

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

Floor Debate  
April 24, 2019

---

[]

FOLEY: (Recorder malfunction)

REVEREND GAHAN: (Recorder malfunction)(Prayer offered.)

FOLEY: (Recorder malfunction) --call to order of the sixty-fourth day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

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

ASSISTANT CLERK: No corrections this morning.

FOLEY: Thank you, sir. Any messages, reports, or announcements?

ASSISTANT CLERK: Mr. President, your Committee on Judiciary reports LB209 to General File with committee amendments attached. In addition, new resolution, LR90, by Speaker Scheer and others to commend the-- recognize the 150th anniversary of the University of Nebraska; that will be laid over. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. Members, we'll now proceed to the agenda: General File, Appropriations bill, LB538A. Mr. Clerk.

ASSISTANT CLERK: LB538A, introduced by Senator Lathrop. (Read title.)

FOLEY: Senator Lathrop, you're recognized to open on the bill.

LATHROP: Thank you, Mr. President; and colleagues, good morning. You'll recall, LB538 was the bill that dealt with those machines where we're trying sort out the games of chance from the games of skill. That will require that the machines be taken into the Department of Revenue to be tested. That includes some fees. This A bill reflects some fees, as well as projected expenses relative to that process. When we developed the bill and the amendment, we used numbers that we used as good faith estimates as to the cost. Those numbers are reflected here. There is work to be done on this A bill with the Governor's Policy Research Office to make sure that we are

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

Floor Debate  
April 24, 2019

---

accomplishing what we set out to accomplish relative to the fees and the costs to this program. I would encourage your support of LB538A and understand that between now and Select File I'll be visiting in greater detail with the Policy Research Office as to what is a suitable fee, or an appropriate fee, given what this program will cost to provide this front-end type regulation of these devices. And with that, I would appreciate your support of LB538A. Thank you.

FOLEY: Thank you, Senator Lathrop. Is there any discussion on the bill? I see none. Senator Lathrop, you're recognized to close. He waives close. The question for the body is the adoption-- excuse me, the advance of LB538A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please.

ASSISTANT CLERK: 35 ayes, 0 nays on the motion to advance the bill.

FOLEY: LB538A advances. Moving to General File 2019, Speaker priority bill, LB179. Mr. Clerk.

ASSISTANT CLERK: Mr. President, first of all, I have a motion to indefinitely postpone pursuant to Rule 6, Section 3(f). But I have a note to withdraw that.

FOLEY: Motion is withdrawn.

ASSISTANT CLERK: Mr. President, LB179, introduced by Senator Hilgers. (Read title.) The bill was introduced on January 11 of this year; referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Hilgers, you're recognized to open on LB179.

HILGERS: Thank you, Mr. President; good morning, colleagues. I'm pleased to open on LB179 this morning. Before I explain what the bill does, I do want to thank the Speaker Scheer for making this a Speaker priority; I also want to thank the members of the Judiciary Committee, and particular, Senator Lathrop, for their work on AM736 and their support of this bill. It's a bill that came out of the committee with the amendment on an 8-0 vote. Very briefly, colleagues, what this does, it's an straightforward, but important change to our statutes relating to legal procedures. So just to explain sort of the background of this. The general rule in American courts-- American cases is that you aren't able-- you're able to appeal decisions of a trial court, but you only get to appeal them at the end of the case. In other words, a trial court may make dozens of decisions throughout the course of a case before the trial-- or the case is resolved. You are not, generally, able to take each one of those motions or decisions or orders up on an

Floor Debate  
April 24, 2019

---

immediate appeal. And there's good reasons for that. The reason is that if you're appealing everything as you go, you're essentially taking the appellate court and putting them in the shoes of the trial court, and it also is-- it slow things up, it becomes very inefficient. So the American rule is that in general everything can be appealed. You can have the right to question the trial court's decision throughout the-- the decisions throughout the case, but you can't do it until the end. Now, there are a couple of exceptions to that. And one of which is what LB179 deals with. And one of the exceptions to this not-- the unavailability of an immediate appeal of a decision is for decisions relating to immunity, so sovereign immunity, a qualified immunity, in those cases, the rule has been for a very long time in federal court and state court here in Nebraska, that you can appeal those immediately. And the reason is is that if you are not able to get an immediate appeal of those decisions, then you lose-- you essentially lose the immunity. In other words, if the whole point of the immunity is to shield you from suit, if you have to go through the entire litigation process before you can appeal that decision on immunity, then you have essentially lost the immunity. And so, this has been the rule for decades, for a long period of time in federal and state courts. Now recently, the Nebraska Supreme Court had said that-- that this-- in Nebraska, this was the foundation of this rule was common law. In other words, non-statutory. And the Nebraska Supreme Court in a recent decision signaled it and said, you know, we can only provide these, what are called, interlocutory appeals, only where the Legislature has provided a statutory basis. And so, in response to that decision, we brought LB179 to essentially keep what is more or less the status quo and ensuring that there is statutory basis to continue to have these immediate appeals of sovereign immunity to decisions. So, LB179, the green copy of the bill, is to ensure that that-- that we are able to continue those interlocutory appeals. Now, Senator Lathrop is going to open on AM736, and I think it's an improvement of the bill. There's a concern, and I think it's a good concern and one we ought to think about and address, to make sure that this-- the early appeal process, or the interlocutory appeal process can't be gamed to delay things unnecessarily for the plaintiffs. And so what AM736 is, would do is would help make sure-- tighten it up to make sure that a defendant could have the right to an immediate appeal, but it couldn't be used to abuse the system. So I'm certainly happy to answer any questions on this particular bill or the amendment. But I appreciate your support on LB179 and the underlying amendment. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. As the Clerk indicated, there are amendments from the Judiciary Committee. Senator Lathrop, you're recognized to open on AM736.

LATHROP: Thank you, Mr. President; and colleagues, good morning once again. LB179 was heard by the Judiciary Committee on March 6 and advanced to General File on an 8-0 vote with a committee amendment. The committee amendment AM736 was also adopted on an 8-0 vote. There were no opponents to this proposal at the hearing. As mentioned, LB179 proposed to have orders on three different motions: a motion for summary judgment, a motion to dismiss, and a motion for judgment on a pleadings be final orders when involving sovereign immunity or

Floor Debate  
April 24, 2019

---

government official immunity. The committee amendment strikes two motions, but retains an order on a motion for summary judgment as a final order that may be appealed. I would urge your support. I know you just listened to that. Let me tell you what it means, if I can. So when you bring a suit against the state or a political subdivision, sometimes they have immunity from lawsuit. That's because we've inherited sovereign immunity from English common law. We have waived that sovereign immunity in some cases, in some cases we've retained it. One of the first things that happens when I file a lawsuit against the state or against a political subdivision, they say we have sovereign immunity, you can't sue us. And currently you have to wait until the whole case has been litigated. You spent all of that money on a trial, all that money on your witnesses, years of litigation only to find out that the state had immunity. What this bill will permit is allow at the front end the Supreme Court to weigh in on whether the state or the political subdivision had sovereign immunity. If they do, the case is over, it's dismissed. If they don't, then it goes back down to the trial court where you can develop and go through that two years of litigation or whatever it takes to get you to a judgment. As a litigator that does this kind of work, I think it's a good idea. It is an exception to the normal rule made necessary by a Supreme Court decision in the last year. I think it's a thoughtful bit of procedural legislation and one I would encourage you to support. Thank you.

FOLEY: Thank you, Senator Lathrop. Discussion is now open on LB179 and the pending Judiciary Committee amendment. Senator Clements.

CLEMENTS: Thank you, Mr. President. I had a question for Senator Lathrop.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Yes, I'd be happy to.

CLEMENTS: When somebody appeals for a ruling, how many layers of judges does it have to go to? The court you're in and then an appeals court and then the Supreme Court?

LATHROP: It can. So, most of-- all of these cases are filed in the district court. That's our trial court where we handle larger matters. If you don't like what happened in the district court, you appeal; and the Supreme Court decides whether it's filed in the Court of Appeals or goes directly to the Supreme Court. If it's filed in the Court of Appeals and you don't like the outcome, you can ask to have it reviewed by the Supreme Court which they may or may not do.

CLEMENTS: I see. So this is going to delay your whole process some?

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

Floor Debate  
April 24, 2019

---

LATHROP: It-- from a plaintiff's point of view, it does delay the process. On the other hand, it answers a question that can end your case and as somebody that handles these kinds of cases, I'd like to know that at the front end instead of waiting until after I have taken 20 depositions, hired expert witnesses, tried my case, you know, maybe I have \$20,000 in costs in that thing and then they appeal the decision and the Supreme Court says, no, the state had sovereign immunity all along.

CLEMENTS: That makes sense. Is that the only situation that we are changing is the sovereign immunity appeal?

LATHROP: We are only changing the issue of immunity, yes; for political subdivisions and the state of Nebraska.

CLEMENTS: Thank you. Would Senator Hilgers yield to a question?

FOLEY: Senator Hilgers, would you yield, please?

HILGERS: I'd be happy to.

CLEMENTS: I would also like to ask you if that-- if that's your understanding is that the only situation that we are changing is the sovereign immunity appeal?

HILGERS: That's right, to be specific, and this is on line 14 and 16 of the green copy. Sovereign immunity-- or the immunity of the government official, which as Senator Lathrop said, is immunity for political subdivisions effectively.

CLEMENTS: All right, I was trying to understand this bill last night in reviewing it and I did have that question as to what circumstances were being affected. It sounds fairly limited. Is that right?

HILGERS: It's not only fairly limited, but it also keeps with-- what has been the status quo for decades.

CLEMENTS: All right. Thank you. Thank you, Mr. President.

FOLEY: Thank you, Senator Clements. Is there any further discussion? I see none. Senator Lathrop, you are recognized to close on Judiciary Committee amendment. He waives close. The

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

Floor Debate  
April 24, 2019

---

question for the body is adoption of AM736, Judiciary Committee amendment to LB179. Those in favor vote aye, those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of committee amendments.

FOLEY: Committee amendments are adopted. Further discussion on LB179 as amended? Senator Chambers.

CHAMBERS: Mr. President, members of the Legislature, I not only support this bill, but I think it is a good example of what the Legislature should do, the way it should be done, and the value of working in this fashion. This is one of those-- well, a layperson might think it's an esoteric or out-of-the-way part of the law, but it's a very important point that is being made. It will benefit those who are involved in litigation. So, for once this session, it may not be the only time, but this is one that sticks out in my mind, the Legislature is doing what the Legislature ought to do. It's being done well. And for those who don't like lawyers, Senator Hilgers is a lawyer, Senator Lathrop is a lawyer. I am trained in the law, but I was too wise to become a lawyer, so you have had those who have knowledge of the law fulfilling their duties and responsibilities. I just wanted that in the record. Thank you.

FOLEY: Thank you, Senator Chambers. Senator Hilgers, you're recognized to close on LB179. He waives close. The question for the body is the advance of LB179 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 42 ayes, 0 nays, on the motion to advance the bill.

FOLEY: LB179 advances. Proceeding to General File 2019 committee priority bills, LB468; Mr. Clerk.

ASSISTANT CLERK: LB468, introduced by Senator Walz. (Read title.) The bill was introduced on January 18 of this year. It was referred to the Health and Human Services Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Walz, you are recognized to open on LB468.

WALZ: Thank you, Mr. President; and good morning, colleagues. LB468, with the committee amendment, is a bill to prevent the Department of Health and Human Services from adding long-term care services and supports to the Medicaid Managed Care program until July 1, 2021. Currently, long-term facilities are operated under the fee-for-service model where they are

Floor Debate  
April 24, 2019

---

reimbursed a portion of their expenses for the services they provide their residents. There was talk by the department about moving these facilities under the managed care program. I have heard from a number of different providers that are currently under the Heritage Health that they are experiencing problem with this managed care system. One specific issue is the payment for services they have rendered to their clients. There are cases where it has taken months to receive payment they are due. However, once they are paid, this does not always guarantee the correct amount. The department has provided my office, and has probably already provided many of you information to the contrary. What they told me is that 90 percent of the payments are being adjudicated or completed within the first ten days. What they are not telling you, colleagues, is that many of these claims are being adjudicated incorrectly. For example, if an individual is dual eligible, meaning eligible for both Medicaid and Medicare and they are rendered a service that cost hypothetically \$100, Medicare pays the initial amount covering the first \$80 of the cost. The MCL would then be responsible for the remaining \$20 under Medicaid. But we are often seen incorrect or zero dollar payments from them. In order to rectify this, the provider then has to file a claim to dispute the nonpayment. This does not guarantee that they will receive money next time. I have seen these documents and the MCOs have rejected these claims for a variety of different reasons. Some of them for simply being on the wrong color form. I have seen these documents showing claims that have been filed more than five times. This cost time and money on the provider's part. Time and money that small facilities do not have the ability to invest simply to regain the \$20 originally owed to them. I don't presume to know exactly what the reason is and why there is so much difficulty for companies to make these payments correctly and on time. It could be a disconnect in the sense that the MCOs are Fortune 500 companies and they can handle a month or two delayed payment with no difficulty, unlike our small facilities in Nebraska. Or it could be that if they make it more difficult for facilities to receive payment, the facilities would give up and the MCO would keep the money. It could be a simple fix that is just being overlooked. I don't know. What I do know is that there are facilities who are asking us for help, telling us that there is a problem out there and saying that things are just not working. Before we take a step forward and introduce a new population into this managed care program, we should take time to consider whether or not we are making the best decision for our state and for the people of Nebraska. I would also ask that if you have concerns with this bill that you reach out to the providers that are in your communities and ask them to share their stories. I know many of you are business owners and I would just like you to take a minute and reflect on this. How would you feel if you provided a service and the person waited months to pay the bill; or if you tried to collect the money that you were owed, you were then given an incorrect amount; or if you had to pay somebody to repeatedly, repeatedly file a claim. It would put a significant drain on your overhead and ultimately it would not be profitable. That is what long-term care facilities in Nebraska will have to deal with if we do not delay this implementation. Sometimes these are small amounts of money, but for a small provider, those providers that are in our rural communities, every single dollar adds up. They are already stretching every dollar they have to provide services to people in their care. They have already-- there have already been

Floor Debate  
April 24, 2019

---

a number of facilities that have gone into receivership across Nebraska. And, colleagues, this is a problem. They can often be the lifeblood of a town and one of their largest employers. And if they were to shut down, the people living in facilities would have to move many miles away adding another barrier to family visitation, drastically reducing their quality of life, and, important, reducing the ability for families to ensure their loved ones are being properly cared for. I would like to say again before we make this significant change and move long-term care under Heritage Health program, we should take a hard look at the way things are operating right now. I understand there is a large fiscal note and it didn't surprise me on this bill right now. But with the committee amendment, we have taken out the requirement for the critical evaluation to be performed in an effort to reduce this fiscal note. While I think it would be very beneficial for us to take a more in-depth look at this issue with the critical evaluation, I understand the budget constraints we are dealing with. The original language of the bill also stated that the department shall not add any additional service or population to the Medicaid managed care program. This was unintentional and it prevented the Medicaid expansion population from being added into Heritage Health. So we changed it only to long-term care services and supports to more specifically identify the population we are targeting. I hope that this addresses the fiscal note. With that I would ask you for your green vote to advance this bill onto Select File so that we can see a new fiscal note. Thank you, Mr. President.

FOLEY: Thank you, Senator Walz. As the Clerk indicated, there are amendments from the Health and Human Services Committee. Senator Howard, you are recognized to open on the committee amendments.

HOWARD: Thank you, Mr. President. Good afternoon, colleagues. This is the second committee priority for the Health and Human Services Committee. You heard the first one yesterday. AM1166 amends the original provisions of LB468 and adds a provision from Senator Bolz's LB328. So if you are looking at your gadgets and you're curious about that bill, it adds a very small provision from LB328. So it amends LB468 to clarify that the bill only applies to long-term care services and supports, including skilled nursing facilities, or SNF, nursing facilities, assistant living facilities, and home- and community-based services. Those are the services which may not be added to the Medicaid managed care program until July 1, 2021. This date is changed so that there's a shorter time frame, but it overlays appropriately with Medicaid expansion. AM1166 also incorporates the family finding program of LB328 into LB468. The family finding program has been a successful pilot, but it currently has a sunset date of June 30, 2019. The program is in our child welfare system. It essentially allows the department to contract with an organization that helps identify family members as potential long-term or permanent homes for children coming into our foster care system and this benefits the child by easing some of the trauma if a child is placed with a relative they already know. And the great part about it is that it often reduces a child's time in care. So AM1166 removes the pilot project status of the family finding program, it removes the sunset so the department can continue contracting for this

Floor Debate  
April 24, 2019

---

program. And we understand that the department has found this program to be successful because they recently renewed the contract to continue this work, even though they knew that the sunset date was still in statute. The committee advanced this amendment, AM1166, unanimously, and I would urge its adoption today. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. (Doctor of the day introduced.) Debate is now open on LB468 and pending committee amendments. Senator Williams.

WILLIAMS: Thank you, Mr. President; and good morning, colleagues. And I stand certainly in support of this committee amendment and the underlying bill. I think it is only prudent for us to slow down the implementation of Heritage Health's moving into the long-term care arena. I would tell you, after working very closely with all three of the managed care organizations, WellCare, Nebraska Total Care, and United, I believe they are working diligently to make significant improvements in their efforts to deal with the managed care problem that we presented them with. In January of 2017, they started on this endeavor. And I was fortunate to be able to have all three of the MCOs show the willingness to come and meet with the critical care hospital in my legislative district, which they did during the summer and fall of 2017. It made a direct connection between those three MCOs and the hospital people that I was dealing with. But certainly there have been some continuing issues. The Department of Health and Human Services meets with each one of the MCOs every other week to look at their list of things that need to be done and those MCOs are responsive and willing to make those changes as they can. The Department of Health and Human Services, and in particular the Medicaid area, have significant responsibilities and they have a full plate right now. As we all know, Medicaid expansion has been passed in our state and we are working towards the implementation stage of that which takes not only work by this body, in particular the committee led by our great Chairman, Sara Howard, but also the Department of Health and Human Services and their implementation. Their plate is so full that I believe it would be not in conformity with good policy making to move them forward into managed care, into the long-term care arena at this point in time. I would also be remiss if I did not take this opportunity to, again, point out the issue that we have with nursing homes in our state at this point in time. We have many nursing homes that simply have a business model that does not work under the current reimbursement levels provided to Medicaid residents that they are housing and taking care of. And these are our family members, these are our friends, these are many times our parents or your grandparents. We have an obligation as a state to do better than we are currently doing in that arena. And I think each one of us here has to think about the responsibility and the obligation of the state going forward in that arena. Each one of the nursing homes in my legislative district has reached out to me. I have two of the Skyline homes, and everybody knows the situation with those. One of those homes has now been announced that they will need to be transferring their residents here later this spring. Another one has received notice just in the last two weeks that they have now been sold to a nursing home from New York. So, we will have to see what happens with

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

Floor Debate  
April 24, 2019

---

that. But the plain fact is, as a member of the Planning Committee, we know the demographics of our state; we know how our state is changing--

FOLEY: One minute.

WILLIAMS: --with population, thank you, Mr. President; and we know that in particular in our rural areas, we have an aging population and we have a shortage of work force, but maybe more critically right now, we have a business model that the reimbursement levels for those Medicaid clients simply does not meet the costs. And in many cases, the nursing homes that we are dealing with have 50, 60-- I have one that actually has 85 percent Medicaid residents. So you know they are struggling financially taking care of our family. So I rise, certainly, in support. And I hope and encourage everyone to vote green on the committee amendment and the underlying bill. This will ensure that the MCOs do not implement Heritage Health in nursing homes until July of 2021.

FOLEY: That's time.

WILLIAMS: More importantly we need to do better with Medicaid reimbursements. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Senator Arch.

ARCH: Thank you, Mr. President. I also rise in support of LB468 with the amendment. And I want to explain a little bit about some the discussions that was held within the committee and at the hearing and the department's testimony here. This has been a difficult decision. I personally experienced the transition to Heritage Health when I was at-- working at the hospital. And what it required from the hospital's prospective was a really the dogged determination to continue to pursue claims, try to get the system to work better, try to figure out exactly what is delaying the processing of those claims. It was a variety of things that the MCOs were working on at the same time that the hospital was working on it. But it required quite a few people and hours of just continually chasing claims until finally the process smoothed out and now there is a situation that is tolerable and can be handled within the hospital. But in the meantime, of course, the claims weren't being processed, the claims weren't being paid and there had to have been that margin that you could have that would withstand the cash flow issues that arose as a result of that. What I see in the nursing home industry, and certainly not in every nursing home, but particularly in some of the smaller nursing homes where you have a high percent of Medicaid population that you're caring for that is already reimbursing at below the cost of providing that care that that margin just isn't there. And that's one of the thing in my mind that led me to supporting something like this. And as Senator Williams said, the plate is very full for HHS right

Floor Debate  
April 24, 2019

---

now. And in addition to that, there is also discussions of reimbursement models for the nursing home industry and how that needs to change that would encourage higher quality of care and incenting that and a different philosophy in the reimbursement, so all that is also occurring at the same time many different things are going on. I want to talk to the fiscal note for a second, because obviously that's quite large. In our hearing, it was very obvious to me that the Department of Health and Human Services, some time ago, made a very clear decision with the managed care organizations that they were moving from what was-- what I would term, a claims processor role in a fee-for-service world where you submit the claims to the department and they process it through their software to the MCOs' handling that in what is believed to be a more robust software system in handling those-- that claims processing. We have a very aged software system for claims processing. And it is written in an ancient language and the maintaining of that grows increasingly difficult over the years. And as a result of that, one of the considerations was if we delay this another two years are we going to have to completely replace our software just to handle claims processing. I don't think that's the case. We definitely are at the end of life. It's always one of those things, it's aging out, but how close are we exactly to the end of life as a subjective call? I think that the committee heard the testimony and felt as though that we could delay the implementations to the MCOs, that we could nurse our system along, a little more time to handle this without completely replacing the system. Because we're clearly going in the direction of the MCOs handling the claims processing and not the department in the future. So that was one of the things that drove that fiscal note was the need to replace the system. I guess it was our understanding, it was our determination that I think we could get a little more life out of that system; we could continue to process--

FOLEY: One minute.

ARCH: --the claims through our system and not have to replace the entire system. So that being said, I think that one of the advantages that some of the hospitals had was perhaps some resources that could handle the cash flow issues that occurred, and I think will naturally occur as the claims system gets up on its feet that could handle that. But-- but I don't think that the nursing home industry has that in all of those cases. So, that being said, I do stand in support of LB468 and encourage a green vote on that. Thank you.

FOLEY: Thank you, Senator Arch. Senator Albrecht.

ALBRECHT: Thank you, President Foley. I guess I do rise in opposition to LB468 and AM1166. After speaking with Senator Stinner, I guess I'd like to ask Senator Howard if she would yield to a question.

FOLEY: Senator Howard, will you yield, please?

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

Floor Debate  
April 24, 2019

---

HOWARD: Yes, I would be happy to.

ALBRECHT: Have you gone before the Appropriations Committee with this fiscal note?

HOWARD: No. May I take a moment and explain the fiscal note?

ALBRECHT: That would be great.

HOWARD: I'd hate to use your time though. So I have my light on. OK. So in-- oh, gosh, in 2007, the department asked the Legislature to allocate funds to replace the MMIS system. That's where they believe that the cost they are asserting cost here. And the MMIS system is a fee-for-service claims database. We put \$6.2 million in that fund and then \$2.8 million has been expended over the years. We still have \$7.1 million in that account to replace the MMIS. And since then we've actually tried, but it's been 12 years and we actually haven't replaced it. So what they're trying to do is say, we need the money for replacing the MMIS on this bill, even though there is already a cash fund for them to do it. Does that make sense?

ALBRECHT: So, you've cash funds put away since 2009?

HOWARD: 2007.

ALBRECHT: 2007, and how much? Seven million?

HOWARD: It was at 6.2, now it's at 7.1 in that account.

ALBRECHT: So we cut services to these folks in the last biennium and they are struggling to get payments, but yet we were holding back that money to what? Change the system? Is that what-- ?

HOWARD: So this was for-- so essentially what the MMIS does is it pays claims. Right? And so managed care is, OK, managed care is going to manage all of your claims. The MMIS system has a few things still in it that are paying the claims. One of them is long-term care. One of them is emergency services for immigrants; we pay for that through there. And so we're sort of trying to-- the department is trying to move things off the MMIS system. Essentially what they're asserting is that if we pass this bill, they will have to buy a new system before 2021. And to me that's an outrageous assertion.

Floor Debate  
April 24, 2019

---

ALBRECHT: But yet, they are the ones that do this every day. And I don't feel that we must listen to those folks that are bringing claims to the state of Nebraska. We have to look at all the claims, how they are presented, you know, and presented correctly on the right forms. You know, maybe we are lacking in instructing them how to get their claims paid. But there have to be other reasons why. When I look at the folks that came to testify on this bill, were those who wanted their money, of course. But the services were cut, you know, in the-- and I understand if they're wanting more to be able to run their facilities and to be able to pay the folks that work there and those kinds of things. But when I see the people on the front line that are doing this everyday come to the Health and Human Services Department with issues about how this is going to be rolled out and the amount of employees that are going to be needed to take this over, or the new computer system that's going to have to be taken into consideration, my concerns, this fiscal note, again, if the money-- if you're saying that the money is already in a fund, is it truly in a fund to change the program or is it in the fund to be able to be paying these claims that we haven't-- they say we haven't been paying.

FOLEY: One minute.

ALBRECHT: That's-- and Senator Howard, if you would like to help me understand that on the floor and for everyone else that isn't in the committee, if you could elaborate on that, that would be great. Thanks.

FOLEY: Senator Howard, there is 45 minutes-- 45 seconds left.

HOWARD: I think I'm next, but I'll just run into my time.

