

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

Floor Debate
May 23, 2013

[LB57 LB66 LB90 LB104 LB140 LB255 LB298 LB308 LB314 LB326 LB331 LB341
LB368A LB368 LB402 LB410 LB429A LB429 LB476 LB479 LB497 LB505 LB522
LB561A LB563 LB573 LB603 LB623 LR351 LR352 LR353 LR354 LR355]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighty-third day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Hansen. Please rise.

SENATOR HANSEN: (Prayer offered.)

SENATOR CARLSON: Thank you, Senator Hansen. I call to order the eighty-third day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

SENATOR CARLSON: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: Mr. President, I have no corrections.

SENATOR CARLSON: Thank you. Are there any messages, reports or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB368 and LB368A to Select File, some with Enrollment and Review amendments attached. Enrollment and Review also reports LB561A as correctly engrossed. I do have the lobby report for this week, Mr. President, and a series of agency reports that are acknowledged on the legislative Web site and available for member review. That's all that I have, Mr. President. (Legislative Journal pages 1561-1562.) [LB368 LB368A LB561A]

SENATOR CARLSON: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda which is Final Reading.

CLERK: Mr. President, LB429A was a bill by Senator Crawford. She would move to return LB429A to Select File for purposes of considering AM1479. [LB429A]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Crawford, you're recognized to open on your motion. [LB429A]

SENATOR CRAWFORD: Thank you, Mr. President. Good morning, colleagues.

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

Floor Debate
May 23, 2013

AM1479 is a simple amendment. It strikes the...it strikes "261" and inserts "33." This is a correction. We were contacted by the Fiscal Office. They had made a drafting error in the drafting of LB429A, and so this is just to correct that and make sure that the funding for complying with the Contract (sic) Transparency Act actually comes out of the correct program in the Department of Health and Human Services. And the correct program would be Program 33, which is an operations budget of the Department of Health and Human Services. This...just to remind you, LB429 is the transparency act that extends the (Taxpayer) Transparency Act to contracts of the state of Nebraska. [LB429A LB429]

SENATOR CARLSON: Thank you, Senator Crawford. Members, you've heard the opening to return LB429A to Select File. Are there senators wishing to speak? Seeing none, Senator Crawford, you're recognized to close on your motion. She waives closing. The question is, shall LB429A be returned to Select File for an amendment? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB429A]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of the motion to return to Select File. [LB429A]

SENATOR CARLSON: The motion is adopted. [LB429A]

CLERK: Mr. President, Senator Crawford would offer AM1479. (Legislative Journal Page 1510.) [LB429A]

SENATOR CARLSON: Senator Crawford, you're recognized to open on AM1479. [LB429A]

SENATOR CRAWFORD: Thank you, Mr. President. Again, this is just a correction to the appropriations bill for LB429 to make sure that the funding that is required from the Department of Health and Human Services comes out of the correct fund. Thank you, Mr. President. [LB429A LB429]

SENATOR CARLSON: Thank you, Senator Crawford. The floor is now open for debate. Senator Larson, you're recognized. [LB429A]

SENATOR LARSON: Thank you, Mr. President. And again, I've brought up this point a number of times and, as we're moving forward, now in the 83rd day. And we look at our green sheet, and I don't know if we've been looking at our green sheet near enough. We see, on line 34, that we, the Appropriations Committee, left about \$52 million to spend. Those bills that are on Final Reading drop that \$52 million to \$8.8 (million), and all the bills on Select File drop that down to minus \$12.68 million. So we can't pass every bill that we've passed on so far. That's apparent. And I've supported LB429 as the process goes through, and I understand what Senator Crawford is going to do or is trying to do with moving it over, the program number, to make sure it's going to the right spot. But is

Floor Debate
May 23, 2013

this more important than the other bills that are on Select File? That brings it down to minus \$12 million. We can't spend more than that. We haven't made any of those decisions yet. And maybe we will, in the next eight days, seven days, make those decisions of what is and what isn't more important; or maybe the Speaker will just make those decisions, and the first bills to get scheduled on Final Reading that have A bills will get passed and take up all the money. And if your bill isn't lucky enough that it has an A bill, doesn't come up first, it won't, and then we'll just say, oops, all the money is gone. I see we have Final Reading today. Doesn't look like any of them have A bills, maybe we'll hit them all together, but I think that's a question that we still have not really asked ourselves as a body. And where are those priorities? And we talk about transparency, and we heard how much this will do for transparency, showing the public what our contracts are. We heard the people stand up on this bill and talk about how important transparency was. And I've hit this head up before, and Senator Chambers brought up my priority bill yesterday and Senator Lautenbaugh talked about it as well. Some people only like transparency half the time, part of the time. Is it good public policy to have a member of one board that doles out government grants in the millions of dollars come to that board from previously serving on a member of the board the gets millions of dollars in grants and still heavily involved in an organization that is receiving millions of dollars in grants? That's what's happening at the Nebraska Environmental Trust. A member of their board was a former board member, is my understanding, and is still heavily involved. And he is part of the group that is giving the group that he is still heavily involved in and is a former board member millions of dollars to buy land, yet that's bad...that's...we don't want that to be transparent. [LB429A LB429]

SENATOR CARLSON: One minute. [LB429A]

SENATOR LARSON: Or the transparency that the executive director has stacked a committee to where our rules and reg can't come out of committee, that is LB57. He does not want this transparency. He has stacked the committee to where this rule and reg cannot come out. So is transparency good all the time or good half the time? Thank you, Mr. President. [LB429A LB57]

SENATOR CARLSON: Thank you, Senator Larson. (Doctor of the day introduced.) We return to debate. Senator Mello, you're recognized. [LB429A]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I appreciate Senator Larson drawing the body's attention to the green sheet, which some of us actually do look at on a daily basis and work on as part of our responsibilities in the Legislature. And if you look at the numbers both on the front and on the back, actually, with the exception of LB402, which is held, so that bill will not be coming back this year, as well as Senator Christensen's LB522, in which Senator Carlson, when it passed from General File to Select, said it would be held unless the current lawsuit that's being...or has been filed by surface water irrigators is dropped, that will be held as

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

Floor Debate
May 23, 2013

well. Those two bills, actually, taking them off the green sheet shows that we have enough money for all of the bills on Select and Final Reading. So just as a point of clarification, to make sure that Senator Larson's comments, while I think, ultimately, it's wise to just draw the body's attention to it, LB429A can pass because we have the funds available for that and all the other bills on Final and Select Reading, excluding LB402 and LB522, both which, in my understanding, are being held for the remainder of the session. So if that is a concern in regards to a member of not wanting to vote for a bill because they're saying we don't have the funding for it, all of the bills--for the third time, I will repeat--all of the bills on Select and Final Reading can pass as they are right now and be signed into law, and we can still be above our minimal reserve that we're required to under state statute. So just more of a point of clarification more than anything else in regards to the comments that Senator Larson just made in reference to the green sheet and the fiscal viability of LB429A and any of the other Select or Final Reading revenue, tax expenditure bills, and/or General Fund expenditure bills in itself. Thank you, Mr. President. [LB429A LB402 LB522]

SENATOR CARLSON: Thank you, Senator Mello. Senator Larson, you're recognized. [LB429A]

SENATOR LARSON: Thank you, Mr. President. Would Senator Mello yield to a question? [LB429A]

SENATOR CARLSON: Senator Mello, would you yield? [LB429A]

SENATOR MELLO: Yes. [LB429A]

SENATOR LARSON: Senator Mello, you're correct, in terms of there might be a few bills on Select and Final Reading that are going to be held over, therefore, making it possible. Have we gone through all of the General File bills that could possibly still go to Select File and Final Reading? [LB429A]

SENATOR MELLO: No, we have not, Senator Larson, and the... [LB429A]

SENATOR LARSON: Thank you, Senator Mello. Well, do some of those General File bills have A bills on them? [LB429A]

SENATOR MELLO: Senator Larson, it is...the green sheet, I'll just walk you through it, only... [LB429A]

SENATOR LARSON: The green sheet has Select File and Final Reading. [LB429A]

SENATOR MELLO: And that's all it's supposed to cover. [LB429A]

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

Floor Debate
May 23, 2013

SENATOR LARSON: That's all it covers. [LB429A]

SENATOR MELLO: Yes. [LB429A]

SENATOR LARSON: But I'm asking you, are there General File that have A bills still left? [LB429A]

SENATOR MELLO: That, as far as we know, have not been prioritized... [LB429A]

SENATOR LARSON: That... [LB429A]

SENATOR MELLO: ...or will not be brought up for debate? [LB429A]

SENATOR LARSON: That could come up in the body. I know there is a number of priority bills that we still have not discussed that are on General File. Do any of those priority bills that are currently on General File have A bills? [LB429A]

SENATOR MELLO: I...there is a number of bills that are...have...that are on General File that have A bills, but they're not...may not be brought up this year. [LB429A]

SENATOR LARSON: They may not, but they could be. [LB429A]

SENATOR MELLO: No, you'd have to talk with the Speaker, Senator Larson. I don't make the agenda, the Speaker does. [LB429A]

SENATOR LARSON: Well, so the Speaker may or may not. I guess I haven't looked, and I was asking you if you knew if there were any General File bills that had A bills because those A bills could still be trailing behind and they're not on the green sheet yet, and you made that point very clear. [LB429A]

SENATOR MELLO: Yes. [LB429A]

SENATOR LARSON: So when Senator Mello talks about, you know, the half-truths or whatnot, he is correct in the terms that everything that is on Select and Final is on the green sheet, but...and I don't for sure. But if there are General File bills that have A bills trailing, they are not showing up on the green sheet yet, therefore, we still do have to make spending decisions. I think that's the point. I mean, he brings up, everything that's there right now there's enough money for. What's coming next? What haven't we discussed on General File that has a fiscal note that we have to consider? And I'll ask Speaker Adams if anything is trailing on General File. If nothing is on General File that has an A bill that's still going to come up, then maybe...then Senator Mello is right and we have enough money to spend everything. We might not have any money next year. But don't just say, oh, everything on Select and Final there's enough money for, let's just

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

Floor Debate
May 23, 2013

do all that. That, essentially, limits anything that's currently on General File. Thank you, Mr. President. [LB429A]

SENATOR CARLSON: Thank you, Senator Larson and Senator Mello. Those senators wishing to speak include Chambers and Murante. Senator Chambers, you're recognized. [LB429A]

SENATOR CHAMBERS: Mr. President, members of the Legislature, you've all heard that expression: If wishes were horses, then beggars would ride; if wishes were meat, the hungry would eat. You know what possibly could happen? I could prevail on the Legislature in the same way that somebody could teach a horse to fly, to suspend the rules and allow me to introduce a very important bill outside of the ten-day limit on when you can introduce bills, and it has been done before. And there could be an A bill attached. So maybe there ought to be a spot on the green sheet which says, in case any bills are introduced by way of suspension of the rules and either bypass General File by another suspension of the rules or have a perfunctory hearing, get it onto General File, and it may have an A bill and it may be able to move through the process in time to reach Select and Final, in which case it would have to be on the green sheet because some money may be spent. When you are mature and when you understand how a legislative body functions, there is such a thing as practicality, being realistic, and dealing with the real world as it exists and not something fanciful, silly, and foolish. And when the chairperson of the committee and the rest of the legislators understand how this process has worked, any member of the Legislature is free to stand up and say, I don't like it. How many times do I do that about something--I don't like it, I think it ought to be done this way? Then become Chairperson of the Appropriations Committee and try to do it that way. But as of now, I'm not aware of anybody who pays attention, day by day, to what goes on in the Legislature and is here, day after day, on issue after issue, and not on certain issues. Well, understand that we have work to do and there must be a framework and a structure within which that work occurs. And sometimes the wheels of that train moving down that track will roll over me, but that's a part of it. This structure and system that has been in place in addressing budgetary issues and the handling of A bills has worked very well. So allow our colleagues who may have problems with it to express themselves, and we must indulge them as I am indulged. But in the meantime, let the train stay on the schedule. With all of the hostility that people had toward Mussolini--he is a fascist--and people don't even know what fascism means as a word, and they don't know from whence it derived. They say, but I'll tell you one thing about Mussolini, he made the trains run on time. Well, we've got a trainmaster, with a crew, and they have managed to keep the train on the track. That doesn't mean everybody likes the schedule. That doesn't mean there may be some hitches along the way. But they are not... [LB429A]

SENATOR CARLSON: One minute. [LB429A]

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

Floor Debate
May 23, 2013

SENATOR CHAMBERS: ...going to reconfigure the railroad. They're not going to say, somebody doesn't like the gauge of the tracks and he talks loud when he decides to be aware that there are two strips of metal that comprise a track. And he says, well, yeah, I see that now, and I don't like the gauge. Well, that's all right. Don't like it, but nothing is going to change. Although I don't like some of the things that the Appropriations Committee have done and, were it left to me, it would have been done differently. But it's not left to me, so I have to grin and bear it or, when it gets out here, fight and tear it. But let the people talk about it, and then we'll just go ahead and do what has to be done. And I'm going to see if some of those who talk about doing what I do are going to deliver on it. Or are they just fat-mouthing? That's what we call it in the neighborhood, fat-mouthing. But, as Shakespeare would say,... [LB429A]

SENATOR CARLSON: Time. [LB429A]

SENATOR CHAMBERS: ...to keep it on a high level, full of sound and fury, signifying nothing. Did you say time, Mr. President? [LB429A]

SENATOR CARLSON: Time. [LB429A]

SENATOR CHAMBERS: Oh, thank you very much. [LB429A]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Murante, you're recognized. [LB429A]

SENATOR MURANTE: Thank you, Mr. President, members. Would Senator Crawford yield to a question? [LB429A]

SENATOR CARLSON: Senator Crawford, would you yield? [LB429A]

SENATOR CRAWFORD: Yes. [LB429A]

SENATOR MURANTE: Senator Crawford, we're talking about an A bill that we just returned to Select File from Final Reading, and you had mentioned that this amendment is necessary because it's technical in nature but it doesn't change any substance in LB429A. Is that generally accurate? [LB429A]

SENATOR CRAWFORD: That is correct, Senator Murante. [LB429A]

SENATOR MURANTE: So you're saying we got all the way to Final Reading and there was a mistake and nobody caught it, is that right? [LB429A]

SENATOR CRAWFORD: That is correct. [LB429A]

Floor Debate
May 23, 2013

SENATOR MURANTE: As you know, I am your Chairman on Enrollment and Review, and I have to offer a mea culpa today. (Laughter) We got all the way to Final Reading and we didn't catch a technical error, and now we have to return a bill to Select File to fix it. And, out of sheer embarrassment, I will announce, today, on May 23, that I will not seek and I will not accept the nomination of this Legislature for another term as your Chairman on Enrollment and Review. (Laughter) And, what's more, as you may well know, the rules provide that, as E&R Chair, I have a Vice Chair. My loyal, trusted Vice Chair, my right hand, Senator Lathrop, is term limited. So we will now have a power vacuum on the Enrollment and Review Committee. And, really, this is an opportunity of a lifetime for any member; if you would like to seek leadership, this is your chance. So I...it sounded to me like things are getting a little chippy on the floor, and I hope that adding a little levity helps a little bit to that. But I absolutely support LB429A, Senator Crawford. It's a brilliant idea. Thank you, Mr. President. [LB429A]

SENATOR CARLSON: Thank you, Senator Murante. Senator Larson, you're recognized. This is your third time. [LB429A]

SENATOR LARSON: Thank you, Mr. President. And Senator Chambers brought up making sure the train stays on schedule. And after his little exchange yesterday about how he'll stop the whole train and not let it go on schedule anymore if LB57 comes to a cloture vote and Senator Lautenbaugh's subsequent threat, I thought of a little poem for Senator Chambers. Senator Chambers can call me whatever he wants, but his words will not phase me, no they will not. Senator Chambers talks the talk, but to close down the session, he will not walk the walk. Senator Chambers, you huff and puff and, in the end, it will all be a bluff. [LB429A LB57]

SENATOR CARLSON: Thank you, Senator Larson. Senator Chambers, you're recognized. [LB429A]

SENATOR CHAMBERS: Mr. President, members of the Legislature, bumptious puppies should not try to deal with old K-9's who have been in the game a long time. Children sometimes act and speak prematurely, and we'll just see what happens. But I think, if you needed some guidance on what you ought to do on LB57, you just got it. Now I can demonstrate what I can do as I've done; that's how I got the sales tax authority for Omaha eliminated. Senator Larson doesn't spend a lot of time on this floor, either. He gets bills from ALEC. He has people from Iowa to come over here and tell us how to put pressure on people to make them give certain information, and they cannot take recordings and find out how animals are being abused, and if they don't do it a certain way then they are criminalized. It's good that it comes to the Judiciary Committee because I know how to deal with trash, and that's what that kind of stuff is. And a friend of his was going to confront Alan Peterson, threatening violence, after a committee hearing. And I saw it taking place. Now who's full of hot air? You know who intervened and told that bully...and he's much bigger than I am. But what I was going to say the

Floor Debate
May 23, 2013

other day: I've always been the runt of the litter. So when you're accustomed to having to look at people and you look up, it doesn't feel like you're looking up anymore. It feels to you like they're on eye level, so the size means nothing to me. And it was getting loud. So I'm the one who went and stood in front of this man and told him, pointing at Alan Peterson, this man is not here alone, you're not going to do that here. And I stopped it. And after things...the guy was pushed off and he knew he was not going to have his way in dealing with Alan Peterson, guess who stepped in to do something? Tyson Larson. It was over and I told him, just get on away from here. I have dealt with issues. Talk the talk and walk the walk? I won't sit back until a volatile situation is settled by somebody and then step in as though I'm going to do something. The trooper even told me that he was watching and he was prepared to make a move if necessary. But everybody was frozen except me because I know how to deal with somebody who is a bully. Alan Peterson wasn't feeling too well that day. Alan Peterson is in my age bracket. And I'm not going to stand by, as old as I am, as small as I am, as weak as I may be, and watch somebody bully a woman or an old person because, to me, I am Goliath and every bully is Tom Thumb. And if he's going to step on me, then he's going to have to do it, not fat-mouth about it, make a threat to me, and huff and puff and act like I'm going to cut and run because he can bully women, bully people smaller than himself. It's not going to happen with me. I might be able to lick my lips and you might get a banquet, trying to whip me. [LB429A LB57]

SENATOR CARLSON: One minute. [LB429A]

SENATOR CHAMBERS: But I'm going to get a sandwich along the way, and you're going to know you've been in a fight. You're going to know it, and you're going to have to whip me more than once. Now you want the street brought in here? Then you talk like you're talking now, and then you back up your talk. You started it, now finish it. Thank you, Mr. President. [LB429A]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Karpisek, you're recognized. [LB429A]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. It seems like we've all had our Cheerios this morning, and someone got something into them for us. And, I don't know, I thought we were kind of almost getting the landing gear down here, but I'm starting to get rankled up myself. And I just wanted to quickly say that I know that Senator Chambers doesn't need any backup, but I'd be glad to be his backup. And when he says that he's the runt of the litter and all these things, I disagree--not physically, not, especially, mentally. A lot of people ask, as they all ask you, about Senator Chambers. And I still say, at 75 years old, I wouldn't want to tangle with him. Might be a little fun. I might be able to run faster scared than he can mad. That might (laughter)...but I don't think...I see him bound up the steps also, and I don't think that I could even do that. But I absolutely agree with him on the bully part. We've seen it

Floor Debate
May 23, 2013

happen. I saw it happen on one of my bills. My supporters tried to be bullies. That is the most absolute stupid thing anyone could ever do, to come in here and try to do that to anyone in this body. I was embarrassed, I'm more embarrassed, and I've tried to get them to knock things off. Trying to come in here and strong-arm anyone absolutely will not work. I know it won't work for...on me. And if I know they're trying to do it to any one of you, I want to know about it, and I'll grab Senator Chambers and get behind him and we'll take care of it. (Laughter) But I just thought I'd try to get up and put a little levity in here because I see that things are getting real...a little riled up, and I've seen a couple people not happy with each other already. And, as I say, I know what happens to me when I see that. I go from 0 to 110 very quickly. Let's try to work on these things. Let's quit trying to poke each other in the eye. Let's try to work through this. False accusations and those sort of things are not going to work. And if that keeps going on, it probably will turn into something more serious, and I don't really want to see that happen. But if it does, I'll be more than happy to hop in. Senator Chambers, I know, has fought his whole life. I feel like I have, too, and I know that some of you in here, or many, have done the same thing. You don't get in here by being a wallflower and not having some ego and maybe not having a fire down in your belly for some strange reason or another. So to think that anyone in here is a coward I don't think is even a smart idea. To call us names, to call any of us names, doubt our intelligence, it's just not wise. It does not help your cause. I got an e-mail about...I guess it was actually a Facebook post about how we get here and we get all this power and big money and retirement and an insurance, again, just showing how someone doesn't really know what the heck they're talking about. Twelve thousand dollars a year, no insurance, no retirement, as we always laugh about, all you can eat and drink, I'm not complaining about that. I knew it coming in. [LB429A]

SENATOR CARLSON: One minute. [LB429A]

SENATOR KARPISEK: I knew it when I ran again. I'm not complaining about that. I think we deserve more money. I'm not complaining. But I'm saying, if you want to come in and call names, get your facts straight. And I just want to say that on the floor too. Get your facts straight. We all can smell it when you're trying to use something else. Don't get yourself sideways with the body, not now. Thank you, Mr. President. [LB429A]

SENATOR CARLSON: Thank you, Senator Karpisek. Seeing no other senators wishing to speak, Senator Crawford, you're recognized to close on AM1479. [LB429A]

SENATOR CRAWFORD: Thank you, Mr. President. And, colleagues, one of the great things about the Unicameral is you never know where floor debate is going to go. So we've had a wonderful illustration of that this morning. Let me just remind you, LB429 is...expands the Transparency Act that many of you here passed, and we had overwhelming support for LB429 to extend transparency to government contracts. And AM1479 is a technical correction to make...for the A bill for LB429. And I would also just

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

Floor Debate
May 23, 2013

like to publicly thank Senator Murante for his work with E&R Committee and thank him for his service on that committee. He's done a great job, and I appreciate his work in doing that for all of our bills and being here on the floor to move the motions on all of those bills as well. I appreciate that very much. Thank you. [LB429A LB429]

SENATOR CARLSON: Thank you, Senator Crawford and members. The question is, shall AM1479 be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB429A]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB429A]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk. Senator Murante for a motion. [LB429A]

SENATOR MURANTE: Mr. President, I move to advance LB429A to E&R for engrossing. [LB429A]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk, next item. [LB429A]

CLERK: Mr. President, the first bill, LB308. Senator, I do have Enrollment and Review amendments. (ER107, Legislative Journal page 1547.) [LB308]

SENATOR CARLSON: Senator Murante for a motion. [LB308]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB308]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay. The amendments are adopted. [LB308]

CLERK: Mr. President, I have an amendment from Senator Carlson, AM1460. I have a note he wishes to withdraw. With that action, Mr. President, I have nothing further pending to LB308. [LB308]

SENATOR CARLSON: Senator Murante for a motion. [LB308]

SENATOR MURANTE: Mr. President, I move to advance LB308 to E&R for engrossing. [LB308]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk, next item. [LB308]

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

Floor Debate
May 23, 2013

CLERK: Mr. President, Senator, LB573, I have no amendments to the bill. [LB573]

SENATOR CARLSON: Senator Murante for a motion. [LB573]

SENATOR MURANTE: Mr. President, I move to advance LB573 to E&R for engrossing. [LB573]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. All opposed, nay. The bill does advance. Mr. Clerk. [LB573]

CLERK: Mr. President, LB331. I have Enrollment and Review amendments pending. (ER110, Legislative Journal page 1557.) [LB331]

SENATOR CARLSON: Senator Murante for a motion. [LB331]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB331]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The amendments are adopted. [LB331]

CLERK: I have nothing further with that bill, Senator. [LB331]

SENATOR CARLSON: Senator Murante for a motion. [LB331]

SENATOR MURANTE: Mr. President, I move to advance LB331 to E&R for engrossing. [LB331]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk. [LB331]

CLERK: Mr. President, LB368. Senator, I have E&R amendments, first of all. (ER111, Legislative Journal 1561.) [LB368]

SENATOR CARLSON: Senator Murante for a motion. [LB368]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB368]

SENATOR CARLSON: All those in favor say aye. Opposed, nay. The amendments are adopted. [LB368]

CLERK: Senator Hansen would move to amend with AM1464. (Legislative Journal page 1559.) [LB368]

Floor Debate
May 23, 2013

SENATOR CARLSON: Senator Hansen, you're recognized to open on your amendment. [LB368]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. When we were on the mike yesterday, Senator Crawford and I, I thought we were trying to make a good bill a little better but we couldn't get any of those changes made. And we talked about...Senator Crawford and I talked about the difference between "may" and "shall." It's a good thing for a new senator to find out those nuances in here and how big those two words can mean. My amendment is fairly straightforward and it has an origin. It's not something I really thought up. It's from past legislation and it simply takes on the amendment that we passed yesterday on page 4, line 19, and then again on page 5, line 1, strike "2018" and insert "2016." Then again on page 4, line 24-25, from "FY2017-18," insert "and 2015-16." Where I got this idea was that several weeks ago when LB368 started showing up on the agenda, I got to wondering and asking my LA if this bill had ever been submitted before like so many of them are. Well, we looked in last year's legislation and found LB1136. And it was a Senator Mello bill cosigned by Senator Nordquist that had...and if you read the amendment this year, I'm talking about the amendment that became the bill, if you read Section 1, it's the same thing, word for word, so certainly it is germane...my amendment is germane because it has much of the same wording and much of the same input to it. It talks about TANF, spending money for TANF...or from TANF to a wage subsidy program. And on LB1136, it didn't go anywhere last year, but it does list that it's a two-year program, and then at the end of the two-year program at which the Department of Health and Human Services "shall," and we talked about that word yesterday, shall submit a final report to the HHS Committee and the Legislature reporting the number of participants and their employment status. We talked about an extended employment status yesterday that didn't go anywhere and certainly wouldn't want to go there. And then in the following section of the old bill left from last year, it does say \$1 million for two years. And it does have the E clause on, so it was to take effect immediately. I don't know if it was too late for Senator Crawford to get an E clause on her bill with the vote that she got yesterday; I think it would certainly carry. But there's a couple of things that bother me still about the bill, that Problem Gambling Commission was transferred \$1.5 million out of basically HHS into a separate commission. And then the day before yesterday we talked about the juvenile justice transfer from a pilot program to the Commission on Law Enforcement. That's certainly not a pilot program, but I was involved in the pilot program part of the juvenile justice bill in North Platte. This is a \$10 million appropriation every year. This money started at least that it came from HHS. So we've got two programs coming out of HHS into different commissions. One other thing I picked up yesterday when...started when Senator Crawford called this a pretty simple bill. I don't think this is a very simple bill at all. And it has some...if you look back a few years, it has an historical, significantly bad precedent that was set about five years ago. When Senator Crawford called this an overarching management by a nonprofit of these TANF funds and that overarching management nonprofit could be an employer and it's still the

