation made a \$1.2 million commitment. The college has saved over \$700,000, you know, back...to contribute to that. They're doing everything they can. It's just time to fix it. The longer we wait, the more expensive it's going to get. [LB131]

SENATOR WALLMAN: So it has a pretty good endowment fund then to support this thing once it gets going? [LB131]

SENATOR HARMS: Yeah, I think...yes, I do. Um-hum. I think it will be just fine. [LB131]

SENATOR WALLMAN: Well, thank you. You know, I just think how UNO was treated on the wrestling program and stuff. That's all I got, Mr. President. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Wallman. (Visitors introduced.) Continuing with discussion, Senator Bloomfield. [LB131]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I have gotten further and further into Health and Human Services than I ever thought I would when I came down here. Anyone that has been involved in the process that we went through this year can see a little bit in the out years there is going to be a nursing shortage. In the town of Wayne, their weekly newspaper comes out, there are usually five to six ads in there looking for nurses, and that's with the new school in Norfolk being 30 miles away. This is something if we don't deal with now we will deal with later, and now is the time to do it. I am fully going to support AM2098 and LB131. It's time to fix things that are broken. It's time to fix things before they are totally destroyed and not just broken. Thank you. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Bloomfield. Seeing no additional requests to speak, Senator Heidemann, you're recognized to close on the Appropriations Committee amendment, AM2098. [LB131]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I think we've had a good discussion and a good debate. This is a bold plan that the

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

Floor Debate  
March 14, 2012

---

Appropriations Committee put out as far as capital construction projects. We're talking about it because it's a transfer of \$80 million out of the Cash Reserve into the Nebraska Capital Construction Fund, which will then fund these projects. That's why the discussion is right here. I am still convinced that it is a good plan. It is a good investment from one side of the state and from one corner of the state to the other. And I believe in the long run when you look at this and the amount of money that these projects will be with us for 40 and 50 and 60 years, and when you divide that out and would depreciate that out if you was a business, it's a small investment per year that we are making as a state for such a large, large sum and such a large bill project. With that, I urge your support of AM2098 to LB131, which will become the bill. Thank you. [LB131]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You have heard the closing. The question before the body is on the adoption of the Appropriations Committee amendment, AM2098, to LB131. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB131]

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

PRESIDENT SHEEHY: AM2098 is adopted. [LB131]

CLERK: Mr. President, Senator Flood, I have FA41 with a note you wanted to withdraw, Senator. [LB131]

PRESIDENT SHEEHY: FA41 is withdrawn. Senator Cornett, FA44. I believe she wants to withdraw, Mr. President. [LB131]

PRESIDENT SHEEHY: FA44 is withdrawn. [LB131]

CLERK: I have nothing further on the bill, Mr. President. [LB131]

PRESIDENT SHEEHY: We will now return to floor discussion on LB131. Seeing no requests to speak, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is on the advancement of LB131. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB131]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB131. [LB131]

PRESIDENT SHEEHY: LB131 advances. Mr. Clerk, items for the record. [LB131]

CLERK: Thank you, Mr. President. Amendments to be printed: Senator Cornett to LB970; Senator Karpisek to LB807. Senator Fulton offers LR474; Senator Larson, LR475, both of those will be laid over. That's all that I had, Mr. President. (Legislative

Floor Debate  
March 14, 2012

---

Journal pages 918-921.) [LB970 LB807 LR474 LR475]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now proceed to LB969. [LB969]

CLERK: LB969 was a bill introduced by the Speaker at the request of the Governor. (Read title.) Introduced on January 12, referred to the Appropriations Committee, advanced to General File. There are committee amendments, Mr. President. (AM2068, Legislative Journal page 830.) [LB969]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Heidemann, you're recognized to open on LB969. [LB969]

SENATOR HEIDEMANN: There are certain actions that take place in the green copy of the bill; I will open on them. And there are other actions then that take place in the amendment; I will discuss those further at that time. The green copy of the bill does the following things: Section 1 transfers to the Treasurer the transfer of \$99 million, excuse me, \$99,166.37 from the State Insurance Fund to the Roads Operations Cash Fund. Section 2 changes last year's fund transfer bill, which is LB378. LB378 directed the transfer of \$3.8 million from the General Fund to the Ethanol Production Incentive Cash Fund, EPIC, on or before June 30, 2012. LB969 changes so the transfer amount is up to \$3.8 million on or before December 31, 2012, and the amount transferred can be on the dates in the amounts decided by the Budget Administrator. Section 3 harmonizes the statute to coincide with the changes made in Section 2. And Section 4 allows money from gifts, donations, grants, or bequests to provide multicultural and diversity education, training, and events to be put into the Health and Life Benefit Administration Cash Fund. We are also changing the allowable uses of the fund to include administration of multicultural and diversity educational training and events. And that's what covers the green copy of the bill. There will be more on the amendment following. [LB969 LB378]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You've heard the opening to LB969. As it was stated, there is an Appropriations Committee amendment, AM2068. Senator Heidemann, you're recognized to open. [LB969]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. What the amendment attempts to do: In Section 1 is still a transfer from the State Insurance Fund to the Roads Operations Cash Fund, but we increase that amount by \$500. The new amount is \$99,666.37. Keep Section 2 the same as the green copy. Section 3 creates the State Colleges Sport Facilities Cash Fund. It is administered by the Board of Trustees of the State Colleges. The fund consists of transfers from the Civic and Community Center Financing Fund, revenue received from gifts, grants, bequests, donations, or other contributions from public or private sources. The fund can be used to support renovation and construction of the improvements to the facilities for

Floor Debate  
March 14, 2012

---

the intercollegiate athletics and student fitness, recreation, and sport activities at the state colleges. Section 4 allows for transfers from the Civic and Community Center Financing Fund to the State Colleges Sport Facilities Cash Fund. This section also directs the transfers of \$250,000 on October 1, 2012, 2013, 2014; and beginning October 1, 2015, and every year thereafter the transfer amount goes up to \$400,000. Section 5 allows for the transfers authorized by the Legislature to go into the Affordable Housing Trust Fund. We are not allowing the appropriations from the General Fund and transfers from the General Fund on to the Cash Reserve Fund to be used as a revenue source for the Affordable Housing Trust Fund after June 30, 2013. Section 6 is the same as Section 3 of the green copy of the bill. That's the section that harmonizes the EPIC Fund transfer. Section 7-9 harmonizes the statutory language with what we did on the Health Care Cash Fund. The funds that will receive transfer that we are harmonizing language for are: the Autism Treatment Program Cash Fund, the University of Nebraska Medical Center Cash Fund, the Tobacco Prevention and Control Cash Fund, and the Stem Cell Research Cash Fund. Section 8 changes the transfer amount that is going from the Nebraska Medical Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund. The current statute calls for \$59.1 million to be transferred annually between July 15, 2010. The new language retains the amount through July 15, 2012, and reduces that amount to \$56,145,000 for 2013; \$53,190,000 for 2014; and \$50,235,000 for fiscal year 2015. In Section 10 and 11 we provide for a definition of new money for Sections 82-331 and 82-332. What we did say is that the new money for the Nebraska Cultural Preservation Endowment Fund means a contribution to a qualified endowment generated after July 1, 2011. To be a qualified endowment, three things have to be true. The endowment must meet the standards set forth by the Nebraska Arts Council or the Nebraska Humanities Council; the endowment must be intended for the long-term stabilization of the organization; and the funds must be endowed and only the earnings get spent. Section 12 creates the World Day on the Mall Cash Fund. Money going to this fund shall consist of sums that are contributed as gifts, donations, grants, or bequests to provide for the multicultural and diversity education, training, and events. The fund shall be used by the personnel division of Administrative Services to administer these same things. Section 13 states that Sections 7-10 and Section 16 become operative July 1, 2012. Section 16 is an outright repeal of Sections 8 and 10 of last year's transfer budget. They both dealt with transfers to the Health and Human Services Cash Fund. And Section 17 we include the emergency clause. With that, that is LB969. If there are any questions, I would try to answer them. Thank you. [LB969]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You've heard the opening of the Appropriations Committee amendment, AM2068, to LB969. Members requesting to speak: Senator Dubas, followed by Senator Campbell, Senator Conrad, Senator Gloor, Senator Hadley, Senator Sullivan, and Senator Adams. Senator Dubas. [LB969]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. Good morning,

Floor Debate  
March 14, 2012

---

colleagues. I'm rising with opposition to the portion of the amendment that deals with the Civic and Community Center Financing Act. And Senator Heidemann and I have had some brief conversations about this. And so my intent is to probably...to ask some questions and have some dialogue with Senator Heidemann. And then I think after that dialogue I would hopefully say we could move this on from General to Select with the idea that Senator Heidemann and I will sit down and look at some of the questions I'm going to raise a little bit further and then decide what action I may or may not take. But this fund is...it's a very, very important fund for our smaller and more rural communities across the state. This fund was created...received sales tax funding that...sales taxes that are generated through the CenturyLink Arena in Omaha. That was part of the original agreement was the money that was generated through that arena we would dedicate a portion of it to go out to rural Nebraska so that, you know, we don't need the types of facilities like the Omaha arena, but we do need the smaller community centers, cultural centers, those types of things in our smaller communities. And it has definitely proven its worth. I could list you all kinds of communities from across the state who have benefited through this. Last year I carried legislation that hopefully made it a little easier for communities to apply. It lowered the matching grant. It allowed the inclusion of historic buildings. And I know there's been some questions raised about the amount of money that's in the fund and is it being used and do we have room to broaden it to include something like the colleges. And I would just say while I understand the challenges that our smaller colleges are facing, we just talked about it in the previous budget bill, I really don't feel that this fund is intended for that use. This is one of the remaining resources that our rural communities, smaller communities across the state have available to them. So if we start taking from that fund I think it will have a negative impact on our communities across the state. So if Senator Heidemann would yield to some questions, I would appreciate it. [LB969]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Dubas?  
[LB969]

SENATOR HEIDEMANN: Yes. [LB969]

SENATOR DUBAS: Thank you again, Senator Heidemann. You and I, as I said, have had some conversations about this. And I certainly know and appreciate where you're coming from. But as I just stated, I have some serious reservations. And as I look at the money and the funding and I'm trying to track where everything is at and the amount of money that's left in the fund, I know last year I think maybe it was through an appropriations process, we transferred \$42,900 from this fund into the Department of Revenue Enforcement Fund. That wasn't something that I was aware of. And I'm just not quite tracking where all the money is, how it's coming in, how it's going out. And so I think it would maybe be a good opportunity for us to have a conversation between now and Select File so that both of us fully understand what this fund is doing and how it can or should be used in the future. So I guess I'm just giving you this opportunity to make

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

Floor Debate  
March 14, 2012

---

your pitch for why this is important, and hopefully we'll continue the dialogue between General and Select. [LB969]

SENATOR HEIDEMANN: Okay. Thank you, Senator Dubas. And I appreciate you've always had interest in this fund and I have a lot of interest in this fund too. It's our part of the sales throwback money from the convention and it is important. I'm probably not going to have time to give my pitch... [LB969]

PRESIDENT SHEEHY: One minute. [LB969]

SENATOR HEIDEMANN: ...but what I want to do right now is give information about the fund and then we can go from there. Balance currently from what I can gather is \$2.6 million, and with the actions in LB969 this would not be touched. On effective date of LB968, which is our Appropriations bill, an additional \$1 million will be transferred into the fund; 30 percent of the revenue from the Convention Center Financing Act, of the new money, \$250,000 would go into this new sports fund. The new revenue would be deposited in the State Colleges Fund on October 1; \$1.1 million, I believe, is allocated and appropriated to fund these small projects in these small towns. And what I just said hits home to me. In LB968, there will be another \$1 million deposited in this fund. [LB969 LB968]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Dubas. Senator Campbell. [LB969]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. I want to discuss this morning Section 8 of the amended bill. And if Senator Heidemann would yield to a question? [LB969]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Campbell? [LB969]

SENATOR HEIDEMANN: Yes. [LB969]

SENATOR CAMPBELL: Senator Heidemann, you and I have had a conversation earlier with regard to the Health Care Cash Fund. And it's my understanding from what we talked about is that you are introducing a 5 percent decrease to the fund, but it is delayed for a period of time until the Health Committee can take a look at the priorities and perhaps come back with a recommendation. Is that accurate? [LB969]

SENATOR HEIDEMANN: That is very accurate. We took on this in Appropriations and there is concern that this fund is not sustainable anymore. I believe, it's my personal opinion, if we don't do anything it will not be sustainable and it will run out eventually. You have concerns that you want to be part of this discussion and you think the Health

Floor Debate  
March 14, 2012

---

Committee should be part of the discussion. I agree with that. We put things off. We are starting a process though that is going to probably stir some discussion and bring that. And I think we need to at least, I hate to use the word force to talk about it, but this will force conversation. Otherwise, we continue just to go down the path of saying, yes, we need to do something; yes, we need to do something. And it just gets year after year. And once you start using the principal out of this fund, it starts to go very fast. So it's my intent...I will not be around, but we've set this up in such a fashion that the Health Committee can be definitely a part of this discussion; and hopefully something will be able to come out of that and we can go down the path to make this sustainable if that's the desire and the will of the Legislature. [LB969]

SENATOR CAMPBELL: Thank you, Senator Heidemann. And colleagues, it certainly is my intent to introduce an interim study with regard to the Health Care Cash Fund, its priorities, and what alternatives may be possible than just cutting the fund by 5 percent every year. I think it's important for us to revisit this fund. The Appropriations Committee and the Health and Human Services Committee had a joint meeting this past summer, and I think we need a second version of that before we make final decisions. But I did understand Senator Heidemann's proposal and told him that as long as we had a delay and we had the possibility for the Health and Human Services Committee to work with Appropriations to look at what the priorities are there, and what alternatives, that I was comfortable with it being in the bill. Thank you, Mr. President. [LB969]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Conrad. [LB969]

SENATOR CONRAD: Thank you, Mr. President. Again, it's fortuitous where my light came up in the speaking order this morning because this was an issue that in regards to the proposed cuts for the Health Care Cash Fund that I can tell you received a great deal of debate and attention at the committee level and is something that I continue to be very, very, very concerned about. This really comes to us in two pieces and I want to highlight it and flag it for the body in regards to this budget and future years. The first piece that there was a great deal of consensus on amongst committee members was that we streamline the existing process to ensure that we have an ability to look at this in a comprehensive and streamlined manner through the existing appropriations process. That was something that we all felt was important as we proceeded and as we want to be good stewards of these funds and the many important programs that they help to support. The second piece that was indeed I think it's fair to say fairly controversial is related to the language in this amendment that slates a significant cut over a period of years, which granted doesn't take effect immediately, but nonetheless would be a part of our state law and our budget if adopted. And when you talk about sustainability, which I think is something everybody in this body is indeed committed to, we have to be very careful. And I think that we also have to be very careful about whether or not that is an appropriate use of our budget process to put threats or incentives to dialogue, as Senator Heidemann might characterize it, on the table. I think

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

Floor Debate  
March 14, 2012

---

that's why we have interim studies so that we can look at things in a thoughtful way rather than a, I guess, very dramatic action that's included in this budget from my perspective. If you look at LR282, which was an interim study in 2011 that looked at the Health Care Cash Fund and that was...there's a report put out by Liz Hruska in the Legislative Fiscal Office, not only does it provide a good history of the Health Care Cash Fund and the related programs that it helps to support, but it also talks about sustainability projections. And it's always good to prepare earlier rather than later. I agree with that completely. But it is important to show that the state investment officer is required to report to the Legislature each...in every even-numbered year on sustainability of transfers from this fund by practice. We projected that use of the fund to a ten-year period. In the last report the analysis showed the fund to be sustainable. An outside analysis done in 2010 showed that the Health Care Cash Fund may be depleted around 2037 or 2038, which is about 25 or 26 years down the road. So I think it is appropriate, if we are committed to really treating this as an endowment, that we do look to sustainability in a responsible way. I am committed to working with Senator Campbell and others in the interim process to ensure that we can do that. And the reason I mention it is because if you look at the report you can see the many, many important programs that this fund supports, from tobacco...I'm sorry, from Poison Control Center to biomedical research to stem cell research, minority health aid, it impacts every public health department in the state, smoking cessation, behavioral health, respite care, children's health, mental health/substance abuse services, gambling assistance... [LB969 LR282]

PRESIDENT SHEEHY: One minute. [LB969]