FOLEY: And you're actually next in the queue. So why don't you just continue.

HOWARD: OK. So, Senator Albrecht, this is actually a really confusing area of how the state of Nebraska handles healthcare; and especially how the state of Nebraska handle Medicaid. So we were an early adopter of what's called managed care where we essentially went to a third-party contractor, let's just say Blue Cross Blue Shield, and we said, you know what, we are paying all these claims ourselves and we think that it will be more affordable for us for you to manage the care of this population. So the problem was that our healthcare costs were going up and down. Right? Because you had a pool of people and their healthcare status would maybe be terrible one year and maybe be better another year. And so we looked at a managed care company and we said, here's what we're going to do. We're going to give you a set amount of money. And if people are healthy, you get to keep whatever is left over. If people are unhealthy, you're going to eat that risk. That's how managed care works. Does that make sense? Sorry, I'm looking at you. Not really? OK. It's kind of like your insurance. You pay a premium. And sometimes you're

Floor Debate  
April 24, 2019

---

going to be more sick and need more-- need your insurance company to cover more than your premium covers. And then other months, you're going to be healthier and your insurance company is going to keep your premium and they're going to make a profit off of that. Does that make more sense? So that's essentially what managed care is. And so we went to managed care for the bulk of our Medicaid population, and so that really helped even out our budget. But there were still a few populations that we left on our old claims database. It's commonly called our MMIS. And so with that claims database, it pays very, very quickly because often managed care doesn't want to pay timely in the sense that the longer you wait to get paid-- the longer they wait to pay you, the more they get to keep that money. And so eventually some providers will just give up. Some providers will just say, hey, we can't do it. But as a policy, what the committee considered was that when somebody is in a long-term care facility where they have nowhere else to go. And we have had some payment challenges with our managed care companies in terms of them not paying timely our providers. And it's one thing if you have a root canal, right, that dentist can wait a little while. But if somebody is living in a nursing home and their payment doesn't come in, that nursing home can't just eat the cost. And that person has nowhere else to go because they are living there. So essentially what this bill is saying is, department, let's pump the brakes, you've got a lot on your plate in terms of managing the Medicaid expansion, managing the optional 1115 waiver, you've got a lot on your plate. So take a pause before you put this specific and very vulnerable population into your managed care program, which is not paying timely all of the time, and let's wait until 2021 when you have really managed, you've gotten through this big hurdle of Medicaid expansion and your optional 1115, and then in 2021 you can revisit long-term care and make sure that your managed care programs are paying timely. And a part of this is the department really needs to focus on oversight with managed care and making sure that the oversight that they're providing is ensuring that providers are paid timely. But when we talk about the MMIS system and when we talk about the fiscal note, the assertion that they need this money to purchase a new MMIS system doesn't make a lot of sense to me, because we have set aside a cash fund for them, they have \$7.1 million. It's a 90-10 match from the federal government to replace this, which means that for every dollar that we spend on replacing the MMIS, 90 cent comes back to the state from the federal government. I really want the body to really consider the totality of what we are asking our Medicaid and long-term care program to consider over the next two years. So it's April 24, 2019, we are asking them to delay putting long-term care until the middle of 2021. That makes a lot of sense to me considering that their time line is this. They just put in a state plan amendment for Medicaid expansion; Medicaid expansion is done. In the fall, they're putting in an optional 1115 waiver to change the benefit structure within our Medicaid program. So that's the fall. They will be working on that over the next legislative cycle. And during the next Legislature, if there are modifications that we need to make to statutes--

FOLEY: One minute.

Floor Debate  
April 24, 2019

---

HOWARD: --we'll be working with them on that. Then in August 1, they're going to start enrollment into-- for the new adult population. They'll start covering them October 1. And really, all we're saying is that wait until the middle of 2021 before you put this very vulnerable population into your managed care program. I know that was a lot of information, and so if there are additional questions, I'm happy to try to answer them. This is a very complicated and confusing area of law and area of policy work within the department. But I certainly would urge the adoption of AM1166 and LB468. This was well considered by the Health and Human Services Committee. And I would reiterate it was advanced unanimously from committee. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator Hilkemann.

HILKEMANN: Thank you, Mr. Lieutenant Governor. I've got a couple of questions here that I would like on this. And I'm going to begin with Senator Walz, and then maybe Senator Howard can help out with this, because I've got a couple-- Senator Walz.

FOLEY: Senator Walz, will you yield, please?

WALZ: Yes.

HILKEMANN: At the present time, we're not-- we're not using managed care for the long-term care-- in the long-term care home-- facilities, is that correct?

WALZ: Yes.

HILKEMANN: OK. And so what this means is that they simply cannot put people into managed care that are in long-term care facilities at this time until '21. Is that correct?

WALZ: Yes, only long-term care facilities.

HILKEMANN: Senator, is there-- well, if we put this in place, is there any long-term-- is there any downside risk? Let's put it that way.

WALZ: I don't see any downside risk. It think that it's just something that we need to do, delay. I see a risk in not passing this, because as was already said, the department has their hands full. And just adding this into another area, other department, I think, puts people at risk, and our facilities.

Floor Debate  
April 24, 2019

---

HILKEMANN: Now, again, maybe I'll direct this one to Senator Howard.

FOLEY: Senator Howard, would you yield, please?

HOWARD: Yes, I will.

HILKEMANN: Senator Howard, I see that Dr. Van Patton opposed this-- this bill. What was the nature of their opposition to this?

HOWARD: My understanding that the nature of their opposition was that they wanted to have the flexibility to put long-term care into managed care whenever they felt it was most appropriate. And what we heard from providers was that that gave them a level of uncertainty that really hurt their business. And so we wanted to make sure that they at least had some certainty that their program, their work would not be put into managed care until 2021.

HILKEMANN: Okay, thank you very much. I appreciate that. This-- this is an extremely vulnerable population and this is-- we need to-- that's why I hope that we're improving the situation rather than hurting the situation because we've lost nursing homes, we've cut-- we've cut their reimbursements. I'm sorry, it just takes dollars to run a nursing home and people require care. And one of the things about managed care is that if you don't provide the care you win. And that's what I don't like about the whole managed care concept to begin with. And so you're rewarded for not providing care instead of providing care. And so I think that this is a bill that we need to support, provided we don't have downside risk that come in here. Because these people are our most vulnerable citizens. They need to have this. They don't have any choices or options at this point, folks. So, I think that with this understanding this is something we need to get behind and support. And I thank you for bringing it, Senator Walz. Thank you. Those are my questions for now. Thank you, Mr.--

FOLEY: Thank you, Senator Hilkemann. (Visitors introduced.) Continuing discussion, Senator Albrecht.

ALBRECHT: Thank you, President Foley. I would like to talk a little bit more about this letter that was given to-- or maybe it was testimony from Matthew Wallen, who is our Director of the Division of Children and Family Services, Department of Health and Human Services. It was dated March 7. I image that's when they had the hearing. And again, I'll yield some of my time to Senator Walz or Howard to find out if I'm off base here. But in his letter he says that LB328 fundamentally runs contrary to the spirit and the approach by our federal partners to implement the FFPSA, which I'm sure they'll let us know what that is, and then the LB328 regulates

Floor Debate  
April 24, 2019

---

definitions that could tie the state's hands in leveraging IV-E funds. And also, this could lead to developing a program compelled by the state statute that does not comply with the FFPSA and therefore jeopardizing our essential IV-E funding. In addition, DHHS has already worked at developing programs required to be associated with that compliance of the FFPSA. I'm concerned about that, if we go out of compliance, we certainly don't want to lose any of the money, but, again, if Senator Howard would yield to a question that would be great.

FOLEY: Senator Howard, would you yield, please?

HOWARD: I'd be happy to.

ALBRECHT: OK, first question, do you think what we're doing here would put us out of compliance with the federal government in their funding the 90-10?

HOWARD: So the-- great question, so 328 is actually in a separate-- it's a separate program, so the 90-10 match put that all over here because the 90-10 match is around Medicaid. The LB328 issue is around the families first program. And so if you look at LB328, it was an enormous bill. Right? And it talked about noncore voluntary placements, it talked about the Families First program. Families First doesn't go into effect until September. It is a-- October 1, I believe. It is an entirely new way for us to handle our child welfare system. Embedded in LB328, towards the end, it talked about our family finding program, which has nothing to do with Families First. It is a pilot. It was a pilot program for family finding for child welfare. So essentially intensive family finding. We're looking for that uncle or that cousin who would be willing to place a child with them. And so all this bill does is get rid of the pilot and then extend-- and then allow the department to continue the family finding program. It has nothing to do with Families First. Director Wallen actually approved of this change and he was supportive of this amendment. And if you do have any further questions, it is actually Senator Bolz's bill. I'm sure she would be thrilled.

ALBRECHT: Correct. Correct. But-- OK, so let's get back to LB468. If we change this at all, would that negate any of our federal funding and are we complying with the federal regulations so that we don't miss out on getting the funding to the state of Nebraska?

HOWARD: So one of my roles as Chair, I feel, is to make sure that we are always getting our federal funding, we are not paying any more fines. We have paid millions of dollars in fines and lawsuits, and so I personally can attest that I would never support anything that jeopardized our federal funding. I believe what truly jeopardizes our federal funding is our feet dragging on modifying our MMIS and our enrollment system because I think the department has really

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

Floor Debate  
April 24, 2019

---

missed out on a lot of funds for that. But this bill wouldn't impact our federal funding in any way.

ALBRECHT: OK. So let's get back to the fiscal note again, and let me be clear, that whatever--

FOLEY: One minute.

ALBRECHT: --whatever you are asking for out of the cash funds, have you-- I mean, you're going to use the money that you have in savings to cover that so it's not really going to be out of the cash funds?

HOWARD: Well, I think first we would all have to agree that the department needs to replace the MMIS system, and that is not something I agree with. What we heard in our briefing a week and a half ago from Dr. Peterson who is doing information technology over at the department is that they are not going to sunset the MMIS any time soon. And so they will not be doing it in 2021. They will not be doing it in the next couple of years. And so I would argue that the department fiscal note relative to replacing the MMIS system is inappropriate. But the cash funds that are there, they are already there for them to use.

ALBRECHT: OK. OK. So if there is no money from Appropriations coming to the floor for any of our bills--

FOLEY: That is time, Senator.

ALBRECHT: OK.

FOLEY: Thank you, Senator Albrecht and Senator Howard. Senator Kolterman, you are recognized.

KOLTERMAN: Good morning, colleagues. Thank you very much, Mr. President. I rise in support of this bill and the amendment that's been supporting the bill. I served on HHS for four years and we implemented managed care during that period of time. I also have about a 40-year history of being in the insurance business and working with managed care over those 40 years. What you find is the most important part of managed care, in my opinion, is the networks that are being utilized. And in this particular case, when we were starting to implement this, my biggest concern was that the networks weren't adequately represented across the whole state of Nebraska, which is always been a problem in the state. We really have only-- we only had at that time two really good networks that really encompassed the full state. But as I look at this and as

Floor Debate  
April 24, 2019

---

we dealt with the managed care as it was being rolled out, those are major concerns and they played out just like I thought they would. We didn't have the representatives in the rural areas, in the western part of the state, and so people weren't getting served properly; and at the same time, those that were getting served they were building networks like kind of on the run and the bills were coming in slow and we were going from two providers to three providers. And it was kind of a mess. Now they've kind of gotten through most of that process, they were doing a good job of managing the claims as I left HHS a year ago. But we also had talked a year ago about managed care and long-term care and even the year before that, and they put it off because we weren't ready for that. Now to complicate things in the meantime, we roll out-- we're bringing on Medicaid expansion which is another 90,000-plus people that are going to go on the rolls. I don't know, in my opinion, how we can handle all that without adding a lot of employees to the system from the state of Nebraska. I guess my biggest reason for supporting this bill is, as you look at the committee that we have in Health and Human Services, we have people that have been on there, I believe that Senator Howard has been on there for seven years; Senator Williams has been on there for four years. And not only that, we also have-- it's a very bipartisan committee. And so they've studied this issue quite extensively. I think before we allow this to happen-- I don't think it's bad to step back, take a little bit more time, evaluate the process, make sure that we have all of our ducks in a row so we don't go into a Heritage Health situation like we had last time. And then the other thing that I forgot to say is, we've got two other people that are that committee that have health backgrounds. One is a hospital administrator, who worked in the hospitals. And Ben Hansen, Senator Hansen, has his own personal business. So I think that we're very well representative, it is well rounded, and I think that they listen to their testimony of both HHS and the people that are providers. I think this is a good comprise. I don't think it's asking too much to put this off until 2021, 2022. I think it will be better for that if we do this. It gives us time to build those networks, it gives us time to get the proper software in place, if necessary. And I don't think it's going to hurt us from the federal government. I have a lot of confidence in what--

FOLEY: One minute.

KOLTERMAN: --Senator Howard and the Vice Chairman are doing there. So I believe this is good legislation. I think we should move forward with it. And I would encourage a green vote on AM1166 and LB468. Thank you.

FOLEY: Thank you, Senator Kolterman. Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. I do stand in favor of AM1166 and LB468, and I do appreciate the questions that are being brought forth by Senator Albrecht, by Senator Hilkemann, because I think these are important questions to ask: what it's going to cost the state, if it will

Floor Debate  
April 24, 2019

---

cost the state, what responsibility we have; how is this going to affect people? So, I do appreciate the discussion that we're having right now because this was a discussion that we did have in HHS Committee about some of the concerns, about what we thought, about how it should be laid out. And I do appreciate the department's move towards a more quality-based, outcome-based approach to healthcare. We're seeing that with their proposed approach with Medicaid expansion about outcomes, about responsibility. And so I do like to see us moving in that direction. I think we will see us moving in that direction with our long-term care facilities. I just don't think we're ready for it yet. I think it is prudent on us to make sure that we are doing this appropriately, because, I don't mean to be an echo chamber here, but I'm going to echo some of the sentiments that Senator Arch said about the roll out that we had previously with Heritage Health and the hospitals. Like they were big enough to absorb some of this cost, delayed payments, et cetera. These long-term healthcare facilities can't absorb that right now. They are on such a finite budget right now. Any effect on their budget right now, any delay in their payments can shut a facility down. And I think that's pretty important to put into mind here. Hospitals can afford it when we roll this out, long-term care facilities cannot. And so I think we're just being a little bit responsible on our part to make sure that this being rolled out appropriately. And I don't think anybody is denying the fact that long-term healthcare facilities are going to be eventually under the direction of MCOs. They understand that. We understand that. We are just giving you a little more time so they have a little more clarity on where they're going to be at, how they can approach this, how the MCOs are going to approach this, because like what Senator Howard said, we are dealing with Medicaid expansion, with a waiver. That's putting 90,000 people back on the rolls here on Medicaid expansion. That's a pretty big responsibility for one organization to take over. And then we're going to roll in long-term healthcare facilities on top of that and expect them not to mess it up? You know, I love government, but man, we mess up things all the time. And so I am not going to take that risk that they won't mess up the roll out and the takeover of long-term healthcare facilities. And if they do, then we're going to have to explain to some-- some of the elderly, some of the retired folk that are going to be out of their homes. And they still might be, we're just giving them two years, we're giving them clarity here. That's all this bill really does. And so, but like I said before, I do appreciate the sentiment, the questions that we're asking. I think they are important. I appreciate Senator Howard and Senator Walz answering all these questions. And so with that, I appreciate your green vote on this. I think it is important. And with that, I will yield the rest of my time back to the Chair. Thank you.

FOLEY: Thank you, Senator Hansen. Senator Bolz.

BOLZ: Thank you, Mr. President. Senator Albrecht, I am so pleased that you asked some questions about family finding, because this work within the child welfare system is really a bright spot. And I love the chance to have some time on the microphone to talk about it. Family finding is exactly what it sound like. It's a facilitated process. It's evidence based. It's done by people who are trained in the child welfare system to link and build relationships with extended

Floor Debate  
April 24, 2019

---

families for hard-to-place young people in the foster care system. It's resulted in some wonderful outcomes, including being able to identify, locate, and engage fathers who weren't previously involved in children's lives, as well as siblings. And it has significantly increased the number of children and youth who have been placed with a permanency option; in other words, adoption or guardianship through this facilitated family finding process. And that is wonderful because one of the areas that we don't perform as well in is we have more than the state-- or the national average of out-of-home placements. So family finding is consistent with federal law. Not only is it consistent, it's actually under the philosophy of the new Family First Preservation and Safety Act which you referenced and which Director Wallen referenced. This provision was a part of a more comprehensive bill that envisioned how we could implement the Families First Act in Nebraska. That bill is not included LB468, rather, only the family finding provision from that bill as a whole is included in the LB. That is the only provision; it is consistent. It doesn't have a fiscal note because the department has already moved forward with a contract using existing dollars with Nebraska Children's Home Society. And as far as I know, everything is green light and everything is all systems go. So that is wonderful. I hope that addresses all of your questions and concerns, and I'd be happy to pull the committee statement so you can see how just that provision is included in the committee amendment. With that said, I wanted to say just a couple of quick things both about the funding pieces of this bill and the policy pieces of the underlying bill. From a funding perspective, I do want to say that the Appropriations Committee keeps a careful eye on the implementation of the MMIS system. We ask questions in the agency budget hearing every year. I know because I'm the one who asks most of those questions, including this year we did have positive reports. If you want to review the committee transcripts, that evidence is there for you to review. I also want to make a note that the funds that are set aside in the cash fund for the MMIS system are one-time funds. So they are funds that can only be used for a one-time purpose, like this technology change, which is very important, because as Senator Howard said, we need to maintain federal compliance with the way that we're doing our information management or we risk federal penalties. But the important part of bringing up the cash fund and its one-time nature is that you can't match that up with the ongoing needs and demands that have been so eloquently articulated on this floor. Those ongoing needs from nursing facilities or community-based providers, you can't match that up with the one-time funds and the cash funds because they are ongoing, they're a continuing obligation. You can't pay for your rent ongoing with just the money in your savings account, you need the income through your paycheck. So we wouldn't use the cash funds for an ongoing need. The last thing I want to say about LB468 is a couple of comments from a policy perspective.

FOLEY: One minute.

BOLZ: And this comes from my experience working in the developmental disabilities field. Not only do I think it's an appropriate bill, an appropriate time to take a beat and think about what's relevant moving forward, but I know from research that has been provided from the national

Floor Debate  
April 24, 2019

---

organization, ANCORE, that there are reasons to be cautious about pulling in home- and community-based services. Managed care providers don't have as much experience with the some of the home- and community-based services and don't always have the expertise for folks who have specific needs like developmental disabilities. Further, the cost savings has not been as proven for those community-based-- home- and community-based services, specifically developmental disabilities. So, I think taking a beat makes excellent sense. If anyone is interested in that report and the research findings, I'd be happy to share it with it you; it's very well done. So I think I got all my points in in the time I had on the microphone, and want to thank Senators Howard and Walz for their excellent work. Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. Senator Albrecht, you are recognized; your third opportunity.

ALBRECHT: Well, thank you very much, President Foley. I do have a couple of quick questions for Senator Bolz. She's on a roll, she's the expert in the appropriations with this.

FOLEY: Senator Bolz, will you yield, please?

BOLZ: Sure.

ALBRECHT: OK, in this fiscal time, has Appropriations given any additional funding to these long-term facilities in this budget?

BOLZ: In the-- so are you asking this budget cycle this year?

ALBRECHT: Yes.

BOLZ: So the preliminary budget did provide a provider increase for nursing facilities, yes.

ALBRECHT: And how much was that?

BOLZ: I think what we put in, oh gosh, what did we put in in the preliminary for nursing facilities? I think we put in 2 percent for Medicaid across the board. But we haven't finalized our budget yet, and there-- and Senator Stinner's bill tried to better "equaliberalize" the nursing facilities' payments to make sure that those folks were better stabilized. And your final budget will see a higher increase than that.

Floor Debate  
April 24, 2019

---

ALBRECHT: OK. So higher than the 2 percent for long-term care facilities and nursing homes. Right?

BOLZ: Correct.

ALBRECHT: OK. So, again, I'm going to go back--

BOLZ: I am sorry to interrupt. I just want to say, that is-- is what has been contemplated in the Appropriations Committee. We have not yet finalized the budget. I don't want to get ahead of my committee. That is what we have discussed. Senator Stinner's bill has, at this point, been adopted by the committee, which put around \$3 million additional per year above and beyond the preliminary budget into the nursing facilities in an effort to stabilize.

ALBRECHT: OK. So-- so you've looked at it in the Appropriations area. Would the Appropriations Committee be able to fund this fiscal note? I mean, is there any--

BOLZ: I think, the argument, as I understand it from the HHS Committee, is that this fiscal note is not appropriately applicable to this bill, that this bill can be implemented without having that investment, because the investment has already been made and the cash funds are already available. I think they are arguing that you are conflating the two-- the two issues have been conflated.

ALBRECHT: But they are asking for additional personnel to manage this new system, so I would imagine there would have to be some fiscal note applied for that to happen.

BOLZ: Um-hum. I guess the way I understand it, because we're taking a beat, we're taking a pause on the managed care system. Additional personnel would not be necessary because we're taking action not to move forward rather than to take action that would result in additional costs. Senator Howard is nodding her head at me, so I think I am on the right track.

ALBRECHT: OK. Well again, I am going to do some checking between now and Select, if this should pass, because I do have concerns. If we're trying to help them by giving them additional funds to run their facilities, why are we looking to change what we're currently doing if they're working at getting them paid?

BOLZ: I think there are two--

Floor Debate  
April 24, 2019

---

ALBRECHT: That was just a statement. Thank you very much.

BOLZ: Oh, I'm sorry, my apologies. I think they're different--

ALBRECHT: Thank you very much. Thanks for your time. I'll yield my time back to the Chair.

FOLEY: Thank you, Senator Albrecht. Senator Clements.

CLEMENTS: Thank you, Mr. President. I was given a copy of the testimony Dr. Matthew Van Patton who is Director of Medicaid and long-term care. He testified in opposition of this bill. And Senator Hilkemann had asked if there was a downside. And I wanted to just read from his testimony, and then I'll be asking for a question about it. He says the division's current claims payment system, or MMIS, is nearing the end of its life cycle. The system itself is over 40 years old. Keeping long-term care services outside of managed care would require the state to procure a new claims payment system or contract with a claims broker system, CBS. The cost of either of these options are in the tens of millions with a recent bid for a CBS starting at \$23 million. Keeping long-term care out of managed care would cost the state millions of dollars in new system development or contracting, only to process a relative small number of claims. Would Senator Howard yield to a question?

FOLEY: Senator Howard, would you yield, please?

HOWARD: Oh, yes, I would be happy to.

CLEMENTS: Thank you. Senator Howard, you heard this testimony, and still voted to advance the bill. I would like for you to explain how confident you are that the MMIS will last two years and how you made that decision.

HOWARD: I am overwhelmingly confident that the MMIS will last for the next two years. And it is not because of the small amount of claims, it's actually because we are paying our managed care companies their per member, per month fee directly through the MMIS. And so moving away from that will take longer than two years for the department.

CLEMENTS: All right. Did someone from HHS give you more information about the system?

HOWARD: Yes. OK. Excellent. Yes. So remember when we were at the Medicaid expansion briefing about a week and a half ago, and one of the-- I usually like to wait to ask questions, I

Floor Debate  
April 24, 2019

---

tend to have my committee go first. And I asked the question of Dr. Peterson, Dr. Laura Peterson about the sunset time line for the MMIS, because we had been anticipating, based on Senator McDonnell's bill, LB645, that we would get a time line for the sunset of the MMIS. And Dr. Peterson said, and this is not a direct quote because it is from memory, but she doesn't believe that she'll see a sunset of our MMIS in the near future or during her tenure at the department. And that was just from my notes. So, I don't believe that we'll be sunsetting the MMIS any time soon, but it will be a matter of slowly moving off the current claims that are there and then onto managed care. But right now, because our per member, per month is paid for through the MMIS, it is highly unlikely that we will move off of it in the next two years.

CLEMENTS: Thank you. And this Dr. Peterson, what is her position?

HOWARD: Um, you know, I don't have her title, but she works at the Department of Health and Human Services directly under Matthew Van Patton. And she is specific-- her work is specific to information and technology.

CLEMENTS: All right. All right, well, thank you. I still am concerned about Director Van Patton's statement that it could cost tens of millions of dollars. And if this does advance, I will still continue to want to make sure we're doing the right thing. And with that, Mr. President, I yield my time to the Chair.

FOLEY: Thank you, Senator Clements and Senator Howard. Seeing no one else in the queue, Senator Howard, you are recognized to close on the committee amendment.

HOWARD: Thank you, Mr. President. First off, I just want to thank the body for their careful consideration of LB468. I think when we have questions, especially about things that are this complicated, it is better to get them out on the floor, it's better to build the record. I want to note that with AM1166, it does two things: it changes the date in LB468 to July of 2021. It also gets rid of an evaluation which assists with the fiscal note. And then it adds-- it gets rid of the pilot language for family finding from LB328. Because we are leaving things exactly the way they are for long-term care with no changes, we're just saying, you know, take a beat, leave everything the way that they are, the committee really felt as though there wouldn't be a fiscal impact and shouldn't be a fiscal impact, especially knowing that we have, if the department decides to modify their MMIS or replace it, they have a \$7.1 million cash fund to do so with a 90-10 match from the federal government. And so I would certainly urge the body's adoption of AM1166. If there are other concerns between now and Select, I am happy to try to work with folks who have them, with Senator Walz, but for today I would certainly urge the adoption of AM1166. Thank you, Mr. President.

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

Floor Debate  
April 24, 2019

---

FOLEY: Thank you, Senator Howard. Members, you heard the debate on AM1166, Health Committee amendment. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, please.

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments.

FOLEY: AM1166 committee amendment is adopted. Further discussion on LB-- Mr. Clerk.

ASSISTANT CLERK: Senator Walz, you had previously filed AM46, but I have a note that you wish to withdraw.