Floor Debate
May 23, 2013

nonprofit. And what brought...what popped into my mind was a very, very bad experience with Boys and Girls Home. They're a nonprofit. They came to western Nebraska to run the foster care program. They didn't do a very good job. They claim they were underfunded. They couldn't pay their providers in western Nebraska and it was a big area. Wasn't just my district, it was many counties in the west. They didn't do a very good job, but it was a nonprofit managing funds through HHS that we told them, you know, we...I don't know exactly, I don't remember who exactly whose idea of privatization it was. It was certainly part of us in the Legislature and certainly the administration. If you look at this bill and squint just a little bit and you think of who is going to run it, it looks like privatization to me. Not very many dollars, only \$4 million over four years, still a lot of money going to this. I think the idea that Senator Mello had last year, his original idea--sometimes original ideas are better than ones that are thought through--that in the end the HHS should give a final report after two years and give a reporting of the number of participants and their employment status, I think two years is probably enough for this pilot program. And if the pilot program after two years seems to work, then go from there with TANF funds. Senator Mello told us yesterday those TANF funds are just going to keep coming in and coming in. Looks like quite a sizable amount of money as long those five bills, or four bills, that were introduced this year don't get funded. I've looked at this. It looks like, you know...we have lost a lot of our institutional knowledge but you still can go back a year, that's not much knowledge to lose or to find. So, you know, we go back in the years and we look at legislation. Some of it gets recycled. I've certainly seen a lot of that over the years. Keeps getting recycled and recycled. This one, I think, was a pretty good idea to put this pilot program to two years and then have a review of it, see how many participants are in it, and what the program is all about. Two years ought to be long enough for a pilot program. That's what...the juvenile justice program, Senator Ashford found out yesterday that it was five years in Omaha but it was only about a year and a half in North Platte. In that first year, juvenile justice, the program that went to probation didn't look like it had that many numbers but the second year certainly proved that it was going to be a worthwhile project. And then after that year and a half, two years or two calendar years, but our pilot project didn't even go two years and we could already tell that it was going to be a good program. So I think that two years is enough for this. Pilot programs shouldn't go on for four years. It's just too long. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Hansen. Members, you've heard the opening on AM1464. The floor is now open for debate. Senator Crawford, you're recognized. [LB368]

SENATOR CRAWFORD: Thank you, Mr. President, and thank you, Senator Hansen, for digging into the history of this wage subsidy bill and for raising the concerns that you raised and are very valid concerns about making sure that we are learning lessons from what we've done in the past. Learning lessons from the privatization experience, and I believe we have and I've seen evidence of that in the bills and work that the Health and

Floor Debate
May 23, 2013

Human Services Committee has done to make sure we've learned lessons from that experience, to make sure that going forward we are being attentive of those issues. And that committee again did a great deal of work on this bill to make sure that we were being attentive to those lessons learned and incorporating them in that bill. And one of the other things that we do hear in the Unicameral is we learn from experiences of the bills when we offer them and also of the interim studies. And so, it is the case that when we talked to Senator Mello about this bill, they had worked on it in the past, as you note, and in the past it had a different form. It was shorter and it had an E clause and over the interim study, part of what they did was try to see how the bill should be improved. And so some of those...one of the lessons that they learned was there was a concern in the Department of Health and Human Services about being able to get the program up and running as quickly as was originally drafted. And so that is why we took the E clause out of the bill and also moved the opening date to accommodate those concerns that were raised about the bill in its original form. And we made other changes as well, partly through our research, and also again thanks to the hard work of the Health and Human Services Committee. We made other changes in the bill to improve the bill and so I believe LB368...with all due respect to Senator Mello and his staff, I believe LB368 is an improvement on the original bill. And as testimony to that fact, we had overwhelming support for the bill yesterday, and I appreciate support for the bill. So I stand in opposition to AM1464. One of the advantages of having a four-year pilot program is that it does give us time to get some information back and see if we need to do any changes through statute and then gives us a chance to put that change in place and get data back on that change before we decide to...whether or not to expand this program or how to use what we've learned from this program to improve the use of our regular TANF block grant funds. So I think a four-year pilot program is a better idea because it gives us a chance to learn from the first couple of years, and then we have time to put in a statute change if necessary, and then see how that runs and learn from that experience before we are trying to put this program in place more broadly. In any event, if we're getting information back in the first two years that this is not a good use of our funds, we are always able to stop the program immediately, or if we get such fabulous results back in the first two years and we don't think we need to learn anything else, we're ready to roll, there's nothing that keeps us from either stopping the program or expanding the program before those four years are out. But leaving it as the four years does give us that chance to do some more learning and use what we've learned. And it's also the case that during this window we will have a change in Governor administrations, so the four-year window provides some time for that to happen and to make sure that we get a chance to learn from the pilot, and that the new administration will have a chance to decide how to best use that knowledge, as well as for our Health and Human Services Committee to decide how to best use what we've learned from the pilot. [LB368]

SENATOR CARLSON: One minute. [LB368]

Floor Debate
May 23, 2013

SENATOR CRAWFORD: Thank you. [LB368]

SENATOR CARLSON: Thank you, Senator Crawford. Senator Kintner, you're recognized. [LB368]

SENATOR KINTNER: Thank you, Mr. President, and I'd like to thank my colleagues yesterday for a spirited debate and I think that we talked about this bill thoroughly. I think that was needed. And I want to thank Senator Hansen for introducing this amendment. I think if you're going to do a pilot program, two years is a pilot program. Four years, you're a lot closer to permanent, and I think two years is enough to judge anything. Think if it was your money. If it was your money and you contributed your own money, not someone else's money, your money to something, you would be asking questions after the first year. Well, how is it going? By year two, you'd better see some results if it was your money. You've got to treat the taxpayers' money like it's your money. And if it was your money, I assure you, you wouldn't contribute to something and then after four years say, okay, what have you done? And that's why I think two years is most realistic. If you're treating this like it's your money, I'm pretty sure you'd come to the conclusion that two years makes a lot of sense. And once again, thank you, Senator Hansen, this makes a lot of sense. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Kintner. Seeing no other senators wishing to speak, Senator Hansen, you're recognized to close on AM1464. [LB368]

SENATOR HANSEN: Thank you, Mr. President. The mood in here is a little better than it was last night. I got up this morning and I put my green shirt on and that's for go home soon. So thankfully, this is not going to go on all morning. It's just an idea that worked with juvenile justice. That's hundreds and hundreds and hundreds of people that had a two-year pilot program outside of the city of Omaha. And it seemed to work. People understood it. People liked it. It saved some money. It was another transfer from the Department of Health and Human Services into this new commission. Pilot programs have been around for a long time. People study them. I don't think it takes four years to study it. Two years should be plenty and then go from there. If you get participation, and you get people that are interested in being employed, stay with the program, you know the program can be expanded. And I think that's what Senator Crawford has in mind is getting this started and then expanding it. But I think it could be started and then reviewed and done something in two years when 17 of us aren't going to be here, and the best of luck with the program. It is extremely important that someone has a job. It doesn't really matter whether you're educated or not. A job keeps the mind active, keeps the body active, and there's nothing wrong with working and it's...I mean, it's part of what we do. Senator Harms and I were talking about...yesterday both of our backs were hurting from sitting in these chairs and he was saying that, you know, he needs to keep his mind busy too. You know, those people that go home, they've retired, they've gone home and their mind goes, you know, slows down. They start napping evidently,

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

Floor Debate
May 23, 2013

probably. I know Senator Hadley has a...oh, he's not here today. I can't talk about him. But a job is good and I appreciate the overall bill. I just think that the startup area could be...startup part of the program could be two years instead of four. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Hansen. Members, you've heard the closing on AM1464. The question is, shall the amendment be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Senator Hansen. [LB368]

SENATOR HANSEN: I'm voting today, I think I would call for a roll call vote, regular order. [LB368]

SENATOR CARLSON: There's been a request for roll call vote. Mr. Clerk. [LB368]

SENATOR HANSEN: And I suppose we've got to call the house too. [LB368]

SENATOR CARLSON: There's been a request for a call of the house. The question is, shall the house go under call? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB368]

CLERK: 30 ayes, 0 nays, Mr. President, to place the house under call. [LB368]

SENATOR CARLSON: The house is under call. Senators, record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Burke Harr, Senator Howard, Senator Schumacher, please record. Senator Christensen, the house is under call. Senator Christensen, please return to the Chamber, the house is under call. Senator Hansen, all members are accounted for. You'd like to proceed with roll call vote? [LB368]

SENATOR HANSEN: Regular order. [LB368]

SENATOR CARLSON: In regular order. Mr. Clerk. [LB368]

CLERK: (Roll call vote taken, Legislative Journal page 1563.) 17 ayes, 26 nays, Mr. President, on the amendment. [LB368]

SENATOR CARLSON: The amendment is not adopted. Mr. Clerk. Raise the call. [LB368]

CLERK: Senator McCoy would move to amend. (AM1518, Legislative Journal page 1564.) [LB368]

Floor Debate
May 23, 2013

SENATOR CARLSON: Senator McCoy, you're recognized to open on your amendment. [LB368]

SENATOR McCOY: Thank you, Mr. President and members. It seems but a few hours ago and in reality it wasn't all that many hours ago that we were last talking on LB368 yesterday or last night, more aptly. I raised some questions to Senator Crawford as introducer of this legislation last night. I spent some time last night thinking through, digging down, drilling down a little bit and I bring to you AM1518 this morning. I think this provides a measure, certainly with the adoption of this amendment, I would feel that this is a stronger piece of legislation that would more appropriately accomplish what I think we're about here with this legislation, and that is attempting the very best we know how, to make sure that we are providing for low-income individuals that we would like to see have a hand up so they can step out of poverty. What you have before you is an amendment that would be to the committee amendment that was adopted last night that would say that no more than 10 percent of the funds appropriated to carry out Sections 1 to 6 of this act shall be used for administrative cost. And you may say, well, is that an arbitrary number? Did that...did...where did you get that number? And I would offer up to you that in a recent edition of Nonprofit Quarterly, it talks about how the Obama administration's latest budget, and I'll quote: The administration also proposes "to ensure that all nonprofits and other entities who receive federal funds are appropriately reimbursed for the allowable indirect costs--and I'll talk about indirect and direct costs here in a few minutes--through a minimum reimbursement of 10 percent of direct costs available for up to four years of the grant." I think that's applicable in this situation because I think what we want to make sure is that in the committee amendment when it talks about the department...HHS Department contracting with a nonprofit organization it talks about a nonprofit. It doesn't talk about nonprofits as in the plural. And then the question I asked Senator Crawford last night was, if it's subcontracted, we want to make sure that we don't have a multiple layer cake effect here of administrative costs being taken out and diluting these funds from going to where they need to go to, the people they need to go to the most. So, I would also mention to you and I think that it's important, if you look up with the Federal Health and Human Services Department, you will find that when it comes to TANF funds, it says, state grantees must limit administrative costs up to 10 percent of the federal funds. I would also mention to you that our neighboring state of Iowa actually limits these TANF block grant administrative costs to 9 percent. Just a quick look, we discovered that the state of Louisiana also limits to 10 percent for administrative costs. I think this, hopefully, makes certain sure that these funds are going to the folks that they should go to the most. I wondered...well, I don't see her on the floor, but if you look on the fiscal note it will say, for purpose of this fiscal note it is assumed the prevailing wage is the federal minimum wage of \$7.25 an hour. The full subsidy per individual would be \$4,640. Contractual costs would be \$63,000 per 60 individuals served. At this moment approximately 180 individuals could receive the subsidy. Now, keep in mind, this is on the fiscal note that we all have available to us on this piece of legislation. If the prevailing wage is greater than the

Floor Debate
May 23, 2013

federal minimum wage, fewer individuals would be able to receive the full subsidy. The contractual costs would be \$189,000. I think...and I know, I'll ask Senator Crawford a question maybe at a later time. I know she's conferring with Senator Mello and I assume it's probably the nature of this amendment, so I'll allow them to continue to talk at this point. But I think a question that I'll ask rhetorically for this point, and perhaps I'll direct to the introducer here in a few minutes is, who receives this \$1,050 per person? Is it the Department of Labor? Is it...or the nonprofit organization in Section 3(2) of the committee amendment? And how many partnerships will be established with the department? Again, it talks about a partnership, but in a later section of the committee amendment it's speaking of being able to subcontract this out across the state. So is that still a single partnership and then a division from there? I think we need to be a little more clear here as to how that's going to actually take place. And again, I think the nature of this amendment is to, I hope, to strengthen this bill and have it accomplish what I think Senator Crawford is very admirably attempting to do. I know Senator Mello, as Senator Crawford said earlier, has spent a good deal of time working on this issue. Senator Crawford and her staff have broadened that, I think again, admirably, admirably. I think that we really need to make sure that the money for this program goes to those who need a help up and out of poverty. That's really what this is about. I think it's the nature of the bill, certainly what this amendment is about is to make sure that we're taking the administrative costs, both indirect and direct. And some would say, well, it's overhead, some would say administrative, and I think we need a little bit of a clearer definition of what that is. Indirect costs, obviously in the nonprofit world are costs that cannot be directly associated with programs. That would include administrative costs. Accountant expenses, insurance, building facilities costs, many of the same things that any business or other nonprofit across our state or across the country deal with on a month-to-month basis. Direct cost are those that can't be directly associated with programs. These would include program supplies, payroll for program staff, etcetera. I'm not seeing her on the floor but I know Senator McGill has been, I think is the past executive director for the YWCA here in Lincoln. I know she's dealt with this on a daily basis. I intended to ask her a few questions to get some clarification on that. Perhaps if she comes back to the floor at some point, I'll direct those questions. But I really see this amendment as a way of accountability to make certain sure that the administrative costs stay at what is the federally recognized level, and that other states have done as well, just to make sure that these dollars are going as much as possible to those who need them the most. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator McCoy. You've heard the opening on AM1518. The floor will be open for debate. (Visitors introduced.) Those wishing to speak include Senators Crawford, Schilz and Kintner. Senator Crawford, you're recognized. [LB368]

SENATOR CRAWFORD: Thank you, Mr. President, and thank Senator McCoy for raising some questions about how much of the money goes to the person versus how

Floor Debate
May 23, 2013

much money might be going in other places. And so I do want to kind of come back to the discussion we were having about that yesterday. And when we were talking about that yesterday and people were calculating what they thought the percents might be, I believe that most people were calculating how much of this money goes to the wage to the individual who is in the program versus how much money is going to all the other costs in the program. And so I think someone had something around 15 percent. Someone...Senator Price had calculated something he thought...we had calculated something around 15 percent and Senator Price had calculated something around 20. But let me remind you that that's not administrative costs when we're saying all the other costs of this program and in terms of the costs that it takes to make sure that the people in the program are being served. So, the...when we were talking about those other costs, we're talking about the cost of case management, the cost of recruiting, the cost of working with the employer, and the cost that we have asked them to do in terms of the cost of gathering the data we're asking them to gather and doing analysis on that data. And also again, there are some of the costs of...all of those costs are also things that are important to make the program run and those also...also are costs that actually help the families in the program. So, this was not a friendly amendment in the sense that Senator McCoy came to talk to me about how to structure this amendment, or how it would best work. So I would say just for the record that we recognize that we're concerned about making sure the administrative costs are within that norm, but also to recognize without a definition of what we mean by administrative costs, that I don't think it's...I don't think that it's useful to put this amendment on the bill now. We do allow in the bill for the Department of Health and Human Services, they may issue rules...promulgate rules and regs if they feel it is necessary in terms of maintaining appropriate administrative costs. I think just off the mike we were talking about some of the nonprofits who do this kind of work and the excellent work they have done. And so I would prefer to not have this specified in the bill...in the statute itself, but I'm happy to be on record and have the legislative record, record that we do expect the administrative costs will stay within industry standards, but also to remind the body and recognize that there are going to be other costs in addition to the wages that still really are expenditures of money that help to make sure that these low-income families are becoming self-sufficient, and the employers are able to use this program well to expand their businesses. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Crawford. Senator Schilz, you're recognized. [LB368]

SENATOR SCHILZ: Thank you, Mr. President and members of the body, good morning. I stand here in support of AM1518 and for exactly the same reasons that Senator McCoy brought out. It is essential that the government, when we do these things, makes sure that we don't allow...or excuse me, make sure that we do allow, if we're going to have a program like this, the money to go to actually help the people. And I understand there has to be some administration to be done, but it's just like with

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

Floor Debate
May 23, 2013

nonprofits and charities, the more quality...the better quality of that nonprofit or that charity, usually the less there is spent in administrative costs. And I think that's important. The most...you want to be able to have the most efficient process in place so that it doesn't start to get bloated and doesn't start to cause problems on that side. Let's get the money, if we're going to do this, let's get the money where it needs to be so that it can help the people that it needs to help. And with that, I would give the rest of my time to Senator McCoy, if he would like it. [LB368]

SENATOR CARLSON: Thank you, Senator Schilz. Senator McCoy, 3 minutes 45 seconds. [LB368]

SENATOR McCOY: Thank you, Mr. President. Thank you, Senator Schilz. I want to go back to something that Senator Crawford just said, that she'd prefer that HHS promulgate, she said, industry standards with rules and regulations. Well, members, I'd like to bring to your attention this is the industry standard. Again, I'll go back to...in President Obama's budget from...and, as you look through, 10 percent is the recognized standard for administrative cost. And I think, perhaps, Senator Crawford might be...might have misunderstood the nature of what we're doing with this amendment. Administrative costs can include indirect and direct. So it...I think that this is, to me, a very simple amendment that other states have done and that is recognized across the country. It's recognized by our federal government as an industry standard, if you will. I read to you an excerpt from the Nonprofit Quarterly magazine. I would also direct your attention...if I may ask Senator McGill to yield to a question, Mr. President. [LB368]

SENATOR CARLSON: Senator McGill, would you yield? [LB368]

SENATOR MCGILL: I'd be happy to. I'm afraid I wasn't listening to what you just said, so you may have to recap. [LB368]

SENATOR McCOY: No, that's fine. I know, as former director of the YWCA here in Lincoln, Senator McGill, you've dealt with these type of things on a daily basis. And in the industry, in the nonprofit world, when you apply for a grant, foundations and whatnot will look at what administrative costs are, correct? [LB368]

SENATOR MCGILL: Yes. [LB368]

SENATOR McCOY: And I would...I...it's my understanding that they look to 10 percent of administrative costs as, kind of, a threshold oftentimes. You've got to clear that bar, or be at or below that, in order to even qualify for a grant. Is that correct? [LB368]

SENATOR MCGILL: I would say that's true. [LB368]

SENATOR McCOY: Okay. Thank you, Senator McGill. I appreciate that. I think that's

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

Floor Debate
May 23, 2013

important, members, to recognize this: Yes, our HHS Department could promulgate this in rules and regulations, but we also can do that here in the Legislature, and I think we should. It's an industry standard. In the nonprofit world you, oftentimes, have to be at or below 10 percent of administrative cost in order to even qualify for an application for a grant. I think it's very appropriate that we limit that and make certain, sure, that these dollars are getting to those who need them the most, the most efficiently. I think that's a needed measure that, with the adoption of this, I can support this bill moving forward. I think it's appropriate. [LB368]

SENATOR CARLSON: One minute. [LB368]

SENATOR McCOY: We ask our state government--thank you, Mr. President--to be efficient, to be lean, to do things the best way possible for our citizens. I would make mention to you again that this is something that our neighboring state of Iowa, actually, holds it to 9 percent. Our amendment says 10 (percent). I think it's a show of good faith to the citizens of Nebraska. We need to adopt AM1518 in order so that, going forward, people understand that this is what we expect. Without this amendment, we don't know what HHS will promulgate. We could say it's industry standards but, members, industry standards, it's 10 percent. So we could hope that they do that, but we don't know that. We can know that with the adoption of AM1518. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator McCoy. Senator Kintner, you're recognized. [LB368]

SENATOR KINTNER: Thank you, Mr. President. You know, we keep talking about getting the bang for the buck with the taxpayers. I know Senator Crawford talked about, you know, making sure the program works. Well, this is a chance, right as we walk out of the gate, to say, this is going to be the standard and this is what we're going to meet and we expect that the taxpayer money go to the end product and that's where it needs to go. And I think this a very commonsense way of doing it. So, you know, I'm thankful that Senator McCoy had some foresight here and some forethought to step up before we pass this bill and try to make sure that we're watching the taxpayer money. If we're going to spend this money, we're going to subsidize jobs with taxpayer money, we sure better make sure that all the money is going for that. I would like to see if Senator McCoy would yield to a question or two. [LB368]

SENATOR CARLSON: Senator McCoy, would you yield? [LB368]

SENATOR McCOY: Yes, I would. [LB368]

SENATOR KINTNER: Thank you. You've talked about Iowa having a requirement of only 9 percent. What's the range that...have you found the range that goes from 6 to 20 (percent)? Have you seen any range that would set...that we should set ours at 10

Floor Debate
May 23, 2013

(percent)? [LB368]

SENATOR McCOY: Well, Senator, and I apologize. It's been about 15 hours since we were last having this conversation, so...with a little bit of time for rest. We haven't been able to find, necessarily, a range but, just at a quick look, found that the neighboring state of Iowa, it's 9 percent. Just a quick look found the state of Louisiana--obviously, clearly, not geographically close to the state of Nebraska--that theirs is 10 percent. But I might mention to you, as I said, federal HHS says and it lays out that they expect, when it comes to federal grants, it should be 10 percent. [LB368]

SENATOR KINTNER: Thank you, Senator McCoy. Well, that's good enough for me. I really think that if we don't watch every dime of our money...you know, one thing I learned about being on Appropriations, and I have some profound differences with some of my fellow members on Appropriations, but every single person, even the biggest spender on Appropriations, wants to make sure that every dollar is being well spent, that every dollar is going to where it ought to go. And I was always amazed that we've always agreed on that, even if we disagree with some of the other particulars of the program and that, no matter what, if we're going to do it, let's do it right. And I think that should be unanimous in here. There shouldn't be anyone in here, at least, from my conversations with people, that don't want to ensure that every tax dollar is being spent the way it ought to be spent. So I appreciate this, Senator McCoy, I fully support it, and I hope the body will also. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Kintner. Senator McCoy, you're recognized. [LB368]

SENATOR McCOY: Thank you, Mr. President. And again, I want to go back to, kind of, continue on with what Senator Kintner had asked a moment ago. And I didn't want to take up too much of his time, so my light was already on. I really think that this provides a measure of accountability because, I think, when you have, in the nonprofit world...and which do enormous amounts of good. I mentioned last night--I've heard it again on the radio this morning--our country is known and has been known across the world for what a giving nation we are. Whether it's the Oklahoma City tornado, whether it's floods, fires, hurricanes, whatever it is, we are a very, very giving nation, and we should be proud of that. And we do it internationally as well. The Haiti earthquake springs to mind, from a number of years ago. But in the nonprofit world...and you heard from Senator McGill, who has spent a lot of time in the nonprofit world, that the minimum threshold for foundations--well, there's community foundations, philanthropic organizations--usually, not all, but usually, a minimum threshold that your administrative costs--direct, indirect, it's usually just called administrative costs--need to be at or below 10 percent to even qualify for a grant. And I would submit to you, members, why would we expect anything different when we're doing this in state government than what is common industry standards in the nonprofit world? I might submit to you that this very

Floor Debate
May 23, 2013

same nonprofit entity/organization that may contract with the state HHS Department is probably, most likely, whoever it may be, used to applying for grants to foundations when they're going to have to meet that 10 percent administrative threshold. Why would we not call that out? We don't know that the rules and regs are going to be promulgated to this level. It's already an industry standard, and it ought to happen in this bill. Senator Crawford has said very eloquently, and I agree with her completely, there are many places across our state...while we have the second-lowest unemployment in the nation--and we should be very, very appreciative of that and we are very blessed--there are communities in our state and sections of communities and demographics of our state that that's not always the case. These funds can help those individuals, and they will, I hope, and I believe they will. But I think this provides a measure of accountability that these nonprofit organizations, whether they deal with this program directly or whether they subcontract it out, that administrative costs are staying within the industry standards. I think that's, at the least, a minimum of an expectation we should have as a Legislature. I think this is an appropriate measure that, again, with the advancement of this, I can support this legislation going forward. And I hope that it does what we expect it to do, and I believe it will. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator McCoy. Senators still wishing to speak include: Pirsch, Lautenbaugh, and Campbell. Senator Pirsch, you're recognized. [LB368]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Crawford would yield to a quick question or two. [LB368]

SENATOR CARLSON: Senator Crawford, would you yield? [LB368]

SENATOR CRAWFORD: Yes. [LB368]

SENATOR PIRSCH: And thank you for your yielding to a question. Is there anything in the bill, LB368, that addresses this in terms of how the money will be spent or administrative costs already, or is this...would this amendment be the only thing that speaks to that? [LB368]

SENATOR CRAWFORD: Thank you for that question, Senator Pirsch. Actually, the bill does address that because the nonprofit that is applying to receive the contract has to specify a plan. And I would expect that...and they have to, in that plan, indicate...we have a list of several things they have to indicate in their plan. And what's general practice, I would say, is, when you have a plan, you have a budget with that. And so I would expect that just...and as the bill is written already, that the Department of Health and Human Services will see the plan and the budget as they decide whether or not to award this contract. And so they will be able to address any concerns, or they won't give the contract to a nonprofit who has unreasonable administrative costs in that plan.