SENATOR CONRAD: Thank you, Mr. President...emergency protective service funding, and the list goes on and on and on of important health-related issues that we have to be thoughtful about impacting. And I'm going to highlight it because it's a very small piece, but when you talk about what a 5 percent cut would do to some of these programs that get millions of dollars, well, maybe they can absorb it, maybe they can't; but there's some smaller programs in here like the Parkinson's Disease Registry which a 5 percent cut would kill the program. And I am very concerned about that because this is a good story to tell from Nebraska. This is something that was brought to my attention when I was a new member of the Legislature and have worked very hard to protect over my time here. This is critical to research and understanding about Parkinson's disease. This is a one-of-a-kind registry in the country that Nebraska should be very proud of and has received support from private organizations like the Michael J. Fox Foundation in the past... [LB969]

PRESIDENT SHEEHY: Time, Senator. [LB969]

SENATOR CONRAD: Thank you, Mr. President. [LB969]

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

Floor Debate  
March 14, 2012

---

PRESIDENT SHEEHY: Thank you, Senator Conrad. Senator Gloor. [LB969]

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Heidemann would yield. [LB969]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Gloor? [LB969]

SENATOR HEIDEMANN: Yes. [LB969]

SENATOR GLOOR: Senator Heidemann, I want to talk a little bit about the Health Care Cash Fund and the State Colleges Sport Cash Fund. I'll start first with the Health Care Cash Fund. There is in the amendment a paragraph I'd like to read to you, in your own words, to find out...it starts, pardon me, but it starts saying, "It is the intent of the Legislature...", and so I'm looking at what the intent of the Legislature is in your mind. And let me go on with it. It says, "It is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels." And you were answering that in part, I think, with Senator Campbell. But could you review that for me again, the intent behind that. [LB969]

SENATOR HEIDEMANN: We didn't want to go through a process to make this sustainable by slowing everybody down with the amount of money that they got and then having people realizing, yes, it is sustainable and then coming in with new ideas to access money from the Health Care Cash Fund, until the programs that we see now inside the Health Care Cash Fund are brought back to their full amount as we see it now. [LB969]

SENATOR GLOOR: But clearly there's a trade-off. Were we not doing this and making this decision, it might be possible for new programs to be funded. Is that correct? [LB969]

SENATOR HEIDEMANN: Say that one more time. [LB969]

SENATOR GLOOR: If we weren't making decisions about the transfer of funds, it might be possible to fund other programs? I mean there's cause and effect (inaudible). [LB969]

SENATOR HEIDEMANN: Well, yes, but you would just speed up the unsustainability of the Health Care Cash Fund at that time. The more you add right now the more unsustainable it becomes. [LB969]

SENATOR GLOOR: Certainly. But the transfer is, in fact, what's kind of brought this to a head. Is that correct or am I missing that point? [LB969]

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

Floor Debate  
March 14, 2012

---

SENATOR HEIDEMANN: The transfer is all neutral because you transfer the money and then appropriate from there. [LB969]

SENATOR GLOOR: Okay. All right. That helps me. Thank you. In the time left, you were rushed in answering Senator Dubas' question about the State Colleges Sport Facilities Cash Fund Act, and I would give you an opportunity to over the time left to hopefully work through that a little more. [LB969]

SENATOR HEIDEMANN: Thank you very much. I will continue on just a little bit more with that and maybe begin to make my pitch or my thoughts on this. And I left it at the appropriations out of this fund to do everything that Senator Dubas has talked about for our smaller communities, building community centers and other things, a library in Tekamah, I have one in my district on the opera house in Brownville. The appropriation amount is \$1.1 million to be able to do this as we see it now. As I was pointing out the important thing under LB968, which we just passed, \$1 million will be put back into this fund. And so as I see it now, and it was probably my intent that I didn't actually want to hurt what we are seeing ongoing now. But there is an anticipation of some more money coming into this fund, especially when Lincoln comes on, but that's when also the appropriation goes up...transfer goes from \$200,000 to \$400,000. But it's the thought that we're still going to be able to do everything that we see before us now and still create this new fund to help with these facilities on our state college campuses. Underneath the capital construction project which we just passed on General File there are two projects that were done within the college system; and I have been told by the college system if we do those two funds and catch them up to where they need to be and then create this new fund there will be no need to come back to the state of Nebraska and say we need help. I think this is a great use of these funds. I will continue on with that. The state colleges are in Wayne, Chadron, and Peru, Nebraska, which are out in the more rural parts. I believe they're a very important part of rural Nebraska and outstate Nebraska. If we don't build and continue to maintain, it takes away from the experiences that kids have on these campuses. It's very important that this part of it goes along... [LB969 LB968]

PRESIDENT SHEEHY: Time, Senator. [LB969]

SENATOR HEIDEMANN: ...with the educational part of it. Thank you. [LB969]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Gloor. Thank you, Senator Heidemann. Senator Hadley. [LB969]

SENATOR HADLEY: Mr. President, members of the body, would Senator Heidemann yield to a question or two? [LB969]

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

Floor Debate  
March 14, 2012

---

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Hadley?  
[LB969]

SENATOR HEIDEMANN: Yes. [LB969]

SENATOR HADLEY: To follow up on that same line of reasoning, Senator Heidemann, would you say that we're basically putting operating funds into the projects that we've just approved in the last bill? [LB969]

SENATOR HEIDEMANN: More maintenance. It's not really operations because that would be more of a General Fund expenditure I believe. It's more things for maintenance. [LB969]

SENATOR HADLEY: So it wouldn't... [LB969]

SENATOR HEIDEMANN: And it's like...I saw a list, I don't know where it's at right now, but it's like we'd be redoing a gym floor and things like that... [LB969]

SENATOR HADLEY: Okay. [LB969]

SENATOR HEIDEMANN: ...to keep them up to where they need to be. [LB969]

SENATOR HADLEY: Okay. I guess I just...the concern I have, a couple of concerns, another question is, why aren't we spending more out of the local civic convention center financing act program? Why...are there just not enough worthwhile projects coming in or... [LB969]

SENATOR HEIDEMANN: I believe DED funds the ones that they think are appropriate and that fits in within the \$1.1 million appropriations. [LB969]

SENATOR HADLEY: Okay. You know, I'm going to sit and listen more as we talk about this. I guess I have a concern because I know that the other campuses in the university system basically use student fees to do some of these types of projects. Wellness centers. I know UNO has a beautiful wellness center that they used student fees. UNK is now looking at a wellness center using student fees. So I wonder why the State College System doesn't use student fees to do these types of projects. [LB969]

SENATOR HEIDEMANN: The State College System doesn't have the wealth as the university system does. The university system lives a lot off of revenues they get in from the football program and other revenue, parts of the sports that actually bring revenue in, and they are able to spend that wealth around. The State College System doesn't have that and never will have that. [LB969]

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

Floor Debate  
March 14, 2012

---

SENATOR HADLEY: Okay. Thank you, Senator Heidemann. With that, I would yield the remainder of my time to Senator Krist. [LB969]

PRESIDENT SHEEHY: Senator Krist, you're yielded 2 minutes 50 seconds. [LB969]

SENATOR KRIST: On the subject of the Health Care Cash Fund, I guess I've been relatively vocal...thank you, Mr. President, I'm sorry...relatively vocal about trying to maintain the Health Care Cash Fund in perpetuity, and that started when I started here in 2009. I think it's extremely important that we realize that that Health Care Cash Fund when it was first set up was designed to put money where money needed to be. And Senator Conrad did a great job of letting us know some of those projects. My concern, colleagues, is as we look at this and we go forward, the cash fund...I know it's an approach to cut 5 percent across the board. As Senator Conrad said, that is not appropriate I don't think with the smaller funding issues. But we need to pare back on that and we need to be aware that some of that money coming out of the cash fund is also going into a regular budgeted amount, and those functions are coming to us, if you will, two or three times to fund their programs. So as we take a careful look at it, we need to carve it very carefully to make sure that those programs are still sustainable in the long run yet they're affordable for us in terms of not exhausting the Health Care Cash Fund. Thank you, Mr. President. [LB969]

PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Sullivan. [LB969]

SENATOR SULLIVAN: Thank you, Mr. President. Appreciated the conversation that we've had thus far. I've heard on this floor, and off as well, from both a rural senator and an urban senator that say rural Nebraska, you just settled for the crumbs. And so I'm watching out for what I think are the crumbs that we get with some of the funds that are used for community centers in small communities. So I...to that end, I'm needing to ask some questions of why these funds are being diverted in the way they are suggested to be diverted in the way they are. So I wonder if Senator Heidemann would yield for some questions? [LB969]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Sullivan? [LB969]

SENATOR HEIDEMANN: Yes. [LB969]

SENATOR SULLIVAN: Thank you, Senator. First of all, and you've probably in a way stated this already, but why did you see the need to create this State Colleges Sport Facilities Cash Fund? [LB969]

SENATOR HEIDEMANN: You know, it's hard for the state colleges to come in and ask for capital construction projects. We have helped them fund things through LB1100 and

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

Floor Debate  
March 14, 2012

---

LB605 and they've accessed some of this money to do these type of projects. But it's not the easiest thing to ask for. It's not educational projects, but it's part of the college experience which we think is very important. If we create this fund and fund it at the level that's brought before us, you know, it's the thought being that they won't have to come back and ask for those funds anymore. And it is going to keep everything as they see it up to the point that it will be in good working order and, you know, they won't constantly need maintenance and renovation. [LB969]

SENATOR SULLIVAN: But you said that this request is in large part for maintenance. So you're saying that with the proposal of diverting \$250,000 for three years, and then starting in 2015 it's \$400,000 for the remainder, or is there any sunset on this? [LB969]

SENATOR HEIDEMANN: There is no sunset. The reason we went to \$400,000 at that point is that's when the Lincoln arena revenue will start to come in and there will be significant revenue at that time to fund that extra \$200,000, and it won't affect the projects I believe as we know it now. [LB969]

SENATOR SULLIVAN: Somehow you must have thought that there was some logic in going for these funds from this Civic and Community Center Financing Act. Tell me a little bit more about why you thought this was the logical route to go. [LB969]

SENATOR HEIDEMANN: There's been a lot of discussion, Senator Dubas can attest to that, of good use for these funds. And sometimes maybe I think we ought to have an interim study and sit down and see the 30 percent from the sales tax throwback what would be our best. But I looked at this and I still think this is good policy. These are General Fund monies that go to help pay off the Qwest Center, which is now CenturyLink, where Creighton actually plays basketball. This is General Fund money which is sales tax money that's giving back to what will be Lincoln now to create the arena here that...where UNL will play basketball. There's a new one going up in Ralston in which we'll get their sales tax money back, which is where UNO will play basketball. I think when you look at that, I believe that this would be a good use of our 30 percent to help fund some of those type of facilities in our part of the world. [LB969]

SENATOR SULLIVAN: Well, to a certain extent I can't argue with you on that, but I also don't want to dilute this fund so much that it's not possible for some of these smaller communities to... [LB969]

PRESIDENT SHEEHY: One minute. [LB969]

SENATOR SULLIVAN: ...leverage these funds. And to that end, I know you made mention of this but maybe you don't know, of the 50 responses or applications it says that 20 are being looked at to fund. Do you know, is it because there's not the available funds or did they not meet the standards? Or do you have any insight into why some of

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

Floor Debate  
March 14, 2012

---

these applications are being turned down or not funded? [LB969]

SENATOR HEIDEMANN: I would have to look into that a little bit more. But it was my understanding that they funded the one up to the \$1.1 million that they thought were appropriate, but I'd have to look into that a little bit more. [LB969]

SENATOR SULLIVAN: All right. Thank you very much. [LB969]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Mr. Clerk, items for the record. [LB969]

CLERK: New resolution: Senator Conrad offers LR476, an interim study, be referred to Reference Committee. (Legislative Journal pages 921-922.) [LR476]

And Senator Flood would move to recess the body until 1:30 p.m.

PRESIDENT SHEEHY: You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. The body is at recess.

RECESS

SENATOR GLOOR PRESIDING

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

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

SENATOR GLOOR: (Gavel) Thank you, Mr. Clerk. Any items for the record?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB902 to Select File with E&R amendments attached. And I have a conflict declaration by Senator Adams. That's all that I have, Mr. President. (Legislative Journal page 922.) [LB902]

SENATOR GLOOR: Thank you, Mr. Clerk. We return to the agenda, General File. Senators wishing to be heard in the queue: Carlson, Loudon, Dubas, and Wallman. Senator Carlson, you are recognized on AM2068 to LB969. [LB969]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. If Senator Heidemann would yield, I'd like to ask him some questions. [LB969]

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

Floor Debate  
March 14, 2012

---

SENATOR GLOOR: Senator Heidemann, would you yield? [LB969]

SENATOR HEIDEMANN: Yes. [LB969]

SENATOR CARLSON: Senator Heidemann, this started in 1999 for the Civic and Community Center Financing Act. Do you know what project it was in '99 that allowed it to start? [LB969]

SENATOR HEIDEMANN: It was, I believe, the Qwest Center if my memory serves me well, which now as I believe is called CenturyLink. [LB969]

SENATOR CARLSON: That's how time gets away from us because it doesn't seem like it could have been that long ago. And so the purpose of the act has been to give grants to cities and villages to support development of civic and community centers throughout the state and support projects that foster maintenance or growth of communities. So when it says "civic," does that mean that the state colleges are not eligible for that particular grant? [LB969]

SENATOR HEIDEMANN: I'd have to look at that particular language. I think it says civic and community fund. I would have to...hopefully these community colleges in the cities of Wayne and Chadron and Peru are...they're part of the community. [LB969]

SENATOR CARLSON: Well, that's a pretty important question because if they could access this, then maybe this is unnecessary because are they thought of as a part of the community in that regard or aren't they? I think that's kind of an important question. The other thing I note, that the transfer of \$250,000, and then starting in 2015, \$400,000, and I understand why. But it's "shall" language, it's not "may." So if this passes, this is a sure thing and it will be done. Correct? [LB969]

SENATOR HEIDEMANN: We want to put certainty there, yes. [LB969]

SENATOR CARLSON: And there's no sunset date on it, so it's not a matter of trying it for four or five years and then revisiting it to see whether or not there are enough funds to take care of the original intent as well as new intent. [LB969]

SENATOR HEIDEMANN: It's always the Legislature's will in future years to look at. And I would encourage people that are left behind, I will not be here, but hopefully other people will be that will take a look at this and make sure that the fund that we are creating is doing what we...as it would wish. We always with...can look at things; 25 votes can change almost anything. [LB969]

SENATOR CARLSON: Do you know how long the turnback from the Qwest is to go on? [LB969]

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

Floor Debate  
March 14, 2012

---

SENATOR HEIDEMANN: Quite some time. I believe the language actually, until it's paid off which is going to be a while yet. And then we have the Lincoln arena which is coming into play which will continue on. This is going to go on for a while. [LB969]

SENATOR CARLSON: Yeah, I understand that with the Qwest. And that would also be interesting really how long that's supposed to go on because I would think it's quite a few years, and then what the estimate is that...the length of time that the arena would be being paid off so that that turnback tax was available. I'm intrigued by the idea that we have money that's really being turned back from athletic facilities and in this case then going to athletic facilities. And with my background, it's hard to be against something that has to do with athletics. And so I think that's kind of interesting. Are you comfortable that there will be adequate funds on an ongoing basis to take care of the existing requirements as well as the state colleges? [LB969]

SENATOR HEIDEMANN: The way I see it now, yes. It's not my intention to hurt what we have going right now. There's anticipated that there's going to be increased revenue into this. We're probably just taking that increased revenue off, if at the very most probably taking maybe a little bit of the others. [LB969]

SENATOR GLOOR: One minute. [LB969]

SENATOR HEIDEMANN: But, no, we still think that the other part of this will be able to continue on. [LB969]

SENATOR CARLSON: Do you think then that there may be a good possibility that not only the existing purpose will be able to continue but there may even be more dollars for that than there are currently? [LB969]

SENATOR HEIDEMANN: When the Lincoln arena comes on the board, right now just when you asked me that question, that answer probably from me anyway, my opinion would be yes. [LB969]

SENATOR CARLSON: Okay. All right. Thank you, Senator Heidemann. Thank you, Mr. President. [LB969]