WALZ: Yes, I do.

FOLEY: Amendment is withdrawn. Further discussion on LB468 as amended. Senator Clements.

CLEMENTS: I'd like to ask Senator Walz a question.

FOLEY: Senator Walz, will you yield, please?

WALZ: Yes.

CLEMENTS: In the original bill, there was a requirement for an evaluation to be done before managed care could be implemented. Has that been removed by the amendment?

WALZ: Yes, it has been.

CLEMENTS: And so the-- what you just withdraw doesn't affect that?

WALZ: No.

CLEMENTS: OK. All right, I just-- so the July of 2021 is the only date that's restricting the Health and Human Services Department?

WALZ: Correct.

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

Floor Debate  
April 24, 2019

---

CLEMENTS: Thank you, Senator Walz. Thank you, Mr. President.

FOLEY: Thank you, Senator Clements and Senator Walz. Any further discussion? I see none. Senator Walz, you're recognized to close on the advance of the bill.

WALZ: Thank you, Mr. President; and thank you, colleagues, for the discussion today. I think it is an important discussion. We, as the committee, really felt that we need to delay this implementation before any more harm is done to facilities and impose a great-- greater burden on the cost. There is no reason that the department should have to hire additional people, or facilities should have to hire additional people to fight over all these claims. What we are dealing here with is a vulnerable population. The services that providers are rendering are complicated and moving long-term care under this program would only serve to further "exaborate" (sic) the problem we have seen over the past two years. We need to be very careful on how we proceed, because we are talking about a vulnerable population. The department has already taken on the large task of implementing Medicaid expansion this past year. And before they take on another large workload by adding this population, we need to take a step back. Once again, I would appreciate your support on General File in order to see this fiscal note on Select, because I don't believe there should be one. If anyone has concerns and would like to work with me between now and Select File, I would be more than happy to work with you and address your problems or your concerns. And with that, I would ask for a green vote on this bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Walz. Members, you heard the debate on LB468. The question for the body is the advance of LB468 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance the bill, Mr. President.

FOLEY: LB468 advances. Items for the record, please.

ASSISTANT CLERK: Thank you, Mr. President. New resolution: LR91 by Senator Hughes; that will be laid over. Notice of committee hearings from the Health and Human Services Committee for Wednesday, May 1. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. We will proceed to the next bill, LB418. Mr. Clerk.

CLERK: LB418 introduced by Senator Cavanaugh. (Read title.) The bill was introduced on January 18; referred to the Business and Labor Committee; that committee placed the bill on General File with committee amendments.

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

Floor Debate  
April 24, 2019

---

FOLEY: Thank you, Mr. Clerk. Senator Cavanaugh, you are recognized to open on LB418.

CAVANAUGH: Thank you, Mr. President; good morning, colleagues. Today I get to introduce LB418 on General File. I am thankful to the Business and Labor Committee for choosing to prioritize this bill which is a major step forward for Nebraska workers. LB418 attempts to give some peace of mind to employees going through workers' compensation proceedings. It's a stressful time for the employee and their family. There's a lack of income to the household. The extent of the injury may not be known; medical bills start piling up, calls from debt collectors are coming with no end in sight with no way to pay them because all this is happening before the claim has made its way through the workers' compensation system. This bill would prohibit creditors from attempting to collect a debt for medical, surgical, and hospital services arising out of the injury that is the subject of the workers' compensation claim. It does not prevent the eventual collection of the bill or lower the amount of the bill. LB418 would only delay the collection of the debt until the claim is resolved. Since the bill's hearing last month, I have worked with the trial attorneys and collectors association on an amendment to address their concerns with the initial version. The major changes moved the bill from the Collection Agency Act to the Workers' Compensation Act which specifies how and what notice must be provided to the creditor and tolls the statute of limitations for the debt collection to the date filed with compensation court. Thank you, and I will ask for your green light on LB418 and AM1266.

FOLEY: Thank you, Senator Cavanaugh. As the Clerk indicated, there are amendments from Business and Labor Committee. Senator Matt Hansen, you are welcome to open on the committee amendment.

M. HANSEN: Thank you, Mr. President, and good morning, members of the Legislature. AM1266 is the committee amendment to LB418 that replaces the original section and becomes the bill. LB418 is the second Business and Labor Committee priority, and I appreciate Senator Cavanaugh letting us make this bill a committee priority. This bill advanced out of committee unanimously with one senator absent. The committee amendment contains three bills dealing with the same area of law: workers' compensation. LB418, as amended by Senator Cavanaugh; LB360, which is a bill of mine; and LB178 by Senator Hilgers. I'll discuss each of these in turn. First, LB418 by Senator Cavanaugh, which prohibits medical debt collection against an individual with a pending Nebraska workers' compensation claim. The bill as introduced was opposed by the Nebraska's Collectors Association at the hearing. I do want to thank Senator Cavanaugh and her staff and the Collectors Association for their work. And with the changes in this amendment, the Collectors Association is now in support of the bill. The changes to LB418 are contained in Sections 8 and 9 in AM1266. With these changes, the bill would prohibit collection of a debt incurred against an employee for treatment of a work-related injury while the matter is pending in the Nebraska Workers' Compensation Court. The amendment requires notice be given to the creditor. Notice must be in writing, contain the provider's name, the

Floor Debate  
April 24, 2019

---

employee's name, the date of the injury, description of the injury, the filing date with the Workers' Compensation Court, as well as the case number. Notice can be by personal service, first-class mail, or other method agreed to by the parties. Within 30 days of the initial notice, the employee must provide information specifically identifying the debt. Collection lawsuits would then be stayed pending the outcome of the compensation court with the statute of limitations tolled during the pendency of the case. Also included in the package is my LB360, which is a bill closes a loophole in workers' compensation system when there's only a foreign dependent beneficiary in a worker's comp claim, followed by-- by allowing the court to appoint an attorney to represent the family members. This language for LB360 is included in Section 1 of the amendment. To give an example, there could be a worker who is killed on the job, but the worker's dependent is their mother who lives in a foreign country. Currently, as long as there is a consular officer who can assign the mother's rights to be enforced by an attorney in Nebraska, there is no problem. A problem occurs when the next of kin lives in a country that either does not have a consular officer who covers Nebraska, or the consular officer is not responsive to requests from the employee's attorney. This puts the case in limbo. This bill would allow the Workers' Compensation Court to make the appointee in those rare cases. The bill also requires a person appointed by the court to furnish a bond to receive the money before the bond is discharged and show a verified accounting of receipts and disbursements of the money. Following conversations with stakeholders, language was added providing guidance to the court to consider whether consular officer's jurisdiction includes Nebraska and the responsiveness of-- the consular officer-- by the consular officer two attempts made by the attorney representing the employee in the proceedings. LB360 had no opposition at the hearing and was advanced unanimously with one-- by the committee with one member absent. Finally, AM1266 includes LB178 by Senator Hilgers. LB178 had no opposition at the hearing and was advanced unanimously with one member absent by the committee. LB178 is included in Sections 2 through 7 and Sections 10 through 12 of the committee amendment. LB178 is a technical cleanup bill from the Department of Administrative Services. It updates changes to references to the risk manager and makes changes to allow for a more efficient state claims process, including workers' compensation claims against the state. In Sections 2 through 7 of the committee amendment, it makes various changes to harmonize terms based upon previous changes in prior years. It removes outdated references to the State Claims Board, which was originally operated as a separate state agency. However, in 1992, the Legislature consolidated the State Claims Board with the risk manager under the Department of Administrative Services. Section 10 of the committee amendment removes a requirement that all claims rising from the same facts and circumstances be aggregated which can cause a delay in payment of such claims due to one claim taking longer to settle than the other. This change allows for each claim under \$50,000 to be paid at the time of settlement. All awards and judgments would still be reported to the Legislature as is the case now. In Section 11 of the committee amendment, it also allows for the State Self-Insured Liability Fund to be used to pay claims against the state for which there is a specific provision of law for the resolution, but are otherwise not payable from other named funds. Finally, in Section

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

Floor Debate  
April 24, 2019

---

12, it exempts the Department of Justice from the requirement of having motor vehicles be marked with the state of Nebraska Attorney General's Office. This was included because it was part of the original provisions of Senator Hilgers's LB178. With that I would like to thank Senator Cavanaugh again for allowing us to make LB418 a Business and Labor Committee priority. And I would encourage your green vote on AM1266, the committee amendment, and LB418. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Debate is now open on LB418 and the pending Business and Labor Committee amendment. I see no one wishing to speak. Senator Hansen, you're recognized to close. He waives closing of the committee amendment, AM1266. The question for the body is adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of the committee amendments.

FOLEY: AM1266 is adopted. Is there further discussion on LB418 as amended? I see none. Senator Cavanaugh, you are recognized to close on the advance of the bill.

CAVANAUGH: Thank you, Mr. Speaker. And thank you to the Business and Labor Committee for prioritizing this bill, and to Senator Hilgers and Senator Hansen, Matt Hansen, for joining me in having this be the priority bill. This is going to do some really great things for the people of Nebraska.

FOLEY: Thank you, Senator Cavanaugh. The question for the body is the advance of LB418 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to advance the bill.

FOLEY: LB418 advances. Proceeding to our next bill, LB560.

ASSISTANT CLERK: LB560 introduced by Senator Geist. (Read title.) The bill was introduced on January 22 of this year; referred to the Revenue Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Geist, you are recognized to open on LB560.

Floor Debate  
April 24, 2019

---

GEIST: Thank you, Mr. President; and thank you, members of the Legislature. LB560 addresses concerns that were raised in the 2018 Legislative Performance Audit of the Beginning Farmer Tax Credit Act. In the performance audit, several issues related to the Beginning Farmer Board's administration of the program were identified, along with other statutory issues. The Performance Audit Committee introduced LB560 to address the committee's recommendations outlined in the report. Senator Williams also introduced LB623 which also made changes to the Beginning Farmer Tax Credit Act. The Performance Audit Committee decided to prioritize LB560 to ensure that the policy questions raised in the audit were addressed. The committee left the policy decision to the Revenue Committee and believes that either bill addresses the concerns outlined in the audit report. To be clear, LB560 reflected the current law; LB623, Senator Williams' bill, reflects the activity that was actually going on in the tax credit board. LB560 has an amendment from the Revenue Committee that amends Senator Williams' LB623 into LB560. And you will hear about that shortly from the Revenue Committee and Senator Williams. The committee believes the audit report recommendations are fully addressed with the amendment and that makes sure that Senator Williams' LB623 becomes the bill which is LB560. I hope that's not too confusing. But with that, Mr. President and colleagues, I ask for your support for LB560. And thank you, Mr. President.

FOLEY: Thank you, Senator Geist. (Visitors introduced.) As the Clerk indicated, there are amendments from the Revenue Committee. I'm informed that Senator Briese will handle the committee amendments. Is that correct, Senator? Friesen, sorry. Senator Friesen, you will handle the committee amendment.

FRIESEN: Thank you, Mr. President. Senator Geist has given you some good background on this, so just to very briefly, again, both Senator Williams and the Performance Audit Committee brought bills to the Revenue Committee in order to address issues raised with Beginning Farmer Tax Credit Program following the Performance Audit. The amendment replaces the original bill with Senator Williams' LB623, which I will give you a very basic overview and then allow Senator Williams to expand further on what is essentially his bill. The amendment provides definitions for terms such as cash rent agreement and a flex or variable rent agreement. The amendment clarifies how participants may qualify for more than one agreement. It clarifies how a qualified beginning farmer or livestock producer qualifies for a one-time refundable credit of no more than \$500. And finally, the amendment removes some redundant language from the original bill. And with that brief summary, I'd ask you to vote green on the amendment and on LB560. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Debate is now open on LB560 and the pending committee amendments. Senator Williams.

Floor Debate  
April 24, 2019

---

WILLIAMS: Thank you, Mr. President; and a special thank you to Senator Geist and Senator Friesen for explaining the situation that we are in here with hearing two bills and LB623 being amended into LB560 and the beginning farmer. LB623 was first introduced to better align the statutory sections of the Beginning Farmer Tax Credit Act with the real world administration and practices of the Beginning Farmer Program. The program was created by the Legislature in 1999. And since 2001 has issued a modest \$12.6 million in tax credits, that's slightly less than \$1 million per year to these landowners and beginning farmers. The program has allowed over 450 Nebraskans who might not have had access to assets necessary to begin farming, to start taking on agriculture production as a new career. The program had beginning farmers working nearly 80,000 acres of land from 2011 until 2017. And a 2015 survey of the previous program participants found that 99 percent of those participants were still farming. The program works. And that's what we are attempting to do here is continue the program in its present form. AM1440, that you see, addresses the concerns raised by the Performance Audit Committee and clarifies the statute into statute the current practices of the Beginning Farmer Act. Specifically, it makes three distinct changes to address the findings of the 2018 Performance Audit. First, it clarifies that qualified beginning farmers and agricultural asset owners are eligible to submit applications for subsequent or additional asset rental agreements, so long as the asset has not been used under the program before. Secondly, it clarifies that tax credits available under the program are refundable tax credits. The Department of Agriculture and the Department of Revenue have always viewed these credits as refundable, but the Performance Audit found that that was not clearly provided for in statute. Finally, AM1414 adds into statute the meaning of a fixed or variable rent agreement, which is where the amount paid in consideration of assets is adjusted on actual crop yields, crop price, or both based on a predetermined formula. This clearly, if you look back 20 years ago when this program began, we basically had either sharecropping or cash rents. Today there are many agreements that fall between those, and AM1414 codifies that those are acceptable under the program. In closing, I just want to stress that the language of AM1414, or now LB560, follows the beginning farmer program as it has been and is currently being administered. This can be evidenced by the department's fiscal note which explains that there is no fiscal impact of this bill due to the fact that this is the way they are operating currently. The Revenue Committee advanced this amended version on an 8-0 vote. There was no opposition testimony at the hearing for LB623, the underlying bill. And with that, I would ask for your green vote on AM1414 and followed by a green vote on LB560. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Debate is now open on LB560 and the pending Revenue Committee amendment. Senator Vargas.

VARGAS: Thank you very much, President. Wonder if Senator Geist would yield to a question?

FOLEY: Senator Geist, will you yield, please?

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

Floor Debate  
April 24, 2019

---

GEIST: (Microphone malfunction) --would.

VARGAS: Great. I know we talked off the mike, but it's just good to have this on record. For clarification, the existing bill, LB560, had a committee statement that had some opponents, but could you just shed a little light on clarifying what's changed with the opponents on this?

GEIST: Sure, thank you for question because it was confusing. LB560 was a bill that was reflective of what was originally set in statute that the Performance Audit staff found was consistent with the original law. There were some variations that the Beginning Farmer Board were doing in the practical application of the act. Senator Williams' bill reflected the practical application of the act. Performance Audit staff and committee gave support actually to both bills. One reflected the law as it was originally written. The other reflected the law as it was being interpreted and practically acted upon. Therefore, we ask the Revenue Committee to decide as a matter of policy which bill would you prefer. There were some opponents of the original bill, which was originally LB560, because they liked the application that was being used currently by the board rather than the strict letter of the law that was originally-- that was originally passed. And so the Revenue Committee made the decision to go with Senator Williams' bill, which is LB623, which is now AM1414. And when we amend Senator Williams' bill into LB560, his bill becomes LB560. I hope that clarifies your question. And that also eliminated the opponent to the bill.

VARGAS: Great. I don't think there's-- I appreciate you answering that question on the record and that is fantastic. I don't necessarily think that having an opponent means it is not something we can move forward on, it's just helpful to know what the changes were. Thank you very much, Senator Geist. And I urge people's support of this bill.

FOLEY: Thank you, Senator Vargas and Senator Geist. Senator Williams. He waives off. Senator Brandt.

BRANDT: Thank you, Mr. Lieutenant Governor. I would like to thank Senator Geist and Senator Williams and the Revenue Committee for updating this bill. Speaking as a farmer, I live and work in farm country. Sometimes we do things right. And this is a very good program to help start our beginning farmers. And for anybody watching today, I would encourage you to look into the aspects of this program and would support-- encourage my colleagues to support this bill and make some updates to the bill that brings it up to what we do in agriculture today. With that, I'd yield my time back to the Chair.

FOLEY: Thank you, Senator Brandt. Is there further discussion on the bill or committee amendment? I see none. Senator Friesen, you're recognized to close on the adoption of the

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

Floor Debate  
April 24, 2019

---

committee amendment. He waives the opportunity. The question for the body is the adoption of AM1414, Revenue Committee amendment. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, please.

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of committee amendments.

FOLEY: The committee amendment is adopted. Further discussion on the bill as amended. I see none. Senator Geist, you're recognized to close. She waives close. The question for the body is the advance of LB560 to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 38 ayes, 0 nays on the advancement of the bill.

FOLEY: LB560 advances. Per the agenda, we'll move to General File, 2019 senator priority bills. LB433. Mr. Clerk.

ASSISTANT CLERK: LB433 introduced by Senator Matt Hansen. (Read title.) The bill was introduced on January 18 of this year; referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Senator Matt Hansen, you're recognized to open on LB433.

M. HANSEN: Thank you, Mr. President; and good morning, colleagues. LB433 is my personal priority bill and a result of my efforts over the past few years to address the affordable housing shortage in my district and across the state. Last year, I introduced a series of interim studies on affordable housing, neighborhoods, and rental issues. This was a result of many conversations I heard from my constituents, as I represent a district with many renters. Two of those interim studies, LR392 and LR433, were scheduled for the hearings by the Urban Affairs Committee and we heard testimony in Omaha, Grand Island, and Ord. I was glad to have a chance to hear the issues relating-- regarding affordable housing and rental property in different cities and different sizes across Nebraska. At all of these hearings though, the continued focus of testifiers and advocates drifted towards issues related to landlord and tenant issues rather than always solutions for development in housing. It became clear to me that as a state one area where we can help our constituents when dealing with access to housing is to update our landlord-tenant laws. Following those hearings, my office worked with a variety of stakeholders to identify current issues with the state's landlord-tenant act. Following those conversations, I came up with several different bills to introduce at the beginning of session. After listening to the testifiers and gathering feedback from the committee after the hearing, I chose to incorporate two of those

Floor Debate  
April 24, 2019

---

bills into my priority bill, LB433. Those two bills, while only making small changes to our current laws, were the most urgent and can help the most people, while at the same time are designed to not have undue negative consequences for property owners or other interested parties. LB433, as introduced, requires a landlord to return the balance of his tenant's security deposit within 14 days after the termination of the tenancy. Currently a tenant must first contact the landlord and request the balance to be returned to them before the 14-day deadline starts. LB433 simply removes the requirement to first make the request before their money is returned to them. It is important to remember that the security deposit is just that, a deposit of the tenant's own money for the landlord to hold in case damage is done to the property. If no damage is done that takes up the full amount, that money should be returned to the owner, the tenant, regardless of whether or not the tenant contacts the landlord again after they move out. In other words, when the need for the security part of the deposit is gone, by default those funds should be returned to the tenant. Currently our security deposit laws stands out where a holder of a deposit has no affirmative duty to return the deposit and many landlords will acknowledge that they only return it upon request. Thus, it doesn't make sense to presume a tenant would want whatever remains of their deposit. LB433 also has a provision that says a tenant does not have to pay for damages that directly result from the removal by a order of a government entity. If your apartment is condemned by the city, for example, and you are forced to flee with a few hours notice, you should not be charged for things like not cleaning out your fridge or having crayon marks on the walls. The urgency of being evacuated prevents a tenant from going through the usual steps of cleaning or making repairs. It makes sense that the tenant should not be responsible for those types of damages if the reason the tenant has to rush to leave is a result of neglect by the property by the property owner. The bill also aligns damages owed under this section to other similar provisions already in our landlord/tenant law. This is important since right now if a landlord fails to return a security deposit, the tenant is only entitled to money already owed and attorney's fees, and only after there is a judgment which fails to have a deterrent effect. It is important to note that the passage of the bill is designed to not make the process for landlords that are already using good practices which is a key factor I considered when shaping this bill. Those who already have good policies and practices to return security deposits in a timely manner should not be affected by this bill. The committee amendment also incorporates provisions of my bill, LB434, into LB433. LB434 lengthened to the notice requirement landlords must give tenants to pay rent before the eviction proceedings from the current three days to seven days. I decided to introduce this change with the intent to still give landlords enough time and to evict a tenant and get a new one in the unit by next month so there's no additional burdens placed on the landlords and no additional rent money is lost. For context, The Uniform Act has a 14-day notice and that was what was originally recommended to me by stakeholders, but 7 days represents a good middle ground that would have tangible benefits to renters by giving them a full week's notice before eviction starts, while at the same time being fair to landlords who are just trying to get rent paid on their properties. I've heard from several people out in the community that the three-day notice is far to short of time line to

Floor Debate  
April 24, 2019

---

find somewhere else to live. The current three-day time line also starts when the notice is mailed which occasionally results in the bizarre result where the tenant receives the notice after the deadline. Many times the current standard does not leave enough time for someone to get in to see an attorney to see what their options are or to even reach out to family and friends with assistance in moving. Simply giving tenants four additional days before an eviction starts would do much to help struggling tenants and their families. Even if renting, these are still people's homes we are talking about and families deserve a week in the very least to try to remain in their homes or to find somewhere else to go. I would like to thank Senator Linehan for providing her support as a co-sponsor, as well as members of the Judiciary Committee for introducing the committee amendment and voting the bill out by a unanimous 8-0 vote. This has been a long process with many discussions on how to work together for the benefit of all involved, but I'm proud of the measured solutions we've presented in this bill. Although small, we have all have constituents who will be helped by these changes. With that, I want to encourage your green vote on LB433 and the committee amendment, AM981. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. (Visitors introduced.) As the Clerk indicated, there are amendments from the Judiciary Committee. Senator Lathrop, you're recognized to open on AM981.

LATHROP: Thank you, Mr. President; and, colleagues, good morning once again. LB433 was heard by the Judiciary Committee on March 1 and advanced to General File on an 8-0 vote. Judiciary Committee amendment, AM981, is a white copy amendment that was also adopted by the committee on an 8-0 vote. The committee amendment adds a portion of LB434 to LB433. LB434 proposed changes to the process and notice when a tenant does not pay rent when due, including allowing a tenant to pay rent within seven days instead of three after notice of nonpayment and intent to terminate the rental agreement. LB434 also proposed a separate right of redemption if unpaid rent and other costs are paid after termination. AM981 retains the first portion of that bill, LB434, allowing the tenant to pay rent when due within seven calendar days after the landlord's notice of intent to terminate, but does not include the right of redemption provision. I would urge the adoption of the committee amendment, AM981, and to advance LB433 as amended to Select File. Thank you. I'm happy to answer any questions.

FOLEY: Thank you, Senator Lathrop. Debate is now open on LB433 and the pending Judiciary Committee amendment. Senator La Grone.

La GRONE: Thank you, Mr. President. I rise in opposition to LB433 as it currently is, but I'm going to support sending it to Select File because I do think there is a path to a compromise. And I've spoken with Senator Hansen extensively about this off the mike. I do want to cover a few of my concerns just so those are on the record, then I'll give the remainder of my time to Senator

Floor Debate  
April 24, 2019

---

Hansen so he can respond. So most of the-- part of the bill is-- I have no issue with, but there is-- the portion that deals with the returning of the mailing address to last known address. A lot of times that's going to result in kind of a pointless process because the landlord will effectively be returning the damage deposit back to themselves, because their last-known address that the tenant had was the place that they were staying. Second, the liquidated damage provision, I don't think, is proportionate to the-- any other portion of not returning the damage deposit. I agree with Senator Hansen that, yeah, you probably do need a provision to ensure that this gets done. I just don't think that that provision is proportionate to the harm that could be caused. And then finally, my last concern with the bill deals-- there's one more provision in the bill that needs to be worked out, but that's just a technical fix dealing with three days for notice versus seven days of notice. The problem is that it could push the entire action into a second month of recovery. I don't think that's anyone's intention. I think that can easily be worked out. So those are my concerns. But I do think there's a path to an agreement and I'm hopeful that one can get done. So again, I will vote to advance this to Select File, but if need be, I will oppose it on Select File, but hopefully we don't get to that. And with that, I'd give the rest of my time to Senator Hansen so he can respond to that. Thank you, Mr. President.

FOLEY: Thank you, Senator La Grone. Senator Hansen, 3:00.

M. HANSEN: Thank you, Mr. President; and good morning again, colleagues. And thank you, Senator La Grone, for your comments and for yielding me time. I do appreciate some of the landlord and property owner groups reaching out to me yesterday afternoon. And they had some discussion on what changes they would like to see in the bill and we have agreed to talk more at a future date before Select File, just with the timing of this bill coming up in General File, we didn't feel necessarily time to get all the stakeholders and attorneys that we wanted in the room to discuss the language. I will say, there are some things that I do agree; it's kind of a matter of perception and maybe we can do some technical changes to line it up. There are instances under my bill where I do agree it would result in a security deposit if the tenant does not make an address clear or it does not forward their mail, it is kind of a area where we can clarify what exactly happens with the check, or what exactly happens with the request so that we are not unduly mailing security checks to addresses we know were vacant. With that I'd be happy to continue working with stakeholders, with the landlords and property owner groups, and would still encourage the body to advance LB433, which I think as it stands as a good bill, but always happy to hear more perspectives. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Continuing discussion, Senator Erdman.

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

Floor Debate  
April 24, 2019

---

ERDMAN: Thank you, Lieutenant Governor; good morning. As I see and read this bill and the amendment, AM981 becomes the bill, I have several questions and I was wondering if Senator Hansen would yield to those questions.

FOLEY: Senator Hansen, would you yield, please?

M. HANSEN: Yes.

ERDMAN: Senator Hansen, what is the reason you want to extend the date of the days from three to seven? Why would you want to do that?