Floor Debate
May 23, 2013

[LB368]

SENATOR PIRSCH: Thank you. Could you comment, is that generally...and I'm not aware of how...with respect to these type of grants or contracts are allotted. Is that...these type of...which this amendment would propose, AM1518, an explicit type of, I guess, ceiling for administrative costs. Are those commonplace, do you know, or is that in...is that standard for these type of...for this type of a bill? [LB368]

SENATOR CRAWFORD: Thank you, Senator Pirsch. Actually, when this discussion came up, we went back to look at a similar bill, another bill that we passed this session, that provides wage subsidies. And this provides wage subsidies for college students, for internships, and that was LB476. So we went back and looked at LB476, and it does not require any...it does not have any language that limits administrative costs in that case. So one other bill that we've passed this session that is a very similar program, just a different target audience, does not have any language that establishes administrative costs in the bill. [LB368 LB476]

SENATOR PIRSCH: Thank you. I look forward to hearing more debate on this issue. Thank you. [LB368]

SENATOR CARLSON: Thank you, Senator Pirsch and Senator Crawford. Senator Lautenbaugh, you're recognized. [LB368]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do rise in support of this amendment. And I do apologize to Senator Crawford. I don't know that...and I didn't bring this amendment. But there also was not a huge amount of time between General and Select, I think, a matter of hours, by my count, to have any discussions about this at all. But I think it's important, and some did touch on this issue on General File. There is a concern about administrative costs. And it's not this bill, in particular, and it's not the entity that's going to be administering this program, because I don't even think we know who that is, if I have a correct understanding of this. But I don't understand why we can't apply the percentage limit, at least, that the feds have found appropriate to this contract as well or to this program as well. I don't think 10 percent is particularly restrictive. I think, as Senator McCoy pointed out, Iowa has 9 (percent). Others have differing ones. I don't know if there are any above 10 (percent), but I know the federal standard is 10 (percent). And I am...I've sat...I've been here a lot of years and I used to say, anytime someone mentioned the three letters, HHS, it was time for the traditional airing of the grievances because people would stand up and just go off about all the horrible things they do. And we've carried so many bills here, passed so many bills that direct them what to do, which is proper, and limit their discretion. And we had a knockdown, drag-out here one year over how much of the regular hiring requirements the director could waive to get the people he wanted in leadership positions to make changes at HHS. And we did not seem to have a great level of trust in

Floor Debate
May 23, 2013

HHS at that point to manage its own affairs. We were very comfortable telling them how to do things. And I don't think we should shy away from this either, telling them, look, HHS, you will tell whoever does this work that the administrative costs will be limited to 10 percent, as the amendment suggests or requires. And again, we did just talk about this bill yesterday, so, I believe, it's kind of a work in progress, in my own mind, certainly. And I don't rise to oppose the bill or delay the bill, and I don't think that's the purpose of this amendment either. But I do think it's important that we're mindful of...again, we heard a lot yesterday--and I think a lot of us starting tuning out--that this is another program. What are we doing? We're creating another program that's going to go on forever. And some of you may have thought that sounded extreme or, sort of, a knee-jerk reaction against any sort of expansion of government and, fine, you're welcome to have that feeling. But I think we do need to be wise when we approach programs and new ventures like this and cognizant of the fact that, sometimes, things turn into boondoggles. In the charitable world, in the government world, and whatnot, sometimes, administrative costs consume way too much of the program's funds. And I see this amendment as a very commonsense, simple approach to making sure that doesn't happen. I don't see it as impairing the program. I don't see it as some sort of effort to make sure the program fails. I don't see it as an effort to make sure no one wants to do the work. I think it's just a commonsense limit and provides some needed guidance to HHS as they develop the rules to implement this. So please don't mistake this for anything that it's not and understand that this is a serious discussion. And I commented the other day on my... [LB368]

SENATOR CARLSON: One minute. [LB368]

SENATOR LAUTENBAUGH: Thank you, Mr. President...in my tirade in favor of nuclear plants that it really didn't matter what I said because we aren't listening to each other at this point in the session anymore anyway. And then I threatened to go around the Chamber and start asking all of you questions just to see how many of you were actually listening and, well, that got a little bit of attention. But I'm not going to do that. But I hope you're listening to this. There's no need to get up and leave the Chamber because I won't do the calling on the various senators. But I do hope you'll vote for this amendment because it is a serious amendment. And I hope you'll listen to the debate and bring your judgment to bear. Thank you. [LB368]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Campbell, you're recognized. [LB368]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. I'm inquiring whether Senator McCoy would entertain a question. [LB368]

SENATOR CARLSON: Senator McCoy, will you yield? [LB368]

Floor Debate
May 23, 2013

SENATOR McCOY: I would. [LB368]

SENATOR CAMPBELL: Senator McCoy, I apologize because I've sort of been in and out of the conversation here. My question is...and I understand that your amendment has to do with this bill. But as the Chair of the Health and Human Services Committee, I do want to note...do...are you saying that all contracts that come out of the Department of Health and Human Services should be at a 10 percent administrative level? [LB368]

SENATOR McCOY: No, Senator, I'm not saying that. I think, on this particular program, in light of the fact that the federal government has established a 10 percent threshold as being what they expect in a number of other states, two very...two that I mentioned that we very briefly found. I think that's appropriate for this particular program. Would it be my expectation that, perhaps, this should be more in line? I don't...I'm not sure what other programs are out there, Senator, that...what their administrative cost may be. This just happened to be something that I thought of as we were sitting here last night. And I think, in this particular program, in light of what's expected at the federal level, it makes sense. [LB368]

SENATOR CAMPBELL: And, Senator McCoy, I do want you to know that, as I sat and listened to this, I will follow up and ask the department to list for the Health and Human Services Committee all contracts and what the administrative portion would be because I have to tell you, I think it might be illustrative to the body as to, really, what the variance is in those contracts. I have to say, Senator McCoy, I can't answer that question for you today. I know there is a variance and, sometimes, it has to do with the flexibility, and part of my concern in this amendment would be that we are requiring quite a bit here. And so, sometimes, I think there has to be some flexibility. I don't want to limit the pool of people that this bill might be able to...or, I should say, agencies that it might attract to help it out. But I will follow up, Senator McCoy. And I appreciate your raising the issue, but I will follow up. Thank you. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Campbell and Senator McCoy. Senator Nelson, you're recognized. [LB368]

SENATOR NELSON: Thank you, Mr. President and members of the body. I was involved in this discussion yesterday about the cost, and so I'm very...I'm interested in the amendment that's been posed by Senator McCoy and I, at this point in time, support it. I do have a question for Senator Crawford if she would yield. [LB368]

SENATOR CARLSON: Senator Crawford, would you yield? [LB368]

SENATOR CRAWFORD: Yes. [LB368]

SENATOR NELSON: Thank you, Senator Crawford. I know you were engaged in a

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

Floor Debate
May 23, 2013

conversation, but I did say I was interested in this matter yesterday. [LB368]

SENATOR CRAWFORD: Oh, I'm sorry if I missed the question. [LB368]

SENATOR NELSON: And the question that...you, I think, mentioned, the student internship program, LB476. [LB368 LB476]

SENATOR CRAWFORD: Yes, yes. [LB368]

SENATOR NELSON: And I was just taking a look at that when I was called to the mike. That's being administered within the agency itself, isn't it, the Department of Economic Development? [LB368]

SENATOR CRAWFORD: It looks like it is the department doing that. Again, they are...they would be then working with the internship placements. But the department would be administering the program, I suspect, just from my quick read. [LB368]

SENATOR NELSON: Right. All right, I just...yeah. And I looked and I didn't see any fiscal note, at least not on my screen there, and there wasn't any money allocated or anything. It's just that there was creation of the job fund years ago, in 2005. [LB368]

SENATOR CRAWFORD: Right. [LB368]

SENATOR NELSON: And then the bill was amended to bring in this student internship program. Is that correct? [LB368]

SENATOR CRAWFORD: Right, right. It's very similar in that respect as well because the fiscal note for LB476 is out of a cash fund. [LB368 LB476]

SENATOR NELSON: Right. [LB368]

SENATOR CRAWFORD: And then in LB368, the fiscal note, it comes out of our TANF rainy-day fund, so it's also not a general...in both cases, they're not General Fund fiscal notes, but they both have fiscal notes. [LB368]

SENATOR NELSON: But the difference here is that LB476 is then within the department itself, on their own budget, and here we're asking Health and Human Services, in this case, on this bill, LB368, to go out and contract. Would that be correct? That would be...that's where the administrative costs are coming in, contracting with the... [LB368 LB476]

SENATOR CRAWFORD: Well, Senator Nelson, that's one of my main concerns about AM1518. I'm not in any way opposed to running our programs as efficiently as possible.

Floor Debate
May 23, 2013

But we don't have a definition. There is no definition of what we mean by administrative costs. [LB368]

SENATOR NELSON: Yeah. [LB368]

SENATOR CRAWFORD: And I don't want to add the administrative costs of tracking...of clarifying and tracking things that would be administrative costs unless that's considered necessary by the Department of Health and Human Services as they implement this program. [LB368]

SENATOR NELSON: Um-hum. [LB368]

SENATOR CRAWFORD: So I'm especially concerned about putting this amendment in without any definition and clarity of what those administrative costs would be. And again, for the record, it is clear that we are concerned to make sure this program is run as efficiently as possible. We would expect the department, when they look at the plans that are submitted for this contract, that they'll be looking at those costs. [LB368]

SENATOR NELSON: Look, let me interrupt. I don't want to interrupt you. [LB368]

SENATOR CRAWFORD: Thank you. [LB368]

SENATOR NELSON: But we're on my time here. [LB368]

SENATOR CRAWFORD: Sure, um-hum. [LB368]

SENATOR NELSON: And I thank you for your extensive answer there. It bothers me on the fiscal note here, on LB368, that that's not broken down. If you take a look at the fiscal note here, it talks about contractual costs would be \$63,000 per 60 individuals. And then it goes on to say, the total contractual costs, if you were able to service 200 persons here over the period, would be \$189,000. Well, there we have a round dollar figure as to what the costs would be. And I'd just have to assume, if we're...if it's contractual cost to get this implemented and running along for four years, that's part of the administrative cost. And it seems, to me, that, that amount, although you could look at it, perhaps, it covers for, let me see here, probably, the four-year period. But in that case, you know, for \$189,000--that's 20 percent of a million--we're probably doing okay if it's spread over four years. But I still support the amendment because I think it's just good practice, in working with a nonprofit organization, in letting a contract, to require that whatever they're going to do is not going to exceed 10 percent of the total amount that we're spending here, in this endeavor. So I thank you for your answers and I'll continue to listen and see if we can, perhaps, get more details on administration. [LB368]

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

Floor Debate
May 23, 2013

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Time, Senator. [LB368]

SENATOR NELSON: Thank you. [LB368]

SPEAKER ADAMS: Senator Schilz, you're recognized. [LB368]

SENATOR SCHILZ: Thank you, Mr. President. You know, and I will be the first to tell you that I don't know a whole lot about the workings of nonprofits and how that works and how it fits into the department and things like that. But, you know, as we've heard here before...you know, this, to me, looks like a good amendment. And I was wondering if Senator Coash would yield to a question. [LB368]

SPEAKER ADAMS: Senator Coash, would you yield? [LB368]

SENATOR COASH: Yes. [LB368]

SENATOR SCHILZ: Senator, thank you. And I know you have some dealings and some firsthand knowledge of working with nonprofits and how that works. And does this amendment fit within, kind of, the parameters and the standards that you see out there, as far as which...how much agencies or nonprofits should spend on administration? [LB368]

SENATOR COASH: Yes, Senator Schilz, I can answer that. I have worked in nonprofits, and I've got a unique experience where I've worked with nonprofits as...in various states. And I know that Senator McCoy has mentioned Iowa as another state. Typically, nonprofits will try to hold an administrative cost down and show that they do that simply because that becomes a factor in getting grants, it becomes a factor with donors. When a nonprofit goes out to do a fund-raiser or to solicit major donors, donors want to know that they're not just paying for the executive director's personal...you know, the executive director's salary. What they want to know is that their money is going towards the purpose of the nonprofit. And so when you...so nonprofits typically will try to hold their administrative costs down because that looks better to donors. It gives some peace of mind to donors to say, okay, if I don't...if I give someone my money or if I leave some of my...some money in my will to this nonprofit, that I know that the money primarily is going to go to the purpose of the nonprofit. The other thing that you see frequently, and I've worked in other states on this: Nebraska doesn't have much of what Senator McCoy is trying to do. In other words, we don't have a lot of statutory guidelines. But in other states, it's pretty common that you find a cap, when you're talking about nonprofits, and how much above cost you can actually...you can't call it a profit because it's...they're set up as a nonprofit. But there's a lot of states that say--not with administrative costs, which this amendment is, but with...over and above cost of

Floor Debate
May 23, 2013

doing business--that you can't exceed, like, 3 percent to the cost of doing business and, if so and it's state money, you have to give that state money back. So long answer to your question: Yeah, Senator Schilz, 10 percent isn't out of the question, both for reasons of how nonprofits are run and how states interject into that process. [LB368]

SENATOR SCHILZ: Thank you, Senator Coash. And just one or two more questions real quickly. Are you going to support the amendment, do you know? I don't mean to put you on the spot, but I was just wondering myself. [LB368]

SENATOR COASH: Sure. Yeah, I'm going to support AM1518. I think it's a good idea for the state to start exploring how we manage when we take state money and we farm it out to providers, and that's a good thing. I don't...I work for one. I work with them. It's not a...if the state had to do this kind of work themselves, we'd be in a world of hurt. But putting some caps on this is something that I'm familiar with. It doesn't seem to be a barrier in other states where I've done this kind of work and so, for that reason, I'll support the amendment. [LB368]

SENATOR SCHILZ: Great. Thank you, Senator Coash, and thank you, Mr. President. [LB368]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Schilz and Senator Coash. Senator McCoy, you're recognized. The next time would be your close. [LB368]

SENATOR McCOY: Thank you, Mr. President and members. I want to go back to what we're talking about here, what...the nature, again, of my amendment, AM1518. And if you look at the committee amendment that we adopted last night, members, we're talking about HHS contracting with a nonprofit organization. Now here's something that I think is important. I'll hopefully...I'm hoping that some other members...I think you just heard Senator Coash, who has spent a good deal of his professional career in the nonprofit world as well. Members, what we're trying to do with this bill--and I think it's very noble--is to make sure that these funds are going to those who need them the most and to the highest, most efficient way possible. Well, I would submit to you, if HHS is going to contract with a nonprofit organization like this, do we want it to be a nonprofit organization that is successful, that thrives outside work that they may do for the state of Nebraska? Let me expand a little bit on what I mean by that. We've talked about how that's an industry standard, if you will, for 10 percent of administrative cost. Do we want this nonprofit organization, members, to be one that is successful, that is going to be able to effectively carry out this important work of LB368? I would submit to you, yes, we do. Well, in order for them to succeed in the world outside of work done for the state of Nebraska, they, when going and procuring grants, need to be at that 10 percent threshold. It should not be a problem for them to want to align themselves contractually

Floor Debate
May 23, 2013

with HHS in order to carry out this work. They already do it anyway, or they should, if they're a successful, thriving nonprofit organization. We need them to be a successful, thriving nonprofit organization for this bill to work. I want this bill to work in practice. I hope that we all do. I think we do, as the votes indicated last night, on General File, with this bill. But any organization that's surviving out there, whether they're applying for a grant to the Lincoln Community Foundation, whether they're applying for a grant at any family foundation out there in the nonprofit world, the standard is 10 percent or less for administrative cost. They're used to that. They live in that world, day in, day out. Why should it be any different with this program? We want a nonprofit organization that is successful, that has a proven track record, that can carry out this work in a public-private partnership effectively. That's how these funds are going to get delivered to the Nebraskans in need that truly need them, these dollars, the most. That's the nature of the amendment. It's not trying to complicate the process. It's not trying to torpedo the bill, far from it. It's a public-private partnership, in a way, because we're contracting, we're wanting to contract, with a nonprofit organization to carry out this work, perhaps, subcontract it to another organization, across the state. It shouldn't be difficult for such an organization that's going to be contracted with to abide by a 10 percent cap. It's done in other states. It's expected that it's to be done at the federal level. It seems, to me, to be pretty commonsense. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator McCoy. Senator Wallman, you're recognized. [LB368]

SENATOR WALLMAN: Thank you, Mr. President. Good morning, Nebraska. I thought I heard in here a while back, we're against more rules and regulations on private industry. Hey, folks, I've dealt with nonprofits and they go the extra mile. A lot of them don't get paid all that great. And they do work that we should be doing for some of our residents. So don't pick on the nonprofits, for goodness sakes. And ever since we did the budget cuts, they've had to step up and take over. I've been told by some of them, ain't you guys got any guts here to keep the funding alive for some of these things? I've been told this by nonprofit corporations. So I'd yield the rest of my time to Senator Crawford if she so wished. [LB368]

SENATOR CARLSON: Thank you, Senator Wallman. Senator Crawford, four minutes. [LB368]

SENATOR CRAWFORD: Thank you, Mr. President, and thank you, Senator Wallman. And I would also like to thank Senator Coash for speaking from his experience in the nonprofit world. I mean, as he indicated, it is any nonprofit who steps up to work in this program has every interest to keep their administrative costs as low as possible. As Senator Coash noted, that's important to them for all of the fund-raising that they do. And also note, colleagues, this is a pilot program. So why would a nonprofit step up to be a part of a pilot program? Probably, because, they think, this might be something we

Floor Debate
May 23, 2013

want to do down the road when we...when this is a much larger contract process. And so they have every interest in making sure they have a strong track record with low administrative costs so that they'll be competitive. If we decide we like this program and it becomes a major contract program in the future, they have every interest to make sure they're keeping their administrative costs low. I do not think that it requires us to, necessarily, put it in...I do not think it requires us to put it in the statute, to create that pressure on the nonprofit to keep their administrative costs low. For self-interest and for their own commitment to the programs it's important for them to keep the administrative costs as low as possible and, again, there is an interest already, of their own, to do so. The other thing I would remind you, colleagues, is this is a pilot program. So what we're doing is we're trying to get this program out and try it out and see how it works. And so one of the things that we can look at, as we're looking at this program, is to see whether or not or how restrictive we think we should make administrative costs, stipulations in this program, be if we're going to make this program a large-scale program. And so I would...I think that it's important, as a pilot program, to keep it as flexible as possible. And I think that there is already a strong interest on the part of the nonprofits to keep administrative costs as low as possible. And again, as I said before, my concern is to insert this amendment now, without definitions of what that means. I am also...raise the issue that, if this is a pilot program, it's a new startup program, that that may also impact the level of administrative costs as the nonprofits are starting something new. And so I would urge...again, remain in opposition of AM1518. Thank you. [LB368]

SENATOR CARLSON: Thank you, Senator Crawford. Those wishing to speak include: Lautenbaugh, Howard, Schumacher, Kintner, and others. Senator Lautenbaugh, you're recognized. [LB368]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And again, I do rise in support of this amendment. I appreciate Senator Coash confirming that he would support it as well. I do think this is important. And I'm not here to bash not-for-profits and nonprofits. I don't understand Senator Wallman's point on that at all. But I think we do have an obligation to protect the funds that we are...I mean, that's the part I really don't understand. We are providing funds for something new here. We're not cutting something. We're just saying that we want the bulk of the money--90 percent, if I'm doing the math correctly--to go towards the program, not the administration thereof, to go towards the beneficiaries, not the people who administer the program. And again, I don't think that's a very restrictive standard. I think, based upon the federal experience, the federal regulations that we cited and Senator Coash's experience that we talked about, that's not onerous. That's just a restriction, I think, that provides guidance for HHS and provides guidance for these not-for-profits. I don't think we have any animus towards nonprofit entities, but I do think that some operate more efficiently than others. I mean, I think, some law firms operate more efficiently than others; some fast-food restaurants operate more efficiently than others. That's just a fact of life. But in the private sector world, there is a penalty for when you operate

Floor Debate
May 23, 2013

inefficiently. Someone else comes along and does it more efficiently and, eventually, you're undercut and you lose the business. In the government contracting world, the competition is not as direct, if it exists at all, and the adjustments aren't as swift, if they occur, ever. So this is important to say at the outset, going in, your administrative costs will not exceed this percentage, if you are going to seek this work, this is the program you should design to fit within these parameters and these percentages. And again, we're not saying 5 percent or 4 percent or some restrictive number that we're just pulling out of the air. This is a number that is found in federal regulation. And I just think we're being...if we were opposing this bill and filibustering this bill, you could make the case that we were somehow being restrictive, anti-not-for-profits or -nonprofits, or anti-this program or anti-whatever it is. We're always anti whenever we want to be tight with a nickel. We're always anti-something that we shouldn't be anti whenever we don't want to spend more money or enough money or as much as someone else wants to spend. That's not the case here. This is not a cut to the program in any way. This is directing that 90 percent of the funds go towards the beneficiaries, if you will, and limiting the administrative cost to 10 percent. This is not a frivolous amendment. You're not going to see a following amendment that says, okay, how about 8 percent, okay, how about 12 percent? We're...this isn't the start of a bidding war or a filibuster. This is a serious discussion about do we put a parameter here on the front end so people know, going in, what their limits are. If people want to solicit this work...and I'm hoping I'm correct in saying that we don't know who is going to be doing this work yet; I think that's correct. I have been here on the floor all morning, I'm happy to note, but...and if so, if that's been said, I just missed it, but it was not because of absence. Let me state that clearly. [LB368]

SENATOR CARLSON: One minute. [LB368]

SENATOR LAUTENBAUGH: Thank you, Mr. President. But I don't believe we know who is doing this work. Maybe the entity doesn't exist yet that's going to do this work. This is a new program; maybe there's a new entity for it. But that said, I think we should put our cards on the table at the outset and say, keep your administrative costs down, comply with the federal standard. It's just a good, wise stewardship of our money and our resources, and I hope you'll support the amendment. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Howard, you're recognized. [LB368]

SENATOR HOWARD: Thank you, Mr. President, members of the body. Just as a little bit of background, I work at a health center in south Omaha. I'm a development specialist, so I write and manage federal, state, corporate, and foundation grants. And so if Senator McCoy would yield, I have a few questions, just to flesh out the record on the amendment. [LB368]

Floor Debate
May 23, 2013

SENATOR CARLSON: Senator McCoy, would you yield? [LB368]

SENATOR McCOY: I would. [LB368]

SENATOR HOWARD: Thank you. When you...in the amendment you mention administrative costs only. Is your intention to capture administrative costs and indirect costs? [LB368]

SENATOR McCOY: Well, I think it would be all-encompassing, would it not? I don't mean to ask you a question, Senator Howard. It's your time. But it's my...let me rephrase that. It's my understanding that states that have capped this--and, also, it's my understanding, what's in federal regulation, unless I'm mistaken; I may be corrected--that the 10 percent administrative cost is encompassing direct and indirect. [LB368]

SENATOR HOWARD: On a federal level it only encompasses administrative costs, according to the federal regulations. So it doesn't include indirect costs. The difference between indirect and administrative costs are that indirect costs can be the salaries used to implement the program, the space used to rent or house your business, any supplies, like paper and that sort of things, and communications. But was your intention, in stating administrative costs, to include those indirect costs? [LB368]

SENATOR McCOY: Well, I...to your point, Senator Howard, and to something that Senator Crawford said earlier, if somebody wants to come up with a better definition of what administrative costs are, I'm happy to look at that. But it's my understanding other states--you may have a different interpretation on the federal level, from what you're explaining to me--that the states that have capped this...it was also my understanding--maybe I got the wrong interpretation of what is included within that administrative--that it's all-encompassing when it's speaking of Iowa, Louisiana. And it's my understanding that that also is at the federal level. But you may have different information. [LB368]

SENATOR HOWARD: Certainly. There is, actually, a difference between administrative and indirect costs, and the federal cap is specifically for administrative costs. Indirect costs may be included in the grant. That's why you see a difference in the definition, and that's particularly why federal grant administration only do allow 10 percent for indirect cost for administration. [LB368]

SENATOR McCOY: Um-hum. [LB368]

SENATOR HOWARD: So salaries and supplies and that sort of thing can come out of your 90 percent on a federal grant. Generally, indirect costs for nonprofits can range

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

Floor Debate
May 23, 2013

from 10 percent to 15 percent to 22 percent if you work at a medical facility such as I do. But I'd like to just work through a little...a list, if I may, with you, because I'd like to get into the record what the intention is behind administrative costs if the amendment is successful. Do you consider accounting, including payroll, administrative costs? [LB368]

SENATOR McCOY: Well, I certainly do, Senator. [LB368]

SENATOR HOWARD: Grant administration, including reporting, and any work around site visits? [LB368]

SENATOR McCOY: That would be my understanding. And you may have a list but, as I've talked about earlier, I believe that to be encompassing...I think, when you look at the committee amendment, Senator, it lists out some of the duties that are going to be required by this nonprofit organization that would contract with HHS. And I think the items that you have mentioned are part of what's required in the proposed statute, the bill, LB368, and the committee amendment. [LB368]

SENATOR HOWARD: Absolutely. And thank you for bearing with me. I'm learning how important it is to build the record. So just in the interest of time, maybe, we'll just do yes or no on the next ones. Benefits for salaries? [LB368]

SENATOR CARLSON: One minute. [LB368]

SENATOR HOWARD: Benefits, are those included in administrative costs? [LB368]

SENATOR McCOY: Benefits to employees of the nonprofit, Senator,... [LB368]

SENATOR HOWARD: Yes, benefits for... [LB368]

SENATOR McCOY: ...or benefits to the beneficiaries? [LB368]

SENATOR HOWARD: Benefits for employees who are administrating the program. [LB368]

SENATOR McCOY: Well, I would think that, again, when you look at... [LB368]

SENATOR HOWARD: Yeah, yes or no is okay, no worries, yes or no. [LB368]

SENATOR McCOY: Well, Senator, where I don't think that's a yes or no question, unless you're going to flesh out a little more of what you're speaking of, I don't think that's a yes-or-no answer, so. [LB368]

SENATOR HOWARD: Sure. What about personnel and property management? [LB368]

Floor Debate
May 23, 2013

SENATOR McCOY: Well, again, I think you have to look at...is this a subcontracted entity? Are you talking about the parent nonprofit organization that would be contracting with HHS? To what do you speak of when you say property management? Is that a lease? Is that a...is that owning a building? What do you mean by property management? [LB368]

SENATOR HOWARD: It's any type of upkeep. What about developing information systems, the computers that they use, or the telephones? Is that administrative costs? [LB368]

SENATOR McCOY: Well, I would certainly think... [LB368]

SENATOR CARLSON: Time. Thank you, Senator Howard and Senator McCoy. Mr. Clerk, items for the record? [LB368]

CLERK: I do have some things, Mr. President, thank you. Senator Davis offers LR351 and LR352 and Senator Schumacher, LR353. All of those will be laid over at this time. And I have confirmation reports from the Business and Labor Committee. (Legislative Journal pages 1564-66.) [LR351 LR352 LR353]

Mr. President, I have an amendment from Senator Nordquist to the...Senator McCoy's amendment. (FA99, Legislative Journal page 1566.) [LB368]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Nordquist, you are recognized to open on your amendment. [LB368]

SENATOR NORDQUIST: Thank you, Mr. President and members. This is a floor amendment, FA99. It basically adds a sentence to Senator McCoy's amendment that says, the administrative costs shall not be defined to include costs for service delivery. This is just, simply, to clarify. I think, through a lot of the discussion here, there was a little gray area. All we're doing is adding a sentence to add a bit more definition to it. Talking to folks who...and we've heard it through the discussion. Senator Coash, Senator Howard, I think we all agree that administrative costs typically include things like human resources, IT, you know, meeting costs, rent costs, accounting services. Senator Howard said, sometimes, the federal government doesn't include accounting services in their definition. So this just provides just a little more guidance to HHS to say the administrative costs don't include the actual costs of case management, the program, actually, delivering the program. So with this, I would be happy to support Senator McCoy's amendment to the bill, and I think we can move forward with this today. With that, I'll yield the rest of my time...Senator Mello asked for the remaining time. Thank you. [LB368]