SENATOR GLOOR: Thank you, Senator Carlson and Senator Heidemann. The Chair recognizes Senator Louden. [LB969]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I follow along on the line that Senator Carlson has mentioned, that's a problem I have with the LB969 is going into this civic and community center financing. The reason that got sold like it was for turnback money for the Qwest Center, as it was called then, was that the

Floor Debate  
March 14, 2012

---

fact that there would be some money sent out across all the rest of the rural areas of Nebraska to use some of this money to improve their civic areas, usually their...probably auditoriums or meeting centers or different things like that. If you go to Loup City, there's places that have the buildings rebuilt and different towns across there. And that was fine. But now we're talking about taking some of that money and going to the state college facilities. And when you look on page 3 there, why, you're taking \$250,000 every year for three years, which is...comes out to, what, about \$750,000. And then after that you're going to take \$400,000 every year from that. And I question, why are we doing this for community...or for state colleges. And not that I have anything against state colleges, but I think this is some type of a process or this is some type of legislation that we're going on that changes the whole complexity of what this civic fund was meant to do in the first place. My understanding is the state of Nebraska is supposed to fund state colleges. And if they have to have more money, then you're supposed to appropriate the money whatever they need. Now as far as some of this sports facilities and student unions, those are paid for by student fees and dues. Because up at Chadron State College, the student union was paid for completely with student fees and the dues that the students paid several years ago. So I know there's other ways that they're financing that. But I think this is probably a policy that we're starting that I would...I question whether we want to go into this civic financing, community financing fund in order to start doing something for state colleges. There's other ways state colleges have ways of funding. Some of them have foundations. Some of them, their foundations aren't all that big, but usually whenever they need something there's usually enough local money or donations or something, they work to get some of this stuff built. So that part of that bill I can't support. And I would like to see probably some more discussion on that or perhaps some amendments that this should be changed in there. I don't think this is the place for it. I don't think we should be taking other funds that were regularly made to go to a certain community, civic communities, and then start diverting it to your state colleges sport facilities. If we're short on money, then what are we talking about a tax cut, then perhaps...because now in order to fund that tax cut and fund some of these state colleges, now we're going out here and digging around in some other funds someplace to supply their needs. And so I have a question, why are we doing this? You know, if you're starting...are we starting already at digging into old purses because of a tax cut we're talking about? That would be my first question to ask. And is this the first issue coming down the tube? So I would like to think that perhaps this is something that could be funded in a different way and I'm sure it can be because...but I don't think and I know the state college people aren't going to be happy about it. But right is right and that's the way I think it should be. That fund wasn't set up to furnish... [LB969]

SENATOR GLOOR: One minute. [LB969]

SENATOR LOUDEN: ...athletic facilities for state colleges. That fund was set up to take care of civic buildings for the small towns all across Nebraska, because many of them,

Floor Debate  
March 14, 2012

---

when they got ready to do something would take quite a little bit of money, and they had to apply for those grants in order to get that money. It wasn't something that it was just...like this bill says, you take \$400,000 out of there and put it in a fund for them, and then the state college board has the authority over it. So I think this is a far stretch of the imagination and I can't support that part of the bill. Thank you, Mr. President. [LB969]

SENATOR GLOOR: Thank you, Senator Louden. Senator Dubas, you are recognized. [LB969]

SENATOR DUBAS: Thank you very much, Mr. President. And Senator Louden has just given me a great segue: What's right is right. And, you know, while again I sympathize and I understand where Senator Heidemann and our small state colleges are coming from, this fund was set up with a very specific purpose in mind, and that was to help our rural communities across the state. And last year when I introduced legislation, it was to try to help those rural communities take advantage of this. We lowered the match rate from 80 to 50 percent. We included the use of historical buildings for renovation and that type of thing. It was my understanding last year that there were more applications than there was funding available. So it was my understanding that all of that funding was being put to use. I think there are some questions as far as the amount of money coming into this, how it's being used and how it's been taken out. And that's something that I would hope Senator Heidemann and I can have a conversation about between now and Select File. And I know that we have a very short amount of time to have that conversation, but I think it's important that we give you accurate information. But since the inception of this fund in 2004, 33 cities and villages from across this state have received grants totally over \$3.7 million. That's a nice chunk of change that has gone out into rural Nebraska and helped our communities with civic centers, community centers, those types of things. They're kind of the social and cultural hub of the communities. And I certainly understand why the cities and villages are protective of this fund because our communities don't have access to a lot of extra dollars like these that are available through this grant fund. We're all struggling and looking for ways to keep our communities strong and viable and attractive to people coming from outside of the community and hopefully wanting maybe to make this community a particular...a place to live, a good place to live. Again, I think we're opening a door that could take us down a path we really don't want to be going down to. As Senator Louden talked about, these are state colleges. In the bill we just previously talked about, the budget bill, we're providing very needed dollars for some of these colleges to update their facilities, and I don't disagree with that. We need to. It's a state obligation. These are state colleges. They have access to money and funds that our cities and villages across the state don't have access to. Again, I know that these smaller state colleges maybe don't have the same type of resources like the University of Nebraska do, but we're, again, treading on some dangerous ground here. If we're going to make it available to state colleges, how about community colleges? They have the same struggles and challenges in trying to be competitive and make their campuses inviting places to have students come. So I

Floor Debate  
March 14, 2012

---

think it was very specific what the creation of this fund was for. The cities and villages are taking advantage of it. Senator Mello and I raised some questions a few years ago about why, you know, maybe why aren't cities and village taking advantage of this program like they should. And I think DED stepped up their efforts in putting out the information and helping these communities apply for this grant. And we saw definitely an uptick in those applications. I believe in the last grant cycle there were 50 applications; 20 have been deemed good enough to take it to the next level of application. So there does not appear to be a shortage. I think we need to clarify the money, making sure we know exactly what's out there, what's available, how it's being used. [LB969]

SENATOR GLOOR: One minute. [LB969]

SENATOR DUBAS: But it would be my intention, I do hope to visit with Senator Heidemann between now and Select File. You know, maybe there's some common ground that we can find. But at this point in time, you know, I would not be supportive of opening this up for our state colleges and would anticipate filing an amendment on Select File to have this discussion further. Thank you. [LB969]

SENATOR GLOOR: Thank you, Senator Dubas. Senators in the queue: Wallman, Sullivan, Schumacher. Senator Wallman, you're recognized. [LB969]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator Heidemann be open to a question? [LB969]

SENATOR GLOOR: Senator Heidemann, would you yield? [LB969]

SENATOR HEIDEMANN: Yes. [LB969]

SENATOR WALLMAN: Thank you, Senator. And this revenue thing, is Peru State football...do they bring in a lot of revenue for the state for the college? [LB969]

SENATOR HEIDEMANN: They're not like the university by any means. They do charge for some tickets, but it's not a revenue maker for anyone in the college system I wouldn't think. And that's just my opinion. I don't know that as fact. [LB969]

SENATOR WALLMAN: Thank you. I like athletics as well as the next person. But just in my district here, Firth got some money, \$28,000; Odell got \$88,000; Beatrice got \$318,000 for community and civic centers and the Carnegie library. And so it did make a difference. This does make a difference to small communities in rural Nebraska. Is Chadron in rural Nebraska? Sure it is. Peru State? Sure it is. But in these tough times, maybe we better be looking where we spend our money very, very closely because it's going to affect somebody down the road. Do we want our kids to have topnotch

Floor Debate  
March 14, 2012

---

facilities? Sure we do. We have a Wesleyan in town and we have a Lincoln Northeast. They have pretty nice fields, and some of the others. But, wow, \$7 million seems like a lot of dollars for a stadium; \$6.5 million for a gymnasium. And granted, that will draw in some grant money from local constituents, but I think sometimes we go to the state as a bank. Like the federal government, we think they can pay for everything. Folks, we can't always pay for everything. And then we string it out. So should we be stringing something like this out? I don't know. I have apprehensions. I like the way it was set up, what it was supposed to do, and it did the job. Thank you, Mr. President. [LB969]

SENATOR GLOOR: Thank you, Senator Wallman. Senator Sullivan, you're recognized. [LB969]

SENATOR SULLIVAN: Thank you, Mr. President, and good afternoon, colleagues. I'm still on the quest of asking more questions, so I wondered if Senator Heidemann would yield. [LB969]

SENATOR GLOOR: Senator Heidemann, would you yield? [LB969]

SENATOR HEIDEMANN: Yes. [LB969]

SENATOR SULLIVAN: Thank you, Senator. And my apologies if you've answered this before, but can you tell me what the balance is right now in the fund? [LB969]

SENATOR HEIDEMANN: I think it's \$2.6 million. [LB969]

SENATOR SULLIVAN: And then you indicated that with this current budget that we're looking at, an additional million would flow into it? [LB969]

SENATOR HEIDEMANN: I believe that LB968, on its implementation respective date, another million will flow into it, yes. [LB969 LB968]

SENATOR SULLIVAN: When I asked some questions this morning, and maybe you haven't had time nor maybe didn't even have the inclination to find out, when I asked about the 50 applications and 20 were selected by DED to then submit more detailed applications. Do you know anything about why those 20 were pulled out and the other 30 weren't? [LB969]

SENATOR HEIDEMANN: You know, we're not for sure where that information came from. We were going to get ahold of DED and I don't know if we've been able to do that yet. All that we know is that DED asked for so much money in appropriations, if it's \$1.1 million or \$1.2 million, and the Appropriations Committee has always funded that request. So they take that money and then divvy it out to the applications. [LB969]

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

Floor Debate  
March 14, 2012

---

SENATOR SULLIVAN: So you're not...we really don't know how that \$1.2 million, whatever, \$1.3 million is arrived at. So it's almost like, okay, this is the amount that we're going to use and that will be allocated. It's not based on need or requests or applications. Is that correct? [LB969]

SENATOR HEIDEMANN: We fund what DED has requested us. [LB969]

SENATOR SULLIVAN: Asked for. [LB969]

SENATOR HEIDEMANN: Yeah. [LB969]

SENATOR SULLIVAN: Okay. Do you recall also in the original act what the expectations...I know Senator Dubas said something about the parameters that she had in her legislation that she had last session; but in the original act, were there parameters delineated as to what the intention was of how specifically these funds should be used in rural communities? Was it more blanket economic development or specifically for specific types of facilities? [LB969]

SENATOR HEIDEMANN: Probably more specific type of facilities I would guess. Civic and community is actually...yes. [LB969]

SENATOR SULLIVAN: But would you also say that that could be interpreted fairly broadly? [LB969]

SENATOR HEIDEMANN: There are rules and regulations that actually say that it can only be cities and villages. So that would limit its use. And Chadron State, Peru State, Wayne State wouldn't be able to access this money even though they are part of the community. [LB969]

SENATOR SULLIVAN: So is it possible that perhaps some of those parameters and the process of DED asking for the amount of money that they do for these projects, could that possibly need to be revisited? [LB969]

SENATOR HEIDEMANN: We can always take a look at things. And I stated this morning that maybe we should look at this, this summer, where this money goes, how it's used, how it can best be used in rural Nebraska. [LB969]

SENATOR SULLIVAN: So to that end, would you be willing to either entertain an amendment or at the very least consider the introduction of an interim study resolution to look at this? [LB969]

SENATOR HEIDEMANN: Senator Sullivan, we put a lot of time in this year and last fall on trying to find a way to help out the college system when it comes to these facilities.

Floor Debate  
March 14, 2012

---

And I think this, and we have determined in Appropriations, we'll find out what the Legislature is going to do, but I think this is a good use, intended use, for this fund. I don't believe it widens the window very much. [LB969]

SENATOR GLOOR: One minute. [LB969]

SENATOR HEIDEMANN: I believe that there's going to be enough funds to do everything else that we see as being done right now. [LB969]

SENATOR SULLIVAN: Well, I appreciate that. But it's also safe to say that we're venturing into new territory, and I think it's only right that we take a close look at this and see what the consequences of this action will be. Thank you. [LB969]

SENATOR GLOOR: Thank you, Senator Sullivan and Senator Heidemann. Senator Schumacher, you are recognized. [LB969]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I'd like to take just a couple of minutes to kind of go through an actual application of this particular program. Two of the cities or towns on this list are in my district, and both of them were my clients when I was their village and city attorney. And this is how this thing works and it really works pretty slick. And probably it hasn't been used more. Certainly up in 2008 when these towns that I represented got some money out of it, it wasn't very well publicized; and were it not for me remembering that there was an agreement in the Legislature that in exchange for some funding for the Qwest Center, some money would be distributed to smaller communities across the state, they probably wouldn't have gotten any money either. But Humphrey is one of the towns. They needed a new civic center. The old town hall was getting a bit rundown and not large enough for their needs, and they raised \$900,000, approximately, from their own private funds and the city of Humphrey's funds. And that pretty well milked the cow dry and they needed another \$100,000 in order to put the package together. This fund made it possible, and now they have a very, very nice civic center that's used for weddings, all kinds of civic events, and they're very proud of it. And you got 9 to 1 basically leverage off of this money. Same thing in the little town of Creston. Creston, the Legislature closed its school. And the old school building was looking at a most probable fate of being turned into some place to store fertilizer. They got \$40,000 out of this fund and put in a lot of muscle and some of the town's money and some local contributions, and they, too, have a functional little civic center that they have weddings in, receptions after a funeral. And it is a very vibrant part of a very small and struggling town, but it would not have happened but for this money. So I would think that if there's extra money in this thing, there's probably about 500 other towns out there that would be anxious to get in line if they knew that the money was there. And that was the real purpose of this, was to treat all the communities fairly because the Qwest Center got treated fairly first. Thank you. [LB969]

Floor Debate  
March 14, 2012

---

SENATOR GLOOR: Thank you, Senator Schumacher. (Visitors introduced.) Continuing with floor debate, Senator Harms, you're recognized. [LB969]

SENATOR HARMS: Thank you, Mr. President, colleagues. I do rise in support of AM2068 and LB969. And I know the issue seems to center around the sports facility cash fund. To be real honest with you, colleagues, if you go back and look over at least the last six years that I've been here, I've never seen very much about facilities or anything coming into the Appropriations Committee for the State College System. They've gone about as far as they can go, and I think what we're trying to do is find a source that they could be funded appropriately so that they can keep up to date with their facilities. And when you look at what the State College System does, it's instrumental in a lot of growth that happens in our smaller rural communities. If you look where Chadron State is located, if you look at where Wayne is located, you look where Peru is located, they're all rural. And quite honestly, they have a major impact of what happens in those communities. They have an economic impact. And I've heard the discussion here, well, the university can pay for it through fees. They don't have enough students to be able to pay for it through fees. We'd still be here ten years from now having this same discussion and debate about can we help them and let them do it through fees; they wouldn't be able to. And what's happened is this has built up over a number of years. Chadron State College, 50 years, they haven't touched those facilities. Since 1900 when the facilities down in Peru were put together, they haven't touched those facilities. And it's time we get these things upgraded and dealt with and have a source of funds that they can at least plan on so the next time we have a debate or it comes up we don't have worry about where the money is going to come from. They've put it together. Those sources of dollars will continue to go in there. They can keep abreast with what's happening, what's taking place now. And that's really what this is about. I do believe that it has an impact, an economic impact, the State College System does. And that's why this does tie together. As they grow, these smaller communities have a greater chance of growth and economic development. So I'd urge you to go ahead and support this because I think it's very important and I think it does stabilize what we're trying to do for the State College System and this particular program. So thank you, Mr. President. [LB969]

SENATOR GLOOR: Thank you, Senator Harms. The Chair recognizes Senator Christensen. [LB969]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Heidemann yield to a question please? [LB969]

SENATOR GLOOR: Senator Heidemann, would you yield? [LB969]

SENATOR HEIDEMANN: Yes. [LB969]

Floor Debate  
March 14, 2012

---

SENATOR CHRISTENSEN: Senator Heidemann, when you were writing this bill, is there a reason why you didn't include the community colleges too? [LB969]

SENATOR HEIDEMANN: They can access property tax. The college system does not have any other resources besides private donations and maybe some fees and ticket things to support these type of facilities. But community colleges have access to property taxes, as you're full well aware, and they don't struggle like the college system does. [LB969]

SENATOR CHRISTENSEN: I don't know if I'd say they don't struggle. But they're in a lot of smaller communities; it is tougher to survive in. But that's why, I was just curious, your reasoning. [LB969]

SENATOR HEIDEMANN: I understand your thought, but there is...they have access to property taxes when...if the college system had access to property taxes, which I wouldn't support--don't get me wrong there--they wouldn't be in the position that they're in. [LB969]