M. HANSEN: To give the tenant more time to fix the issue, and they can do that by either moving out and vacating the unit or by coming up with the money to pay the rent. So we heard from stakeholders that the three days to four days is meaningful, because including some days, the three days is a weekend and you just don't quite have the time and the resources to fix the problem that you might if you had a full week.

ERDMAN: OK. But if a tenant is renting from a landlord, they know that the rent is due on the first of the month. Would that be correct?

M. HANSEN: Correct.

ERDMAN: And so they already knew that the deadline was the 1st. And if they haven't paid by the 5th, I would assume that would be the date of their notification, on the 8th would be three days. I'm not sure why giving them seven more days is going to make it available for them to pay their rent. I'm not in favor of going from three to seven. But I do have another question, if you would. Do you have a copy of the amendment?

M. HANSEN: Yes, I do.

ERDMAN: On page 1, starts on line 22, can you explain what that means when it talks about the liquidated damage or one-time periodic rent plus cost. What are you trying to describe there?

M. HANSEN: Sure. So right now, you have some instances where landlords fail to return security deposits, and in some cases if they are acting in bad faith, there's not any additional deterrent for them to return the security deposit, because at the end of the day, all they are liable for is the-- if there's a judgment, the security deposit. Liquidated damages would presume that

Floor Debate  
April 24, 2019

---

there is some damages suffered by the tenant when the landlord does not properly return the security deposit. And we estimate those to be about one-time the rent, which is a standard we use in other sections of the landlord-tenant law as a liquidated damages provision.

ERDMAN: OK. Thank you for that. So when one has a commercial property, help me understand if this is right, have a commercial property and you remove a tenant, it is the obligation of the landlord to within 14 days to return their property or their deposit. Is that-- am I understanding that correctly?

M. HANSEN: If demanded by the tenant, under current law, the tenant has to make a demand. And this would kind of flip that and presume the tenant would always want their security deposit back and change the burden that the landlord would then have to automatically return it.

ERDMAN: I'm talking about commercial property, not residential.

M. HANSEN: Oh. Like if a business is renting a space?

ERDMAN: Correct.

M. HANSEN: I could not speak to that.

ERDMAN: OK. There's a different statute. If it's a commercial property, it is the obligation of the landlord to within 14 days return any property left on the premises to the renter.

M. HANSEN: Uh-huh.

ERDMAN: OK. That's not the way it is with residential property. With residential property, it's up to the tenant to request a redemption or a return of their deposit. Is that correct?

M. HANSEN: Yes. So right now a tenant will not get a security deposit back unless they demand-- provide a demand to the landlord.

ERDMAN: OK. So let's say I remove a tenant and there are damages to the house and I need to repair those. Does your bill allow a landlord to take those damages out of a security deposit?

M. HANSEN: Yes.

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

Floor Debate  
April 24, 2019

---

ERDMAN: OK. So nothing has changed in that regard?

FOLEY: One minute.

M. HANSEN: Correct.

ERDMAN: OK. I'm not in favor of going from three days to seven days. It just prolongs the situation and probably will put the landlord out another month before they have the property under control where they can rent it again. The tenants knew that they were to pay the rent on time and I don't believe giving them another four days is going to make a lot of difference. So I'm not in favor of the three days changing to seven. Thank you.

FOLEY: Thank you, Senators Erdman and Hansen. Senator Lowe.

LOWE: Thank you, Mr. President. We all have deadlines. We all know when those deadlines are. Most of them are hard deadlines like the 1st of the month or the 15th of the month. A lot of times it's payroll. As a business, you have to pay your employees on that date. You don't get three extra days to pay them. If your bank account is short, you come up and you find the money. And so goes with tenants. As a landlord, you set a date when that rent is due, the payment is due. The tenant knows when that payment is due; he agreed to it, it's in the contract. We allow them the three days because of weekends, because of things like that, because of holidays. That gets us over the hump on most things. We all have electrical payments, utility payments. They are due on a certain day. Let's think about what we are doing and continue on. I understand that there's some conversation going on. So I'll be glad to vote for this on General File and we'll discuss it then on Select. So I appreciate the conversation on this. With that, I'll yield my time back to the Chair.

FOLEY: Thank you, Senator Lowe. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. I am a renter myself and I have been late on rent before, not because I couldn't pay my rent, but because things happen. It doesn't come out of my account automatically and it was just a total oversight on my part and I didn't mean to do it. And I think that this is a really common situation that renters find themselves in. Luckily, I had a great relationship with my landlord, there was no problem and they gave me a little extension, so it was no big deal. But I was wondering if Senator Hansen would yield to a question.

FOLEY: Senator Hansen, will you yield, please?

Floor Debate  
April 24, 2019

---

M. HANSEN: Yes.

HUNT: So, I've received a notice before in the mail that my rent was late. And from the time the letter was postmarked to the time I received it was a couple of days. And so it made me think that I would like to give you an opportunity to answer a question. What practically is the reason-- you know, we want landlords to get paid. We believe in supporting small business owners like landlords. It's not about trying to harm small businesses or landlords. But what are the practical reasons that we want to expand it to seven days from three days? Why is this not going to hurt landlords?

M. HANSEN: Sure. Thank you for the question. So there's kind of two different scenarios how the notice often gets given. One is when it's mailed, we count the three days from the day it's mailed, not the day it's received, which if, depending on the mail, where the landlord's property manager is in relation to the unit, can often result in, you know, sometimes it's-- it's-- it's the day of the deadline, the day after the deadline, and there's virtually no notice. So I think that's one thing. And then talking with the landlords, that's one thing there seems to be clear of. We can definitely fix that kind of bizarre situation such that that doesn't happen, that you always have at least the notice that it's coming. Practically speaking, the three days to seven days-- and the reason we're looking at this or lengthening the period is that oftentimes the days do matter, especially, you know, if your pay period doesn't line up with your rent and something-- another bill came up, you know, maybe you're in a situation where you had a garnishment unexpectedly take some money--

HUNT: Excuse me, Senator Hansen, can I get a gavel?

FOLEY: Members, please come to order.

HUNT: Thanks. Please continue. Thank you.

M. HANSEN: Thank you, Senator. Thank you, Mr. President. And so, you know, a situation where you had, you know, an unexpected, you know, expense or, you know, maybe you didn't get the hours you expected, but you have an option to either get the money or to move, sometimes it's those three days. And what I have been hearing is a lot of landlords offer a grace period. One of the attorneys in Omaha represents a lot of landlords says he always, essentially, gives six days' notice, 'cause he does a three-day grace period, then gives the three-day notice. And so that's essentially what we are trying to do in statute here is the practice of a lot of different landlords. And I think kind of making sure we do something to broaden the situation. Just with hearing from, you know, advocates working with, you know, at-risk populations, it really-- they do feel a lot of times that that gap from three to seven days is the ability to get your rent money to pay

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

Floor Debate  
April 24, 2019

---

your rent and stay in your unit or your ability to find a new unit, find a family member to move with, those are really substantial. If that answered your question.

HUNT: Thank you, thank you, Senator Hansen. I think that it's important for us to understand that a lot of the people who are served these notices, sometimes it's not that they can't pay the rent, sometimes it's that they forgot. And I don't think that's typical. But to kick someone out of their house, to evict someone because-- you know, from the day a letter is postmarked to the day they receive it is more than three days, sometimes that's out of somebody's control. And sometimes-- for someone to get kicked out of their house for that reason is not fair. And we as a body have a tool that we can use, thanks to Senator Hansen, to fix that.

FOLEY: One minute.

HUNT: So, I would encourage your support of AM981 and the underlying bill from Senator Hansen and thank him for his work. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hunt. (Visitors introduced.) Continuing discussion. Senator Lathrop.

LATHROP: Thank you, Mr. President. Colleagues, I have heard some discussion about moving from the three-day notice to quit to the seven-day notice to quit. And just to be clear, when we heard testimony in Judiciary Committee on this bill, Senator Erdman and others with similar concerns, the reason it went from three to seven is you could mail somebody a letter, like the law requires that they get this little opportunity to fix the problem, right? That's a three days currently. If you send that on Friday, they don't get it until the day that the time expires. That was the-- it's the weekend thing, that's the problem. And we deliberated over whether to make it three business days or three days that the mail moves or something like that and elected to make it seven days. It's only to provide people with a meaningful opportunity to actually pay the back rent. Most landlords want the back rent paid and for the tenant to continue. And to be clear, when somebody doesn't pay rent, that's not the only reason you can get rid of a bad tenant. Right? So if they're destroying the place, they're not keeping it up like you-- like they are obligated to under the rental agreement, out they go, and it doesn't matter if they are current on their rent or not if they're breaking the windows and they're not mowing the lawn and doing the things that they're obligated to do. The three to seven days had everything to do with the mail and sending a letter out on Friday afternoon. It's postmarked on one day and somebody doesn't get it until day three, they really have been deprived of that three-day window, that's current law. So all we're doing is kind of addressing that problem that develops as a consequence of days that are burned over the weekend when a three-day notice is sent out on Friday. So with that, again, I appreciate those who have said they want to work with Senator Hansen through the-- move the bill on General

Floor Debate  
April 24, 2019

---

and work with him before Select. But that is the rationale behind the move from three to seven days. Thank you.

FOLEY: Thank you, Senator Lathrop. Senator McCollister.

McCOLLISTER: Thank you, Mr. President; good morning, colleagues. As a former landlord of a 6-plex, I have some appreciation for the issues raised here. I think it's certainly justified to give a tenant more than just three days to respond to a demand by the landlord for the rent. However, I'm wondering if seven days is too long. Now, perhaps five days would be a more-- a better length of time than seven. Why do I say that? Well, I have taken people to court for nonpayment of rent and that just adds another 20, 30, maybe even 60 days. So, I'm thinking that if we can expedite that process a bit sooner with five days rather than seven, that might be a better time span. Just my two cents. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Erdman.

ERDMAN: Thank you, Mr. Lieutenant Governor, I appreciate that. Senator Lathrop, I appreciate your explanation of why you went from three to seven, I understand that. So I was wondering if Senator Lathrop would yield a question.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Sure.

ERDMAN: Senator Lathrop, the other issue that this bill does, it changes the responsibility of returning the deposit to the landlord. And now it currently says it's the tenant's obligation to ask for the deposit back. And this bill would change that to be the responsibility of the landlord, is that correct?

LATHROP: That's true.

ERDMAN: So why is that important if the person who is paying the rent has a deposit that is to be returned? Don't you think they would request it?

LATHROP: I think a lot of people don't know that they have a duty under the law or it's their responsibility to ask for it. All this would do would basically flip it around and say, once you

Floor Debate  
April 24, 2019

---

figure it out, how much of that deposit you're going to keep because they burned a hole in the carpet or whatever they did to the place, then you net that number out and send them a check out.

ERDMAN: So what happens if a tenant doesn't request their deposit back until the 15th day? Is it not allowed to be returned them? What is the situation there?

LATHROP: I don't know the answer to that. I don't know if they don't ask for it, if the landlord just keeps it. The probability is, if they don't ask for it within the first 15 days, they're probably not going to ask for it. But maybe Senator Hansen has a better answer than that.

ERDMAN: OK. I understand. I guess if I were the tenant and I moved out, I would sure ask for what I had coming back to me. It doesn't make a lot of sense that we're transferring the obligation of sending the deposit back, as Senator La Grone commented, if you send it to the last-known address, that would be the house that-- or the residence they were living back, which is back mailing it to yourself. So I think this is a solution looking for a problem and right now I'm not in favor of either one of these AM981 or LB433. Thank you.

FOLEY: Thank you, Senator Erdman, Senator Lathrop. Is there further discussion on the bill or the Judiciary Committee amendment? I see none. Senator Lathrop, you're recognized to close. He waives close on the AM981, Judiciary Committee amendment. The question for the body is the adoption of the committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please.

ASSISTANT CLERK: 30 ayes, 5 nays on the adoption of the committee amendment, Mr. President.

FOLEY: AM981 committee amendment is adopted. Is there discussion on the bill as amended? I see none. Senator Matt Hansen, you're recognized to close on the advance of the bill.

M. HANSEN: Thank you, Mr. President, and thank you, colleagues, for the vote supporting the committee amendment. As we've said before, some of us are going to work with some of the property owners and landlords between General and Select, kind of get some of the elements of this focused on. I will say the three-to-seven day notice, how properly to structure that if a different way, it's one of the discussions, as well as the, kind of, affirmative duty to return security deposit are two of the ones we've identified and we're going to have further discussions about. I will say there are plenty of advocates on this issue and plenty of representative landlords on this issue who will-- can, kind of, give you perspective. Tenants failing to ask for their security deposit, I think, is something both landlords and, kind of like the renters groups will tell

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

Floor Debate  
April 24, 2019

---

you happens a lot. I had one landlord say that, you know, the majority of their clients never ask for their security deposits back. And that's indication to me that there is some misunderstanding or some education or some help that we need to do because that is money that is due to be paid to an individual that they just are missing the step to ask for back. And so this would shift the burden and presume, just like every other deposit, that when there's no longer a need for a deposit, it comes back to you automatically. With that being said, I appreciate Senator Lathrop and the Judiciary Committee on their work on LB433 and would ask the body for a green vote. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Members, you heard the debate on LB433. The question for the body is the advance of the bill to E&R Initial. Those in favor vote aye, those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 32 ayes, 6 nays on the motion to advance the bill.

FOLEY: LB433 advances. (Visitor introduced.) Proceeding to the next bill, LB86. Mr. Clerk.

ASSISTANT CLERK: LB86, introduced by Senator Wayne. (Read title.) This bill was introduced on January 10; referred to the Revenue Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Wayne, you're recognized to open on LB86.

WAYNE: Thank you, Mr. President, and members of the Legislature. Today I introduce LB86 to make changes to the Affordable Housing Trust Fund, which is the primary mechanism used by the state to help increase supply and improve quality affordable housing in Nebraska. I just want to step back for a second, colleagues, and tell you that the premise of this bill started years ago, but it comes down to two simple concepts. One, homeownership is the cornerstone of the American dream and that Nebraska has-- or two, Nebraska has a housing crisis. Originally, this bill would have included a pool of funding flowing from the Affordable Housing Trust Fund, as well as targeting additional funds to areas with the greatest need. The committee amendment, which the Revenue Committee made several changes to the bill, and I will allow Senator Linehan or somebody from the Revenue Committee to discuss those changes in greater detail, but under the LB86 as amended, projects located in what has been declared extremely blighted would receive preference under the Affordable Housing Trust Fund. We have discussed previously the session about extremely blighted and how is it defined underneath the community development law. And I will just remind everyone that it is the average unemployment rate is at least-- the average unemployment rate is at least 200 percent of the statewide average and the average property rate exceeds 20 percent. LB86 faced no opposition testimony at the hearing and

Floor Debate  
April 24, 2019

---

advanced out of Revenue Committee 7-1. I won't go into all the great details about why this bill is so important. I handed out, a while ago, on LR14CA the four bills that were kind of my goal for north Omaha. My vision for north Omaha was also handed out. This deals with the housing. The TIF and everything else we talked about dealt with building development and bringing businesses to the area. This is truly about housing. And LB86, as amended, does not cost anything. We did initially have some-- a raising of a doc stamp, but that was removed by the Revenue Committee. This just says that as we continue to dedicate dollars for affordable housing, we're simply giving a preference to this extremely blighted area. I handed out a map just to give you some more emphasis on why it's important. And I'll talk a little bit more about the map that I handed out on the amendment that I introduced and why it's so important for home ownership, and particularly Omaha. With that, I will ask for your green vote on LB86.

FOLEY: Thank you, Senator Wayne. As the Clerk indicated, there are amendments from the Revenue Committee. Senator Friesen, you're recognized to open on the committee amendment.

FRIESEN: Thank you, Mr. President. The committee amendment strikes the original sections of LB86 and becomes the bill. Section 2 of the amendment requires a city to declare an area to be an extremely blighted area before carrying out a redevelopment project. Before declaring an area to be extremely blighted area, the city will be required to conduct an analysis of the area and submit an analysis to the planning commission. The planning commission shall hold a public hearing on the question that the area is an extremely blighted area. The written recommendation of the planning commission will be submitted to the city within 30 days after the public hearing. The city will also be required to hold a public hearing on this question of whether the area is an extremely blighted area. This hearing will be held after the hearing by the planning commission. Section 3 requires notice of the hearing shall be given to each registered neighborhood association that is within one-mile radius of the area declared extremely blighted. The notice of the hearing shall also be given to each county, school district, community college, ESU, and NRD that has real property within the area to be declared extremely blighted. Section 4 adds clarifying language that copies any extremely blighted declaration and any supporting document be retained by the city. Section 5 clarifies the first priority in allocating the Affordable Housing Trust Fund monies shall be given to projects that are within an enterprise zone are located in an area declared extremely blighted and are obligated to serve qualified occupants for the longest period of time. And the committee amendment also removes the increase in the doc stamp tax found in the green copy of LB86. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Wayne would move to amend the committee amendments with AM1199.

Floor Debate  
April 24, 2019

---

FOLEY: Senator Wayne, you're recognized to on open AM1199.

WAYNE: Thank you, Mr. Speaker. And members of the Legislature, I do want you to listen just to hear a little bit because we're adding a couple of amendments to this and I want to make sure everybody is clear. I'm not trying to pull anything over. I think it's very important that we have this discussion. AM1199 would add components of three other bills dealing with affordable housing into LB86. First is LB737, introduced by Senator Vargas, heard by Appropriations. The next one is LB694, introduced by Senator Vargas, heard by the Appropriations Committee. And the last one is LB88, introduced by me, that was heard by the Revenue. And I'm going to let Senator Vargas speak on the two bills that he is attaching to this. But I do want to talk a little bit about LB88. LB88 was used-- or is a bill that we have crafted to address the issue-- the historic issue of the map you see in front of you. I won't go into all of the red lining and historical context of homestead and all those things that we talked about before, but this is a clear map of what happened in Omaha around red lining where individuals who lived in certain areas, which is D and C, but particularly D in the map, were not allowed to get homes that were backed by the federal government. And if you were to drive through Omaha today, you will see those same areas are heavily populated with minorities, whether African-American or Latino, the issue is, back in the day, they felt that if there was any mixing of race that was typically in the C area, but if you were heavily a minority area, you were deemed red where the government would not allow housing programs, such as the GI housing program for our veterans who came back from war to just anybody who is working at a plant to go out and get a loan. So sitting down with members of the Revenue Committee, we talked at great length of what we are trying to accomplish. Knowing that we can't single out race per our constitution, we again turn to a definition of extremely blighted, which has a historical context, at least in Omaha and around the state, where particularly through the years minorities have resided. So LB88 would provide a nonrefundable income tax credit to an individual who purchases a residence during a taxable year in the area which has been designated as extremely blighted under community development law. In order to receive the credit, the residence must be the individual's primary residence and cannot be purchased from a family member. And in event the individual claims the credit-- claiming the credit sells or otherwise transfer the residence or quits using the residence as his or her primary residence within five years, the credit is subject to a recapture provision by the Department of Revenue. Importantly, especially from the fiscal note's perspective, individuals are only eligible to claim the credit if the municipality has been designated as extremely blighted under the procedures that the committee amendment has already set forth. Since no municipalities to date have designated extremely blighted areas, there's no short term-- or the minimal short-term fiscal impact. LB88 was advanced by the Revenue on a 6-1 vote and with one member not voting. In addition to the provisions that are in those three bills, AM1199 will correct the issue of the definition of extremely blighted that was discovered in LB86 that was already advanced by the committee. As we discussed earlier this session, the current definition of extremely blighted references the federal decennial census as a measuring stick for determining

Floor Debate  
April 24, 2019

---

unemployment rate in the area. After a lot of discussion on LR14CA, when we started reviewing and updating the maps, what we discovered is that the Census Bureau actually stopped asking questions about unemployment the last census. So we have to use the American Community survey, which is conducted by the Census Bureau between the decennial census. This is also a reason why Senator Groene's amendment to LR14-- L-- LA-- or whatever, CA14 (SIC) was so critical with adding the definitions of high employment and poverty and we couldn't put the actual definition of where it came from because we can't leave it to the federal government to continue to change and have to change our constitution. So I do thank Senator Groene for that amendment, it helped me clarify what we're doing. AM1199 would provide an unemployment rate in extremely blighted area based off either of the federal decennial census or the most recent American Community survey five-year estimate ensuring that the eligibility for extremely blighted would still be based off of census data. Again, I would ask for your support on AM1199. And this is what I would deem, because of the Revenue's negotiation, a pilot program. There is a sunset provision in this tax credit. We're going to come back in five years, six years and we're going to look to see if homeownership actually increased. If it didn't, I'll be the first one to say, let's try something else. But when we look at these areas of extremely blighted and areas that have been historically impoverished, we have to try something to give everybody a chance at the American dream. It is clear that homeownership is the number one way to accumulate wealth to pass on to generations. It's what the family farm is built off of. And that's the same kind of dynamic that we are trying to bring to these impoverished communities. And with that, I would ask for a green vote on AM1199.

FOLEY: Thank you, Senator Wayne. Debate is now open on LB86, the Revenue Committee amendment, and the amendment to the committee amendment. Senator Vargas.

VARGAS: Thank you very much, President. First of all, colleagues, I want to thank Senator Wayne for allowing me to amend LB694 and LB737 into LB86 with AM1199. Both these bills advanced out of the Appropriations Committee on a 9-0 vote. LB737 advanced out of committee with no votes-- without any no votes. I'd like to take a moment to briefly walk through these two simple bills to promote affordable housing. And I'd also like to thank the Housing Developers Association and the Realtors Association for testifying in support and for the Nebraska Housing Developers Association, this represents 80 organizations across Nebraska that work in affordable housing. LB694 is a Section 6 of AM1199. It amends provision of the Affordable Housing Act to require only for-profit entities to provide matching funds to receive assistance provided by the Affordable Housing Trust Fund. Currently, statute provides all eligible entities, including government, subdivisions, local housing authorities, community action agencies, community reservation, or neighborhood based on profit organizations and for-profit entities to provide matching funds. The committee amendment to LB694 provided additional clarification regarding entities that would not be required to provide matching funds and state that for-profit entities would be required to provide matching funds of at least 10 percent and is incorporated into

Floor Debate  
April 24, 2019

---

AM1199. The reason for this change stems from an interim study that we did this last summer on the Affordable Housing Trust Fund, that's LR461. One reoccurring theme that we heard throughout the study was the biggest barrier for initiating projects for non-profit and community organizations and other government organizations was coming up with the initial matching funds. Something this committee has dealt with over the past few years is the amount of uncommitted funds in the Affordable Housing Cash Fund which came out of several reports from the Performance Audit Committee. We all know that there is more need than there are available affordable housing units in Nebraska. And my hope is that by removing this initial matching requirement for many of the entities doing these projects and developments that work will be done quicker and the needs of so many low-income Nebraskans will be met. The other bill that is incorporated into AM1199 is LB737, which is Section 8 of the amendment. LB737 increases transparency and accountability on the Affordable Housing Trust Fund by placing annual reporting requirements on the Department of Economic Development. One thing that the committee noted was that there has been a lack of clear information about the use of money in the fund. LB737 corrects this problem by placing reporting requirements on the department similar to other reporting requirements they have for other programs and funds. The department is already required to submit some information about projects that use these funds. LB737 has a few more. These new annual reporting requirements include an explanation of applicable funds and fund balances, the amount of funds actually expended by the department, the department's current budget for administration of the trust fund, and planned use of distribution of funds and project summaries, including information about project location, funds that are granted, and explanation for approvals or denials for applicants. My hope is that this legislative body will be better able to make informed decisions about the trust fund and the tangible benefits of Affordable Housing Act to communities all across the state. With that, I want to thank Senator Wayne and, again, encourage your green vote on AM1199, and thank the Appropriations Committee for their unanimous support on this bill that has no opposition on either of them. Thank you very much.

FOLEY: Thank you, Senator Vargas. Is there further discussion on AM1199 or the bill? I see none. Senator- oops, excuse me, Senator Groene.

GROENE: Thank you, Mr. President. I was the single no vote on LB86 and my concern was the doc stamp. As long as the funds are just going to be shared with the existing allocation of doc stamps to an existing program, my resistance to LB86 is no longer there. So any tax increase goes to property tax relief in my mind and it was a tax increase originally. So, that doesn't exist anymore, so my resistance has gone away. Thank you.

FOLEY: Thank you, Senator Groene. Now, Senator Wayne, you're recognized to close on your amendment. He waives close. The question for the body is the adoption of AM1199. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

Floor Debate  
April 24, 2019

---

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of Senator Wayne's amendment to the committee amendments.

FOLEY: AM1199 is adopted. (Visitors introduced.) Continuing discussion on LB86 and the Revenue Committee amendments. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. I wonder if Senator Wayne would yield to a couple of questions.

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Yes.

BOSTELMAN: I tried to listen as best I could when Senator Vargas was introducing his portion of the amendment that went in. My question, I just want to come back to is on the funding aspects of this. If you could kind of walk that-- walk through that one more time with me as we're not looking for any additional funding in any area, this is something that's built within what's already being received, I guess administrative and otherwise, can you talk to that?

WAYNE: Yes. So, LB86, as amended, to Senator Groene's point, originally had a doc stamp increase and that was removed by the committee. So now all we're doing is telling the current funds and housing trust fund that there's a list of priorities that they do. One is housing, one is work force development, there's a couple of other things. So this affordable trust fund we're saying that you need to prioritize. So, if there's multiple applications coming in, if one is in an extremely blighted, they get a, theoretically, a bump-up because they're prioritized. That's all it does.

BOSTELMAN: Right. And so the two bills that were amended in, Senator Vargas, that doesn't add anything to that or not. And I could ask Senator Vargas if he would yield to a question.

FOLEY: Senator Vargas, will you yield, please?

VARGAS: Yes, happy to.

BOSTELMAN: Could you address-- I'm just-- I tried to listen, but I wasn't quite following, so if you could go over that briefly with me, I'd appreciate it.