Floor Debate
May 23, 2013

SENATOR CARLSON: Thank you, Senator Nordquist. Senator Mello, 8 minutes and 45 seconds. [LB368]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'm going to look at Senator Nordquist's FA99 a little bit more in detail before I make a determination. But just hearing a little bit of the dialogue from Senator Lautenbaugh, Senator McCoy, and others, and then hearing what Senator Nordquist opened up on, I find this to be a very interesting floor debate and floor dialogue in regards to contract law, and that's what we're talking about, is procurement, here. Senator Lautenbaugh started off his dialogue of saying he doesn't see a problem putting into statute 10 percent administrative costs as a ceiling; yet, Senator McCoy has been unable to define what administrative costs are. Senator Lautenbaugh also mentioned programming costs. Ultimately, in this amendment, it doesn't mention programming costs either or a definition of that. So at this moment in time, I was going to stand up and oppose AM1518 of Senator McCoy's amendment not because I disagree, maybe, with what his intention is. But the reality, colleagues, is that, when we discuss child welfare privatization, if we discuss the Keystone Pipeline, we discuss multiple issues that involve a state contract. Senator McCoy has been engaged in those dialogues. Senator Lautenbaugh and others have been engaged in dialogues in regards to appropriating money to a program. But we never discussed the intricacies of that state contract, and that is what we're discussing on Senator McCoy's amendment is that we want to put in statute what can be done by the Department of Health and Human Services when they let that contract out. So we're trying to tell the Department of Health and Human Services, we want this in your contract, even though they can do an even lower amount, if they want, in their contract. It's up to them. Senator Crawford's bill gives the department the flexibility to make the determination if they want to contract it out or if they want to do it in house. So ultimately, AM1518, I would argue, is completely not necessary and it's overburdensome and, actually, I think it's...will harm the purpose of the bill because I have never heard another member on this floor, in my five years here, discuss that we need to insert this specific language into a program that, ultimately, may be contracted out. On the Keystone Pipeline we didn't discuss that; on child welfare privatization we didn't discuss that. We never once discussed we need to put a 10 percent ceiling on administrative costs. I wish we would have had the debate on child welfare privatization. It, maybe, would have saved the state \$25 million or the \$7 million golden parachute we gave one provider. But we didn't have that conversation, colleagues, because that's not what, ultimately, we discuss as the legislative branch. That's an executive branch decision when they make that contract. They make the determination of what an administrative cost is. They make the determination of what an indirect service is. That's the process. People on the Government Committee know this because we've brought multiple procurement bills to them over the last five years. We're not putting in statute what an indirect cost is or a direct cost. That's done through rules and regulations and through the Administrative Procedures Act. I'm waiting to hear from Senator McCoy or anyone who supports this amendment why we would do it for this

Floor Debate
May 23, 2013

one program but we've yet to do it for any other, major program we've done over the last five years that dealt with General Fund dollars, that had very large impact outside of a pilot project. It's because we don't do that. And by adopting AM1518...and I'm going to read FA99. My initial thoughts is to oppose them both because they're unnecessary and they're burdensome and they're not needed. The department has the ability, whether or not they want to do this or not, through in house or contracted out. You're automatically, by adopting these amendments, saying, you're going to contract it out. That wasn't Senator Crawford's proposal or the committee amendment. It gives them the option. So I'll listen to the dialogue more of why we need FA99 and AM1518 because, essentially, by adopting these, you're telling the department, you have to contract this out but, by the way, we're not going to explain what administrative costs are and we're not going to explain what indirect services are or indirect costs, we'll let you figure that out on your own, but here's the ceiling in which you can spend it on. It's new precedent, colleagues. If that's where we want to go, we can go that path. I'd love to hear from the Government Committee Chair to see if that's precedent that his committee has set over the last six years. I don't believe they have. We appropriate money to a program and, in this case, we allow the Department of Health and Human Services to develop rules and regulations through the Administrative Procedures Act. If we want to write their rules and regulations, let's do that then, by all means. I know myself and others would love to rewrite rules and regulations in the Department of Health and Human Services not just this year but for future years. So let's be careful of what we're actually talking about and what we're actually considering. If Senator McCoy's concern is that he doesn't want administrative dollars to go out of the way to nonprofits, let's see what the department comes back with first. I have a feeling the department is going to do their job. They're not going to let some nonprofit fleece the taxpayers, so to speak, and put 50 percent administrative costs in a program that's a million-dollar pilot project. Why? Because the Department of Health and Human Services will be held accountable. There is an accountability, colleagues, placed when we do these kind of programs and these kind of contracts. To throw all of that out the window and try not to use that in our decisionmaking is ludicrous. We've created programs before and we know how they're implemented. Senator Crawford explained the internship program that was created in the Department of Economic Development. Do we have a limit, in regards to them implementing that program in house, of what their administrative costs are? Are we telling the Department of Economic Development, you can only spend 10 percent of the administrative costs from the Job Training Cash Fund to fund that? Disregard that they can use General Funds, federal funds, cash funds, any other kind of funding that the department gets to implement it, if they choose to, because they're doing it in house. We're walking a very dangerous path and I think the policy at stake here is not helpful to pass the bill. I take Senator McCoy's word that he thinks this is a worthwhile program. He has concerns about not wanting to see the million dollars being spent on all administrative activities of the program if the department contracts it out, if the department contracts it out. The unique thing though is that we'll see what that contract is; the public will see what that contract is. We can see if the department says, we're

Floor Debate
May 23, 2013

going to give them 50 percent costs of administrative costs, here's what the definition of that is. And I think Senator McCoy, myself, and others, no doubt, would raise red flags. Why did the department make this decision? What information led them to believe that they needed to do this to implement LB368? So I'm looking forward to hearing why we're invading on this process, why we want to try to write a contract for the Department of Health and Human Services right now with FA99 and AM1518,... [LB368]

SENATOR CARLSON: One minute. [LB368]

SENATOR MELLO: ...ultimately, knowing that the department may not even contract it out. They may do it in house, colleagues. So I appreciate Senator Nordquist yielding me the time. I may not support his floor amendment. I don't support the underlying amendment, AM1518, because I don't think it's necessary. I think we're trying to tell them what a contract needs to be, and we've not done this, colleagues, on contracts worth multimillion dollars on pipelines and on privatizing our child welfare system. Why are we doing it on a \$1 million, federally funded pilot project? You need to ask yourself, why are we doing it for this? Are we trying to limit the ability of the program to get started up, trying to make it more difficult for it to get out the door? Ask yourself those questions and make the determination why we're trying to write contract and procurement law through AM1518 and FA99. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Mello. Senators wishing to speak include: Schumacher, Kintner, Burke Harr, Smith, and others. Senator Schumacher, you're recognized. [LB368]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. We're sure spending a lot of time wondering about 10 percent of a million dollars. I guess, that way, we don't get to talk about \$400 million. Would Senator Crawford yield to a question? [LB368]

SENATOR CARLSON: Senator Crawford, would you yield? [LB368]

SENATOR CRAWFORD: Yes. [LB368]

SENATOR SCHUMACHER: Thank you, Senator Crawford. Senator Crawford, roughly, in your "guesstimation," how many people are going to be employed in this program in a year? [LB368]

SENATOR CRAWFORD: The expectation is somewhere between 150 to 180 people a year. [LB368]

SENATOR SCHUMACHER: Okay, thank you, Senator Crawford. Senator McCoy, would you yield to a question? [LB368]

Floor Debate
May 23, 2013

SENATOR CARLSON: Senator McCoy, would you yield? [LB368]

SENATOR McCOY: I would. [LB368]

SENATOR SCHUMACHER: Senator McCoy, a couple questions, first, a technical one: When you say 10 percent, is this figured over the entire life of the program, in case there's head-end cost, or is it on an annual basis? [LB368]

SENATOR McCOY: Well, I think the nature of the bill, as I understand it, is to say that it's over the life of the program, is my understanding. [LB368]

SENATOR SCHUMACHER: Thank you, Senator McCoy. Senator McCoy, it seems, to me, that we have another bill that, I think, you may have done some work on that is...we passed a year or so ago, the internship program where qualified college students go to work for a Nebraska employer and then the employer gets a kickback of some kind for employing them. Do you know, in that program, is there a nonprofit middleman? [LB368]

SENATOR McCOY: I don't know the answer to that question, Senator Schumacher. I'm a little hazy as to what the details of all that bill was. As I recall, that might have been Senator Conrad's bill, unless I'm mistaken. She may know better. And I may be incorrect in that, but I thought that was Senator Conrad's bill. She may be able to explain that a little better than I can. [LB368]

SENATOR SCHUMACHER: Thank you, Senator McCoy. Members of the Legislature, I think, yesterday, Senator Kintner pointed out that there's a whole slew of people that could be served by this program and, yet, we're talking about actually doing about 150 people a year. And it occurs to me that that's a very small number of people. Why do we need to spend any overhead at all? Get the middleman, the nonprofit, if they're not willing to do it for next to nothing, out of the picture and do it just like we do the internship program which, I think, DED administers without any middleman. This is a tiny number of people. That we need to spend big administrative nonprofit overhead, middleman in the center of it, for 150 people a year just really, really seems disproportionate. You'd think you could almost do that at the Department of Labor level, at the DED level, because you're not dealing with many people at all, nor are you dealing with a whole lot of money either. I don't think I'm a member of the clique and the claue. I don't know how I would know if I was. But this seems, to me, when you say 10 percent is great, plenty, to simply put an employer in connection with the employee and do a little paperwork is great planning. Obama says that 15 percent is enough for an insurance company to administer a whole health insurance program. So why we're fighting over this, to begin with, is a great mystery of the world. But why 10 percent is not enough is, maybe, even a greater mystery. I would think that, spread over the entire life of the program, that 10 percent figure, if...now that Senator McCoy has stated that to

Floor Debate
May 23, 2013

be his opinion, that it's over the entire life of the program, is...should be more than adequate to put a couple hundred people a year in touch with an employer. In fact, my guess is the employer is going to carry most of the administrative duty because, if they get involved with any of these programs, I'm sure there's going to be a pile of paperwork. And that's why, even though my heart is into this bill, my head, not necessarily. Thank you. [LB368]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Kintner, you're recognized. [LB368]

SENATOR KINTNER: Well, thank you, Mr. President. Senator Mello, who I like to call "Mr. Chairman," talks about unneeded and burdensome regulations. Well, didn't yesterday this body just decide to regulate day care? We're not sure what the problem is, but we're going to study what the problem is and we're going to start regulating. That might very well be unnecessary and unneeded. And so I think it depends on what you're trying to accomplish and whose money is being spent. When we talk about direct and indirect, I don't know who you...I guess nonprofits use that kind of language. I've never heard that before in my life. I come out of the business world--at least, a good part of my life I have been. So, Senator McCoy, let's see if we can get to the bottom of this. Will you yield to a question? [LB368]

SENATOR CARLSON: Senator McCoy, would you yield? [LB368]

SENATOR McCOY: Yes, I would. [LB368]

SENATOR KINTNER: I guess, throwing all these things at you, if it's a computer, would it be direct or indirect? It wouldn't be covered. Basically, in business, you have fixed costs and variable costs, is that correct? [LB368]

SENATOR McCOY: Well, in the business world that I'm familiar with, Senator, that would be correct. I think though, sometimes...and the only cautionary tale, I would say, to that is, sometimes, the nonprofit world is not necessarily the business world. But in the business world that I'm familiar with, yes, you have fixed and variable cost. But some people define that a little different as to what are fixed and variable. [LB368]

SENATOR KINTNER: So a fixed cost would be a cost that you would have, no matter what, if you did this program or not. That would be your employees, your computers, the building, the electricity. It would be all the costs you have if you do the job or not, right? [LB368]

SENATOR McCOY: That's true, Senator, but I think that's part of what is a little bit of a conundrum here because, yes, fixed cost could be employees. But did this nonprofit organization that may, as Senator Mello says...we did change from "shall" to "may" last

Floor Debate
May 23, 2013

night on this bill through, I believe, an amendment that Senator Crawford had that was adopted. They may hire additional employees to carry out, to ramp up, to carry out this contractual agreement. So are those people considered to be part of...there's no definition of that, so you...there...that I can see, anyway. Perhaps I'm wrong, but I stand corrected if somebody can direct me to some area in the amendment otherwise. But I think, without any definition...and I'll speak at a later time on the microphone on Senator Nordquist's floor amendment. Without a definition of what administrative costs are and without a definition of service delivery, I think we're in a real...I think Senator Nordquist characterized it as a murky area, a gray area, here. I would agree with that very much. I appreciate what Senator Nordquist is doing with this floor amendment and, perhaps, this is the way to go. But I think, in order to make this work--and I just mentioned this to Senator Nordquist off the microphone--I think, and this speaks to my amendment below it, perhaps, we need a statutory definition of administrative cost--is it direct? is it indirect? is it fixed? is it variable? what does that include?--and then a definition of what service delivery is because, without those, I'm not sure you're going to be able to truly evaluate just how effective this program will be as a pilot program. [LB368]

SENATOR KINTNER: Well, if it's...if they're using this money on a fixed cost, they're using taxpayer money for this program to pay for things they were paying for anyway. Wouldn't that be right? [LB368]

SENATOR McCOY: Well, again, Senator, I don't know that...I mean, that's a hypothetical. I don't know that we have the information, as I understand it. Again, perhaps I'm wrong, but, as I understand it, I don't know that you have the ability to define that through this bill. I think we need some better definitions here, and then I think this really becomes very clear because this... [LB368]

SENATOR CARLSON: One minute. [LB368]

SENATOR McCOY: Again, these...it's my understanding, through the committee amendment, Senator Kintner, that we adopted yesterday, that these...that, if a nonprofit organization is contracted with, with HHS, they're going to provide an annual report. Well, part of that annual report, there's a whole list of qualifications, expectations that are laid out there. I think that part of what needs to be in, probably, that annual report--maybe we can get at this with defining administrative and service delivery definitions--is, what is it costing, from an administrative standpoint? That seems, to me, to be a very commonsense measure that would really help make certain, sure, that this legislation is getting to the people that need it the most. [LB368]

SENATOR KINTNER: Thank you very much. Appreciate it, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Kintner and Senator McCoy. Senator Burke Harr, you're recognized. [LB368]

Floor Debate
May 23, 2013

SENATOR HARR: Thank you, Mr. President, members of the body. When I hit my light it was to talk about what was just being debated. I couldn't agree more that administrative cost is not defined. I know Senator Nordquist made an attempt to define what it is not by putting "service delivery" in there but then, again, we're short of a definition of what those are. And we're trying to have individuals who are experienced in the private sector talk about how we do it in the nonprofit world and it's all accounting. It's all about accountability to make sure dollars are spent the proper way, whether it's in the public sector or in the private sector. I guess I would yield the remainder of my time to Senator Nordquist so that we can create a record, so HHS can have a better idea what he intends for service delivery to mean and, perhaps, he can enlighten us on what he expects administrative costs to include and not include. [LB368]

SENATOR CARLSON: Thank you, Senator Harr. Senator Nordquist, 3 minutes and 55 seconds. [LB368]

SENATOR NORDQUIST: Thank you, Mr. President and members. I just...Senator Kintner said he hasn't heard of direct and indirect costs. So I'll just say I just completed, last semester, a graduate-level class in accounting and finance at UNO and, very much so, service organizations, not just nonprofits but in the private sector, for-profits, all use direct and indirect accounting to tally their, kind of, overhead administrative costs which, typically, can include things like utilities, audit costs, legal costs, rent, administrative support staff, equipment rental. And then you have direct costs which are project specific or service aspect specific, which are program staff or service staff for that specific service you're delivering and supplies for that and anything related to that specific delivery. So just to, kind of, try to clear up as much as possible, I ran this floor amendment to try to add a little bit of definition to administrative costs. Senator McCoy said we needed to define it. Well, his initial amendment didn't define it either and at some point we, as a legislative branch, probably need to step back and say, that is an administrative function or a rules and regs function. And I think Senator Mello made it clear that this...it's very interesting that we're picking this one bill to say, we have to have, to the "t"--and the "i" dotted, the "t" crossed--what we're defining that as. Well, I don't think we, as a legislative body, need to go quite to that level, to start saying administrative costs include utilities and rent and legal and audit costs. And we have an executive branch that should carry out that function. I'm just trying to draw the line to say that we are not including, you know, the case management function of this bill in those administrative costs. I think that's an important distinction. Certainly, everything else should fall under 10 percent. But I think that the case management component is such a...is a direct cost of providing those services and shouldn't be deemed, under any way, to be administrative. So that's why I brought the floor amendment, to try to add a little bit of clarity. But I'm not going to stand here, and I don't think this legislative body should stand here, and try to itemize every aspect of potential administrative costs. I don't think that's our function. Other people may disagree. We don't do that with

Floor Debate
May 23, 2013

anything else, and I think it's a little disingenuous to say, oh, my gosh, we have to do it on this one. I think, with the amendment to draw the line of where...you know, between the, essentially, indirect and direct costs, where that is, is appropriate. [LB368]

SENATOR CARLSON: One minute. [LB368]

SENATOR NORDQUIST: We can keep the 10 percent threshold and try to move forward, as opposed to trying to put language in statute that isn't needed. So thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Nordquist. Senator Smith, you're recognized. [LB368]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. I was a little bit slow to get engaged on this issue and amendment and the floor amendment. But I'm going to just stand here and support the floor amendment as well as the AM1518. I do believe it's responsible and a reasonable expectation to establish what the administrative or indirect cost should be in this expenditure. The concept, really, is not foreign. If you look at Charity Navigator, if you, on your gadgets, you want to pull up the Web site, look at Charity Navigator. You can see what they talk about in terms of establishing percentage of overhead costs or indirect costs for an organization. Again, it's not...the concept is not foreign. I've served on a number of nonprofit boards in the past, still am on one or two, and I know we establish strategic goals and, typically, those are within the organization. Anywhere from 10 to 15 percent is not unreasonable. I know Senator Howard, in her line of questioning of Senator McCoy, I don't think she is disagreeing in concept. Since she is involved in grant proposals and fund-raising, she is held accountable in her organization, I'm sure, to achieving certain goals, in terms of percentage of indirect costs, in her organizations that she represents. If you read the...you know, we're throwing around different terms. If you look at overhead costs or overheads, typically, they're defined as administrative in nature and that they cannot be assigned to a particular product or service. I think that's what Senator Nordquist is trying to get at with his floor amendment. And in a side conversation we had before he was on the mike, we talked about those indirect costs being accounting and legal, administrative salaries, office expenditures or office expenses, rent, telephone, utilities, things of that nature. Now if we want to flesh it out and put that definition in there, I'm okay with that as well. I think the amendment he has will suffice. But, you know, Senator Mello was talking, and he's Chair of Appropriations so he understands finances and expenditures and trying to maintain the budget. But just because we don't recall this conversation having taken place in the past doesn't mean that it's not a reasonable or responsible conversation to have now. And as Senator Schumacher said, maybe it's a small amount of money in the larger scheme of things. But I wish we could have this conversation, going forward, on other issues as well. We do have to be mindful in the way we are spending taxpayer dollars. And whether this is just for contractors...I know

Floor Debate
May 23, 2013

the comment was made that this is because of contractors. But if this is even an internal agency to our state, we can come up with the same type of measurement, looking at the way they allocate their costs for their programs. So I think it's a good way to hold our government accountable for the way they're spending money. So it's not a frivolous amendment and I would stand in support of it. And as far as Senator Schumacher goes, I see he left the floor. But he was saying he's not part of a clique. But I wanted to remind him that, just yesterday, outside my office, we were having a meeting of our clique. And if he doesn't recall, Senator Harr was present. And so Senator Harr probably remembers that, the meeting of our clique. So, Senator Schumacher, you are part of a clique. Thank you. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator Smith. Senator Murante, you're recognized. [LB368]

SENATOR MURANTE: Thank you, Mr. President and members. When I put my light on, it was before FA99 had been offered, and I turned my light on because it seemed, to me, listening to the conversation, that Senators Crawford and McCoy didn't have, really, fundamental disagreements on AM1518. They were, kind of, circling around some sort of compromise but maybe they weren't able to land on anything. I don't know if FA99 is that thing but, to that end, first of all, I very much appreciate Senator Nordquist in, at least, attempting to find common ground on the issue to bring LB368 in for a soft landing. But I'd ask Senator Crawford if she would yield to a question. [LB368]

SENATOR CARLSON: Senator Crawford, would you yield? [LB368]

SENATOR CRAWFORD: Yes. [LB368]

SENATOR MURANTE: Thank you, Senator Crawford. As you know, I support LB368 and... [LB368]

SENATOR CRAWFORD: Thank you. [LB368]

SENATOR MURANTE: You're very welcome. So with respect to AM1518, are your concerns primarily technical in nature or do you have, sort of, fundamental concerns that we just ought not be going down this road? [LB368]

SENATOR CRAWFORD: I didn't think it was necessary. I felt that the incentive of the nonprofit to control their administrative cost was already there, sufficient to control that, and that the experience and expertise at the Department of Health and Human Services was sufficient to ensure that we were keeping administrative costs low. However, if members of the body don't feel that that's sufficient protection and want to put in an administrative costs cap, then I think it's very essential that we have FA99 so that we're clarifying that the administrative cost does not include the cost of providing the service

Floor Debate
May 23, 2013

to the participants of the program. [LB368]

SENATOR MURANTE: Okay, so it sounds then that you're not particularly concerned that there are going to be nonprofits that can't meet this threshold or, perhaps, you have an expectation that they already are going to be meeting the threshold, with or without AM1518. [LB368]

SENATOR CRAWFORD: We have some information that some nonprofits are currently meeting this threshold. If we're talk...if we're clearly talking about administrative expenses, yes. [LB368]

SENATOR MURANTE: Okay. Well, what I'm trying to flesh out is whether the number 10 percent or the concern with the vagueness of the term "administrative costs" is the issue because those are all fixable concerns, if that's the problem or if, as more of what Senator Mello had said, that what we're talking about here is whether we should be doing this at all or not. [LB368]

SENATOR CRAWFORD: My first concern with the amendment was that I didn't think it was necessary to do it at all. I still don't think it's necessary to do it at all. But if it's important to other members of the body, in terms of supporting the bill, to provide that guidance in the statute, I'm willing...I'm okay with that, with FA99 on there to clarify, so that... [LB368]

SENATOR MURANTE: Okay. [LB368]

SENATOR CRAWFORD: There was never a concern, necessarily, about the 10 percent number. That wasn't my concern necessarily. It was that I didn't think it was necessary and then, if we were going to do it, I wanted to make sure we were very clear that administrative cost did not include the cost of providing the service, like the caseworker costs. [LB368]

SENATOR MURANTE: Okay. That makes sense. As I understand it--and I just did a very brief amount of research... [LB368]

SENATOR CARLSON: One minute. [LB368]

SENATOR MURANTE: ...when I turned my light on, trying to come up with some term that's defined somewhere as to what administrative expenses are--it sounds like, perhaps, that research is unnecessary as, perhaps, FA99 accomplishes that end anyway. It's my understanding that nonprofits already have to report their administrative costs to the IRS. And to the extent that they have to report it already...is that your understanding as well? [LB368]

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

Floor Debate
May 23, 2013

SENATOR CRAWFORD: Right. That's my understanding. The issue is, in terms of why...there is already expectations of what people might be reporting to the IRS and they might be reporting in their annual plans to their fund-raisers. Now in this case, we would be saying, for this program specifically, what are your administrative costs? And again, I believe, they would be providing, you know, a budget. When they were getting the contract, we'd be seeing that. And so I don't think it would have been necessary to keep those costs at 10 percent. [LB368]

SENATOR CARLSON: Time. [LB368]

SENATOR MURANTE: Thank you, Senator Crawford. [LB368]

SENATOR CARLSON: Thank you, Senator Murante and Senator Crawford. Those wishing to speak include: McCoy, Lautenbaugh, Nelson, Bolz, Kintner, Karpisek. Senator McCoy, you're recognized. [LB368]

SENATOR McCOY: Thank you, Mr. President, members. Would Senator Nordquist yield, please? [LB368]

SENATOR CARLSON: Senator Nordquist, would you yield? [LB368]

SENATOR NORDQUIST: Yes. [LB368]

SENATOR McCOY: Thank you, Senator. I'm going to continue a little bit of what we briefly had a chance to ask a few...or converse a little bit, a little earlier, off the microphone. In your FA99, when you say, amend AM1518, add the following new section, administrative cost shall not be defined to include cost for service delivery...and I think, just a couple of minutes ago on the microphone--and I'm going to make sure I've got it correct and I'm using your correct language--I think you had said, service delivery is case management and, in your mind, would be a direct cost. Did I take down my note correctly? [LB368]

SENATOR NORDQUIST: Yeah. [LB368]

SENATOR McCOY: Okay. So in your mind then are...would there be anything else, besides case management, that you would see as what would be a cost? I guess, bottom line, I'm trying...my concern to you, off the microphone--let me back up just a little bit, and you remember me saying this--is I very much appreciate the direction you're going to try to resolve this gray area here because my amendment didn't define administrative costs either because I assumed there was a statutory definition for that. [LB368]

SENATOR NORDQUIST: Um-hum. [LB368]

Floor Debate
May 23, 2013

SENATOR McCOY: I didn't realize that there wasn't. [LB368]

SENATOR NORDQUIST: And I don't know that there is, yeah. [LB368]

SENATOR McCOY: And so that--I beg members' indulgence--that the amendment that we drafted this morning--although we did have a short amount of time since last night--didn't have a definition of administrative costs, I assumed there was one. But my concern, Senator Nordquist, to you was your floor amendment may go a good step towards resolving this issue, but it still doesn't provide a definition for administrative cost or cost for service delivery. But I think you've, sort of, given us, at least, a partial definition, in your mind, of what cost of service delivery is. Is that...would that be fair? [LB368]

SENATOR NORDQUIST: That's right, and what those indirect costs are on the other side, and then we would leave it up, in my mind, leave it up at this point to the discretion of the department. We would still keep that 10 percent threshold in. But they would get to define the gray area beyond what we would here in the Legislature. [LB368]

SENATOR McCOY: Okay. Thank you, Senator. I think that concludes the question I had for you. Members, I would go back to that this bill creates a Subsidized Employment Pilot Program. That's the name of the bill. I think that serves a good purpose, I said that earlier, a noble purpose, but it's a new program. So I think it's completely within the bounds of our jurisdiction as a Legislature to ask some questions about going forward--this is a new program--what are the expectations? It's a pilot program. I think now is a great opportunity to say let's align the expectations with what they are out there in other states and at the federal level. To go to what Senator Howard was asking me earlier and she said, well, you know, the federal, you know, grants might be different for...she's correct. But when it comes to TANF funds at the federal level, the expectation is 10 percent for administrative costs. May be different for other federal grants, but the expectation, as I understand it, for TANF funds, which is what this is, is 10 percent administrative cost. I would also mention to the members that we were able to track down a Form 990-PF, which private foundations fill out for the IRS, Internal Revenue Service. And one of the definitions for that under administrative cost and administrative expenses is, administrative expenses defined by the IRS include executive board, if applicable; staff compensation; pension/employment benefits;... [LB368]

SENATOR CARLSON: One minute. [LB368]

SENATOR McCOY: Thank you, Mr. President,...occupancy cost; professional, legal, accounting fees; printing and publication costs; travel; taxes. So you get the idea there are definitions IRS-wise at the federal level for what administrative costs are. I think it's appropriate and I appreciate what Senator Nordquist is doing with his floor amendment.