SENATOR CHRISTENSEN: But at the same time that's the number one hated tax is property tax and we don't want more access to it. [LB969]

SENATOR HEIDEMANN: I said I wouldn't support it for the college system, but I'm just...the community colleges have access to property taxes and they don't struggle as much as the college system does. [LB969]

SENATOR CHRISTENSEN: But what I'm saying, even the community colleges we don't want them when they need to do a project to have to use the property tax. If they had access to something like this, it would be good. [LB969]

SENATOR HEIDEMANN: And you could guarantee me that your property tax bill would go down if they accessed this money? [LB969]

SENATOR CHRISTENSEN: Well, more likely not go up. [LB969]

SENATOR HEIDEMANN: There are levy lids that they actually have to deal with. [LB969]

SENATOR CHRISTENSEN: Right. [LB969]

SENATOR HEIDEMANN: But I'm not convinced if you give them access to this money that it would help your property taxpayer at all. [LB969]

Floor Debate  
March 14, 2012

---

SENATOR CHRISTENSEN: Thank you. And if you need the time, go ahead. [LB969]

SENATOR HEIDEMANN: I'm good. Thank you very much. [LB969]

SENATOR GLOOR: Thank you, Senator Christensen and Senator Heidemann. Senator Louden, you're recognized. Senator Louden, you're recognized. [LB969]

SENATOR LOUDEN: Thank you, Mr. President and members. When we talk about this bill, there are other funds that these state colleges can get for their maintenance if that's what you're talking about is maintenance. And anybody that's been on the Building and Maintenance Committee knows we have the LB309 funds, and they go out every year. And as these different colleges...and, of course, they also, some of the state buildings, put in their requests for usually repairing the roofs and taking care of any work that needs to be done on the roofs all the way from the university to Chadron State College, to the Game and Parks Commission, to Fort Robinson and Mahoney State Park. We've been everywhere looking at different roofs and what we do. Now those LB309 funds, that comes from some of the cigarette tax, and also some LB530 money which was some rent surcharges years ago, and there's some LB1100 monies that come out there, and there's also from any matching funds that these agencies have. So it isn't like the colleges don't have any other source of revenue for their maintenance, because that's what you're talking about. If you're getting \$750,000 in the first three years and you're going to divide that up among three colleges, you're not going to do much more than some type of maintenance. And we already have some things in place. Now if you think they need more maintenance, then put some more money into the LB309 Task Force because that's usually...they're always short on it and we usually just use the money that's been earmarked for that task force. But maintenance can be done in other ways. And, besides, if it's a state college, then they have to be funded by the state of Nebraska through General Funds if there's something that's needed to be done. So I really think this is something that we're getting into a different set of areas that that funding is set aside for civic and community projects in towns in rural areas of Nebraska, and that's what sold it for Qwest; otherwise Qwest couldn't get that turnback done. In fact, the first year or so I was down here, they were asking for more money. And I think Senator Chambers had a real fit about it because he said he told him, to start with, they didn't have enough money, and they had to increase the amount of percentage that was turned back. So this is something that's been going on for a long time, and that's what sold it on the Qwest Center was the fact that some of this money would go out in the rural areas and help some of these smaller towns across the state of Nebraska. So I still can't support that amendment on there. Whether we have something on Select File to take that part of it, I'd certainly would support that, and I think somewhere along the line that's what has to be done. I don't think it's right that we tap into that community and civic fund to do something for state colleges. There's other ways the state colleges have to fund their maintenance. Thank you, Mr. President. [LB969]

Floor Debate  
March 14, 2012

---

SENATOR GLOOR: Thank you, Senator Louden. Senator Wallman, you are recognized. [LB969]

SENATOR WALLMAN: Thank you, Mr. President. I have to say ditto to Senator Louden's remarks. You know, we go here and there. Somebody saved some money in a fund to spend for something, to save up for something, maybe for a larger grant money. Oh, they got some money in there; maybe we ought to take it out of that fund. It's pretty easy to do. So if we go down this slippery slope, we're setting a precedent. So do we want to do that in here? I don't like to do it. Why should we do it? And are these institutions needing some upgrades on their facilities? I don't know. I haven't looked at them. But if I would, I'm sure I could build them less than what they're quoted as. And local contractors, when you give them money out of here, you discourage local philanthropy. Local philanthropy does a lot. We built a new stadium in Beatrice. I was involved in a different outfit at Norris. Local philanthropy asked the people to help, and you'd be amazed. We do not ask the general populous enough: contractors, farmers, business people. A lot of people like to get involved in colleges, high schools, elementary schools--free, free--not millions of dollars. So are we discouraging local philanthropies? I see about \$2 million here or something on...this leverages that philanthropy. And then you'll have to set up something for maintenance on the building, on the stadium to keep it up. That's where we're falling down, as Senator Louden would tell you: maintenance on our state and local buildings. The roofs and windows have to be fixed or your buildings are going to go to pot. Why don't we take care of our property we have instead of building more new ones? That's all, Mr. President. [LB969]

SENATOR GLOOR: Thank you, Senator Wallman. The Chair recognizes Senator Brasch. [LB969]

SENATOR BRASCH: Thank you, Mr. President, and good afternoon, colleagues. I also oppose AM2068 that would take very vital funds from our small villages and communities. And in our district there are four such communities that would be affected, community centers. And as we see our population declining in many of our rural communities, it is more important than ever that we have funds to renovate, rebuild, and encourage new growth through our community centers. So I do stand opposed. Thank you, Mr. President. [LB969]

SENATOR GLOOR: Thank you, Senator Brasch. Senator Lathrop, you're recognized. [LB969]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Interesting discussion. We set up the 30 percent pot for civic purposes. Generally, it's been used for community centers in smaller towns, and that probably explains why there's a predominance of rural senators standing up and questioning whether or not this is an

Floor Debate  
March 14, 2012

---

appropriate use of the funds. And I'm not standing to say it is or it is not but to make an observation. When we are left with no resources, we go to cash accounts and we take money out of them for other purposes. And yesterday when I talked about how are we going to pay for this hole in the budget, this is the kind of stuff that will happen next year. It will happen next year. I was around when we took money out of...I won't say we, when money was taken out of the corn checkoff. Right? See, there are questions that need to be asked this year, or what's going on today will be commonplace next year. Please get engaged in the Appropriation and in the Revenue bills that you will see coming, and ask yourself what interest you have, what fund you believe serves an important purpose, because they will all be at risk next year. They will all be at risk next year as we try to make up a \$600-million hole in the budget. Thank you. [LB969]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Lautenbaugh, you're recognized. [LB969]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I have to admit I'm a little mystified by this debate as I'm listening to it today. I'm not sure what a lot of my colleagues are talking about, about these community colleges in greater Nebraska. As I understand it, the population trends are against greater Nebraska. People are moving away. And we all know once a trend starts, it's completely pointless to try to do anything to reverse it. So I don't know why we're prattling on about community colleges and greater Nebraska as a whole. If something is going to die, we should probably just let it die. Unless somebody comes forward with an idea, we can talk about it for a few days in little fits and starts for a couple hours, and then turn our noses up at it like drama critics from The Times and sniff disapprovingly and reject it. Hopefully that won't be the case. Hopefully if someone comes along with something that's meant to do something good for greater Nebraska, you all will keep an open mind to it. I'm not sure that this bill is it. But I just find it interesting when people stand up and say we have to do this, we have to bring people back, we have to try to reverse trends, but then look at other things and say, oh, there's no point in reversing this trend. Those thousands of jobs are gone. We might as well just let them go. They should get Facebook pages or something of the sort. So this is a serious discussion, unlike some we've had recently. And I'm paying attention, and I just wanted to let you all know that. Thank you, Mr. President. [LB969]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. There are no senators remaining in the queue. Senator Heidemann, you're recognized to close on AM2068. [LB969]

SENATOR HEIDEMANN: Thank you. And fellow members of the body, it's been a good, not quite an hour, discussion, which is good again. We're getting more familiar with what we're doing here and that's always a good thing. I've got to find my right sheet back here. We talk about this is the civic and community fund, and I was given a sheet,

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

Floor Debate  
March 14, 2012

---

and I'll just go through Chadron State and Peru State, what they all do with their facilities. I'm going to read this off really quick. Chadron State...who all uses it? It's Chadron community recreational basketball; Chadron High School wrestling invitational; Chadron peewee wrestling; high school track meets; hoop shoot basketball tournament; Chadron shark swim community meet; community utilization of swimming pool; youth camps, including basketball, football, softball, wrestling, track, and volleyball; scholastic day; Rotary invitational track meet; employee and community wellness programs; ROTC program; fiscal training and testing, a few. Peru State: youth basketball, baseball, softball tournaments; high school practices, competition; community health fair; career fairs; power lifting meet; high school post tournaments; American Legion recreational; community uses, they invited the community to come in and use it. These things, once they are built, are brought in and the community uses them. I think a very good purpose. When this came up in Appropriations Committee, this was actually a bill that I carried, I opened. The college system came in in support. And not one person came in and testified in opposition--not one. I believe this is appropriate funds. I believe this is a good use of these funds in rural Nebraska. These three colleges partner with the communities; and it goes both ways because the communities partner with the colleges when they build these funds, guarantee it. We had that discussion. We had discussion on the Health Care Cash Fund. That will be an ongoing discussion without a doubt, and I know that. I approve that. I accept that. Senator Conrad has a lot of interest in this. I'm sure she will partner with Senator Campbell and the whole Health Committee to see the best way for the Health Care Cash Fund to be sustainable. And if that's what the intention of the Legislature is, I'm sure they're going to be able to get it done. We did not set this up that it's going to start so that they couldn't have that debate. They will have every opportunity to have that debate. So with that, I am going to close. I ask your support on AM2068 to LB969. [LB969]

SENATOR GLOOR: Thank you, Senator Heidemann. The question is, shall the committee amendments to LB969 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB969]

CLERK: 32 ayes, 4 nays on adoption of committee amendments. [LB969]

SENATOR GLOOR: The amendment is adopted. We continue... [LB969]

CLERK: I have nothing further on the bill, Mr. President. [LB969]

SENATOR GLOOR: Thank you, Mr. Clerk. Seeing no senators wishing to speak, Senator Heidemann, you're recognized to close on LB969. Senator Heidemann waives. The question is the advancement of LB969 to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB969]

CLERK: 35 ayes, 2 nays, Mr. President, on the advancement of LB969. [LB969]

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

Floor Debate  
March 14, 2012

---

SENATOR GLOOR: LB969 is advanced. Mr. Clerk, items for the record. [LB969]

CLERK: Two items, Mr. President. Thank you. New resolutions: LR477 by Senator Wightman. That will be laid over. Senator Nordquist offers LR478, that calls for an interim study. That will be referred to the Executive Board. That's all that I have, Mr. President. Thank you. (Legislative Journal pages 923-924.) [LR477 LR478]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with General File. Mr. Clerk.

CLERK: Mr. President, LB1072 is a bill by the Business and Labor Committee, signed by its members. (Read title.) The bill was introduced in January of this year, referred to the Business and Labor Committee, advanced to General File. There are committee amendments. (AM2358, Legislative Journal page 848.) [LB1072]

SENATOR GLOOR: Senator Lathrop, you're recognized to open on LB1072. [LB1072]

SENATOR LATHROP: Thank you, Mr. President and colleagues. As many of you know, one of the responsibilities of the Business and Labor Committee is to process and to pass upon claims made against the state of Nebraska. There are criteria set for what claims require the consideration of the Legislature. Suffice it to say, there are three categories of claims that come before the Business and Labor Committee for our consideration. There are tort claims, which are generally personal injury claims. Somebody gets hit by a snowplow. There are contract claims where someone enters into a contract with the state of Nebraska. For some reason, the state of Nebraska doesn't pay and they make a claim against the state. And there is a third category, miscellaneous claims. They do not fit in either of the first two categories but for one reason or another they are proper for our consideration. I introduce today LB1072. And I hope you'll forgive me for reading this as sometimes I must to make sure I'm accurate with the claims that we have. LB1072 is introduced by the Business and Labor Committee at the request of the Department of Administrative Services Risk Management Division. This annual approved claims bills, which contains claims against the state that were either settled by the Attorney General's Office or a court order, has directed their payment. The first claim is for \$275,000 against the Secretary of State. The ACLU successfully challenged three statutes pertaining to the initiative and referendum petition circulation process. On August 30, 2011, U.S. District Judge Joe Bataillon found Section 32-629 requiring petition circulators to be residents unconstitutional. Plaintiffs are entitled to reasonable attorney fees when that happens, and the Attorney General's Office settled on an amount of \$275,000. The second claim is for \$267,737.62 against the Department of Corrections. This claim concerns an inmate who alleged he was assaulted by another inmate and denied medical treatment. The Claims Board originally denied the claim, and the plaintiff later prevailed in district court. The claim and the claim amount is pursuant to a judgment. The third claim is for

Floor Debate  
March 14, 2012

---

\$227,500 and concerns an accident between a state snowplow and a vehicle. The Attorney General settled this claim for the \$227,500 amount. The following claims concern agency write-offs, which is also part of the claims bill process. Agencies are required to seek the Claims Board's approval for debt write-off. The board approved all of the requests which are found in LB1072. Specifically, the Military Department is requesting to write off \$2,683.98. The department has been unable to collect amounts provided for tuition assistance. The Department of Roads requests that we write off \$136,153.13. Most of the debt includes damage to property, including guardrails or bridges, but also includes a \$55,000 debt caused by damage to a weigh-in-motion electronic device. The Nebraska Lottery is requesting a \$21,233.05 write-off. The five debts from the lottery are for insufficient fund checks written to cover the cost of lottery tickets. The vendors either declared bankruptcy or are deceased. The debt period is as follows: September of '04, December of '04, September '05, May '07, and March '08. The lottery reports that these are all their outstanding old debts. The Department of Motor Vehicles requests that we write off \$17,746.65. This debt concerns the administrative DUI appeal process and specifically the requirement that a transcript be provided for appeal purposes. The DMV may collect transcript fees from those who lost their appeal. This debt resulted in defendants not paying their fees. The Department of Health and Human Services is requesting a \$3,664,786.12 write-off. This debt is due to either overpayment or lack of payment for needs-based assistance programs. The Department of Administrative Services requests a \$7,505.03 write-off. DAS was not paid for videoconferencing services. The State Treasurer requests a \$101,737.13 write-off. This debt concerns 11 years' worth of overpayments and bank returns on child support payments. The Nebraska Supreme Court requests a \$215.33 write-off. These are 47 debts for the past year only in range from \$1 to \$13.50. The debts are for postage, copies, and fax services, and certificates of good standing. The parties each are sent two letters requesting payment before they are written off due to the costs of collecting exceeding the amount in controversy. And, finally, the Department of Insurance requests a \$10,557.36 write-off that concerns an examination fee. The department has an obligation to examine pre-need burial insurance plans pursuant to the Burial Pre-Need Sale Act. This request concerns an exam that occurred in November of 2010 that incurred expenses due to new staff and confusion around the act. The exam became controversial, and as part of settling with the property, costs that were incurred due to department error were waived; therefore, the department is asking for them to be written off. Those are all of the claims that the Business and Labor Committee has in LB1072. We do have an amendment which I'll address shortly. I would request your approval of LB1072. Thank you. [LB1072]

SENATOR GLOOR: Thank you, Senator Lathrop. Members, you've heard the opening of LB1072. As the Clerk stated, there are amendments from the Business and Labor Committee. Senator Lathrop, as Chair of that committee, you're recognized to open on the committee amendment. [LB1072]