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

Floor Debate  
April 24, 2019

---

VARGAS: Yeah, more than happy to. Both the bills that were amended have-- are not increasing any funds to the general application or the grant itself or the Affordable Housing Trust Fund. All they're doing is providing some flexibility and provisions and the one that provides flexibility actually came out of a lot of what was happening recently with flooding. We want to make sure that if some communities are trying to utilize this fund that if the matching requirement is a barrier for them, that we remove that barrier so that the funds can get out. But there is no fiscal note or no General Fund impact. We're not adding more money as a result of these bills.

BOSTELMAN: Thank you. One more question for you, then; on the grant matching on that, is that for all applications or that will be a qualifying process where some may and some may-- will not qualify?

VARGAS: So the only entities that are required to provide the 10 percent matching are for-profit entities; every other that would not be required to include the 10 percent include government subdivisions, local housing authorities, community action agencies, community reservation- or neighborhood-based nonprofit organizations, and for-profit entities that are collaborating with any of those other entities would not be required to have the 10 percent matching. However, there's still very competitive process. And so you can gain more points as part of the process by having matching funds. You just can't be a requirement for any of those entities to apply.

BOSTELMAN: OK. Great. Thank you very much, I appreciate that. I yield the rest of my time back to the Chair. Thank you.

FOLEY: Thank you, Senator Bostelman. Is there further discussion? I see none. Senator Friesen, you're recognized to close on the Revenue Committee amendment. Senator Friesen, you're recognized to close on the Revenue Committee amendment. He waives close. The question for the body is the adoption of AM792, Revenue Committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of committee amendments.

FOLEY: Committee amendments are adopted. Further discussion on LB86 as amended. Senator Crawford.

CRAWFORD: Thank you, Mr. President. I just wanted to express my support for LB86, especially with all the amendments added. I just wanted to give a special plug to the amendment that we added, it's Senator Vargas' bill, to take away the matching fund requirements on the Affordable Housing Trust Fund. This is an issue that I have discussed with members in my

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

Floor Debate  
April 24, 2019

---

district where they have had flooding and have a real crisis now to try to replace affordable housing. And so, I just wanted to express my support and also give other senators a heads-up about how important that provision is going to be in our districts so that we can also be informing people in our districts about that provision in terms of its impact on being able to replace that affordable housing that's been destroyed by the flood. Thank you, Mr. President.

FOLEY: Thank you, Senator Crawford. Further discussion? I see none. Senator Wayne, you're recognized to close on the advance of the bill. He waives close. The question for the body is the advance of LB86 to E&R Initial. Those in favor vote aye, those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill.

FOLEY: LB86 advances. Items for the record, please.

ASSISTANT CLERK: Mr. President, your Committee on Education reports LB675 to General File with committee amendments attached. New resolution: LR92 by Senator Lowe is an interim study resolution which will be referred to the Executive Board. In addition to that, Senator Briese would like to announce the General Affairs Committee will hold an Executive Session today at noon in Room 2022. And the Government Committee will hold an Executive Session at 2:00 this afternoon under the south balcony.

Finally a priority motion: Senator Kolterman would move to recess until 1:30 p.m.

FOLEY: Members, you heard the motion to recess. Those in favor say aye. Those opposed say nay. We are in recess.

RECESS

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

ASSISTANT CLERK: There is a quorum present, Mr. President.

SCHEER: Thank you, Mr. Clerk. Return to the agenda. First item.

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

Floor Debate  
April 24, 2019

---

ASSISTANT CLERK: Mr. President, LB470, introduced by Senator La Grone. (Read title.) Bill was introduced on January 18, referred to the committee on Revenue. That committee placed the bill on General File with committee amendments attached.

SCHEER: Thank you, Mr. Clerk. Senator Blood, for what purpose do you rise? Senator Blood, for what purpose do you rise?

BLOOD: Thank you, Mr. Speaker. I'm a bit confused so I hope you walk me through this. It's my understanding that I was to make the motion when the committee amendment was brought forward.

SCHEER: It is my discretion when I choose to take that--

BLOOD: Excellent.

SCHEER: --as you request.

BLOOD: Thank you, Mr. Speaker. Fellow Senators, friends all, I am now making the motion to divide the question, specifically on the committee amendment.

SCHEER: Is-- Senator, it's just a request, it's not a motion. But having said that, if you, Senator La Grone, and Senator Linehan could approach, I'd appreciate it.

BLOOD: Yes.

SCHEER: The rest stand at ease for a few minutes.

BLOOD: Yes, sir.

SCHEER: Thank you for your patience, colleagues. Senator Blood, you're recognized.

BLOOD: Thank you, Mr. Speaker. At this time I am choosing to withdraw my motion.

SCHEER: Thank you, Senator Blood. Returning to LB70 [SIC], Senator La Grone, you're welcome to open on LB470, followed by the--

Floor Debate  
April 24, 2019

---

La GRONE: Thank you,--

SCHEER: --followed by the committee amendment, and then there is an amendment to the committee amendment.

La GRONE: Thank you, Mr. President. And on this opening, I'll-- I want to-- there's been a lot of confusion about these bills. So first, before I get into my actual bill, I want to address what a 529 is, who it applies to, and then I'll get into what my bill does and why there's a need for it. So first, a 529 account is a college savings account that is administered by the State Treasurer. It was a federal tax program that essentially a participant, which can be anyone, usually it's a parent, can sign an agreement with the state-- with the state of Nebraska, with the Treasurer's Office through a NEST program to open up an account to save for their child's college tax free. That child or whomever is going to use that money is then referred to as the beneficiary. So let's be very clear about something and how it works. Anyone can be a participant in the account under current law, and then there are-- the beneficiary is the person who's using that money. My bill does not change the tax deductions for participants. It only addresses the accounts that they go into. So now moving on to my bill and what it does. Let's say we have a parent and a grandparent who both want to save for a child's education. Under current law, in order to get the deduction, they have to open up two separate 529 accounts. That child then has to have two accounts. My bill says they are both already entitled to the deduction. They should be able to just put it in one account to increase efficiency and lower the administrative burden on families who are trying to save for college. So under my bill both of those individuals could contribute to that same account and would get the deduction they are currently entitled to. Now, as to what else my bill does, you have, I've passed out a handout. The first page-- and this is in response also to the full [INAUDIBLE]. Senator Pansing Brooks requests that we have a handout on all the 529 bills. That's what this is. For the bill that we are dealing with now, it is only that first page. The second bill is-- excuse me, the second and third pages are in response to Senator Pansing Brooks's request about Senator Lindstrom's bill. So again, it's only that first page. It deals with two other bills: Senator Wayne's bill, which is affixed to my bill, which I'll get into in a second; and Senator McDonnell's bill, which is in the same area of statute, which is a military housing bill. Now Senator Wayne's bill does two things. When-- under my bill, when we combine into one account, there's a gray area in tax law where that may be considered income to the person who holds the account. Under Senator Wayne's bill it simply keeps the status quo that that is not income, and also ensures that someone who is on state aid benefits is not going to get kicked off of those state aid benefits because they are saving for a child's education, which there's a gray area where that could be the case. So his bill goes hand in hand with mine to address that issue. And I will get in, on my opening to my amendment, why I think this is a good idea. But so he can explain his bill, I'd yield the rest of my time to Senator McDonnell.

---

SCHEER: Senator McDonnell, 6:40.

Floor Debate  
April 24, 2019

---

McDONNELL: Thank you, Mr. President. Good afternoon, colleagues. LB444, as amended, provides a personal property tax exception to housing occupied by military members and their families located on a federal military installations. The primary goal of this bill is to address housing standards and subsequent quality of living circumstances for military-service members and their families thereof who represent our country and reside at Offutt Air Force Base located in Bellevue, Nebraska. We are fortunate to have the military installation located in our state, and due to its unique nature, this legislation would impact and affect Offutt Air Force Base individually as the distinct entity it is. I would like to provide you with some history and background information. In 1996, the U.S. Congress enacted the Military Housing Privatization Initiative as part of the National Defense Authorization Act in an effort to address poor housing quality, a significant backlog of repairs and rehabilitations to military housing units on and near military installations, and a shortage of affordable, quality, private housing available to members of the United States military and their families. Without privatization, the Department of Defense faced an estimated 200 to-- 200 of 300,000 housing unit inventory in need of improvement, with an estimated price tag of \$30 billion of federal funding to achieve modern standards. Under the Military Housing Privatization Initiative, the Department of Defense was granted the authority to award projects to private-sector companies to develop, construct, renovate, manage military housing. Leveraging private expertise and resources allowed the Department of Defense to focus on its core defense mission, while the program ultimately generated \$31 billion of private capital with a government investment of only \$3.4 billion. In implementing this model, each private-sector investor was thoroughly vetted by the military. Private sector companies selected by the Department of Defense were responsible for financing, developing, building and renovating, and operating the housing for-- for a period, which is usually 50 years. All housing is located on or near military installations and expected to be occupied primarily by military families. The privatization of housing at Offutt Air Force Base started in 2005 and has since provided over 900 new homes and nearly 500 renovated homes. Today, the total community comprises [SIC] nearly 2,000 homes rented primarily to military members and their families. Prior to the privatization, the housing and land at Offutt were owned by the Department of Defense, which required no property taxes to be paid. The Department of Defense provided maintenance and repairs of roads, infrastructure maintenance, police and fire protection, snow removal, and other community services without reliance on the local jurisdiction. Upon implementation, the privatization effort shifted the property tax burden to the private-sector company. However, the previously mentioned maintenance and services did not shift to the local jurisdiction. This creates an unintended windfall to the local taxing authority. Taxes-- taxes continue to be paid, but services are not being provided. The private-sector company continues to provide and/or contract for police and fire-- fire safety, street and infrastructure maintenance, as well as other community services, in addition to paying local property taxes. As such, these funds should be utilized to reinvest in the project, which will directly affect [SIC] the living standards and safety of our military personnel and their families. LB444 provided a solution to this. While no one testified against LB44 [SIC] at the committee hearing, NACO raised concerns regarding the

Floor Debate  
April 24, 2019

---

constitutionality as it pertained to the Homestead Exemption, as it would typically require the property to be owner occupied to receive the credit. A Nebraska Supreme Court case, Offutt-- Offutt Housing v. Sarpy County, 160 Nebraska 320, ruled that housing units are leased federal public lands, should be taxed as personal property pursuant to the statute 77-1209 which later became 77-1374. The court cited the AG Opinion as a basis of this decision. The AG Opinion states that the federal government owns the land and cedes the land back to the state for certain purposes, including allowing taxation. The land cannot be foreclosed. No liens can be attached to the land, and it cannot be taken by judicial action. Such actions would prevent the federal government from utilizing the property for the purpose for which it ceded the complete-- complete jurisdiction. Therefore, it is not real property and it should not be taxed as real property. Therefore, in order to tax the property properly, the tax must be a personal property tax, which is allowed by both federal and state statutes. This is exactly what LB444, as amended, now reflects. By reassessing the property as-- as personal property instead of real property, it addressed the concerns of NACO and more accurately defines the property. Similar to this original bill, the amendments amended then exempts the property and requires any exempt entity to make a payment in lieu of taxes to certain entities. Schools will be made whole and receive 100 percent of what they currently receive. The county who provides few services, voting and car registration, has agreed to receive 5 percent of what they previously received. The counties provided the services and did not receive any compensation prior to the formation of the public-private partnership in 2005. The counties can also choose to waive receiving any funds. The remainder of funds are then placed into the--

SCHEER: One minute.

McDONNELL: --infrastructure maintenance trust fund overseen by the State Auditor. The funds must be used to reinvest in the military housing establishment. LB444, as amended, proposes to provide necessary support and reinvestment to the Offutt housing community, its military families, and the future viability and sustainability of the project as a whole. Offutt employs over 10,000 people, including civilian personnel. What it is for the state of Nebraska and Sarpy County cannot be understated. The bill is cosponsored and supported by all of senators who represent Sarpy County. I greatly appreciate the support and would encourage the rest of the body's support in moving this legislation forward.

SCHEER: Thank you, Senator La Grone and Senator McDonnell. Mr. Clerk.

ASSISTANT CLERK: Mr. President, two announcements: The Health and Human Services Committee will hold an Executive Session at 2:00 in Room 2022. In addition to that, the Government Committee will hold an Executive Session at 2:00 under the south balcony.

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

Floor Debate  
April 24, 2019

---

SCHEER: Thank you, Mr. Clerk. (Visitors introduced.) Returning to LB470; as the Clerk noted, there is a committee amendment from the Revenue Committee. Senator Friesen, as Vice Chair, you're welcome to open on AM896.

FRIESEN: Thank you, Mr. President. The amendment combines various provisions of LB470, which is Senator La Grone's, to streamline contributions under the Nebraska Educational Savings Plan Trust, NEST; LB545, Senator Wayne, to authorize employer contributions to employee plans under the NEST program; and LB444, Senator McDonnell, to exempt military housing from property tax. LB470 and the amendment authorizes any nonparticipant to contribute to a NEST account and to qualify for the same deduction from adjusted gross income, \$5,000 married filing separate, or \$10,000 for all other filers, as if they were a participant or owner of the account. If the account is canceled for cause, the nonparticipant receives their own contributions back. This eliminates the requirement that every contributor must open their own NEST account for the same beneficiary in order to claim the deduction. LB545, the amendment authorizes employers to make contributions to NEST accounts owned by an employee. The amendment allows the employee or owner of a NEST account to include any contributions made by their employer towards the deduction from an AGI. If the account is canceled because a participant receives their own contributions back, plus the employer contribution, an employer making such contribution may claim a deduction as a nonparticipant. Contributions to an account by an employer of the participant shall not be considered for purposes of receiving benefits or aid to individuals under any government program administered by any agency of the state. LB444, the amendments exempts certain military housing from real property taxation. In *Offutt Housing Company v. Sarpy County*, 351 U.S. 253 (1956) 76 South Court, 814 100 L. Ed. 1151, the state and the U.S. Supreme Courts held that, to the extent this type of property may be taxed by a state or local authority, it must be taxed as personal property rather than real property. The amendment exempts from personal property taxation a dwelling, complex, and any related amenities located on the United States Department of Defense military installation in this state developed pursuant to the Federal Military Housing Privatization Initiative. The developer is required to make payments in lieu of taxes to schools at 100 percent of real property taxes that otherwise would be due; the county at 5 percent of taxes otherwise due for the county general fund, which the county may waive; and three, a new infrastructure maintenance fund administered by the State Auditor at 95 percent of taxes otherwise due, which may only be used for capital repair, maintenance, and improvement of the housing development. The amendment provides for certification requirements to the Department of Revenue and provides enforcement authority, if needed, through the Attorney General. The property is still required to be valued by the county. The operator of the complex must determine and certify to the county the number of units not leased to members of the military and pay taxes on these units accordingly. Thank you, Mr. President.

SCHEER: Thank you, Senator Friesen. Mr. Clerk for amendment.

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

Floor Debate  
April 24, 2019

---

ASSISTANT CLERK: First of all, Senator La Grone, I had AM1096. I have a note to withdraw this amendment.

La GRONE: Yes.

ASSISTANT CLERK: In that case, Mr. President, Senator La Grone would offer AM1461.

SCHEER: Senator La Grone, you're welcome to open on AM1461.

La GRONE: Thank you, Mr. President. Colleagues, AM1461 is a white copy that further addresses the-- the inner workings between Senator Wayne's bill and mine. So just quickly, under this new amendment, rather than adding positive language discussing the dichotomy between an employer contribution and a nonparticipant that Senator Friesen outlined, AM470 [SIC] goes down to one line, which is page 21 or, excuse me, page 16, line 21. It simply takes out the participant language in that line. I want to be very clear. This does not allow anyone to take a new deduction that they are not already entitled to. It simply allows it to go into one account and continue that same deduction they are already entitled to. Senator Wayne's bill then is the new paragraph on page 17 and the new paragraph on page 26. So again, what my bill does is it simply says everyone who's already entitled to this deduction, you can contribute to the same account so that it simplifies the process. Senator Wayne's bill is corrective to make sure that none of the-- the contributions in my bill are considered income for the people who have-- hold those accounts. Now briefly I want to talk about why this is a good idea, and then I'll give Senator Wayne the rest of my time so he can go into his bill. This bill makes it simpler for people to save for college. And how-- and we know that having a 529 account and making that easier has a huge impact on who will go to college and who won't. The state of Oklahoma did a study and found that for, I believe, it was 1,000 participants in their study that just simply having a 529 account with \$50 wiped out a socioeconomic achievement gap. This is a program that can be used to help some achieve the American dream and I think that we should make that as simple as possible. So I would urge your support of AM1461 and then AM896 and the bill itself. With that, I would yield the remainder of my time to Senator Wayne so he can speak to his bill.

SCHEER: Senator Wayne, 7:45.

WAYNE: Thank you, Mr. Speaker. Thank you, Mr. President and Senator La Grone. So this, my bill, came about from having multiple conversations in my district with employers. And what we found out is particularly one employer who starts people out at \$11 an hour, \$11.50, then within a couple months they try to give them a raise to \$13 an hour. And what they started finding out was people were actually rejecting their raises. They were rejecting their raises because when they got to the \$13, \$14 amount, they lost their child-care benefits. That's a reality. We have a

Floor Debate  
April 24, 2019

---

cliff effect. And it wasn't just one employer. It was multiple employers down by the airport who I talked to on this light manufacturing issue where they start off at \$13 or \$12 and they want to bump up to \$14, \$15. And so you have parents deciding, do I make a couple of dollars extra and not have childcare, because those two extra dollars don't cover the child-care cost? And so what I tried to figure out was, and I focused in on childcare but the bill actually grew from that, was how do we make sure that if an employer goes to somebody and says, I'm going to give you a raise, you're doing a great job, they can also tell that employee we understand the situation you're in; we can put those two or three dollars into a 529 plan and it won't count towards you as your income and it won't count towards you as losing your state aid for your childcare or your food stamps. Those were the kind of conversations we kept having over the summer. And as we began to develop the bill we said, well, it's beyond childcare, it's any state aid because we have a cliff effect anywhere. So what my bill is trying to do is trying to address the cliff effect in some way, saying that if we're going to focus on kids, we're going to focus on childcare, this is a healthy alternative to say take the two or three dollars an hour that I was going to get, put it into a 529 plan to make sure that I can still maintain my childcare while I continue to work full time and provide for my family. And what that does, that also gives an incentive to that parent and that child to think long term. After I graduate high school I can go to college, I can go enter a trade, I can use that 529 money when I leave high school-- I'm going to be clear-- when I leave high school. Five twenty-nine plans are only eligible for community colleges or universities. So I guess you don't have to graduate, we would hope you do, but if you wanted to enter a trade at a-- at a community college or you wanted to go to college. And what-- why I got sold on the 529 plans, not just because I had a six-month-- I have a seven-month-old and I started thinking about this, but the data behind it. When you start giving and allowing children to have 529 plans, study after study shows there is a long-term benefit. And that long-term benefit is a child has more hope. The reason they have more hope, because they see college or a trade and a career as attainable, that people have invested in them, their parents have invested in them, grandparents, loved ones, community people have invested in them. So it creates this hope effect and it creates this effect of now I see college as real. So this was a way for me to figure out how to narrow the cliff effect. Is it perfect? No. But it's an idea to make sure we-- we-- we can still provide housing and state aid to those individuals who are on that cusp, who are working hard, but, you know what, that \$13 an hour bumped up to \$14 an hour is not enough. I lose my benefits. I could lose my home. I could lose my Section 8. But maybe after two years I get bumped up to \$18. Then I can take that full amount and actually provide for my family. But in that meantime, in them gap years, I'm still able to have childcare, I'm still able to have affordable housing through Section 8, and I'm still able to have a full-time job. This is a well-thought-out plan with a lot of stakeholders that we brought to the table to figure out how this works. And I'm just glad to be a part of this bill to be able to move this forward because this is needed, not just for my community but statewide, because we all have people in that gap who, one more dollar, they could lose their home; one more dollar, they can lose childcare. And this gives them the option to say, don't give me that dollar, invest it in my children. That's what I think we have to do going forward, when

Floor Debate  
April 24, 2019

---

we start talking about policy decisions as a body, is to be able to deal with the now and prepare for the future, and that's what this bill does. So I'd appreciate a green vote. Thank you, Mr. President.

SCHEER: Thank you, Senator La Grone and Senator Wayne. Going to floor discussion, Senator Blood, you're recognized.

BLOOD: Thank you, Mr. Speaker. Fellow Senators and friends all, I have some questions. And at this time I'm not sure that I do support all the amendments and the bill as amended. I do definitely support Senator McDonnell and Senator Wayne's portion of the bill, but I have some questions even after reading the amendments that I'm hoping that Senator La Grone can answer on the mike. I am not asking at this time that he yield to the questions, though, because I'd like to use this time for myself. So there have been multiple 529 bills introduced in this session, and as written LB470 eliminated the cap on the amount of the contribution that could be tax deducted. But here's the problem that I'm finding. When you combine LB470 and LB610, there are legitimate concerns about whether both the employee and the employer could take a deduction for that same deduction. The amendment to LB470 appears to address this by saying whomever made the contribution can take the deduction, but when combined with LB610, which we've already passed through General, the employer can take a deduction and get an incentive payment. So my concern is that we are not paying attention to the many, many other bills that have-- are going and coming out on to the floor, and we're actually creating legislation that clashes against other legislation we're trying to push through. And so my concern is that we get it right. And I certainly do understand that Senator La Grone can't say we're going to do this unless this other bill does that. I know we can't do that. But I'm asking if we're being good stewards and paying attention to what's going on, because I'm not seeing that the amendments fix this question and it would be my hope that Senator La Grone has my answer for that. Again, I am in full support of Senator McDonnell's part of the bill, full support of Senator Wayne's part of the bill. And eventually I would like to support this, but I know that there's probably other questions that several other senators have. But this is my main question is how do we fix this when they obviously clash? Thank you, Mr. Speaker.

SCHEER: Thank you, Senator Blood. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you, Mr. President. So last night I spent over five hours reading through all of these bills that have to do with the 529s. I hope you all have done that. I'm asking you to ask yourself whether you have actually read the five bills that deal with the 529s. I would wager a guess from the people that I've talked to that most of us have not. I'm concerned about it. I expressed the same concerns on the bill that had Senator Wishart and Senator Lindstrom's bills, and I am totally in favor of and very thrilled that all of a sudden the buddy-- body is very

Floor Debate  
April 24, 2019

---

concerned about getting kids to school. I am-- I am so thrilled about that, getting kids to go to college. And yet on the Education Committee, I sit on there and we're trying to figure out how to cut education left and right. So I appreciate that Senator La Grone brought forward a summary of all the bills, the five bills that have come forward. I have some questions for some people. But what I really was asking for was a fiscal summary, how they all relate to each other. What-- how are we going to pay for all these when we have issues such as wanting to cut property taxes? Remember all of that discussion? There's discussion about cutting income taxes. We have all that-- the huge meeting this afternoon in about two hours. And meanwhile everybody is saying don't worry. This is, in my estimation, is complete obfuscation. I am not blaming any single person among my colleagues. And it's brilliant, because I've gotten calls from people that I support and work with regularly, people supporting children. I get how important it is to give money and be able to get money and funds for school for children that want to make sure that they can go to school and give them hope. I appreciate that. But meanwhile, I cannot figure out, after spending over five hours on all this, how these bills relate to one another and what they're going to do to our bottom line. I'd like to start with some questions. First Senator Linehan, would she answer some questions?

SCHEER: Senator Linehan, would you yield, please?

LINEHAN: I will try, thank you.

PANSING BROOKS: Thank you. Sorry, I hear you're not feeling well. Sorry. Do you have an idea why, after I've been here for five years and there's never been an attempt to bring five bills forward like this before, why did the five bills-- why was it this year that the five bills came forward on the 529 plans? Do you have a feeling for that?

LINEHAN: Well, I think because Treasurer Murante is now managing the accounts, and they're not-- we're not using them. Nebraskans are not aware of them or they're not used to their full potential.

PANSING BROOKS: OK. So who asked you to bring the bill?

LINEHAN: Treasurer Murante.

PANSING BROOKS: OK. Thank you. And so--

LINEHAN: But I would have-- my-- we helped--

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

Floor Debate  
April 24, 2019

---

PANSING BROOKS: --I just [INAUDIBLE]--

LINEHAN: --send my kids to college with these plans.

PANSING BROOKS: Yes.

LINEHAN: They're a very good idea.

PANSING BROOKS: I know. I agree with them. I-- I think there are good reasons to do them. But again, it depends on how we're funding them and what's going on and what-- so what was the stated purpose? The stated purpose in them is to help people in poverty go to school. Is that correct basically or [INAUDIBLE] encourage them?

LINEHAN: Well, not just people in poverty, but just to help all kids. He was very focused on, and I buy into this, I think it's right, that every child, if there's an account that says--

SCHEER: One minute.

LINEHAN: --you have a-- I'm sorry?

PANSING BROOKS: One minute. OK.

LINEHAN: OK. If you have a savings account, a child is more likely to study harder, parents are more engaged because they're saying to the child--

PANSING BROOKS: OK. Can you tell me how your bill differentiates from what the other 529 bills do?

LINEHAN: Yeah, mine's, at least the way I understand it, is the starting gate. Every child born in the state of Nebraska will have a 529 account opened for them.

PANSING BROOKS: And-- and how much is put into that account by the state of Nebraska?

LINEHAN: It will depend on how much money there is earned. So the state of Nebraska earns money from the investments of these accounts' fees, so however many those fees are divided by 25,000 kids.

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

Floor Debate  
April 24, 2019

---

PANSING BROOKS: OK. I heard it was from a fee that's .02 percent of-- of the fees from-- from these funds, and that that could be \$5.2 billion. Is that correct?

LINEHAN: I don't think so, but I don't know. I don't know.

PANSING BROOKS: OK.

LINEHAN: That would be a lot.