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

Floor Debate
May 23, 2013

I don't think perhaps it goes quite far enough. Perhaps we can come up with some better terms for what service...cost of service delivery is and what administrative costs. But, members, now is the time to get this taken care of. It's so easy to let things go and then years go by, I've been here five years, and we never go back and take care of things sometimes the way that they ought to be taken care of. I think this is a helpful discourse in order to go down that direction. Thank you, Mr. President. [LB368]

SENATOR CARLSON: Thank you, Senator McCoy. Senator Lautenbaugh, you're recognized. Senator Nelson, you're recognized. Senator Bolz, you're recognized. [LB368]

SENATOR BOLZ: I call the question. [LB368]

SENATOR CARLSON: Question has been called. Do I see five hands? I do. Question is, shall debate cease? All those in favor vote yea; all opposed vote nay. Senator Bolz. [LB368]

SENATOR BOLZ: I'd like a call of the house, please. [LB368]

SENATOR CARLSON: There's been a request for a call of the house, place the house under call. Shall the house go under call? Those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB368]

CLERK: 22 ayes, 0 nays, Mr. President, to place the house under call. [LB368]

SENATOR CARLSON: Thank you, Mr. Clerk. The house is under call. Senators, record your presence. Those unexcused senators outside the Chamber please return and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Burke Harr, Senator Scheer, Howard, Kintner, Adams, Davis, Schumacher, Lautenbaugh, Larson, Christensen, Conrad, the house is under call. Senator Davis, the house is under call. Senator Davis, please return to the Chamber. The house is under call. Senator Bolz, how would you like to proceed? [LB368]

SENATOR BOLZ: Let's proceed with a board vote. I'll accept call-in votes. [LB368]

SENATOR CARLSON: Thank you. Members, the question is, shall debate cease? [LB368]

CLERK: Senator Mello voting yes. Senator Howard voting yes. Senator Coash voting yes. Senator Davis voting yes. Senator Krist voting yes. Senator Conrad voting yes. Senator McGill voting yes. Senator Lathrop voting yes. Senator Burke Harr voting yes. Senator Schumacher voting yes. Senator Scheer voting yes. Senator Nelson voting no. [LB368]

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

Floor Debate
May 23, 2013

SENATOR CARLSON: Record, Mr. Clerk. [LB368]

CLERK: Senator Nelson, I'm sorry, you want to change from yes to no? From yes to no, is that right, Senator? Okay. Thank you. Senator Larson, is that a no, Senator? Senator Larson voting no. Thank you. Senator Brasch voting no. Senator Adams voting yes. Senator Dubas voting yes. [LB368]

SENATOR CARLSON: Record, Mr. Clerk. [LB368]

CLERK: 26 ayes, 6 nays to cease debate. [LB368]

SENATOR CARLSON: Debate does cease. Senator Nordquist, you're recognized to close on FA99. [LB368]

SENATOR NORDQUIST: Thank you, Mr. President and members. Again, this just simply adds a sentence to Senator McCoy's amendment to say, "Administrative cost shall not be defined to include cost for service delivery." We had extensive debate on what would be considered under that, what wouldn't. I think at this point we define it as not including the cost of service delivery and we allow Health and Human Services, through their regulation process, to establish what would be...would constitute administrative costs in the underlying amendment. We would retain the 10 percent threshold, which I think at this time, with the floor amendment adopted, myself and I know others on the floor would be willing to support Senator McCoy's amendment to the underlying bill and allow us to move forward with our work today. Thank you. [LB368]

SENATOR CARLSON: Thank you, Senator Nordquist. You've heard the closing. The question is, shall FA99 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB368]

CLERK: 40 ayes, 0 nays, Mr. President, on adoption of the amendment to the amendment. [LB368]

SENATOR CARLSON: The amendment is adopted. We raise the call. We return to debate on AM1518. Those wishing to speak include Kintner, Wallman, Krist, McCoy, and Murante. Senator Kintner, you're recognized. [LB368]

SENATOR KINTNER: Well, thank you very much, Mr. President. I did have one question for Senator Crawford, if you could yield to a question. [LB368]

SENATOR CRAWFORD: Yes. [LB368]

SENATOR CARLSON: Senator Crawford, would you yield? [LB368]

Floor Debate
May 23, 2013

SENATOR CRAWFORD: Yes. [LB368]

SENATOR KINTNER: Well, thank you. I just...I'm going to deviate just a little bit. I just had a question about prevailing wage, and you mentioned it several times. Where does prevailing wage come into this whole equation of this, of the bill? [LB368]

SENATOR CRAWFORD: Well, that was part of the bill that we approved with 35 votes yesterday. But the prevailing wage came into the bill. That's language that was in the bill actually before as well, and so that was language that was researched initially by Senator Mello's office. It was discussed in the interim study. It was also language in the bill that we discussed at the hearing. So that is just in there, the language is in there, to indicate that when we are providing a subsidy for a wage, we want to make sure the wage is similar to what that wage would be in other places. [LB368]

SENATOR KINTNER: How do you define prevailing wage? [LB368]

SENATOR CRAWFORD: I will allow the Department of Health and Human Services to define that. [LB368]

SENATOR KINTNER: Thank you. And the other thing I do want to say for Senator Nordquist, if he's just listening anywhere, I understand direct and indirect, and I remember in college we studied direct costs and indirect costs, and we studied that so we could understand what a fixed cost and a variable cost was. So they said, well, if it's a fixed cost or if it's an indirect cost or if it's a variable cost, those are description words to describe variable cost and fixed costs, indirect and direct. So, yes, I used those terms in college, but as soon as we learned the accounting terms we didn't use the indirect and direct terms. We used fixed and variable costs. Thank you, Mr. President. [LB368]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Senator Kintner. Senator Murante, you're recognized. Senator Murante waives. Senator Lautenbaugh, you are recognized. [LB368]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And I did support that last floor amendment as I said I would. I meant to speak before the vote but I was outside the room when the question was called, and I missed my opportunity before that. I don't believe that this amendment does any harm to the bill or the program, certainly. I was here when Senator Mello was discussing that somehow this would mandate that the services or the implementation be contracted out instead of run in-house by the agency. I don't see how that's contained in what's being done here. I don't understand that concern, to be honest. I was off the mark earlier, I think, when I suggested--and it didn't occur to me till Senator Schumacher was making some

Floor Debate
May 23, 2013

comments--that this would be some...possibly some sort of standalone new entity doing this. And for the dollar amount we're talking about here, that's obviously not correct. But I don't think it's wrong to look at something like this and do something like this. And the question was, well, why now? Why on this bill? Well, why not, I guess is a better question. If it's something that we should be doing, if it's something that other states do, if it's something we should be doing on higher dollar matters, that's all open to discussion, heaven knows. I guess the shorter response is, you have to start somewhere with something. The notion never occurred to me. It didn't occur to me this morning either. It's not my amendment. But I like the notion. And I do think we put parameters, provisions in bills we pass, programs we set up. Even if we leave the implementation to others, we do provide some sort of guidelines in there. We don't just say here's \$10 million, you should go do something with it. We do actually provide some direction as to what we want done with the money. I don't think it's beyond the pale, I don't think we're impermissibly straying into the realm of negotiating the contract for saying, by the way, administrative costs should only eat up this much of the fund. I think that leaves a lot of room left to run as far as rule making and contract administration, contract negotiation I should say. We aren't impermissibly getting into too many details or way out in the tall weeds, I think, with that one modest proviso that we're talking about putting in there. I think Senator Nordquist's floor amendment was helpful so, again, I did vote for that, and I plan on supporting Senator McCoy's amendment, as I previously indicated. Mr. President, is this my third time? Do you know? [LB368]

SENATOR KRIST: We're looking. It is. [LB368]

SENATOR LAUTENBAUGH: Thank you. But I do think, again, as I've said before, even if the dollar amount we're talking about here isn't huge, you do start somewhere. I mean I can remember my first or second year here we defeated a bill, and it wasn't just a few of us, the whole body rejected a bill that would have sent out voting guides, I think, to some of the counties or all the counties from the Secretary of State. And it had a \$9,000 fiscal note and that became an issue on the floor, \$9,000, and we didn't want to do it. And the argument made then, rightly so, was, yes, it's only \$9,000, but if there's no point in doing it, there's no point in spending the \$9,000 either, even if it is only \$9,000. [LB368]

SENATOR KRIST: One minute. [LB368]

SENATOR LAUTENBAUGH: This has been pointed out to be \$100,000, 10 percent of the million. Well, fine, that's not all the money in the world. That's not even a significant portion of our budget and it's not even coming from our budget. But that doesn't mean we shouldn't bring our judgment to bear on how it should be administered, how the funds should be spent. I think that's our job. So I would again applaud Senator McCoy for bringing this amendment and I do plan on supporting it, and I would urge all of you to do likewise. Thank you, Mr. President. [LB368]

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

Floor Debate
May 23, 2013

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Bloomfield, you're recognized. [LB368]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, it's no secret I didn't like this bill to start with. I think what we're doing with this amendment is polishing a cement block. But it does make it look a little better, not enough that I'm going to vote for it but I do like the amendment. And I would yield the rest of my time to Senator McCoy. [LB368]

SENATOR KRIST: I'm sorry. [LB368]

SENATOR BLOOMFIELD: McCoy. [LB368]

SENATOR KRIST: Senator McCoy, you are yielded 4:36. [LB368]

SENATOR McCOY: May I ask then, Mr. President, are there other lights on or am I the last remaining light? [LB368]

SENATOR KRIST: Senator Wallman follows you, but you're the last right now if... [LB368]

SENATOR McCOY: I'll waive and address members on my closing. Thank you. [LB368]

SENATOR KRIST: Okay. Senator Wallman waives. Senator McCoy, no other members in the queue. You're recognized to close. [LB368]

SENATOR McCOY: Thank you, Mr. President, members. I think this has been a good conversation this morning. I think that it's been constructive. I know again, I'd beg members' indulgence, but this happened pretty quick between General and Select, so I think questions that maybe could have been ironed out off the mike were ironed out on the floor this morning. I think that's helpful. That's our process. And I appreciate again what Senator Crawford is doing with this legislation. I know her office has worked very hard on this legislation. I think this amendment, with the inclusion of Senator Nordquist's floor amendment, helps. I certainly still have some questions as to definitions for administrative cost and service delivery, some of which I discussed on the microphone with Senator Nordquist a few moments ago. But I think that now it is a more complete piece of legislation and one that I hope accomplishes even more effectively the noble goal by which it came about that Senator Crawford introduced it. And with that, I would ask for your adoption of AM1518. Thank you, Mr. President. [LB368]

SENATOR KRIST: Thank you, Senator McCoy. You've heard the closing on AM1518. The question is, shall the amendment to LB368 be adopted? All those in favor, aye;

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

Floor Debate
May 23, 2013

opposed, nay. Have all those voted that wish to? Record, Mr. Clerk. [LB368]

CLERK: 26 ayes, 1 nay, Mr. President, on the adoption of Senator McCoy's amendment. [LB368]

SENATOR KRIST: The amendment is adopted. [LB368]

CLERK: I have nothing further on the bill. [LB368]

SENATOR KRIST: Senator Murante for a motion. [LB368]

SENATOR MURANTE: Mr. President, I move to advance LB368 to E&R for engrossing. [LB368]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It advances. Mr. Clerk. [LB368]

CLERK: LB368A, Senator, I have no amendments to the bill. [LB368A]

SENATOR KRIST: Senator Murante for a motion. [LB368A]

SENATOR MURANTE: Mr. President, I move to advance LB368A to E&R for engrossing. [LB368A]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It advances. Mr. Clerk. [LB368A]

CLERK: Mr. President, LB298. There are E&Rs first of all, Senator. (ER106, Legislative Journal page 1541.) [LB298]

SENATOR KRIST: Senator Murante for a motion. [LB298]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB298]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Adopted. [LB298]

CLERK: Mr. President, Senator Burke Harr would move to amend with AM1487. (Legislative Journal page 1567.) [LB298]

SENATOR KRIST: Senator Burke Harr, you are recognized to open on your amendment. Members, Senator Harr is in the Speaker's office, if you'll stand at ease for just a second. Senator Harr, you're recognized to open on your amendment. [LB298]

Floor Debate
May 23, 2013

SENATOR HARR: Thank you, Mr. President. I feel like I've gone...well, anyway, this amendment, let me explain. At the end of the day I probably will pull this amendment depending on how debate goes, but I have very...a lot of concern about this bill. Let's give a little history on how we treat controlled substances in the state of Nebraska. So traditionally we've had organic controlled substances that we have banned. Due to advances in chemistry, we now have a lot of synthetic drugs out there, and so we took a certain approach to dealing with synthetic drugs. Senator McCoy was the first one to introduce that concept and way of dealing with controlled substances that are synthetic. Following year, Senator Schilz introduced another one. Well, now here we are year three dealing with synthetic drugs and go ahead and look at the bill, if you will, please. You're going to see we are crossing out a whole bunch of drugs that we say are controlled substances. So what was illegal today or is illegal today may not be illegal tomorrow. That's a pretty big deal. These are not misdemeanors. These are felonies, punishable by up to five years in prison. Now in filing my amendment I spoke with Senator McCoy and he told me what we've done is redirect how we do this, we've changed. And I tried to understand but I just don't, because we're crossing out language, no if, ands, or buts about it. So why is it wrong? What was wrong with the way we were doing it before? If it was okay today, why is it wrong tomorrow? If it was okay a mere two years ago, why is it wrong today? What has changed? And what I would say is fool me once, shame on me; fool me twice...excuse me, other way around. Fool me once, shame on you; fool me twice, shame on me. I have no idea what these drugs are, how we do them, and why we're changing it, and yet we're going to make all new classes of felonies out there, not misdemeanors, felonies. That's worrisome to me. So if Senator McCoy would yield to a question... [LB298]

SENATOR KRIST: Senator McCoy, will you yield? [LB298]

SENATOR McCOY: I would. [LB298]

SENATOR HARR: Have you had a chance to read AM1487, my amendment? [LB298]

SENATOR McCOY: Yes, I have. [LB298]

SENATOR HARR: Okay. So can you pronounce what that drug is? [LB298]

SENATOR McCOY: No, I won't attempt that, Senator. [LB298]

SENATOR HARR: Okay. Well, it's commonly referred to as MDMA. It's methyl...well, it's a methamphetamine though, comes at the end, and it's an optical, positional, and geometric isomer, salt, and salts of isomers. And getting on the gadget, you look and it says MDMA is a drug of the phenethylamine and amphetamine class of drugs. MDMA has widely been known to be used in ecstasy, which is a...use ecstasy as a street pill. It

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

Floor Debate
May 23, 2013

may be present in other possible adulterants. So my question is, why was this removed? [LB298]

SENATOR McCOY: It hasn't been, Senator. [LB298]

SENATOR HARR: Okay. [LB298]

SENATOR McCOY: It has not been removed. It's placed in a different spot in the statute to class it with the appropriate classes of drugs. [LB298]

SENATOR HARR: So why are... [LB298]

SENATOR McCOY: Not one line has been stricken that hasn't just been moved to a different section in the statute. And I'm happy to go over it with you if you'd like line by line. [LB298]

SENATOR HARR: Yeah. [LB298]

SENATOR McCOY: I know you have the sheet that moves...that tells you where they've all been moved. Not one thing has been stricken,... [LB298]

SENATOR HARR: Okay. [LB298]

SENATOR McCOY: ...just placed on a different page in the bill. [LB298]

SENATOR HARR: So what you're saying is we're treating them, but why are we changing the law then if not one thing is changed, it's just been moved? Why are we changing? [LB298]

SENATOR McCOY: Well, you're talking about two different things, Senator, and I think I'm next in the queue and I'm happy to take my own time and define it... [LB298]

SENATOR HARR: Okay. [LB298]

SENATOR McCOY: ...if you'd like, or I can go into that now... [LB298]

SENATOR HARR: Go ahead. [LB298]

SENATOR McCOY: ...and just move on into my own time. [LB298]

SENATOR HARR: Go ahead. No, you can use my time. [LB298]

SENATOR McCOY: Okay. [LB298]

Floor Debate
May 23, 2013

SENATOR HARR: But tell me, why have we made a change in how we are doing this? [LB298]

SENATOR McCOY: Okay, the two... [LB298]

SENATOR HARR: Maybe you want to start with how we did it with K2, since that was your drug, your bill, and then this is obviously piggybacked off of Senator Schilz's from last year, and then why we're changing. What did Senator Schilz get wrong that you're going to get right? [LB298]

SENATOR McCOY: Senator Schilz, in my opinion, didn't get anything wrong, Senator Harr, to use your words, nor did we with LB19 which was sometimes referred to as the K2 bill two years ago. What you have going on here, Senator, are two different things. One, you have entirely new compounds, synthetic compounds and classes of drugs that weren't in existence either two years ago or last year with the bath salts legislation that Senator Schilz passed. Of course, you would have been on the Judiciary Committee for both of those bills, I believe not only last year but LB19, K2 bill, two years ago. So that's...you have two different things, well, more than two different things, but to your point of what question you're asking, two different things that are going on within LB298. One is we are adding entirely new, and in my opinion substantially more lethal, compounds and classifications of drugs to the Controlled Substances Act that were not even in existence last year or the year before. Or if they were, we didn't have a way to quantify what they were. Okay? That's to your point, I guess question part A, if that makes sense. And stop me at any point you want me to go on with this on your own time...or on my own time. Question part B, if I'm understanding it correctly that you're asking, what we have here are a number of different compounds that parts of were in Senator Schilz's legislation last year, parts that were in LB19 two years ago, and we're grouping them under the appropriate classifications so that they make sense more when law enforcement, prosecutors look at this, forensic scientists look at these compounds, so they can group together. As these lethal substances are created in labs, wherever these are created, we're categorizing these, classing these together. So this is merely just for organization purposes that these were stricken in one area, added to the other. They weren't stricken, taken off the Controlled Substances Act or off the list. They're just moved to a different area within statute. That answers your part A, part B questions. [LB298]

SENATOR HARR: Okay. Thank you very much. And this is a concern I had because every year they're going to come up with new compounds and we're going to be adding new ones all the time. I think that unfortunately this has become a yearly issue for us. And I want to make sure that so now we're reclassifying it and we're going to be adding every year, so when we add every year, Senator McCoy, will we be striking and moving around? [LB298]

Floor Debate
May 23, 2013

SENATOR McCOY: Yeah. [LB298]

SENATOR HARR: Or is this going to be a one-time way of doing it so that we don't have to, because this looks bad to be striking language and adding new language. [LB298]

SENATOR McCOY: Well, again, Senator, we're not striking. We're adding altogether new language of substances that weren't...that we didn't know about or didn't have a way to quantify. There is zero language that's stricken that isn't added back in. So we're not striking. And so I just want to make sure it's very clear for the record of what we're doing here. We're moving it to a different section of the same piece of legislation. We're not taking off of the Controlled Substances Act something that's been placed there. [LB298]

SENATOR HARR: Okay. And so that's what...let's pretend this is...oh boy, now I'm blanking, a library. We're just moving it from different parts of the library. Is that correct? [LB298]

SENATOR McCOY: If I understood the... [LB298]

SENATOR HARR: Under the Dewey decimal system, we're just pushing it into different parts of the Dewey decimal system. It's still in...that book is still in the library; it's just cataloged in a different part of the Dewey decimal system. [LB298]

SENATOR McCOY: That would be a great analogy, in my opinion, Senator Harr. [LB298]

SENATOR HARR: Okay. [LB298]

SENATOR McCOY: Yes, Dewey decimal system and I should remember the different classifications of that a little better than what I do off the top of my head,... [LB298]

SENATOR HARR: Yeah. [LB298]

SENATOR KRIST: One minute. [LB298]

SENATOR McCOY: ...but you're correct. If you would look at LB298 as the library, this is moving some of these substances from the periodicals to the nonfiction. [LB298]

SENATOR HARR: Okay. And will we keep doing that? Will we have to keep doing this, or is this a one-time change? [LB298]

Floor Debate
May 23, 2013

SENATOR McCOY: Well, it's certainly something from an organizational standpoint. We've probably caught it up to current. We didn't do that in LB19, you may recall, where we moved to classify these compounds into classes that were more organized for statutory purposes. So that didn't happen the last couple years. My hope is that we don't have to come back with similar legislation for a while down the road. But I got to tell you, Senator Harr, if it means we have to come back down the road to save more lives of young people, I'll do it. [LB298]

SENATOR HARR: All right. Thank you. [LB298]

SENATOR KRIST: Thank you, Senator Harr and Senator McCoy. You've heard the opening on AM1487. Wishing to speak: Senator McCoy, Chambers, and Burke Harr. Senator McCoy, you're recognized. [LB298]

SENATOR McCOY: Thank you, Mr. President. Thank you, Senator Harr. Hopefully that makes sense. I think there may be a handout that's going to make its way around the body here in a few minutes that is the same exact sheet that Senator Harr has that just kind of is an outline. It walks through where, what area of the statute that these substances were and where they were moved. They weren't removed permanently; they were moved. So not removed, just moved, so I want to make that very clear. Hopefully that makes some sense. If anybody wants to ask me some of the names, I'll do my best to pronounce them. I can't promise you I'll get them correctly, but I'll try. And with that, I think Senator Chambers may be next in the queue and I'd be happy to yield the remainder of my time to Senator Chambers. I assume he probably has a question or two for me. [LB298]

SENATOR KRIST: Senator Chambers, 4 minutes and then you're next. [LB298]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator McCoy. Senator McCoy, in listening to the exchange between you and Senator Harr, this is the question that occurred to me. Are you saying and are those with whom you're working, because none of us are experts on this, that no new substances, no new derivatives are named in this bill? And if a person took the time to go through it and look at each substance or compound mentioned, no new substance or compound is included? Is that correct? [LB298]

SENATOR KRIST: Senator McCoy, will you yield? [LB298]

SENATOR McCOY: I would. And, Senator, no, I want to go back to the part A and part B answer that I gave Senator Harr and I want to make very clear. Have two things going on here. You have an organizing of existing substances, Senator Chambers, that have already been added to the Controlled Substances Act, so have been banned. We are adding new substances that were not created when we dealt with LB19 two years ago.