Floor Debate  
March 14, 2012

---

SENATOR LATHROP: Thank you, Mr. President. We now move to AM2358, which is, and I will generally refer to it because the subject matter is all the same, these are claims made by subcontractors who were unpaid as a result of Boys and Girls Home's termination of their contract with the state to provide services, child welfare services. AM2358 amends the denied claims found in LB1073 into the approved claims bill, LB1072. The committee voted unanimously to approve these claims. The claimants are subcontractors of Boys and Girls Home. The committee believes that paying these claims is appropriate and I'll explain why. In Nebraska, the state of Nebraska and the Department of Health and Human Services has a statutory obligation to those who they provide services to, to provide those services and to pay for them. And I'm going to read three sections of the law so that you understand what the state's obligation is before they ever entered into a contract with Boys and Girls Home. Section 43-285 states: When the court awards a juvenile to the care of HHS, the juvenile shall become a ward and shall be subject to the guardianship of HHS. HHS shall have authority by and with the assent of the court to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of a juvenile committed to it. Similarly, 43-290 provides that if a juvenile has been committed to the care and custody of the Department of Health and Human Services, the department shall pay the costs for the support, study, or treatment of the juvenile. Section 68-1202 provides that once services are provided, payment must be made directly to the vendors. Services include: foster care, drug and alcohol treatment, protective services for children, visitation, and parenting. These are the services that claimants provided to the state wards and their families on behalf and at the behest of the state. These statutes, in my judgment, create a duty to the state to pay for the children and the families who were provided services at the direction of the Department of Health and Human Services. The question then is, did the state discharge that responsibility when it paid Boys and Girls Home? It is our judgment in the Business and Labor Committee they did not. And I will go through the reasons, but generally there are problems with the contract that was entered into with Boys and Girls Home, which I believe, and I believe the committee feels the same way, did not discharge the duty of the state to pay for these services. And I'll go through those for you one at a time. Health and Human Services, when they let a contract with the Boys and Girls Home, as well as the others, did not comply with the competitive bidding statutes. The Auditor's report states that Health and Human Services did not follow competitive bidding statutes and that the exception for contracts with the providers did not apply, as most of the services were subcontracted out, making the subcontractors direct providers rather than a lead agency. The report reasoned that sound governmental accounting practices require that contracts involving the expenditure of millions of dollars in public funds be let for bid to ensure the fair and reasonable expenditure of those funds, as well as to make certain that the state receives the best services for the lowest possible price. Second, HHS did not take advantage of the Department of Administrative Services' experience in contracting. The Auditor's report indicates that had Health and Human Services utilized the Department of Administrative Services in these contracts, including Boys and Girls Home, it is

Floor Debate  
March 14, 2012

---

possible that more qualified applicants would have been found. Third, HHS did no vetting when choosing Boys and Girls Home as a lead contractor. The Public Auditor's report notes that HHS entered into lead agency contracts despite inadequate information and without performance bonds. The Auditor's report states the following concerning Boys and Girls Home: It had...this is the Boys and Girls Home who is the contractor that didn't pay the very people whose claims we are taking up right now. Boys and Girls Home had no line of credit. Its liquid assets were less than 33 percent of the service area's child welfare budget. It had a cash balance of only \$171,000. And it was over 95 percent government-funded. Boys and Girls Home also lacked experience providing and coordinating community-based services in Nebraska. The Auditor further reviewed the Boys and Girls Home affiliates, finding four out of five entities had revenues less than expenses, and three of the five had negative net assets. And yet HHS did not obtain any financial information from these affiliates. The Auditor further found that without adequate evaluation procedures to ensure the proper qualification of these lead contractors, there is an increased risk that the chosen provider may prove incapable of rendering appropriate performance, which certainly happened in this case. As a result of such outcomes, services might not be performed properly, if at all, and subcontractors or foster parents might not get paid--shortcomings for which the state could ultimately be held liable. That's the Auditor. Next, HHS provided no oversight of these contracts. As noted in the LR37 report, privatization only works if the responsible government entity manages the process well. The report further states that the lack of appropriate cost analysis resulted in fiscal unsustainability within the first few months and has continued despite additional infusions of money. The Auditor's report similarly found that financial oversight of the lead agencies was woefully inadequate from the beginning. HHS continued to amend the master contract, adding a provision in the fourth amendment requiring prompt payment of subs within 45 days. To assist prompt payment, HHS front-loaded monies for August and September. As indicated in the Auditor's report, the inability of HHS to provide documentation concerning the decision to front-load the service contracts indicated a lack of prudence given that two contractors had already terminated. HHS had not performed any financial monitoring. A lack of oversight, including a failure to enforce the contractual requirements that lead contractors pay subs within 45 days of rendering service is a major reason why the subs are owed and have not been paid for services dating as far back as November of '09. The Auditor further found that HHS lacked adequate procedures to oversee the lead contractors' management of subs whose services they had enlisted. Specifically, HHS had no way of knowing whether the subcontractors were timely paid. Next, the contracts themselves were underfunded. Prior to privatization, HHS spent \$107,753,000 on child welfare services but only contracted to have those services performed privately for \$105,809 for the lead contractors. According to our Fiscal Office, contractors were offered the amount appropriated for services only, even though they were required to hire staff and pay for operating expenses. Without financial monitoring, it is unclear how the monies allocated to Boys and Girls Home were spent. Not only were these contracts underfunded based on current expenses, but the move to privatization had the

Floor Debate  
March 14, 2012

---

undesired effect of increasing child welfare costs. The Auditor found the state had spent proportionately more in privatizing services than in the service areas still under state management, and specifically found a 27 percent increase in child welfare costs between 2009 and 2011. [LB1072 LB1073 LR37]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB1072]

SENATOR LATHROP: Contractors noted that costs were substantially higher than anticipated. HHS's actions have resulted in a loss of confidence in our child welfare system and a loss of providers and infrastructure necessary to sustain and support the system. Those rural areas assigned to Boys and Girls Home have especially suffered in the privatization effort. Nonpayment has resulted in a loss of providers, including shelters, therapy providers, group homes, and foster homes. I believe and the committee believes that paying these contractors, these subs, is a matter of fairness. And you will see and I'll direct your attention to page 24 in this book, you will see the latest contractor to leave was KVC. Page 24 of our budget book indicates these...the transition costs to KVC. These funds are divided into two areas. First... [LB1072]

SENATOR CARLSON: Time. Thank you, Senator Lathrop. [LB1072]

SENATOR LATHROP: Thank you. [LB1072]

SENATOR CARLSON: Members, you've heard the opening on LB1072 and the underlying amendment, AM2358. The floor is now open for debate. Senators wishing to speak include: Senators Flood, Hadley, Fulton, Howard, and others. Senator Flood, you're recognized. [LB1072]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. I appreciate Senator Lathrop's discussion about primarily the underlying committee amendment. I absolutely believe we have to approve LB1072 and I have questions on AM2358. If we were in a trial right now, one of the things that I would do with Senator Lathrop is stipulate on the following: The privatization effort in the northern service area did not work; (2) Boys and Girls Home as a lead contractor was not qualified nor did they perform as was intended; (3) missteps in the process occurred and those missteps are found in the...occurred at the executive branch through the Department of Health and Human Services and through the lead contractor; and (4) subcontractors in the northern service area were harmed. That all is true. And I think Senator Lathrop would probably stipulate to each one of those things. And here are the issues. And I've decided I'm not throwing rocks, but I think we do need to step back and this should take some time to talk about. First of all, we are going to potentially set a precedent here. And I'm not saying...it's your choice as to whether or not this is a good thing or a bad thing. But the

Floor Debate  
March 14, 2012

---

precedent is, state of Nebraska, as Senator Lathrop said, has the duty in the statutes to provide for the welfare of these children in the state system. The state was not forbidden from entering into the privatization effort with lead contractors, so the state essentially, by virtue of a contract, assigned its risk, if you will--and this is something I'm sure Senator Lathrop and I will have to debate--to the lead contractor and made that lead contractor in the privatization effort, in this case Boys and Girls Home, the party responsible for carrying out the child welfare services for these kids in the system. Boys and Girls Home is the lead contractor, and we'll call them the prime contractor, goes out and hires a series of subcontractors. They may be a residential facility, they may be counseling services, maybe family reunification, mediation. Whatever it is, the prime contractor goes out and hires a subcontractor. We assigned our risk by virtue of the contract and agreed to pay a price to Boys and Girls Home. They failed to perform in a contract with the subcontractor. So let's back up for a second. And this is not a fair comparison with the emotion and the importance of children, but it is a fair comparison when you think about it legally. The state of Nebraska contracts to build a building in Aurora with a general contractor, a prime contractor. That prime contractor goes out and hires a subcontractor to pour the cement. The subcontractor goes out and pours the cement. The building is built. The state of Nebraska pays the prime contractor. The prime contractor fails to pay the subcontractor. There's good and bad in my example here, and I'm going to be fully up-front on this. The concern I have is that if we go around and remedy every breach of contract between a subcontractor and our relationship with the prime contractor, we could be setting a precedent to step in on these third-party deals all the time. Now in construction, you do have, especially with homeowners, you have the ability to file a lien, which doesn't apply in this case because this isn't a construction matter. It could be a personal service. The state of Nebraska contracts with an advertising agency. [LB1072]

SENATOR CARLSON: One minute. [LB1072]

SPEAKER FLOOD: The advertising agency doesn't pay the broadcast facilities. The broadcast facilities don't get paid. They can't come back to the state. I'm just saying, privity of contract is something we have to think about as a legislature. And in my time today I want to focus on that. What I do want to know from Senator Lathrop and others, I was led to believe that at some point in this process, in the privatization process, there were these things called provider agreements between HHS and the subcontractors prior to October 1, 2010. (A) Did those exist? (B) What do they say? And (C) do they create a contractual relationship between the state and the provider? My efforts today are focused on finding answers. Let's sort through this both legally. Let's talk about what the remedies are, and let's talk about what precedent we're setting. This is a good conversation to have. It's something that you'll probably deal with in the future in the Legislature. And I look forward to the discussion. [LB1072]

SENATOR CARLSON: Time. [LB1072]

Floor Debate  
March 14, 2012

---

SENATOR FLOOD: Thanks. [LB1072]

SENATOR CARLSON: Thank you, Senator Flood. Senator Hadley, you're recognized. [LB1072]

SENATOR HADLEY: Mr. President, members of the body, as the first nonattorney to speak on this, I don't know whether I'm speaking from ignorance or whatever it is. But I actually had my staff go through and put down the towns where these people who are owed the money are, and it was interesting, you know, Fremont, South Sioux City, Columbus, Kearney, Ravenna, Fremont, Norfolk, York, Scottsbluff, Wayne, Grand Island, Kearney, Norfolk, Grand Island, Kearney, Omaha, Fremont, South Sioux City, Columbus, Henderson, Walton. I could go on and on. But what they had in common is that they're basically in outstate Nebraska where it's hard to get providers to begin with, right? It's difficult to get people who are willing to do this and able to do this. So that was one thing that struck me. The other thing I thought, well, maybe I could put kind of a face on a claim. You know, there's a claim for the South Central Behavioral Services. South Central operates in Lincoln, Custer, Valley, Greeley, Sherman, Howard, Dawson, Buffalo, Hall, Merrick, Hamilton, Clay, Adams, Kearney, Phelps, Gosper, Frontier, Red Willow, Furnas, Harlan, Franklin, Webster, and Nuckolls. So it covers, oh I don't know, maybe a fourth of the state. They have a specialized children's services. In FY '11, South Central provided agency-supported foster care with offices located in Kearney, Hastings, Holdrege, and Broken Bow. Agency-supported foster care provided frequent contact with youth and foster families, in addition to recruitment, licensing, and ongoing training for foster families. A total of 23,573 foster care days were provided to 144 youth. SCS has 45 foster families located throughout the central and western service areas. SCS provided 2,206 hours of in-home services, including family support, supervised visitation, drug screening, and drug testing. I bring this up because I got in touch with them because I saw their claim was about \$182,000. I asked them what they spent on their specialized...what their budget was for their specialized children's services. It's \$1.3 million, so their claim is 15 percent of what they spend on specialized children's services. So if they're not reimbursed, that means they're going to do 15 percent less. I mean, there's no other way. These aren't for-profit type operations, they just basically don't have the money. And there are a lot of these others that we're talking about whether they stay in business or not. So I understand the legal ramifications of doing the things. But is there a moral obligation sitting out there to make these agencies whole? And I'm not going to get into whether privatization failed, didn't fail, why it did, but I don't know. As a nonattorney I don't know whether their moral obligation holds any water. I do know that sometimes we worry all the time about setting a precedent. Well, we set precedents in here a lot. So I guess I'll continue to listen. But I just think it is important that we look at these firms that are owed the money. These are significant dollars to these firms. And they're doing something to help children. And I just think that is a little different sometimes than a contractor... [LB1072]

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

Floor Debate  
March 14, 2012

---

SENATOR CARLSON: One minute. [LB1072]

SENATOR HADLEY: ...building a highway, building a road, whatever it might be. So I'll sit back and listen. But I just wanted to give you my thoughts on it. Thank you, Mr. President. [LB1072]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Fulton, you're recognized. [LB1072]

SENATOR FULTON: Thank you, Mr. President, members of the body. I'm just going to spend less than a minute here talking about my concerns and then I plan to yield the remainder of the time to Senator Lathrop. This will be informative, and I'm hopeful to get that information in an understandable way between Senators Lathrop, Flood, and any others who would engage. But I read through this last night and it didn't...it just didn't occur to me that this could be a precedent or could be a problem. But I read it again this morning and recognized that it seems to me that we're paying twice for the same service. And by, from Senator Flood's argument, and this is what I would worry about a little bit, is that if we do this, then going forward are there other industries or areas in which government is involved--and there are many in which government is involved--in which we've set a precedent for the actions and activities and responsibilities of a contractor with the state, are actually, oh, forcing the state or causing the state to be encumbered beyond our own control? If that's the case, then this is a precedent. It's a dangerous precedent. So that's the concern I have. With that, I'll just yield the remainder of my time for Senator Lathrop. [LB1072]

SENATOR CARLSON: Thank you, Senator Fulton. Senator Lathrop, 3 minutes 45 seconds. [LB1072]

SENATOR LATHROP: Perfect. Thank you, and thank you, Senator Fulton. Let me talk about precedents. First of all, these are miscellaneous claims. If one just like it came along next year, we don't have to approve it. So we're not, unlike the Supreme Court or the Court of Appeals or even a trial court, we're not bound by precedents. Okay? That's the first thing. The second thing I would tell you is to the extent you are concerned about precedents, let me read what I got cut off from reading when I ran out of time. In your Appropriations Committee budget recommendation, on page 24, you'll recall that Boys and Girls Home was one of five contractors. Every one of them have gone but one. We're down to NFC. The last to leave was KVC, and we gave them a lot more money before they left. And on their way out the door we gave them even more. And your committee, Senator Fulton, had this to say about it: "The Transition Costs to KVC. These funds are divided into two areas. First is \$4.2 million identified by KVC as necessary to ensure payment to its subcontractors." So in a very real sense the precedent has been set. When we gave KVC \$4.2 million to make sure their subs got

Floor Debate  
March 14, 2012

---

paid, if precedents is our concern, we set the precedents when we paid KVC over \$4 million to make sure their subs got paid. And I'm not saying whether that was good or bad. It's all the result of some real bad work in this contracting process; and we've already paid one agency to make sure that they've taken care of their subs. Again, on the subject of precedents, because these are miscellaneous claims we are not bound to do next year the very same thing we did this year. It is our judgment now. And Senator Hadley makes a good point, and I'll use the balance of my time to make it. When these people didn't get paid, and you can look in there and see in the amendment the dollars and the numbers, there's like 50 agencies or individuals who have not been fully paid. They got 30 cents on the dollar and their claim is for the balance. They total \$2.5 million. This is the infrastructure in the state in western Nebraska to take care of children in the child welfare and the juvenile system. We don't pay them and they go out of business. We are decimating, decimating the providers in greater Nebraska with the way we partner with them in providing services... [LB1072]

SENATOR CARLSON: One minute. [LB1072]

SENATOR LATHROP: ...and this is a critical piece of it. If we do not pay them, they will stop providing services. Some of them will go under, some of them probably have gone under. And understand, they've provided these services to the kids and in many cases had to take out lines of credit, borrow money to make payroll. They've paid their obligations; they just haven't been paid for what they did. So that's what I have to say about precedents, that's what I have to say about what we're doing to providers in greater Nebraska and the consequence to the state and the system if we don't pay these folks. And I have a number of people that are kind enough to yield me more time, and I'll take up some of the other subjects as time permits. Thank you. [LB1072]

SENATOR CARLSON: Thank you, Senator Lathrop. Senator Howard, you're recognized. [LB1072]