PANSING BROOKS: I'll ask Senator--

SCHEER: Time, Senators.

PANSING BROOKS: OK. I'll be back.

LINEHAN: OK. Thank you.

SCHEER: Thank you, Senator Pansing Brooks and Senator Linehan. Senator Bolz, you're recognized.

BOLZ: Thank you, Mr. President. Would Senator La Grone yield to a few questions?

SCHEER: Senator La Grone, would you please yield?

La GRONE: Absolutely.

BOLZ: Senator La Grone, the fiscal note on the bill as introduced has a-- a negative revenue impact in 2021 of nearly \$26 million. And I've been working through the bill and the amendments and I don't see anything that I can put my fingers on that eliminates that fiscal impact. Twenty-five million dollars would be a huge revenue loss in terms of putting together our state budget. We are not fully funding university utilities. We're not fully funding behavioral health organizations. We've said no to a number of legitimate requests from people in this body. Can you point to specifically the section, the line item that addresses this fiscal note? Or can you explain to me how you would justify a \$26 million revenue loss.

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

Floor Debate  
April 24, 2019

---

La GRONE: Yes, absolutely. So the fiscal note came from the fact that in the green copy we removed the \$10,000 cap on the contribution deductibility limit. That was taken out in the committee amendment and every subsequent amendment. So that is what this--

BOLZ: Can you give me a section and a line item, please?

La GRONE: That would be in the green copy because that statute doesn't appear in--

BOLZ: No, I'm sorry. Can you give me-- can you direct me in-- in your fix, where is your fix?

La GRONE: The fact that that statute isn't touched anymore. So it's not in-- in the amendment because it's not even touched anymore.

BOLZ: OK. So that has been removed and-- but it's not summarized in the committee statement. Or is it? Is it summarized in the committee statement?

La GRONE: In the committee statement, I don't have it in front of me, but it would essentially be where they say they put the cap back on.

BOLZ: OK.

La GRONE: The original bill removed the cap; they put it back on.

BOLZ: OK. So-- so we're reducing the fiscal impact by putting the cap back on. Can you tell me what the current fiscal impact would be? Because--

La GRONE: Uh-huh.

BOLZ: --you know, I currently contribute to my nieces' NEST account. I have two nieces. I contribute to both of their accounts. I paid taxes this year. If I got that deduction instead of paying those taxes, there would be forgone revenue. So can you tell me what the revenue impact will be after your amendment?

La GRONE: Absolutely. So there are two things in the fiscal note that are causing a cost. One is the cap, which is \$26 million you mentioned, and the other is the reprogramming fee of, I believe, \$100,000. The amendment addresses both of those.

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

Floor Debate  
April 24, 2019

---

BOLZ: OK.

La GRONE: Number one,--

BOLZ: I'm going to interrupt you there because I want to get at the question that I'm asking. I hear you. I absolutely hear you. You eliminated the cap. There's a programming cost. But there's still a forgone-- there still should be forgone revenue because in my personal case, unless I'm misunderstanding something, in my personal case I would get a deduction for the amount of money that I contributed to my nieces' accounts. This would apply to me. I did pay state income taxes this is year. So can you help me understand what the projected forgone revenue would be under the policy for the nonparticipant deductions?

La GRONE: Absolutely. The forgone revenue would be zero, because everyone who can take it under this bill is already entitled to it.

BOLZ: So what are we changing?

La GRONE: We're simply changing how many accounts they have to have in order to get it.

BOLZ: OK. So your understanding is that there's absolutely no fiscal impact, and the-- the thing that you are achieving with your portion of this bill is only that we don't have to open-- that-- that my sister doesn't have to open multiple accounts for my two nieces. That's all you expect to be pulling from your bill as introduced into this amendment.

La GRONE: Correct.

BOLZ: OK. That is very helpful. I did not understand the fiscal implications of this at all. Will Senator McDonnell yield to a question?

SCHEER: Senator McDonnell, would you please yield?

BOLZ: Same question--

McDONNELL: Yes, I will.

BOLZ: --for you, my friend on Appropriations. Can you help me understand what the fiscal implications of the provisions in your bill look like?

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

Floor Debate  
April 24, 2019

---

McDONNELL: To the state of Nebraska, zero fiscal.

BOLZ: And can you elaborate and explain to me how specifically the bill works and how you can assure to me that there won't be a fiscal impact in terms of expenditures or forgone revenue?

SCHEER: One minute.

McDONNELL: So based on in 1996, when they started the Military Housing Privatization Initiative, 2005 Offutt Air Force Base gets involved in this. What my bill is trying to address is through those years you still had, prior to 2005, the base was not paying any taxes. The land is still owned by the government. So they started this. They start to continue to pay taxes after 2005. The problem was the services weren't coming back. So we worked out with the county and everyone involved, we said, OK, we want to make sure that 100 percent of the school, whatever was going to there, is taken care of. If for the services the county is going to provide, for example, like, voting, registering your vehicle, they're going to get 5 percent based on that. Then the remainder is going to go into the trust fund for the infrastructure trust fund. And then it has to be spent on the infrastructure that the county normally would have been taking care of.

SCHEER: Time, Senator.

BOLZ: OK. Oh, shoot, I wanted to ask Senator Linehan--

SCHEER: Time, Senator.

BOLZ: --the same question. I hope [INAUDIBLE].

SCHEER: Thank you, Senator Bolz and Senator McDonnell. Returning to the queue: Senator Kolterman, Hilgers, McCollister, and others. Senator Kolterman, you're recognized.

KOLTERMAN: Thank you very much, Mr. President. I rise in support of the concept of what we're trying to accomplish here as it pertains to 529 plans. I do have one-- one comment that I would make for us as a body to consider going forward, and I'm as much to blame as anyone. There-- there are five different 529 plans. Some went to Education, some went to Revenue. That's very confusing. It's probably my fault that I didn't push hard-- I'm on Referencing and Senator Hilgers is the Chairman of that committee. It's probably my fault that I didn't push harder. In the past it's my understanding that those 529 plans all went to Retirement. I was not aware of that at the time. If we'd had them all in one committee, we could have worked through these challenges ahead of time and probably come with a lot cleaner bill. But having said that,

Floor Debate  
April 24, 2019

---

I'm-- I'm-- I'm a little bit concerned about the fact that we have Senator Wayne's bill and we have Senator Lindstrom's bill, and I think they're trying to accomplish really the same thing. So we're looking at some redundance there and I don't know how we're going to get around all that. I do-- I-- I will tell you that I did sit in on the committee hearing of Senator McDonnell's bill. It advanced out of committee with no opposition. It's really cost neutral to the state. And the municipalities aren't going to get hurt or the school districts aren't going to get hurt. It's just a matter of how you shift the-- the income and the revenue from the property taxes. Having said that, what Senator La Grone is really doing here, and having sold these plans myself, as an example, if my daughter has three plans on her three children, if I want to take a contribution-- or make a contribution and take a deduction on that, I have to set up my own plan. So now the way this will work, if we-- if we accomplish this, it will allow us to have one plan and you can contribute to that. I still get my deduction. She gets her deduction. What people don't know also is that you can commingle these into one plan, but the owner is only one person. So this makes it very clear in the state of Nebraska how that money can be dispersed. And-- and where the deductions go. So I-- I really think we're going in the right direction. I don't know how we're going to get there because there's so many deals involved here. But I think that the concept is really good about encouraging people to contribute to these 529 plans so that we can get more kids into-- into college education, as well as trade schools. Thank you very much.

SCHEER: Thank you, Senator Kolterman. Senator Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of AM1461. I won't take up very much time. I will-- I do want to echo both the comments from Senator Kolterman as well as the colloquy between Senator La Grone and Senator Bolz. I think the latter really-- I think really crystallized what's going on here. If you look at, because there are multiple moving parts in this amendment, the language, as I understand it from Senator La Grone, Senator La Grone's bill that's in AM1461 is only on page 16, line 21. And I want to ask Senator La Grone about that. Would Senator La Grone yield to a question?

SCHEER: Senator La Grone, would you please yield?

La GRONE: Absolutely.

HILGERS: Thank you, Senator La Grone. So page 16, line 21 is-- is essentially your-- the part of your bill that is in AM1461. Is that right?

La GRONE: Correct, yes.

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

Floor Debate  
April 24, 2019

---

HILGERS: And that language, as I read it, says there's a part that says, "as a participant in the Nebraska Educational Savings Plan," the "as a participant in," that is eliminated from--

La GRONE: Correct.

HILGERS: --the statute. Correct?

La GRONE: Correct.

HILGERS: And then it adds the following: "to an account established under." Is that-- is that right?

La GRONE: Correct.

HILGERS: Is there anything else that's in your bill that's in this amendment?

La GRONE: No. The remainder is either from Senator Wayne's bill or Senator McDonnell's bill.

HILGERS: Thank you very much, Senator La Grone. So to Senator Bolz's point, I think it's important, compared to the green copy, which I understand from Senator La Grone's discussion, the green copy had some elimination of the caps, etcetera. The conversation between Senator La Grone and Senator Bolz and which was echoed by Senator Kolterman is that this is just a consolidation of the count-- of the accounts. It doesn't change eligibility. It doesn't change caps. In fact, to those Nebraskans who don't use 529s, they may assume, wrongfully, they may assume-- or wrongly that those accounts would-- there would just be one account for the child. And as Senator Kolterman explained, that currently is not the law. So as I understand the change that Senator La Grone would make through this bill or this piece of the amendment is that where once you-- where now you might have two, three, four accounts for each donor per child, after, if this bill were to become law, you could consolidate those. No other eligibility changes are made. It just makes it a little bit easier for families, which seems to me a very reasonable, common-sense piece of legislation. So I would yield the remain-- I support AM1461 and I would yield my time to Senator La Grone if he needs it.

SCHEER: Senator La Grone, 2:40.

La GRONE: Thank you, Mr. President. Thank you, Senator Hilgers. I want to address two points: one that Senator Blood made and one that Senator Pansing Brooks made. Senator Blood's

Floor Debate  
April 24, 2019

---

point was the interaction between this bill and Senator Lindstrom's bill. My bill changes nothing about that. That interaction exists under current law. Everyone entitled to the deduction, no one new entitle-- is entitled to deduction under my bill, which means anyone who could claim the deduction or, excuse me, the incentive payment under Senator Lindstrom's bill could under current law, not my bill, also claim the deduction if they chose to go through that process. However, I know that Senator Lindstrom has agreed to have an amendment on his bill to address that very issue. So that is not an issue with this bill. That is an issue with how Senator Lindstrom's bill relates to current law. Second, the question of how are we paying for this. This bill has-- will have no fiscal impact after the amendment is adopted. And as for the other bills, they're paid with cash funds through the State Treasurer's Office, which means that there is no General Fund impact whatsoever for any of these bills. So again, this bill does not interact with LB610 in any way differently than the current law does. So I thank Senator Hilgers for his time. And with that, I'll finish. Thank you, Mr. President.

SCHEER: Thank you, Senator Hilgers and Senator La Grone. Those waiting to speak: Senator McCollister, La Grone, Pansing Brooks, Chambers, and others. Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President. Good afternoon, colleagues. This is a bill with many moving parts and many stakeholders, so it can be confusing. Have a few questions for Senator La Grone if he'd yield.

SCHEER: Senator La Grone, would you please yield?

La GRONE: Absolutely.

McCOLLISTER: Senator La Grone, does this bill give additional duties or responsibilities to the Treasurer other than the ability to combine accounts, combine accounts?

La GRONE: No.

McCOLLISTER: I see. When you talk about taking funds for programming, where is that money coming from?

La GRONE: Well, I want to be very clear. This bill has nothing to do with that. That does not at all address LB470. That's dealing with LB610, which is Senator Lindstrom's bill, and those are cash funds in the State Treasurer's Office.

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

Floor Debate  
April 24, 2019

---

McCOLLISTER: But-- but I thought you said just a moment ago that there is some programming to be done related to LB470.

La GRONE: Oh, are you talking about the programming fee from the Department--

McCOLLISTER: Yes.

La GRONE: --of Revenue? The amendment addresses that, and that-- that's why so in the-- in my amendment and in, excuse me, in my previous amendment and in the committee amendment, there it set a new-- set up this new thing called a nonparticipant contributor. That's the exact same thing as just eliminating the participant requirement. And so by eliminating the participant requirement, we're not creating anything new so they don't have to recode it. We've now modeled it after the ABLE Program, which is a bill from Senator Bolz in 2015 and it will operate the same way. So there's no new programming fee there.

McCOLLISTER: But in actuality isn't this money coming from the Treasurer's cash fund or the Unclaimed Property Fund, which would be an expenditure from state funds?

La GRONE: Well, two things. Number one, this bill doesn't spend any money. There's no money on this bill whatsoever, not coming from any cash fund, not coming from the General Fund, no money on this bill, period.

McCOLLISTER: And no money from the property tax of the unclaimed property tax.

La GRONE: No, there's-- this bill does not touch any money in terms of spending money.

McCOLLISTER: Thank you, Senator La Grone. I yield the balance of my time to Senator Pansing Brooks.

SCHEER: Senator Pansing Brooks, 2:40

PANSING BROOKS: Thank you, Mr. President. So, let's see, I would like to ask Senator La Grone some questions, if you please.

SCHEER: Senator La Grone, would you please yield?

La GRONE: Absolutely.

Floor Debate  
April 24, 2019

---

PANSING BROOKS: OK. First off, again, I appreciate the fact that we're trying to help people in poverty and help young kids go to school and give everybody a chance. We're also make sure that there's an effort, I believe, so that those who have dollars can get tax deductions, and we know that we're all in favor of that as well to an extent. But if-- if we're losing money out of the coffers of our state, that is a concern for me. So the other thing that I want to say is that I appreciate the shiny object that has been placed on this bill. The object is the military bill that Senator McDonnell put on here. Of course we're all in favor of helping the vets. So, you know, this is very difficult. How do you vote against a bill that helps vets and helps people in poverty? But meanwhile we have five bills out there. We give-- we've been given a little paragraph summary of each. They all deal with this same area of law, but we've separated them all out. Last night, as I was reading, I would look at one version and then I looked at the next and I'm like, wait, this changes what I just read in the changes on the first one that I just read. So to me, it feels like obfuscation. Maybe it was done to make it easier for people to understand, but it is not easy to understand. And again, I ask you all to read these bills and try to figure out what it is that's happening. Why weren't they put into one bill? Why can't we see the fiscal note for all of them combined?

SCHEER: One minute.

PANSING BROOKS: I keep hearing, well, you know, this bill doesn't have a fiscal note anymore. But then we're going to give \$100 per kid, supposedly, but that money is going to come out of-- I mean and then, OK, so my question is, Senator La Grone, and I'll ask some more in a minute anyway, I really do have questions on these. I'm not trying to just totally take up time. I'm-- I'm trying to figure out who owns the accounts. Who owns these accounts that are created?

La GRONE: Under-- the participant is the one who owns the account.

PANSING BROOKS: OK. So but you took out in your-- from your previous version a nonparticipant. Is that correct?

La GRONE: Correct. That was to address the coding issue with revenue.

PANSING BROOKS: A coding issue?

La GRONE: Yes.

Floor Debate  
April 24, 2019

---

PANSING BROOKS: So-- so participant is defined in the law and has been defined under the 529 laws. You attempted to define nonparticipant. Why did you feel you needed to define nonparticipant and now you're fine taking it out? Because--

SCHEER: Time, Senator.

PANSING BROOKS: Thank you.

SCHEER: Thank you, Senator Pansing Brooks and Senator La Grone. Senator La Grone, you're recognized.

La GRONE: Thank you, Mr. President. I'll start by answering Senator Pansing Brooks's questions. There's two ways-- when there's restrictive language, there's two ways you can get-- can get-- can deal with that restrictive language. You can add new language saying it doesn't apply in this case or you can get rid of it. Now in the-- originally I chose to do it in a positive way of saying it doesn't apply in this case. That caused the coding issue with Department of Revenue, so we got rid of that language and chose the other way, which is to simply strike the participant requirement. I want to be very clear, no one who is not currently entitled to a deduction under the current law will be able to get one under my bill. It simply streamlines the process so it can go into one account. That's all the questions I remember off the top of my head, but if anyone wants to ask me more I'd be happy to answer them. Thank you, Mr. President.

SCHEER: Thank you, Senator La Grone. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you. OK. I do have some more questions, Senator La Grone.

SCHEER: Senator La Grone, would you yield again, please?

La GRONE: Yes, I will.

PANSING BROOKS: Thank you for answering them. So I-- I'm wondering why your bill wasn't added to the Lindstrom-Wishart bill that occurred earlier this year.

La GRONE: Great question and I'm glad you asked it. So--

PANSING BROOKS: Thank you.

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

Floor Debate  
April 24, 2019

---

La GRONE: So there's a reason there's two bills. This bill deals with updates to the current law. Basically, we're keeping every program in place in this bill. We're simply updating the process. The Lindstrom bill, LB610, deals with new programs. So that's why we have two separate questions. One is updates to the current law and the other is a new programming.

PANSING BROOKS: But-- but both deal-- both deal with employers. Senator Wayne's bill deals with employers, right?

La GRONE: Not in the way that Senator Lindstrom's does. Senator Wayne's bill only deals with the current law as it relates to employers. Senator Lindstrom's bill sets up a new process for incentives to employers.

PANSING BROOKS: Clear as mud, everybody? Again, this is-- this is a lot of change in a lot of different areas. I'm-- I'm not aggravated with you, but I just cannot understand why we have been brought all these things. We've been told there were huge fiscal notes. Now there's no fiscal notes. And then there-- and if you look at what happened on the college savings matching scholarship program, Senator La Grone, would you like to discuss why-- where the-- where the cash funds are coming from on the-- on Senator Wishart's bill?

La GRONE: So let me very clear, that's not bill. Cash funds don't have anything to do with this bill.

PANSING BROOKS: I know, but it's still 529, so.

La GRONE: Uh-huh. Yeah. I just wanted to clarify that. As I-- honestly, I think that's probably a question better posed to Senator Wishart. I--

PANSING BROOKS: Well, Senator Wishart isn't here.

La GRONE: I can give my understanding, which is that they are those cash funds out of the State Treasurer's Office which are generated off the two basis point fee on account.

PANSING BROOKS: And so that's .2 percent interest of the current 529 plans. And how much did you think that that's going to raise?

La GRONE: So that fee, and again this is my understanding-- if I-- if there's someone who can say it better, I can be corrected-- funds the entire 529 division of the Treasurer's Office. So there's

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

Floor Debate  
April 24, 2019

---

a cash account associated with that. I forget the specific name for it. But essentially it's to-- used to administer and grow these funds because the larger they get--

PANSING BROOKS: And how much is in it?

La GRONE: I believe-- I don't know the exact total. I thought-- the budget for the full division, which is what's generated off of the-- excuse me, the basis point fee, my understanding is that I believe it's \$5.2 billion. I would want to double-check that number though.

PANSING BROOKS: Five point two billion with a "B".

La GRONE: Correct. And I-- I gave you the accurate number earlier. So if that's what it is, then that's what it is.

PANSING BROOKS: You said \$5.2 billion. So that-- that's .02 percent generates \$5.2 billion. My gosh, did anybody know that was out there? What are we doing with all of that? That's .02 percent is \$5.2 billion. And we're going to use some of these funds, these cash funds to help pay for this. Again, I think this is confusing. I will ask Senator Lindstrom because I think Senator Lindstrom has an answer to some of that, if you please. Senator Lindstrom, do you know where the cash funds are coming from?

SCHEER: Senator Lindstrom, would you please yield?

LINDSTROM: Yes, I will. The two funds, one which has been stated as the unclaimed property which currently brings in around \$10 million a year, and then the two basis points that is you mentioned on the fees typically brings in \$1 million and currently has \$3 million--

PANSING BROOKS: OK.

LINDSTROM: --in the fund itself. That's where the two--

PANSING BROOKS: OK. Where did we get \$5.2 billion?

LINDSTROM: I don't know where that ever came from.

PANSING BROOKS: Off of the fees? Do you think that could be the amount of the fees? That's what I'm hearing from some--

Floor Debate  
April 24, 2019

---

LINDSTROM: I-- I'd have to-- I'd have to double-check on that.

PANSING BROOKS: OK.

LINDSTROM: I don't-- I doubt if there's that much in there.

PANSING BROOKS: OK. Again, clear as mud. I'm just thinking, Senator Lindstrom.

SCHEER: One minute.

PANSING BROOKS: A minute? I just, again, after reading all these, I was as clear as we are right now. And the question is, how are we paying for all these? Do you know that there's another incredible fund out there to help pay for education for all kids going to college, no matter the college, no matter the level of college? Those are called the Nebraska Opportunity Grants. If we want to put money into the Nebraska Opportunity Grants and help fund education at 20-- at Senator Linehan's level of 26,000 kids get \$100 each every year, it's a great and worthy idea. That's \$26 million a year. If we put that \$26 million a year into NOG, the Nebraska Opportunity Grant, we could help a ton of kids. That's another-- we continue to--

SCHEER: Time, Senator.

PANSING BROOKS: --not want to fund NOG. Thank you.

SCHEER: Thank you, Senator Pansing Brooks, Senator La Grone, and Senator Lindstrom. Senator Chambers, you're recognized.

CHAMBERS: Mr. President, members of the Legislature, I find this discussion to be intoxicating [LAUGHTER] and intoxicated me to the point where I've overcome my shyness. And there's a song that Harry Belafonte sang involved with this little boy trying to learn about the bird and the bees. Now, I might lose my nerve as the sound of my own voice comes into my ear. Then I'll just say it. But Harry Belafonte, who can sing, said: When I was a lad just three-foot-three, certain questions occurred to me. So I asked my father quite seriously to tell me the story about the bird and the bee. He stammered and he stuttered pathetically, and this is what he said to me. He said the woman piaba and the man piaba and the cane stand tall by the lemon grass, the lily root, gully root, belly root umm, and the famous gunny scratch scratch. The little boy said, it was clear as mud but it covered the ground, and the confusion make me brain go round. So I went to see a good friend of mine known to the world as Albert Einstein. He said, son, from the beginning of time and creativity, there existed the force of relativity. Pi R square minus 10 is rooted only when

Floor Debate  
April 24, 2019

---

the solar system in one light year make the Hayden planetarium disappear. And if Mount Everest doesn't move I am positive that it will prove that the woman piaba and the man piaba and the cane tan tall like the lemon grass, the lily root, gully root, belly root, umm, and the famous gunny scratch scratch. It was clear as mud but it covered the ground, and the confusion make me brain go round. So I grabbed a boat and I went abroad and in Baden Germany I met Sigmund Freud. He said, son, from your sad face remove the grouch. Put body upon the couch. I can see from your frustration a neurotic sublimation. Love and hate is psychosomatic. Your Rorsach shows you're a peripatetic. It all started with a broken sibling in the words of the famous Rudyard Kipling. They he said, the woman piaba, and so forth. So the little boy, after saying it was clear as mud but covered the ground, he said, I've traveled far-- near and I've traveled wide and I don't even have me self a bride. All the great men upon this earth have confused me since my birth. I've been over land, I've been over sea trying to learn the answer about the bird and the bee. And now that I am 93, I don't even care, you see. And then he gives it. I said all this to say this. What has been said to me is as clear as mud. There's money somewhere. It came from somewhere. It's resting somewhere. It's going somewhere. But as yet, I just don't know. So I'm going to continue listening. Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Those waiting to speak: Senator Quick, Crawford, Friesen, Wayne, and others. Senator Quick, you're recognized.

QUICK: Thank you, Mr. President. I'm still listening to the debate on this. I know from my own experience when-- when I hear something that's almost too good to be true, it usually is. So I know Patty Pansing Brooks, Senator Pansing Brooks has some really good questions, and I'd love to hear more of her questions so I can determine what I want to do. So I'd yield the rest of my time to Senator Brooks.

SCHEER: Senator Pansing Brooks, 4:30.

PANSING BROOKS: Thank you. Thank you, Senator Quick. And thank you, Speaker Scheer. I guess I just have a couple questions for Senator Lindstrom, if you please.

SCHEER: Senator Lindstrom, would you please yield?

LINDSTROM: Yes, I will.

PANSING BROOKS: Thank you, Senator Lindstrom. So can you tell me how your bill differs from the bills that we're discussing today?

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

Floor Debate  
April 24, 2019

---

LINDSTROM: Sure. So mine is a new aspect of the 529 that deals specifically with the employer matching an employee's contribution, and by doing so they could receive a 25 percent rebate.

PANSING BROOKS: OK. And they get a rebate, and do they also get a deduction?

LINDSTROM: We will have an amendment on Select File on LB610 that addresses that and will eliminate that.

PANSING BROOKS: OK. So it was originally sort of double-dipping, right, but we're fixing that?

LINDSTROM: Well, you could look at it that way. Right now under--

PANSING BROOKS: I am.

LINDSTROM: --current law anybody that's contributing could get a deduction, too, on a 529.

PANSING BROOKS: OK. I appreciate that. So that amendment is coming, correct? And--

LINDSTROM: Yeah. Yes, it is.

PANSING BROOKS: And also, Senator Lindstrom, do you-- do you agree that these funds are not to be used for K-12?

LINDSTROM: Absolutely. I mean it-- from the onset of the discussion, all this is used for college education. The simpler way, if you really wanted to do that, like other states have, is just redefine what a 529 could be used for and you could say it could be used for K-12. That is not what we're doing here. We are simply clarifying what you can do under LB470. And then in my bill with Senator Wishart's bill, we're adding a new provision that helps employers with a match and also dealing with folks in the poverty level, 250-- 250 percent, without using General Funds,--

PANSING BROOKS: OK.

LINDSTROM: --is what we're doing.

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

Floor Debate  
April 24, 2019

---

PANSING BROOKS: So-- so why is it that it can't be used for K-12?

LINDSTROM: We don't-- we haven't put that language, you can't use it for K-12.