Floor Debate
May 23, 2013

So you have two things going on here. You have an organization of existing substances, compounds into classifications that were already added to the banned substances list. So that's the first function of LB298. And there are new substances that are being added to the banned list that were not in existence two years ago. So you have two components of this legislation. I didn't mean to provide a confusing answer, if I did, to what Senator...to my response to Senator Harr. [LB298]

SENATOR CHAMBERS: No, I don't think anything was said by you designed to do anything other than what you were trying to do in terms of answering the question. But I'm asking these questions because I may not have listened carefully enough. So as a matter of fact we could be coming back next year... [LB298]

SENATOR McCOY: I hope not, Senator Chambers. [LB298]

SENATOR CHAMBERS: ...because between now and then some child may have used some substance and died from it, and because other children might copycat, that will now go on to the banned list, because you said anything that might save a child's life. A lot of these things happen because kids see it on the Internet and they do it, like they were swallowing a lot of cayenne pepper and seeing how much baking soda they could swallow and then pour Pepsi-Cola on top of it. So if that kind of thing is going to happen, just as an example, would we be faced with something that would tell us that when you combine baking soda with carbonated water, you wind up with this compound, and because it has resulted in the death of children who use it, this combination of substances, if put in a container and sold, is now banned and a felony to whomever sells it or possess it with the intent to sell? That could happen, couldn't it, based on the philosophy of those who are having us ban all of these substances? [LB298]

SENATOR McCOY: Well, actually, no, Senator Chambers, that would not be the philosophy and that would not be the conclusion, in my mind. And I'd be happy to elaborate on why I believe that, to why I gave you that answer, if you'd like me to. [LB298]

SENATOR CHAMBERS: Yes. And then if your time runs out, when mine comes up then we'll continue, because I do want the record to be clear on what you're explaining to us. [LB298]

SENATOR McCOY: Sure. I'd be happy to go into that. [LB298]

SENATOR CHAMBERS: Yes. [LB298]

SENATOR McCOY: A lot of you know, I grew up on a farm/ranch, a lot of dangerous substances, you know, solvents, tools, you name it. And kids being kids, I was one, I have three younger brothers, are 18 months younger than me, we got into a lot of stuff

Floor Debate
May 23, 2013

we never should have got into. Now wasn't life-threatening, thankfully, but we did a lot of silly things as kids will do. [LB298]

SENATOR KRIST: Gentlemen, you're now on Senator Chambers' time. [LB298]

SENATOR McCOY: Thank you, Mr. President. So to Senator Chambers' point, I think what's fundamentally I think different, I'm a small government guy. That's just philosophically where I'm at. Some people said, well, then why do you keep bringing bills to add to government? Very simple reason, to Senator Chambers' point: These substances have no useful purpose outside of deadly, lethal, synthetic drugs that will damage individuals, humans, potentially for the rest of their lives if not be fatally damaging to them. These are, to Senator Chambers' point, we're not talking about banning baking soda. I would have a fundamental problem with that. We all remember, it's still unfortunately a problem, but when huffing spray paint was a problem, still is. We didn't see it...I don't think anyway. I wasn't here. Senator Chambers would probably better know this. When that became a real problem about a decade or so ago, I wasn't in the Legislature. I don't remember. Forgive me, Senator Chambers, if it happened and I'm not aware of it. I don't know that anybody proposed a piece of legislation to ban spray paint. That wouldn't make a whole lot of sense. The deal with these chemical compounds and classes, members, are they can't be used for anything else. They don't have a useful research component to them. They are... [LB298]

SENATOR CHAMBERS: Let me ask you this, then,... [LB298]

SENATOR McCOY: Sure. [LB298]

SENATOR CHAMBERS: ...because that part is clear. Could it be used as a poison? Could one of these compounds be used as a poison? [LB298]

SENATOR McCOY: As a poison to... [LB298]

SENATOR CHAMBERS: If it's lethal... [LB298]

SENATOR McCOY: ...like a pest or something, Senator Chambers, or... [LB298]

SENATOR CHAMBERS: Any living thing. [LB298]

SENATOR McCOY: Well, my understanding is no, and the reason for that, if I may expound a little bit, is these chemical compounds are created in a laboratory for specific reactors in a human brain, in a human body. [LB298]

SENATOR CHAMBERS: But if it's lethal, that means it kills. It's toxic. [LB298]

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

Floor Debate
May 23, 2013

SENATOR McCOY: Well, "lethal" may not be the word to use. Very damaging, how about that, Senator? Would that be a...I, when I'm thinking lethal I'm thinking very harmful to someone's body. I'm thinking fatal. I'm thinking ending someone's life, unfortunately. So perhaps "lethal," a better word could be used. Could be very detrimental, perhaps that's a better use of the word, very detrimental to someone's body who would use these drugs. [LB298]

SENATOR CHAMBERS: Okay. Now there is language, and I'm not going to cite the specific place in the bill because I don't want to get into that on every...in every place where it's stated, but they will say that this particular compound or substance has the potential to lead to addiction; therefore, if any amount of this substance is involved here, then it's unlawful. Have you read any language like that in the bill that you can recall? [LB298]

SENATOR McCOY: I'm trying to understand and make sure I understand what you're asking, Senator Chambers. Are you talking about, as far as addictive, from the synapses in your brain, that you would respond much the same way as it would to, say, a traditional drug? [LB298]

SENATOR CHAMBERS: Well, they say it... [LB298]

SENATOR McCOY: Is that what you're... [LB298]

SENATOR CHAMBERS: They say it could lead to addiction. It could be addictive. They have language like that. And I won't ask you the questions because there is so much in that bill and I don't think anybody who is not a chemist or conversant with that all the time could answer these questions. And none of them is designed to be a trick question. The problem that I have is that what is known today, even about an artificial compound, does not determine... [LB298]

SENATOR KRIST: One minute. [LB298]

SENATOR CHAMBERS: ...the ultimate use that may be made of it. And I know it could be argued that if and when such a use occurs it will be taken off this banned list. But if it's taken off the banned list because there is a legitimate use for it, it still can be used at that time in the way it's being used now. So if I understand what Senator McCoy may be suggesting, if a legitimate use for one of these substances or chemicals develops in the future, it will no longer be banned even though it still has the potential for abuse. Is that correct, Senator McCoy? [LB298]

SENATOR McCOY: That's correct. And I would also make mention, if I could, Senator Chambers, and I know your light is on again. I don't want to take too much of your time. [LB298]

Floor Debate
May 23, 2013

SENATOR CHAMBERS: Oh, I don't mind. That's why I turned it on. [LB298]

SENATOR KRIST: Gentlemen, Senator Chambers, you're on your next time. [LB298]

SENATOR McCOY: Senator, I think the answer to that is since we passed LB19 two years ago, to my knowledge no one has stepped forward and said one of these substances, these chemical compounds and/or chemical classes that was banned under that legislation, we've now found a useful research purpose. We vetted these, I shouldn't say "we" as in "I," but chemists have vetted, researchers have vetted with both of these pieces of legislation, LB19, LB298 this year, with our university system, with researchers. [LB298]

SENATOR CHAMBERS: But, Senator McCoy, again in the interest of time...and maybe it would take a longer period than has elapsed for this use to emerge, so we can only speak theoretically because somebody may be making use of it now, unaware that there's this listing in Nebraska where it's illegal but it may not be illegal in every state. The point I'm getting to is that we are trying to anticipate what may happen in the future, which we cannot do. And I do believe you're going to be having one of these bills every year, every session. And that was asked during the hearing. And none of the people who support the bill can assure us that this is not going to be every session. And they're always behind the curve. So wait until something surfaces in trying to anticipate every possible use of this particular chemical that can be made and used in combination with others, because when it is used in combination with something else it makes that something else unlawful too. Let there come evidence that there is a problem with one of these manufactured drugs. You're not going to anticipate every possible derivative that may be feasible using one of these compounds or a form of it or in combination with something else. I'm not going to try to stop this bill but I'm not going to vote for it. I think it is too...I think it overreaches, as always happens when law enforcement is the driving force. They always want to find more ways to criminalize more conduct, and they put litigation before courts. And when the court draws a boundary and says you're going too far, then people want to say the court is being easy on crime. Not long ago the Nebraska Supreme Court threw out a conviction, a drug conviction, because the accuracy of the scales used to weigh the amount had not been verified. And some people will say, what difference does it make, it was a drug. Well, it makes a difference if you're talking about the law. You're criminalizing conduct and the forces of the state are going to come into play. There was another conviction thrown out because cops were using the pretext of somebody's tire going over the line. You have two parallel lanes and a line dividing them, and a cop would say, this car, it just happened to be a car with an out-of-state license, touched the line. And the Supreme Court threw out a conviction, and a large amount of drugs was involved, and the court said that the statute says that the momentary touching or going over the line and a person returns to the lane is not a traffic violation. And throughout the conviction the court was doing what it

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

Floor Debate
May 23, 2013

should have done, and the police were doing what they should not have done. I don't trust the police. And this is a prosecutor's bill. [LB298]

SENATOR KRIST: One minute. [LB298]

SENATOR CHAMBERS: It's a police officer's bill. All they have to do, when they swear out a warrant, is to say, we have reason to believe that such and such a substance is in this house and we have an informant, who need never be named in the affidavit. And there may be no informant, but they could want to go into somebody's house on the pretext of there being one of these substances, which they wouldn't know if they saw it because they're really looking for something else. And, Senator McCoy, I am in no way criticizing you for what you're trying to do. I just think you're trying to capture moonbeams with a sieve, and it's not going to work. So although I say again I'm not in a position to try to stop this bill, but I won't vote in favor of it for the reasons I've suggested. Thank you, Mr. President. [LB298]

SENATOR KRIST: Thank you, Senator Chambers and Senator McCoy. Senator Bloomfield, you're recognized. [LB298]

SENATOR BLOOMFIELD: Thank you, Mr. President. When I turned my light on, they were having a discussion back there and I just wanted to make sure they didn't run out of time. And I'd yield the rest of my time to Senator McCoy, if he could use it. [LB298]

SENATOR KRIST: Senator McCoy, you're yielded 4:45, and you are next in the queue. [LB298]

SENATOR McCOY: Thank you, Mr. President. Thank you, Senator Bloomfield. I'll go through just a little bit, because I think perhaps...and I very much appreciate Senator Chambers' concerns with law enforcement. That's not really what this bill is about, although I understand his concern that it could get tied to that. I don't share that concern, but as a fellow member of the body, that's...he is very much entitled to his own opinion and I appreciate that and respect that. I would go through a couple places in statute, members, that I think might be particularly important and might be salient points to make in this discussion. In statutes 28-406 through 28-415, it deals with a registrant's ability to prescribe, manufacturer, dispense, and research prohibited controlled substances that are part of the 28-405 section of statute. In particular, 28-408(3) authorizes registrants to "conduct research with Schedule I substances" upon application. And a registrant is defined in 28-401(35) as "any person who has a controlled substances registration issued by the state or the administration." So I want to make sure that I'm being very clear. And perhaps I maybe...don't know that I mentioned these areas of statute before now, but I thought it might be an important place to mention them, that just because we're listing something in the Schedule I banned Substances Act doesn't mean that it's illegal for all persons and for all purposes.

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

Floor Debate
May 23, 2013

I think that's, you know, that's an important point to make. For instance, it might be legal to manufacture most Schedule I substances to research, to prescribe, or for medicinal purposes so long as it is being done by one authorized to do so. So, for instance, you may have a physician who prescribes steroids for a medicinal purpose at some point in time to a patient, but that's...they are authorized to do that under some constraints. So there are obviously allowances there if someone does run across an issue down the road. It hasn't happened in the last two years since the base legislation of this has been in place. To our knowledge, no one has come forward and said this needs to be researched; we feel like something is being banned that shouldn't be. But if that were to happen, we have allowances in statute in order for that to be researched or used under certain constraints. So hopefully that helps with a couple of the questions that Senator Chambers added. And I might conclude with mentioning, you know, Senator Chambers talks about maybe attempting to catch moonbeams with a sieve. I appreciate what he's trying to say there. This is a very, very daunting topic to take up. But it's one that our office has really dug into, spent a great deal of time on. I, by no means, consider myself to be an expert in this field. I think it's very humbling as a legislator when you have the opportunity to deal with an area, potentially a section of the law, section of the statute and an issue that you really have... [LB298]

SENATOR KRIST: One minute. [LB298]

SENATOR McCOY: ...very little familiarity with, and that's certainly the case for me when we deal with this issue. But I will tell you that I think it's important if it means that families like the Smiths from Bellevue have the opportunity to feel and show that there is a way to avoid the loss of life, like their son Tyler. That, I think, is important. I think that that means that we are doing something good, I hope. I believe we are. Thank you, Mr. President. [LB298]

SENATOR KRIST: Thank you, Senator McCoy. Senator Burke Harr. [LB298]

SENATOR HARR: Thank you, Mr. President. So I brought this because, again, it is a complicated area of the law. I'm not quite sure why we decided to reclassify. I will trust those who know more than I do in this area. I do think we will be back every year. I've been down here three years, and three years we've introduced new illegal drugs. And maybe I need to do a better job in the interim to decide what the criteria is we should look for to determine what is, why, and what drugs we make illegal. Is it just because it's mind-altering? Is it because it kills someone? Or is it because we don't like it? I'm not quite sure what criteria we have for determining what drugs are legal and illegal. But with that, I'm going to go ahead and withdraw AM1487. [LB298]

SENATOR KRIST: Withdrawn. Senator Wallman, you're still in the queue. Would you like to say something? [LB298]

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

Floor Debate
May 23, 2013

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator McCoy yield to a question? [LB298]

SENATOR KRIST: Senator McCoy, will you yield? [LB298]

SENATOR McCOY: I would. [LB298]

SENATOR WALLMAN: I noticed here on this, the penalty thing, 30 days, 60 days. You know, if somebody is working, like a Breathalyzer or something, you can put something on your car. Is there something...they just can't work this way, the way it is now? [LB298]

SENATOR McCOY: I'm not quite understanding what you're asking, Senator Wallman. Do you mind elaborating... [LB298]

SENATOR WALLMAN: They impound... [LB298]

SENATOR McCOY: ...just a little bit? [LB298]

SENATOR WALLMAN: Okay. They impound your driver's license and... [LB298]

SENATOR McCOY: There, Senator, if I may, there is really no way to test for this on the spot, so it's a little bit different than some other drugs or alcohol, for instance, that law enforcement can test for this on the spot if they feel that someone is taking this drug, which speaks to why this is so dangerous. Employers don't really have a way of knowing if someone is using these substances. Parents don't have a way of really knowing unless they find evidence, wrappers, packages, that type of thing. It's a very comprehensive testing, medical testing, to determine whether or not someone is using these drugs, if that hopefully speaks to your point. [LB298]

SENATOR WALLMAN: Thank you, Senator. Thank you, Mr. President. [LB298]

SENATOR KRIST: Thank you, Senator Wallman, and thank you, Senator McCoy. Senator Lathrop for the motion. [LB298]

SENATOR LATHROP: I move LB298 to E&R for engrossing. [LB298]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Motion passes. Mr. Clerk. [LB298]

ASSISTANT CLERK: Mr. President, next bill is LB326. There are E&R amendments. (ER109, Legislative Journal page 1541.) [LB326]

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

Floor Debate
May 23, 2013

SENATOR KRIST: Senator Murante for a motion. [LB326]

SENATOR MURANTE: Thank you, Mr. President. I move the E&R amendments. [LB326]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Moved. [LB326]

ASSISTANT CLERK: Mr. President, Senator Howard would offer AM1513. (Legislative Journal page 1567.) [LB326]

SENATOR KRIST: Senator Howard, you are recognized. [LB326]

SENATOR HOWARD: Thank you, Mr. President, members of the body. AM1513 is a technical amendment that replaces an "and" with an "or" for purposes of the required policies and procedures for verifying medications in the automated medication systems in long-term care facilities. I urge the body to adopt this amendment. Thank you, Mr. President. [LB326]

SENATOR KRIST: Thank you, Senator Howard. Seeing no one in the queue, Senator Howard, you're recognized to close. Senator Howard waives closing. The question is, shall the amendment to LB326 be adopted? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB326]

ASSISTANT CLERK: 25 ayes, 0 nays on the adoption of the amendment. [LB326]

SENATOR KRIST: The amendment is adopted. [LB326]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB326]

SENATOR KRIST: Senator Murante for a motion. [LB326]

SENATOR MURANTE: Mr. President, I move to advance LB326 to E&R for engrossing. [LB326]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Motion passes. Mr. Clerk. [LB326]

ASSISTANT CLERK: Mr. President, with respect to LB479, there are E&R amendments. (ER25, Legislative Journal page 651.) [LB479]

SENATOR KRIST: Senator Murante for a motion. [LB479]

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

Floor Debate
May 23, 2013

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB479]

SENATOR KRIST: You've heard the motion. All those in favor say aye. Opposed, nay. Motion passes. [LB479]

ASSISTANT CLERK: Senator Lathrop would offer AM1322. (Legislative Journal pages 1568-1573.) [LB479]

SENATOR KRIST: Senator Lathrop, you are recognized. [LB479]

SENATOR LATHROP: Thank you, Mr. President, colleagues. Very simply, AM1322 refines the language of the original bill to accomplish the original purpose of LB479. That purpose was to protect the value of coverages of an automobile policy from coordination of benefit and subrogation provisions in health plans not preempted by ERISA. That refinement allows for a coordination of benefits with automobile policies if the coordination of benefits applies medical payment coverage to deductible copay and coinsurance amounts after discounts provided through the health plan. With that, I would encourage your adoption of AM1322 as well as your support of LB479. Thank you. [LB479]

SENATOR KRIST: You've heard the motion. No one wishing to speak. Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. Question is the adoption of AM1322 to LB479. All those in favor, aye; opposed, nay. Please record, Mr. Clerk. [LB479]

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of Senator Lathrop's amendment. [LB479]

SENATOR KRIST: Amendment is adopted. [LB479]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB479]

SENATOR KRIST: Senator Murante for a motion. [LB479]

SENATOR MURANTE: Mr. President, I move to advance LB479 to E&R for engrossing. [LB479]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Motion passes. Members should return to their seats in preparation for Final Reading, please. Mr. Clerk, we will move to Final Reading. [LB479]

ASSISTANT CLERK: Mr. President, the first bill on Final Reading is LB66. I do have a motion on the bill. Senator Chambers would move to return LB66 to Select File for

Floor Debate
May 23, 2013

specific amendment, that being, "Strike the enacting clause." (FA92, Legislative Journal page 1573.) [LB66]

SENATOR KRIST: Senator Chambers, you are recognized. [LB66]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I know that we are to go right through the lunch hour, which I think will not hurt anybody, and try to get out of here a little earlier than ordinarily would be the case, but I have thoughts of my own and my own agenda, so I have offered this motion to return LB66 to Select File for a specific amendment. That specific amendment is to strike the enacting clause. I'd like to ask Senator Schilz a question. [LB66]

SENATOR KRIST: Senator Schilz, will you yield? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: Senator Schilz, why was this bill brought to us? Even though we discussed it,... [LB66]

SENATOR SCHILZ: Uh-huh. [LB66]

SENATOR CHAMBERS: ...why was it brought to us and on whose behalf? [LB66]

SENATOR SCHILZ: Yeah, this bill was brought to us because constituents within my district and areas within my district saw that there could be some positive things that come out of these formerly used defense sites. And since most of those formerly used defense sites are outside city limits, there's no economic development tools readily available to be able to rehab, clean up, and provide for economic development and expansion there, even though these areas are prime for that because of how they were set up with their infrastructure and stuff. So that's why this bill was introduced, Senator Chambers. [LB66]

SENATOR CHAMBERS: When it was presented, did the League of Municipalities speak in favor of this bill? [LB66]

SENATOR SCHILZ: I believe they did, yes. [LB66]

SENATOR CHAMBERS: Senator Schilz, have you heard the expression, "Birds of a feather flock together and drink from the same water hole"? [LB66]

SENATOR SCHILZ: That's...yes, I have. [LB66]

SENATOR CHAMBERS: Have you heard some form of this expression: They who walk

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

Floor Debate
May 23, 2013

with those who are lame will themselves learn to limp? [LB66]

SENATOR SCHILZ: I've heard that before as well, yes. [LB66]

SENATOR CHAMBERS: Have you heard it said that if you lie down with dogs, you'll get up with fleas? [LB66]

SENATOR SCHILZ: (Laugh) Yes. [LB66]

SENATOR CHAMBERS: Senator Schilz, did you request the League of Municipalities to speak on behalf of this bill? [LB66]

SENATOR SCHILZ: You know, I don't know it was...if my office or myself requested them to do that. [LB66]

SENATOR CHAMBERS: But as far as you know, you did not reach out to them. They saw the bill and decided they would come speak on it. [LB66]

SENATOR SCHILZ: I think that's correct. But if you want me, I can check to make sure. [LB66]

SENATOR CHAMBERS: No, no, this is just based on what you actually know. [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: That's as far as I'm going with that line of inquiry. Could you or any other person prohibit anybody from speaking on a bill at a public hearing? [LB66]

SENATOR SCHILZ: No, I don't believe so. I would hope not. [LB66]

SENATOR CHAMBERS: So even if you had as much contempt for the League of Municipalities as an organization as I have developed, you could not have prevented them from speaking on this bill even if you would rather they did not. Is that true? [LB66]

SENATOR SCHILZ: Yes. [LB66]

SENATOR CHAMBERS: And if I were in the audience or even a member of your committee and I had that feeling of contempt, which I now have for them, I couldn't prevent them from speaking on the bill, could I? [LB66]

SENATOR SCHILZ: No. [LB66]

SENATOR CHAMBERS: Senator Schilz, we talk about guilt or culpability and innocence

Floor Debate
May 23, 2013

or lack of responsibility for an occurrence. If a person has no culpability or responsibility for a certain thing taking place, and that thing were deemed to be bad, should that person be held responsible for it and punished for it if he or she has no culpability with reference to it? [LB66]

SENATOR SCHILZ: I would hope not. [LB66]

SENATOR CHAMBERS: Senator Schilz, if I were to take out after this bill in the way that anybody on this floor could take out after this bill because of my negative attitude toward the League of Municipalities, do you think for you and your constituents that would be fair or unfair? [LB66]

SENATOR SCHILZ: I'm sorry, can you ask me that again? I don't... [LB66]

SENATOR CHAMBERS: Yes. I'll try to simplify it. Would it be fair or unfair, in your opinion, for me to try to stop this bill because the League of Municipalities supported it and I have no use for the League of Municipalities? [LB66]

SENATOR SCHILZ: I would, in my opinion, I...being my bill and personally, I would think that that would be unfair. [LB66]

SENATOR CHAMBERS: And if it were not your bill and you were just listening to this conversation, would you think that it would be unfair to whomever the sponsor of this bill would be? [LB66]

SENATOR SCHILZ: Probably so, yes. [LB66]

SENATOR CHAMBERS: Senator Schilz, now we come to the question. And it's a funny thing. In some circumstances, when a person was to be tortured during the Inquisition, for some reason they would refer to it as the question. I don't mean it in that sense. I'll call it the moment of truth, which in some circles means that one living thing is going to try to kill another living thing for the entertainment of a group of other living things. This is the question that we will call the moment of truth. Do you think of me as somebody who is fair or unfair, not what you wish but how you think of me? Am I a person you think of as being fair or a person who is unfair? [LB66]

SENATOR SCHILZ: I have seen you in both regards, in my opinion, at times. [LB66]

SENATOR CHAMBERS: That's not what I asked you. (Laughter) And you're treading on very dangerous ground, I will suggest. [LB66]

SENATOR SCHILZ: (Laugh) Well, when you agree with me, Senator Chambers, you're exactly fair; when you disagree with me, I think you might be unfair. [LB66]

Floor Debate
May 23, 2013

SENATOR CHAMBERS: Senator Schilz, you have given an answer worthy of Solomon, so that's all I will ask you. And here's something I will share with my colleagues. Power can mean different things, but in a general sense it could be called a force of sufficient strength to cause an object, which is moving, to stop; to make an object, which is stationary, move; to cause an object, which is on a certain trajectory, to alter its trajectory. Or in human affairs, it could define the ability or the wherewithal to enforce one's will on others. And that wherewithal would include the means to carry out that enforcement. In a set of circumstances where a society has decided that for certain offenses death will be imposed, the question could arise, who in that situation has ultimate power? Some people might think that the one who flips the switch, who wields the axe, who drops the cyanide capsule, who gives the order to fire the rifles, because that individual is the one who executes the taking of the life, but that is not ultimate power. Would the power reside with the judge or the panel of judges who impose death as the punishment? Because without the imposition of death, the executioner could not legally kill. [LB66]

SENATOR KRIST: One minute. [LB66]

SENATOR CHAMBERS: So the judge or the panel of judges would have more power in that situation than the executioner. But if you're in a situation where, before the judge can impose a sentence of that kind, the jury is given a role to play, not just in terms of making a recommendation but determining the punishment, and the judge merely rubber stamps, then the jury is the one that has ultimate power. I have to turn on my light, Mr. President. [LB66]

SENATOR KRIST: Senator Chambers, you're recognized again. [LB66]

SENATOR CHAMBERS: Does that mean, Mr. President, that I'm next in the queue? [LB66]

SENATOR KRIST: You're there. [LB66]

SENATOR CHAMBERS: Thank you. And that will be my cue. Relax, brothers and sisters. We're going to spend a little time together this afternoon and we're going to see who talks the talk and does not walk the walk. And if we have one who will walk the walk, he will walk it alone, because the rest are sitting and fretting and wishing and hoping and praying. But since I'm not the Deity, I pay no mind to any of those things. Back to determining who has the ultimate power: The individual in whom ultimate power resides would be the king, the sovereign, if you have a monarchy, because the king can pronounce the sentence of death and the king can order the executioner to carry it out. But the ultimate power, brothers and sisters, friends, enemies, and neutrals, rests in the hands of he, she, or they who can grant clemency. That's where the ultimate power

Floor Debate
May 23, 2013

resides--the one who can grant clemency. And that means that whoever and under whatever circumstances the sentence of death is pronounced, this individual can erase it and say, they said you would die, the populace said you should die, but I the king say you shall live and you shall not die. That's where the ultimate power resides, in the hands of the one who can grant clemency. Where is all that leading us? You just have to wait to hear me say, because the day is mine and I decided I would walk the walk. And somebody who said some things prematurely this morning, I said that person should have waited before he talked about somebody not walking the walk and being a bluff, because my motions were put up there first thing this morning. When people talk without knowledge, they wind up in the role of a fool, because a fool determines the lay of the land before he or she makes assertions and pronouncements. So when it comes to these bills, I can grant clemency in a restricted sense, because I cannot kill one of these bills. I cannot persuade you to grant my motion to return any one or all of these bills to Select File. And even if that occurred, I could not persuade you to vote to strike the enacting clause. I know that. But people who try to divine what is in my mind had better read above the level of first grade. And they better be able to write and communicate in a way more refined and advanced than Crayolas on drawing paper. [LB66]

SENATOR KRIST: One minute. [LB66]

SENATOR CHAMBERS: And a bit of advice that everybody ought to heed is given: Whenever two pugilists who are going to engage in the sweet science which is prizefighting and they step into the squared ring, before they commence their hostilities, the last words of the referee are, protect yourself at all times. That means don't stick your chin out there where somebody can hit it. And when somebody sticks his chin out where another fighter can hit it, bam, curtains, silent night. Thank you, Mr. President. [LB66]

SENATOR KRIST: Thank you, Senator Chambers. Senator Wallman, you're recognized. [LB66]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Good afternoon. Would Senator Schilz answer a question, please? [LB66]

SENATOR KRIST: Senator Schilz, will you yield? [LB66]

SENATOR SCHILZ: Sure. [LB66]

SENATOR WALLMAN: I noticed on the sheet here that some school districts were against this. Was it on account of their property tax valuation or can you tell me? [LB66]

SENATOR SCHILZ: I think that what...and I'm trying to recollect again, I think that what

Floor Debate
May 23, 2013

some of the school districts were concerned about was that if you would annex, which was in the original bill, that if you would annex something, it may move it from one school district to another. And what we did is we, by using the SID language, I think we took a lot of those fears away, because all of those...all of those political subdivisions now will stay as they are and they won't have to worry about that. So I don't...I think we answered most of their questions, and I think that's what we did and we were able to alleviate a lot of those problems. [LB66]

SENATOR WALLMAN: Okay. Thank you, because I know how it affected Lincoln here when they annexed some property from Raymond Central, I think it was. So it affects big time when you annex property sometimes for school entities. Thank you, Mr. President. [LB66]

SENATOR KRIST: Thank you, Senator Wallman. Senator Chambers, you're recognized. [LB66]

SENATOR CHAMBERS: Thank you, Mr. President. And being the generous, collegial soul that I am, I hope that you all are enjoying yourselves this afternoon as much as I'm enjoying myself. And if the one who said I talk the talk and won't walk the walk would like to join the conversation, he is more than welcome. But since I mentioned the idea of the prizefight ring, that is called the sweet science, even though what happens in the ring is anything but sweet, except to the winner. Now there is another type of combat and it goes under the name of judo, and that means the gentle way. You do not try to break somebody's arm, you do not try to strangle somebody, you do not strike, kick, or gouge. Now jujitsu is different. With judo, what you do, the guiding principle, is to use your opponent's momentum against him or her. So you put on what looks like a bathrobe and it's called a gi, and that gi is kept closed by means of a belt, and the belt comes in different colors depending upon your level of capability. Now the best belt that you can get is a black belt. But not all people who have black belts have the same degree of capability, so this belt is divided into degrees. And you must be able to demonstrate a certain level of facility before you can rise to first degree, second degree, third degree, and so forth. And a funny thing about judo, about karate, about most of the martial arts, the master, and that's what they call these people, the master is always...I mean like in chess you have a Grand Master. The one at the top of the heap is always an old man, an old man, older than I am with a beard longer than mine, hair whiter than mine cascading down over his shoulders in some situations. And the first thing they would tell you, if you are studying judo, is to stand facing your opponent but don't let your legs be in the same configuration as the legs of a table where your right leg is in a direct line with his left leg, your left leg is in a direct line with his right leg, because when that's the case, you are at stalemate. You can rock, you can rock, and you keep doing that until you can get your opponent to let you put one of your feet between his feet. But you can't do it in slow motion. They'll show you in slow motion so that you can see how it's done. And soon as you do that, you upset the stalemate and the equilibrium and

Floor Debate
May 23, 2013

then you can... [LB66]

SENATOR KRIST: One minute. [LB66]