SENATOR HOWARD: Thank you, Mr. President and members of the body. And I'm going to begin this by saying I believe these bills are due to us; we have the responsibility. When I came into this body I came in as a case manager. That's a person that does the direct work with the families, the foster families and the children, not as an attorney, not as someone in the administration, not as someone who is a CEO and awards contracts. I came in as a case manager. When I found out in 2009 that these contracts were probably going to be awarded out and heard the list of agencies that were up to be the lead contractors, I immediately went to Senator Heidemann. And I said to Lavon, this is going to cost you more than you've ever anticipated. And he said thanks for the information; and he said, I think, you know, when we make these contracts, the contractor is responsible. I said, oh no, no, no. I am, again I'm not an attorney, but these children are state wards, these children are placed in the custody of the state by the court system here in Nebraska. I see no difference in saying the foster

Floor Debate  
March 14, 2012

---

parent is responsible for the medical bill. We made this agreement with these lead agencies. After I talked to Senator Heidemann, I thought I've got to try again. And I talked to the Governor. And I said, this is going to cost you more than you ever thought it's going to cost you. You can't take an agency that's been underfunded for decades, take that same amount of money--if you remember originally, that same amount of money--and get the quality services that we all want. You can't do it. I was there; I saw it. I saw it every working day. I said thanks for the information, and that was it. I felt like maybe the little Dutch boy trying to put his thumb in the dike. Everyone was polite, but nobody wanted to hear what I had to say. I finally reached the conclusion that there was a far stronger political agenda here than my information was ever going to be able to override. And I watched it, I watched it go on. And I remember, and I just mentioned this to Speaker Flood, we had a conversation, I called him and I said, I am so concerned about this. It's all being done outside the legislative body; it's all being put in place without any input from this body that should be making this decision regarding this vast amount of money. And he said, we'll get in there, girl, when we get back into session. Now I have all the respect in the world for Senator Flood, he's been excellent. But I was so discouraged when I heard that. I thought we are just going down a path we cannot sustain--a word that's been used against me with Health and Human Services, concerns that I have had since I've gotten down here. Gwen, we can't sustain that higher payment to foster parents, what are you thinking? Gwen, we can't give more money to children's clothing for foster children, what are you thinking? On and on and on and on again. And yet literally, literally, Health and Human Services, the Governor, the people that did the contracts, jumped off the cliff without even looking--without even looking. Some of the small agencies that they contracted with in the beginning, Visinet; Visinet was a small agency in Omaha that supervised visitation. They were in no way prepared financially or any other way to take on a massive overhaul of the child welfare system. And yet because they wanted to be a part of the whole, they stepped up. It's a tragedy, it's a tragedy. [LB1072]

SENATOR CARLSON: One minute. [LB1072]

SENATOR HOWARD: Thank you. If this money...and I promised Senator Lathrop some time. I'm sorry, Senator Lathrop. If this money would have been put into our internal system and given the workers in that system, many of whom had committed years and years and years of their lives to working with families and children, we would have a quality system at this point. I am glad I'm here at this point to be able to say I said in '09 this was a bad direction to go. I'm sorry I'm here to see how badly it's turned out. I appreciate our Health Committee, Senator Campbell; she's been wonderful at working on these issues, no small matter. And I think we're going to make some major improvement. But this has been a political debacle and it's up to us to try to make it right. Thank you. [LB1072]

SENATOR CARLSON: Thank you, Senator Howard. Senators wishing to speak include:

Floor Debate  
March 14, 2012

---

Senators Cook, Pahls, Gloor, Coash, Bloomfield, and others. Senator Cook, you're recognized. [LB1072]

SENATOR COOK: Thank you, Mr. President. And good afternoon, colleagues. I rise in support of AM2358 and the underlying bill. As a person who serves on the Health and Human Services Committee and participated in the LR37 process and many of the hearings, someone who's been contacted by constituents and friends from my former nonprofit days, I am in strong belief that it is the appropriate thing for us to do at this time to follow through to pay these subcontractors. The work has been completed. Senator Lathrop has already mentioned that. As you know, from our initial round of debate on the child welfare bills, our committee, with your support, is taking steps that these kinds of contracting arrangements are not made, so that we don't find ourselves in this kind of situation. So for those of you who are concerned about this coming up again in the same way, just consider that. You've already advanced a bill that's going to look for that, along with our new additional monitoring requirements for the system, I think that this is something that, along with our work with the child welfare reform we're doing, along with my priority bill that's coming up, LB1063, will preclude us being in this situation. At least that is my sincere hope. And I'd like to echo something that Senator Howard said, my colleague, my earnest colleague on the Health and Human Services Committee, I've learned so much. (Laugh) Baptism by fire during my short time on the committee. These are our children, these children are wards of the state. I say and sometimes it's not a funny joke for those of you who don't have a sarcastic sense of humor, but I often say to my friends, well, what are we going to do? Are we each going to take one kid home with us? And I say, well, that's going to be a problem because I don't have food in my refrigerator, I'm not there. (Laugh) The child is not going to be safe with me necessarily as an individual. But sincerely this is my...still my, as a state taxpayer and as an advocate and as a public servant, I sincerely believe that these are our children and this is our responsibility at this time. With that, Mr. President, I would yield the balance of my time to Senator Lathrop, if he would choose to accept it. [LB1072 LR37 LB1063]

SENATOR CARLSON: Thank you, Senator Cook. Senator Lathrop, 2 minutes and 10 seconds. [LB1072]

SENATOR LATHROP: Sure, thank you. And maybe I'll use this short bit of time to reiterate a point and to try to make a point. I don't think this is pure contract law. Okay? Let me repeat that. I do not think this is pure contract law which makes this distinguishable from what Senator Fischer and I will talk about when we talk about trying to make a comparison between these circumstances and a Department of Roads contract. Understand, unlike almost anything else the state can do, we had a statutory duty to care for these kids and to pay for these kids' care. The question is whether we discharged that duty when we paid Girls and Boys Home. In short, and so you hear it again and I've tried to make it as simple as I can, we did not discharge that duty

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

Floor Debate  
March 14, 2012

---

because these contracts were so very flawed. They were flawed with the assumptions. They were flawed in the manner in which they were executed. They went outside the competitive bidding process; they did not use the Department of Administrative Services. And they did not monitor these contracts, which everyone who has ever gone into privatization will tell you... [LB1072]

SENATOR CARLSON: One minute. [LB1072]

SENATOR LATHROP: ...the only way they will succeed and serve the purpose that the state intended them to serve is with proper monitoring, which did not happen. As a consequence, I think this is similar to if we took all of our health and human services obligations and found the first kid walking out of the Student Union, gave him a million dollars, and told him he's now assumed responsibility for paying all of our bills. And everybody here would say that's preposterous. You can't get rid of your obligation by paying a kid a million dollars walking out of the Student Union. But that's what we did. It's a matter of degree, but I will tell you these contracts were so poorly executed, they were based on faulty assumptions, monitoring wasn't there, that they were doomed to fail. And as a consequence, in my judgment, we did not satisfy our obligation to pay. [LB1072]

SENATOR CARLSON: Time. [LB1072]

SENATOR LATHROP: Thank you. [LB1072]

SENATOR CARLSON: Thank you, Senator Lathrop. Senator Pahls, you're recognized. [LB1072]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Would Senator Avery yield? [LB1072]

SENATOR CARLSON: Senator Avery, would you yield? [LB1072]

SENATOR AVERY: Yes, I will. [LB1072]

SENATOR PAHLS: Thank you, Senator. Early on in the discussion the thing that caught my attention when I heard petition, I heard Secretary of State, and I heard \$275,000. And this money was being given to the...paid to the American Civil Liberties Union. And the question I have, even though this may be out of order, I did try to get my button pushed early, but a number of people pushed theirs before I did. So this is not really following the line with other people who are on HHS. But I have a question about did our Government Committee have something to do with this? [LB1072]

SENATOR AVERY: Well, this I believe goes back to 2008, when the Government

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

Floor Debate  
March 14, 2012

---

Committee considered a bill on petitions that was approved by this body and signed into law. And part of the restrictions that were passed involved requiring petitioners or circulators to be residents of the state. The court ruled that that was unconstitutional, a violation of the First Amendment. So we contributed to this problem, yes. [LB1072]

SENATOR PAHLS: So in other words, by our vote at that time we did cost the state \$275,000. [LB1072]

SENATOR AVERY: By action of this body, yes. [LB1072]

SENATOR PAHLS: Okay. Well, let me ask you this: Are we in the process of correcting that? [LB1072]

SENATOR AVERY: LB759 was just passed last week on Final Reading with only two negative votes, and that corrects the current law to reflect the court's decision. [LB1072 LB759]

SENATOR PAHLS: Okay. So what I'm...I don't...were you here when this bill was first brought about or was that... [LB1072]

SENATOR AVERY: I was and I supported it. I don't recall at the time that we considered it to be unconstitutional. It's important to point out that the court did uphold other restrictions that were in that legislation. So the whole law itself was not declared unconstitutional. It did uphold the part of the bill that requires petitioners to be at least 18 years old. And it also upheld the prohibition on paying circulators by the signature. So there were elements of that law that were good and were upheld. [LB1072]

SENATOR PAHLS: And I thank you for that. Again, when we...any bill comes from...has been in front of the Government Committee, one of the first things I hear out of the person who's an opponent of that is, this will cost you. So maybe in the future, and I have been involved in this because I voted for it also, that we really need to take a look at the potential, especially in this particular area, because this is a sensitive area to a number of people in the state of Nebraska. Thank you, Senator Avery. Thank you. [LB1072]

SENATOR CARLSON: Thank you, Senator Pahls and Senator Avery. Senator Gloor, you're recognized. [LB1072]

SENATOR GLOOR: Thank you, Mr. President, members. I've come down as presiding officer this afternoon to speak as Vice Chair of the Health and Human Services Committee. Senator Campbell, as it relates to the LR37 process that's been the basis for the bills that we've brought forward, have already discussed on General File, Senator Campbell does a nice job saying that what we're trying to do is not dwell on the

Floor Debate  
March 14, 2012

---

past but to try and set a path forward to get us out of the problems and the challenges that we're having with child welfare reform. But unfortunately, this is an example of having to stop, turn around, and look back at the mess left in our wake. There's no way around it. And it's important to stop and look back because there are people who are providers yet who we need badly in order to resurrect some semblance of stability in our child welfare system. During the LR37 hearings that we held across the state we heard from these individuals, faultless to a person as they present themselves--and it's hard not to agree with them--quite aware of the fact that they were contracting in a new world, but ultimately also aware of the fact that the children they were providing care to were wards of the state, our responsibility, even though there were subcontractors. The recommendation ultimately of the LR37 committee to these subcontractors was go through the miscellaneous claims process, because with all the things we had to deal with we felt this was just a bit beyond our purview. Get it to Business and Labor. Get it to the Claims Review Board, Business and Labor, folks who deal with these miscellaneous claims on a regular basis, and ultimately bring it here to the Legislature where we can talk about it. So we did not have a specific recommendation, except I think we can comfortably tell you this, and that is we are concerned about the survivability of these entities. We've already lost some providers. I can think right off hand of one in Senator Hadley's service area or perhaps Senator Wightman's. It was a transportation company that just could no longer cash flow because of the loss of revenue that they realized. And I certainly understand the example, the metaphor given by the Speaker of the state contracting with somebody to build a garage or a building and that they subcontract; and the subcontractors are going, shouldn't somebody pay us? (Laugh) But this is a complicated issue because the basis of that original contract and a payment methodology, a shift of risk, takes it outside the purview of anything the state had contracted for as it relates to health services in the past. Completely outside that purview; something completely different. It's as if the state went to a lead agency to build a garage and said, we're not sure how big a concrete base to build, we're not sure how deep the foundation should be, we're not sure how tall it's going to be or how to roof it, but we'd like you to agree to do all this for a set amount of money. Now (laugh) shame on the lead agencies for agreeing to that contract and shame on the state, as has been pointed out, for putting together such a poor contract to offer. But the subcontractors who are out there did what they were told to do: poured the concrete, put in the foundations, built the walls, put on the roofing, and presented a bill as they were told to do, and were told, we're out of money because we didn't really come up with the right amount of money for the size of the concrete to be poured and the depth of the foundation, and so on. So this is a mess. And they did what they were asked to do and told to do. And now we're left with those providers, most of whom, as Senator Hadley points out, are in outstate Nebraska,... [LB1072 LR37]

SENATOR CARLSON: One minute. [LB1072]

SENATOR GLOOR: Thank you, Mr. President...are still struggling to stay alive. And this

Floor Debate  
March 14, 2012

---

affects not only services for children. Organizations like the Mid-Plains Center, the Behavioral Health Mental Health Center in Grand Island, took money out of their reserves to help cover the cash flow problem. There are programs that could be provided in substance abuse or for adults that are not being provided because those monies weren't available to do it. They went into subsidized and nonpayment for services and providers in providing care for children. So this is much broader than just child welfare. Many of these providers have had to pull their horns in, in providing care across the whole continuum of behavioral health and welfare services that they provide. And that's part of the tragedy we're trying to avert, part of the tragedy we're trying to avert by making these folks as close to whole as we can and fulfilling that obligation on the contracts they agreed to. And I ask for your consideration of that. Thank you. [LB1072]

SENATOR CARLSON: Thank you, Senator Gloor. (Visitors introduced.) Senator Coash, you're recognized. [LB1072]

SENATOR COASH: Thank you, Mr. President. I was following the debate. Several of my questions have been answered. And I would wonder if Senator Lathrop would be available for a few questions. [LB1072]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB1072]

SENATOR LATHROP: Yes. [LB1072]

SENATOR COASH: Thank you, Senator Lathrop. And I'll get to my question in a moment. I'm going to kind of set it up here. Several years ago or three years ago I believe we lost a provider here in Lincoln, Visinet. And there was a problem not with them getting their subs paid but this was a problem with them getting their employees paid. And I worked with a whole group of employees who, when Visinet closed, had provided hours and hours of service to children; the service was delivered. But they closed their doors, and the employees were left without paychecks and without a job. With regard to the claims in the amendment, is there anything guaranteeing that should this go through that the money goes to the employees that provided the service or will the...I mean, if it's a privately held company it just goes to them and they continue to operate? I know we're talking about businesses that are currently operating, which is different. But if you could speak to that I would appreciate it. [LB1072]

SENATOR LATHROP: Sure. Senator Coash, as you might expect, before we brought this to the floor we had a hearing. The hearing went a whole afternoon. I did not hear one person come in and say, you know what, not only did the sub get stiffed, but I worked for the subcontractor and I didn't get paid. Most of the stories that we heard when we took up this bill were stories of the subcontractors having to go into their line of credit, borrowing money against their house, doing everything they could to make

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

Floor Debate  
March 14, 2012

---

payroll. And I know I asked a number of them, and somebody who hires foster care people, whether or not all those people got paid. And they assured me they had. So far as I know, we don't have a concern today... [LB1072]

SENATOR COASH: Okay. [LB1072]

SENATOR LATHROP: ...that the subs didn't pay their employees or the people they contracted with. [LB1072]

SENATOR COASH: Okay, that makes...that answers that question. I do want to ask another question, Senator Lathrop, about how we got to today. You mentioned you had a long hearing. Before a group can come to the Business and Labor Committee and say, here's what we're owed, do they have a burden to say...and we've tried the regular court system and we've, you know, Boys and Girls Home owes us this much money and we took them to court, but they're not around anymore, so we lose. Is there... [LB1072]

SENATOR LATHROP: Great question. [LB1072]

SENATOR COASH: Thank you. [LB1072]

SENATOR LATHROP: No. No is the answer. And the problem is, is that this, and you can see Senator Flood is struggling with contract principles, and that's a separate class in law school. If you have an agreement between the vendor, let's say it's a foster care parent, and Health and Human Services, which is the way we did it before and what we've returned to, you have a direct contract claim. Since these people were contracting with the sub, that is Boys and Girls Home, they can't make a contract claim because they don't actually have a written agreement with the state. So what they do is they file a miscellaneous claim based upon a principle outside of contract law, and that's the statutory duty the state has to pay for these services. [LB1072]

SENATOR COASH: Okay. I've got one final question. I'll just yield you the rest of my time. [LB1072]

SENATOR LATHROP: Sure. [LB1072]

SENATOR COASH: The question is this: Why didn't these companies who have now come to the state sue the lead contractor for the money that they're owed? [LB1072]

SENATOR LATHROP: Here's the answer to that and it's part of the problem. We entered into a \$15 million contract with somebody that was worth \$107,000. They were undercapitalized and they are...there is no point. It's the old "trying to get blood out of a turnip." There is no point in trying to go after them,... [LB1072]