PANSING BROOKS: OK. Would it be because our statutes say that there's nonqualified withdrawals, correct?

LINDSTROM: You can take a withdrawal, but you're going to pay a penalty. You're going to--

PANSING BROOKS: Yes.

LINDSTROM: --because the funds grow tax deferred. And say, for example, if you grew that 529 plan over time and never used it and you wanted to take the money, the owner of the account wanted to take the money back, you would pay a penalty on that and taxes. So right now if you're using a 529, this is under law right now, you'd have to use it for qualified money, in this case use it for college education purposes.

PANSING BROOKS: OK. So also the nonqualified referral is subject to rules set forth by the Treasurer's Office. Is that correct?

LINDSTROM: I'm not--

PANSING BROOKS: There's a-- there's a participant agreement. Is that correct?

LINDSTROM: You have to clarify.

PANSING BROOKS: A participant agreement with the person who signs and then you sign a contract-- or an agreement with the Treasurer's Office about how that fund's going to be used and what you can expect.

LINDSTROM: Yeah.

PANSING BROOKS: OK. So in that participant agreement, that I received a copy from Senator La Grone, and it talks about distribution from accounts. You may direct the trustee to distribute part or all the money in an account at any time. You must complete the appropriate form. So what-- what if the rules in the Treasurer's Office change and they change the rules regarding the NEST direct college savings plan?

Floor Debate  
April 24, 2019

---

LINDSTROM: Those rules would have to come through us first.

PANSING BROOKS: Only-- only if it says--

LINDSTROM: They can't-- because if there is a taxation, so we-- you're talking about the--

SCHEER: One minute.

LINDSTROM: --taxation or the rules and regs a part of what's under the Treasurer's Office?

PANSING BROOKS: I'm talking about this plan, the program disclosure statement and participation agreement for the NEST, Nebraska Educational Savings--

LINDSTROM: Well, if we're using it for qualified purposes, that would all come through us as far as the criteria in which something can be qualified.

PANSING BROOKS: OK. So if-- if-- if I give \$100 and we have the state giving \$100 too, and then I decide, nope, I'm going to withdraw it and use it on my kids going to private school, K-12, I could get a penalty. I would not get the interest. But I could withdraw that and I would probably receive state dollars on that, is that correct?

LINDSTROM: I don't know about that.

PANSING BROOKS: You think that the penalty would be greater than-- than the \$100 that the state put in for me?

LINDSTROM: The penalty's pretty stiff, yeah.

PANSING BROOKS: How stiff is it? What is the penalty? Where is--

LINDSTROM: I believe it's 10 percent and then you pay tax on any type of gain. I could--

PANSING BROOKS: Well, 10 percent of \$200 is \$20.

LINDSTROM: Twenty dollars, and then whatever's grown on top of that. But you're also breaking the contract that you signed as well. So I'll get clear--

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

Floor Debate  
April 24, 2019

---

PANSING BROOKS: But so it's possible to take those state dollars and use them for K-12, not all of the state dollars, but a portion of them.

LINDSTROM: But that's your money already--

SCHEER: Time, Senator.

LINDSTROM: --that you would put--

PANSING BROOKS: Thank you.

SCHEER: Thank you, Senator Pansing Brooks and Senator Lindstrom. Senator Crawford, you're recognized.

CRAWFORD: Thank you, Mr. President. And good afternoon, colleagues. I rise in support of AM1461 and LB470. I think we're having interesting conversations about 529 plans and it's valuable for us to learn more about 529 plans. I think that most of the conversation about any funds and the-- most of the confusion is really conversation about LB610 that I hope we have when LB610 comes around on Select File. One of the great things about our Unicameral is we have three rounds of conversation. And so I do think we do want to appreciate that Senator Lindstrom is bringing an amendment on LB610. I look forward to hearing about that. But I think much of the confusion and questions about funding are really questions that are appropriate for LB610. If we look at what LB470 does, all three of the components of LB470 did come through the Revenue Committee, so I did have a chance to be at those hearings for all three components. And I appreciate also that Senator La Grone has simplified his-- his bill down to the one line, so we're just streamlining the ability of people to make contributions to these 529 plans. We're making it possible for aunts or uncles or grandparents to make contributions without setting up their own plan. It's not any new ability to take a tax deduction. It simply streamlines the process so they can get that deduction by simply putting it in a plan that's been set up by their parents. They don't each have to create their own plan. I think that's appropriate streamlining, and I think it is valuable and desirable for parents and aunts and uncles and grandparents to contribute to these plans, and so making it simpler for them to do so I think is an appropriate thing for us to do at the state level. And I think Wayne's bill that also relates to 529 plans is important because it's important that people who are low-income are able to build assets. And what his-- what his-- the portions of the bill that comes from his bill does is that it makes it the case that if somebody gets 529 contributions, that's not counted as income when they are being assessed in terms of their qualifications for housing or childcare or-- or SNAP. So it's important that this money is preserved as assets and is not considered as resources when they're being evaluated in terms of whether or not they qualify for assistance, and that we're not disincentivizing them from having

Floor Debate  
April 24, 2019

---

assets by making that something that disqualifies them from assistance. I think that's also a sound policy decision and important in terms of empowering low-income families, and I think that's an appropriate step. I don't think either of these proponents that are in LB470 in any way distract from our NOG program and the importance of state funding for NOG and-- but I do not think that either of those components that contribute to 529 plans, it does not bring out any additional-- it does not reduce any additional state revenue, and I don't see it as having an impact on those important NOG plans. The third piece I appreciate because it deals with my district, is one that allows the develop-- allows for the-- what would usually be local property tax funds to be used for infrastructure improvements in the base area. And there are actually developed plans for those, that infrastructure improvement, and so I'm excited that this, if this bill passes, we'll be able to have funds that will be able to be directed towards those infrastructure improvements for the base housing and the families who live on that base. A lot of the infrastructure improvements that I have seen are really improvements in amenities for those families, making it easier for them to enjoy their time here in-- in Nebraska.

SCHEER: One minute.

CRAWFORD: Thank you, Mr. President. And I think that is a valuable investment and we want to make it possible for those families that are in-- in Offutt, living in our state, to have the best quality of life that we can. And making sure that we have appropriate infrastructure for them and appropriate amenities is a big part of that. So again, I stand in support of LB470. I agree with the three components that are in the bill and all of them came through Revenue. I think they all make sense and all are valuable to the state and appropriate public policy. Thank you, Mr. President.

SCHEER: Thank you, Senator Crawford. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. Would Senator Wayne yield to a question?

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

FRIESEN: Senator Wayne, when you were talking about the employer contribution and-- and the cliff effect, I-- I don't disagree with what you're trying to do. My question is here is, what if an employer-- what would be the tax consequences if they'd actually pay for childcare for that family or-- ? I know that, like you said, a dollar an hour raise can sometimes cost you \$2 an hour. I follow that. I get that. But are the tax consequences if the employer, if he's give you a child-care voucher, does that-- is that the same thing or how does that-- ?

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

Floor Debate  
April 24, 2019

---

WAYNE: So there's two implications there. One, you would still lose your state aid, so they would have to cover the full cost because that would be considered income. It'd be a benefit you had received.

FRIESEN: So it's considered income to the receiver. OK.

WAYNE: Correct.

FRIESEN: So what you're doing is getting around that by-- I-- I-- I follow it. So if they provided childcare at the facility, is that different too or is that a benefit?

WAYNE: No, there would still be a market rate they would have to assess as a benefit.

FRIESEN: So they would still be-- count towards their income?

WAYNE: Total comp, it would be the total compensation package, yes. So like when we give somebody a car to drive, it's considered part of their total compensation. It's a part of your state benefits depending on which one is, or state aid, if you want to call it that. They not just look at income, but they also look at your total assets and your total benefits.

FRIESEN: OK. All right. Thank you, Senator Wayne. That answers the question. I do support creating a one account where multiple people can contribute to that account. I've-- I've opened up 529 accounts for my grandchildren. But the one thing that I've-- I've learned since then and the reason I think that you might find that people don't use these 529 accounts is there's different ways of doing it where you can get a better return on your money. People with assets have found that they could probably contribute to a 401(k), manage their retirement account, and then pull money out of there to pay for their education expenses and get a better return. There's-- there's other reasons than-- you know, it's not that it's a bad plan. I think the state does a really good job of investing that money. But the reason there's a lot of people don't contribute, I think there's other reasons, there's other methods of doing it that-- that are less complicated and less cumbersome. So with that, I do support the-- the plan and the bill and all the components of it. Thank you, Mr. President.

SCHEER: Thank you, Senator Friesen and Wayne. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. I'm-- I'm-- I'm slightly confused by the conversation we're having. So let's talk about Nebraska Opportunity Grants. Nebraska Opportunity Grants are grants for people who are already going to college. What 529 plans do is they start younger. They

Floor Debate  
April 24, 2019

---

inspire people to go to college. So just in case, let's say, I don't-- I don't have enough money to pay for my daughter when she gets to college, but I put money aside in a 529 plan to start that process. She is now inspired and has buy-in that-- that college or trades, something post-K-12 is attainable. And let's say I only had enough money to put \$5,000 in. Well, that's not enough to pay for college, so the Opportunity Grant is still possible if I meet the poverty levels. But what we're talking about is two different people: one who is graduating from school, going to college, versus a newborn, versus a kid in elementary who maybe needs somebody to say, hey, I believe in you, I gave you some seed money, I gave you an account that you get to use to go to college, and I'm putting \$500 in there. They're two different things, and we're-- and we're blurring them. And I know why, because we're talking about finite dollars. We're talking about a General Fund where we're trying to spend education dollars. What's better? What's bang for our buck? And I will support any bill to increase Nebraska Opportunity Grants. I will support any bill that looks at our lottery funds to remove it from some of the programs we have to put into more Opportunity Grants. I'm in this favor of that. But what we're talking about is down the road. Opportunity Grants are for the next two to three years, people who are already at that level going to college. And I'm going to push my light again because I promised Mr.-- Senator Kolterman some time, so I don't want to take up too much more of mine. But we're talking about two different things. This is not a voucher. This is not charter schools. These plans currently exist. What we're trying to do is say, instead of my mom and me creating one for my daughter and we have to have two separate accounts, we're saying, let's just have one. The benefit is for the kid. So why do my-- why does my mom, who's already getting the same benefit, and me getting the same tax break who's giving it to my daughter have to create two separate accounts? Because then what's going to happen is somebody's going to forget they had an account and then it's going to go to unclaimed property. This way the kid knows you have one account, so whoever wants to give to that one account can-- can give to that one account. That kid knows. It's about the kid owning that account. That's who really owns the account. That's the beneficiary of the account. Now when we talk about what my bill does, as Senator Friesen said, I'm just trying to figure out a way to lessen the cliff effect. You can go to Lozier's, you can go to Airlite Plastics, you can go to Modern Equipment. There are things in my district where I had these conversations. You can go to Imperial, you can go to North Platte. Everybody is facing the same cliff effect when it comes to new hires. And this is an ability underneath my bill to say we won't give you income, we won't take away that until you're ready, but we'll start setting up a plan for your kids. We'll set up a plan for your kids. And with that, I will yield the rest of my time to Senator Kolterman so he can sing to Senator Chambers.

SCHEER: Senator Kolterman, 1:10.

KOLTERMAN: Thank you very much, Senator Wayne. I don't plan on singing to Senator Chambers. I'd just like to give him a little bit of advice. You're really good at reciting poetry, but I would say don't quit your day job as a singing career. Thank you.

Floor Debate  
April 24, 2019

---

SCHEER: Thank you, Senator Wayne and Kolterman. Senator Kolowski, you're recognized.

KOLOWSKI: Thank you, Mr. Chairman. I would like to yield my time to Senator Pansing Brooks.

SCHEER: Senator Pansing Brooks, 4:45.

PANSING BROOKS: Thank you. Thank you, Senator Kolowski and Speaker Scheer. OK. I am totally with Senator Wayne. These are all really good ideas. There are a lot of good things happening. But why cannot-- why can't we get one version of this with the fiscal notes so we can look at the whole thing rather than comparing reading one bill and understanding it and then all of a sudden reading the other bill and going, wait, they changed something in here that would then change the first bill that I just read? So, yes, I support wholeheartedly Senator McDonnell's bill. I support Senator Wayne's bill. But when you have all of these coming together, you can't pull them together into anything understandable or very-- very understandable without creating an entire graph, and I challenge any of you to try to do that, and then look at the fiscal note and how that's all working out. So it's easy to say, don't worry, we have five very complicated bills, just accept it, they're going to be fine. And they did do a little summary that I asked for last time. But where is the fiscal note summary? Where are the funds coming from? We've had quite a diverse variance between Senator Lindstrom and Senator La Grone on what was said. Again, this is confusing. Maybe it isn't obfuscation, but it feels like it. It feels like we just can't get the whole story. And that's what I'm concerned about. And again, Senator Lindstrom, could you answer a question?

SCHEER: Senator Lindstrom, would you please yield?

LINDSTROM: Yes, I will.

PANSING BROOKS: Thank you, Senator Lindstrom. I'm-- I'm just trying to make sure. You-- you said that this is not for K-12, is that correct?

LINDSTROM: A hundred percent not for K-12.

PANSING BROOKS: And you'd be willing to add an amendment that says you can't pull out the money if you're going to get it early, you can't pull out the state portion--

LINDSTROM: We can certainly do that.

Floor Debate  
April 24, 2019

---

PANSING BROOKS: --to-- to be able to use it in K-12 privates.

LINDSTROM: I mean we-- we'll probably need to define that, I think, if-- because we don't have that provision in there now, you can't use it for that. But if people would feel comfortable adding the state would pull the dollars back, that's fine.

PANSING BROOKS: Well, if the-- if the account is owned by the-- by the participant, who is probably the parent or the guardian of the child who's the beneficiary--

LINDSTROM: Yep.

PANSING BROOKS: --and they can pull it out, then whatever is in there, including state monies, can be pulled out, whatever is subject to the penalty and the interest, is that correct?

PANSING BROOKS: You-- say that again. I'm-- I'm not tracking with you on that.

PANSING BROOKS: The-- the money that-- that is put in there, whether it's state dollars or private dollars, if-- if they decide to withdraw it early, subject to a penalty and interest, they can take what's remaining of the state dollars there are there.

LINDSTROM: I-- I think we could put it in a provision there that you couldn't take the state dollars that were matched, yes.

PANSING BROOKS: OK. And is it-- is it-- do you agree that this is not to support vouchers? Do you believe in-- in vouchers and do you want to attempt to pass and-- and make vouchers available through this?

LINDSTROM: No, not through this at all. I mean I-- this-- that conversation has never come up once in the conversations I've had about all these bills.

PANSING BROOKS: OK.

LINDSTROM: This is strictly to help kids save for college--

PANSING BROOKS: So what I-- and I agree with that.

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

Floor Debate  
April 24, 2019

---

LINDSTROM: --or parents.

PANSING BROOKS: But nationally these bills have been used to promote the use of vouchers in a state. So anyway, that's fine. I know it's true. I can send you the information regarding that. But you're-- as far as you're concerned, this is not-- and you do not support promoting vouchers through this mechanism.

LINDSTROM: Not through this mechanism, no. And-- and the idea behind starting early is the time value of money. So using it for K-12--

PANSING BROOKS: Absolutely. I agree that that's totally beneficial--

SCHEER: One minute.

LINDSTROM: --you want to give yourself a good, long runway.

PANSING BROOKS: --totally beneficial. I'm with you as long as we're clear what we are not trying to do.

LINDSTROM: Totally clear.

PANSING BROOKS: Senator La Grone-- thank you, Senator Lindstrom-- could you answer a question?

SCHEER: Senator La Grone, would you please yield?

La GRONE: Absolutely.

PANSING BROOKS: And are you-- you understand my concern that this might lead to vouchers, and it is my understanding you do not support these as a mechanism to-- to start having vouchers.

La GRONE: Not in the slightest, no.

PANSING BROOKS: OK. And-- and would you-- if there's an attempt to change it to using them as vouchers, would you be against that?

Floor Debate  
April 24, 2019

---

La GRONE: Yes.

PANSING BROOKS: Thank you, Senator La Grone. Senator Linehan-- I don't think she can make it over here. I'll have to ask her later because we don't have time. Sorry. Anyway-- [LAUGH] OK, Senator Wishart, would you answer a question?

SCHEER: Senator Wishart, would you yield? But there's four seconds left--

PANSING BROOKS: Oh.

SCHEER: --so I'll just thank Senator Kolowski, Senator Pansing Brooks, Senator Lindstrom, Senator La Grone, and Senator Wishart, who almost spoke. Those waiting in the queue: Senator La Grone, Pansing Brooks, Geist, Chambers. And, Senator La Grone, this is your third time other than your-- your closing.

La GRONE: Thank you, Mr. President. I want to make two points and then I want to recalibrate us on the bill. Number one is there-- there has been concern out there that we don't know that this fiscal note will go away. If this amendment doesn't address the fiscal note, the bill dies on Select File, so there's not a risk there because there's not going to be any appropriation for it. So if-- if this doesn't achieve the goal we're going for of solving those problems, then there's no risk because the bill will just wither on the vine. Second, any amendment that has been requested to any of these bills, the answer has been yes. Every time an issue has been brought forward and said, can we make sure we solve this problem or Y problem, the answer has always been yes. So if folks want to work on these bills, we're more than happy to do that. But then finally what I want to get to is I want to recalibrate us to this bill. This bill is not LB610. It simply does three things. Number one is Senator McDonnell's military housing provision. Number two is page 16, line 21, it strikes "as a participant" so that you only have to have one account. And then number three is the new paragraph on 17 and the new paragraph on 26. Those are Senator Wayne's provision to address the cliff effect. I can't have said it any better than Senator Crawford said it or Senator Wayne said it. This bill is about giving kids hope. This bill is about ensuring every that child knows that there is someone who believes in them, that they can have a future, and that future is bright. That is what this bill is about, to help families achieve that dream. With that, thank you, Mr. President.

SCHEER: Thank you, Senator La Grone. Senator Pansing Brooks, you're recognized and this is your third time at the mike.

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

Floor Debate  
April 24, 2019

---

PANSING BROOKS: Wow. OK, thank you, Speaker Scheer. I have to ask a question of Senator Linehan, please.

SCHEER: Senator Linehan, would you please yield? Senator Linehan, would you please yield?

LINEHAN: Yes.

PANSING BROOKS: Thank you, Senator Linehan. So I-- I've talked to you some about this, and you know my concern about vouchers, and you know that I have no problem with the Nebraska Opportunity Grant that does pay for scholarships to all kids going to any school across the state.

LINEHAN: Right.

PANSING BROOKS: So it is not your intent to use these 529s as a mechanism to promote vouchers?

LINEHAN: No.

PANSING BROOKS: OK. And would you like--

LINEHAN: As I've said before-- I think this is what you want me to say-- there is a federal law that allows parents to contribute to a 529 for private schools.

PANSING BROOKS: Yes.

LINEHAN: It's the federal law. So if somebody wanted to do that, they lived in Nebraska, they could just open an account in another state, and some Nebraskans have. There is no push or desire, nor have I talked to anybody to work on a 529 for K-12 in Nebraska, nor do I have any plans to do so.

PANSING BROOKS: OK. Senator Linehan, would you have any issue about if we-- I don't know when we're quitting today, but in between, because it's coming up time for the big meeting, if there's-- would-- would there be any problem with seeing the bills all put together so we could understand how they interrelate to each other? Because that's very confusing if you read all five bills.

Floor Debate  
April 24, 2019

---

LINEHAN: I would hope so. I-- I have not been the lead on this. I think they're trying to get there.

PANSING BROOKS: Who is the lead?

LINEHAN: Well, I think it's Anna and--

PANSING BROOKS: OK, then I'll ask--

LINEHAN: --La Grone, Lindstrom. I'm kind of the odd one in the group, if you know.  
[LAUGHTER]

PANSING BROOKS: I'm not commenting on that. OK, thank you, Senator Linehan.

LINEHAN: Thank you.

PANSING BROOKS: Senator Wishart, please.

SCHEER: Senator Wishart, would you please yield?

WISHART: Yes, I'd be happy to.

PANSING BROOKS: Thank you, Senator Wishart. First off, you know that-- that-- you've heard the discussion about the vouchers, and it is-- is it your intention that these 529s not be used as a-- as a mechanism to promote vouchers?

WISHART: It is my intention they are not used for vouchers, and I strongly oppose legislation that puts in place a voucher system in the state.

PANSING BROOKS: OK. Thank you. So I think you heard my question to Senator Linehan. Would you support being able to get Bill Drafters to be able to put all the 529s together so we could read them all together, see how they all interact, and then maybe get some sort of note that explains to us where all the funding is going to be coming from?

WISHART: I would be happy to work with Bill Drafters on that. And as a member of Appropriations, I can put together an analysis of-- of where the funds are coming from.

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

Floor Debate  
April 24, 2019

---

PANSING BROOKS: I-- I would really appreciate that. Thank you, Senator Wishart. Senator-- Senator La Grone?

SCHEER: Senator La Grone, would you please yield?

La GRONE: Absolutely.

PANSING BROOKS: Senator La Grone, you heard the question. Would you be supportive of-- of putting together a draft that would at least allow us to read the entire-- all the amendments, all the suggestions, all the changes, most current, to be able to read them in context, rather than in conflict, and move forward on-- on understanding where the fiscal notes are coming from, what's really happening with these?

La GRONE: As I understand your question of, one, so we can see them all together--

PANSING BROOKS: Yes.

La GRONE: --yes, I do think the new stuff and the old stuff, that being Senator Lindstrom's bill being the new stuff and my bill being the old stuff, are two very distinct questions, so I would want to look into in terms of how that moves--

PANSING BROOKS: Well, they all-- they all relate to 529s--

La GRONE: Right, and I--

PANSING BROOKS: --and they're all in the same section of-- of-- so you're not-- you don't want to add--

SCHEER: One minute.

PANSING BROOKS: --Lindstrom and Wishart's portion-- portions?

La GRONE: I'm not saying that. I'm saying that I completely agree that we can put together a full package version to look at in terms of the best way to move forward on that. I would want to-- that's something I'm definitely open to discussing.

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

Floor Debate  
April 24, 2019

---

PANSING BROOKS: OK. That doesn't sound like you want to do this. Discussing it is not doing it, so there's another concern for me, colleagues. We do not have agreement among the five parties to be willing to bring forward a-- a draft version that would show us what all of this is. So we have-- we have one-- one senator willing to do that. I think Senator Linehan is willing. He's willing to discuss possibly doing that, so that-- that's what he said. So again, those are-- those are things that are disconcerting to me. Senator Wayne, would you answer a question, if you please.

SCHEER: Senator Wayne, would you please yield? And there are two seconds left, so I'll thank Senator Pansing Brooks and Senator Wishart and Senator La Grone and almost Senator Wayne. Those waiting to speak in the queue: Senator Geist, Lindstrom, Quick, McCollister, and others. Senator Geist, you're recognized.

GEIST: Yes. Thank you, Mr. President. And I will yield the rest of my time to Senator La Grone.

SCHEER: Senator La Grone, 4:50.

La GRONE: Thank you, Mr. President. Thank you, Senator Geist. To be very clear, Senator Pansing Brooks, I absolutely support putting together a full package so we can see what it looks like. Now I want-- again want to recalibrate. LB470 does three things and three things only. It is Senator McDonnell's bill on military housing. It is my bill that allows the contributions to go into one account. And it is Senator Wayne's bill that addresses the cliff effect. That is all we are dealing with in LB470. This is about ensuring that families have an easier process to help save for their kids' college. This does not give anyone any new deductions. It does not spend any money. It simply simplifies the process for contributing to these accounts. So I just want to reiterate that those three provisions, Senator McDonnell's bill on military housing, my bill on having one account, and Senator Wayne's provision on the cliff effect, that is all that we are dealing with right now, nothing else. So with that, I would ask for your support obviously for the amendment and the bill. Thank you, Mr. President.

SCHEER: Thank you, Senator La Grone. Senator Lindstrom, you're recognized.

LINDSTROM: Thank you, Mr. President. And I know Senator Pansing Brooks doesn't have any more opportunities, so, yes, I am willing to put the packages together to look at how they work in conjunction with each other. And the reason why there are two bills, this kind of goes back to just the overall process. Senator La Grone's bill, LB470, had a priority. LB610 had a priority. So those are the two vehicles that moved out and why there's two separate bills. La Grone-- Senator La Grone yielded-- alluded to the fact that his bill deals with provisions that already exist, how the 529 operates. My bill and Senator Wishart's bill deals with new additional value adds that-- that we can do as a state. Again, all this will be without General Funds, as-- as we talked about

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

Floor Debate  
April 24, 2019

---

through this. I do appreciate the conversation and we will address any concerns as we move through this process, because at the end of the day we're trying-- what we're trying to do, like it's been said before, is help to educate kids in the state of Nebraska. So I urge your support of AM1461, AM896, and the underlying bill. Thank you, Mr. President.

SCHEER: Thank you, Senator Lindstrom. Senator Quick, you're recognized.

QUICK: Thank you, Mr. President. And like I said, I'm still listening to the debate. It's really good conversation and I just want to make sure-- you know, I-- I do support children and making sure that they can receive their education, whether that's through K-12 or higher education. I support working family issues and trying to help them to be able to save for either retirement or for helping their children, and also with the veterans on-- with Senator McDonnell's part of that bill so-- but I'm going to yield the rest of my time to Senator Pansing Brooks.

SCHEER: Senator Pansing Brooks, 4:25.

PANSING BROOKS: Thank you, Mr. President. Thank you, Senator Quick. I was hoping to-- to ask some questions to Senator Wayne.

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

PANSING BROOKS: Thank you, Senator Wayne. I was-- I think you probably heard some of the previous conversation I was trying to get to and my concern about the 529s being used nationally leading towards the use of vouchers and I under--

WAYNE: That's in-- that's incorrect, Senator.