SENATOR CHAMBERS: ...throw that person. And he said O Goshi or Seoinage. This man knows something about what I'm talking about. And in this particular skill, the short of it can throw to the mat the long of it. And it's not based on how much weight you can pick up or how fast you can run. There are different types of training that suit you to different kinds of activities. So maybe the strongest man in the world, in terms of lifting weight, could not throw to the mat a small person who understands judo, because he's never going to be in a position to have the leverage. And while he's trying to set himself to pick up the weight, then he's going to be looking up at the ceiling and wondering how he got there. But he won't be damaged. He won't really be hurt. So there are different ways to walk the walk. Now let's take wrestling, which some of my colleagues have done. You can put somebody in a hold where you do apply pressure against a joint, and if you put that person in enough discomfort, that person can concede, that person can give up. That person says, I cannot go on taking this pain, because where you have me I'm never going to be able to escape and get the ups on you, so we may as well... [LB66]

SENATOR KRIST: Time, Senator. [LB66]

SENATOR CHAMBERS: Thank you, Mr. President. [LB66]

SENATOR KRIST: You're welcome. Senator Chambers, that was your third time, if you'd like to close. [LB66]

SENATOR CHAMBERS: Yes. And you asked that in such a pleasant way, I will accept the opportunity. Members of the Legislature, when you challenge a man or a woman to do something, you be sure that you know what you're talking about and you be sure that you want to see that person deliver. You know what they tell you? If you're smart, don't let somebody set up the rules for a bet and then you make the bet. And everybody has heard, if you look around a table where everybody is gambling and you don't see the pigeon, you are the pigeon. You are the pigeon. There was a guy who was a cheater and he played cards and he could cheat anybody. So this one fellow had been sitting over against a wall and watching him and he couldn't figure exactly how he was cheating, but he knew he was cheating because he never lost a hand and nobody else ever won a hand. So he sat down to play and he was the pigeon. Every hand he lost, but he played until he had no more money. So he got up and as he was stepping to the side, a man next to whom he had been standing said, you look to me like an intelligent fellow and I thought you'd be smarter than to sit down with that cheater; didn't you know he was cheating? He said, yeah, whenever somebody wins all the time he's not gambling, he's cheating; I know that. He said, then why would you sit down and let him

Floor Debate
May 23, 2013

cheat you and beat you out of your money? He said, well, let me explain this to you. I watched him beat everybody, and when I sat down and let him beat me, I primed the pump. And the guy said, what do you mean by that. He said, well, when he gets up and leaves with his winnings, I'm a pickpocket; I'm going to pick his pocket. So the cheater thought he was dealing with a pigeon and the cheater turned out to be the one whose pocket was picked. So when people get carried away and they say, I know you and I'm going to tell you how I'm going to beat you, then they better be sure that they really do know and be sure that they can really deliver. So when we talk or discuss about talking the talk and walking the walk, it can be like in the Army or any branch of the service. If we're in a barracks, and the long of it makes sure that his area is very clean, highly polished on the floor, his bunk is so tight you can drop a quarter on it and it will bounce and hit the ceiling. But I'm sloppy. I'm careless. And everything in the barracks is supposed to be in tune, but I'm out of tune. You know what they will do? The sergeant...well, I don't know what happened with the long of it. The sergeant doesn't come in and say, Chambers, tighten that bunk, get your footlocker arranged with all the parts. You know what they do? They take your footlocker and they carry it out and throw it out in the street. They take everything off your bunk and throw it out in the street. And what difference does that make to anybody else? They took everybody else's bunk and they threw it out in the street, and they took everybody else's footlocker and they threw it out in the street. And guess who enforced order in the barracks? Not the sergeant. Sometimes the sergeant would come in with white gloves, high starched britches and a shirt where the creases in the shirt ran right down into the creases in his britches, and he had boots so shiny that you could see your face, like in a mirror. [LB66]

SENATOR KRIST: One minute. [LB66]

SENATOR CHAMBERS: And he was not going to dirty his gloves. He was not going to smudge his boots and he was not going to disturb the creases in his shirt or his trousers. But the other men, they took care of the odd man out, and that man became one of the best soldiers in the group. So if there's somebody who's going to cause you all to suffer with him, then don't blame the one who is inflicting what you consider the punishment, for I have been sorely provoked. But Senator Schilz did not do that to me, so I would like to withdraw the motion that I have pending on his bill, unless he objects. [LB66]

SENATOR KRIST: So ordered. Thank you, Senator Chambers. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Members of the Legislature, I need you to check in. Stand at ease. Sit at ease. Record, Mr. Clerk. [LB66]

ASSISTANT CLERK: 30 ayes, 3 nays to dispense with the at-large reading, Mr. President. [LB66]

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

Floor Debate
May 23, 2013

SENATOR KRIST: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB66]

ASSISTANT CLERK: (Read title of LB66.) [LB66]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB66 pass? All those in favor vote aye; opposed, nay. Record, Mr. Clerk. [LB66]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1573-1574.) The vote is 40 ayes, 0 nays, 9 excused and not voting. [LB66]

SENATOR KRIST: LB66 passes. Now proceed to LB140. [LB66 LB140]

ASSISTANT CLERK: Mr. President, with respect to LB140, Senator Chambers would move to return the bill to Select File for a specific amendment, that amendment being to strike the enacting clause. [LB140]

SENATOR KRIST: Senator Chambers, you're recognized. [LB140]

SENATOR CHAMBERS: Mr. President, members of the Legislature, when I was questioning Senator Schilz as to whether he thinks I'm a fair person or unfair, he said he's seen me in both capacities. Well, you're going to see me in the fair capacity on this bill. The individual whose bill it is sits in the Chair presiding and is not in a position to defend his bill. Therefore, Mr. President, I would like to withdraw that motion. [LB140]

SENATOR KRIST: Thank you, Senator Chambers. Withdrawn. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB140]

ASSISTANT CLERK: 34 ayes, 4 nays, to dispense with the at-large reading, Mr. President. [LB140]

SENATOR KRIST: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB140]

ASSISTANT CLERK: (Read title of LB140.) [LB140]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB140 pass? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB140]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1575.) The vote is 39

Floor Debate
May 23, 2013

ayes, 1 nay, 9 excused and not voting. [LB140]

SENATOR KRIST: LB140 passes. We will now proceed to LB341. [LB140 LB341]

ASSISTANT CLERK: Mr. President, LB341. Senator Chambers has moved to return the bill to Select File for a specific amendment. That amendment is to strike the enacting clause. (FA94, Legislative Journal page 1575.) [LB341]

SENATOR KRIST: Senator Chambers, you're recognized. [LB341]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, although I don't expect anybody to engage with me on any of my motions, I'm going to take them up until I decide that I will stop. But there's one way that you could stop me anytime you want to, but I'm not going to tell you right now what that is because you wouldn't do it anyway, you're too prideful. You cut off your nose to spite your face. You work against your own interest because you're too prideful to do the thing that will let you get to the goal that you have in mind. And that's something in the way of a lesson that should be drilled into people when they're old enough to understand. Senator Bloomfield, temptest not thou me. (Laughter) The only way I can be tempted is if there's something that I desire, but it's out of my reach. Here's what I'm dealing with this afternoon. I'm dealing with a situation in the way that an adolescent would deal with it, in the way that an adolescent would deal with it. Why will I conduct myself in a way that I will describe as being the way that an adolescent would behave to give an object lesson because so many of my colleagues on so many occasions behave like adolescents. You ought to leave me alone but you won't. I'll be sitting, minding my own business, or talking to Senator Mello or Senator Karpisek, then somebody will pop up and provoke me knowing how little it takes to make me rise to the bait. But be sure, when you throw that line into the water that you have a line strong enough to hold what you catch. And you be sure that you know what it is you might catch so that when what is down there rises to the bait, you don't become the meal. But people don't know that so they have to be taught, and sometimes a parent among the lower orders, which is how we describe animals who are a lot more intelligent than human beings because they learn how to live and coexist in the environment where they find themselves. Human beings don't do that. You can say that is hot and they say I don't believe it. Ow, it was hot. You say, fool, you ought to have sense enough to listen to somebody who knows more than you and is trying to help you, but since you're dumb, and you got to bump your head to learn something, bump your head, I'm not even going to warn you. To be forewarned is to be forearmed. So somebody is going to provoke me knowing that I got a hair-triggered temper. No, hair trigger means that it's like on a gun. Senator "Chaos" knows all about this because he's a gun lover. And Senator Kintner loves guns even more. And Senator Christensen loves guns more than anybody in here. So they know what a hair trigger is. You don't have to put much pressure on that before it engages or disengages something and it fires. So if somebody is quick to go off, as they say, that person has a

Floor Debate
May 23, 2013

hair-trigger temper. You can say a person has a short fuse. That means that there's not much distance between the explosive charge and the end of the fuse sticking out of it. So if you light a match to that fuse, move rapidly. Do you know that people don't even know how to make a stick of dynamite explode? So what they would do is like in the cartoons, they hold the stick of dynamite, they punch a hole in the top of it and stick the fuse in it, and think that will make it go off. But when you get dynamite you get instructions. There's a blasting cap. It's the little aluminum or thin metal tube that's closed at the bottom. And stacked on top of that bottom is an explosive. And you take the wick, as some people would call it, or the fuse, and you put it down in that tube, then you crimp the edges or the rims around the fuse. Then you take a pencil, not a red hot substance, and you make a diagonal punch into the stick of dynamite. So it doesn't look like in the cartoon where you hold the dynamite and it's sticking up, it's coming out the side. And then you light the fuse and the fuse has gun powder in it and it ignites and it burns its way down. And then it ignites or causes the blasting cap to explode, which in turn makes the dynamite do the same thing. They cooperate. Just like it takes a high temperature to set off an atomic bomb. If you just threw it off that balcony down here, it would bounce and make some noise, but it wouldn't do anything. And they would like to have it explode above the ground so that it does far more damage as in Nagasaki and Hiroshima. And the supposedly most civilized country in the world dropped two of those bombs. And after they dropped the first one, days passed before they dropped the second one. And at the time they dropped the second one, Japan was suing for peace, but America was going to teach them. So all of those civilians, all of those babies, all of those pregnant women, all of those zygotes, embryos and fetuses were incinerated by the reputedly most Christian nation in the world. But anyway, that's how they explode atomic bombs. When you're in the military they teach you everything that you need to know to be safe and proficient in what you're doing. So when they give you the hand grenade, there's something like a little handle on it. And the thing that holds the handle down is a hole that a little nail-like goes through and if you pull off the nail, then the handle goes up and it ignites the fuse. So if you mistakenly pull that nail out, well, it's a nail with a little ring in it, you put your finger in the ring and hook it and pull it. They explain it like that to you. This is a finger. This is a ring. That ring is attached to this little nail-like device. You insert your finger into the ring. You hold the hand grenade and the handle firmly together and you remove the pin, as it's called. But don't let go of the handle until you're ready to throw it because once the handle goes up, there's a fuse and it is ignited, and if you put the handle back down, you don't put out the fuse. Once that train is on the track it's going to go to the end of the line. And some people have met a bad end because they didn't pay attention and if they pulled the pin too soon, and they thought if they pushed the handle back down, then nobody would know. He was the only one who didn't know because when the fuse reached its destination, the hand grenade exploded. But in the military they teach you those things. They had an old heavy weapon called the M1. And here's what I liked when I was there. I was 22 years old... [LB341]

Floor Debate
May 23, 2013

SENATOR KRIST: One minute. [LB341]

SENATOR CHAMBERS: ...and I was the old man in the barracks. And I had been to Creighton University, and if they're going to tell you about a weapon, first they're going to tell you who the guy was who invented it, who his parents were, where they came from, how they got to this country, and by the time they get to what they're trying to explain to you, you're lost and you've forgotten. [LB341]

SENATOR KRIST: Thank you, Senator Chambers. Senator Karpisek, you're recognized. [LB341]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Would Senator Chambers yield, please? [LB341]

SENATOR KRIST: Senator Chambers, will you yield? [LB341]

SENATOR CHAMBERS: Yes, I will. [LB341]

SENATOR KARPISEK: Where did you get to be such an expert about dynamite? [LB341]

SENATOR CHAMBERS: I read and understand what I read. [LB341]

SENATOR KARPISEK: Okay. You had me a little nervous that you've been playing with some lately and I didn't know if that exactly was what was going on because it sounds a little bit today like you might be a stick of dynamite, so I didn't know what to think about that. With that, I would yield the remainder of my time to Senator Chambers should he choose to use it. [LB341]

SENATOR KRIST: Senator Chambers, 4:20. [LB341]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Karpisek. And I, in the past, had been accused when I was a very young man of being a terrorist. Really. And you know why? I say a loaded brain is more powerful than a loaded weapon. They feared a loaded mouth from me more than they would have a loaded pistol because if I had a pistol, there would be more of them and they could take me out and it's over. But I never put myself in a position where they could do anything to me. They couldn't plant drugs on me because people knew I didn't do drugs. I didn't smoke, I didn't drink, I didn't do anything like that. They couldn't pour alcohol on me and say I was driving drunk because I didn't touch alcohol. I was a square. I was a square in every sense of the word. In fact, Senator "Chaos," I was a cube. Any angle you looked at me from, you saw what describes a rectangle, which other people call a square, and that's what I was. But this was a square that had eyes that would see and perceive. A

Floor Debate
May 23, 2013

brain that would think and understand and that brain was in operation when "Parson" Carlson was delivering the prayer and stated that people should have faith because without faith, you cannot please God. Am I right or wrong, "Parson?" [LB341]

SENATOR CARLSON: Amen. [LB341]

SENATOR CHAMBERS: All right, brother. And Solomon, as I told you all, wrote, wisdom is the principal thing, therefore, get wisdom but with all thy wisdom, get an understanding. In this Chamber, everybody is wise, but we have some who are wise women, some who are wise men, and some who are wise guys. And there's a difference. You've got wisdom but you lack understanding. And they say, spare not the rod when you try to teach a fool in order to incorporate understanding. Well, I don't believe in corporal punishment. All I can use is my voice. You all who mocked me this morning and laughed at me this morning when a would-be poet said that I bluff and won't walk the walk, but will talk the talk, and didn't know that the walk had been filed, and you're seeing the walk now. Thank him. I'm enjoying the walk. This is a nice spring day. And what could be more enjoyable than friends clumping together to enjoy a spring walk? [LB341]

SENATOR KRIST: One minute. [LB341]

SENATOR CHAMBERS: You all are walking with me and this is what one of your colleagues said that I would not do. He thought I was selfish. He thought I'd go some place in secret and walk and wouldn't share it with all of you. But when I bestow that which is good, it enhances you without diminishing me. And it's a win-win situation. So now thank your colleague for forcing my hand. But he really didn't because I had filed every one of these motions before we got started. He's like the wolf. He thinks he's smarter than the three little pigs because he's got bigger teeth and badder breath. So he says, little pig. They built their houses. Two of the little pigs were not smart. One may not have been smart but by the time it was over, he got smart. One made his house out of sticks because he was lazy. He could make a house quickly. So the wolf came by, knocked on the door, little pig, little pig, let me come in. [LB341]

SENATOR KRIST: Time, Senator. Senator Schumacher, you're recognized. [LB341]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Rarely do I get a chance to catch Senator Chambers not being 100 percent right. But he described the atomic explosions over Japan. He said that it took a really hot thing to set off those explosions. Well, Senator Chambers, you were describing a fusion bomb, an H-bomb. Those explosions over Japan were fission materials and to trigger a fission explosion you have a certain volume of fissionable material, uranium or plutonium. You bring it together in a sufficiently small volume, no great heat there. Let the little neutrons go against each other and all of a sudden, kaboom, all those fetuses go away. In a

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

Floor Debate
May 23, 2013

fusion explosion you have an atomic weapon inside of an environment of deuterium and tritium nuclei, and the atomic weapon gets so hot it then fuses creating helium and that's a really good explosion. And I yield the rest of my time to Senator "Chaos."
(Laughter) [LB341]

SENATOR KRIST: Senator, you have 3:45. [LB341]

SENATOR COASH: Thank you, Mr. President. Thank you, Senator Schumacher. Would Senator Chambers yield? [LB341]

SENATOR KRIST: Senator Chambers, will you yield? [LB341]

SENATOR CHAMBERS: With trepidation, yes. [LB341]

SENATOR COASH: Senator Chambers, you've called me Senator "Chaos" on the mike a few times and I've had that name my whole life and never rearranged the letters and got that. I'm kind of hungry, but I've got one for you. [LB341]

SENATOR CHAMBERS: Oh, my goodness. [LB341]

SENATOR COASH: Now, when you're being calm, trying to teach a lesson, you're being nice,... [LB341]

SENATOR CHAMBERS: Yes. [LB341]

SENATOR COASH: ...I've got a name. I took your name. [LB341]

SENATOR CHAMBERS: All right. [LB341]

SENATOR COASH: And I took it all and I rearranged some letters and when you're calm, I got one for you. You ready for this one? [LB341]

SENATOR CHAMBERS: I'm ready. [LB341]

SENATOR COASH: "Charmersbesent." (Laughter) Now to do that, I had to use that I had to use "Ernest" Chambers. I got some more if we just want to use Ernie, but I'm hungry and I don't see a "charmer," so I've got another one. [LB341]

SENATOR CHAMBERS: I'm ready. [LB341]

SENATOR COASH: "Crabsmearsthem." (Laughter) [LB341]

SENATOR CHAMBERS: Touche. (Laughter) [LB341]

Floor Debate
May 23, 2013

SENATOR COASH: Thank you, Mr. President. [LB341]

SENATOR KRIST: Thank you, Senator Schumacher, Senator Coash, and Senator Chambers. Senator Chambers, you're recognized. [LB341]

SENATOR CHAMBERS: Thank you. Mr. President, if you give it, you have to be able to take it, don't you? But do you see what I inspire in my colleagues? Senator Coash is better now than he was before we started our exchange. Nothing in the universe is the same anymore. He changed and he changed everything in the universe. Because when he breathed after he reached that level of intellectual stimulation, the breath which he let out was different from what it had been before he got enlightened. That breath touched, it touched, it touched, and eventually, like that explosion Senator Schumacher described, all over, not only the earth but the universe. But Senator Schumacher did not pay attention to what I said. I watched Senator Schumacher watching me. Now you know I've never dropped an atomic bomb. At the time the atomic bomb dropped, I was not old enough to be in the military or even read about what it was. I had said that when you are going to catch a fish and you throw that line in, you bait it. Because I talked about how easy it is to make me rise to the bait, make sure you've got a line strong enough to hold what you're going to catch. And when Senator Schumacher looked at me, I knew that the fish had taken the bait. And the line was strong enough to lift him out of the seat and engage me in a discussion that he probably had no intention of joining me in. But he did. And not only did Senator Schumacher join me, he created a coconspirator, an aider and an abettor. So I don't mind being put in the position to say, touche, as long as both of them will say the same thing. When you're dealing with somebody who has been in the world as long as I have been, listen, if you're interested, to everything that's said. They're enjoying themselves now. And we all are. We weren't going to do much this afternoon anyway, but some of you have things on the agenda you'd like to get to, don't you? Don't you? I know you do. The best time for me to wreak my revenge is when I'm preventing you from getting to something you want to get to and this would not have happened to this extent if one of your colleagues trying to get you to vote cloture had not messed with me and provoked me, trying to be smart, because, I'm a young puppy and I'm going to teach an old dog a new trick. No, he found out the old dog already knows what he can teach and even at its newest, it wasn't a trick. The one who tried to use it winds up being the trick. Now if I talk the talk, and don't walk the walk, let somebody who knows how to walk the walk make me shut up. That's how you whip me. Stop me from doing what I am doing. You know, who can stop me? Me. I can stop me. Nobody on this floor can, but collectively you can. When they ask for a call of the house, they ask, do I see five hands? If I saw five hands, I would tell you how collectively you can stop me. I see one, two, three, four, five. You did it. I withdraw...Mr. President, (laughter) I withdraw that motion and the remaining motions that I have on the desk. [LB341]

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

Floor Debate
May 23, 2013

SENATOR KRIST: Thank you, Senator Chambers. Senator Lautenbaugh, would you approach the Chair, please? [LB341]

SENATOR LAUTENBAUGH: I'll withdraw my motion to adjourn at this time, if that is the Chair's question. [LB341]

SENATOR KRIST: Yes, sir, it was. Thank you very much. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB341]

CLERK: 36 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB341]

SENATOR KRIST: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB341]

CLERK: (Read title of LB341.) [LB341]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB341 pass? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB341]

CLERK: (Record vote read, Legislative Journal page 1576.) 42 ayes, 0 nays, 7 excused and not voting, Mr. President. [LB341]

SENATOR KRIST: LB341 passes. We will now proceed to LB410E. [LB341 LB410]

CLERK: Mr. President. Senator Chambers, did I understand, Senator, you wanted to withdraw the remaining motions on today's Final Reading bills, is that right? [LB410]

SENATOR CHAMBERS: That's correct. [LB410]

CLERK: Thank you. Mr. President, LB410. [LB410]

SENATOR KRIST: Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB410]

CLERK: 33 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB410]

SENATOR KRIST: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB410]

CLERK: (Read title of LB410.) [LB410]

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

Floor Debate
May 23, 2013

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB410E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB410]

CLERK: (Record vote read, Legislative Journal pages 1577-1578.) 42 ayes, 0 nays, 7 excused and not voting, Mr. President. [LB410]

SENATOR KRIST: LB410E passes with the emergency clause attached. We will now proceed to LB497. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB410 LB497]

CLERK: 36 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB497]

SENATOR KRIST: At-large reading is dispensed with. Mr. Clerk, please read the title. [LB497]

CLERK: (Read title of LB497.) [LB497]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB497 pass? All those in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB497]

CLERK: (Record vote read, Legislative Journal pages 1578-1579.) 42 ayes, 0 nays, 7 excused and not voting, Mr. President. [LB497]

SENATOR KRIST: LB497 passes. (Visitors introduced.) Returning to Final Reading, next item is LB563. [LB497 LB563]

CLERK: (Read LB563 on Final Reading.) [LB563]

SENATOR KRIST: All provisions of law relative to procedure having been complied with, the question is, shall LB563E pass with the emergency clause attached? All those in favor vote aye; opposed, nay. Record, Mr. Clerk. [LB563]

CLERK: (Record vote read, Legislative Journal pages 1579-1580.) 42 ayes, 0 nays, 7 excused and not voting, Mr. President. [LB563]

SENATOR KRIST: LB563E passes. We will now proceed to LB623. [LB563 LB623]

CLERK: (Read LB623 on Final Reading.) [LB623]

SENATOR KRIST: All provisions of law relative to procedure having been complied

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

Floor Debate
May 23, 2013

with, the question is, shall LB623 pass? All those in favor vote aye; opposed, nay.
Record, Mr. Clerk. [LB623]

CLERK: (Record vote read, Legislative Journal pages 1580-1581.) 42 ayes, 0 nays, 7
excused and not voting, Mr. President. [LB623]

SENATOR KRIST: LB623 passes. [LB623]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: While the Legislature is in session and capable of transacting
business, I propose to sign and do hereby sign LB66, LB140, LB341, LB410, LB497,
LB563, and LB623. Members, before we proceed on with General File, as I indicated to
you the other day, part of our time this afternoon is we are waiting for some of our
Select File bills to be returned down and so that we can read them across yet today. In
addition, next week, on Tuesday, in the afternoon...at some point in the afternoon we
may very well be taking up vetoes on the budget, so anticipate a later evening, and I
think we need to anticipate the same on Wednesday of next week, a later evening. Yes,
Mr. Clerk, please. [LB66 LB140 LB341 LB410 LB497 LB563 LB623]

CLERK: Thank you, Mr. Speaker. Your Committee on Government, Military and
Veterans Affairs reports LB603 to General File with committee amendments attached. I
have new resolution, LR354, and LR355 by Senator Johnson. Both those will be laid
over. And, Mr. President, I have a series of motions with respect to bills pending on
Final Reading. Those will be printed. That's all that I have, Mr. President. (Legislative
Journal pages 1581-85.) [LB603 LR354 LR355]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Mr. Clerk. Going to General File, LB255. [LB255]

CLERK: Mr. President, General File, LB255 is a bill by Senator McGill. (Read title.) The
bill was introduced on January 16, referred to the Judiciary Committee, advanced to
General File. I do have committee amendments, Mr. President. (AM856, Legislative
Journal page 1125.) [LB255]

SENATOR KRIST: Senator McGill, you are recognized to open. [LB255]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I'm going to try to
be as concise as possible in my opening and talk about the committee amendment
largely. And so what currently is in the bill, there were a variety of things that we took
out and changed over time, in part to make sure that by the time the bill got here to the
floor it wouldn't be a bill that we ended up taking eight hours on, but something that is

Floor Debate
May 23, 2013

seen as a compromise that was worthy of a Speaker priority to get out here and make some substantial changes in terms of our human trafficking laws. As many of you remember, last year we passed a bill that created the Human Trafficking Task Force. We gave them a couple of duties in terms of picking law enforcement training so that our law enforcement are better informed on human trafficking and best practices. We also had them create posters with hot line numbers that can be distributed throughout our state in truck stops, in schools, etcetera. And we changed some of the laws dealing with pimping. This is step two of what I think is a three-year plan for our state to work on human trafficking. The most important part is yet to come, looking at prostitution, human trafficking diversion programs, and services for victims so that they have opportunities once we have identified them to work their way back into society, to rebuild the self-esteem and education that they need to be successful in our world. Like I said, I will summarize the committee amendment really section by section and that's the first part is adding human trafficking to the definition of child abuse, a pretty simple change. Section 2 creates an affirmative defense to the charge of prostitution under that section if a person was a victim of human trafficking and also provides that a child under the age of 18 shall be immune from prosecution for prostitution and will be placed in the temporary custody of the state. I was having discussion back in the lounge with some members saying, is this something we really want to do to make it so someone under 18 can't be charged with prostitution? But studies show that the average age of entry into human trafficking is 12 to 14 years old. These young women and men are wooed oftentimes, they're not just taken like in a movie. That is the case sometimes, but there was a pimp, for instance, up in Papillion who was going to high school football games looking for vulnerable teenagers to woo and befriend and then to get them, manipulate them into selling themselves in prostitution. They are victims. They are not young people making this choice and our law really should not reflect that this is a choice that they are willfully making. Section 3 of the bill changes solicitation of a minor to a Class IV felony. That is currently a Class I misdemeanor. Section 5 creates...well, we currently have a keeping a place of prostitution as a crime. We are adding the crime of keeping a place of prostitution involving a minor and making that a Class IV felony. We're updating the definitions of human trafficking and labor trafficking in a couple of sections to make them more in line with the federal law and adding human trafficking new terminology into our racketeering laws. And then we're asking the task force to come back to us next year with a study and recommendation of rehabilitation models for victims of human trafficking so that they can help us with an interim study essentially so we know what programs we should be encouraging nonprofits to do and what role government can have in the deterrence and in the rehabilitation of women that we identify who are being trafficked. With that, I ask for your support. Thank you, Mr. President. [LB255]