Floor Debate  
March 14, 2012

---

SENATOR CARLSON: One minute. [LB1072]

SENATOR LATHROP: ...and that really illustrates one of the problems that I think is a defect in the argument that we satisfied our duty when we paid them, they were undercapitalized. They were worth \$107,000 when we entered into a \$15 million contract with them. And that combined with the other circumstances led to the default. [LB1072]

SENATOR COASH: Thank you, Senator Lathrop. Thank you, Mr. President. [LB1072]

SENATOR CARLSON: Thank you, Senator Coash and Senator Lathrop. Senator Bloomfield, you're recognized. [LB1072]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good afternoon, colleagues. I won't be able to speak as eloquently as my learned colleagues Senator Flood and Senator Lathrop. But I will speak in my own way about what's right and what's wrong in this matter. Senator Krist isn't here this afternoon. But in the middle of our LR37 process last year he boarded his trusty plane and flew to Sioux City. I met him at the airport; we went to Boys and Girls. The way they departed was at best questionable from either side. But that's not the issue here. The issue is whether or not we as the state are going to stiff the people who spent their own money to take care of our kids. These are not giant corporations or mega not-for-profits. They don't have high-dollar lawyers to advise them when they go into these contracts or agreements with the lead agency. These are the lifeblood of Nebraska caregivers. We might be able to find a legal way around paying them, but that doesn't make it right. These people laid their own money out and we owe it back to them. These are Nebraska kids, we need to take care of them. And I'll yield the rest of my time to Senator Lathrop if he'd like it. [LB1072 LR37]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Lathrop, 3 minutes; and then your light is on next, so you've got 8 minutes. [LB1072]

SENATOR LATHROP: Okay. Thank you, Senator Carlson. And, Senator Bloomfield, thank you and I appreciate your remarks. Colleagues, let me answer the question Senator Fischer posed to me, now that I have 8 minutes to do that. The question that she presented to me off the mike is, how is this not the same or not analogous to a roads contract? Let's take a roads contract and then I'll talk about this so that I can demonstrate what I think are the different principles that are involved. If the state enters into a contract, and this goes to the concern expressed about precedents, are we going to have Hawkins subs in here if they happen to not get paid? If the state builds a road or builds a building, they hire a general contractor, and that general contractor is then going to hire a bricklayer and a cement mason and a drywaller and an electrician. Right? That is one circumstance. If the contractor doesn't pay the subs, the subs will generally go after the contractor and not after the owner. Now I'm ignoring a lot of

Floor Debate  
March 14, 2012

---

principles about builder's liens and things like that to make this point. On the other hand, we have a duty that is statutory. In other words, the law that we passed in this body requires that we provide these services, and when we provide them, that we, the state of Nebraska, pay for them. That doesn't prevail over here on the road side of things. If we're building a building, we do it because we need a building or a stadium or a road. Right? We will also do the contract differently. We will run it through a competitive bidding process. And then we will have the Department of Administrative Services make sure that the person that's the contractor is capable, knows what they're doing, have the resources. They put up a bond, they do all the things that the Department of Administrative Services adds to the contracting process. Over here we didn't do any of that. We start out with a statutory obligation on the part of the state to provide the services and to pay for them. And then we wanted to absolve ourselves, or HHS thought they were absolving themselves, by entering into a contract. And as I said, they might as well have entered into a contract for a million dollars with a frat guy, because the person that they contracted with was incapable of performing what they had been contracted to do. Over here on the roads side contract, let's say it Hawkins, they build roads all over this state. We know that they're good; they have the resources; they put up a bond and they pay their subs. And the contract is done well and everybody performs. Over here the difficulty is that it's not all contract law. We start with an obligation in statute and we didn't discharge that by handing this over to Boys and Girls Home because... [LB1072]

SENATOR CARLSON: Senator Lathrop, you're on your own time now. [LB1072]

SENATOR LATHROP: Thank you. And I know I'm repeating myself, but somebody once told me you have to do that sometimes so that it gets through and becomes as simple as I hope I'm making it. We didn't discharge that duty because we picked somebody who was incompetent. Not that they didn't have a good heart. Everybody who came in front of the committee told us they were good at what they did, which was providing services. They had absolutely no experience in coordinating them. Right? So they were not competent to do what they did. They were undercapitalized, which meant, unlike Hawkins over here in my roads example, these guys didn't have the resources to do this, but nobody checked; nobody checked to see if they were competent and nobody checked to see or paid attention to see if they had the resources to do this. And then Senator Campbell's committee made this point in the blue book. These contracts don't work if no one is monitoring them. You can't just turn this over to them and say, here you go, now you have the obligation to pay all these people, and tell the subs, you deal with that guy that's incompetent and doesn't have the resources, and if you don't get paid, tough luck. It doesn't work that way. You have to monitor it to make sure they're spending the money, not on automobiles and haircuts, but they're spending it on services. And that's where we dropped the ball. Another thing: You can't privatize something for less money than you were spending doing it yourself. Just think about that. We tried to get this done, the privatization effort done for less money than we

Floor Debate  
March 14, 2012

---

budgeted the year before when we were doing it ourselves. So now if Senator Campbell is the contractor, she's got to go do everything the state of Nebraska did, and she has to pay her own employees to coordinate all that. Well, that was never going to work. It was never going to work. And here's the proof: five contractors, one left. One of them went through a bankruptcy, several of them ended it very quickly. Why? Because it was based upon faulty assumptions. And that's the other thing: We didn't discharge our obligation to get...by getting a contractor when we entered into the contract based on numbers that weren't accurate. If you say, I'm going to give you a contract to take care of 2,000 kids, and send 3,000 kids over there, Senator Campbell isn't going to get it done, she can't do it. And that's exactly what happened. We had more kids and then we had more services. And then there's a third piece. You'll like this one. In our enthusiasm to cut Medicaid around here wherever we can, we changed the definition of medical necessity. And so Senator Campbell, my contractor, now has to try to pay for all this stuff or more of it without matching funds. Right? She's got to do it with General Fund dollars, which means now she can't make it go as far as it did before over here in the "cut Medicaid at all costs" department. We were cutting our resources that were available, increasing the number of kids that we expected for them to serve, asked an incompetent and undercapitalized contractor to do the job. Now, sounds like the frat kid that we paid a million dollars to, doesn't it? If you find somebody who isn't capable of doing it, you don't give them enough money to do it, and then when the people who were performing the services... [LB1072]

SENATOR CARLSON: One minute. [LB1072]

SENATOR LATHROP: ...you were obligated to pay for come in, and you say, but I paid that kid that I met down at the Student Union a million dollars to take care of this. Well, of course, there's not going to be enough money. And more importantly, we haven't discharged our obligation to pay for these services by entering into a contract that I've just characterized. And that is why these claims bills are in front of you. That's why the amendment is in front of you. And that's why every last person on the Business and Labor Committee, and as far as I know the Health Committee, believes these claims should be paid. Thank you. [LB1072]

SENATOR CARLSON: Thank you, Senator Lathrop. Senators wishing to speak include: Senators Nelson, Schumacher, Flood, Fischer, Price, and others. Senator Nelson, you're recognized. [LB1072]

SENATOR NELSON: Thank you, Mr. President, members of the body. This is an interesting discussion. There are several of us who are lawyers here, and I think we need to discuss contract law. I totally subscribe to what the Speaker set forth. I think he gave us the parameters there and the problems that we face. Let's get two things straight. The services were provided. Senator Howard, the services were provided to the children. They were paid for; they were paid to the lead contractor. I don't think the

Floor Debate  
March 14, 2012

---

statute says that we have to pay twice, Senator Lathrop. I hear words like "fairness; it's the thing to do; it's appropriate." That's not contract law. We talk about being underfunded on the part of the contractor. Maybe due diligence was not done. But as a matter of contract law between the parties you set forth what's going to happen. And unless you are an absolute insurer, and you agree in the contract to stand behind the deficiencies of the lead agency and the subcontractor in this case, you aren't liable as a legal principle. I don't...let me ask Senator Lathrop, I won't ask a question. I assume it was Boys and Girls Club or Boys and Girls Home that took bankruptcy, I may be wrong on that. But if they haven't I would be surprised. So I'm going to assume that all of these claims that we have here were submitted to the bankruptcy court and they were denied. Now when we compare the Department of Roads and what we have here under this situation, it's entirely different. Let me make this point, I don't believe, and I may be mistaken, but I don't think that the Transportation Committee monitors what the Department of Roads does, how they go about building the highways, and how they spend it, not at the time anyway. You know, there may be an audit later or something like that and we may have reservations about how they spent the money. Why doesn't the same thing apply here? What obligation do we have to monitor? We have a contract with these lead agencies. It didn't work out. But we paid them to pay the subcontractors, and they didn't pay. And I feel sorry for these subcontractors. There are some substantial claims here. But unless you can tell me that if we denied these claims that they have a good legal argument to go into court and get a court to say, yes, because the Department of Health and Human Services didn't do all the things that they might have done, they didn't investigate, they didn't do things of this sort, that the state is liable. The state in this instance is not an absolute insurer, it's not an absolute guarantor. And for that matter, we have entrepreneurs around the state of Nebraska that might have \$100,000 to their name. Do we as a state, when we contract for computer services or something like that, do we say, you don't have enough capitalization to do this? I'm going to guess, and I might be wrong, that the Health and Human Services under the \$15 million contract probably advanced some money for them to get started or for them to operate on. Otherwise you'd have to have a pretty substantial outfit that's doing this. This is all new. And just because we went into privatization and perhaps there were some deficiencies in the contract, that's not to say that the state of Nebraska is liable. So perhaps Senator Flood will elaborate on some of these things. But these are the principles of contract law. [LB1072]

SENATOR CARLSON: One minute. [LB1072]

SENATOR NELSON: You make a contract. It's a contract between the parties that say this is what you're expected to do. If the other party to the contract, Boys and Girls Home in this case, couldn't fulfill that, then they are the ones that are liable. And unfortunately they don't have the money to pay these claims. In construction work and things of that sort, we provide for statute by contractor's liens or plumber's liens or service liens. I don't believe that applies here. Then they would have, as we...if they

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

Floor Debate  
March 14, 2012

---

could say that the state of Nebraska was the employer here instead of the lead agency, then they might have some basis for these claims. But just because it's appropriate or a matter of fairness, we are not legally obligated to do this. And I contend that this is a real precedent that we do not want to get involved in. We don't want to, down the road, have people come to us on 50 miscellaneous claims... [LB1072]

SENATOR CARLSON: Time. [LB1072]

SENATOR NELSON: ...that say, well...thank you, Mr. President. [LB1072]

SENATOR CARLSON: Thank you, Senator Nelson. Senator Schumacher, you're recognized. [LB1072]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. This is a very interesting legal argument delineating between parental obligations, contract law, torts; and if we had a higher pay grade and wore black robes and worked across the hallway, we probably could give a definitive answer to it. But we're just us. And as such, let me toss in my analysis of what we have going here. And remember back in the welfare debate a few weeks ago a big problem stood out. We have more kids being brought into the system than, I think they said, any other state per capita. We got an enormous amount of kids coming into the system comparatively. And how they get into the system is a police officer, basically, taking them into the system. And the police officer or peace officer is the one that can do that. The minute that peace officer takes them into the system they are our children and we have an obligation to care for them. We cannot escape that obligation to care for those children by having a contract with somebody else. In the end it is our obligation. Much like if you had a child who was walking home from school and got hit by a truck and somebody rushed them to the hospital and the doctor took care of them, and you had also contracted with a babysitter to watch them when they got home, and the doctor said, I want to be paid. You're the parent, you're stuck for the money. In this particular case we have a contract with a lead agency. That lead agency may or may not have defaulted, we may or may not have defenses against paying them or be able to sue them for not following through with their contractual obligations. But that contract doesn't extend down to the next level, to the guy who actually did the work and provided the care for our children. And he's entitled to be paid unless somehow he waived that payment. So, Senator Lathrop, will you yield to a question? [LB1072]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB1072]

SENATOR LATHROP: Yes, yes. [LB1072]

SENATOR SCHUMACHER: In your work in analyzing this particular situation, what kind of paperwork or relationship was there between the lead agency and the person who

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

Floor Debate  
March 14, 2012

---

ended up providing the care? [LB1072]

SENATOR LATHROP: Guardian and ward. [LB1072]

SENATOR SCHUMACHER: Just ward? [LB1072]

SENATOR LATHROP: Guardian and ward, yes. [LB1072]

SENATOR SCHUMACHER: Okay. But there was no contract specifically that said that they would look only to the agency? [LB1072]

SENATOR LATHROP: Oh, in the relationship between the state and Boys and Girls Home? Is that what you're asking, or whether the... [LB1072]

SENATOR SCHUMACHER: No, the next relationship between the... [LB1072]

SENATOR LATHROP: The next relationship. I don't know of a formal, written agreement. If there was one, I've never seen it. [LB1072]

SENATOR SCHUMACHER: To the provider, the ultimate provider of the service, would the lead agency look like an agent of the state in that relationship? [LB1072]

SENATOR LATHROP: Well, yes, because the state maintained, even in their contract with Boys and Girls Home, they maintained final say over every service the child got. So...and the state had to consent...Boys and Girls Home could not consent to care; that had to be done by the state. The state, HHS, maintained control over the type of care. Right? So if the child is going to alcohol treatment, that had to be approved by the state. There was not a judgment made by Boys and Girls Home over approving care, just finding somebody to do it. [LB1072]

SENATOR SCHUMACHER: And my understanding just for sure, there was no understanding... [LB1072]

SENATOR CARLSON: One minute. [LB1072]

SENATOR SCHUMACHER: ...by the part of the ultimate provider that they would not look to the state for payment? [LB1072]

SENATOR LATHROP: No, I don't think there was an agreement, let alone an agreement with that term. [LB1072]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. Well, if I were wearing that black robe across the aisle at this particular point I'd say we're stuck on this. Thank you.

Floor Debate  
March 14, 2012

---

[LB1072]

SENATOR CARLSON: Thank you, Senator Schumacher and Senator Lathrop. Senator Flood, you're recognized. [LB1072]

SPEAKER FLOOD: Thank you, Mr. President, members. I want to just briefly touch on a few of the issues that I had remaining. And then I want to talk about a procedural issue that I think is important that we should visit about. I asked Senator Lathrop, and he's got four boxes in his office, I've heard about these provider agreements from constituents in my area that purport to be a contract between the state of Nebraska and the subcontractor. I'm not asking for somebody to dig through four boxes right now. But it's going to tally into my discussion on the procedural side. I also know that Kerrey Winterer testified there were no contracts between the state of Nebraska and the subcontractors. We are, in a way, and I don't want to overvalue our role here, a finder of fact, in my opinion, especially to the folks like me that are weighing very heavily on was there a contract. Now Senator Lathrop has made his case and Senator Schumacher has made his case based on the statutory duty. And I think for me that argument doesn't meet the threshold of support because we have a lot of relationships where we care for somebody. A state prisoner goes to a hospital, has a surgery. The doctor works for the hospital. We fully pay the hospital. Doctor doesn't get paid; does the doctor have a right of action against the state of Nebraska? And that may seem like an extreme scenario, but I think it goes to the very heart of what my concerns are related to the contract. Because as much as we want to do the right thing, remember, the taxpayers have paid once pursuant to a contract that was not followed...pursuant...the taxpayers have paid once, but the lead contractor hasn't made good on its obligations to perform with the subcontractor. Let me go to what I'm thinking on the procedure. While I may disagree on some levels with his position on this bill, Senator Bob Krist, if any of you have been around him and as part of the LR37 process, has very strong feelings about this issue. And unbeknownst to him--everything is fine--he had to be called away from the Capitol on important family business right before we started this afternoon. And I understand he's one member, but as we all work together in this place, and I've seen examples of this in the past, I do think there is some value to letting Senator Krist come in and weigh-in on this issue because he has such a strong opinion. And while we can't, as a Legislature, stop things up for one person, I do think this is one of those special situations where Senator Krist should have a chance to be here. This was not an elective decision for him to be gone, this was something that came up in his family and he needed to be gone. And as members of the Legislature I think that may be a courtesy I would ask you to consider extending to him in this situation. It would also give folks like me the chance to dot the i's and cross the t's and look at what some of my constituents, who are more affected by this than probably most of you, refer to when they say a provider agreement, because I don't have anything in my office that I kept that would be what they regard as a provider agreement. I have very strong concerns... [LB1072 LR37]