PANSING BROOKS: Well--

WAYNE: Nationally, this is supported by most Democrats--

PANSING BROOKS: OK, well I could--

WAYNE: --and most Democrat treasurers.

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

Floor Debate  
April 24, 2019

---

PANSING BROOKS: I'll show you the information that I've received from people. But the-- it is-- it is a concern they have been used to-- because of what's happened nationally where the federal government has allowed K-12 funding use for the 529s. So is it-- is it your intention to use these 529 plans for vouchers?

WAYNE: It's not my intention under-- underneath any of these bills this year to use any money from public schools for vouchers, including this.

PANSING BROOKS: OK, so-- OK, so you-- you would be against using the 529 plans as-- for any kind of-- of support of vouchers?

WAYNE: Now I'm an attorney. I can't answer that question because--

PANSING BROOKS: OK, that's exactly--

WAYNE: --because the reason is, is 529 plans are private dollars. So if a parent wants to use a 529 plan in other states, and if Nebraska says one day that's OK, that's that parent's right to use their dollars to pay for them to go to Creighton Prep, which they currently do. But underneath this bill and in the far see that I see it being in this Legislature, I will not support 529s going to vouchers or to private schools, K--

PANSING BROOKS: OK.

WAYNE: --K-12.

PANSING BROOKS: Thank you, Senator Wayne. So there's part of my problem with the whole thing is that there is discussion that-- about the fact that, you know, it is happening in other states, it is being invested in other states and then brought back here. I want clarification. I want to make sure that is not going to happen here. And so Senator Wayne and I are arguing in legal terms about what are-- what we can or can't commit to or what we can or can't agree to as far as-- as the legalities and what we're saying on the mike. Either-- in my estimation, this is exactly my fear. I support helping children and babies to have hope for their future. I have been fighting to get the Nebraska Opportunity Grants expanded within the Education Committee, to expand that funding so that we have more money available for all schools to be able to bring kids into those schools and to be able to work hard to help us continue to educate our children and hopefully keep them here for work force development purposes. So again, you just heard the wiggle room on this whole area about vouchers. There's wiggle room. It's a concern that I have and it is something that will continue to-- to make me-- make me rise up and make me concerned

Floor Debate  
April 24, 2019

---

about what this is for, concerned about the obfuscation that's going on, concerned about the money and where it's coming from and how we're using it. And if there's a whacking amount available in the undisclosed property--

SCHEER: One minute.

PANSING BROOKS: --then let's know about it. So I appreciate everybody's discussion and time here. Again, I would ask that you read all five bills, try to read them in tandem so you can remember that one part changes something in another bill but you don't realize it when you read the bills separately. Each bill separately sounds fine, but you don't realize that they're interrelated and changing portions of each bill. So it's easy to say don't worry. It's easy to say, oh, we've got this, this isn't going to change things in the future. But try reading all five bills in the same sitting, like I did last night, and then tell me that flags aren't being raised in your mind. Thank you, Mr. President.

SCHEER: Thank you, Senator Quick, Senator Pansing Brooks, and Senator Wayne. Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President. I-- Senator Chambers described LB470 as muddy. I think it's simply becoming murky now, a little less muddy. Would Senator La Grone answer a couple, three questions?

SCHEER: Senator La Grone, would you please yield?

La GRONE: Absolutely.

McCOLLISTER: In order to clear up some of this murky water, Senator La Grone, it's my understanding that LB470 includes essentially three bills: your bill, it also includes Senator Wayne's bill, and it also includes Senator McDonnell's bill. Is that correct?

La GRONE: Correct.

McCOLLISTER: Is it true to say that there are elements in other bills in LB470, including Senator Linehan's so-called "meadowlark" bill, Senator Linehan's-- or Lindstrom's LB610, or the-- the-- Senator Wishart's bill?

La GRONE: No.

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

Floor Debate  
April 24, 2019

---

McCOLLISTER: No elements of those three bills in LB470?

La GRONE: None.

McCOLLISTER: Thank you. I wonder if Senator Wayne would answer a question.

SCHEER: Senator Wayne, would you yield?

WAYNE: Yes.

McCOLLISTER: Senator Wayne, you indicated a-- a focus on low-income folks that may reside in your district, is that correct?

WAYNE: Yes.

McCOLLISTER: Senator Friesen asked you some questions about if an employer wished to contribute childcare, that would change the formula by which some of the federal programs would be applied, is that correct?

WAYNE: I believe that. I'm not 100 percent sure, but I believe that from my understanding of how total compensation works.

McCOLLISTER: Yeah, can you explain the cliff effect, if you would?

WAYNE: Yes. So if a person is making \$11 an hour and they go-- go to \$13 an hour, they could lose their housing, Section 8 housing, they could lose their SNAP benefits, they could also lose their-- I'm forgetting one off the top of my-- oh, day care, Title XX, and some other benefits. So just because they go up in a dollar, they could lose all that, but that dollar they went up doesn't pay for all of what they lost, so it's a-- it's a cliff effect.

McCOLLISTER: Well, currently the SNAP benefit program is sitting at 130 percent of the poverty-- federal poverty rate, and I have a bill in-- in-- in committee, HHS Committee, that would raise that only to 140 percent. That's my bill, LB255. You would certainly be in favor of doing that so folks could reduce their income by childcare expenses and other related expenses in order to make 1,600 more people, 1,600, Senator Wayne--

WAYNE: Yes.

Floor Debate  
April 24, 2019

---

McCOLLISTER: --eligible for food stamps, and you would support that bill if it came out of committee?

WAYNE: Absolutely.

McCOLLISTER: That's great. Well, thank you, Senator Wayne, for helping me, hopefully, move a bill out of committee. And thank you, Mr. President.

SCHEER: Thank you, Senator McCollister and Senator Wayne. Senator Wayne, you're recognized.

WAYNE: I will-- I will be brief. I-- I just-- I want to clarify that-- and this-- this is-- and the reason why I'm kind of passionate about this, not just because of my bill but what we're-- what we're seeing here is this distrust of the future and I had to deal with that on hemp bill, which I'm sure is going to go another two hours next round. And we can continue to be afraid of the future, but not everything is a conspiracy. Not everything is-- is the next move. Sometimes it's just good policy for today. And I want us to think about that, because right now we have the Nebraska Opportunity Grant that is given to kids to go to both public and private colleges. There is nothing stopping me to drop a bill to make that K-12 private schools. I can change the law. But I don't go back and attack the bill, I don't go back and attack the statute, because I know I'm in the body and I'm not going to let that happen. But if we go to expand Nebraska Opportunity Grants, I'm going to support that bill. I'm going to support that bill because I believe in what it's currently doing, more so than my fear of one day it changing its-- its dimensions. I believe in what we're currently doing, more so than this body changing the dimensions of what's currently going on. And that's how I'm trying to operate through this whole body for my four years being down here, because I've seen this camel-nose-under-the-tent scenario that we keep talking about. But let's deal with this current bill. And when that fight comes up 20 years from now, if it does, we'll deal with that. But this is not a slipper slope. This is good policy. This is really good policy so that-- just think about that. If an aunt or uncle wants to create an account and a parent does, too, they have to have two? That's crazy. We don't need that. And the fact that we have different bills in different committees happens all the time. Senator Lathrop has a hemp bill in Judiciary. I have one in Agriculture. Part of it is strategy. Part of it is some of the things are so new that we try to educate people by putting it on different committees. Senator Chambers is going to have a death penalty bill comes up. Judiciary is going to have a prison-- hopefully, prison bills in a-- in a package. Do we stop Senator Chambers' bill and say let's see how this interacts with the entire prison system because they're somehow connected? No, we take the bills that are in front of us and we vote on those individually. Think about Education. Everything we do in Education affects education, but there is no way we're going to have a 1,400-page Education bill dealing with all the bills that deal with education. We deal with the bills that are in front of us. And we can

Floor Debate  
April 24, 2019

---

question, hey, do you support this, are you looking to do this and put them on the record? But the muddiness is coming from our own self creating the muddiness, by thinking, what's the next step, I don't trust this person. I'm looking at the bill. I got involved in this bill because I'm trying to solve a cliff effect one way that I know how to, and I'm using a 529 plan to focus on the kid to make sure they can go to college. There's nothing beyond that. Not once during this conversation did I have a vouchers conversation. Not once during these conversation did I have a charter school conversation, not once, because we were trying to figure out how to stop the cliff effect. And if somebody were to bring a bill next year to deal with 529s, to move it in that direction, I would be-- oppose it. I would take the three hours; I would take the six hours. But my fear of the future--

SCHEER: One minute.

WAYNE: --will not stop me from making good policy decisions that help communities and help kids today. Thank you, Mr. President.

SCHEER: Thank you, Senator Wayne, for the brief comments. Senator-- [LAUGH] Senator Hunt, you're recognized.

HUNT: Did you say me? Sounds like it, yeah. Thank you, Mr. Speaker. I have a lot of red flags going up about this, too, and I've talked off the mike with-- with several senators about my questions. So as far as I understand this-- and-- and there's a lot of information in this handout that Senator La Grone brought for us. But one problem, I suppose, that I have with NEST accounts in general, and my eight-year-old daughter has a NEST account and I'm very grateful for that because I know that's going to set her up for more likelihood of going to college, which is important to me and my family. But only 1.95 percent of Nebraska residents claimed the college savings plan deduction on their 2016 returns, and 72 percent of those people had incomes over \$100,000. So for that reason, I have always been kind of hesitant about expanding this program when there are other ways for us to invest in-- in college opportunity programs that help lower income people who really need that leg up, instead of helping people who are likely already going to go to college because they don't have a lot of hardship in their families. What I like about LB470 as amended by La Grone, by Senator La Grone, is bringing these aspects of Senator McDonnell's bill, Senator Wayne's bill. It seems like that would address some concerns I have about the limitations of the NEST savings account, although I reserve my skepticism about other ways to fund education that might reach out to lower income people better. And I'm-- I'm going to vote for this on General File, and that's a conversation that I hope we keep having to reassure some of those worries I have before Select File. Would Senator La Grone yield to a question, just a basic question?

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

Floor Debate  
April 24, 2019

---

SCHEER: Senator La Grone, would you please yield?

La GRONE: Absolutely.

HUNT: Senator La Grone, the way I kind of summarized that, is that pretty accurate in terms of like McDonnell-- Senator McDonnell's bill--

La GRONE: Well--

HUNT: --Senator Wayne's bill, and then your bill which allows for-- you know, parents and grandparents don't have to have separate savings accounts for the NEST account for the kid. Is that pretty accurate summation?

La GRONE: Yes, it is only these three provisions, yes.

HUNT: OK. OK, thank you for that. Just having said that, I will yield the rest of my time to Senator Pansing Brooks. Thank you, Mr. Speaker.

SCHEER: Senator Pansing Brooks, 2:30.

PANSING BROOKS: Thank you, Mr. President. Thank you, Senator Hunt. I wasn't going to speak again until I heard the last-- the-- one of the last arguments because this isn't about looking at the future and being scared about what's going to happen. I guess a little bit of it is. But these five bills are so complicated. And if you can all raise your hand right now and say that you've read all five, then I'm going to feel a lot better, because this isn't really my area of law. So I-- I-- full disclosure, but as I read them all, it was very confusing to me. So again, the descriptions, first we had participants, then we had nonparticipants. If you-- you have to look and see what non-- nonqualified withdrawal refers to. And we've already had an amendment agreement by Senator Lindstrom that we're going to make sure that the money that goes in can't be taken out for K-12, so there are issues with this. And so to act as if I'm just-- that-- that anybody is being unreasonable here, I'm not calling anybody out, I want this explained. I want this in a simple amendment where we can understand all five bills, understand what's being asked of us to pass, make sure that we do not have conflicting amendments that we're reading because, go ahead and read them, you will see that the language you read in one bill that comes along and makes changes--

SCHEER: One minute.

Floor Debate  
April 24, 2019

---

PANSING BROOKS: --all of a sudden is changed in another bill, invalidating the first bill that you might read. So if that's not confusing to some of you, please make the chart that will explain it to the rest of us and also that will allow us to understand where the money is coming from. I'm not standing up against the principle of these ideas. I'm standing up saying it's too confusing and we don't know enough to be able to pass these bills. And if you feel comfortable and feel like you understand where everything is going, then fine. But I am willing to work with everybody. I've gotten confirmation from Senator Wishart and Senator Lindstrom and others, I think after the fact from Senator La Grone, that we can come up with a bill that will set forth everything that's happening on these 529s. There shouldn't be anything wrong with transparency. Happy to see it and understand it and read it in-- as a whole in total. That should be something we all want to do and--

SCHEER: Time, Senator.

PANSING BROOKS: --and then understand the note.

SCHEER: Time, Senator.

PANSING BROOKS: Thank you.

SCHEER: Thank you, Senator Hunt, La Grone, and Pansing Brooks. Senator Quick, you're recognized.

QUICK: Thank you, Mr. President.

SCHEER: This is your third time at the mike.

QUICK: OK. Thank you, Mr. President. One of the things that I was-- I-- I discussed with Senator Wayne a little bit off the mike and also Senator Kolterman was on 401(k) plans, and you also have employee and employer matches to those, and to see if that also could help with the cliff effect. Now one of the one things when I was Senator-- walk-- talking to Senator Kolterman, which I did understand, but 529 plans would maybe be set up for each individual, whereas with like 401(k) plans, it's more-- it's for everybody. So if you set it up with your-- through employment, it's for everybody who's employed there. But it-- I see that as a way also to help with the cliff effect. And so I was going to ask Senator Wayne a question, but I think I've got it answered and I just wanted to try to explain that. And I-- I just see that as one more opportunity if an employer wanted to increase what they're putting in someone's 401(k), you know, and increase the match. Maybe right now you're putting in 3 percent and the employer is matching 3

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

Floor Debate  
April 24, 2019

---

percent, so maybe in order, if that person can't have a raise, they could maybe put in 6 percent and the employee could match 6 percent and that would help some with maybe on the cliff effect and not-- and still be-- be able to receive your benefits. And so that's-- I just wanted to talk about that a little bit because I'm all about helping working families and I understand what Senator Wayne is doing here to help-- help working families and those children. And I would yield the rest of my time to Senator Pansing Brooks if she wishes to have it.

SCHEER: Senator Pansing Brooks, 3:15.

PANSING BROOKS: Thank you. Thank you, Senator-- or Speaker Scheer, and thank you, Senator Quick. I had a question for Senator Wayne. Is he still here?

SCHEER: Senator Wayne, are you still around?

PANSING BROOKS: I think he must have-- well, then maybe--

SCHEER: I don't see him, Senator Pansing Brooks.

PANSING BROOKS: I'll ask-- OK, thank you, Speaker Scheer. May I please speak-- I'd like to speak with Senator La Grone.

SCHEER: Senator La Grone, would you please yield?

La GRONE: Absolutely.

PANSING BROOKS: Thank you. Could you-- have you talked with Senator Wayne about the provision that talks about a government program administrated-- administered by any agency of the state that provides benefits for aid to individuals based on financial need, except as otherwise provided by federal law or provisions of any specific grant, that-- that paragraph, do you know that paragraph there?

La GRONE: Yes.

PANSING BROOKS: OK. What I'm wondering is, does that deal with like-- so the-- the University of Nebraska is an-- an agency of the state, correct?

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

Floor Debate  
April 24, 2019

---

La GRONE: You know, I would need to look at the definition section for this specific act to see if they qualify in this instance.

PANSING BROOKS: OK. Well, I guess I'm interested if somebody gets a Regent's Scholarship, which is a full ride, are they-- what happens to the our-- to the state's money in that instance?

La GRONE: They can use it for qual-- are you saying that are in the 529 accounts?

PANSING BROOKS: Yes.

La GRONE: Well, I'm-- I'm confused by the state money. What do you mean by state money?

PANSING BROOKS: The-- the-- a Regent's Scholarship is a full ride by the University of Nebraska to-- full tuition.

La GRONE: So when you're saying state money, you're referring to the Regent's Scholarship portion?

PANSING BROOKS: Yes, I am.

La GRONE: I mean they would be able to use that, and any money in the 529 account they could for a qualified expense like housing associated with that, because the Regent's Scholarship doesn't cover their housing, or other things.

PANSING BROOKS: I think it does, but-- yeah, doesn't it? OK.

La GRONE: It did-- it-- at least it didn't when I was in school.

PANSING BROOKS: OK, well, very fancy of you. OK, so-- so that's not an issue of double dipping. What happens, though, if the amount that you have within the account is greater than the amount necessary to go to college and pay for all the expenses? I-- I saw that there is a place that the 529s ex-- create a list about what qualifies as expenses. It includes housing--

SCHEER: One minute.

PANSING BROOKS: --and room and board and computers for special-needs kids.

Floor Debate  
April 24, 2019

---

La GRONE: So what happens to the money, you've got two options. Number one, you can pull it out and take all of the penalties and pay back all the income tax deductions you took.

PANSING BROOKS: OK.

La GRONE: Number two, you can roll it over into another account. Let's say the person who used it, let's say the student, obviously, goes to college, gets past college, there's still money in their account, they get married, have children. They can create a 529 account for their child and roll their remainder into that. So those are their two options.

PANSING BROOKS: OK. So I-- since we only have a little bit of time, I'm just hoping that you're willing to help create a single bill that we can all look at and figure out what we're doing, and then I don't have to spend anymore time with you on these things.

La GRONE: Yes.

PANSING BROOKS: Thank you very much, Mr.-- Senator La Grone.

SCHEER: Thank you, Senator Quick, Senator Pansing Brooks, and Senator La Grone. Senator Chambers, you're recognized.

CHAMBERS: Thank you, Mr. President. Members of the Legislature, whenever we are on a bill and it goes long enough and I stay out of it, many things are revealed to me that I file away and make use of in the future as the session moves forward. One thing I need to make clear to all of you all, because my death penalty bill is coming up, I'm not going to change anybody's mind, some of you have instructions from the Governor, but here is what I'm going to do. I'm going to pretend in my mind, knowing it's not true, that whatever vote you give, it's a principled-conscience vote. If it's a conscience vote, nothing I say is going to change your mind. If it's a principled vote, nothing I say will change your mind. What I could do is open on that bill and we can take a vote. It would be same at that point as if we went 2 hours and 59 minutes and I took a vote. I have been here more than four decades. I've seen everything that can happen in a legislature. Things that are new to you all are old to me over and over. I've studied every one of you, and I know you better than you know yourself because you're not going to be honest with yourself. You're like a specimen to me in a laboratory. I who is studying butterflies knows more about the butterfly than the butterfly knows about itself. I know what butterflies will do. I know the difference between a butterfly, a dragonfly, a horse fly, and anything else that has "fly" in the name. So if you all think that because I have a bill to abolish the death penalty that's coming up, you're going-- I'm going to change, you can forget that. You can do whatever you want to. You

Floor Debate  
April 24, 2019

---

can vote; you can not vote; you can speak for it; you can speak against it. Most people don't know that I was able to get a death penalty bill, one to abolish the death penalty, passed in 1979. And then Governor Thone, as these people will do, vetoed it. I had 26 votes. I watched senators sweat to make each vote, not all of them-- they were not all cowards. Some wanted me to try to override to make a point. I told that person that I've watched what some of these senators went through to give that first vote, and I'm not going to put it through to-- them through it again because we're not going to pick up votes, I will not get 30 votes, so it's over. There are things that you all are not mature enough to deal with. You are not politically mature. You are not psychologically mature. You're not your own persons. I am my own person. Nobody owns me. I don't take orders from anybody. But I will accept advice if a person knows more about a subject than I do. So when we have the debate on the death penalty bill, you can take it to three hours and I get no vote; you can let there be a vote and then do whatever you want to do. But nothing you do will surprise me. Nothing you do will hurt me. But I'll tell you what, I will have the rest of the session to teach you all some things that I haven't taught you up to now. Challenge me. You think I can't? Everybody who thinks that I cannot do anything--

SCHEER: One minute.

CHAMBERS: --put your-- leave your hand down. Oh, so all of you think I can't do anything. I've got to teach all of you. Do you think there's something I can teach you? Do you think I will wear down before you all wear down? I heard of something today that was not a surprise to me, but I think it was a bad act by your Governor. Senator Lowe is grinning like a Cheshire cat. He's happy because he-- he-- he carried water for the Governor and we overcame then-- then his boss fixed it by vetoing Senator Dorn's bill. Now how many of you all are going to cut and run? How many of you all are going to stand? See, those are the things that I watch. Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Seeing no one left in the queue, Senator La Grone, you're welcome to close on AM1461.

La GRONE: Thank you, Mr. President, and I'll be brief. Again, this bill doesn't spend any money, so any concerns about money have nothing to do with this bill. Those are other bills. This bill only does three things. First, it's Senator McDonnell's bill that deals with military housing. Second, it's my bill which all it says is that you can go into one account, instead of each needing to open up your separate account. And then it's Senator Wayne's bill to address the cliff effect. This bill is about giving kids hope. This bill is about making it easier for families to save for college. It deals with current law and it simplifies those laws to make this easier for families to give those kids a chance. With that, I'd ask for your green vote on AM1461 and eventually LB470 as well. Thank you, Mr. President.

Floor Debate  
April 24, 2019

---

SCHEER: Thank you, Senator La Grone. The question before us is adoption of AM1461. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of the amendment to the committee amendments.

SCHEER: AM1461 is adopted. Senator Linehan, you're welcome to close on AM896. Excuse me, Senator Chambers, you had your light on.

CHAMBERS: Yes. I didn't know that they're-- the closing was up. This will be the last time I'll speak on this bill, because I may die tonight and won't-- you all won't see me tomorrow. There will be great joy throughout the land. And if you find out that I lived, then great sorrow will descend and a hush will come over the Legislature: Chambers didn't keep his word. He lifted us up only to bring us down. I'm going to tell you all something. You all did all that work on those tax bills. The Governor "pot-shotted" everything you did. The Legislature never responded. Nobody said anything, nobody. See, if I was in a leadership position, every time he made a comment, I'd be there to counteract him, and he's a coward and I'd make him gun shy. But he snobs he can treat you all like children. He pops his finger and you jump, all of you, and he knows it. He doesn't do that with me. He can veto a bill, but he doesn't control me and he knows it. But with you all, he knows what you are and by him knowing what you are, I watch him and I know what you are. You cannot stand. You take orders. So when you get with your tax bills, I'm going to do perhaps, because you need not have everything told to you so you can plan for it, what he did to you out there in the public, just dismantle it piece by piece. There might be some divisions of the question. There might be amendments. There might be definitional changes. I may even offer to strip everything from one of those bills and insert my bill against hunting mountain lions or to repeal the black-tailed prairie dog law. You all thought all that was over, didn't you? I've told you all again and again that when we get into the posterior portions of the session, that is my territory. You're in my territory now. I can control this Legislature, control the pace you move. The Speaker can set the agenda, but I will determine the pace at which we move. Who else on the floor would say anything like that? Might think it and wish it, but you don't have what it takes to say it. And you ought to stand up and put me in my place to my face and tell me you are not going to do to us what the Governor did, he's white and you're black, he's rich, you're poor, we'll stand up to you but not the Governor. You fear me more than you fear the Governor even because you have to be here with me. And I haven't decided to what extent I'm going to toy with you for the rest of the season, the session. You've shown yourselves to be people to be toyed with. I watched you on that bill that Senator Hughes had, LB227, and other bills. I'm not through with those things yet. We're going to have fun, fun, fun, till her daddy took the T-bird away. And as for that young man named Kolterman over there, put your fingers in

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

Floor Debate  
April 24, 2019

---

your ears because-- or turn down your hearing aid. I'm getting ready to do Pagliacci. See, at least he had enough gumption to protest. The rest of you just sit. Now Senator Dorn--

SCHEER: One minute.

CHAMBERS: --there's nobody he'd rather have on his side than me, there's nobody he'd hate to have against him more than he'd hate to have me against him, but, see, I'm not for or against Senator Dorn. I respect what he did, but I'm for what he tried to do. Senator Dorn and I are not enemies. We're not friends. We don't go anywhere together. We don't eat together. We don't visit each other. But we can respect each other, perhaps, but I can respect to the nines what that man did and what he's attempting to do. And unlike the rest of you all, I will stand-- this Legislature has to get its back up show that it has some integrity, that we respect this place as an institution. And when you've taken a position, then you need to back that up instead of letting yourself be backed in a corner. And the Governor barks and says, every puppy take his hole, and you all scatter, and who will be left standing here? I will. He knows what I will do.

SCHEER: Time, Senator. Time, Senator. Thank you--

CHAMBERS: Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Seeing no one in the queue, Senator Linehan, you're welcome to close on AM896. She waives closing. The question before us is adoption of AM896 to LB470. All those in favor please vote aye; all opposed vote nay. Have all voted that wish to? Please record. Excuse me. Please record.

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of committee amendments.

SCHEER: AM896 is adopted. Senator La Grone, you're welcome to close. He waives closing on LB470. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 39 ayes, 1 nay on the motion to advance the bill, Mr. President.

SCHEER: LB470 is advanced to E&R Initial. Items, Mr. Clerk?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports that it has carefully examined and engrossed LB23 and finds the same correctly engrossed. LB31,

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

Floor Debate  
April 24, 2019

---

LB31A, LB180, LB222, LB252, LB304, LB428, LB445, LB556, LB556A, LB585, LB638, LB641, LB663, LB698, all placed on Final Reading. Your Committee on Government, Military and Veterans Affairs reports LB414 as placed on General File. An amendment to be printed from Senator Crawford to LB237. Communication from the Governor. (Read re LB59, LB87, LB212, LB268, LB316e, LB320, LB352, LB390, LB514, LB603, LB637e, and LB713.) Second communication. (Read re LB472.)

Finally, Mr. President, a priority motion. Senator Hilgers would move to adjourn until Thursday, April 25, 2019, at 9:00 a.m.

SCHEER: Colleagues, you've heard the motion. All those in favor please say-- say aye. All those opposed say nay. We are adjourned.