SENATOR KRIST: Thank you, Senator McGill. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Ashford, as the Chair of the committee, you're recognized to open on the amendments. [LB255]

Floor Debate
May 23, 2013

SENATOR ASHFORD: Thank you, Mr. President. The...Senator McGill has most adequately described the committee amendments which make up the bill. It's most at this point, so I would urge the adoption of AM856 and the committee amendments were adopted 6-0 by the committee. Thank you. [LB255]

SENATOR KRIST: Mr. Clerk. [LB255]

CLERK: Senator Coash would move to amend the committee amendments with AM1356. (Legislative Journal page 1558.) [LB255]

SENATOR KRIST: Senator Coash, you're recognized. [LB255]

SENATOR COASH: Thank you, Mr. President. Colleagues, AM1356 is a small change to some of the...to two penalties that are a part of this particular...this bill. And they are the penalties relating to solicitation. The two penalties--and these are found in the committee amendment--have to do with solicitation. Senator McGill's original copy...the green copy had initially increased those penalties. The Judiciary Committee had reduced them back to where they currently were in the law. My amendment simply takes them back to where they were in the green copy. And I don't do this lightly, and I've talked to Senator McGill about this. The reason that I am bringing this amendment came out of discussions that I had with our own chief of police here in our community in talking about how we go after these guys who solicit prostitution and what our police chief sees. And here is one of the responses that I got--that we see a lot of repeat offenders, a lot of guys who get caught soliciting for prostitution and get out. And the next time that there's an operation to catch these guys they see the same guys coming back. And when I asked the people who investigate, prosecute these crimes why we continue to see repeat offenders, one of the answers was, well, the penalty isn't that stiff and it doesn't hurt that much and so it's just kind of a cost of doing business for these guys who do this. And so the intent of my amendment is to increase the cost of doing that business and to focus and to continue to focus on the right things, which is what Senator McGill's whole approach has been, which is let's focus on the customers. And let's remember that sometimes the women who are caught up in this in some cases are doing it as a result of addiction. In a lot of cases they're doing it not of their own free will. And so in some cases these women are victims. And so there are plenty of laws that address prostitutes and how we deal with them. But what I'm trying to do with this amendment is put a little bit more teeth into the johns, so to speak, by increasing the penalties on solicitation. And it takes them from a \$250 fine to a \$500 fine, which is where it was originally in LB255 before it was amended out in the committee. And it's a small step, but I do believe that by increasing these penalties a little bit we can put a little bit more teeth, maybe make these guys think twice before they engage in this activity because it's going to hurt them a little bit more. And for that reason, I would urge your adoption of AM1356. Thank you, Mr. President. [LB255]

Floor Debate
May 23, 2013

SENATOR KRIST: Thank you, Senator Coash. You have heard the opening to AM1356 and the committee amendment to LB255. Those wishing to speak, Senator Pirsch. Senator Pirsch, you're recognized. [LB255]

SENATOR PIRSCH: Mr. President, members of the body, thank you. I wonder if Senator Coash may yield to a question. [LB255]

SENATOR KRIST: Senator Coash, will you yield? [LB255]

SENATOR COASH: Yes. [LB255]

SENATOR PIRSCH: I do appreciate your amendment. This is a very...and also for that matter Senator McGill's interest in the matter. I think it's very important. With respect to your amendment, as I understand it, that would modify the penalty for essentially what's referred to briefly as soliciting prostitution, I think it affects on the committee amendment page 4, line 27 by essentially making that which currently exists language...it says \$250 and turns that into \$500. Is that correct? [LB255]

SENATOR COASH: That's correct. [LB255]

SENATOR PIRSCH: Does this also...there's a different--and I haven't had much time to look at the amendment here--a different statute that does not pertain to the crime of soliciting prostitution, but rather prostitution. Is that language also changed? [LB255]

SENATOR COASH: No. [LB255]

SENATOR PIRSCH: The penalty I meant. [LB255]

SENATOR COASH: It is a crime to be a prostitute and there are penalties for that. My amendment does not change any of the penalties for engaging in prostitution, only changes the penalties for soliciting prostitution. [LB255]

SENATOR PIRSCH: And the definition on that page 4 of the amendment, line 18 it says, "Any person who solicits another person not his or her spouse to perform any act of sexual contact or sexual penetration, as those terms are defined in section 28-318, in exchange for money or other thing of value, commits solicitation of prostitution." Is it...I guess this kind of question would pertain not just to your amendment but also to the underlying bill, LB255. And I know the intent is correct and is to separate, distinguish those who solicit, which I believe to be in your mind the johns and those who are convicted of prostitution to be the prostitutes. However, I guess my question is, as it's actually practiced in the state, in all cases does that work out that way? And by that I mean so in terms of what prosecutors are actually charging, is it in a significant number of the cases the actual what we would designate here in the body as prostitutes, are

Floor Debate
May 23, 2013

they actually being charged with soliciting in a large number of the cases and vice versa, who referred to as johns being convicted of prostitution because of the language in the statutes, which says whoever essentially does the soliciting is the one who, whether john or prostitute, is the one who's convicted of soliciting? So, for instance, if it is what we would consider in layman's terms the prostitute who does the first speaking and say, hey, are you looking for a good time, and that would form the basis of the prosecutor charging soliciting to what we would otherwise reference here as the prostitute? I guess my question is in both on the committee and here on the floor, have we encompassed... [LB255]

SENATOR KRIST: One minute. [LB255]

SENATOR PIRSCH: ...and considered that type of situation? How common is it statewide? You know, I can only tell you as a former prosecutor, you know, when we're looking at the elements of the statute, whoever does the kind of active solicitation, whether prostitute or john, that's who would meet that terminology for 28-801.01. Does that make sense or should I...would you like me to rephrase that? [LB255]

SENATOR COASH: Senator Pirsch, you lost me. (Laughter) [LB255]

SENATOR PIRSCH: Okay. Let me make it very clear to you then. So there's two...how much time do we have left? [LB255]

SENATOR KRIST: Twenty-two seconds. [LB255]

SENATOR PIRSCH: Very good. I'll press my button again. So there's essentially two crimes, soliciting prostitution and prostitution, and the assumption is that the prostitute will be always charged with prostitution and the john with soliciting. But is that actually what's going on in all cases statewide? Does that make sense? [LB255]

SENATOR KRIST: Time, Senators. Senator Christensen, you are recognized. [LB255]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, I'm not necessarily speaking on this particular amendment. I don't have a problem with the amendment raising the initial first-time fee for those soliciting. But I think this is a very important bill I hope people have read and thought about because this has been something I introduced a number of years ago trying to work on human trafficking and the importance of it. I've had a different angle I've worked on. And I have another bill in committee yet right now that I think has a lot of support in committee. I just haven't pushed it out, trying to get the last opposition of two individual members. But it is an issue that is much larger than I think most people realize. Do you realize the University of Nebraska is the largest researchers in the nation on human trafficking? And I-80 is one of the worst human traffic roads used. And it's something that we need to look at.

Floor Debate
May 23, 2013

You know, we had the gals that run away from Norfolk that got caught in Iowa two, three years ago. And if them same people would have been caught in Nebraska, it would have been a lot less penalty. It wouldn't have been near the problem or near the result occurred until we started working on these issues in Judiciary Committee. And I thank Senator McGill for her work and her willing to jump in and attend some of the university's studies every year that they have a conference on human trafficking. It's a very important issue and it's a very sad issue. It's one issue that I never thought I'd ever be talking about or have to be talking about--people being thrown into the sex trade against their will, the issues that we're trying to deal with here. And there's several different approaches to this. And if you want to look at another approach, LB314 is one of mine that takes on another approach that I think is something that this Chamber is going to have to deal with eventually in here. But anyway, I wanted to just put my support behind this. I've worked with Senator McGill on this bill and I've worked with her on a couple in the past that have been accomplished, and I think this is something that everybody needs to look at moving forward. Thank you. [LB255 LB314]

SENATOR KRIST: Thank you, Senator Christensen. Senator Pirsch, you are recognized. [LB255]

SENATOR PIRSCH: Well, thank you, Mr. President, members of the body. I just want to put this out there and hopefully as we have dialogue and debate maybe there will be some comments about this. But, you know, as a prosecutor in Omaha that is...there is two choices as a prosecutor; and you look at the facts of each case and they're different. And I'm not sure that differing judges don't have a little bit different take on that. But when you look at the language of 28-801.01, the state statute, and keep in mind cities would probably look to use their misdemeanor powers--I'm talking about Lincoln and Omaha--certainly Omaha, they have a city ordinance. And so this would not pertain necessarily to that. But with respect to the state's statute that would be used elsewhere, it indicates any person who solicits another person to perform any act of sexual contact or sexual penetration in exchange for money commits solicitation of prostitution. And I know...my point is, I know there's an assumption that the solicitor that is this john, this individual who walks up to what we would term a prostitute, and engages the conversation, but that's not necessarily so. You know, the reality of the situation it takes two to tango and a lot of times as a prostitute is out on the street, that which we refer to a prostitute, and a man will say for this hypothetical walks past, and the prostitute, what we would term prostitute, may well be the first one to engage the conversation and say, hey, where you going, I'll engage in this type of activity, sexual activity for 20 bucks. And then the gentleman or whoever this, we would usually refer to as john, if they in fact agree to that, would it not be...my question is, would it not be the what we would call prostitute who is in fact, when you looked at the elements, soliciting this type of activity and that which we would, you know, under the prostitution statute, the one who agrees to that may end up being what we would normally refer to as a john? So I just want to make sure that as we proceed down this path, and I certainly

Floor Debate
May 23, 2013

agree with the intent of where we're trying to go and I applaud Senator McGill and, you know, Senator Coash for what their intent is. I just want to make sure that we are methodical as we go down this path and make sure that we're doing what we set out to do so that there's no unintended consequences. And so with that, I look forward to the conversation. Thank you. [LB255]

SENATOR KRIST: Thank you, Senator Pirsch. Senator Coash, you're recognized. [LB255]

SENATOR COASH: Thank you, Mr. President. And thank you, Senator Pirsch. Senator Pirsch, you bring up a valid point here. And in my opening on this amendment I stated that the intent of increasing this penalty was to go after customers who would solicit for prostitution. However, after hearing your comments and how a prostitute might also be soliciting sex for money and consideration...so my opening, my intent was, as I stated, was not to further punish prostitutes, not because that shouldn't be illegal, because it is, or that it should be brought to justice, because it should be, but because of the circumstances many times prostitutes find themselves in as trafficked victims that we don't want to further penalize what may be a victim. And that is really what LB255 is trying to do. And for that reason, I'm going to take another look at this. I am going to withdraw AM1356. I may come back on Select File with an amendment that's more clear on the intent of...on my, excuse me, on my intent of going after solicitors and not catching up the other side of this. So with that, I will withdraw AM1356. [LB255]

SENATOR KRIST: Thank you, Senator Coash. Withdrawn. [LB255]

CLERK: Mr. President, we're back to consideration of the Judiciary Committee amendments. [LB255]

SENATOR KRIST: Seeing no one in the queue, Senator Ashford, you're recognized to close on the committee amendments. Stand by. Senator Pirsch, you're recognized. [LB255]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just wanted to keep the conversation going for a little while longer at least. And again, I don't have any objection to the underlying premise of the bill as far as I understand it with regards to, you know, this emphasis on...as Senator Coash wants to make the penalties more I guess...a greater penalty for the john. And I've got no problem with that. What I'm attempting to do here is just inquire have we structured the language here to achieve what I think all of our intent is here. And I think we have to be careful because if, in fact, there is...we're not capturing the right...the individual that we're expecting to capture, there is a provision in here that I think would allow for immunity in this case. Perhaps it would kind of work to the benefit of what we would call the john if they can demonstrate...and I don't know how they would demonstrate, could...I wonder if Senator

Floor Debate
May 23, 2013

McGill would yield to a different type of line of questioning. [LB255]

SENATOR KRIST: Senator McGill, will you yield? [LB255]

SENATOR MCGILL: Yes. [LB255]

SENATOR PIRSCH: And thank you. And again, I haven't had much exposure to the amendment and whatnot, but with respect to you mention an immunity of the...of one who is convicted of prostitution, should that individual be able to show that they had in their past been a victim of trafficking, is that correct? [LB255]

SENATOR MCGILL: It's an affirmative defense, yes, so it would have to be shown in the same ways that any other affirmative defense does. [LB255]

SENATOR PIRSCH: Okay. [LB255]

SENATOR MCGILL: And I'm not an attorney so Senator Ashford may be able to answer that even better. [LB255]

SENATOR PIRSCH: Oh, sure. Well, an affirmative defense essentially is a defense that says, yes, but--yes, I'm guilty of the underlying, but offers an escape from conviction should you be able to establish other. So the concern I have and certainly I applaud you on the intent here and I don't think, you know, that this isn't something that, you know, I'm certainly looking forward to more conversation on this. I think, you know, again I have no opposition to what I think your underlying intent is overall. But to the extent that if we are capturing the wrong individual, the john so to speak, then this immunity may work to the john's advantage by...if the john could establish that he in his past, as part of this affirmative defense, had been traffic...which may be difficult to disprove because it would hinge on, you know, certainly it's difficult to, you know, if the john is talking about facts and circumstances that may have occurred in his life, you know, decades ago or, you know, it's hard to rebut that or to cast doubt upon that... [LB255]

SENATOR KRIST: One minute. [LB255]

SENATOR PIRSCH: ...as a prosecutor. You certainly don't...it would be a difficult task. And so those are some of the concerns that I just have in terms of the choice of language. And so with that, I would...I, well, how much time do I have left, Mister... [LB255]

SENATOR KRIST: Forty-two seconds. [LB255]

SENATOR PIRSCH: Okay. Thank you. [LB255]

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

Floor Debate
May 23, 2013

SENATOR KRIST: Thank you, Senator Pirsch. Seeing no other lights on, Senator Ashford, you're recognized to close on the committee amendment. [LB255]

SENATOR ASHFORD: Thank you, Mr. President. I would urge the adoption of AM856. We will work on Senator Pirsch's concerns. I do want to acknowledge that Senator Christensen as well has worked very hard on this issue. He's not here right now. He does have a bill in the committee. We will continue to work on that over the interim and continue to work on this topic generally. Senator McGill actually has a national reputation working on human trafficking, which has become an international cause. Her work has been celebrated, and we're proud that she continues to work on it; and it's a great reflection on the body. So with that, I'd urge the adoption of AM856. [LB255]

SENATOR KRIST: You've heard the closing on AM856. The question is, shall the committee amendments to LB255 be adopted? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB255]

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB255]

SENATOR KRIST: The committee amendments are adopted. Going on with discussion, Senator Pirsch, you're recognized. [LB255]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I do appreciate again the bill, LB255, and the underlying premise. There may...so it's the issue that we just kind of discussed that I would appreciate having more conversation on, on Select File. There may be some definitional types of concerns that I may have as well with respect to page 7 of the amendment. So with that, I would yield the balance of my time to Senator McGill if she would like to take it. [LB255]

SENATOR KRIST: Senator McGill, 4:18. [LB255]

SENATOR MCGILL: Thank you, Senator Pirsch. And we'll continue discussions with you between now and Select File and the experts that we have in the lobby and see if there's anything that does need to be clarified. Otherwise, I just want to thank the committee, especially Senator Christensen for being a leader on this issue and bringing it to our attention in the first place. And with that, thank you, Mr. President. [LB255]

SENATOR KRIST: Thank you, Senator McGill. Seeing no one in the queue, Senator McGill, you're recognized to close on your bill. Senator McGill waives closing. The question is the advancement of LB255 to E&R Initial. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB255]

CLERK: 25 ayes, 0 nays on the advancement of LB255. [LB255]

Floor Debate
May 23, 2013

SENATOR KRIST: The bill advances. Next item. [LB255]

CLERK: LB90, a bill by Senator Ken Haar. (Read title.) Introduced on January 10, referred to the Revenue Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB90]

SENATOR KRIST: Senator Haar, you are recognized to open. [LB90]

SENATOR HAAR: Mr. President and members of the body, it's been a long week. That's an excuse for what will come later. First of all, I want to thank the Speaker for making this one of his priority bills. LB90 goes all the way back to 2009 when we passed LB436, a bill for net metering. And net metering simply means, for example, that if you have solar panels on your roof, you can take electricity off the grid for your house but you can also put electricity back on the grid from your solar panels, and then the net is the difference between what you put in and what you took off the grid. So I tried to do an explanatory diagram here and I messed it up. So if you would take out your diagram I would like to explain. It's the one that starts with "Bill Arfmann has solar panels." Bill Arfmann is my neighbor and I'm very jealous. He just got some solar panels and he is starting to produce electricity. So for this example, let's say that he produces one unit of electricity but he takes three off the Norris Public Power grid, and the net...should be two units, not one. (Laugh) I was a math major. I'll blame my LA who didn't catch my mistake (laugh), or the university who gave me that degree. The net is two. The net is two. So the intent of LB436, back in 2009, is that that one unit that Bill produces would just be a trade-off. However, the Revenue Department ruled that even though he's putting one unit back onto the grid, he's got to pay sales tax on all three units; and that was not the intent of the Legislature. So LB90 simply clarifies the legislative intent. The only way now it can be done...the reason we have to fix this is the only way it can be done now is you have to have two meters, or a smart meter which is much more expensive that will give that net amount. The intent when we passed LB436, and the intent of net metering generally, is that your electric meter can run forward and backward, so that when you take three units off the grid your meter would run one way, and when you put one unit back on it would run the other way; so the net is two units of electricity. And then finally I would just like to say that testifying for this bill was Rick Nelson from Custer County Public Power District, and he gave some figures showing that the cost of calculating the electricity going in both directions separately. He said the cost was about \$100 worth of time each time to figure out the difference between the energy going in and out, and they were collecting about \$27 in sales tax. So this is something that I hope we can correct. It will save money for every public power district, especially as we get more and more net metering. Thank you very much. [LB90]

SENATOR KRIST: Thank you, Senator Haar. Those wishing to speak: Senator Kintner, Schumacher, and Smith. Senator Kintner, you're recognized. [LB90]

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

Floor Debate
May 23, 2013

SENATOR KINTNER: Thank you, Mr. President. And I would like to thank Senator Haar for this bill. I rise in support of it. Now, I'm amazed that the guy that can't take one from three can figure out this complicated issue, but somehow he did. And I think the taxpayers are thankful and I think that this is a good bill and I think that everyone should support it. I encourage my fellow senators to support this and I will yield the rest of my time to Senator Haar. [LB90]

SENATOR HAAR: Thank you very much, Senator Kintner. You know, earlier we got talking about nuclear energy and thermal hydrogen bombs and all that sort of thing, so in changing that net equals two units, this is an example of transmutation of numbers. The net is actually just two, and I made that mistake. And thank you very much for your time, Senator Kintner. And this is a good bill. It simplifies the whole thing of net metering to a great extent. It clarifies it for the Department of Revenue and for all the public power districts. Thank you very much. [LB90]

SENATOR KRIST: Thank you, Senator Kintner and Senator Haar. Senator Schumacher, you are recognized. [LB90]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Senator Hadley is not here so I will put a few words in for the actions of the Revenue Committee. This bill was introduced by Senator Haar. It clarifies the rules on net metering of electricity and the sales tax to be paid by a customer who generates some of their own electric power. Rulings by the Revenue Department have suggested that two transactions or purchases were involved in sales tax and the net amount was not permitted under the law. This bill that you are considering would resolve the matter by declaring that the transaction is a single transaction described as a net purchase and subject to sales tax liability for sales taxes to be paid on the net purchase amount. Basically, it's what the bottom line is on the transaction back and forth as the meter rolls backward and forward between the solar panel and the power grid. It's what was originally we believe intended in the legislation and saves a great deal of cost of adding additional meters to somehow figure it in a more complicated way than simply looking at the net. Thank you, Mr. President. [LB90]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Smith, you are recognized. [LB90]

SENATOR SMITH: Thank you, Mr. President. And would Senator Haar yield to a question, please? [LB90]

SENATOR KRIST: Senator Haar, will you yield? [LB90]

SENATOR HAAR: Yes. [LB90]

Floor Debate
May 23, 2013

SENATOR SMITH: Senator Haar, you said that this is going to save money for the utility company. Can you explain that for me? [LB90]

SENATOR HAAR: Well, right now, for example, what Custer County does...and I could go into detail here with what they...he gave two examples. The first is a solar panel installation in Custer County. It's a single-phase service. The type of installation requires an extra meter installation. The cost associated with this type of installation is about \$600, and the manual calculating of the sales tax in the final bill takes up about \$100 worth of time each month. Sales tax we collected from the customer was about \$27. [LB90]

SENATOR SMITH: All right. [LB90]

SENATOR HAAR: And so in most cases to comply with the ruling of the Department of Revenue, the public power districts are doing this manually and it's taking a lot more time than any sales tax that comes back. [LB90]

SENATOR SMITH: Okay, thank you, Senator Haar. I guess I'm not clear still on how exactly an electric utility saves from this piece of legislation. Here's what happens: The utilities have to provide a certain amount of capacity and demand; and demand meters, which measure both the demand and the energy consumption by a customer, they're able to measure those separately. A residential meter, like this, measures only energy. A demand charge takes into account the amount of capacity that's needed at any period of time to satisfy that customer's need. Energy is just the amount of energy being consumed at any given moment. So we are allowing them to not pay taxes on this net amount but yet the utility has to still provide the capacity and the demand that's incorporated into that energy charge. So I'm not convinced that this is necessary and it certainly is not beneficial to the remaining customers that are not using a net meter and generating for themselves. Would Senator Schumacher yield to a question, please? [LB90]

SENATOR KRIST: Senator Schumacher, will you yield? [LB90]

SENATOR SCHUMACHER: I guess so. [LB90]

SENATOR SMITH: Senator Schumacher, the discussion that we had on the floor earlier and you talked about a nuclear reaction. With that nuclear action, could you say that that was the transmutation of elements? [LB90]

SENATOR SCHUMACHER: No. [LB90]

SENATOR SMITH: It would not be the transmutation of elements. [LB90]

Floor Debate
May 23, 2013

SENATOR SCHUMACHER: That's correct. [LB90]

SENATOR SMITH: Okay. Can you explain transmutation of elements? [LB90]

SENATOR SCHUMACHER: I believe I can. Transmutation of elements occurs when a nucleus in an atom ejects a particle, either a proton or a neutron or a neutron; and that particle, that process of ejection, if it's done in a lab test of a certain kind of metal, usually nickel or palladium, generates heat. The end result of the process is that the atomic number is changed, usually by an increment of one. The processes I described before were fission and fusion. In the fission reaction a large nucleus is basically hammered apart. [LB90]

SENATOR KRIST: One minute. [LB90]

SENATOR SCHUMACHER: And in a fusion reaction, two hydrogen isotopes are brought together to create a helium situation. [LB90]

SENATOR SMITH: Thank you, Senator Schumacher. I think you cleared it up for me. I appreciate that. Now is there a bill that we have that's coming to Final Reading that makes an allowance for the development of power through transmutation of elements? [LB90]

SENATOR SCHUMACHER: That is correct. [LB90]

SENATOR SMITH: What bill number is that? [LB90]

SENATOR SCHUMACHER: LB104. [LB90 LB104]

SENATOR SMITH: Okay. So we'll be watching for that on Final Reading. Thank you, Senator. [LB90]

SENATOR SCHUMACHER: Thank you. [LB90]

SENATOR KRIST: Thank you, Senator Smith, Senator Haar, and Senator Schumacher. Senator Ken Haar, you're recognized. [LB90]

SENATOR HAAR: Mr. President and members of the body, clarify some language. In the original bill, LB436 for net metering, the utility is required to...if there's additional meters, required to pay for those meters. So I should have really said it doesn't save money for the utility. It saves money on billing and on the metering for the utilities. The question of whether or not we should have distributive generation, which is basically the basis for net metering, you know, if you don't agree with that then you ought to try to do

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

Floor Debate
May 23, 2013

away with net metering. But I think it's...in LB436, in 2009, the legislative body expressed their desire to go with net metering. It's in place in just about every other state in the nation. And this is to clean up that idea of net metering, make it easier to measure, simplifies the billing, and there's less cost in the metering for the utility. Thank you very much. [LB90]

SENATOR KRIST: Thank you, Senator Haar. Seeing no one else in the queue, Senator Haar, you're recognized to close on the advancement of your bill. Senator Haar waives. The question is the advancement of LB90 to E&R Initial. All those in favor vote aye; opposed, nay. Senator Haar. [LB90]

SENATOR HAAR: Mr. President, I would call...ask for a call to the house, please. [LB90]

SENATOR KRIST: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB90]

CLERK: 22 ayes, 0 nays, Mr. President, to place the house under call. [LB90]

SENATOR KRIST: The house is under call. Senators, please record your presence. The unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel leave the floor. The house is under call. Okay, thank you. We need to complete the call before and then we'll proceed. Senator McGill, please check in. Senator Kintner, please check in. Thank you. Senator Haar, would you like to proceed? [LB90]

SENATOR HAAR: A machine vote is okay with call-ins. [LB90]

SENATOR KRIST: Call-ins? [LB90]

SENATOR HAAR: Yeah. [LB90]

SENATOR KRIST: Okay, but you want to go? [LB90]

SENATOR HAAR: Yeah. [LB90]

SENATOR KRIST: Okay. I'm sorry. [LB90]

CLERK: Senator Pirsch voting yes. Senator Chambers voting yes. Senator Nelson, yes. Senator Mello voting yes. Senator Bolz voting yes. Senator Adams voting yes. [LB90]

SENATOR KRIST: Please record, Mr. Clerk. [LB90]

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

Floor Debate
May 23, 2013

CLERK: 29 ayes, 1 nay, Mr. President, on the advancement of LB90. [LB90]

SENATOR KRIST: LB90 advances. Next item. Raise the call, please. Items for the record. [LB90]

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and engrossed LB298, LB308, LB326, LB331, LB368, LB368A, LB429A, and LB479, those all reported correctly...woops, excuse me, and LB573. Those all reported correctly engrossed. Bills read on Final Reading were presented to the Governor, Mr. President, at 2:20 this afternoon (re LB66, LB140, LB341, LB410, LB497, LB563, LB623). I have a name add: Senator Karpisek to LB505. [LB298 LB308 LB326 LB331 LB368 LB368A LB429A LB479 LB573 LB66 LB140 LB341 LB410 LB497 LB563 LB623 LB505]

Mr. President, the Speaker would move to adjourn the body until Tuesday morning, May 28, at 10:00 a.m.

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. We are adjourned until Tuesday at 10:00. Have a great Memorial Day weekend.