Floor Debate  
March 14, 2012

---

SENATOR CARLSON: One minute. [LB1072]

SPEAKER FLOOD: ...about where we're going with the amendment. And I'm not suggesting that we give up on those concerns. The point of my short talk here is to consider whether, as a Legislature, we move this to Select File, reserve an appropriate amount of time, let Senator Krist weigh-in out of deference to his very strongly held beliefs, given a family situation, and allow a few of us that have constituents affected to just double-check as it relates to the contract issue, because I want to be absolutely sure that my understanding is correct or that it should be altered based on the facts. I don't know if that meets with any of your favor today. I don't want to cut the debate short. I would ask you, though, to consider moving this to Select. And my vote to move this amendment and this bill to Select is conditioned upon a very strict... [LB1072]

SENATOR CARLSON: Time. [LB1072]

SPEAKER FLOOD: ...adherence to the...that is not going to obligate me on Select. Thank you. [LB1072]

SENATOR CARLSON: Thank you, Senator Flood. Senator Fischer, you're recognized. [LB1072]

SENATOR FISCHER: Thank you, Mr. President and members. I appreciate the comments by the Speaker. I, too, have a number of questions about just what situation we're looking at here. If Senator Lathrop would yield for questions, please. [LB1072]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB1072]

SENATOR LATHROP: I'd be happy to. [LB1072]

SENATOR FISCHER: Thank you, Senator. And I thank you for your comments that we had discussed off the mike with regards to the Department of Roads and the contracts that they let with their contractors and then the contractors have with the subcontractors. But specifically I wanted to address a couple of statements made by Senator Nelson and by Senator Flood when they said that the state has already paid the contractors. Is that true? [LB1072]

SENATOR LATHROP: The state paid Boys and Girls Home. They withheld the last \$1.6 million when it was completely obvious that they weren't paying the contractors. The state then, through a great deal of work, got the subs to agree to take a pro rata share of the \$1.6 million. So these people that we're talking about today have been paid roughly 35 cents on the dollar. The claims today are for the balance. [LB1072]

Floor Debate  
March 14, 2012

---

SENATOR FISCHER: Did the state pay all of the contractors, including KVC? You had mentioned KVC earlier, that they had been paid, and their...but that, I don't believe, is true, because aren't they included in the budget and we have not passed the budget? [LB1072]

SENATOR LATHROP: Their package, their severance package, if you will, provides for \$6 million--additional dollars. And that's in the budget and the discussion is on page 24 of this book. [LB1072]

SENATOR FISCHER: Right. And KVC is the reallocation of funds, where we would be paying them once we pass the budget, if it is passed in its entirety? Is that true? [LB1072]

SENATOR LATHROP: If we pass the budget in its entirety, KVC will get \$4.2 million to pay directly to its subs (laugh), which is the same thing we're trying to accomplish here. [LB1072]

SENATOR FISCHER: Why are they being treated differently and what (inaudible) this claims bill? [LB1072]

SENATOR LATHROP: That is a great question. And I will tell you, somebody in committee said, because they have a better lobbyist. And I have to tell you that the situations are identical. We are talking about paying the subs. KVC does it through the appropriations process and in an agreement that they entered into on their way out the door. Boys and Girls Home has some subs, they get what's left out of the Boys and Girls Home contract and are told, no more. [LB1072]

SENATOR FISCHER: Can you tell me, Senator Nelson also said that these claims, and I don't know if it includes KVC, but the claims we're dealing with right now, they were submitted to bankruptcy court. Is that true? [LB1072]

SENATOR LATHROP: I'm not following you. I didn't hear Senator Nelson say that, so if you can ask the question again. [LB1072]

SENATOR FISCHER: Oh, I thought he said that they were submitted to bankruptcy court and then those were denied. You don't know if that's true? [LB1072]

SENATOR LATHROP: No, no, no. They wouldn't have been submitted to bankruptcy court. They would have been submitted to the Claims Board, which is the first step in the process in making a claim against the state. [LB1072]

SENATOR FISCHER: Okay. [LB1072]

Floor Debate  
March 14, 2012

---

SENATOR LATHROP: Those claims were denied. Then they came to the Business and Labor Committee as denied claims, which we amended into our approved claims. [LB1072]

SENATOR FISCHER: Okay. Thank you, Senator, I appreciate that. That just raises more questions for me on this issue. As I said earlier, I can appreciate Senator Flood wanting to move this forward so Senator Krist can participate in it. My questions being unanswered and I think very confusing, I would have a problem moving it off General File. I don't know if the... [LB1072]

SENATOR CARLSON: One minute. [LB1072]

SENATOR FISCHER: ...Speaker and I can visit about that off the mike or not. But I do thank you, Senator Lathrop, and thank you, Mr. President. [LB1072]

SENATOR CARLSON: Thank you, Senator Fischer and Senator Lathrop. Senator Price, you're recognized. [LB1072]

SENATOR PRICE: Thank you, Mr. President. With five minutes, I'll be quick as I can here. In prior work, working on federal contracts, we dealt with privity of contracts, subcontract, actually there is no privity in subcontracts. FAR Part 44.101 talks to this; there's a great diagram. Basically, it talks of a buyer and a seller can have an agreement. And that when we talk about a privity, that's just a contractual relationship, that's really what privity comes down to accordingly. And so when we're looking at this and some things we've always been concerned about in the privity of contracts, the government did not have a contract, as we knew, with the subs themselves, and that there was a contract between the prime contractors and the subs. And I can say this with some degree of certainty, because the subs were paid. Within the contract there's a payment clause, like in the federal government we have a flow down or we'll have a directive of a net 30, net 45. My understanding that this contract with HHS had with their providers, they were telling...HHS told the client there, Boys and Girls, that they would mirror the same payment terms net 45. That was the agreement that they were supposed to be doing. And the providers were paid. This was not a one payment plan; they were paid along the way in some increment. I'll assume for now that it was a monthly increment that they were receiving their payment. For a payment to be received there had to be some type of contractual agreement between the prime contractor and the subs. In the tragedy that transpired and that the company, the prime is no longer going to work, an agreement was made, \$1.6 million, here's where I guess some of the trickery is or some of the challenge is. It was agreed that the state would pay for or in place of the prime contractor to the subs at the 35 cents on the dollar rate. And that was only agreed to by the prime contractor if all the subs would agree that they wouldn't come after them to, I guess, seek no further payment. So there were a lot of agreements made by the prime contractor and the subcontractors. And again, I

Floor Debate  
March 14, 2012

---

challenge that there was any type of contractual relationship with the subs, because oftentimes, you know, you follow the money within the contract. And it was just the state was trying to help these subcontractors because they, I guess someone believed that these subs would not be paid at all if the \$1.6 million had gone directly to the prime contractor. They would not have gotten 35 cents, they would not have gotten 1 cent. There was a fear of that and they tried to insulate it. So when we look at the thing, and we heard the discussion now with KVC brought in, one of the things I'm listening for and we heard earlier there was an agreement. KVC knew they were going to do what they were going to do and they came in and they made the agreement before the termination happened and the other people didn't or so it seems. I'm going to listen for this. But again, in dealing with privity of contracts we don't want to get into a position where now a prime contractor has defaulted for some reason, and now the state is on the hook. I don't believe we've done any precedent setting by agreeing to contracts we already have. We don't want to get involved in that. And it would be problematic, not just in the roads but in everything we do. The state does a lot of contracting. If you look at the budget and we were to talk to Appropriations and we were talking to department of accounting services and you look at the other departments, a lot of subcontracts are done. As a matter of fact, when we look into the... [LB1072]

SENATOR CARLSON: One minute. [LB1072]

SENATOR PRICE: ...thank you...in the federal realm, well over 65 percent of all dollars flow down to subcontractors. I'm sure the state is in much the same situation. But there is a problem here. And I believe Speaker Flood said there are the stipulations, and we would all agree or pretty much agree to those. But what we don't have here and what we haven't seen the discussion on was, how did payments happen in the past and did that actually set the context for the contract? Thank you very much, Mr. President. [LB1072]

SENATOR CARLSON: Thank you, Senator Price. Senators wishing to speak include: Senators Janssen, Howard, Gloor, McCoy, Bloomfield, and others. Senator Janssen, you're recognized. [LB1072]

SENATOR JANSSEN: Thank you, Mr. President, members. This isn't generally an area I'd stick my nose in, but as you can see from my nose I don't always heed that advice. So as we kept going back and forth on this, I did...Senator Schumacher brought up something that made me think, with the babysitter analogy. If I...I have two kids. I don't...when I ship them off to a babysitter for the evening I don't absolve myself of all responsibility of those children. And I'm not going to get caught up into the analogy game here and how we can extrapolate out on that. That's just what came to me initially when we were talking about this. I do have some of these facilities or had some of these facilities within my district. I believe Senator Hadley read off a few that were in Fremont. These were community leaders that put these together, at least one of them that I'm

Floor Debate  
March 14, 2012

---

very familiar with. They did this, not as a moneymaking venture. I can only speak to these individuals, they're philanthropic in the community, religious leaders within the community, the local college, leaders within Midlands University, great people to have in our community. And I fear that if we don't go ahead with this, other great people in communities will fear or not want to help out should there come a time to help out again. That has nothing to do with contracts. That's just putting a personal face on it. These people were borrowing money to make payroll. They were pulling on their own funds to make payroll to pay for these...pay for not getting paid from the agencies to pay for their staff. And this happened every month. I would get a call, get an e-mail. They sent me the e-mails back and forth. I've dealt with contracts before in my business and have seen...I guess I've seen enough runarounds to know what a runaround is. And they were getting the runaround on why they weren't getting paid for their services, all the while they were continuing providing this service. So for me I'm in the medical staffing field with nurses. I was very interested in the conversation this morning dealing with nursing facilities. But if we don't get paid for our staff in a hospital, I will tell my staff or I will call the hospital and say, we're going to pull our staff out of there. We're not going to provide services for you anymore if you're not going to pay us. That's a right I have. I don't know a whole lot about these contracts. I'm taking Senator Howard at her word. But I asked her if that was a possibility. Not that the people in...I know the people in my community never would do this, but they couldn't stop providing services to these children. So that makes it different. They couldn't say, all right, go ahead and get out, we're not getting paid, go home. They had no home. So they were stuck paying week after week, month after month, without getting paid while getting the runaround. They had something called a...and I don't know if this is the exact word, a "no reject, no eject" clause. I can't imagine going into a business contract and having that with a hospital and then I'm stuck and I have to continue to pay over and over and over again. I would certainly look for recourse. I don't know what the proper avenue for that recourse is, this is one of them. I don't know if it's the best, but I've been very into the conversation. And I didn't plan on speaking on this, but that kind of made me want to speak to this. And I think it's something we should make right in some manner, somehow, whether it's this way, whether it's within the budget. However we can do it, I think we should do something. And with that, I'll yield the balance of my time to Senator Howard. [LB1072]

SENATOR CARLSON: Senator Howard, 1 minute 30 seconds, and then you're on next. [LB1072]

SENATOR HOWARD: Thank you. And thank you, Senator Janssen. Again, I'm going to start this by saying I believe we have the obligation, we have the moral obligation and the legal obligation to pay this amount of money that's owed. And at the risk of being corrected by the attorneys on the floor, I'm going to use the legal term for these children being state wards, and that's loco parentis. I heard that many, many times in court; it comes down on the court orders. What that means is that the state acts in lieu of the parent, the state becomes the parent. When these children are made state wards the

Floor Debate  
March 14, 2012

---

state becomes the parent. So you can see how apt these analogies are. The state has taken on the responsibility of the parent. Now unless the parental rights are terminated, the parents' rights are considered in any court hearing, and their rights remain in place. But the state is acting in place of the parent. We don't have the same obligation with people that are in jails or prisons; they're adults. The state does not act as their parent. And I would say that's one of the defining differences here in this issue. I've read through this contract, I've read through it many times. It's very, very confusing. I'd say it might be time for the state to hire a really good staff of attorneys because its contract and the amendment, and then amendment upon amendment, and then amendment upon the contract and the amendment, it's hard to follow. [LB1072]

SENATOR CARLSON: Senator Howard, you're on your own time. [LB1072]

SENATOR HOWARD: Thank you, thank you. Originally with the six lead contractors there was an amount of money that was awarded to these contractors for start-up fees, no stipulations, no requirements, no guidelines. Alliance received \$393,400 over the period of August, September and October of '09. And then when they got right up to signing the contract in November of '09, they said, no, we can't do this, we can't afford to do this. So they had that money and used it as they saw fit. Again, the contract didn't include a return clause. So the money didn't come back to the state, taxpayer dollars given to an agency, the services were not provided. I'm not faulting Alliance; they probably made the wisest choice. But they did keep our state dollars, and that really is our fault, isn't it? The state's, and not the body's, because we weren't involved. It was done outside of our jurisdiction or when we were in session; it was done by the CEO of Health and Human Services who made the choice. Taxpayer dollars--nothing to show for it. I went to Kansas, I visited their facility, because when this was coming down I wanted to see what this grand proposal was and what they had to offer that we couldn't do as employees in the department. And I was impressed because they had a fine administration building that they told me they had paid for in I think they said seven years it was completely paid for. But that kind of made me even more leery of what they were offering. And as it's proven out, everything that glitters isn't gold, and this contract is certainly an example of that. Senator Fischer asked, why are we paying KVC \$6 million, when they're gone now, they've left us? Why are we paying them that? And I took some time to look at the contract and I asked Kerrey Winterer this question. And he said, well, you know we want our records back, they have our files. And I said, well, according to the contract it says right in there we get our files back, they have to be returned. Well, he wanted to make sure that the contractors were paid. And I said, right in there in the contract it says the contractors will be paid by the agency. That's their obligation in their agreement. And then the last time I asked a question it was explained to me that an amount of money had been paid initially to the contractor with the thought, with the understanding that they would reduce the number of children who were in out-of-home care by an amount that would cost them more initially, and as the children were returned to their biological families the cost would go down. So I said, well, did that

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

Floor Debate  
March 14, 2012

---

happen? Were the numbers of children returned to their homes? And he couldn't give me the numbers. He said he would get those to me, but I haven't seen those numbers yet. So again, again I asked, did we do the best possible contracting in this arrangement? No. And by "we," I'm saying the department, not this body. Did the department do the best possible contracting? No. Yes, they put in a no eject, no reject agreement with the lead agencies. And this is a dream come true for them because it means you can't turn down a child, no matter what the problem is, no matter what their issue is, be it sexual abuse, physical abuse, behavioral health, mental illness, you can't turn them down. And furthermore, you can't put them out of your program. So once they're in your program... [LB1072]

SENATOR CARLSON: One minute. [LB1072]

SENATOR HOWARD: ...you're responsible. It's a very, very expensive undertaking. Also, if the court ordered the placement of a child that was under the supervision of, say, KVC and a facility out of state, KVC had to pay--very, very expensive. The fault lies on both sides. The contractors agreed to this. They can read the contract as easily as I can. They agreed to it. I don't see the reason that we should be paying the additional \$6 million to somebody that's gone or be paying them for things they already agreed to in the contract. This is our obligation, this amount of money that's owed right now. The \$6 million I would strenuously object to. Thank you. [LB1072]

SENATOR CARLSON: Thank you, Senator Howard. Speaker Flood, for an announcement. [LB1072]

SPEAKER FLOOD: Thank you, Mr. President, members. I've had a chance to visit with several of you about this bill. And it's my opinion that based on where we're at in the day and what we were able to accomplish today, that it's in the best interest to go ahead and adjourn for the day until 9:00 tomorrow morning. Give us a chance to get some more of that information and resume our discussion on General File with LB1072 and AM2358. I think we had a productive day. We covered a lot of ground. The budget is a big part of our session and we are working through it. So we're going to go ahead and adjourn, hopefully. And then we'll be back tomorrow morning. Thank you for your efforts.

SENATOR CARLSON: Thank you, Speaker Flood. Mr. Clerk, for an announcement, items for the record.

CLERK: Thank you, Mr. President. Judiciary Committee, chaired by Senator Ashford, reports LB1145 to General File with amendments. And Senator Krist has an amendment to LB1158 to be printed. (Legislative Journal pages 924-929.) [LB1145 LB1158]

Senator Flood would move to adjourn the body until Thursday morning, March 15, at

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

Floor Debate  
March 14, 2012

---

9:00 a.m.

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye.  
Opposed, nay. We are adjourned.